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COLONY AND PROTECTORATE OF KENYA

LEGISLATIVE COUNCIL DEBATES

OFFICIAL REPORT

10th COUNCIL INAUGURATED
JUNE, 1952

VOLUME LXX

1956

FIFTH SESSION—FIFTH MEETING
17th July, 1956, to 24th July, 1956

List of Members of the Legislative Council

President:

H.E. THE GOVERNOR, SIR EVELYN BARINO, G.C.M.G., K.C.V.O.

Vice-President and Speaker:

THE HON. SIR FERDINAND CAVENDISH-BENTINCK, K.B.E., C.M.G., M.C.

Ministers:

ACTING CHIEF SECRETARY (THE HON. E. N. GRIFFITH-JONES, Q.C.)

MINISTER FOR LEGAL AFFAIRS (THE HON. D. W. CONROY, O.B.E., T.D., Q.C.)

MINISTER FOR FINANCE AND DEVELOPMENT (THE HON. E. A. VASEY, C.M.G.).

MINISTER FOR AFRICAN AFFAIRS (THE HON. E. H. WINDLEY, C.M.G.).

MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (THE HON. M. BLUNDELL, M.B.E.).

† MINISTER FOR INTERNAL SECURITY AND DEFENCE (THE HON. J. W. CUSACK, O.B.E.).

MINISTER FOR LOCAL GOVERNMENT, HEALTH AND HOUSING (THE HON. W. B. HAVELOCK).

MINISTER FOR EDUCATION, LABOUR AND LANDS (THE HON. W. F. COUTTS, C.M.G., M.B.E.)

MINISTER FOR FOREST DEVELOPMENT, GAME AND FISHERIES (THE HON. D. L. BLUNT, C.M.G.).

MINISTER FOR COMMERCE AND INDUSTRY (THE HON. V. A. MADDISON).

MINISTER FOR WORKS (THE HON. I. E. NATHOO).

MINISTER FOR COMMUNITY DEVELOPMENT (THE HON. B. A. OIANGA).

EUROPEAN MINISTER WITHOUT PORTFOLIO (THE HON. L. R. MACONOCHE-WELWOOD).

ASIAN MINISTER WITHOUT PORTFOLIO (THE HON. A. B. PATEL, C.M.G.).

Parliamentary Secretaries:

PARLIAMENTARY SECRETARY TO THE MINISTER FOR LOCAL GOVERNMENT, HEALTH AND HOUSING (THE HON. J. JEREMIAH).

PARLIAMENTARY SECRETARY TO THE MINISTER FOR EDUCATION, LABOUR AND LANDS (THE HON. WANYUTU WAWERU).

PARLIAMENTARY SECRETARY TO THE MINISTER FOR COMMERCE AND INDUSTRY (THE HON. C. B. MADAN).

PARLIAMENTARY SECRETARY TO THE MINISTER FOR WORKS (THE HON. SHERIFF ABDULLA SALIM).

Nominated Members:

THE HON. J. J. ADIE (SECRETARY FOR EDUCATION, LABOUR AND LANDS).
THE HON. T. F. ANDERSON, O.B.E., M.D. (Director of Medical Services).

THE HON. M. H. COWIE (Director of the Royal National Parks).

CAPT. THE HON. C. W. A. G. HAMLEY, O.B.E., R.N. (RETD.).

THE HON. SHEIKH MBARAK ALI HINAWY, O.B.E. (Liwali of the Coast).

THE HON. S. D. KARVE, O.B.E., M.B., B.S.

THE HON. N. B. LARBY (Acting Director of Education).

THE HON. R. E. LUYT, D.C.M. (Commissioner for Labour).

THE HON. K. W. S. MACKENZIE (Secretary to the Treasury).

THE HON. JONATHAN NZIOKA.

THE HON. SIR EBOO PIRIBAI, O.B.E.

THE HON. J. L. RIDDOCH, O.B.E.

THE HON. G. A. TYSON, C.M.G.

THE HON. A. M. F. WEBB (Acting Solicitor General).

*THE HON. WANYUTU WAWERU.

LIST OF MEMBERS OF THE LEGISLATIVE COUNCIL—(Contd.)

European Elected Members:

- *THE HON. M. BLUNDELL, M.B.E. (Rift Valley).
 GROUP CAPTAIN THE HON. L. R. BRIGGS (Mount Kenya).
 THE HON. S. V. COOKE (Coast).
 THE HON. W. E. CROSSKILL (Mau).
 LT.-COL. THE HON. S. G. GHERSIE, O.B.E. (Nairobi North).
 LT.-COL. THE HON. E. S. GROOMAN, D.S.O. (Nairobi West).
 THE HON. N. F. HARRIS (Nairobi South).
 *THE HON. W. B. HAVELOCK (Kiambu).
 THE HON. R. C. J. LETCHER (Trans Nzoia).
 *THE HON. L. R. MACONOCHE-WELWOOD (Uasin Gishu).
 THE HON. SIR CHARLES MARKHAM, BT. (Ukamba).
 THE HON. MRS. A. R. SIJAW (Nyanza).
 THE HON. H. SLADE (Aberdare).
 THE HON. C. G. USHER, M.C. (Mombasa).

Asian Elected Members:

- Central Electoral Area:* *East Electoral Area:*
 *THE HON. C. B. MADAN. THE HON. S. G. HASSAN, M.B.E.
 THE HON. CHANAN SINGH.

Eastern Electoral Area: *West Electoral Area:*
 *THE HON. A. B. PATEL, C.M.G. *THE HON. I. E. NATHOO.

Western Electoral Area:
 THE HON. J. S. PATEL.

Arab Elected Member:

THE HON. SHEIKH MAHFOOD S. MACKAWI

Representative Members:

- African:* *Arab:*
 THE HON. W. W. W. AWORI. *THE HON. SHERIFF ABDULLA SALIM.
 THE HON. M. GIKONYO.
 *THE HON. J. JEREMIAH.
 THE HON. E. W. MATHIU.
 THE HON. D. T. ARAP MOI.
 *THE HON. B. A. OIANGA.

Clerk of the Council:

A. W. PURVIS.

Clerk Assistants:

H. THOMAS.

Reporters:

MISS S. I. WESTCOTT.
 MISS S. E. FARNEDELL.
 MISS I. V. BUCK.

Editor:

MRS. E. TUNSTALL.



COLONY AND PROTECTORATE OF KENYA

LEGISLATIVE COUNCIL DEBATES

TENTH COUNCIL

FIFTH SESSION—FIFTH MEETING

Tuesday, 17th July, 1956

The Council met at thirty minutes past two o'clock.

(Mr. Speaker (Sir Ferdinand Cavendish-Bentinck) in the Chair)

PRAYERS

ADMINISTRATION OF OATH

The Oath of Allegiance was administered to the following Members:

Mr. Jack Jesson Adie.

Mr. Vincent Albert Maddison.

PAPERS LAID

The following Papers were laid on the Table:

Report of the Select Committee appointed by the Legislative Council to consider and report on the Prevention of Corruption Bill.

Report of the Select Committee appointed by the Legislative Council to consider and report on the Cavendish-Bentinck Pension Bill.

Report of the Select Committee appointed by the Legislative Council to consider and report on the Mortimer Pension Bill.

(BY THE MINISTER FOR LEGAL AFFAIRS (Mr. Conroy))

The 1956-57 Estimates of Revenue and Expenditure of the Colony and Protectorate of Kenya for the year ending 30th June, 1957. (Passed by the Legislative Council on 12th June, 1956).

The Development Estimates for the year 1956-57 (Sections I and II). (Passed by the Legislative Council on 12th June, 1956).

The Transfer of Powers (Minister for Finance and Development) No. 1 Draft Order, 1956.

The Export Duty (Coffee, Cotton and Sisal Fibre) (Abolition of Duty) Order, 1956.

(BY THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey))

The Transfer of Powers (Minister for African Affairs) No. 1 Draft Order, 1956.

The Transfer of Powers (Minister for African Affairs) No. 2 Draft Order, 1956.

(BY THE MINISTER FOR AFRICAN AFFAIRS (Mr. Windley))

The Cotton Lint and Seed Marketing Board First Annual Report for the year ended 31st October, 1955.

The European Agricultural Settlement Board Accounts for the year ended 31st March, 1956.

(BY THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell))

The Kenya Regiment (T.F.) Annual Report, 1955.

(BY THE MINISTER FOR INTERNAL SECURITY AND DEFENCE (Mr. Cusack))

The African District Councils: Summary of Accounts and Report thereon for the year ended 31st December, 1955.

(BY THE MINISTER FOR LOCAL GOVERNMENT, HEALTH AND HOUSING (Mr. Havelock))

* Also included in list of Ministers or Parliamentary Secretaries.

† Mr. E. W. M. Magor took the Oath of Allegiance as Minister for Internal Security and Defence on 24th July, 1956.

The 1955 of Kenya Administration Report, 1955.

(By MR. ADIE, on behalf of the Minister for Education, Labour and Lands)

The Transfer of Powers (Minister for Forest Development, Game and Fisheries) Draft Order, 1956.

(By THE MINISTER FOR FOREST DEVELOPMENT, GAME AND FISHERIES (Mr. Blunt))

ORAL NOTICES OF MOTIONS

TRANSFER OF POWERS

(Minister for Finance and Development)

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): Mr. Speaker, Sir, I beg to give notice of the following Motion:

BE IT RESOLVED that the Order cited as the Transfer of Powers (Minister for Finance and Development) (No. 1) Order, 1956, be approved.

ABOLITION OF EXPORT DUTY

(Governor's consent signified)

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): Mr. Speaker, Sir, I beg to give notice of the following Motion:

BE IT RESOLVED that the Export Duty (Coffee, Cotton and Sisal Fibre) (Abolition of Duty) Order, 1956, be approved.

EMOLUMENTS OF MEMBERS

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): Mr. Speaker, Sir, I beg to give notice of the following Motion:

BE IT RESOLVED that the Report of the Select Committee set up to consider the Emoluments of Members of Legislative Council be adopted.

GUARANTEE TEMPORARY OVERDRAFT TO KENYA JUTE CONTROLLER.

(Governor's consent signified)

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): Mr. Speaker, Sir, I beg to give notice of the following Motion:

BE IT RESOLVED that this Government guarantee temporary overdraft facilities to the Kenya Jute Controller for a sum not exceeding £100,000 for a period not exceeding six months.

TRANSFER OF POWERS

(Minister for African Affairs)

THE MINISTER FOR AFRICAN AFFAIRS (Mr. Windley): Mr. Speaker, Sir, I beg to give notice of the following Motion:

BE IT RESOLVED that the Orders cited as the Transfer of Powers (Minister for African Affairs) (No. 1) Order, 1956, and the Transfer of Powers (Minister for African Affairs) (No. 2) Order, 1956, be approved.

AFRICAN INDUSTRIAL ESTATES DEVELOPMENT

THE MINISTER FOR COMMERCE AND INDUSTRY (Mr. Maddison): Mr. Speaker, Sir, I beg to give notice of the following Motion:

BE IT RESOLVED that the Council notes with approval the proposal to establish a committee to be known as the African Industrial Estates Development Committee, with the object of developing industrial estates in the native lands.

ORAL ANSWERS TO QUESTIONS

QUESTION No. 91

GROUP CAPT. BRIGGS (Mount Kenya) asked the Minister for Education, Labour and Lands (Mr. Coutts) to state the number of farmers awaiting deeds in respect of the conversion of the leases of their farms from 99 years to 999 years.

MR. ADIE on behalf of the Minister for Education, Labour and Lands (Mr. Coutts): The records which are maintained show the number of individual pieces of land the titles to which are to be converted, but they do not show the number of farmers who hold titles to these pieces of land. It will be appreciated that some farmers may hold more than one title.

The position is as follows:—

| | |
|--|-------|
| Number of applications for conversion approved | 1,948 |
| New title deeds issued | 310 |
| New title deeds available but not yet issued | 146 |
| Number of plots for which deed plans are not yet available | 1,492 |

The total number of plots in respect of which new titles have not yet been issued is therefore 1,638.

GROUP CAPT. BRIGGS: Mr. Speaker, Sir, arising out of that reply, would the Minister state whether there is any likelihood of the issue of titles to farmers being prejudiced by this long delay in any way?

MR. ADIE on behalf of the Minister for Education, Labour and Lands (Mr. Coutts): I am grateful, Sir, to the hon. Member for raising that point on which I think some members of the public have some degree of apprehension. I do not think I can do better, Sir, than quote the Kenya Information Office fortnightly Bulletin No. 70 of the 17th October, 1949. The passage is very short. "The certificate which will be given by the Commissioner of Lands that the request for conversion has been approved will be recognised by the Government in future and will be binding. There need, therefore, be no misgiving on the part of the lessees that their interest will be in any way prejudiced by any delay in carrying out the conversion they desire." Now that passage, Sir—

THE SPEAKER (Sir Ferdinand Cavendish-Bentinck): I am afraid that you may only give a factual answer to the actual question. That is not an answer, but is becoming a speech.

MR. ADIE on behalf of the Minister for Education, Labour and Lands (Mr. Coutts): I think that answers the question.

QUESTION No. 100

MR. LETCHER (Trans Nzoia) asked the Minister for Works (Mr. Nathoo) will the Minister make a statement in connection with warning signs at dangerous level crossings and give the reason for the delay in erecting these in more useful and conspicuous places.

THE MINISTER FOR WORKS (Mr. Nathoo): The question of erection of road signs has been receiving the attention of the Road Authority for some time, but I fear was not dealt with as urgently by the various bodies concerned as could have been desired.

The Ministry is now taking every step to hasten the erection of these signs and we have the assurance of the Chairman of the Road Authority that he will do all in his power to assist in the matter.

MRS. SHAW (Nyanza): Arising out of that answer, Mr. Speaker, will the

Minister give an assurance that a road sign will be erected immediately where the Eldama Ravine road cuts the main trunk road to Eldoret, because it is a complete and utter death-trap.

MR. MATHU (African Representative Member): Mr. Speaker, I would like to get an assurance. I have also been given an assurance by the Public Works Department that all roads built by the Public Works Department have road signs near level crossings.

MR. ARAP MOI (African Representative Member): Arising out of that answer, Mr. Speaker, will the Minister tell us what will happen to the roads under Local Authority?

THE MINISTER FOR WORKS (Mr. Nathoo): Mr. Speaker, I have it from the Road Authority that this matter will be given the highest priority.

QUESTION No. 95

MR. HARRIS (Nairobi South) in the absence of Lt.-Col. Gherrie (Nairobi North) asked the Chief Secretary, having regard to the decision to send a team of athletes to represent Kenya at the Olympic Games to be held in Australia later this year, will the Minister please state, in the event of any representatives selected being Government servants, and granted leave of absence, whether the person concerned would suffer any loss of normal leave entitlement.

THE ACTING CHIEF SECRETARY (Mr. Griffith-Jones): No, Sir. Such officers will not suffer any loss. The Government has decided that officers who are selected to represent Kenya at the Games will be granted special leave at full pay to cover the period of their absence; such leave will not count against normal leave entitlement.

QUESTION No. 96

MR. HARRIS in the absence of Lt.-Col. Gherrie, asked the Chief Secretary to state, having regard to the desirability of encouraging civil servants to settle in the Colony on retirement from the Service, whether Government has any objection to civil servants acquiring and developing a property during their period of service with Government.

THE ACTING CHIEF SECRETARY (Mr. Griffith-Jones): In general, the Government has no objection; on the contrary, subject to certain qualifications dictated by the public interest, it recognises the advantages to the Colony in the acquisition by serving officers of property with a view to settlement on retirement. Civil servants are required to seek permission to purchase property in the Colony during the period of their service, but, provided it is established to the satisfaction of the Government that the acquisition of the property will not affect the proper discharge of the officer's official duties, such permission is commonly granted.

QUESTION No. 97

MR. HARRIS in the absence of Lt.-Col. Gherle asked the Minister for Finance and Development to state whether Government is prepared to consider extending similar benefits to adopted children as provided for by the Widows' and Orphans' Pensions Fund in respect of children born in wedlock.

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): Yes, Sir. The Government has already agreed in principle to extend similar benefits to children adopted by married officers as are provided for by the Widows' and Orphans' Pensions Scheme in respect of children born in wedlock, and the necessary amending legislation will be introduced as soon as possible.

BILLS

FIRST READINGS

The Regulation of Wages and Conditions of Employment (Amendment) Bill

(**MR. ADIE** on behalf of the Minister for Education, Labour and Lands (Mr. Coultas))—Order for First Reading read—Read the First Time—Ordered to be read the Second Time to-morrow.

The Legislative Council (African Representation) (Amendment) Bill

(**THE MINISTER FOR AFRICAN AFFAIRS (Mr. Windley)**)—Order for First Reading read—Read the First Time—Ordered to be read the Second Time to-morrow.

The Immigration Bill

(**THE ACTING CHIEF SECRETARY (Mr. Griffith-Jones)**)—Order for First Reading

read—Read the First Time—Ordered to be read the Second Time to-morrow.

BILL

SECOND READING

The African Courts (Suspension of Land Suits) Bill

Order for Second Reading read.

THE MINISTER FOR AFRICAN AFFAIRS (Mr. Windley): Mr. Speaker, Sir, I beg to move that the African Courts (Suspension of Land Suits) Bill be now read the Second Time.

I would, Sir, in this connection, like to touch briefly on the background to this Ordinance, which is really concerned with land consolidation which is now going on in the Central Province. Hon. Members, I think, in the course of other debates have heard me talk on this subject and we have during the course of the last year or 18 months gradually developed, with the full co-operation and indeed at the demand of the local inhabitants of the Central Province in certain areas, a policy of consolidating their fragmented land-holdings. This has been worked out on the ground in practice and has in certain areas been virtually completed on an experimental basis. We have now, Sir, arrived at a stage when it is necessary to provide a legal framework for these activities and to formalise them, having learnt, as I say, by experience on the ground, the methods to be used and the way to set about it.

As a result of all this the rules under the Native Lands Trust Ordinance have been drawn up. They have been referred to the Native Lands Trust Board, and discussed by them. Certain amendments have been suggested and these rules are now about to be put into a suitable form for final approval, which I hope will be given by the Native Lands Trust Board, perhaps during the month of August.

It is, I think, Sir, clear from section 2 of this Ordinance, which I will be amending slightly to tidy up in the Committee stage of this Bill, that this particular Ordinance will only apply to such areas as come under the rules which will be published under the Native Lands Trust Ordinance and will not apply to other areas.

In essence, if I may quote from the Memorandum of Objects and Reasons,

[**The Minister for African Affairs**] Sir, the reason behind this Bill is to ensure that we can give what is described here, Sir, as "some quietude of possession", which will carry them over the interim period which must elapse before registration of titles, including determination of substantive law to be applicable to such holdings and a settlement and survey thereof can be completed.

We visualise, Sir, that the process of land consolidation will proceed with an ever-increasing impetus in the Central Province and that during this time we shall be evolving the ultimate law governing the registration of titles and with all that that implies, which will require a fairly extensive examination of the ultimate law to be applied. During this period it is necessary to have the powers to suspend proceedings in this connection before the African courts.

Therefore, Sir, it is proposed, as hon. Members will see, that a three-year moratorium on all legal proceedings affecting lands which are being consolidated by the tribal authorities with the co-operation of the Administration, subject to provision being made for the grant of consent to institute proceedings whenever good grounds exist. The three-year moratorium is suggested, Sir, because it is anticipated that during that time we shall have the ultimate legislation concerning the registration of titles in being and that therefore the need for this in this particular Ordinance will, in all probability, have ceased.

That, Sir, is the reason for introducing this for a three-year period, because we are trying, so far as possible, to think ahead and not to require this Ordinance beyond the necessary period.

I do not think, Sir, it is necessary for me to go through this Ordinance clause by clause, because I think all the clauses are fairly straightforward and self-explanatory and are, indeed, covered in the Memorandum of Objects and Reasons.

I beg to move, Sir.

THE MINISTER FOR LEGAL AFFAIRS (Mr. Conroy) seconded.

Question proposed.

MR. MATHU: Mr. Speaker, Sir, I should like first of all to thank the Minister who has moved this Bill for delaying the Second Reading of this Bill

until to-day. It was up for Second Reading during the last sitting of Council, Sir, but the African Members were not happy about the provision, particularly when they did not have in front of them the rules proposed for enactment under clause 2 of the Bill, and the Minister was good enough to accept our request. Since the last sitting we have had discussions with officers who have been responsible for drafting these rules, we have had consultations with Africans who are going to be vitally affected by the legislation, and I am glad to say, Sir, that we are happy to support the Second Reading of this Bill with a very clear conscience.

The only point I should like to make, Sir, on this is, as my hon. friend the Mover has said, with regard to the objectives of this three-year moratorium which will give an opportunity to people who have their land consolidated to feel that they have possession and that the development in those units which have been consolidated is not interfered with by sometimes vexatious proceedings in the African Courts, and also to give time to the Government to go on with the drafting of subsequent legislation which will enable those people to have recognition as holding individual land under individual tenure and title deeds. Now my request, Sir, is that it is absolutely necessary that after these rules have been applied in certain areas that the Government should follow it up as quickly as possible by issuing the title deeds, because from delay may be created suspicion in the minds of the people who may say that the Government intention was not absolutely faithful in the matter.

In short, Sir, this is only a request that the present legislation, however complicated it may be, should be introduced in this Council without any undue delay.

Sir, I am very happy to support the Second Reading of this Bill.

THE SPEAKER (Sir Ferdinand Cavendish-Bentinck): If no other Member wishes to speak, I will ask the hon. Mover to reply.

THE MINISTER FOR AFRICAN AFFAIRS (Mr. Windley): Mr. Speaker, Sir, I welcome the support given by my hon.

[The Minister for African Affairs] friend, Mr. Mathu, to this Bill and I think there is little left for me to say except to reassure him here that it is our intention to proceed with the ultimate legislation governing the registration of titles with all possible speed, although he knows, I think, as well as I do, the difficulties involved and this may well take some time to thrash out. Certainly there will be no undue delay as I also fully appreciate the importance of achieving finality in this matter.

The question was put and carried.

The Bill was read the Second Time and committed to a Committee of the whole Council to-morrow.

ADJOURNMENT

THE SPEAKER (Sir Ferdinand Cavendish-Bentinck): That completes the business on the Order Paper for to-day. Council will stand adjourned until 2.30 p.m. to-morrow, Wednesday, the 18th July, 1956.

Council rose at Three o'clock.

Wednesday, 18th July, 1956

The Council met at thirty minutes past Two o'clock.

[Mr. Speaker (Sir Ferdinand Cavendish-Bentinck) in the Chair]

PRAYERS

PAPER LAID

The following Paper was laid on the Table:

The Report on the Working of the Civil Service Commission from 1st July, 1955, to 31st December, 1955.

(BY THE ACTING CHIEF SECRETARY (Mr. Griffith-Jones))

ORAL NOTICE OF MOTION

The Transfer of Powers (Minister for Forest-Development, Game and Fisheries) Order, 1956

THE MINISTER FOR FOREST DEVELOPMENT, GAME AND FISHERIES (Mr. Blunt): Mr. Speaker, Sir, I beg to give notice of the following Motion:

BE IT RESOLVED that the Order cited as the Transfer of Powers (Minister for Forest Development, Game and Fisheries) Order, 1956, be approved.

ORAL ANSWERS TO QUESTIONS

QUESTION No. 101

GROUP CAPTAIN BRIGGS asked the Acting Chief Secretary (Mr. Griffith-Jones) to state whether he is aware of the source of the funds provided to enable the General Secretary of the Kenya Federation of Labour to visit the U.S.A.

THE ACTING CHIEF SECRETARY (Mr. Griffith-Jones): No, Sir. The visit appears to have been arranged during the gentleman's stay in the United Kingdom. So far as this Government is aware, the visit will be a personal one, not undertaken in the capacity of General Secretary of the Kenya Federation of Labour.

QUESTION No. 102

GROUP CAPTAIN BRIGGS asked the Minister for Internal Security and Defence (Mr. Cusack) to state what steps have been taken to ascertain who was responsible for prisons

[Group Captain Briggs]

documents referred to in a recent debate in the House of Commons coming into the possession of an unauthorised person.

THE MINISTER FOR INTERNAL SECURITY AND DEFENCE (Mr. Cusack): The prison documents referred to in a recent debate in the House of Commons consisted of particulars copied from prison records; they were not the original prison records themselves. The particulars were copied by a woman rehabilitation officer, who was at the time in the service of the Government and who in the course of her duties had legitimate access to the prison records in question.

SIR CHARLES MARKHAM (Ukamba): Mr. Speaker, arising out of that reply, would the Minister inform us whether responsible officials working in this Department have access to documents and do they sign the Official Secrets Act?

THE MINISTER FOR INTERNAL SECURITY AND DEFENCE (Mr. Cusack): The woman in question was not in fact working in the Prisons Department, she was working in the Department of Community Development. The Official Secrets Act would not normally be signed by an officer in her category or by an ordinary prisons officer.

MR. MATHU: Arising out of the supplementary answer—

THE SPEAKER (Sir Ferdinand Cavendish-Bentinck): You cannot ask a question arising out of a supplementary answer, it must arise out of the original reply to the question on the Order Paper.

MR. MATHU: Mr. Speaker, Sir, arising from the original reply, may I know whether the Minister for Community Development has given access to these secret documents to every officer in the Department?

THE MINISTER FOR INTERNAL SECURITY AND DEFENCE (Mr. Cusack): I think, Sir, that question should be addressed to the Minister concerned.

THE SPEAKER (Sir Ferdinand Cavendish-Bentinck): Will somebody ask the questions on behalf of Lt-Col. Gherrie?

QUESTION No. 99

MR. HARRIS (on behalf of Lt-Col. Gherrie) asked the Minister for Finance and Development (Mr. Vasey)

to state the amount of income tax collected from each of the different sections of the community, namely: Europeans, Africans and Asians, in Kenya, during the year 1955.

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): It is regretted that the information is not available.

QUESTION No. 103

MR. HARRIS (on behalf of Lt-Col. Gherrie) asked the Acting Chief Secretary (Mr. Griffith-Jones): In view of the anomalies which are alleged to have been created in regard to the emoluments of certain grades of employees in the Civil Service resulting from the introduction of inducement pay, will Government please consider an examination of the incidence of inducement pay with a view to effecting adjustments in emoluments where anomalies and inequity in pay are disclosed?

THE ACTING CHIEF SECRETARY (Mr. Griffith-Jones): Every salaries revision inevitably gives rise to some anomalies, and the Libbury revision has not proved an exception. All anomalies, or alleged anomalies, which have been brought to the notice of the Government, however, have been carefully examined and wherever inequities have been found to exist they have been adjusted.

It is not, therefore, considered necessary to set up any special machinery to examine the incidence of inducement pay with a view to effecting adjustments in emoluments where anomalies and inequity in pay are disclosed; such an examination has been continuously in progress since the salaries revision took place, and any anomaly, or alleged anomaly, brought to the notice of this Government has been and will continue to be thoroughly investigated and any necessary equitable adjustment effected.

THE SPEAKER (Sir Ferdinand Cavendish-Bentinck): I gather that there is a Supplementary Order Paper containing a question from Dr. Hassan.

QUESTION No. 106

DR. HASSAN (East Electoral Area) asked the Minister for Local Government, Health and Housing (Mr. Havlock): Is Government aware that great dissatisfaction exists amongst the

(Dr. Hassan)

Muslims in respect of their City Council representation?

If the reply is in the affirmative, will the Minister please state what action is being taken in the matter to enable the Muslims to be represented on the Nairobi City Council at an early date?

THE MINISTER FOR LOCAL GOVERNMENT, HEALTH AND HOUSING (Mr. Havelock): The Government has agreed to meet the request put forward by the Muslim community for separate representation on the City Council, and also to take advantage of the opportunity to strengthen the representation of certain other interests.

The new proposals will provide for three Muslim elected councillors on the Council, and five non-Muslim, as compared with the present seven Asian councillors. In addition it is proposed to increase the number of African councillors by one, to form an additional European ward to cover the recently developed residential areas in the western part of the City, and to allow for one member to be nominated by the E.A. Railways and Harbours Administration.

These proposals require amendments to the Ordinance before they can be implemented, and the necessary amendments are now being prepared.

MR. HARRIS: Arising out of that reply, Sir, will the Minister state whether the present members of the City Council have been consulted on these changes, and if so, whether they are in agreement with them?

THE MINISTER FOR LOCAL GOVERNMENT, HEALTH AND HOUSING (Mr. Havelock): Mr. Speaker, it is my information that these proposals are supported almost unanimously by the present members of the City Council.

AN HON. MEMBER: Record!

BILLS

SECOND READINGS

The Regulation of Wages and Conditions of Employment (Amendment) Bill
Order for Second Reading read.

MR. ADIE on behalf of the Minister for Education, Labour and Lands (Mr. Counts): Mr. Speaker, Sir, I beg to move

that the Regulations of Wages and Conditions of Employment (Amendment) Bill, 1956, be now read the Second Time.

The principal Ordinance, Sir, is one of considerable importance to the Colony since it is the one under which, among other things, the Wages Advisory Board and wages councils are established and operate.

Since it was promulgated in 1951 it has been amended on no fewer than three occasions, which is, I think, some indication of the importance which attaches to this Bill.

The Bill now before the Council, Sir, seeks to make a variety of amendments, some of a minor nature and some of a more important kind, all of them having the approval of the Labour Advisory Board. All are explained in the Memorandum of Objects and Reasons and in this speech I therefore propose to confine myself in the main to the major amendments only.

The first point I wish to mention, Sir, is a small point in connection with clause 2 (a), the definition of labour inspector. I am afraid there has been a slip, Sir, because the present definition means two types of officer but not labour inspector. I propose, Sir, to move in the Committee stage an amendment which is on the Order Paper for to-day under Notices and which will rectify this omission.

The first of the major amendments is clause 3 (b) which replaces section 7 (5). Under the law as it now stands a wages council order, that is to say an order establishing a wages council, has to be laid before Legislative Council, and subject to any resolution which may be passed in Legislative Council within 30 days of its being so laid, it comes into force.

Well, Sir, this arrangement might mean considerable delay in getting a wages council started, if at the time the wages council order was made Legislative Council was not sitting, or not due to meet again for some time, such delay might well have serious consequences in an industry which might, for one reason or another, be in urgent need of a wage fixing body. It is therefore proposed, Sir, to alter the law so that a wages council

(Mr. Adie)

order will come into operation immediately it is made. It will, however, still be laid before Legislative Council, and, if within the next 20 sitting days Legislative Council passes a resolution to the effect that the order be annulled, the order will thenceforth be void, but without prejudice to anything already done under it and also without prejudice to the making of a new order. In actual fact, Sir, I think it is extremely unlikely that this Council will ever wish to annul a wages council order. A wages council order is made after a recommendation to that effect has been made by the Wages Advisory Board, and the Wages Advisory Board consults both employees and employers in the trade concerned. Before the Minister for Labour makes a wages council order, he gives the public notification of his intention to make it and also 30 days in which to send him any objections they may wish to make. A wages council order, therefore, is only made after very careful consideration.

The second of the major amendments is clause 4 (a) which replaces section 10 (3). This amendment achieves two results. In the first place, whereas under the existing law the Minister for Labour can only make a wages regulation order giving effect to proposals submitted by a wages council with the approval of the Governor in Council of Ministers, under the amended law, that is to say under new section 10 (3) (a), the Minister will be the final authority empowered to approve such an order. The Minister, however, will continue to obtain the approval of the Governor in Council for a wages regulation order which gives effect to proposals submitted by the Wages Advisory Board: these orders which emanate from the Wages Advisory Board are ones of general application, which fix the minimum wage in the nine urban areas and are not confined to any particular industry.

In the second place, under the second law the Governor in Council of Ministers has no power to vary wages proposals submitted by the Wages Advisory Board; he can either accept them or he can refer them back, but he cannot vary them. Well, Sir, as its name implies, the Wages Advisory Board is an advisory board, and it is somewhat of a constitutional

anomaly that the Governor in Council of Ministers should not have power to vary the Board's proposals.

Here I would mention, Sir, and I would like to emphasise, that this amendment is not intended to be in any way derogatory to the Wages Advisory Board or to imply any lessening of the value which Government places on its services. Indeed, Sir, this is a suitable occasion on which to express the Government's sincere thanks to the members of the Board for all the very hard and often very tedious work they perform on it. Although it is always invidious to mention individual names, I would like to pay a special public tribute to Mr. Kenneth Hunter, who has been on the Board for four years and is now the Chairman. I would also like to mention the hon. Member for Nairobi North, Lt.-Col. Gherrie, who at the end of last year retired from the Board after serving on it for a similar period of four years. I am very sorry he is not able to be present here to-day.

Although it is not one of the major amendments in the Bill, Sir, I cannot resist the temptation before leaving clause 4 to spotlight clause 4 (b), for it illustrates the positively eagle eye kept by Government in general and my own Ministry in particular on any chance of effecting an economy in public expenditure. Under the present section 10 (5), the text of all wages regulation orders, whether they emanate from the wages councils or from the Wages Advisory Board, has to be published once in the *Official Gazette* and twice in a newspaper. Well, Sir, some of these orders are very lengthy, and very complicated, and naturally that makes the process of publication in the Press a somewhat expensive matter. Under amended section 10 (5) it will only be necessary for the text of wages regulation orders to be published once in the *Gazette*. However, notification of the making of the orders will be published twice in the Press.

The next major amendment is clause 5, which inserts a new section 10A. At present a wages regulation order of general application can only be made after wages regulation proposals have been submitted by the Wages Advisory Board pursuant to an enquiry carried out by it. Well, Sir, this position is, I

(Dr. Hassan)

Muslims in respect of their City Council representation?

If the reply is in the affirmative, will the Minister please state what action is being taken in the matter to enable the Muslims to be represented on the Nairobi City Council at an early date?

THE MINISTER FOR LOCAL GOVERNMENT, HEALTH AND HOUSING (Mr. Havelock): The Government has agreed to meet the request put forward by the Muslim community for separate representation on the City Council, and also to take advantage of the opportunity to strengthen the representation of certain other interests.

The new proposals will provide for three Muslim elected councillors on the Council, and five non-Muslim, as compared with the present seven Asian councillors. In addition it is proposed to increase the number of African councillors by one, to form an additional European ward to cover the recently developed residential areas in the western part of the City, and to allow for one member to be nominated by the E.A. Railways and Harbours Administration.

These proposals require amendments to the Ordinance before they can be implemented, and the necessary amendments are now being prepared.

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(Mr. Adie)

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The next major amendment is clause 5, which inserts a new section 10A. At present a wages regulation order of general application can only be made after wages regulation proposals have been submitted by the Wages Advisory Board pursuant to an enquiry carried out by it. Well, Sir, this position is, I

[Mr. Adie] think, unsatisfactory, since cases may arise when an enquiry by the Wages Advisory Board would be superfluous, and give the Board unnecessary work, as the result of an enquiry already having been carried by some other authoritative and responsible body. The next section 10a, therefore, Sir, empowers the Governor in Council to make a wages regulation order of general application without the Wages Advisory Board first having to conduct an enquiry and then having to submit proposals.

I would like to emphasise here, Sir, that the intention of this amendment is not in any way to enable a general bypassing of the Wages Advisory Board. Normally matters affecting wages will continue to be referred to the Board.

The next major amendment, Sir, is clause 12, which makes two alterations to paragraph 1 of the First Schedule to the Ordinance. The Wages Advisory Board at present consists, in accordance with the First Schedule, of not more than three independent members, not more than two employer representatives, and not more than two employee representatives. In Government's opinion, Sir, it is desirable that the independent members should provide independent views on the Board from as wide a field as possible, and should be in a position to represent the views of the three main racial groups. In addition, Sir, Government considers that, in view of the increasing number of women now being employed in industry, it may soon be desirable to put a woman on the Board. Clause 12 (a) therefore increases the maximum number of independent members from three to four. At the same time it is also desirable to increase the maximum number of employer and employee representatives from two to three in order that the absence of one member from a particular side at any meeting will not necessarily result in only one member for that side being present. This increase is effected by clause 12 (b).

The last major amendment is clause 13, which makes various alterations to the Second Schedule of the Ordinance in respect of the composition of the wages council. In his speech on the estimates of the Labour Department for the

current financial year, the Minister for Labour sketched recent events which led to the position of wages councils being reviewed. I do not propose, therefore, Sir, in this speech, to do more than briefly recapitulate those events in order to provide the background and an explanation of the relevant amendments in this Bill. When considering wages regulations proposals submitted by the Road Transport Wages Council and the Tailoring Wages Council in the latter part of last year and the early part of this year, the Council of Ministers agreed to proposals in respect of the urban areas but felt unable to approve proposals in respect of the urban areas. The Council of Ministers felt doubtful of the ability of the wages councils as at present constituted to determine sufficiently accurately the wages which should be paid in the widely differing rural areas. The Council felt that it was desirable that the views of all regions should be represented on the wages councils and should be taken into account when the wages council was framing its ultimate wage regulation proposals. Well, this is one side of the picture.

On the other side of the picture the representative members of the two wages councils concerned felt that development of self-determination in industry through wages councils was being nullified by the action of the Council of Ministers in refusing to accept proposals which had been thrashed out round the table and agreed by the employer and employee representatives. By way of protest the employee representative withdrew from both these wages councils; and, in sympathy later on with those employee representatives, the employee representatives on the Hotel Wages Council withdrew from that wages council. The position now is, Sir, that the Road Transport Wages Council, the Tailoring Wages Council and the Hotel Wages Council are all in a state of suspended animation; and, although two further wages councils have been established for the baking, flour-making, confectionery and biscuit-making trades, and the motor engineering trades, members have not yet been appointed to those councils pending the amendments to the Ordinance which are the subject of the present Bill.

[Mr. Adie]

Sir, Government has now found a solution to the problem which meets both points of view. The solution is on the following three lines. Firstly, although no limit is placed by the Ordinance on the number of representative members on the wages councils, in practice at present no council has more than nine employer and nine employee representatives. In order to meet the viewpoint of the Council of Ministers it is proposed administratively to increase the size of the wages councils by appointing more members on each side, in order to ensure that all the rural areas as well as the urban areas are adequately represented. Inside each wages council regional sub-committees can be set up, again administratively, which can advise the full council on the wages and conditions of employment which should apply to the regions represented by them; and the full council would have close regard to the views expressed by the sub-committees when formulating its final proposals.

Secondly, it is proposed to amend the law by increasing the number of independent members from three to such number as the Minister may think fit in order to ensure that there will be a sufficient number of independent members to serve as chairmen of the sub-committees. This amendment is effected by clause 13.

Thirdly, in order to meet the desire of the trade unions for less interference by Government in the recommendations of wages councils, it is intended to amend the law so that wages proposals by wages councils will no longer have to be approved by the Governor in Council, they will be submitted for approval by the Minister for Labour. This amendment is effected by clause 4 (a) which I have already mentioned. The Minister would interfere as little as possible with the proposals put up to him, and he would refer to the Council of Ministers only those matters which in his opinion were of sufficient importance to warrant joint ministerial decision.

In order, however, to ensure that wages councils are constituted in such a way as to carry the full confidence of the Council of Ministers in their ability to carry out their work satisfactorily, it is proposed that the law should be amended so that the Governor in Council, instead of as at present the Minister for Labour,

shall have the statutory responsibility of approving the composition of wages councils. The position will then be that the Minister will appoint the individual members of the wages councils, but the Governor in Council will first approve the coverage of the wages councils, that is to say, he will approve the areas of the Colony to be represented on the wages councils and the number of members from each. This amendment is effected by clause 13.

Before I leave the question of wages councils, Sir, I would like to take the opportunity of expressing the Government's warm thanks to the very public-spirited people who serve as independent members on wages councils. Along with the employer and employee representatives, the independent members do a lot of hard, slogging work on these wages councils in helping to formulate the proposals on which wages regulation orders are based and they play a vital part in the activities of the councils. Indeed it is they who, as it were, hold the balance; and they are in a position to cast the decisive votes. They are chosen as people of ability, integrity and human understanding, who are not directly engaged in the industry concerned, so that they are able to adopt a completely objective approach to all the various problems which the wages councils have to consider.

It is interesting to note that the Royal Commission mentioned the independent members of wages councils in the following words: "The independent element on these bodies should be strong and vigorous." Well, Sir, it is very much in keeping with these words of the Royal Commission that the hon. Member for the Coast, Mr. Cooke, was an independent element on the Tailoring Wages Council. I know he renders yeoman service, Sir, to both sides of that Council in helping them to cut their coat according to their cloth.

I hope, Sir, that when, with the passing of this Bill into law, Government comes to increase the independent membership of these councils, those people who are invited to become independent members will be willing to undertake this important public service.

I fear, Sir, that I have taken up a good deal of time in moving this Second Reading, but as I have already said, this

[Mr. Adie]

Bill is one of considerable significance and I therefore felt it desirable to give as full an explanation of it as I could. With its becoming law, Sir, it will be possible for the wages council machinery to start up again, and we shall be able to look back on the events of the last six months or so as one of those cases in which a temporary setback results in a permanent advance, Sir, I beg to move.

Mr. WENN (Nominated Member)
seconded.

Question proposed.

Mr. HARRIS: Mr. Speaker, Sir, I must congratulate the Minister on the manner in which he introduced the Motion. Having said that, Sir, I am afraid I must oppose the Second Reading on one most important matter of principle, which is contained in clause 3 (b) of the Bill. There, Sir, Government have decided for completely invalid reasons to my mind, to change from the positive to the negative method of government by delegated powers. Before, Sir, it was necessary for a wages regulation order to be made, to be laid before this Council and to come into force 30 days after having been made. Now, Sir, Government always seem to tackle labour and wages legislation in such a naive way that I wonder whether in fact this is the child of a brain in Kenya, or whether in fact most labour legislation in this country is not inspired from elsewhere. Because, Sir, the new suggestion is that the Minister shall make an order and that order shall come into force, but this Council, when it has been sitting for 20 days, or during that period, can then introduce a Motion annulling the order.

Now, Sir, it is completely unrealistic in the modern world to tell a whole trade that they will be subject to new rates of pay, have an order signed, put those rates of pay into effect and then have a legislature, some time later, coming along and saying "Sorry, Mr. Minister, you have made a mistake; we are going to annul your order". Of course, Sir, this Council would never get away with it, with present-day labour trends, and I feel, Sir, that the old method must be the right method, if this Council is going to mean anything at all in the life of this country.

There seems to be, Sir, an idea in Government that one can completely isolate one trade from another and can introduce a wages regulation order which will affect that trade but will have no repercussions whatsoever on other trades. I have made this point before, Sir, but I feel it is more necessary than ever to make it now, because I believe that this Council is the right place that should decide whether a wages regulation order made in respect of one trade will have repercussions—and unfortunate repercussions—on other trades. And, Sir, the whole time that Government persist in using this method of making an order and then giving this Council an opportunity of annulling it, and the whole time Government think that this Council could in practice annul such an order once it had been made, then, Sir, I must oppose the Second Reading of the Bill.

MR. SLADE (Aberdare): Mr. Speaker, Sir, I should like to support the hon. Member for Nairobi South in what he has had to say about clause 3 (b) of this Bill, although I do not think I would go quite so far as to agree that it gives grounds for opposing the whole Second Reading.

Sir, I should also like to make a point in regard to clause 5 of this Bill. That is the clause that seeks to empower the Governor-in-Council to make a wages regulation order of his own Motion. It provides that before any such order is made by the Governor in Council, the Wages Advisory Board shall be notified, but it does not provide that the comments of the Wages Advisory Board shall be heard before the order is made.

Now, Sir, we are assured by the hon. Mover that there is no intention here, or anywhere else, of by-passing the Wages Advisory Board, and I am very glad to have that assurance. There is, nevertheless, a danger that under this clause, as it stands, the Board may be by-passed on certain occasions. Mr. Speaker, the point I want to make is that in matters of this kind, consistency—continuity of policy—must be very important; and that policy lies primarily with the Wages Advisory Board and they are the custodians, as it were, of the continuity and consistency.

Now it may happen that the Governor in Council sees reason for making an

[Mr. Slade]

order of his own Motion. There may be very good reason apparent to the Governor in Council for that, but it may be that, quite unknown to them, what they propose to do cuts right across the basic trend of what the Wages Advisory Board is doing. It does seem to me, Mr. Speaker, vital that the Governor in Council should make sure that they hear from the Wages Advisory Board or have an opportunity of hearing from the Wages Advisory Board that, in fact, the proposed order does not cut across the ordinary trend of their policy, before the order is made.

So I was going to suggest, Sir, to the Mover that he considers an amendment of his proposed clause to provide that when such an order is contemplated, not only is notice given to the Wages Advisory Board, but that opportunity is also given to the Board to comment on the proposed order before anything further is done.

I would, Sir, in closing, like to join with the hon. Mover in paying a tribute to all those who work on these boards. I know how arduous and dreary at times this kind of work can be and we recognise, on this side of Council also, Sir, the great service that they render.

I beg to support.

THE SPEAKER (Sir Ferdinand Cavendish-Bentley): If no other Member wishes to speak, I will call on the Mover to reply.

MR. ADIE *on behalf of the Minister for Education, Labour and Lands* (Mr. Coutts): First, Sir, I should like to thank the hon. Member for the kind words he said of my opening address.

I will deal with the point made by the hon. Member for Nairobi South. I think, Sir, he has, quite unwittingly I have no doubt, got some confusion of thought in this matter, because, as I understood his point, it seemed to be that whereas wages regulation orders used to be submitted to Legislative Council, in future they would not be, whereas that is not so at all. Wages regulation orders have never been submitted to Legislative Council. I think he was confusing wages regulation orders with wages council orders, and wages council orders, as I explained in my opening

address, will continue to come before this Council.

Now, Sir, with regard to the points made by the hon. Member for Aberdare, he has criticised, Sir, the amendment which seeks to empower the Governor in Council to make of his own Motion a wages regulation order of general application, without consulting the Wages Advisory Board. Well, Sir, as I explained and as the hon. Member is aware, there is no intention whatsoever behind this amendment of enabling a general by-passing of the Wages Advisory Board, and matters affecting wages would normally continue to be submitted to them for their advice; and I have no doubt, Sir, that, if time permitted the Wages Advisory Board to be brought together and to express an opinion on the matter, that procedure would still be followed and their advice obtained.

I think, Sir, that in a matter of this sort one has got to assume that the Government will act in a reasonable manner.

That is all I have to say, Sir, and I beg to move.

The question was put and carried.

The Bill was read the Second Time and committed to a Committee of the whole Council to-morrow.

The Legislative Council (African Representation) (Amendment) Bill, 1956

Order for Second Reading read.

THE ACTING CHIEF SECRETARY (Mr. Griffith-Jones): Mr. Speaker, Sir, in the, I know unintentional, absence of my hon. friend, the Minister for African Affairs, whose calculations, I think, regarding the length of the previous debate have gone rather awry, I beg to move that the Legislative Council (African Representation) (Amendment) Bill, 1956, be now read the Second Time.

Mr. Speaker, the main purpose of this Bill is to enable electoral registers to be prepared on a district basis, rather than on the much wider electoral area basis, the various district registers being then collated and combined to form the electoral area register. It is merely a matter of procedure and it does not affect the substance of the principal Ordinance.

[The Acting Chief Secretary]

Mr. Speaker, the remaining provisions of this Bill contain consequential amendments and minor amendments relating to the appointment of Assistant Registering Officers, and clause 11 of the Bill amends the Schedule to the principal Ordinance to remove a possible instance of duplicity in the qualifications which are set forth and described and defined in that Schedule.

I do not think the Bill requires any further elucidation, Mr. Speaker, Sir, and I therefore beg to move.

Mr. Webb seconded.

Question proposed.

The question was put and carried.

The Bill was read the Second Time and committed to a Committee of the whole Council to-morrow.

The Immigration Bill, 1956

Order for Second Reading read.

THE ACTING CHIEF SECRETARY (Mr. Griffith-Jones): Mr. Speaker, Sir, I beg to move that the Immigration Bill, 1956, be now read the Second Time.

Sir, this Bill is presented to the Council to implement the policy which was explained in Sessional Paper No. 78, which has already been debated in this Council and against the background, also, of the recommendations regarding immigration made by the Royal Commission to the extent to which they have been accepted by the Government, as is explained also in the Sessional Paper.

Now, Sir, there are a number of major principles—themes which run through this Bill—a number of factors and considerations which give rise to the various principles of policy which are reflected in it. By way, really, of recapitulation and reminding hon. Members of matters which were discussed in the Sessional Paper and in the debate on it in this Council, I will refer to some of these principles and factors.

In the first place it will be remembered that reference was made to the increasing population, particularly the increase in the African population which, at the present rate, will double itself in 47 years. An increase, particularly an increase at that rate, has various consequences on the economy and on the social structure of the country.

In the present context one of the most important is its impact on education and on the progress which we are making and the further progress which we hope to make in providing education for the youth of this country.

The cost of education for our own people is formidable. We cannot at present afford to give all our youth the excellence and extent of education that we would wish and therefore we have to be circumspect and selective in regard to our immigration policy and to the extent to which we allow an excessive addition to the educational burden to be placed on, in effect, the taxpayers of this country by unnecessary or uneconomic or unhelpful immigration into this country.

Another factor which arises by reason of increasing population is the field of opportunity of employment. As was pointed out in the Sessional Paper Africans are to an increasing degree—and it is a process which one must expect to continue—seeking employment other than the traditional employment available in the Reserves. It will be recalled, Mr. Speaker, that, as the Sessional Paper set out, it is estimated that by 1960 there will be leaving secondary school—quite apart from completion of lower standards of education—a total of 4,200 boys. That, if one pauses to think, is a formidable number to be absorbed in the field of employment, remembering, as I have emphasised that that number is the output from secondary schools only; and, of course, the problem does not end there; there are many who will not have the good fortune or the ability to go to secondary schools and will, therefore, be competing in the employment market after completing only a lesser standard of education.

One further factor which I would mention in the context of increasing population—and which is an obvious one—is the impact that this formidable increase in population which we must expect, the formidable impact it will make on our social services which will, all being well, and the economy of the country permitting, be increased progressively in the course of the reasonable future.

Now, Sir, getting on to the basis of policy which will inform the administration of our immigration laws, I would

[The Acting Chief Secretary]

mention—again this is by way of recapitulation and may sound obvious, but I think it is right that we should bear it in mind when we consider this measure—the economic development of the country; first, in regard to capital—the introduction of capital—and secondly in regard to the introduction of skills.

We will have for an appreciable time to import skills which are not available locally; and we shall do so for two reasons; one, for the use of those skills directly in our various development projects (commercial, industrial and agricultural), and secondly, with a view to the use of this imported talent for the purpose of instructing and training our own inhabitants and therefore of developing our indigenous skills and local talent. At the same time we must bear in mind that we cannot, in fairness to the people of this country, allow immigration to an extent which will seriously jeopardise their own economic interests and prospects of remunerative occupation.

Running through this Bill, Mr. Speaker, is the main theme of executive control and discretion: only by placing immigration and the control of immigration firmly and forthrightly in the hands of the executive for the executive to control and the executive to exercise the necessary discretions in the interests of the country, only thus, I am fully convinced, is it possible to achieve a really practical and effective degree of control.

We propose in this Bill to confer rights in the form of immigration status, or, in relation to immigration status, only on those who have a legitimate claim on the country and a stake in the country. Other persons have no rights and have no right to claim any rights. We will allow them in at our discretion, and the exercise of our discretion will be dictated by our own interests—that is to say, the interests of the Colony and of its inhabitants as a whole. This is the alteration of emphasis of which we have spoken already in the Sessional Paper—the alteration from the existing negative criterion that an immigrant should not prejudice the interests of this country, and a change to the positive criterion that his entry into the country should be positively in the interests of the country.

The discretion and the control will be exercised by the Principal Immigration Officer and the officers of his Department, subject to ministerial direction flowing through the Minister from the Governor in Council of Ministers.

This system involves the abandonment of the present system of an immigration control board and an immigration appeals tribunal; and as this marks the impending demise of those institutions I should like on behalf of the Government to pay tribute to those gentlemen who have given such valuable service on the board and the Appeals Tribunal in the past for performing a very difficult and indeed unenviable task, because it is frequently misunderstood, and for performing it with impartiality, and, if I may say so, with great distinction.

Coming now to the provisions of the Bill, I should first remind the Council that the Bill, as is the case in the present Ordinance, will not apply to Africans—that is to say, Africans as defined, members of tribes indigenous to East Africa. I need only comment in regard to that aspect of the Bill that it is neither necessary nor probably practicable to apply the immigration laws to the movement of indigenous Africans between various East African territories.

In clause 3 (4) Members will see the provision providing for ministerial direction of immigration staff in the exercise of their duties and the exercise of their discretions under the Ordinance.

I do not propose, Mr. Speaker, to go through every clause but there are a number of points which I think hon. Members have a right to hear me on.

Clause 4 deals with the powers of immigration officers—powers of search, interrogation, power to require declaration of those entering or leaving the Colony, and to require medical examination of those entering or leaving the Colony. Those medical examinations will, as the Bill is drawn, be conducted by medical practitioners appointed by the Principal Immigration Officer. It has, however, been represented to me that it would be more suitable that the nomination of medical practitioners should be made by the Minister for the time being responsible for health, and I shall accordingly be moving an amendment to that effect in the Committee Stage.

[The Acting Chief Secretary]

There are other powers: powers to require passenger lists, power to arrest offenders and illegal immigrants and the power to summon people for interrogation and for the purpose of producing documents.

These provisions which occur in paragraphs (3), (4) and (5) of clause 4 of the Bill require that a person under interrogation shall speak the truth and shall speak the truth even though the answer be incriminating. It may be thought—it may be suggested—that a person under interrogation should not be required to incriminate himself, but that argument, in my judgment, Mr. Speaker, loses sight of the fact that in this particular matter we are dealing with immigration status and with offenders against our immigration laws. It seems to me that we are under no duty—no duty whatsoever—to illegal immigrants to allow them to lie and, by lying, to promote and perpetuate a fraud or deceit by which they may have gained entry into our country.

The next feature of the Bill to which I would draw the attention of the Council is clause 6, which provides for the issue of residents' certificates. As Members will be aware, under the existing Ordinance the form of certificate issued is called a "certificate of permanent residence". It is nothing of the kind, and is misnamed; and accordingly we have taken the opportunity to change the basis of this certificate and we have renamed it a "resident's certificate". The classes of persons to whom residents' certificates will be issued are set out in the First Schedule to the Bill. In that Schedule, I propose at the Committee stage—again as a result of representations—to amend the second category to provide that a person shall be entitled, being of good character, to a resident's certificate valid for his lifetime after he has completed an aggregate period of lawful residence in the Colony of not less than 10 out of the 16 years immediately preceding the date of his application.

If hon. Members will glance at the next succeeding category—Category 3—they will observe that a person, again being of good character, will be eligible for a resident's certificate valid for 10 years when he has completed a period of

five years out of the eight years immediately preceding his application. Accordingly, the amendment which I shall propose provides for a double period of residence, a double period of five years out of eight, making a total of 10 out of 16, which will entitle a person to a resident's certificate for life.

One further amendment which I shall propose at the Committee stage, Mr. Speaker, affects Categories 5 and 6, and I shall propose at the Committee stage that those two categories be replaced by a single category relating to both the wife and the child born in Tanganyika, Uganda or Zanzibar of any person falling within Category 4.

It will be observed that where a person can establish that he is qualified for a resident's certificate he will have a right to be issued with one. This is a manifestation of the principle which I mentioned earlier of people having a claim on the country and a stake in the country being entitled to their immigration privileges as of right. It will also be observed that "good character" has been introduced as a qualification for this form of certificate, and it is defined for our present purposes in paragraph (3) of clause 6: it involves, in effect, either a conviction for an offence which affects his character and by reason of which he is deemed to be not of good character, or addiction to drugs, intemperance, or conduct involving moral turpitude, or, lastly, and perhaps most important of all, risk to the security of the Colony. There is a provision in the same clause—again in regard to good character—that the Minister may issue a certificate that a person is not of good character when that view is founded on information received from confidential sources, and the information is such that the Minister is satisfied it cannot be disclosed compatibly with the public interest. I have received representations that certificates should only be issuable in those circumstances where the objection to the character of the person is founded on considerations of security, and as that is the intention of the paragraph I shall move an amendment at the Committee stage.

Following upon the principle that persons with a claim on the country shall have rights and that therefore persons

[The Acting Chief Secretary]

who are qualified have a right to the issue of a resident's certificate, they are given an appeal to the Supreme Court against a refusal by the Principal Immigration Officer to issue a resident's certificate.

Mr. Speaker, there are rare occasions when persons may not otherwise be qualified for a resident's certificate but by reason of long association and substantial economic interest in the country—possibly the fact that they have injected a considerable amount of capital into the economy of the country—it would be appropriate that they should be granted a resident's certificate with the privileges that such a certificate carries; and provision is therefore made in paragraph (8) of clause 6 that the Minister may, in such cases and in the special circumstances in which those cases fall, issue in his absolute discretion a resident's certificate to such a person.

Certificates of permanent residence issued under the existing Ordinance, and still unexpired when this new Bill comes into force (and the existing Ordinance is therefore effectively repealed), will be prolonged and adopted under the new Bill, subject to certain qualifications. The first is that where a person is born in the Colony and has obtained a certificate of permanent residence at any time before the commencement of the new Bill, his certificate of permanent residence will, for the period of validity expressed therein, be accepted as a valid resident's certificate under this new Bill. That, however, will require an amendment to paragraph (10) of clause 6 which again I propose to put before the Council in Committee. Persons not born in the Colony will only have their certificates of permanent residence prolonged in validity beyond the repeal of the existing Ordinance and the commencement of the new Ordinance if they made application therefor before 26th June, which was the date of the publication of this Bill; and the purpose of that limitation of course is to ensure that there should not be a mad rush in the intervening period between the publication of this Bill and its commencement as an Ordinance, which would largely defeat the introduction of the more selective qualifications for resident's certificates,

and particularly good character, under the new Bill.

Clause 7 of the Bill deals with the question of prohibited immigrants on much the same lines as the existing Ordinance: it sets out the various categories of prohibited immigrants and it includes—as an innovation—a new provision for further categories to be added by the Governor in Council of Ministers if the necessity therefor should arise. Dependants of prohibited immigrants will themselves be prohibited immigrants for the very good reason that if one allowed the dependant of a prohibited immigrant to remain in the Colony, the prohibited immigrant not being allowed to remain in the Colony, the dangers of the dependant becoming a charge on public funds if the prohibited immigrant should cease to maintain the dependant, cannot be accepted.

One new feature is introduced in relation to the law regarding prohibited immigrants, and that is that a person who is a prohibited immigrant will not be allowed entry into the Colony whether he be in possession of a document being or purporting to be a permit or pass under the new Bill authorising him to enter the Colony; and the reason for this provision is that it may very well be that a person having obtained an entry permit or pass or some other form of authority to enter the Colony, is subsequently discovered before he enters the Colony to be unacceptable on security grounds, and therefore it is essential in the interests of security in the Colony that he be not admitted, even though he may ostensibly have a permit or pass.

Another new feature is introduced in clause 8, which provides—as, indeed, it has recently been held by the Supreme Court, though it is better that it should be redeclared in the Ordinance—that a person who obtains a pass, permit or other document under the new Bill, by means of fraud or misrepresentation in a material respect, cannot retain that pass or permit which is invalidated and becomes void *ab initio*. That, of course, will apply whether the misrepresentation is deliberate or whether it is innocent and inadvertent; because, of course, if there is misrepresentation in a material particular it will in fact mean that the person has received a pass, by reason of

(The Acting Chief Secretary) misrepresentation, which he is not in fact entitled to and for which he is not qualified.

I propose, Mr. Speaker, to amend clause 9 slightly at the Committee Stage to ensure that a person who is exempted from the operation of that section shall nevertheless be required to produce a passport on entering the Colony and also to include among the documents to permit entry a certificate of exemption.

Entry permits are dealt with in clause 10 of the Bill and the classes of entry permit are set out in the Second Schedule to the Bill.

There are one or two matters to which I should draw the attention of the House in respect of entry permits. The first is that class "A" is a class to which a person qualified therefor is entitled as of right and against the refusal of which that person will have an appeal to the Supreme Court: that is the class of person, broadly speaking, who is entitled to be granted a resident's certificate, or who is in permanent public service.

It will be observed that in respect of all these classes the positive test, that the entry of the person for the purpose for which the pass is issued, will be to the benefit of the inhabitants generally of the Colony, is introduced, and there is a flexibility, and no fixed sum or limit prescribed, in respect of the capital or other financial resources required of a would-be entrant; the reason being, of course, that the degree or the amount of capital required is subject to such very great variations in respect not only of different types of undertakings but also of different sizes of undertakings.

It will be noted that for class "H" permits the minimum age of 21 has been imposed, and the requirement is not only that the entry be to the benefit of the inhabitants generally of the country, but also that the income or capital which is required shall be imported into the Colony by the entrant, unless he has been fortunate enough to inherit property in the Colony. That will suffice instead of importation.

I only want to say further on the question of entry permits, Mr. Speaker, that, in regard to the classes other than class "A" their issue will be at execu-

tive discretion, and any person wishing to appeal will have an appeal to the Minister, and not to the Supreme Court.

Passes for temporary entry and residence in the Colony will be provided for in new regulations, as they are, under the existing Ordinance, in the existing regulations. Those regulations—new ones relating to these temporary passes—will be on the same lines as the present ones, but will, of course, import the principle of executive discretion and the positive test of interest—of benefit—to the country.

The particular category, temporary employment passes, in which there is perhaps the greatest interest, have been dealt with in the Sessional Paper, and in the debate on that Paper, Mr. Speaker, and I do not propose, therefore, to elaborate in regard to them in this debate, since they do not form part of the provisions in the Bill, but will be dealt with in the regulations.

Powers of deportation are dealt with in clause 11 on, again, very much the same lines as they are dealt with in the existing Ordinance. One minor practical convenience is achieved by delegating to the Principal Immigration Officer the power of deportation in respect of stowaways, so that they can be expeditiously removed from the Colony.

An indemnity in respect of the performance of duties and the exercise of powers under the immigration laws in good faith is incorporated in the Bill in clause 14.

Clause 15 deals with offences and penalties, and I do not think that there is anything that I need comment on at this stage on the offences which are prescribed. I would, however, call attention to the fact that, under paragraph (4) of clause 15, provision is made, the effect of which will be that, if a person from outside the Colony makes an application or a declaration or statement which is pertinent to his immigration status, or to the issue of any authority to him to enter the Colony, and that application, declaration or statement is false, then he will be liable to prosecution if and when he enters the Colony, since it is provided that the application, declaration or statement shall be deemed to be made at the place at which it is received—that is, within the Colony. He

(The Acting Chief Secretary) will not, therefore, be able to claim that his offence gives rise to an extra-territorial jurisdiction.

In regard to the regulation-making clause—clause 16—it will be observed that the regulations will be made by the Governor in Council of Ministers, and that they will be laid on the Table of this Council.

There is just one last point that I would make on the terms of the Bill, Mr. Speaker, and that is in relation to dependants' passes. Hitherto, under the existing Ordinance, dependants have been allowed to enter the Colony in one of two ways: either by endorsement on an entry permit when they accompany the holder of the entry permit—that is to say, the person on whom they are dependent—or subsequently, if they are the dependants of a person who has already been allowed to enter the Colony, on a dependant's pass. In future, under this Bill, and the regulations to be made thereunder, there will be no endorsement on entry permits. All dependants will have to have dependants' passes. It is a rationalisation of procedure, but it does not imply that the policy in regard to the admission of dependants, or the granting of permission for dependants to remain in the Colony, will be altered. It is a procedural change. I should, however, just mention, —as was stated in the Sessional Paper—that dependants' passes will not be issued for the dependants of persons entering on temporary passes for periods limited to two years or less.

Now, Sir, this Bill will—as I have said—provide the means of close and effective control of immigration by way of executive discretion in respect of would-be new entrants and, to that extent, it is a considerable advance on our present law. It is the intention of the Government to admit to the Colony those who have a useful contribution to make to our economic development and expansion; but we certainly are not going to allow the Colony to become—or be used as—a dumping ground. Neither will we make any room for drones of the useless and—in terms of public expenditure—expensive type.

I reaffirm, because there was some criticism of this aspect of Government

policy—I reaffirm that it is the Government's intention to look to our parent country—the United Kingdom—as our primary source of immigrants. We will look elsewhere where the United Kingdom cannot fully supply our needs, and that perhaps is likely to arise particularly where suitable artisan skills at an economic level are not available from the United Kingdom. The governing factors will be the interests of the existing inhabitants of the Colony, and the needs of the Colony in relation to its economic advance. The Bill will benefit all races, and there will be no admission of persons of any race by reason merely of the race to which he belongs. Every person will have to have something of value to contribute to this country before we will admit him. The criterion—or the criteria—to be applied under the Bill in allowing persons to enter the Colony, or, having entered, to remain in the Colony, will not differentiate between races. They will be—*they are*—defined in terms as being the same for all.

Finally, Sir, it is, in my judgment—and I believe in the opinion of all sections of this Council—entirely right and proper that, in regard to immigration, our laws and our policies should be dictated by our own self-interest as a country and as a community, and this, Sir, will be the case under this new legislation.

I beg to move.

Question proposed.

MR. SLADE: Mr. Speaker, I beg to support this Motion, and I agree entirely with the substance of the Bill before us, and with the declared objectives—more especially, I may say Sir, with that underlying objective which has been so clearly explained to us by the hon. Mover, and which is stated at the beginning of the Memorandum of Objects and Reasons as follows:

"The main theme running through the Bill is that persons who have a legitimate claim on the Colony should have their immigration status protected in terms of rights, but that intending new immigrants should have no rights and should be granted entry and be allowed to remain in the Colony only in the interests of the Colony and at the discretion of the Government."

[Mr. Slade]

But, Mr. Speaker, it is one thing to have a law and another thing to be sure that it is going to be given full effect, and, in that respect, I feel some anxiety, in view of what was said in the recent debate on the Sessional Paper which led up to this Bill. I am referring, Sir, to the clause which defines prohibited immigrants—that is clause 7—and, in particular to clause 7 (2) (b), "any person suffering from mental disorder or being a mental defective", and (d) any person who, in effect, has been convicted of crime, and that conviction is considered such as to render him an undesirable immigrant.

Mr. Speaker, I emphasised in that other debate the importance of making sure that we do not have immigrants of either of those two classes, and of looking at prospective immigrants to see that they are not mental defectives or criminals: and the answer I received from the hon. Chief Secretary was that—if I do not do him an injustice—I do not think I do—that it is a practical impossibility to vet immigrants in that way. Sir, if that is so, this kind of Bill is farcical; but I am sure it is not so. I am sure that, however imperfect the provisions may be, measures can be taken to make an effort to see that prospective immigrants are not lunatics, mental defectives or criminals, and I would like an assurance, Mr. Speaker, in spite of what we heard from the hon. Chief Secretary in that other debate, that there will be a real effort to see that these particular provisions are enforced.

Now, Mr. Speaker, although I said that I support this Motion, and I agree with the substance of this Bill, there are, I think, many details which require modification—considerable modification—especially where the Bill confers special powers of interference with the liberty of the subject. Sir, here again, as with other recent legislation, there is need to ensure that enthusiasm for a very sound objective is balanced by respect for individual rights, and does not carry us too far into those shadowy places outside the light which is secured to us by an ultimate resort to a court of law.

I should like to make it clear, Sir, that in saying that I am not going back on the principle intended by this Bill—that

prospective immigrants should have no claim to immigrate as of right. What I am talking about, Mr. Speaker, is the sanctity of individual liberty, whether you are a prospective immigrant or anybody else.

Now, before I give examples of what I mean by the objectionable features of this Bill, I would like to make it clear, Mr. Speaker, that what I have to say casts no reflection whatsoever on the present Principal Immigration Officer, or any of the immigration officers, present or past. Indeed, it is an opportunity to say how much I—and, I know, many others—have appreciated the courtesy and fairness—the wisdom of that officer and his staff. It is entirely a matter of principle with which I am concerned.

Now, Mr. Speaker, first by way of example of what I have been mentioning, I would like to refer to the powers of interrogation conferred upon the Principal Immigration Officer; and, of course, any power that is conferred upon the Principal Immigration Officer can, by virtue of clause 3 (3), be delegated by him to any immigration officer, so that all these powers are actually exercisable, or can be given over to immigration officers of any degree of experience and status.

Now, Sir, the power of interrogation is conferred by clause 4 (1) (b). There we find that any immigration officer may interrogate any person who desires to enter or leave the Colony, or any person whom he has reasonable grounds for believing to be a prohibited immigrant, or, if he thinks there has been infringement of the Ordinance, any person whom he believes can give information regarding such infringement.

Now, it goes further, Sir, and, by sub-clause (3) of the same clause, he may, in writing, summon for interrogation any of these people: and then, again, in sub-clause (5), we find that all answers to questions lawfully put in interrogation shall be admissible in evidence. Mr. Speaker, this affects both residents—is to say, those whose rights to be here are recognised—and prospective immigrants. It is not limited to the prospective immigrant alone: and, although sub-clause (3) limits the right of summons to interrogation upon any matter upon which the person concerned may be

[Mr. Slade]

interrogated, and although sub-clause (5) refers to all answers to questions lawfully put in interrogation, there is nothing in the clause to say what questions may lawfully be put, and on what matters the persons concerned may be interrogated—that is to say, although those two sub-clauses suggest that there is a limit to the scope of the interrogation, in fact I can find none. It is *carte blanche*. It is—as I have said, Mr. Speaker—quite wrong to interrogate people of the categories described here about anything that the immigration officer chooses. That, Sir, is one example.

Then, Sir, looking again at the power of interrogation, we find in sub-clause (4) (b) of clause 4 that refusal to answer fully and truthfully any question lawfully put to him—as I say, we have not had "lawfully" defined, as far as I can see it—will constitute an offence. Mr. Speaker, in other walks of life—in most other walks of life—a person who is being asked questions, possibly with a view to charging him, or rather with the intention of charging him, has to be cautioned and told that he need not answer if he does not want to. If he does answer, his answer may appear in evidence hereafter—but there is none of that here. There is no obligation to caution—no power—as the hon. Mover admitted quite clearly—no power for the man who is questioned to say, "I am sorry, I'd rather not answer that question".

Now, the hon. Mover says, Mr. Speaker—dealing with the prospective immigrant—if a man wants the privilege of being admitted to this Colony, why should we let him lie? Sir, we are not only dealing with prospective immigrants. We are dealing with people who are here already, and who are to be charged with being here illegally. We are dealing with people who are here as residents—with a lifetime certificate perhaps—who are believed to be able to give information concerning others. It is a very far-reaching thing, this. And, with regard to prospective immigrants to whom we are going to deny all claims as of right, surely the answer is not to say that if you refuse to answer questions you will go to prison. Surely, Mr. Speaker, the answer to him is to say, "If you won't answer the questions we put to you,

don't expect to be let into this country". That is the penalty for him. "If you want to come to this country, you answer the questions we ask you. If you don't answer—all right—go away." There is a difference between that and putting a man into prison for not answering a question that might incriminate him. Mr. Speaker, I suggest that we have got to look at this one again.

Then, Sir, again, the power in sub-clause (3) to summon people. That is all right if it is a power to summon a man who is asking for something. It is going very far if an immigration officer—an immigration officer—can summon any one of us, who is not the least interested in the proceedings in hand, to come from Kitale, or Mombasa, to Nairobi, or from Nanyuki to Mombasa, to answer questions about somebody else. Again, Sir, I suggest that is going too far, unnecessarily far. It is all meant well, but it is excessive enthusiasm which leads us astray.

Now, Mr. Speaker, turning to another angle of this Bill—that is, residents' certificates, covered by clause 6. There we are dealing with those who—as the hon. Mover said—are going to be recognised as having legal rights. It is a question of legal rights here; and the resident's certificate really, as I see it, is simply acknowledgment of a legal right. People have rights because of their stake in this country. They are entitled to get those rights recorded in a certificate. So this cannot be very much a matter of executive discretion: but now we have to study clause 6, to see what it provides. It provides in sub-clause (1) that a person lawfully in the Colony can get a certificate if he satisfies the Principal Immigration Officer that he belongs to a specified category. Then we find again in sub-clause (2) that the Principal Immigration Officer, if satisfied, is to issue a certificate: and then we find in sub-clause (3) (b) and (c) that he will not be deemed to be of good character, if the character is of the essence of his right to a certificate, if, in the opinion of the Principal Immigration Officer, he is addicted to drugs, or habits of intemperance, or to conduct involving moral turpitude: or, again, in the opinion of the Principal Immigration Officer, he is a risk to the security of the Colony.

(Mr. Slade)

Mr. Speaker, it may be reasonable—I think it is reasonable—to provide that, for security risks, it is a matter of opinion, and to provide that in the last resort, a certificate from the Minister must be conclusive on that subject—and the hon. Mover has told us there will be an amendment to limit the certificate to that particular consideration. But surely it is going far to lay down that the question of whether or not a man who claims to be a resident of this country is addicted to drugs or habits of intemperance should be a matter for the opinion of any particular officer, as opposed to a matter of proof. It is going very far.

Likewise, it is reasonable enough to provide that, if a man wants a certificate, he has to satisfy somebody—and quite rightly the Principal Immigration Officer—that he falls within specified categories: but what happens if the categories are not specified, or if, in his opinion only, the man concerned—the applicant—is addicted to drugs, et cetera? Well, Sir, we are given the important provision in sub-clause (6) that any person aggrieved by the refusal of the Principal Immigration Officer to issue to him a resident's certificate may appeal to the Supreme Court, and there we have the essence of this clause, to which the hon. Mover referred. But it is not clear there, as it stands, Mr. Speaker, when a man appeals to the Supreme Court against refusal of a resident's certificate—can he get the decision of the Principal Immigration Officer reversed on the ground that the Principal Immigration Officer should have been satisfied, or was wrongly of the opinion that the man was addicted to drugs, or will the refusal of the certificate be upheld simply when the court is satisfied that the Principal Immigration Officer honestly held that opinion, or was honestly dissatisfied?

Those things must be made clear, Mr. Speaker—that the question of the officer's satisfaction or opinion is only preliminary—that other people can be satisfied to other effect, or be of other opinion than the officer who deals with the case in the first instance—that is to say, that all these issues can eventually be examined on their own merits by the Supreme Court,

regardless of any previous dissatisfaction or opinion. That, Sir, is vital to this clause.

I have a good deal more, Sir—

THE SPEAKER (Sir Ferdinand Cavadish-Bentinck): I think this might be a convenient time to take the customary quarter-of-an-hour break. Council will suspend business for fifteen minutes.

Council suspended business at fifteen minutes past Four o'clock and resumed at thirty minutes past Four o'clock.

MR. SLADE: Mr. Speaker, Sir, what I was saying just before the interval concerning matters of opinion, takes me back for a moment to clause 4 (1) (b) again, that clause dealing with power of interrogation, where we find the now famous phrase—the right of interrogating “any person whom he has reasonable ground for believing to be a prohibited immigrant”. Mr. Speaker, some hon. Members will remember a rather notorious decision during the last war, when that similar phrase in Emergency Regulations in England was interpreted by a court as meaning only that the Minister, in that case, thought that he had reasonable ground. If only the Minister thought that he had reasonable ground for detaining somebody, that was good enough. The fact that he really had no reasonable ground—whatsoever—was irrelevant. Now, Mr. Speaker, I believe that that decision has rightly been reversed by subsequent decisions in England, but we want to be quite sure here, that when the Immigration Officer is exercising his powers of interrogation here, he must really have reasonable ground for believing the man concerned to be a prohibited immigrant, and not merely think that he has reasonable ground, without bothering to make sure that he has.

Again, Sir, before I pass on, there is one point which I omitted to mention under clause 7 (2) (d), where I did refer for a moment to the class of prohibited immigrant who is a convict, and there is just one thing I do not understand there, which perhaps the hon. Mover can explain—why it is only conviction of a crime in some other country that renders the immigrant prohibited? Surely, Mr. Speaker, if he is convicted of crime in this Colony that should disqualify him from belonging to this Colony.

(Mr. Slade)

Now, Sir, I come back to these features which I described as unnecessary interference with the liberties of the subject, and the next clause with which I have to deal under that head is clause 8, which provides for cancellation of entry permits and other documents which have been obtained by fraud or misrepresentation. Now, Sir, it is quite right, of course, to provide that in such cases a document should be liable to be cancelled, but there are two points I want to make on this. One is that, in my submission, before this cancellation arises, the fraud or misrepresentation or whatever it is must be proved, and must be proved to the satisfaction of a court of law. If I have a resident's certificate granted to me because I have satisfied the Principal Immigration Officer that I fall into a category in the First Schedule, surely that cannot be taken away from me again without a court order based on adequate proof that, in fact, a certificate was obtained by fraud or other improper means?

The other point, Sir, on that clause, is that there should be a proviso that the fact that a permit or certificate is cancelled because of fraud, should not necessarily debar the issue of another permit or certificate afterwards. It could be that the person was no party to the fraud or misrepresentation which caused the certificate to be issued to him. It could be that really, in spite of the misrepresentation, innocent misrepresentation, for instance, he is still able to establish that he is qualified for a certificate. Indeed, Mr. Speaker, I accept that the certificate based on fraud or misrepresentation must go, but at the same time, it must be open for the person concerned to show that in spite of that, he has got a case for a fresh certificate to be issued to him, and I suggest, Sir, that the clause should so provide.

It might be, of course, that the circumstances of the fraud were such as to affect the character of the person concerned, in a case where his right to a certificate depended on a good character, and that would be a question of the merits of each case.

Turning now, Sir, to clause 14, where we find general indemnity for Govern-

ment and for all officers of Government concerned with the administration of this Ordinance, I recognise, Sir, that some sort of indemnity like that is necessary, but again it seems to be to go too far. As I read it, Sir, it even cuts out the right of the man to apply for writ of *habeas corpus*. I may be wrong in my interpretation, but that seems to be the effect—that where a man is wrongly imprisoned under this Bill, he cannot resort to a court of law to establish his right to his personal freedom. Whether I am right or wrong in that, Mr. Speaker, I am perturbed that in no circumstances whatsoever, as this clause now stands, could anyone have any redress against Government for any damage suffered by him, however serious, through careless act of Government or one of its officers. There may be cases, Mr. Speaker, where an officer acts in perfectly good faith but all the same has not really been quite careful enough or, for some other reason, does something that is not really justified by the law, and the person concerned suffers very, very serious damage. Now he should have some right of redress for that. We cannot take it away. The good faith of the officer concerned might, in certain circumstances, probably would in many circumstances, afford him a complete defence, but that again is a question of the merits of each case. I suggest, Sir, that one cannot take away all right of redress in all circumstances.

Now, Sir, turning to clause 15, which provides for various offences. Here again, it seems to me that the Bill goes rather too far. Examples are to be found in clause 15 (1), paragraphs (e) and (f). Paragraph (e) refers to possession of certain dubious documents without lawful authority as being an offence. Paragraph (f) refers to possession of other documents as being an offence. Neither of those paragraphs imports the necessity of any guilty intent; the mere possession of something which has been forged or which is irregular in some other way creates the offence, and that Mr. Speaker, is too dangerous. I should not argue if the possession of such documents raised a presumption of guilty intent, but you must still leave a loophole, at least to allow the accused person to prove that, in fact, his possession of this document was entirely innocent, and thereby to be acquitted.

[Mr. Slade]

Again, that same point arises, Sir, under sub-clause (5) of clause 15, where the owner or person in charge of a ship, whereby a prohibited immigrant enters the Colony, is guilty of an offence, whether or not he knew anything about it. Mr. Speaker, I do not see how that can be justified. Again, if the owner of the ship can prove, even if you put the burden of proof on him, if he can prove utter innocence—no possibility of knowing what he was harbouring—surely he cannot be convicted of a crime?

Then, another example, Sir, in clause 15 (1) (e), where it is provided that to harbour any person whom one knows or has reasonable cause to believe to be a person who has acted in contravention of this Ordinance or of any Regulations, is an offence. Taken in its meaning as it now stands, Mr. Speaker, if I was to know that a close relative or friend had committed a breach of some petty regulation made under this Ordinance, I would have to refuse to give them any hospitality, to allow them to come into my house, pretty well. It is fantastic, Mr. Speaker, to go that far. We have got to have provision, I know, to stop prohibited immigrants being harboured by people who know they are prohibited, but this is going much, much further, and we must keep the thing within bounds.

Then Sir, we come to the clause dealing with evidence. Clause 18 contains very important provisions and, within bounds, Sir, reasonable provisions. Again, I say they go beyond reasonable bounds. This is a question of evidence to be obtained by certificate from the Minister or other official of governments of foreign countries as to a number of facts, such as the birth of a person, parentage, death or marriage, relationship and so on. Now, Sir, as I say, it is reasonable that where such facts—birth, marriage, death, etc., are subjects of official record, you should save expense and delay for all concerned by being able to get a certificate from some responsible person as to what is recorded and where it is recorded. So far, so good, and if the clause stopped there I see no objection, but it goes much further. It goes as it stands, to a great many things which can only be a matter of proof by the evidence of

people, not by official records, and it cannot be right, Mr. Speaker, I say, to accept as admissible the certificate of a Minister in matters of that kind. How should a Minister be entitled to give a certificate on what is a matter of proof by the testimony of individuals, as opposed to official record? So my suggestion, Sir, is that this clause should be limited to certificates of what is recorded in an official register, with an obligation to specify the register to which reference is made. That would, of course, involve the deletion of paragraph (d) in sub-clause (1), which includes among the facts which can be so certified "the true or the reputed name or names of any such person", because it can be of vital importance whether a man who wants to immigrate or who is already living here has another name. But how can Ministers certify those things? It must be a question of straight proof before a court of law. There is no other way, Mr. Speaker, in which you can justly be satisfied that someone has a name other than that which he is using at the moment.

That is all I have, Sir, to say as regards interference with the liberty of the subject. I am sure it is quite enough. But there is yet another aspect: that even prospective immigrants, even those to whom we deny any claim of right to enter this country, even they must be given fair play so far as we propose to label them in particular categories. Fair enough, if we say we reserve a complete discretion, as this Bill does, to exclude people altogether; but if we say that a man will be a prohibited immigrant and not even worthy of consideration, if he falls into certain specified categories, then the placing of him in those derogatory categories must be a matter of something more than casual discretion. To give an example of that, Sir—I need not give many—the most conspicuous example is the destitute person. Now no one likes to be labelled a destitute person if he is not destitute. Here, in clause 7 (2): "The following persons are members of the prohibited classes—(a) any destitute person;" And go to clause 2 of the Bill we find "destitute person" defined as "a person who is, in the opinion of the Principal Immigration Officer, incapable of supporting himself". Sir, I suggest that is

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not good enough. It is a question of fact whether he is capable of supporting himself. It is not a question of opinion. And I suggest, Mr. Speaker, that if you are going to label a prospective immigrant even, as a destitute person and therefore a prohibited immigrant—one who cannot even be considered—you have got to prove to someone—prove that he is unable to support himself, not just have a casual opinion on the subject; particularly, as I pointed out earlier, when that opinion can be exercised, as I see it, by any immigration officer. Nor, Mr. Speaker, is it necessary to have provision of that kind; because, without putting the prospective immigrant in the derogatory class of destitute persons, you still have a complete discretion to exclude him if you want to. It is there clearly provided, and rightly provided, in clause 10 (2), with a right of appeal only to the Minister under clause 10 (5). That is correct, Sir, and that, I suggest, is quite enough for the ordinary cases, and for the rest—if you want to debar the Principal Immigration Officer from even considering an immigrant, that is to say, if you want to put a man in the prohibited class altogether, that must be a matter of proof.

Much the same point arises, Sir; but not so strongly, on the other prohibited class—that is, the convict—clause 7 (2) (d), where he is prohibited if he has been convicted and by reason of the conviction is deemed by the Principal Immigration Officer to be an undesirable immigrant. There, Sir, I would suggest that one might fairly insert a proviso similar to that which you find in paragraph (f) in the same sub-clause. It is that the decision of the Principal Immigration Officer can be queried and referred to the Governor in Council of Ministers. That is to say, a man who has been convicted and the Principal Immigration Officer thinks that the conviction is so serious as to make him undesirable, he might have the right—he should have the right—to ask for further consideration by the Governor in Council. Again, Sir, I point out that you have the cover of clause 10 sub-clause (2).

Mr. Speaker, there are yet other features of this Bill, miscellaneous ones, which still require careful consideration.

Some may seem very small but we do not want to make a nonsense of this law. We do not want to spoil a very desirable piece of legislation by stupid passages or by measures which bring it into hatred or contempt. I refer now to clause 5 (3) and a similar provision in clause 11 (5)—where the master of a ship or the person in control of some other vehicle must, if so required by an immigration officer, receive a person on due payment of passage, without any reservation in the legislation that he is exempted from that if his ship or vehicle is full. It may seem small, Sir, but it does not look right.

More serious than that, Sir, is with regard to the First Schedule and the categories of those entitled to residents' certificates. Now taking the first of those categories: A person born in the Colony whose mother was born in the Colony or was or has been lawfully resident in the Colony for not less than five years. Mr. Speaker, that would debar from the claim, as I see it, a person who was born to a father settler of 30 years' residence if it happened that the person was born of a newly imported wife who perhaps departed soon afterwards, either departed this life or departed from the Colony. That cannot be intended. I should have thought the father's claims on the Colony should be relevant equally in the case of a person who makes his claim by virtue of birth in the Colony.

Again, Sir, still on this Schedule, there is a question of the wives of permanent residents. Now there is some provision for wives in paragraph 5 of the First Schedule, but I would suggest that wherever a man holds, for the time being, a resident's certificate, then surely his wife, as long as married to him, must be entitled to be treated as a resident too automatically, and that provision needs to be made.

Again, Sir, smaller points but they still matter. There is provision in clause 6 (9) that the resident's certificate shall be endorsed on the passport of a person and that is the only place, apparently, where it is to be; but there will be many people who have the right to a resident's certificate in this Colony who have no intention ever of leaving this Colony and do not want a passport. They should have a certificate all the same, and there should be provision for a separate

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resident's certificate, not necessarily related to a passport. Clearly enough, you need it on the passport too.

Mr. Speaker, there is only one further point—I am sorry I have been so long—but there is one further point which seems to me to arise on this question of Africans as defined by this Ordinance. Clause 1 (2) provides that the Ordinance shall not apply to any African. An African is defined, in effect, as an East African and the intention, Mr. Speaker, is undoubtedly right—that East Africans are recognised as being here as of right. But surely, Sir, one cannot afford to be quite as sweeping as all that. Occasions may arise where even Africans forfeit their right to return to this Colony, either through long absence coupled with development of subversive habits or, even going further, through complete alienation; for instance, if an African of this Colony was to go and live the whole of the rest of his life in America and his son or grandson was suddenly to claim, as of right, to come back into this Colony; has he really then a rightful claim? Mr. Speaker, those things have got to be considered. All these things have to be considered.

Now I have criticised a lot of this Bill. I am not criticising either Government's intention or the work of the draftsman, because I can see that this was a very difficult bit of legislation to draft properly, and I know that the intention is right, but it is a serious matter to get it all absolutely right. For that purpose, I would ask the hon. Member to consider reference of this Bill to a select committee or, if the urgency of the matter is such that with a dying Council that cannot be done, then in the alternative I would ask him to embody as much as possible of what I put forward to-day in the Committee stage, by way of amendment. I do not think he can do it all by any means—just the most important elements, and at the same time to give us an undertaking that early in the life of the new Council, when some of us may not be here any more, he will introduce an amending Bill which can go to select committee for the purpose of considering, among other things, the points that I have raised to-day.

I beg to support.

SIR CHARLES MARKHAM: Mr. Speaker, I rise to support this Motion and I shall be very brief as most of the points I had to raise have been so ably covered by my hon. friend, the Member for Aberdare.

Like him, Mr. Speaker, I share his anxiety about the liberty of the subject. Having heard the admirable speech by the Acting Chief Secretary, I was somewhat assured until he went on to give the details, clause by clause, of the Bill. His preamble—his opening remarks—were so excellent, that I found my own doubts disappearing under his eloquence. When, later on perhaps, hearing my hon. friend from this side of Council raise matters, I think it is only right that I should, too, endorse some of what he has said.

The first point I should like to make, Mr. Speaker, concerns the power of delegation. Under clause 3, the Principal Immigration Officer can delegate, in writing, all or any of his powers or duties, etc., etc., to any immigration officer. Well, Sir, under this new Bill he has such powers that I would be very frightened if that delegation can take place without the prior approval of the Minister concerned. That is no reflection at all on the Principal Immigration Officer, but he may have difficulty in the years to come with some of his junior staff, and the powers, especially under interrogation, etc., that they hold, I do not think should be delegated—such powers—to a junior officer. Perhaps when the Acting Chief Secretary replies he could give us some assurance on that particular point.

Now, Mr. Speaker, I wondered, when I first read it, what this clause 4 (3) really meant. I know what is behind it. It is obviously in order to catch the person who is really, or might be, a prohibited immigrant, but at the same time, depending on the good will of one of the immigration officers who might we'll be stuck in some small place in the middle of nowhere, he can summons anybody he likes to appear before him to ask him a question. Now I know it is ridiculous, perhaps, even to suggest that would happen, but if the power is there, officialdom can often make use of such power. In the future it might happen, particularly—I cannot use the word in this Council, it would not be suitable—but it is the word b—minded, I think it is

[Sir Charles Markham]

called, Mr. Speaker which implies somebody might well, because somebody refused to answer a letter, under this particular sub-clause, summons him to appear before him.

At the same time I also, like my hon. friend, share his anxiety about the powers of the interrogation, especially as what is said is to be used in evidence later on. I do not like that position. Again, I think it is open to abuse should the officers enforcing this particular law not be as benevolent as they might be.

Mr. Speaker, in his speech the Acting Chief Secretary did mention quite a lot about these residents' certificates. I notice from the Order Paper what he mentioned as well about the amendment he is going to move in the Committee Stage. I should like to leave one thought with him, perhaps, on that. There is a slight anomaly about those people who went to the war from this country in 1939 and joined up in England and not out here, and perhaps came back in 1946 or 1947, who will not now have the necessary service to qualify to be a resident of Kenya, although they may have been here 20 years before that. It says, on the discretion of the Minister, those who have long standing in the country, it says here—if I may read the exact words, Mr. Speaker—"by reason of such person's long association with and substantial economic interests". I think if there was the word "or" economic interests it might cover the point of the discretion, but at the moment there is no discretion at all for the ordinary person who is not qualified for substantial economic interests, to be granted this certificate of residence, even though he may have been in Kenya 35 years, if he went away during the war.

I have got two final points, Mr. Speaker. Under this clause 15 (5), I wonder really, Sir, what is the intention behind this sub-clause. It really means now that when you get on your plane from Tanga or Dar es Salaam to come to Nairobi, you have to sign a certificate, I suppose, to the air hostess or the captain of the aircraft that "I am legally a resident of Kenya", or when the plane lands at Nairobi West the Chairman of East African Airways could be sum-

moned and fined Sh. 5,000 for carrying a prohibited immigrant. At the same time, you meet someone on the road near Arusha who wants a lift to Nairobi. You have to ask him very carefully whether he is O.K. to come into the country, otherwise again you are liable. I think it does place an intolerable burden on the individual—he has got to find out the status of his passenger.

Finally, Mr. Speaker, on the question of the Schedule—this class B—people intending to engage, etc., etc., in agriculture. The bit I do not like, Sir, is the class B (ii). I do not think, Sir, the Principal Immigration Officer is a suitable man to know whether an individual has enough money to become a farmer. I think it is a matter for perhaps the Settlement Board or the Board of Agriculture to give him his advice. But under this particular clause it does rather again give complete discretion to one individual as to whether a man is capable or has the resources to become a farmer. We are primarily in this country, Mr. Speaker, an agricultural country, and therefore it is essential, if we are to develop, that we get more and more the right sort of people in, in the agricultural world. I am frightened, when this is read, it might be discouragement, in the sense you might find a junior immigration officer who might turn round and say the minimum requirement, in his opinion, is £50,000—"If you have not got it, I will not let you in under class B". I think, Sir, it is merely stating the ridiculous, but again the dangers are there and as what we are trying to do now is legislate for the future, we should try and find all the safeguards we can.

With those words, Mr. Speaker, I beg to support.

MR. CHANAN SINGH (Central Electoral Area): Mr. Speaker, Sir, I support whatever has been stated by the previous two speakers. Nevertheless, Sir, I must oppose the Second Reading of this Bill. That is necessary to be consistent with the attitude that we Asian Members adopted when the Sessional Paper was discussed, but there is more here than consistency.

Paragraph 30 of the Sessional Paper remains, and even if all the provisions of the Bill met with our approval, we would

[Mr. Chanan Singh] be bound to oppose it so long as paragraph 30 of the Sessional Paper was to be kept in view in administering the law.

My view, Sir, is that there is no need for new legislation at this stage. The present law is as strict as the situation in Kenya demands, and I, in fact, think it is more strict than it should be. We are not opposed to the policy of handing over the control of immigration to the Government, but we do hope that later on it will not be necessary for us to say that the confidence which we have sought to place in the Government was misplaced.

Now, Sir, when I say that no change in the immigration law is necessary, I mean that the number of immigrants that has been coming into this country has not by any means been out of proportion to the economic requirements of the country. Here, Sir, I wish to quote three small pieces from the Report of the Royal Commission. On page 142 of this report, the Commission says in the last sentence in paragraph 4: "The permanent immigration which has been permitted in recent years has done nothing to disturb the overwhelming numerical preponderance of the African population, and this latter position would still be true even if more liberal conditions of entry were permitted".

Then, Sir, speaking of the critics of immigration policy, the Royal Commission says this, on the following page: "They think in terms of the continuance of a narrow and limited market both from the angle of production and from that of consumption, and they are concerned more with the sharing of the market than with any increase in its scope".

The conditions are, in fact, quite otherwise. The scope for employment is increasing day by day and the market for consumer goods is also increasing.

The last quotation which I wish to give here is from the same page—page 143—it is the first part of paragraph 11. The Commission says "The economic development of the three territories presupposes fresh accretions of outside capital, enterprise and skill. Without these aids the indigenous populations would not merely be deprived of the opportunity to participate in a favour-

able economic future, they might find it impossible, under the pressure of the growing numbers of population to maintain the degree of improvement which has already occurred. The problem is, therefore, not one of a fundamental clash between the interests of the indigenous populations and those of other races who might supply the capital and skill which economic development requires. Indeed it might be said that in the absence of outside aid in the form of capital, enterprise and skill the difficulties which are associated with the growth of the African population are likely to become more intractable".

Sir, these are the views of the people who investigated the problem of immigration along with many other economic problems and I submit, Sir, that these views deserve respect. They show at least that there is no need for alarm on the subject of immigration.

Coming to the Bill now before us, Sir, what I am particularly opposed to is the grant of discretion to the Immigration Department in important matters. I do agree that in some matters discretion is necessary, but in many cases discretion is given where, in my view, it is not necessary at all.

Now, Sir, coming to the divisions between those people who are entitled as of right to come into this country and those who are seeking to enter for the first time, there are conditions laid down for each class of person. Those conditions, one would have thought, are as clear and as comprehensive as could be. But when an applicant has complied with all the conditions laid down then the Principal Immigration Officer has still discretion to grant or not to grant an entry permit.

*Now, Sir, I am not suggesting that anybody outside Mathari Mental Hospital will indiscriminately reject applications. That cannot happen and I am sure it will not happen. But what I do say, Sir, is, is there any real need for laying down the conditions which applicants must comply with and then give discretion to the Principal Immigration Officer to refuse a permit? It is possible that in some case an entry permit has been agreed to and later on information is received from a reliable source that

[Mr. Chanan Singh] the particular individual is not a fit person. I can imagine in a case like that that interference would be justifiable. But is there any need to give a general discretion to apply only in special cases? I think, Sir, that conditions should be laid down in law as fully as possible and then there should be no question of any discretion on the part of any individual officer.

Well, Sir, when I express fears on this matter of discretion I am naturally guided by what has happened in the past. Statistics of immigration I think support the fear that I am expressing. During the last seven years, Sir, if we take the figures of entry permits granted to Europeans and Asians, we find that entry permits in classes B to G were granted in almost all cases to Europeans, whereas a large number of Asian applications were turned down. To be specific, Sir, 3,522 European applications for entry permits in classes B to G were received over this period. Barely 2 per cent of them were turned down. On the other hand, 2,233 applications for the same classes of entry permit were received from Asians and yet one-third of them were turned down.

Sir, more or less the same applies to temporary employment passes. From Europeans there were 18,781 applications, of these a little over 1 per cent were turned down. The Asian applications for temporary employment passes were 8,726 and of these nearly 40 per cent were turned down.

I suggest, Sir, that these figures do give us cause for fear and suspicion. May I suggest that in view of this the Government should at least give to applicants the right of appeal to a magistrate? A magistrate could examine the circumstances of the application and see whether or not the law of the country had been properly applied.

Here, Sir, I wish to refer to another provision in the Bill that is contained in clause 8, sub-clause (3) (a). That includes in the prohibited classes "any person who is a member of any class of persons declared by the Governor in Council of Ministers, by order published in the *Gazette*, to be prohibited class for the purposes of this section". Now, Sir, anyone who looks at this section—

section 7—will find that it is as full as it can possibly be. In fact, if any classes have been omitted they can be added now, but the very fact that there are so many classes specifically provided and in addition the Governor in Council has been given power to declare other classes of persons as prohibited classes, shows that this Bill gives quite unnecessarily wide powers to the executive. I personally think, Sir, that if the time arrives for any new class of immigrant to be declared as prohibited, the matter should come before the Legislative Council and the Ordinance should be amended.

My next objection to this Bill, Sir, is on account of the very sweeping powers that have been given to the immigration officers. I will not repeat the objections that have been placed before this Council by the hon. Member for Aberdare, but I do wish to emphasise that those powers do not make a distinction between local residents and newcomers. There may be justification for giving wider powers over newcomers to the Immigration Department than over local residents, and there is real need to make that distinction in view of the principle on which the Government says it is working. That principle is also stated very clearly in the Objects and Reasons of the Bill. In spite of that principle being stated, Sir, it is not being maintained in the Bill. As I state, it is not maintained in connection with the powers given to the immigration officers. Immigration officers can compel people, even local residents, to answer questions when such answers will amount to confessions. Well, Sir, we know that in the law of evidence confessions can be made only to certain persons. I think, Sir, that in amending the law of evidence we have gone as far as we should go.

Again, Sir, there are powers given to police officers in the Police Ordinance; I think those powers should be sufficient for the purpose of immigration officers. Why not just say that immigration officers for the purpose of this Ordinance will have all the powers given to police officers by the Police Ordinance.

There is another example of the same confusion between local residents and newcomers. I refer to clause 7, sub-clause 4. That sub-clause clearly uses the phrase "a person seeking to enter the

[Mr. Chanan Singh] Colony". Presumably that is intended to mean a person seeking to enter the Colony for the first time. But nevertheless it also mentions a permit, pass, certificate of exemption, or other authority.

Now, Sir, "pass" in the definition clause includes an entry pass as well as a re-entry pass, so that the provisions of this clause can also be applied to people who are already resident in the Colony. Here also I feel, Sir, that there is need to make a clear distinction between the two classes.

The hon. Mover did say that it was intended to apply to a person who had entered the Colony and who, before he entered the Colony, was a prohibited immigrant. If this was the only intention there can be no objection to it, but if the clause is intended to apply to people who are already resident here and have gone out temporarily, then I think, Sir, it is objectionable and should be amended.

My second general objection, Sir, is that there are various places in this Bill where conviction and sentence of imprisonment is mentioned. In the old law, Sir, whenever punishment was intended in cases like this, offences not involving moral turpitude and offences of a political character were specifically excluded. I think, Sir, that this new Bill also should make a clear distinction between offences which involve moral turpitude and offences which are of a political character. I agree that a discretion is vested in the Principal Immigration Officer and I am sure that he will not exercise that discretion against all persons who have been convicted of any offence whatever and sentenced to imprisonment. Nevertheless, here again I see no need for giving him discretion. If we say "any person convicted of murder or convicted of an offence involving moral turpitude or convicted of an offence other than an offence of a political nature", I think we will make the position definite. There should be no need for giving the Principal Immigration Officer this discretion.

Well, Sir, we must realise that circumstances in all countries of the world are not favourable to all people. Sometimes people have to defy a government and sometimes they are very respectable people. They will be fighting for great principles, principles which are, in due

course of time recognised. A large number of people in India went to prison during the British rule and those are the people who are now ruling the country. I submit, Sir, that in cases like that where there is no moral element in the offence, where the offence was essentially of a political character, that should be excluded from the disability that this Bill seeks to impose on the persons convicted.

There is no length of imprisonment mentioned in many of these cases. At one time our law specifically provided for an imprisonment of six months, and only if imprisonment exceeded six months was the specific provision applicable. But my own suggestion is, Sir, as I have already stated, that offences not involving moral turpitude and offences of a political nature should be specifically excluded.

Sir, my third general objection is with regard to the status of locally-born children. I agree that the provisions of the Bill in Schedule I are better than the present law. But I think the Government should go one step further. I suggested when we were discussing the Sessional Paper that the status of locally-born children should be related to the status of the father, rather than the status of the mother. Here it is gratifying to know that the hon. Member for Aberdare thinks likewise. I am sure this is a matter which deserves more consideration than has been given to it. After all, we must protect the rights of those children whose parents, whose families are settled in this Colony. I am not asking for birthright to be given to the children of those people who are only temporarily in this Colony, but I do say that the children of all families who are permanently settled in this Colony should be specifically protected. I think that can be done better by relating it to the status of the family itself, more to the status of the father than of the mother. If the father is permanently resident at the time of birth then the child should be entitled to a resident's certificate.

My fourth general objection is that although the Bill gives a right of appeal on the refusal of a certificate of permanent residence, that right is surrounded by so many conditions and opinions and considerations, that the right may in practice become valueless.

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I see no objection whatever to making the provisions in sub-clause (3) of clause 6 more definite. I have already suggested an amendment to sub-clause (a) which refers to conviction. Sub-clause (b) refers to the opinion of the Principal Immigration Officer as to whether or not a person is "addicted to drugs, to habits of intemperance or to conduct involving moral turpitude". I have seen the Order Paper, it is intended to change the wording; but, Sir, the change will retain the objectionable element.

I agree with the hon. Member for Aberdare that the fact should be clearly stated. If a person is addicted to drugs, say so, and let the Principal Immigration Officer refuse that person a certificate of residence and let him appeal. But if we say that the Principal Immigration Officer considers that that fellow is addicted to drugs and so on, then it is possible, so long as the court is satisfied that consideration on the part of the Principal Immigration Officer was reasonable and fair, it should go no further. In order to give substance to this right of appeal, I think the bare fact of addiction to drugs or of habits of intemperance, etc., should be stated in the Ordinance and then a person who feels aggrieved will have a real right of appeal because then he will be able to challenge a finding of fact on the part of the Principal Immigration Officer, now he will have to challenge the "consideration" or the "opinion" of the Principal Immigration Officer.

I also support the hon. and learned Member for Aberdare in regard to what he stated on clause 15. If a person has in fact suffered damage by the action although done in good faith, of an officer of the Government, he should be entitled to compensation. After all the compensation will be obtainable only in a court of law, and no court of law will lightly grant compensation against the Government. I agree with the hon. Member for Aberdare that this clause needs re-examination and re-wording.

On clause 15 sub-clause 1 (e) also I support the hon. Member for Aberdare. The bare fact that a person uses or has in his possession without proper authority a forged document should not make him guilty of an offence. I think the

element of knowledge should be brought into it. The following clause does mention the word "knowingly". I think the word "knowingly" should also be included in this clause.

Now, Sir, clause 18. I wish to invite the attention of the hon. Mover to the provisions in the Evidence Act with regard to the proof of foreign documents. This clause I think refers only to foreign documents. The provisions in the Evidence Act are, I think, reasonably fair and reasonably full. There is no need to have any special provisions in this Bill.

While I agree with my hon. and learned friend in so many things, there is one matter on which I must regretfully differ with him. He expressed the view that even if Africans who were out of this country were guilty of undesirable conduct, it should be possible to refuse them the right of return to their home. Sir, that suggestion I feel is contrary to all notions of British law. Even in the Dominions that contention has not been accepted. So long as a person is domiciled in a Dominion he has the right to come back. In several of the Dominions—I know, in South Africa, Australia and Canada—this right has from time to time been challenged. But it has been held by court that if a person is domiciled in the country he is entitled to come back because he is coming back not to a new country but to his own home.

In the end, Sir, I must make it clear that the community which I represent in this Council is not asking for unrestricted immigration. We agree that control of immigration has come to stay. When the control was introduced we opposed it, but nevertheless it has come, and is now effective. This must be acknowledged. What we do say, Sir, is that there is no need to give unnecessary discretion to individual officers. There should be a fair chance to compete for entry permits, and so long as a person complies with the conditions laid down in law his application should be granted. I agree that we must have regard to the needs of the local population, the needs of the children of the local population, especially the needs of the African community and its children. But what I say is this, if after providing for the needs of the local population, especially the

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African population, we come to the conclusion that a certain number of immigrants are needed in this Colony, then let us be fair to all applicants. Let us treat all applications on merit, let us lay down conditions clearly and definitely which applicants will understand. And once those conditions are complied with, then the applicants to the required number should be allowed to come in.

—Lastly, Sir, if our opposition to the Second Reading does not succeed, then I support the demand made by the hon. and learned Member for Aberdare that this Bill should be referred to a Select Committee. If the Government thinks that there is not sufficient time for a Select Committee to sit and consider this important Bill then I, like my hon. and learned friend, would be satisfied by an assurance that there will be an opportunity when the new Council meets to consider an amending Bill, this Bill should be referred to a Select Committee.

Sir, I beg to oppose.

DR. HASSAN: Sir, I rise to congratulate the Minister for giving an excellent speech in presenting this Bill for the Second Reading.

Before doing so, I would like to support the previous speaker, the Member for Aberdare and the Member for Central Area on all the points they mentioned on this Immigration Bill.

I was very glad that the Minister made it very clear that this Bill is going to be applied in a general way irrespective of the race and nationality of the people. I support the policy because it lays down by law certain privileges to the members of certain races, particularly the British races, which are objected to. We do not think the British race needs any privileges because of their nationality and race, they deserve those privileges because of their standard, high education and expert knowledge of the world and its affairs. We always consider these deserve privileges and the British race, having all these qualities more than any other race, has a right to demand it and there is nobody who would object to concede that. But the policy being demanded is privileges for the British race.

Sir, there is no doubt that we need legislation to stop immigration into this

country with a view to protection, not only for the indigenous population of the country, but for the permanent residents, Asians as well as Europeans. I know the Africans will be increasing a hundred per cent in 47 years and this will automatically apply to the other immigrant races. We know at the same time that we have not got all the manpower for the economic development of this country at the present stage. The specific legislation that we thought of imposing in this country in 1948 was merely to stop this country being flooded by immigrant races, or not permitting any community to make it a dumping ground for sending their nationals here. But it was never meant to deprive this country of the essential services of skilled people, of those who could bring capital here and take a major share in the development of this country.

There is no doubt that we did not have the skilled people in sufficient numbers in this country to help us and assist us to keep down the rise in the cost of living and further expenses in buildings, etc. But the restrictions were so strict that even up to to-day we are suffering from the shortage of artisans in this country. We never had enough locally trained artisans to help us and we did not get enough from overseas to keep down the cost for the benefit of the permanent residents and the indigenous population of this country. That has not benefited Kenya. I know to-day that African trained artisans are available in small numbers, but still the building costs have gone up to such an extent that even some of those people possessing capital are feeling very shy of putting it in the construction of buildings to-day.

This, of course, is all due to the shortage of the skilled artisan which we cannot obtain from here. We can only get them from other countries. We have the labour shortage I do admit, that was chiefly due to the lawlessness in this country and I think attempts by the authorities are made to meet the demand of the labour to-day, although there are suggestions that we should get it from the Belgian Congo which were not supported by me, because this would not help Kenya to get over her problems. What we want in this country by restricted immigration, which we accept so as not to allow large numbers of people to

[Dr. Hassan]

earn their living in this country who are likely to deprive large numbers of the indigenous population and permanent residents of their means of livelihood. But it is absolutely essential that along with the Africans' needs and the Africans' demands, it is also the duty of the Government that demands of immigrant races should also be met. If it is essential to maintain the established business in this country, whether it is run by Africans or Asians or Europeans, the help and assistance which is demanded by them should also be forthcoming for the benefit of the economic development of this country.

I have no intention of taking the stage on the legal side of these clauses and I believe my friends the Member for the Central Area and the Member for Aberdare have very elaborately touched upon these points, but I would like to agree with them and support them in that it will be essential that the Government should give serious consideration to appointing a committee, which would go through these clauses very carefully and report upon them, because this Immigration Ordinance is going to be a permanent Ordinance in this country and we should try to cover a lot of points which are likely to create headaches and difficulties to the authorities. A committee is required.

The community which I represent—I spoke on that matter in detail when I discussed this policy debate, when we agreed to restrict immigration, and I do not find that there is anything wrong with the Bill that is laid on the Table here. The only objection which I have and which I mentioned in the first instance, and I still maintain that it was an objection on the policy on which this Bill is based. The details of the Bill, with the exception of the details raised by the legal members which need to be modified, and I must thank the Minister for agreeing to some of the amendments which we put up to him. I would like, Sir, to ask the Government, if possible, to agree to the appointment of a committee to deal with this Bill.

There is no doubt that there has been very strong feeling against most of the Asian Members for the introduction of this Bill, particularly when the Council

is going to be dissolved, and they feel that we did not make enough noise to prevent Government from steamrolling this Bill through this Council, but although the opposition was so strong and so furious, we did not like to fall in line with our friends for one reason and one very special and particular reason. The steps they expected us to take we did not agree with, because we accepted this multi-racial experiment and are trying to make it a success and it was not the intention of the Asian Members to make or do any harm to the experiment which we had undertaken to help the Government to make a success.

I must say that Government has been in such a great hurry to pass this Bill through the Council, it has been said outside that the Government has been forced by some of the Ministers to get it through before the elections so that some of the Members may address their constituents and tell them "Here we are, we have done something which we wanted so badly".

With these few points, Sir, as a matter of policy, I oppose the Motion.

THE MINISTER FOR LEGAL AFFAIRS (Mr. Conroy): Mr. Speaker, Sir, I think it might be convenient for me at this stage to deal with some of the legal points that have been raised by the hon. and learned Member for Aberdare the hon. Member for Ukamba and the hon. and learned Asian Elected Member for the Central Electoral Area. I lump those three members together—as well as their arguments—because their arguments seem to me to boil down to one very simple question; which is, are we going to have control over immigration or are we not?

You see, Mr. Speaker, it is no good having a Bill with pious expressions of principles in it unless you give powers in the Bill to control immigration; and here the question is, are we going to have control or are we not? Are we going to have control or are we going to continue under the present Ordinance, which I think everyone, or nearly everyone, agrees does not give us the degree of control which is desirable in these matters? Now, Mr. Speaker, if the powers, which have been the subject of attack from those three members, are

[The Minister for Legal Affairs] abolished in this Bill, we do not have control.

The purpose of this legislation with these controls is to protect the people who have a right to be in this Colony, and if we take the controls out of the Bill then that protection will disappear. It is no good having pious expressions of principle unless you can control immigration and unless you can prevent improper and illegal immigration. And it is for those purposes that we have put into this Bill these powers.

Mr. Speaker, I say again, it seems to me that the objections put forward by the three hon. Members whom I have mentioned all boil down to this: Are we going to have control or are we not? If we are not, then there is no purpose in this Bill.

Having dealt with that principle I think that it might be convenient if we were to turn to some of the questions—some of the objections—raised in particular by these three hon. Members.

The first objection to which I wish to refer is that to clause 4 (1) (b) of the Bill at page 3. The hon. and learned Member for Aberdare objected to the power to be given to immigration officials to interrogate people. He objected on two grounds, the first of which was that the person to be interrogated would have no power to refuse to answer the questions; that in other words there would be no caution. The second ground, as I understood his argument, was that this would apply not only to the people seeking to enter the Territory, but would also apply to persons who had a right of residence. As I listened to him developing his argument (with the attractive presentation which one always gets from the hon. and learned Member) I began to be convinced in spite of myself; but when I go back and look at the words of the Bill—and to those I wish to direct your attention—then I do not think there is anything to be worried about. I think with the greatest respect to the hon. and learned Member that his argument falls to the ground. You see, the words of the clause are these:

“4 (1) For the purpose of exercising his powers and functions and carrying out his duties under this

Ordinance, any immigration officer may—”

“(b) interrogate any person who desires to enter or leave the Colony.”

Now, Sir, what possible objection can there be to that?—None at all. Mr. Speaker, Sir—

MR. SLADE: Mr. Speaker, Sir, I am grateful to the hon. Member for giving way. These clauses ask for the abolition of these powers. The whole burden of my three-quarters of an hour speech was that these powers must be limited or restricted to what is necessary and proper.

THE MINISTER FOR LEGAL AFFAIRS (Mr. Conroy): I thought I had made it clear that the objection was two-fold to this. First, that there was no question of caution being imposed, and, secondly, that these powers to interrogate would also apply to a resident. I have two answers to put forward in regard to this. Firstly, no one can say that the power to interrogate a person who desires to enter or leave the Colony can be wrong, and it does not matter whether that person is a resident or not. The immigration officer must be able to ask him at the frontier, “Are you a resident?” and then he produces his passport containing a resident's certificate; and that is the end of the matter.

The next point is that the immigration officer may interrogate any person whom he has a reasonable ground for believing to be a prohibited immigrant. There is no reason why a resident should not be asked that question, because once he produces his certificate to show that he is a resident no question of him being a prohibited immigrant can arise; you cannot be a prohibited immigrant if you are a resident, and I do not think that any resident in this Colony would object to being interrogated and asked: “Would you produce your certificate of residence?”

Then, Mr. Speaker, we have the next power, which is the power of any immigration officer to interrogate any person when he has reason to believe that any infringements of the provisions of this Ordinance, or any regulations made thereunder, has occurred, or any person whom he reasonably believes can give information regarding such infringement. No question of caution arises there any

[The Minister for Legal Affairs] more than it arises in respect of a police officer seeking information from any witness in any case. Surely, the immigration officer must have power to question any person whom he has reasonable cause to believe can give any evidence in relation to an offence. Mr. Speaker, those powers have been possessed for many years by the police and I have not heard of any cases of people being brought by the police from Nanyuki to Mombasa to be interrogated and asked to make a statement. You see when you look at these things practically, and when you go back to the provisions of clause 3 (4), you look at sub-section (4) and you find that the Minister may from time to time give to his officer general or specific directions not inconsistent with the Ordinance as to the exercise of functions and powers, etc. It is clear that the Minister in practice tells his officers not to be—I hesitate to use the unparliamentary expression, Sir, well known to all of us, to which reference was made by the hon. Member from Ukamba—but those would be the instructions given by the Minister—“You must keep your mind in an unsanguinary state when dealing with members of the public.” That is what happens in practice.

Sir, I think these are—with the greatest of respect, and I do not mean it in any derogatory sense—debating points, and when you apply a practical test to them they disappear.

Clause 15 was the next point, I think, raised by the hon. Member for Aberdare—page 17. This is the clause which creates offences and makes penalties for people committing offences against the Ordinances. We find that paragraph 15 (1) (f) says “Any person who knowingly” and I repeat “knowingly”—“uses or has in his possession any unlawfully issued or otherwise irregular passport,” etc. Now, Mr. Speaker, the hon. and learned Member for Aberdare said that in respect of that offence it would not be necessary to prove guilty intent; but the word “knowingly” was specifically put in. Originally, when this paragraph was drafted, the paragraph (e) and the paragraph (f) formed one composite paragraph, and you see if you look at them that they deal with two quite different things. Paragraph (e) makes it an offence

for any person to have in his possession any forged or unlawfully altered passport. Now, Mr. Speaker, if I have a forged passport in my pocket I clearly must be guilty of an offence because I must know it is forged. I could be the only person who could know it was forged. But where a passport has been improperly or irregularly issued (supposing a passport officer has made a mistake and put the wrong stamp on it, or issued it for too many years—for ten years instead of five) the person to whom it was issued would not necessarily know that it was improperly issued passport, and therefore we put in the word “knowingly”. It is only where a person knowingly had in his possession the passport which is improperly issued that he commits an offence; and I hope that that explanation removes the fear that the hon. and learned Member has in respect of this offence.

Mr. Speaker, he had a further objection to another paragraph—clause 15 (5)—page 19, that, Sir, you will see is the paragraph which places upon the master of a ship or aircraft the responsibility for stowaways. The immigration laws that I have been familiar with elsewhere contain this sub-section; it is a common form. You have to place upon the master of a ship or aircraft the responsibility for stowaways; and I was rather surprised when the hon. Member attacked that sub-section; and I sidled along the back bench on the Government side and spoke to the honourable and gallant Nominated Member, Capt. Hamley, and he assures me that it is a common practice in the mercantile marine that a master should be responsible for searching his own ship.

MR. SLADE: Criminally responsible?

THE MINISTER FOR LEGAL AFFAIRS (Mr. Conroy): Yes, criminally responsible.

To-morrow I will have the pleasure of meeting one of my children at Eastleigh Airport on arrival from England; and I have had to go to a great deal of trouble to get an entry permit for my daughter because B.O.A.C. will not accept her as a passenger in London until they know she will be accepted at this end. It is quite clear that B.O.A.C. are going to cover themselves because

[The Minister for Legal Affairs] they are responsible if they accept someone in one of their aircraft who will not be accepted by the immigration authorities at her destination. No ticket is issued by the airways, and I understand no ticket is issued by a shipping line until they are sure that the person who is to travel as a passenger will have a right to land at his or her port of destination.

Mr. Speaker, the next clause to which objection was made was clause 18. This provides that where a responsible Minister or official gives a certificate certifying or authenticating a fact, that this shall be admissible as evidence under this Ordinance. I should have thought that that helped everyone—both the Government and the immigrant: it saves unnecessary expense, it does away with multiplicity of litigation and it works both ways. You see, if your immigrant wants to prove that he was born in such and such a place, of such and such parents, then he can get some acceptable Minister or official in his country of origin to give a certificate authenticating those facts, and that can be accepted under the Ordinance, and it does not raise a complete presumption, it only raises a rebuttal presumption, it can be disproved, but it does seem to me, with the greatest respect to the hon. and learned Member, that this will save Government's and save everyone else's money, including the litigant's money.

The only people who may be hard hit are the lawyers who will not have the advantage of taking part in the litigation. That, Mr. Speaker, is I know a matter of very very minor importance to the hon. and learned Member for Aberdare.

At page 26 of the Bill objection was made by the hon. Member for Ukamba, and he said—dealing with entry permits—concerning people coming in to be farmers; that the Principal Immigration Officer was the last person in the world to decide—that he was not the right person to decide whether a man had enough money to be a farmer. Quite clearly, Mr. Speaker, he would be acting on instructions from his Minister, and the Minister in practice will take advice from people qualified in agricultural pursuits, such as the Resettlement Board, or someone else.

Mr. Speaker, for those reasons I trust that the fears expressed by the hon. Members have been either completely or partially resolved, sufficiently resolved in any case for them to be able to support this Bill without reservations.

Mr. Speaker, I beg to support.

ADJOURNMENT

THE SPEAKER (Sir Ferdinand Cavendish-Bentinck): I now adjourn Council until 2.30 p.m. to-morrow afternoon, Thursday, 19th July.

Council rose at fifteen minutes past Six o'clock.

Thursday, 19th July, 1956

The Council met at thirty minutes past Two o'clock.

[Mr. Speaker (Sir Ferdinand Cavendish-Bentinck) in the Chair]

PRAYERS

PAPER LAID

The following Paper was laid on the Table:

The Kenya Meat Commission Sixth Annual Report and Accounts; for the period 1st January to 31st December, 1955.

(BY THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell.))

ORAL ANSWERS TO QUESTIONS

No. 104

MR. SLADE asked the Minister for Local Government, Health and Housing (Mr. Havelock) to state:

1. Does Government contemplate introduction of a Bill to provide for Affiliation Orders against the putative fathers of illegitimate children?
2. If so, when?

THE MINISTER FOR LOCAL GOVERNMENT, HEALTH AND HOUSING (Mr. Havelock): The Government has accepted the principle of legislation to provide for the maintenance of illegitimate children and hopes to introduce a Bill into the Council in the next Session.

It is considered desirable that the four E.A. territories should enact legislation of a similar type to ensure its effectiveness. With this in mind it is proposed to consult the Governments of the other E.A. territories before the introduction of a Bill.

QUESTION No. 105

MR. SLADE asked the Acting Chief Secretary (Mr. Griffith-Jones) why did the Minister for Legal Affairs very recently have to spend a fortnight or more in the United Kingdom?

THE ACTING CHIEF SECRETARY (Mr. Griffith-Jones): The Minister for Legal Affairs visited London at the request of the Secretary of State to assist him in

examining allegations to which wide currency had been given in the Press and Parliament regarding the illegal imprisonment of juveniles and connected matters.

MR. SLADE: Mr. Speaker, in view of that reply, I should like to move the adjournment of the Council this afternoon.

MOTION

TENANTS AND LANDLORDS LEGISLATION

MR. CHANAN SINGH: Mr. Speaker, Sir, I beg to move—"That the Government be requested to consider the introduction of permanent legislation for the protection of tenants and landlords by guaranteeing to tenants security of tenure on payment of reasonable rents".

Sir, I gave notice of this Motion a long time ago, but later I found that Government had appointed a committee to examine the situation in Nairobi. I was waiting to see what happened as a result of that committee's report and I was hoping that something of a general nature would flow from the recommendations of that committee's report. Unfortunately, the report of the committee has not been made public as yet, nor do we know anything about the consideration that the Government has given to those recommendations.

Since to-day is likely to be the last day on which the present Council will be sitting, I thought I would move the Motion of which I have given notice to place before the Government my views on this subject so that they may bear them in mind when they come to consider the general question of protection of tenants.

Sir, I refer in this Motion first to "permanent legislation". We have had several pieces of legislation passed from time to time for the protection of tenants. This legislation was necessary because of the shortage of accommodation. The same sort of thing has been passed in other countries of the world. The United Kingdom has passed a large number of Acts on this subject. Part of the legislation in the United Kingdom was first introduced during the First World War and it is still continuing and it is still referred to as "temporary" legislation. A similar state of affairs existed in the pre-Revolution Russia, where it was stated that the only permanent legislation was temporary legislation!

[Mr. Chanan Singh]

Well, Sir, so far as legislation on this particular subject is concerned, it does appear that the idea of protecting tenants has come to stay. If the United Kingdom has not been able to get rid of this "temporary" legislation, I am sure we shall also need it. In any case, Sir, legislation if passed will not do any harm when the situation of accommodation improves. It will remain on the book, like the legislation we recently passed on the control of prices and it will come in handy when shortage of accommodation occurs again, and so long as the present shortage lasts it will be useful.

Then, Sir, the Motion speaks of "the protection of tenants and landlords". This is not a one-sided motion. I feel that any law must take into account the views of both landlords and tenants. The landlords invest money in buildings in the expectation of a return. That is true in most cases. For that reason, Sir, my contention is that so long as a reasonable rent is assured to a landlord, he should not be entitled to evict his tenant. That would be the general position, but there can be exceptional circumstances in which it would not be reasonable to withhold possession from the landlord. For example, the premises may be situated in a part of the town where development is necessary. For reasons of development I feel possession should be ordered, but in a case like that it should be a condition of giving possession that the landlord should give preference to the tenant when it comes to granting tenancies of reconstructed premises. The second circumstance in which I think the landlord should be entitled to recover possession of his premises is when he requires the premises for his own use. He may have gone out of the country and have given the premises on rent and on return may wish to start his own business, or a son who was at school may have come of age and may be wishing to enter business. In circumstances like these the landlord should be entitled to recover possession.

But, apart from these exceptional cases, I feel that the landlord should not be able to evict his tenant so long as a reasonable rent is paid to him. The question of what is a reasonable rent can, I think, be left to the discretion of the representative bodies of business people,

landlords and tenants. They can be asked what, in their view, a reasonable return is. So long as that return is guaranteed to the landlord there should be protection to tenants against eviction. Legislation like that, Sir, can be, and I think should be, permanent. No harm, as I have stated would be done if, in circumstances which may come about, no use is made of that legislation. There may be plenty of premises available for renting and there will be no need to have recourse to the provisions of such a law, but if such a law is on the Statute Book, it will be useful in time of need.

Now, Sir, as I have stated a committee was recently set up to examine the question in so far as it affects Nairobi—shops—my Motion speaks not only of business premises, but of premises in general. I think the same sort of legislation is necessary with regard to residential premises.

But I am concerned just now with regard to business premises outside Nairobi; and here it is expected that something beneficial to the business community will result from the deliberations of the committee of which I have spoken. However, nothing has so far been done with regard to places outside Nairobi. I am of the view that whatever protection is afforded to tenants in Nairobi should be extended to tenants outside Nairobi.

For some time past I have been receiving representations from various people. There was, a few months ago, a body called the Tenants' Association, in Nairobi, which was very active then; and it made representations to the Government in respect of tenancies in Nairobi; it collected a lot of data and sent that data to the Government. The Federation of Indian Chambers of Commerce and Industry has also shown considerable interest and has been making representations on behalf of the business community. Places outside Nairobi have also been sending memoranda and telegrams. I have here a letter from Nyeri, addressed to the District Commissioner, Nyeri, which is signed by a large number of traders at Nyeri, asking for protection. The Indian Association, Thika, has been concerned about this matter because the day of the expiry of legislation now in force is coming near. The other day that association sent a

[Mr. Chanan Singh]

I was one of the addressees—and this is how it reads:

"Reference request that control should remain. In Thika rent increased three times. No one had a long lease. Very few business plots allocated by Government. There is heavy demand, but Government very slow in allocation. Heavy cost of living affects it very much owing increase of rent and other taxes. Request put our case forward very strongly".

There is also a memorandum from the hon. secretary of the Tenants' Association at Eldoret. That memorandum gives details of a number of tenancies and shows what was the rent before and what is the present rent. Newspapers have also been printing news about other towns.

This is a matter, Sir, which is genuinely worrying the tenants all over the country and I think a case exists not only for Nairobi but also for places outside Nairobi. There are complaints with regard to the new level of rents; but, Sir, as I have already stated, the landlords are entitled to a reasonable return on their capital. It may be necessary to increase the rents by 100 per cent or 200 per cent in some cases when the rent control has gone, but as long as a reasonable rent is paid to the landlord I think there should be provision in the law for giving protection against eviction.

Sir, this is a matter about which most members of this Council have details, and I would not take up more of the time of this Council.

Sir, I beg to move.

MR. J. S. PATEL (Western Electoral Area): Mr. Speaker, Sir, in seconding this Motion I must make it clear that I am a member of the sub-committee who had the task of looking into this matter.

Question proposed.

THE MINISTER FOR COMMERCE AND INDUSTRY (Mr. Maddison): Mr. Speaker, Sir, I have listened very carefully to the arguments produced by the hon. Member, and I regret, Sir, that I am unable to accept the Motion in the form presented as it appears to me to be far too wide in its terms, and it in fact would involve a reimposition of a form of control on

many forms of premises which it has been the policy of the Government to free progressively from control.

I would like to mention, Sir, firstly, the fact that in 1954 this House was unanimous in voting for the abolition of all forms of control on business premises. This motion would include business premises; it would also, Sir, include dwelling-houses which are, in fact, covered by the existing Rent Control Ordinance. It seems to me, Sir, to be unnecessary to pass new permanent legislation which would only supplement the existing provision which gives completely adequate protection against eviction by the landlord. I would also mention, Sir, that dwelling-houses built after a certain date in 1954—28th February—are free from all forms of control. Business premises built after 1st January, 1949, have been free from all forms of control. The object behind this policy was to get rid of war-time controls as quickly as possible, to encourage free enterprise to the maximum and to ensure encouragement to people who were willing to commit their money to build premises which would be adequate for the needs of the community.

I need hardly say, Sir, that this Government's policy has been extremely successful: the new buildings in Nairobi and all the other main centres of Kenya bear ample witness to the success of the policy. As shortages disappear it is the Government policy to decontrol.

The present Rent Control Ordinance is not without term. It will come up for consideration in this Council next year whether this Ordinance should be continued at all. It was last renewed for a period of three years in 1954. If the Government were to accept the Motion now before the Council it would, as I have said, involve reimposing a measure of control even though it were not rent control. It would hamper the liberty of the landlord to do with his premises what he wished; it would also disregard many contractual obligations which have been entered into in good faith by landlords on the strength of a clear declaration of Government policy.

The Government policy, Sir, is to keep the situation constantly under review and to ensure that no serious

[The Minister for Commerce and Industry] hardships or injustices result. The position both in Nairobi and elsewhere is under review and, as a result of one of these reviews the temporary legislation—the Landlord and Tenant, Shops and Hotels Ordinance, 1954, was passed to deal with a particular situation which had arisen in the case of shops and hotels. There was a continuing shortage of these particular premises and it was considered necessary to deal with them by special legislation.

It now appears that the only category of premises in which some hardship may be occasioned by a continuing shortage is shop premises, and recently the Government has received a report from the Board of Commerce and Industry on the position of shop premises. This report is now being considered by the Government and I hope that at an early date it will be possible to make a public announcement.

I am sure, Sir, it will be appreciated that it is not possible at this stage to anticipate the Government's decision and I cannot, therefore, give the hon. Mover further information which he would wish to have.

The hon. Mover, Sir, did mention particular cases where difficulties were being experienced in obtaining plots on which to build. I did anticipate that this matter might be raised and I have an assurance from the Minister for Lands that he will investigate immediately any specific cases which are brought to his notice.

MR. USHER (Mombasa): Mr. Speaker, Sir, I am sorry that I have to speak now after the Minister has just finished but perhaps I could get answers to the questions which I wish to raise from some other quarter. I think when we debated this question two years ago, I was one who wished to have added to the Motion the words "and shall then cease", meaning that I did not wish to see any possibility of the question of control over residential premises reviewed at the last moment. I was defeated on that point and I think perhaps that I must admit to some shortsightedness. I doubt whether conditions are uniform, Sir, throughout the country and I can only speak with any exact knowledge of

my own constituency. Whereas I thought at the time that it would be a very good thing to be quite certain that the matter would come to an end in the period of the Motion, I then thought that the building programme would go ahead very much faster than in fact it has. The fact is that we have been greatly handicapped by two factors—shortage of materials, and that is the lesser one, and I believe the greater to have been the shortage of water—which have really restricted building activities in a very marked degree.

Therefore, I think it is not possible to foresee the time when accommodation—residential accommodation—will be adequate to our needs. I think it is very well known to hon. Members that the price of land also is so high that it makes building for the ordinary man almost impossible.

Now, Sir, I think although, it is putting the matter extremely, I must refer to what was said by Mr. Thornley in this Council some years ago. I regret again the fact that I did not intend to intervene in the debate means that I have not looked up the quotation, but I remember so nearly what he said that I am going to say that what he said was this: "That the policy of Government is to maintain control until the supply exceeds the demand."

I did not myself agree with that at the time, and I doubt whether I could quite agree with it now. Nor do I agree with the Motion as it is. I wish really that we had time for the hon. Mover to amend his Motion and then I think that we might get something which would be acceptable to the Government and would reduce the fears from which I am myself suffering.

MR. TYSON (Nominated Member): Mr. Speaker, Sir, I think it is important that this matter should be divided into two parts—the residential side of it and the commercial side or business side of it.

So far as residential accommodation is concerned, I can see no likelihood—no justification for the removal of even the existing restrictions on rent control so far as residential accommodation is concerned. We are still very far short of the requirements—requirements for all

[Mr. Tyson] communities—and in almost every centre.

MR. USHER: In Nairobi.

MR. TYSON: In every centre, not Nairobi only. Do not let us make any mistake that the only difficulty is in Nairobi.

But so far as commercial shop premises are concerned, I think the Mover is rather more concerned with the protection of landlord interests, although I realise that his Motion is framed as protecting the tenants as well. Until restrictions are removed so far as shop premises, for example, are concerned, we are not going to encourage developers to proceed with the erection of additional shop accommodation. Steps have already been taken, as the Minister pointed out, to go into the question of some protection to avoid eviction, but I do feel, Sir, that if we are to encourage developers to put up additional accommodation, particularly shop accommodation, the very way to stop that development is by encouraging restriction on the rents which can be charged. What we want to do is to get away from this restriction and to leave the market to find its own level.

Those of us who live in Nairobi, I think realise that a large number of traders have been enabled to remain in certain of the main thoroughfares of this town only by reason of the Rent Restriction Ordinance and by the fact that they have, to a very large extent, for some years been subsidised, unfairly subsidised, by the landlords of the premises. Side by side with this, Government, through the Lands Department, have been offering valuable sites in City Square and in Government Road, where additional shop accommodation can be put up and where these traders who have been subsidised for some years can now move and rent premises at reasonable and fair rents, and it seems to me that that is the line along which we should proceed.

It would be quite wrong, in my opinion, to introduce, as the Mover has proposed, permanent legislation for the protection of either landlords or tenants by guaranteeing them security of tenure

on payment of reasonable rents. Let us get back to a free market as quickly as we can so that landlords and tenants can make their own terms for renting suitable premises.

I beg to oppose the Motion.

THE MINISTER FOR LOCAL GOVERNMENT, HEALTH AND HOUSING (MR. HAVELock): Mr. Speaker, there were one or two points made by two hon. Members who spoke after the Minister, and I will try to answer them as best I can.

The hon. Member for Mombasa was advocating, as I gathered it, the protection or reimposition of rent control, especially in his area. Of course we do know that his particular problem—or the problem of that area—is different from other parts of the country, and again the problem is divided into two sections; one—I think he was particularly referring to residential accommodation, but even the residential accommodation is divided into two sections—firstly for the African population and secondly for the non-African. A considerable number of the first category, of course, are already covered by another Ordinance, as the hon. Member knows, which is under review; I am talking now of the Eviction of Tenants Ordinance, which applies to Mombasa. That particular Ordinance is under review and Government will state its policy in due course. It comes to an end, I think, or might come to an end, at the end of this year.

Apart from that, Sir, it is true that buildings in Mombasa—Mombasa Island and its neighbourhood—have been restricted owing to lack of water and other essential services, but now that Mombasa has such an excellent supply, presumably that particular problem will be overcome.

The hon. Member then went on to point out—whether he was quoting correctly or not I have not had time to check—that Mr. Thornley had stated that until the supply exceeds the demand there should be a maintenance of control. Well, Sir, all I would say to that is that it is, to my mind, rather illogical, because unless you take off the control, people will not build and therefore the supply will never exceed the demand if the control remains on.

[The Minister for Local Government, Health and Housing]

So I think, Sir, that that is the answer to the hon. Member, and possibly to Mr. Thornley, if he made that remark.

Now, Sir, the same thing applies, as I suggest, to some of the remarks that the hon. Nominated Member, Mr. Tyson, made. On the one hand he advocated that there should be no restriction on rents of offices and shops, because he said that if you take the restriction off, it will encourage building. On the other hand, he advocated the retention of rent control of residential accommodation, because he said he could not see, as I understood it, he could not see residential accommodation being built in sufficient quantities in the near future.

There again, I think the answer I have given to the hon. Member for Mombasa applies to the hon. Mr. Tyson, and all I would say there, Sir, is that as Minister for Housing I fully recognise the need for housing for races other than Africans. We have discussed the African housing problem often in this Council, and we are trying—the Government is trying—to interest private developers in developing residential areas for both European and Asian accommodation, and of course, as is usual and as is especially difficult in these times of the credit squeeze, it is lack of capital which is holding it up, but the area and the land is available and the main services will be available, and if any hon. Member can help me to find the capital—which will show a very good return or quite an adequate return—I should be very grateful.

I beg to oppose.

THE SPEAKER (Sir Ferdinand Cavendish-Bentley): If no other Member wishes to speak, I will ask the hon. Mover to reply.

MR. CHANAN SINGH: Mr. Speaker, Sir, one or two points have been made against the Motion. The most important one is that the existence of control discourages building, discourages free enterprise. Sir, my Motion advocates reasonable rents. If the return on capital is reasonable, then I do not think there should be any discouragement of building. After all, as I stated, any prospective builders are interested in getting a return

on their investment, and so long as that return is reasonable, there is no need to fear that building will stop.

It has been stated that the reimposition of control or the continuation of it will mean a disregard of contractual obligations but, Sir, contractual obligations in their pure form have not existed for the last 40 or 50 years. In any case, if people want to believe that anything like that does exist now, well, it is not my fault.

It is true that dwelling-houses are being built free from control, but it is also true that the rents prevailing these days are not 10 per cent or 12 per cent; they are between 20 and 25 per cent. If anyone thinks that that is a reasonable level of return on investments, well, here again, it is not my fault.

I do think, Sir, that so long as return is guaranteed to landlords, control of the type proposed in the Motion will not do any harm to enterprise.

The question was put and negatived.

BILL

SECOND READING

The Immigration Bill

Resumption of adjourned debate.

MR. J. S. PATEL: Mr. Speaker, Sir, I rise to oppose the Second Reading of this Bill. I oppose this Bill, not because I and my community wish to come into this country in hundreds and thousands, but because I feel that it is definitely certain at the moment that the present immigration control is so self-sufficient that there is no necessity for the indecent haste in rushing through this Bill.

As pointed out by my learned friend the Member for Aberdare, in this Bill there are several clauses which makes the Bill more of an autocratic character than a democratic one. It has been said by the Mover that the enactment of this Bill would be in the interests of all the communities in this country. I suggest, Sir, that it would not be so, because as I go round in my constituency and in Nairobi I find every businessman complaining of shortages of staff, every industry complaining about not getting enough assistance and even the grant-in-aid schools complaining that they are not getting the teaching staff needed.

[Mr. J. S. Patel]

This goes to show that there is room for only wise control of immigration and encouragement of people who are really useful to the country.

My friend, the Minister for Legal Affairs, in replying to my learned friend, the Member for Aberdare said, "Gentlemen if you wish to have control, these clauses must be kept." That goes to suggest that in this country there is no immigration control at all.

I can say from my own personal experience, that the officers of the Immigration Department and the Principal Immigration Officer himself are so efficiently controlling the immigration, particularly of the Asian community in this country, that temporary permits take six months and by the time the temporary permit is granted, the man is not available.

Now, Sir, it has often been said in this Council that we must not be afraid of prosperity. How on earth are we going to prosper without men and materials? The hon. Chief Secretary said that in course of another four years we will have so many students coming out of school, we will have to find jobs for them.

Sir, the basis of bringing in any policy of control is the production of statistics to show that there is unemployment in this country. In February, 1955, efforts were made through the Control Board of Immigration to stop certain classes of immigrants into this country, particularly Asians. On my demand that they should, before bringing in any such rules or regulations produce statistics to show that certain classes of people are unemployed in this country, the result was that they were unable to produce it. To-day, if it is desired by an employer to bring any man from India, reference is made to the Labour Department and the Labour Department says, "a local man could be trained". It does not say that a local man is available. Sir, my particular argument is respect of this Immigration Bill is that the majority of the clauses in this Bill are so harsh and so objectionable that no democratic country could dare, in the year 1956, to promulgate Rules, Regulations or Ordinances, and to put on the Statute Book, which would go against the very spirit

of the Lyttelton Plan. The Lyttelton Plan, when it was introduced, it was introduced with a view that all the three communities in this country should thrive together.

In my humble submission, Sir, this particular Immigration Control Bill will be administered exclusively, harshly, against the Asian community, and in that respect all interested parties, all the industry in the hands of Asians will suffer very badly. The Education Department may argue that we have got training schools which are producing staff, trained teachers and trained technicians. Sir, in a developing country such as ours, it is not possible that the present-day training facilities will provide all the staff we need. And under such circumstances I would request that there should be provision in this Bill for wise encouragement of the staff needed and particularly better facilities for bringing people in under temporary permits.

In requesting, Mr. Speaker, the hon. Minister to bring this Bill to a Select Committee, I would say this; that if a simple Bill, such as the Cavendish-Bentley Pension Bill or Mortimer Pension Bill could be put to a Select Committee, a very important Bill such as this, which not only lays down a law for any one particular community but for the entire immigrant races into this country, which you may find, one fine day, when, due to changes of circumstances, these very provisions we are making to-day will come back to all of us like a boomerang, and it may affect us so harshly that not only we will be sorry, but our own children would be sorry for having enacted such a law.

Mr. Speaker, Sir, in view of the detailed objections and criticism offered by my learned friend, the Member for Aberdare and also by my learned friend, the Member for Central Area, I again entreat and request the powers that be that such an important Bill should not be passed over in mad hurry and we must take time and correct the Bill in detail for the good of the Colony.

I oppose the Bill.

MR. MATHU: Mr. Speaker, Sir, I would like to make a very few observations on this Bill. My principal reason for intervening in this debate is to place

[Mr. Mathu]

on record the attitude of African Members towards the principles embodied in this Bill. They have already done so in the discussions in this Council with regard to the debate on the Sessional Paper No. 78 not very long ago, and in that debate, Sir, the African Members supported broadly the principles laid down in that Paper by the Government and they do so now, Sir, as these principles have been very ably outlined by my hon. friend, the Mover of this Motion and, indeed, by the various provisions of this Bill.

I would like first of all, Sir, to say that if this Bill did not very squarely protect the legitimate inhabitants of this country and give a feeling of security to those who live here and their posterity, I would be the first person to question the wisdom of the Government in introducing this law. As it happens, Sir, as my hon. friend I think did explain admirably yesterday in introducing this Motion, all residents of this country, by right have been completely safeguarded by the law.

I realise, Sir, that a legal mind like that of my hon. friend, the Member for Aberdare, looking at it meticulously, sees details which he would like to put right, to make sure that the fellow living here has the liberty of the subject from the point of view of interrogation by the Principal Immigration Officer, or he is summoned elsewhere in the country, that he should not be moved about, and so on. But I should like to say that these details are not as important, in my view, as the broad principles of enabling the legitimate inhabitants of this land to feel absolutely secure to go about their legitimate and lawful business as members of this community. I therefore would like to endorse what my hon. friend, the Mover, has said in regard to the rights of those who have been born here and, in fact, those who will be born here.

Now having dealt with that, I would like to say, Sir, that it is absolutely essential that the posterity of our country should be safeguarded in regard to the employment that we can offer in our various aspects of life—in industry, in agriculture, in commerce and so on, and it is, I think, our first consideration to make sure that no new immigrant would

come and take a job which our youth of all races can take in this country. I therefore, having said that, would like to say now—who do we want to come to this country? In my own view, and in fact it is the view of the Government and the view embodied in this Bill, is that any person who can come and bolster up our economy and prosperity, and really make Kenya a place worth living in, that person, because of his special contribution, should be allowed to come in. I do suggest, Sir, that it properly embodied in the present Bill.

Now, Sir, a few hon. Members on this side of the Council have opposed the Second Reading of this Bill and I personally have not yet understood whether they have been really logical in this matter, whether they have looked at it in cold blood, reasonably and rationally, or whether it has been an opposition mainly based on irrationality. The reason why I say that is this. They belong here. Their future is not in stake. Their children's future is not in stake. Why should they be bothered about somebody living in another country who is not coming to make a direct contribution to our country? That, Sir, is why I have come up on the stand. I may be very blunt, but it will take a long time for any of these hon. Members who have opposed this Bill to convince me rationally that they are doing it definitely, with the reading of this Bill and following the Government, or whether they are looking over their shoulders across the waters which divide Africa and other countries. If that is the case, Sir, I would say my interest is Kenya first, and the rest of the world second.

In that regard, Sir, I would like to say and to underline that any person who will want to introduce skills—bring skills into this country, to train our youth to become good engineers, to become good mechanics, to become good business people, to become good agriculturists, educationists and other paraphernalia which are absolutely necessary for modern living, then I suggest that these people should be allowed to come in.

My hon. friend who has just spoken talks about shopkeepers not having workers and talks about that in this country we talk about prosperity but that we should not fear about it and how

[Mr. Mathu]

can we trade without men and materials. I should like to suggest that men and materials are plentiful in this country. Our trouble is too much manpower. What we want is to train that manpower to be efficient, to be skilful and not only to serve in the shops but to serve in our factories, on our farms, in fact in every place, and we have got too many of us. There I suggest that what we want is capital, skilled men to train our youth of all races, because manpower is not our shortage. It is not our trouble. We have got plenty of it—6,000,000 Africans. We have not touched even the fringe of utilising that manpower and harnessing it for the economic development of our country. We have not even started. And more manpower, as my hon. friend here suggested—what for?

Now, Sir, I would like also to underline this very important point, that this law provides that those who come here should be men and women of integrity, of good character, men who will not besmirch the character of our country. There may be some new immigrants in that plane, but I do not know what their character will be.

However, the point I want to make, Sir, is that no person wanting to bring employees in this country, of any form, should exclude these very important factors. They must be people of high quality, because it is only because of their quality that they can make that contribution which we would like to see them make in the development of our country.

Before I sit down I feel I must, as we did last time in discussing this Sessional Paper No. 78, stress that from the African point of view it is important that those who come in to train the African people in industry and in commerce and in agriculture and in our schools, and who run our hospitals, should come from the United Kingdom. This is not only because that is the only country and people that I have associated myself with for the very short life that I have lived, but also they are the people who have produced—or rather put the progress of the African people to the position which it is to-day, and we hope that they can continue, in

co-operation with the Africans and the other people living in this country, to continue this development to the highest degree and I therefore would like to emphasise this without, of course, excluding the possibility of allowing people from other continents of the world to come here, provided, as I say, they pass the yardstick which is laid down in this law to become immigrants.

I feel, Sir, that no person who wants to get to this country should be afraid of these qualifications, because they are very important.

Finally, Sir, my hon. friend, the Member for Western Area, mentioned the Lyttelton Constitution, and I would like to say, Sir, how can he be afraid of it when the immigration policy will emanate from the Executive but not from a Statutory Board as before? There the Executive is the Council of Ministers and in the Council of Ministers you have all communities represented; the African perhaps not so important in the sense that this law does not apply to him, but there are two Asian Ministers, Sir, in the Council of Ministers already and therefore I do think that if the Asian representatives here feel that they would perhaps be left out, I would say that they are already in the Executive. In the sense that they are members of the Council of Ministers and their interests could very safely be safeguarded there.

One small point, Sir, I should mention is that I understand that there has been a suggestion by an hon. Member on this side of the Council that there should be an amendment to clause 1 (2). Then we should like to say, Sir, that if any amendment is proposed, the African Members will oppose it vehemently and they will say that the clause should stand as it is at the present moment.

Mr. Speaker, I beg to support the Motion.

LT.-COL. GHERSIE: Mr. Speaker, Sir, I apologise for not having been present during the earlier part of this debate, and therefore I hope I will be forgiven if I do by any chance repeat what any previous speakers have said. I am merely rising to make a very brief contribution in support of the last speaker, Sir.

When this White Paper was originally introduced it received a very mixed

[Lt.-Col. Gherie]

reception and if we recall certain statements in the Press, it was suggested that it was brought in to restrict European immigration, and to-day, Sir, of course, we have heard that it has been brought in exclusively to prevent Asian immigration, and that was a statement made by my hon. friend, Mr. Patel, from Western Area.

Now, Sir, we all realise, of course, that we are on the eve of an election, and I have no doubt that a good deal of what has been said to-day is to impress constituents, but if I could sound a note of warning, Sir, or a little advice as far as our hon. Asian Members are concerned, I believe that the average, intelligent, sensible, thinking-minded Asian to-day will realise that this Bill is in their best interests and this electioneering talk, if I may describe it as such, may be a boomerang and have repercussions on the people who are opposing this Bill to-day. I do believe, Sir, that if the hon. Asian Members were honest with themselves, they would realise that, with the exception of certain instances of desirable people who may be in the professional class, which we are short of in this Colony, that with that exception, Sir, it would be in the best interests of this Colony if Asian immigration were stopped and I wish to say most bluntly—further Asian immigration is not desirable. I wonder if these Asian hon. Members have ever thought of the possibility in the future of a "poor Brown" problem. I think it was during the course of the debate on the White Paper that the Nominated Member, Mr. Tyson, referred to the Technical College. Sir, it is no use embarking on technical colleges, higher education, if when these students leave the technical college or whatever it may be, that they find there is no employment for them. We are merely going to develop a discontented and disappointed class of individual.

I am trying to bring this home, Sir, in the interests of the Asian community themselves, so that they should really face the position and understand what they are really letting themselves in for if they insist on further immigration from India. Of course, if one goes a stage further, what is going to happen to the thousands and thousands of

Africans who will shortly be leaving school, certainly in the next few years? As was pointed out by the previous speaker, our obligations to-day, Sir, and our duty is to try and provide for the future of the existing generations in this Colony, and, Sir, I am sure that is the object—the main object—behind this Bill.

Sir, I beg to support.

THE SPEAKER (Sir Ferdinand Cavendish-Bentinck): If no other Member wishes to speak, I will ask the Mover to reply.

THE ACTING CHIEF SECRETARY (Mr. Griffith-Jones): Mr. Speaker, Sir, I should like first to express the pleasure, which I think is universal in this Council, at seeing the Member for Nairobi North with us again and in his usual good vocal form. (Applause.)

I should, also, Mr. Speaker, like, as he did, to support my hon. friend, the African Representative Member, Mr. Mathu. I have heard in this Council a number of good speeches by him, but I think I can say that I have never heard a speech of such telling effect and such sound common sense from him in so short a time.

This Bill, Sir, sets out to do, basically, two things, and I think it is as well that I should remind the Council of those two things. The first—to restrict immigration into this country to those persons who have something of value to offer to this country. Secondly, this Bill is designed to arm the immigration authorities of this country against illegal immigration.

Now those are the two main objects and purposes which this Bill sets out to achieve, and I think it is as well that we should bear them in mind—and I do ask that my hon. Asian friends on the other side of Council should bear them in mind in particular.

Dealing, Sir, with the various points made in the course of the debate, I will start with my learned and hon. friend, the Member for Aberdare. His first point was that in administering clause 7 (2) relating to prohibited immigrants, we should be very careful to ensure that we do not allow to enter this Colony, particularly mental defectives or persons with criminal records, and he asked for an

[The Acting Chief Secretary]

assurance that every possible effort would be made to ensure that such people are not allowed to enter. I will readily give that assurance, but I do want him to understand that, as the Chief Secretary had in mind when he spoke in the previous debate on the Sessional Paper, it is not practicable to have every intending immigrant medically examined and psychiatrically examined to ensure that there is no peculiarity, shall we say, or background of mental derangement. What we can do, do and will do to the very best of our capabilities, is to deal with those—I do not want to be misunderstood—whom we have any cause to believe to be mentally deranged. That perhaps is not always very easy for the man in the field, but he will do his best, and shall we say that at the first sign of "barniness" he will arrange for a medical examination.

As regards persons with criminal records remembering that for the incoming immigrant, his criminal record, if he has one, will exist in other countries, it is not possible for us in every instance to obtain from the authorities of all the countries which he may have visited either a negative or a positive report on his criminal record. But again, there are certain people whom we know from other countries and whom the police of most countries have a list of, whom we would not allow into this country. We would be aware of their criminal records. There are others whom, if we have any cause to suspect that they might have a criminal record, we should of course enquire. It is worth observing that every person who enters has to sign a declaration in which he is required to declare whether or not he has ever been convicted of a criminal offence. That, of course, is not, as we have had an example—a very distressing example—recently, that is not a cast-iron precaution, because of course people do have a habit of lying. But at the same time, it does afford some sort of check, and if, after a person has been allowed in, having made a declaration that he has never been convicted, we subsequently discover that he has, in fact, a criminal record, then we can take action against him accordingly, not only from the criminal aspect in respect of his false

declaration, but also from the physical aspect in respect of his personal removal. I do hope, therefore, that the hon. Member for Aberdare is slightly reassured on the score of these two categories of undesirable immigrants.

He went on, Sir, to speak on certain aspects of the Bill which—as he said—affected the liberty of the subject. Now, as my hon. friend, the Minister for Legal Affairs, has explained already in this debate, immigration laws in themselves are, to some extent, an infringement of the liberty of the subject—or the individual at any rate—and of course it is a tourism, I think, to say that liberty carries with it certain responsibilities. For the most part, the powers of restriction which are conferred on immigration authorities in this Bill are directed against those who seek to flout the law, whether by fraud, deception or other underhand means. Their guilt is limitless, and their scruple non-existent. Under our present law, we have, in fact, been fighting a battle with one hand tied behind our backs. Under this new law, we want to be able to use both hands, but we only want to be able to use those two hands against people who are out to cheat us—to cheat not the immigration authorities only, not the Government only, not even the African community and the European community only, but to cheat the existing Asian community, too—to cheat the whole of this country, and all the people that are in it.

Let us by all means ensure that the powers which we take are subjected to sufficient safeguards against abuse, but do not let us say that the powers are not necessary—or that additional powers are unnecessary—as compared with the powers we already have—because to do so is to ignore completely the difficulties under which the Immigration Department has had to work under our present defective law, and to play into the hands and fight the battles of these illegal immigrants.

Now, my hon. friend, the Member for Aberdare, raised a number of points in respect of clause 4 and the power of interrogation which is conferred therein on immigration officers—the power of summoning people for interrogation and to produce documents, and the provision in that clause for the admissibility of

[The Acting Chief Secretary] answers made under interrogation, and documents produced on requisition—their admissibility in legal proceedings. The powers of interrogation which an immigration officer requires are required principally, not for the investigation of offences, not for the purpose of preparing for the prosecution of offenders, but in order to obtain information which affects the right of a person to remain in this country, or the suitability of a person for a permit or pass to enter this country. In other words, these powers of interrogation are required principally to deal with illegal immigrants—people who are seeking to enter the country, and whom we do not want and are not suitable, and people who are unlawfully in this country already and whom we want to get rid of.

I therefore propose, in response to the points which have been made, not only by my hon. and learned friend, the Member for Aberdare, but by my hon. and learned friend, the Member for Central Area as well, and I think—I am not sure—that my hon. friend, the Member for Ukamba mentioned this particular clause, but I think he supported the other two learned gentlemen—I propose, in response to those requests, to introduce amendments to this clause at the Committee stage of this Bill, which I hope will meet the substance, at any rate, of their argument.

The general idea that I have in mind—and, I think, which they suggested—is that the powers of interrogation—special powers of interrogation—which we propose in this clause to confer on immigration officers should be powers relating to purely immigration standing and entitlement, and then to add provision that, in regard to the investigation of offences, immigration officers shall have the powers of a police officer investigating offences. As I say, I will introduce amendments at the Committee stage to meet the arguments as best I can.

There is just one point that I would mention, in passing, on this clause. The hon. Member for Aberdare did suggest that the matters on which an immigration officer could lawfully interrogate the person under this clause are nowhere defined. Well, they are nowhere defined

in precise terms, but they are, in fact, limited by the opening words of subsection (1), which govern the conferment of all these powers. Sub-paragraph (1) reads as follows:

“For the purpose of exercising his powers and functions and carrying out his duties under this Ordinance, any immigration officer may—”

and then there are set out in tabulated form the powers he may exercise. That is the compass of his powers of interrogation. He cannot interrogate on anything—it must be on a subject which bears relation, in other words, to the administration of this particular Ordinance.

And, as regards the point raised by more than one Member that a person might be summoned to appear before an immigration officer for interrogation, which would involve his coming from, perhaps, Nanyuki to Mombasa, or from Kisumu to Nairobi—that has been mentioned already by my hon. friend, the Minister for Legal Affairs, and I can certainly give an assurance that the Chief Secretary will, through his powers of ministerial direction, safeguard, or take precautions against any—I think the phrase was—“sanguinarily minded” exercise of that particular power!

Passing now to clause 6—which the hon. Member for Aberdare mentioned. He was referring to paragraph (3) of that clause. He accepted, as I understood him, that it was right and warrantable that, where the question of security arises, the opinion of the Principal Immigration Officer must be accepted. He did question—as did my friend, the hon. Member for Central Area—the reference to the opinion of the Principal Immigration Officer in regard to addiction to drugs, to habits of intemperance and to conduct involving moral turpitude, and he made the point in this context that if it was merely a matter of opinion, the powers of the Supreme Court on an appeal might be unduly circumscribed. Well, in order to meet him—and I might interpolate here that I do not wholly agree that the powers of the Supreme Court would be unduly circumscribed and, if they were, you may be sure that the Supreme Court would find a way out of the circumscription—I am prepared, and I think he would agree that

[The Acting Chief Secretary] it goes a long way to meet his point, to amend paragraph (b) of clause 6 (3) to read: “the Principal Immigration Officer is satisfied on reasonable grounds that he is addicted to drugs . . .” etc.; not the Principal Immigration Officer, but the person he is concerned with!

It would read: “. . . such person shall not be deemed to be otherwise than of good character unless the Principal Immigration Officer is satisfied on reasonable grounds that he is addicted to drugs, to habits of intemperance or to conduct involving moral turpitude”.

That is, perhaps, a safeguard against some of the fear that I heard expressed by one or two Members yesterday evening with regard to the reference to habits of intemperance!

In regard to clause 8, which—if I may remind the Council—is the provision that immigration documents obtained by fraud or misrepresentation are nullified *ab initio*, the hon. Member for Aberdare suggested that, before a permit or pass were nullified—voided—by reason of fraud or misrepresentation, the fraud or misrepresentation should be proved in a court of law. He also made the point that, even though a particular permit or pass were voided, on this particular ground of fraud or misrepresentation, it should not be a bar to the same person obtaining another permit, pass or immigration authority if duly qualified therefor.

Well, now, in the first place, where one has a provision of this nature, it can always be contested in a particular case in a court of law. What will, in fact, happen in practice is that the immigration authorities will decide in a particular case whether or not they have sufficient evidence to substantiate that that particular permit or pass was obtained by fraud or misrepresentation. If they have that evidence available, then they will decide upon their course of action accordingly. They will no doubt write to the permit or pass holder, and inform him that they are treating his pass as invalid by reason of its having been obtained through fraud or misrepresentation. Now, if the permit or pass holder wishes to contest that, he can do so by taking the matter to court, by an application for a prerogative writ or a declaratory suit, or

other means—and they are not lacking, as we know from past experience—

MR. SLADE: I thank the hon. Member for giving way. I would like an assurance of that in spite of clause 14.

THE ACTING CHIEF SECRETARY (Mr. Griffith-Jones): Certainly, I presume to give him that assurance, although I am not the Supreme Court!

The fact is that clause 14 is an indemnity clause. It is an indemnity—a personal indemnity for an officer. This would be a purely—what I might call—objective issue, not a subjective issue. The issue would be whether or not the permit or pass was valid. It would not be a claim against a particular individual. It would be a claim for a declaration that the pass was valid. So far as the second point made on this clause by my hon. and learned friend is concerned—namely, that a person should be eligible for another pass or permit if he lost one—possibly, as my hon. friend said at the time, he might have been no party to the fraud or misrepresentation—that that follows already, and—with respect to my hon. friend—there is no necessity to state it. There is no bar in the Ordinance. There would be nothing to prevent a person from applying for a fresh pass, or from getting one if he was duly qualified and, of course, suitable. I may say I would make this qualification—as I think the hon. gentleman will concede—the Principal Immigration Officer, if he found a person out in one fraud, would not feel particularly disposed to grant him another pass, but, if he found that a person's pass had become invalid by reason of innocent and inadvertent misrepresentation—perhaps non-disclosure or something like that—then he would not regard that as in any sense a bar to the issue of another pass or permit.

Passing now to the next point made by the hon. gentleman—clause 14—indemnity—I can assure him that there certainly is no intention to exclude by reason of clause 14 the right of any person to seek a writ of habeas corpus. I am therefore quite happy to add a sub-section, which I will introduce at the Committee stage, to make that quite clear. I think it unlikely, personally, that a court would have taken the other view because, in regard to a matter so funda-

[The Acting Chief Secretary] mental to the individual's rights as habeas corpus, I think a court would have to be impelled by the most clear, express and unambiguous wording and intention on the part of the legislature to exclude that right before it would interpret the section as so excluding it. However, I am very happy to accept the point made by my hon. friend, and I will make the section entirely clear in that regard by amendment.

Having said that, however, I cannot accede to the suggestion which the hon. gentleman made—and in which he was supported by the hon. Member for the Central Area—that there should be provision for redress if the damage is suffered. In order to illustrate the reason why I cannot accept that proposition—remembering that this indemnity is an indemnity in respect of acts done in good faith—the reason why I cannot accept that proposition is perhaps illustrated by the following true story, subject to minor errors of my recollection.

A deportation order was made against a certain person under the present Immigration Ordinance, and that person refused to remove himself in accordance with the deportation order, and he was therefore taken into custody with a view to arranging his compulsory departure. However, he—through a lawyer—applied to a judge for a writ of habeas corpus. He failed. He then—as is possible in regard to habeas corpus—applied to a divisional court of two judges of the Supreme Court again for a writ of habeas corpus. He failed. He appealed to the Court of Appeal for Eastern Africa. He failed. He then applied—having hitherto sought his remedy under the provisions of the Criminal Procedure Code relating to actions in the nature of habeas corpus—he then applied to a judge of the Supreme Court for a writ of habeas corpus and this time he sought it in the invocation of the court's civil jurisdiction. He failed. He then applied to a divisional court of two judges for a writ of habeas corpus, again in the invocation of the civil jurisdiction. He failed. He then appealed to the Court of Appeal for Eastern Africa, and he succeeded!

But the sum total of this somewhat tedious, almost—if you will pardon the

expression—"shaggy dog", story was that he then presented a claim for damages for wrongful imprisonment throughout the period when he had been failing in the courts, and it was a claim which, of course, by virtue of the ultimate outcome of the appeal, was incontestable. There was every good faith, and, in fact, for five-sixths of the proceedings the Government, in holding him in prison, had been supported by the courts; but, having failed ultimately, there was a claim for wrongful imprisonment for a period of some six months or so, which was settled—it is all over now—which was settled in the sum of £1,500.

Now, I put it to the Council, is it right—is it right that, having acted in entirely good faith, the Government—and ultimately the taxpayer—should be mulcted of damages in those sorts of circumstances? And that is why, with the greatest respect to the points made by my learned and hon. friends opposite, I am not prepared to accede to the suggestion that this indemnity should be emasculated.

Now, we pass, Mr. Speaker, to clause 15. The point regarding sub-paragraphs (e) and (f) of the first paragraph has been referred to by my hon. friend, the Minister for Legal Affairs, and perhaps, if the hon. gentlemen wish to pursue the point, they will let me know subsequently, so that I can discuss it with them if they so wish.

Passing to sub-paragraph (5) of this clause 15, which refers to the hon. Member for Ukamba's habit of picking people up in Arusha, may I just remind him that, if he does pick up people in Arusha, and if he chooses to drive them to Nairobi, perhaps in a coach and four, he will drive it right through this Ordinance if he is not held liable for carrying with him a prohibited immigrant. The matter has been explained by the Minister for Legal Affairs. It is intended that persons who do bring in aircraft, ships, trains, vehicles, into the territory, should ensure that they are not bringing in prohibited immigrants, and—as was explained yesterday—the shipping lines and air lines, are fully alive to this, and to the obligation which they incur on themselves if they do bring in prohibited immigrants—persons who will not be admitted—of removing them again at their expense.

[The Acting Chief Secretary]

The next point which the hon. and learned gentleman made in regard to this clause was that the offence of harbouring—defined in paragraph (1) (f)—was too wide. I am prepared to accept that, and I am prepared to restrict that paragraph to the first half of its existing wording—that is to say, to make the offence that of harbouring a person whom the harbourer knows, or has reasonable cause to believe, is a person whose presence in the Colony is unlawful, and to exclude the remainder relating to contravention of any rules or regulations in the Ordinance. I trust that will meet his point.

In regard to clause 18, which is the clause which contains special provisions regarding evidence, I can appreciate the points which were made by both the Member for Aberdare and the Member for the Central Area, but this is a very special provision introduced to deal with very special difficulties. The position not infrequently arises that an immigrant enters the Colony as, say, the son of a resident of the Colony. It is subsequently ascertained—as best we can ascertain it here—that, in fact, he is the nephew, or it might be, no relation, and in one case it was the uncle. Now, there is no evidence which the authorities in this country can lay their hands on in order to establish this clearly, and so what is commonly done in these cases is that the Government of India in the case of an Indian immigrant—or the Government of Pakistan, or wherever it is—in the majority of cases—I say this diffidently—it is the Government of India that undertakes this task for us—is requested by this Government, and readily agrees, to undertake enquiries as to these various personal matters—enquiries in the individual's own district and from any registers or records that there may be. Those enquiries are carried out officially by the Government of India, and the result of those enquiries is certified to us by the Government of India through its accredited representative in this territory.

Now, all we are asking—all we are asking in this clause is that we should be able to produce those certificates as prima facie evidence of their contents in a court of law. That is all we are asking—prima facie evidence, which is

open to rebuttal if the individual can adduce evidence to satisfy the court that this certificate—or the information certified in the certificate—is incorrect. Now, if we cannot do that—if we do not have that facility—we have to adopt one of two alternatives. The first is to go to the expense of bringing the evidence over here from India, which is not ordinarily justified, or, secondly, to allow the person to continue in this country, knowing full well that he got in by a lie, and that he stays in because we cannot afford the expense of exposing that lie in the courts by bringing evidence from India, and we have no evidence available in this country. It is for that reason that this facility of producing in evidence an official certificate by the accredited representative of the Government of the country concerned, authenticated under the hand of the Minister—which in this case is the Chief Secretary—and providing rebuttal prima facie evidence of the various facts stated in the certificate—being, of course, matters to which the certificate can relate under the clause is required.

Now, that is, I suggest, a very different picture from the one which might spring to mind when one first read this particular provision. It is not the type of provision which one ordinarily welcomes with enthusiasm, but it is a provision which gives us some prospect of getting over a very real difficulty. In other words, it is one of the matters in which the Bill releases our second hand from behind our back.

I have a bit of way to go yet, Sir.

THE SPEAKER (Sir Ferdinand Cavendish-Bentick): I understand it is the wish of a number of Members, and supported by the leader of the Council, to have a longer break than usual, so we will now suspend business and reassemble at a quarter to Five o'clock.

Council suspended business at fifteen minutes past Four o'clock and resumed at forty-five minutes past Four o'clock.

THE ACTING CHIEF SECRETARY (Mr. Griffith-Jones): I come now to the next point raised by the hon. Member for Aberdare; namely, the question of the definition of "destitute persons". The definition is contained in clause 2 of the Bill, and is as follows:

[The Acting Chief Secretary]

"destitute person" means a person who is in the opinion of the Principal Immigration Officer, incapable of supporting himself or his dependants."

The point made by the hon. Member was that this should be a question of fact, not of opinion. That would ordinarily be perfectly practicable in respect of a person in the country; but in respect of a person presenting himself for entry into the country at a point of entry, the decision has to be made by an officer on the spot, and that is why it is so framed as to require a decision by the Principal Immigration Officer, a decision which is in practice exercised on his behalf by the officer at the point of entry. The criterion commonly applied at a point of entry is whether or not a would-be entrant possesses the prescribed amount which is required of entrants, either in the form of a cash deposit or bond or other means of security, to cover the person's return journey should it be necessary to repatriate him. The reason for this, of course, is to insure the public revenue against charges of that kind. The definition can, of course, become relevant in respect of a person already in the country who cannot in fact afford either to support himself or his dependants, but there again it has to be decided by someone; and again I have little doubt that if a person were held by the Principal Immigration Officer to be a destitute person and therefore to fall within that particular category of prohibited immigrant, and if he contested that decision he would contest it by appropriate proceeding in the courts.

The next point which the hon. Member raised was in respect of the reference to convictions for criminal offences under clause 7 (2) (d). The question which the hon. Member asked was, "Why does that particular paragraph refer only to convictions obtained in countries other than the Colony?" Well, of course, this particular clause is in essence and substance the same as the existing one and is in fact common to most immigration laws, and the reason I think why that exclusion of convictions in the Colony is incorporated in the paragraph is that people convicted in the Colony can be dealt with under another paragraph—paragraph (f)—of the same sub-clause. I would have no objection to

amending this particular paragraph to include convictions in the Colony but ordinarily its applicability arises again at the point of entry, where a person has to disclose previous convictions, and for the new entrant those convictions will ordinarily, if he possesses any, have been recorded against in other territories. As I say, I am quite prepared to introduce some amendment to include within the scope of the paragraph convictions in the Colony. I did at one time think that the whole paragraph might be unnecessary since it could perhaps have been covered under paragraph (f); but paragraph (f) is not susceptible of immediate application at a point of entry because it requires the confirmation of the Governor in Council of Ministers, which of course is not a practicable procedure in respect of a person at a point of entry. One needs therefore the two paragraphs to ensure that the immediate decision to exclude can be taken in respect of the new immigrant before he is allowed in.

The next point raised was in respect of clause 5 (3) and clause 11 (5), both of which impose an obligation on persons like the master of a ship to carry deportees; and the question was raised as to what would happen if the ship were full. Well, in fact, these two sub-clauses do not contemplate that the master of a vessel should be required to perform the impossible and in fact he would not be so required. What does happen, though, is that the master of a vessel might receive from the Immigration Department a requisition that he should carry a particular deportee; and assuming that it was practically feasible—he had room on his ship—he would have to do so. Of course, he would not be and could not be compelled to carry the deportee if in fact his ship was so full that he had not room for him.

Passing now to the First Schedule and the first category in that Schedule, which relates to persons born in the Colony whose mother was either born in the Colony or has been lawfully resident in the Colony for an aggregate period of five years out of any eight, the suggestion was made that the qualification for a resident's certificate should be derived either through the mother or through the father. The reason why it is restricted in this category to a qualification derived through the mother is that birth, one

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might say, is an accident—and in this case a geographical accident—and the intention is that the child, in order to derive the rights which this particular category confers, should have been not only born in this country (because a person could be born in this country and be immediately removed from this country and never see it again afterwards), that the child should have had a sufficient association with this country, be brought up in this country, to qualify for this right, and it is a right and a privilege of considerable value. The conferment of a resident's certificate carries very considerable rights and privileges in respect of passage into and out of this territory and residence within the territory; and accordingly it has been shown, and experience has borne it out, that the safest means of defining this particular qualification is to require that not only the child should be born in the Colony but that the mother should have been born in the Colony, too, in which case the second generation carries sufficient assurance of association with the Colony, or that the mother should have been resident within the Colony at any period, whether before or after the birth of the child, for not less than five years out of a period of eight. That assures us that the child, through its mother, has a considerable association with the Colony. If the qualification were derived through the father, one might very well find that the child happens to be born in this Colony and is then removed by the mother with the father possibly staying in the Colony, the child being brought up in its country of origin, never seeing this country again until about the age of 18 or 19, when the father applies to bring it back to this country and when it has no substantial claim on this country; but if the qualification can be derived through the father then that child has to be admitted to this country whether or not it has anything to offer to this country, whether or not it would compete in the field of employment to the detriment of the local inhabitants of this country, it would still have a right to enter. That is why the qualification is expressed by definition to devolve through the mother's side and not through the father's side.

It was then suggested that the wife of a person who holds a resident's certificate should also be entitled to a similar resident's certificate. That is not acceptable, for this reason. The wife—as the wife of a person with a resident's certificate and therefore entitled to remain and be in the country—will not be excluded from the country; she will be granted a dependant's pass; and she can, during the period of validity of her dependant's pass, acquire in her own right the five years residence which will entitle her to a resident's certificate of her own under category three, and if she then continues and acquires a residential qualification of 10 years out of 16 she will qualify for a resident's certificate in her own right for her life. If she were automatically to be entitled to a resident's certificate merely by reason of the fact that her husband has a resident's certificate, even though she may have been in the country only for a very short time, she would then have that resident's certificate for the period of validity for which her husband's resident's certificate was valid, whether or not her husband survived to the end of that resident's certificate's validity—he might very well die after perhaps she had been in the country only a few months. If the amendment which is suggested were accepted she would in those circumstances have a right to remain in this country; and it is not—in my judgment and in the opinion of the Government—right that she should acquire that permanent standing and status and the privileges which it carries with it merely by reason of so very short a period of residence in the country, and by reason of the fact that her deceased husband possessed a resident's certificate during his lifetime.

The next point which was made in respect of resident's certificates relates to clause 6 (9) which provides that resident's certificates can only be issued by way of endorsement on a passport, and the suggestion was made that not everyone has or needs a passport, and that therefore a resident's certificate should be issuable in some separate form and not only by way of endorsement on a passport. The provision for endorsement on a passport is the same as it is under the present law and the basic reason why that requirement has been imposed is, of course, as a precaution against forgery.

A resident's certificate is, as I have already said, a very valuable document, and if it is endorsed on the passport it is unlikely that it will be forged, at any rate the chances of a certificate being forged when it is endorsed on a passport are very greatly diminished. For a person who does not have or does not need a passport the fact that he has not got a resident's certificate issued by way of endorsement on his passport is not really to his detriment because you will observe, Mr. Speaker, that in one or two places in this Bill reference is made not only to people who hold resident's certificates but to those who would be entitled on application to be granted one. It would just draw attention to one example, which is the proviso to paragraph (3) of clause 10. The proviso reads:

"Provided that the provision of this subsection shall cease to apply in respect of any person on such person becoming the holder of a resident's certificate or becoming entitled, on application, to be granted a resident's certificate."

The real value of a resident's certificate is the practical value—as in relation to leaving and entering the Colony and remaining within the Colony. It is evident that the person possessing a resident's certificate does not have to bother about re-entry passes or fresh entry permits when they come back. But so long as they are in this Colony and would be entitled on application to a resident's certificate, that would, in fact, afford them the same protection as the actual possession of a resident's certificate.

The suggestion that the definition of "African" should be deleted is I think not practicable for the reason which I think the hon. Member for the Central Area gave, namely, that under international law and in accordance with the comity of nations we have to accept the people who "belong" it is an unpleasant phrase but it has acquired a certain connotation in international law, the theory being, roughly, that no State can refuse to accept its own refuse, nor can it pitch its own refuse into its neighbour's back garden; it has its refuse; it

is rather like the measles—there is nothing you can do about it.

Passing now to the remarks made by the hon. Member for Ukamba, he asked whether, in respect of the power of delegation of the Principal Immigration Officer's powers, the delegation should be subject to the Minister's approval. I have no objection to that, but I ask him to consider whether in fact it is really necessary in view of the later paragraph in that same clause dealing with ministerial direction. I suggest that the safeguard can be applied in the exercise of the power of direction, whether or not we write in the requirement of approval.

The hon. Member did make another point which was in relation to the resident's certificates to be issued in the absolute discretion of the Minister in special cases, and he asked that in clause 6 (B) the circumstances in which those certificates can be issued should be alternative in the sense that it should not be necessary that long association with the Colony should be coupled with substantial economic interests in the Colony; he would wish either to be an alternative. I am quite prepared to accept the suggestion and will make the small amendment necessary in Committee.

The other point which he raised, and which I have not already dealt with in reference to the Member for Aberdare's remarks related to Class "B" in the Second Schedule, that is to say, a Class "B" Entry Permit, which is an Entry Permit for the purpose of engaging in the business of agriculture or animal husbandry, and he suggested that the Principal Immigration Officer was not the best authority to decide whether a person has sufficient financial resources to engage in agriculture. In regard to that, I have merely to remark that somebody has to take the decision and I would quote with your permission, Mr. Speaker, from the second paragraph of section 18 of the Sessional Paper, which reads as follows:

"Government therefore proposes that in future particular sums should not be prescribed . . . that is, for Entry Permits . . . but that the Principal Immigration Officer should be satisfied that the prospective immigrant has at his disposal an assured sum of money sufficient in the Principal Immigration

Officer's opinion—to enable him to carry out satisfactorily the enterprise or activity upon which he proposes to embark. The Principal Immigration Officer would, of course, consult the appropriate advisory authorities (agricultural, mining, industrial or commercial) according to the class to which the immigrant belonged."

In fact, machinery already exists for such consultation, whether it deals with the Board of Agriculture, the Board of Commerce and Industry, the Labour Commissioner, the Law Society, or whatever it may be; thus, Sir, it is not the personal opinion of the Principal Immigration Officer that is involved here, it is merely that he expresses the opinion on the advice of the best informed authority in the particular sphere of activity concerned.

The Member for the Central Area made a number of remarks; he suggested that the present law was quite strict enough. I can only say—without wishing him any harm—that I wish that he could try to administer it, because I think he would vary his opinion if he did. He drew a comparison between the percentages of Entry Permits and Temporary Entry Passes refused on the one hand to Europeans and refused on the other hand to Asians. I am not quite sure what he sought to derive from that, but presumably it was a suggestion that there was preferential treatment given to Europeans. May I suggest—although I have not got the figures—that it might be pertinent for him to apply his mind to a comparison of the percentages, as between Asians and Europeans, of illegal immigrants? He asked that there should be a right of appeal to a magistrate against a refusal to grant an entry permit. That I cannot concede because it would cut right across the principle of executive discretion and control which is, as I have said already, one of the bases on which this Bill is founded and one of the essential bases upon which any effective control of immigration must be founded. He saw some sinister and ulterior motive in the provision in clause 7 (2) (k) for extra classes of prohibited immigrants to be added by the Governor in Council. I can assure him that there is no sinister or ulterior motive

or intent behind that clause. It is merely a precaution for the future, to ensure that additional classes can be added if the needs of the Colony should so demand. He asked that classes should only be added in the form of an amending Bill presented to this Council but I do suggest to him that this is a perfectly proper and practical—and, in fact, common—form of adding this sort of additional class, and that if any class were added which he wished to contest there would be nothing to prevent him, assuming he were still with us, from raising the matter in this Council. Any Member can do so; and of course the opinion of Members of this Council would naturally weigh very heavily with the Governor in Council of Ministers.

He suggested with regard to the provisions of clause 7 (4), concerning the refusal of permission to a prohibited immigrant to enter the Colony even though he might have been issued with a Pass, that it should not apply to residents even though they go out temporarily.

May I remind him that it cannot apply to residents? By residents I assume he means persons with Resident's Certificates. If he means merely people who happen to be here, then he has no logical basis for his argument whatever. I gave him credit for supposing that he had put forward a logical argument and that he intended to confine his remarks to people with Resident's Certificates. It could not apply to people with Resident's Certificates because they do not need a pass or permit to enter, and in any event it will be observed from the beginning of clause 7 that they cannot be prohibited immigrants; but so far as it concerns people who just happen to be in the Colony—if that is his argument, then I am afraid it has less merit in it than I suspected.

He asked that, in respect of what I might call "disqualifying convictions", they should be convictions of a political character. I think he would find it very difficult, Mr. Speaker, to compile a list of offences of a political character. I can think of one—the most obvious one of all—which is sedition, and I certainly do not think that sedition, for instance, should be removed from the category of disqualifying convictions.

[The Acting Chief Secretary]

He asked also that disqualifying convictions should be confined to offences involving moral turpitude. Well the effect is, in fact, the same, because it is not any conviction which disqualifies; it is a conviction which the Principal Immigration Officer considers so affects the character of the individual concerned as to disqualify him. As I say, the effect is very much the same.

I was very relieved to hear him declare that the Asian community was not seeking unrestricted immigration for Asians, but I think the hon. African Representative Member, Mr. Mathu put his finger on the point when he observed that there was really no mandate for the Asian Members of this Council to represent the case of future immigrants from other countries. Surely their responsibilities are to the Asians who are inhabitants of this country already? The interests of the Asian community in this country will be protected under this clause just as much as the interests of any other community in this country. It would be no more in the interests of them to have excessive Asian immigration than it would in the interests of the African or European communities.

My hon. friend the Member for the East Area made a number of remarks; I think there are only one or two which I need mention. He, in criticising the Bill, claimed that this country should not be deprived of the necessary skills or capital which it needed. Of course, the whole purpose of this Bill is to ensure that this country does get the capital and skills that it needs and that it excludes people who cannot provide the capital or the skills which the country needs.

He did also make, or I think convey, I do not think he claimed that it was original, a suggestion that this Bill was being forced through before the elections to improve the chances of some of its members. That, I suggest, is a thoroughly unworthy suggestion. It is quite untrue. The amendment, or the replacement in amended form of the present Ordinance has been a project in the Government's legislative programme for a very long time. It is a matter which the Immigration Department and the Legal Department, to mention only two, have been

very keen to see advanced, because of the very considerable practical difficulties which they encounter under the existing law. If I may say so, whether or not any particular Member or Members of this Council should have their chances of re-election improved is a matter of complete indifference to the Government in the context of this particular measure.

The hon. Member for the Western Area made one or two comments in similar vein, but I do not think they need any amplified reply from me. He complained that there were wide-spread shortages of staff, particularly teaching and commercial staff, and that Asians should be allowed in to fill those vacancies. Well, of course, had the—speaking forthrightly—had the Asian community, in regard to their commercial undertakings, taken the trouble, as they could have done over many years, to train Africans in those particular occupations, and were they more ready than they are at present to employ Africans in those particular occupations, I think their difficulties would be rather less than they at present seem to them.

He complained that the Labour Department, when it was consulted in regard to new immigrants on temporary employment passes, always said that a local man could be trained and did not bother whether a local man was available or not. That, in fact, is untrue. The facts are that the Labour Department advises whether the immigration is genuinely required to meet a local labour need. That involves both the availability of local labour and the prospects of training local labour.

Now, Sir, finally, the suggestion has been made that this Bill should go to a select committee. I cannot accept that suggestion. This Bill is urgently required. We are, in our immigration practice under the present laws, merely holding the position as best we can at present, and we need this new immigration charter to enable us to promote and protect the interests of this country and the people in this country. I do propose, however, and I hope I have indicated it already, to introduce amendments in the Committee stage to meet any and every point which has been made that I feel can be met without detriment to the Bill

[The Acting Chief Secretary]

as a whole and to the prospects of successfully and effectively administering the control for which the Bill provides.

Mr. Speaker, Sir, I therefore beg to move.

The question was put and carried.

The Bill was read the Second Time and committed to a Committee of the whole Council to-morrow.

BILLS

SELECT COMMITTEE REPORTS

The Cavendish-Bentinck Pension Bill

THE MINISTER FOR LEGAL AFFAIRS (Mr. Conroy): Mr. Deputy Speaker, Sir, I have to report that the select committee appointed by this Council to consider the Cavendish-Bentinck Pension Bill has considered and approved the same with amendments. A copy of the select committee report, together with a copy of the Bill, have been laid on the Table of the Council and have been circulated to Members.

Mr. Deputy Speaker, Sir, I beg to move that the report of the select committee on the Cavendish-Bentinck Pension Bill be considered and that the Report of the Committee be agreed.

Mr. Deputy Speaker, the history of this Bill goes back as far as 1952. The changing pattern of Government caused by constitutional advances then made it necessary for the Government to examine the question of pensions for members of Government who were charged with the responsibility of administration of groups of departments, but who had joined the Government from outside the public service.

It was not a problem that was unique to Kenya, it had been experienced in other parts of the world and in other parts of the Commonwealth, who in the course of their constitutional advance had come up against the same difficulties. Accordingly the Government of Kenya examined how the problem had been approached and dealt with in other parts of the world. We went away and looked at what had been done in Ceylon and Australia and Southern Rhodesia; when we had seen how the problem had been dealt with there, we then had discussions—consultations—with Unofficial Mem-

bers of this Council who represented the different groups of unofficial opinion. All this, of course, Sir, took time, and eventually in 1954, agreement in principle was reached, when it was agreed that such Members who had given long service should be granted a pension and it was also agreed that the procedure to be followed for the grant must be by way of legislation from this Council. Accordingly, Sir, we then went away and we sought the views of the Secretary of State's adviser on pensions. There were only two ways in which it could be dealt with. Either you could have general legislation which dealt with general pensions for persons in that position, or you could have *ad hoc* and *ad personam* legislation in respect of the people, the particular persons for whom it was considered desirable to make the grant of a pension. Eventually it was agreed that the second method was the appropriate method to follow, because you see, the problem was a passing one: it arose from the transitional stage of constitutional development from a wholly official government to a ministerial system of government, and the number of persons who fell within the ambit of the problem was very limited indeed, it was not more than two, or at the outside, three. Accordingly, it was decided that the proper way to proceed was by way of individual personal legislation.

Now, Mr. Speaker, a further argument in favour of personal legislation was this. The Government had under consideration, and has under active consideration now, the problem of the grant of pensions to persons who are Ministers, and I only mention this—it is only relevant in the context of this problem to show how isolated was the problem with which we are dealing under this Bill. The future question of pensions for Ministers must be dealt with on a general basis—by general legislation if it is agreed to introduce it—and will probably be approached from the angle of a contributory pension. Therefore, in view of the fact that general provision would be made to meet the future problem, it became even more apparent that the proper way to deal with the present problem was by way of personal legislation. Accordingly, Sir, the Bill was drafted and has been introduced into this Council.

[The Minister for Legal Affairs]

Mr. Speaker, there were then further discussions with all Members of this Council, or representatives of all Members of this Council, because fears were expressed that the particular pensions provided for in this Bill and one other Bill which will be dealt with later on, might be creating a precedent and might be said to give other persons a right to demand a pension. It was therefore decided in the course of these discussions that one method of solving this problem might be to send this Bill to a select committee and that it might be suggested to the select committee that the sum to be awarded by way of pension should be an *ad hoc* and arbitrary one and should not be tied to period of service. If you tie it to a period of service and say that a person who has had eleven years and six months' service as a Member or Minister in charge of a group of departments and we give £1,150 pension, then it is obvious (even to the limited mathematical intelligence of the Mover of this Motion) that you are paying him a pension of £100 per year. Therefore it was suggested, and the select committee has recommended, that an *ad hoc* and arbitrary sum should be granted by way of pension in order to remove any fear that there is a right earned by length of service, and that again helps to solve the problem of precedent which was the basis of fears against this Bill.

Well, Mr. Speaker, the select committee was appointed, they examined the Bill, and they have delivered, if I may say so, a considered report. I trust that the report is self-explanatory. The purpose of the Bill is to grant a pension to a member of Government in respect of service of such length and such distinction as to merit special recognition by the Colony.

When I was chairman of the select committee, as something to be knocked down and improved upon by the members of the select committee, it was suggested to me that I had not underlined and stressed sufficiently the value of the services rendered to Kenya by Sir Ferdinand Cavendish-Bentinck. Mr. Speaker, I (within the limits set by the sober language which must be employed in a report), tried to do so. If I have failed, and even if I have not failed,

then I would like to take this opportunity of reiterating and underlining those sentiments which were expressed by all members of the select committee in regard to Sir Ferdinand Cavendish-Bentinck's services and the value of those services to Kenya.

Mr. Deputy Speaker, I beg to move.

THE PARLIAMENTARY SECRETARY TO THE MINISTER FOR LOCAL GOVERNMENT, HEALTH AND HOUSING (Mr. Jeremiah) seconded.

Question proposed.

MR. USHER: Mr. Deputy Speaker, Sir, I very much appreciate both the report which we are now considering, and the terms in which this Motion has been moved. Indeed I find nothing in the latter with which I can possibly disagree. But there is one matter of principle which I have always felt I should have to raise, and that relates to the pension to the widow.

Sir, it will be found in the annals of this honourable Council that the widows of certain distinguished servants of the public have, from time to time, been granted pensions by a special act of this Legislature and in principle I believe that to be the correct manner of dealing with this situation. It may indeed Sir, prove that a particular sum of money voted to a widow is entirely inadequate to meet the circumstances in which she might find herself. On the other hand, Sir, it might be that the widow was affluent, whereas the country was not. I wish to make these points, Sir, now and hereafter hold my peace.

THE DEPUTY SPEAKER (Mr. Griffith-Jones): No other hon. Member wishing to speak, I will call on the hon. Mover to reply.

* THE MINISTER FOR LEGAL AFFAIRS (Mr. Conroy): Mr. Deputy Speaker, Sir, the point that has just been made was considered by the select committee in its deliberations. It was felt that the widow of a distinguished public officer should not be left in danger of straitened circumstances. For those reasons, Sir, we thought fit to recommend as we did. Sir, the Bill you will notice was amended in respect of the widow's pension, to provide that it should not be for life but should be for life and widowhood.

[The Minister for Legal Affairs]

That is in accordance with the normal principles of marriage settlements and similar trust documents where a man makes provision for his wife, and in the views of the committee that was the proper approach to make to this matter. Sir, I beg to move.

THE PARLIAMENTARY SECRETARY TO THE MINISTER FOR LOCAL GOVERNMENT, HEALTH AND HOUSING (Mr. Jeremiah) seconded.

Question proposed.

The question was put and carried.

THE MINISTER FOR LEGAL AFFAIRS (Mr. Conroy): Mr. Deputy Speaker, I beg to move that the Cavendish-Bentinck Pension Bill be now read the third time.

Question proposed.

The question was put and carried.

The Bill was accordingly read the Third Time and passed.

The Mortimer Pension Bill

THE MINISTER FOR LEGAL AFFAIRS (Mr. Conroy): Mr. Deputy Speaker, Sir, I have to report that the select committee appointed by this Council to consider the Mortimer Pension Bill has considered and approved the same with amendments.

A copy of the Report of the Select Committee together with a copy of the Bill and a copy of the Minority Report has been laid upon the Table of this Council and has been circulated to hon. Members.

Mr. Deputy Speaker, Sir, I beg to move that the Report of the Select Committee on the Mortimer Pension Bill be considered and that the Report of the Committee be agreed.

Mr. Deputy Speaker, Sir, the report was laid last Tuesday in this Council and I hope that the report is self-explanatory. At the same time a copy of the amended Bill was laid, and also a copy of a Minority Report which was presented by the hon. Member for the Coast. Mr. Deputy Speaker, Sir, I think the Minority Report is also self-explanatory. I had not intended to enlarge on the terms of the report as they speak for themselves, but as we are all sorry that the hon.

Member for the Coast is not here to-day, I think in fairness to him I might mention the reasons which induced him to make the Minority Report.

When the Bill came up for Second Reading its principles were agreed by this Council. Therefore in the deliberations of the select committee, when the hon. Member for the Coast expressed his view that he was opposed to the grant on this pension in principle, he found himself prevented from proceeding with that principle which had already been the subject of binding decision by this Council. It was pointed out to him that in a Committee of the Council you cannot go back on the decision in principle which had been reached on the Second Reading. You can amend the Bill in detail, but you cannot defeat it in principle. Therefore because he was bound to his constituents to oppose this Bill he adopted the only course open to him, which was to offer an amendment that the amount of the pension should be reduced to a nominal sum. Mr. Deputy Speaker, that he has done in the Minority Report which is appended to the Select Committee Report which was laid on the Table.

It is interesting, Mr. Deputy Speaker, from a procedural aspect, to note that in England that procedure would not have been permitted. In England the Report of a Select Committee is the report of the whole Committee, it is not a report of individual members comprising the Committee. Indeed in England parliamentary procedure requires that Select Committee reports should not be signed by the Members. Just as the report of a Committee of the whole Council is not individually signed, it is the decision of the whole Committee. Now, Mr. Deputy Speaker, it is a moot point and not now for consideration which is the better procedure, but in fact the hon. Member for the Coast was following the procedure which is prescribed for this Council by our Standing Orders and therefore he was perfectly in order in doing what he did do.

Mr. Deputy Speaker, I would suggest that both the Report and the Minority Report are self-explanatory. They have been laid on this Table for some days, they have therefore become public documents, have been published, and their

[The Minister for Legal Affairs] contents, which, I hope are self-explanatory, have been published too. The purpose of appointing a select committee by this Council was to consider the Bill, to examine it and to report upon the reasons behind it and, if necessary to amend it.

Mr. Speaker, the Committee has conducted a close examination of the report and I think—I flatter myself—that they have delivered a reasoned report. It may therefore be considered otiose if this Council were again to go through the reasons and again to consider what has already been done for them by the select committee. To do so would be reminiscent of the old fadage which provides that it is a waste of time to keep a dog and bark too. For that reason, Mr. Speaker, I beg to move.

THE PARLIAMENTARY SECRETARY TO THE MINISTER FOR LOCAL GOVERNMENT, HEALTH AND HOUSING (Mr. Jeremiah) seconded.

Question proposed.

MR. USHER: Again, Mr. Deputy Speaker, Sir, I must demur. I do not wish to put my hon. and learned friend to reply to a matter to which he has indeed already replied. I merely consider that if and when the occasion should arise, this Legislature—this Council—would deal adequately with the circumstances then obtaining.

THE DEPUTY SPEAKER (Mr. Griffith-Jones): No other Member wishing to speak I will ask the hon. Mover to reply.

THE MINISTER FOR LEGAL AFFAIRS (Mr. Conroy): Mr. Deputy Speaker, I do not think in view of the sentiments expressed opposite that it is necessary for me to reply.

Question proposed.

The question was put and carried.

THE MINISTER FOR LEGAL AFFAIRS (Mr. Conroy): Mr. Deputy Speaker, I beg to move that the Mortimer Pension Bill be now read the Third Time.

Question proposed.

The question was put and carried.

The Bill was accordingly read the Third Time and passed.

MOTION

THE TRANSFER OF POWERS (MINISTER FOR FINANCE AND DEVELOPMENT) (No. 1) ORDER, 1956

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): Mr. Deputy Speaker, Sir, I beg to move—

BE IT RESOLVED that the Order cited as the Transfer of Powers (Minister for Finance and Development) (No. 1) Order, 1956, be approved.

This, Sir, has already been laid on the Table of the Council; it deals with the power under the Pensions Ordinance, 1950, to grant pensions, gratuities and other allowances, an order which is commonly exercised by the Governor in Council of Ministers. However, Sir, as all the pensions, gratuities and allowances which are dealt with under this particular power are of a formal nature and are computed strictly in accordance with the provisions of the Ordinance, and as every individual computation is checked by the Controller and Auditor General before payment is made, it is obvious that the power is not a discriminatory power at all. It is considered therefore that this is one of the powers that need not take up the time of the Governor in Council of Ministers but can be properly exercised by the Minister responsible. It has therefore, Sir, been placed before the Council as an order, and I beg to move.

MR. WEBB seconded.

Question proposed.

The question was put and carried.

MOTION

THE TRANSFER OF POWERS (MINISTER FOR AFRICAN AFFAIRS) (Nos. 1 AND 2) ORDERS, 1956

THE MINISTER FOR AFRICAN AFFAIRS (Mr. Windley): Mr. Deputy Speaker, I beg to move the following Motion:

BE IT RESOLVED that the Orders cited as the Transfer of Powers (Minister for African Affairs) (No. 1) Order, 1956, and the Transfer of Powers (Minister for African Affairs) (No. 2) Order, 1956, be approved.

Mr. Deputy Speaker, Sir, this Council has had before it similar motions on previous occasions and indeed to-day, Sir, dealing with the delegation of

[The Minister for African Affairs]

powers within the Portfolio of Ministries, and this Motion, Sir, is in accordance with the procedure and policy followed on similar motions of this nature.

The first order, Sir, for delegation deals with the delegation of powers from the Council of Ministers to the Minister responsible, myself, Sir, and the second order with the delegation of powers from the Governor.

I think, Sir, that as the paper concerning the details of these delegations has been laid before this Council, it is probably unnecessary for me to go through them one by one and take up the time of this Council. I would, however, Sir, be glad to answer any questions any hon. Members may wish to raise.

I beg to move, Sir.

MR. WEBB seconded.

Question proposed.

The question was put and carried.

MOTION

TRANSFER OF POWERS (MINISTER FOR FOREST DEVELOPMENT, GAME AND FISHERIES) ORDER, 1956.

THE MINISTER FOR FOREST DEVELOPMENT, GAME AND FISHERIES (Mr. Blunt): Mr. Deputy Speaker, Sir, I beg to move:

BE IT RESOLVED that the Order cited as the Transfer of Powers (Minister for Forest Development, Game and Fisheries) Order, 1956, be approved.

This, Mr. Speaker, is another Motion similar to the two which have gone before. Not long ago I proposed another similar Motion which proposed a transfer of certain powers from the Governor in Council of Ministers to the Minister. These powers now in question are those which are to be transferred from the Governor to the Minister.

The Paper has been laid on the Table which indicates the particular Ordinances and the nature of the powers to be transferred, and I do not think I need occupy the time of the Council by going into them in detail.

Sir, I beg to move.

Question proposed.

The question was put and carried.

MOTION

THE AFRICAN INDUSTRIAL ESTATES DEVELOPMENT COMMITTEE

THE MINISTER FOR COMMERCE AND INDUSTRY (Mr. Maddison): Mr. Deputy Speaker, Sir, I beg to move that the Council notes with approval the proposal to establish a committee to be known as the African Industrial Estates Development Committee, with the object of developing industrial estates in the native lands.

The committee which it is proposed to set up, Sir, will select suitable centres in the native lands for industrial development and it will arrange for serviced plots to be offered ready for immediate occupation by industry. I would mention, Sir, that this policy is not a new one but is a proposed extension of what has been an extremely successful policy in the Colony up to date. In Mombasa and Nairobi and other large centres industrial estates have been planned and put into operation and intending developers have been enabled to come in and to occupy immediately sites suitable for their industry. There are many advantages in having such industrial estates and plots ready for occupation in the native land units.

The first advantage is that it will enable a measure of decentralisation of industry to take place. In more developed countries than ours there are signs that there has been an undue concentration of industry in the large centres and in the United Kingdom every effort is now being directed towards decentralisation by the formation of satellite towns and by the movement of industry away from the large centres in order to get rid of the many social problems which inevitably arise.

I would mention only the difficulty of housing a large industrial population. The difficulties connected with housing are well known to all of us in Nairobi and in Mombasa.

In these estates which are to be set up in selected centres in the native areas, the workers will, it is envisaged, be able to live near their place of work and in their own homes. There will be a free supply of labour and the proposal will have the effect of easing the pressure on the land, which at present is very considerable, as many Africans will be

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 attracted to work in the factories which are set up.

The industrial estates when developed will provide an important additional incentive to increased production in the native areas. I would like to mention, Sir, that the proposal implies an opportunity for co-operation between all races and for equal participation by all. The land will be specifically set aside for the purpose of industrial development.

The Government proposes at a later stage to approach this Council for approval for an initial allocation of £25,000 to be placed in a revolving fund to be at the disposal of the committee for this proposed development. The committee will recover the money expended by charging stand premia and annual rentals.

I would like to sound a warning that this process of development is likely to be slow; we cannot expect to have quick results.

There is only one further point, Sir, and that is the composition of the committee. It will contain adequate representation of African interests and it will have full powers to co-opt local African interests in the area involved. It will otherwise be composed of Government officials under the chairmanship of the Secretary for Commerce and Industry. The other Government officials will be those most directly involved in the development of such industrial estates.

I beg to move, Sir.

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey) seconded.

Question proposed.

MR. MATHU: Mr. Speaker, Sir, I rise to support this Motion but I would like, in doing so, to comment on two main points.

The first one, Sir, is the very important question of the composition or indeed the setting up of the committee which will be responsible for getting the sites ready for industrial development. I should like the hon. Member in his reply, if he would, to make it definitely clear whether this committee would have a statutory authority to administer these sites in native land units, particularly when he knows very

well that all land in the native land units are permanently invested in the Native Lands Trust Board and if this committee therefore has, as he described, the authority to get these sites set apart, presumably under the Native Lands Trust Ordinance, part 4, which deals with that subject, what other authority would they have to recoup themselves by the money they have spent, which he says the Government will come to the Legislative Council later to authorise, by charging land tenure and rentals.

At the present moment land tenure of business sites in African areas, markets, shopping centres, go to the African district councils, by the Ordinance of 1950, and from his statement now the African district councils affected will lose as a result of this committee stepping in and spending money and collecting rents from industrialists who would come and set up factories there.

I do think it is a very important point and we want to be very clear about it. He did say that that is how they are going to recoup themselves on the money they spend—the committee I mean—on the developing of these sites. I for one, Sir, would be definitely opposed to any diminution of sources of revenue by African district councils who get the revenue, as I say, at the present moment from sources such as the one which the Minister is discussing before the Council to-day. I must therefore be assured that that will not happen and therefore it seems to me that if the committee is going to spend £25,000 on developing these sites and getting land tenure from these people and rentals in order to make up the funds expended, as he says it is going to be a revolving fund, it will definitely deprive the African district councils of the money that they would otherwise get from these people who occupy the land in African land units.

Now those two points, from the African point of view are fundamental. If this Motion is to go through, I do think I would like to have the assurance of the Minister that my fears are groundless.

Going back to the question of the composition of the committee, he did say, Sir, that all interests would be adequately represented. I gather the

[Mr. Mathu]
 present proposal, Sir, will be in the ratio of one to four; for every African serving there will be four other people, and if that is the case, Sir, it will weaken the authority not only of the African district councils but of the local land board, which is very keenly interested in land within the local limits of the African district councils.

Secondly, as I say, it requires—I have to be clear on this point—the relationship between the committee and the powers invested in the Native Lands Trust Board by Cap. 100 of the Laws of Kenya.

Before I sit down, Sir, I should like to ask the Minister whether initially he has in mind any particular sites that would be started with straight away because as I have mentioned on another occasion, from the African point of view when such things are put forward, they become very effective, they are followed up with action straight away. If a Motion is in here for another two years without having the first site going, and the first factory employing the people likely to be employed, I think it loses its effect and I would therefore like his assurance, or, rather, indications, whether there are any sites he has in mind and what sort of factory he thinks will then be started, so as to give us an idea of what he definitely has in mind. With these remarks, Sir, I support the Motion and ask the Minister to give me the assurance I am seeking.

MR. CROSSKILL (Mau): Mr. Speaker, Sir, I welcome most wholeheartedly the proposal put forward by the Minister. I think it is a very logical and progressive step leading towards a solution of the problem of land pressure, at the same time avoiding the social difficulties which undoubtedly arise through excessive urban concentration. I would recall, Mr. Speaker, that twice in the history, at least twice in the history of our own country, England, there have been crises due to land pressure. Once in the 11th century and again in the 14th century. The first was cured by the Black Death, and the second, more happily, Mr. Speaker, in almost exactly the same manner as has been described by the Minister.

I beg to support, Sir.

THE SPEAKER (Sir Ferdinand Cavendish-Bentick): If no hon. Member wishes to speak, I will ask the hon. Member to reply.

THE MINISTER FOR COMMERCE AND INDUSTRY (Mr. Maddison): Mr. Speaker, Sir, I am in a position to give an assurance that there will be no loss of revenue to the African district councils.

I think my words were misunderstood in that I did not make it entirely clear that all the committee would ask for in return for an inevitable increase in the rental value of the land would be a reimbursement of the funds which it had spent on developing the site. As I see it, Sir, the reimbursement would have to be by a contractual relationship rather than a statutory one.

On a point of the centres which might be developed, the first centre on which we are going to concentrate will be Karatina in the Central Province. We have arranged for an accelerated survey to be done and we have made special arrangements for this. We hope that we shall be able to have plots surveyed and ready for use in quite a short period. I will not venture, Sir, to make an exact estimate because estimates of the time of completion of surveys are likely to be proved wrong. But it will be done with the greatest possible speed and in fact the initial survey has already been completed. Another centre in the Nyanza Province which has been on the list and which is now a first priority for survey is Yala, but I have felt some doubts recently as to whether Yala was the correct centre for development. I was very impressed by the development at Bungoma which is a new district headquarters, and which may offer much more promising possibilities.

In regard to the types of industries which the hon. Representative Member asked about I would say they would be based on the produce of the native lands and we have in mind in the first instance such things as canning of vegetables and fruit. It will be recalled that Karatina during the war had a flourishing industry for drying vegetables for the troops in East Africa.

We also have in mind the possibility of developing industries based on timber and other local produce. In the Karatina

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area there is a rapid potential development of the tea industry and no doubt there will be ancillary industries which could be based on that. We might even have an off-shoot of the packaging industry.

I think, Sir, that gives an outline of the information which the hon. Member requests.

Question proposed.

The question was put and carried.

THE SPEAKER (Sir Ferdinand Cavendish-Bentinck): That is as far as we can get on the Order Paper. There is a Motion for the adjournment and I will now call on Mr. Slade.

ADJOURNMENT MOTION

VISIT OF MINISTER FOR LEGAL AFFAIRS TO ENGLAND

MR. SLADE: Mr. Speaker, Sir, I beg to move that this Council now adjourn.

Earlier this afternoon, Sir, I asked a question concerning the recent absence of the Minister for Legal Affairs in England, which I think lasted rather more than a fortnight. In reply we were told that he visited London at the request of the Secretary of State to assist in examining allegations for which wide currency had been given in the Press and Parliament regarding the illegal imprisonment of juveniles and connected matters.

Now, Mr. Speaker, I think we are all familiar with the particular case to which this refers, that is the case of Miss Fletcher and the Kamiti girls. I have no intention, Sir, here this evening to discuss the merits of that case, the truth or falsehood of the allegations made. That will be resolved in due course elsewhere. But I do wish to point out that here an allegation of misgovernment by a single ex-employee of this Government, which was taken up in England by irresponsible people, has resulted in one of our Ministers—and our Attorney General at that—having to leave the affairs of this Colony for more than a fortnight to go and help the Imperial Government to answer these allegations. I need hardly point out the expense and the loss of time—invaluable time—involved.

Mr. Speaker, we resent this sort of thing, and I want to take up a few moments of Council's time to say why.

I know that it is a popular game for ex-employees of this Government; for newspapers; for members of the public and even I am afraid for some Members of Parliament in the United Kingdom to vilify this Colony. To vilify Government, settlers and others. However much we, who belong here may have pride in the development of this Colony over the past 50 years, for such people pride in a colony seems to be something unknown. Well, perhaps, Sir, we should not grudge these people their fun, even though we cannot retaliate by debating here or by proposing from here parliamentary delegations to examine those things which we think peculiar in the United Kingdom, such as the possibility of a colour bar developing.

However that may be, we must not grudge them their fun. We are, after all, a Crown Colony, with a democracy in the mother-country claiming to govern our destiny. But, Mr. Speaker, we cannot afford, we cannot afford the expense, we cannot afford the loss of time of important Members of our Government on matters of this kind, on discussions in England of irresponsible allegations such as have arisen in this case. We must, I think, appeal to all responsible citizens of England to behave as responsible people with regard to their Colonies as well as with regard to anything else, and to persuade others to behave likewise. We must try to persuade people in the United Kingdom that allegations of misgovernment of this Colony are best made, in the first instance, to the Government of this Colony; or failing that, to other influential people in this Colony. There are many, such as the churches; or, if you like, to the newspapers in this Colony; or perhaps, as a very last resort, to the Unofficial representatives of the public in this Council.

We must try to persuade people in the United Kingdom that it is not fair or helpful or in the best interests, either of this Colony or of the British Commonwealth, to entertain and publish allegations of this kind outside this Colony, without clear evidence that they are true, and that such truth cannot be proved or disproved by debate in Westminster.

If, Mr. Speaker, representations to those responsible here are of no avail,

[Mr. Slade] then there can always be further enquiry here, not in Westminster. I have no great love of Parliamentary delegations, no great love of commissions of enquiry; but sometimes, properly constituted, properly conducted, they are necessary and desirable. They are certainly far preferable to ill-informed and fruitless discussion in British newspapers and British Parliament. I say "fruitless" because the only fruit that such discussions can bear are poison berries.

I know, Mr. Speaker, that newspapers pride themselves on being uncontrolled. I know that they have no common standards of responsibility. Each has its own such standards, if any. But Members of Parliament, Members of the Mother of Parliaments, should set an example of responsibility. We must ask them to do so. We must ask them to show some pride in their remaining colonies, some consideration for the difficulties of Colonial Governments, some scruples about entertaining and publishing in England allegations by members of the public which have never been made or examined in the Colony concerned, and which yet remain to be established or, along with their creators, to be exploded. And in case they persist in doing the sort of thing that has happened in this case, I would remind hon. Members of a debate not long ago, when I suggested that perhaps we are too sensitive to public opinion in the United Kingdom, in which debate the hon. Acting Chief Secretary, then Minister for Legal Affairs, I think agreed with me. Perhaps it may be necessary in future, if this sort of thing goes on, that such discussion in Westminster, so far as we are concerned, will have to be ignored.

GROUP CAPT. BRIGGS: Mr. Speaker, Sir, I would like to support very strongly what my hon. friend, the Member for Aberdare, has said on this particular matter. I too think it is deplorable that the time of a very valuable Member of the Government should be wasted in dealing with the allegations made by a disloyal ex-member of the Government service in Kenya.

I think we must recognise that so much prominence should have been given to this particular matter in the

House of Commons is due to one thing, and that is the unfortunate fact that Colonial affairs are matters out of which political capital can sometimes be made in the House of Commons. I think it is very deplorable that that situation should exist, but it does exist and I think we have got to face up to that fact. Nevertheless, it seems strange to me that no similar outburst of indignation took place on the part of the Opposition in the House of Commons when constituents of mine were being brutally murdered by *Mau Mau*, tortured and so forth; there was no similar outburst of indignation, and therefore one must conclude that what has been said in the House of Commons in this matter is entirely based on political considerations.

THE ACTING CHIEF SECRETARY (Mr. Griffith-Jones): Mr. Speaker, Sir, I entirely share the view, which has been put forward by the hon. Member for Aberdare, that allegations of the nature of those which have been made in this case should properly be made in the first instance to this Government and, if that course does not commend itself, then to some influential authority or institution in this Colony which would take the matter up and ensure that any necessary action required were taken by the Government. And there is no lack of such responsible authorities and institutions; as my hon friend has mentioned, there are the churches, there is the Press and there are, as he says, the representatives in this Council of the people of this country.

Nevertheless, when allegations are made, and made publicly, to the point that the good name of Kenya is attacked, from any quarter and whether with foundation or not, great damage can be done. Concern and anxiety are created in quarters which are sincerely and honestly concerned with the welfare of the Colonies. There are, of course, quarters which are only too glad to find any stick, at the moment, in these days, with which to beat the Government and the people of Kenya. I do not mean—and I entirely exclude from my references to responsible and sincere quarters—such people. But the trouble is that a germ planted, although it may flourish in ground which wants to receive it, also has its effect in the ground which does not wish to receive

[The Acting Chief Secretary] it but which nevertheless—I think I am getting a bit mixed in my metaphor, but nevertheless, if I may mix my metaphor—becomes concerned that the germ exists at all. That is the trouble with allegations of this nature. Wherever they may originate, however little or however great the substance there may be in them, they do create in the minds of the public and in the minds of responsible quarters, possibly in Parliament, a concern that there may be something wrong.

Now when that sort of matter is canvassed in public, then it is, I feel, the duty of this Government to take all possible steps to ensure that those allegations are dealt with publicly, by refutation, or, if there should be any element of truth in them or any misunderstanding, that the facts should be made clear publicly, squarely and understandably. But when disquiet and anxiety regarding Kenya affairs is created, both amongst the public and in Parliament in the United Kingdom, however, unwarranted, and however undistinguished the cause, it does seem to me that the Government of Kenya must take any effective steps open to it to assist the Secretary of State in allaying those anxieties.

I join with hon. Members in deprecating the need to do anything about this sort of allegation—about any sort of allegation—other than to receive and to examine any bona fide concern which may be expressed to this Government by anybody regarding anything that may be going wrong in the country. What we want to impress on people, and what I tried when I was in England to impress on those I came into contact with, was that we have nothing we want to hide. If there is anything wrong in this country, then we want to put it right—but we do not want to have mud slung at us from thousands of miles away.

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): Dirty mud, too!

THE ACTING CHIEF SECRETARY (Mr. Griffith-Jones): So, while, as I say, I deprecate the need for the very considerable expense, both in money and in time (and I am not speaking merely of my own time; I am speaking of many, many man-hours spent both in this

country and in the United Kingdom by Members and officers of this Government and of Her Majesty's Government; I consider not only man-hours spent, nor merely the expense of my flying to and from the United Kingdom; I bear in mind the expense of correspondence—frequently telegraphic correspondence—that was necessitated by this incident, this occasion, we nevertheless had to meet public opprobrium, and without having received previously the courtesy—to put it no higher—the courtesy of having the substance of the accusations made against us communicated to us by a person who, until not very long ago, took her pay from us.

MR. MATHU: Mr. Speaker, Sir, I personally did not want to go over spill milk, but I do think that this incident should be a lesson for the future and the two points I want to make would not help us now, I do not think, if they are going to help us at all, but I think it will be only in the future.

The point I want to make is this, Sir, that when these allegations came to the Press first, I do think, Sir, that if this Government acted quickly and if they knew there was something and said that we are going to make an enquiry of our own right away here, in the early stages, we might have stopped most of the nonsense that went on in the United Kingdom in this matter. As I say, it is very nice to talk after the event and I am sure my hon. friend and the Government must have gone into this very thoroughly, but if we had made our own enquiry into the allegations made at the first instant, we would have stopped the prolongation of accusations that have gone on in the Press and in the House of Commons in England.

The second point I would have liked to see also at the early stages, particularly when the matter got to Parliament and from the Opposition benches, is that the African Minister in the Government under whom this particular person was serving, should have made a pronouncement as an African Minister, because those in the Opposition thought that they were holding a torch for the African cause there, and then stopped the nonsense. But the African Minister, up to the present moment, has been dumb and we have not heard anything

[Mr. Mathu]

from his mouth, and I do know, having been in England and in Parliament many times, the Opposition would have taken note of what the African Minister said. I know, Sir, it is the Government's collective responsibility, but I know from my own experience that it would have helped this country a great deal, because it would have reduced the numbers of people who would accuse if the African who is responsible says it is nonsense. He has never said it up to the present moment, and I do think it is a terrific mistake that that did not come in the very early stages.

As I say, Sir, I agree with all hon. Members who said it is important that any person who wishes to accuse this country on any matter should do it in the proper manner and make representations to our Government first, and all the other steps that have been mentioned by hon. speakers, but what I do know, is that there is no law to stop anybody—Tom, Dick and Harry—in the whole world talking about Kenya. Freedom of speech, freedom of the Press all over the world. It is a very good thing to say, but I do not see how we can implement that suggestion. All I think we can do is get it buttoned up in the bud and deal with this matter in some of the ways that I have suggested.

I have been thinking about this and we African Members on this side have been very concerned in the matter. But unfortunately Government has never put us into the picture in this matter. In fact, one of our Members is an official visitor of the prisons, and for two or three years has not been invited to visit a prison. If he had done, he would have helped himself, as an official visitor, helped the Government to say this is not true. The points that I am raising, Sir, we have already raised with the Minister for Internal Security and Defence. He knows the background of our complaint and I do not go into further detail than that, but I do think it is best to use every person we have in the country, who has the love of this country, for defence of this kind. This time it has been done unilaterally and I think we have not been very successful.

MR. USHER: Mr. Speaker, Sir, my hon. friend, the Member for Aberdare, in moving the Adjournment, made some

reference to a criticism that we were moved easily to indignation when these occasions occur, and I just want to make one brief point. I was reminded, when he said that, of a quite remarkable book by Rebecca West, which many hon. Members will have read, called *The Meaning of Treason*. In it she analyses a strange malady which has afflicted some of our race for many years, and it takes this form. It means that whatever a Briton does abroad in his relation to other people is bound to be wrong. And our indignation, Sir, is very natural because, of all diseases, Sir, this is the dirtiest and most unnatural.

THE MINISTER FOR COMMUNITY DEVELOPMENT (Mr. Ohanga): Mr. Speaker, I only want to deal with one thing, and that is to say how grateful I am to hear my hon. friend, the African Representative Member, put such a high regard on the things I say here, and also to hear him say that he thinks the people in the United Kingdom and elsewhere would regard very much what I say as African Minister. Quite apart from the general responsibility as a Member of the Government, that is collective responsibility, the only thing that connects me at all with all this affair is that my Ministry employed Miss Fletcher in the first place, but it will be realised that at no time has she made any specific allegations against the Ministry as such. The allegations made were against other Ministries of the Government and those Ministers who have the responsibility to reply had done so promptly, and I considered there was absolutely no reason for me to intervene when I was not, or my Ministry, concerned on any point.

ADJOURNMENT

THE SPEAKER (Sir Ferdinand Cavenish-Bentick): If no other Member wishes to speak, that terminates the debate. Council will adjourn until 9.30 a.m. to-morrow, Friday, the 20th of July.

Council rose at forty minutes past six o'clock.

Friday, 20th July, 1956

The Council met at thirty minutes past Nine o'clock.

[Mr. Speaker (Sir Ferdinand Cavendish-Bentinck) in the Chair]

PRAYERS

COMMITTEE OF THE WHOLE COUNCIL

Order for Committee read. Mr. Speaker left the Chair.

IN THE COMMITTEE

[D. W. Conroy, Esq., O.B.E., T.D., Q.C., in the Chair]

MOTION

TEMPORARY OVERDRAFT TO JUTE CONTROLLER

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): Sir, I beg to move that this Government guarantee temporary overdraft facilities to the Kenya Jute Controller for a sum not exceeding £100,000 for a period not exceeding six months.

This, Sir, is rendered necessary by the fact that the agents who deal with gunny bags such as the Kenya Farmers' Co-operative Association and the Maize Control have been slower than usual this year in taking up their supplies from the controller and, as a result, he is holding large stocks, which has left him with a temporary shortage of cash. Against this he has the necessary bills to meet in anticipation of further purchases, and it has become necessary therefore to provide him with overdraft facilities to cover this trading period. It is expected that the overdraft will, in fact, be cleared in about three to four months.

I do not believe there is any further explanation which is necessary. Sir, I beg to move.

MR. TYSON: Mr. Chairman, may I raise one question, Sir? Does not the position which the hon. Minister has outlined indicate that the time has come when this jute control could be abolished and the gunny bag trade left to private interests?

THE CHAIRMAN (Mr. Conroy): No other member wishing to speak, I will call upon the hon. Mover to reply.

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): The answer to the hon. Nominated Member is no. This is in fact an indication, I think, of the desirability, in the interests of trade in so far as the internal trade of Kenya is concerned, of maintaining this very useful facility for the time being.

The question was put and carried.

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): I beg to move that the Committee do report to Council its consideration of and adoption of the resolution.

Question proposed.

The question was put and carried.

Council resumed.

[Mr. Speaker (Sir Ferdinand Cavendish-Bentinck) in the Chair]

REPORT

THE MINISTER FOR LEGAL AFFAIRS (Mr. Conroy): Mr. Speaker, Sir, I have to report that a Committee of the whole Council has considered the Motion on the Order Paper and directed me to report the same without amendment.

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): Mr. Speaker, I beg to move that the Council doth agree with the Committee in the said resolution.

THE ACTING CHIEF SECRETARY (Mr. Griffith-Jones) seconded.

The question was put and carried.

Question proposed.

BILL

SELECT COMMITTEE REPORT

The Prevention of Corruption Bill, 1956

THE MINISTER FOR LEGAL AFFAIRS (Mr. Conroy): Mr. Speaker, Sir, I have to report that the select committee appointed by this Council to consider the Prevention of Corruption Bill has considered and approved the same with amendments. A copy of the Select Committee Report, together with a copy of the Bill as amended by the Committee, has been laid on the Table of this Council and has been circulated to hon. Members.

[The Minister for Legal Affairs]
Mr. Speaker, Sir, I beg to move that the Report of the Select Committee on the Prevention of Corruption Bill be considered and that the report of the committee be agreed.

Mr. Speaker, if we go to the long title of this Bill, we find that it is a Bill entitled "An Ordinance to Provide for the More Effectual Prevention of Corruption and for Matters Incidental thereto and Connected therewith". The operative words are "To Provide for the More Effectual Prevention of Corruption". That, if I may say so, in a nutshell, is the purpose of this Bill.

Mr. Speaker, there are two ways in which you can provide for the effectual prevention of corruption, or for any other crime for that matter, and the first of those is to raise the moral standards of the population. Mr. Speaker, I hope I shall not be accused of undue cynicism if I point out that that is a long-term policy, and, Mr. Speaker, it is one, apart from personal example, over which this Council has not got very much control.

The second and more immediate method of more effectually controlling, more effectually preventing corruption, is to enact legislation to make it quite clear to criminals and would-be criminals that crime does not pay, and the purpose of this Bill is to follow that second course.

Mr. Speaker, it is no good enacting Draconian laws, which impose exceptionally heavy penalties on the people for the purpose of frightening them from the commission of crime, because that does not work in practice. You have only got to cast your mind back over criminal legal history; 125 years ago it was a capital offence to steal anything valued at more than a shilling; you were hanged for stealing anything valued at more than twelve pence. That did not stop people stealing. In fact, crime was a flourishing occupation in the 18th and at the beginning of the 19th centuries. Crime began not to pay with the establishment of a proper police force in 1839 and with the removal of the various obstacles to prosecution and conviction which in those days were created by artificial procedural difficulties.

Mr. Speaker, I think it is not irrelevant to point out that in 1839, when the

Metropolitan Police Bill was having its Second Reading in the House of Commons, it was most vigorously attacked by the Opposition. It was attacked as a gross infringement of the liberty of the subject to establish a police force which would catch criminals. It was regarded, I think, as unfairly loading the dice against the criminal—

MR. HARRIS: Sporting country, Sir!

THE MINISTER FOR LEGAL AFFAIRS (Mr. Conroy): The hon. Member for Nairobi South says we are a sporting country, I often wonder whether this excessive tenderness for the criminal does not arise from our early addiction to the game of cricket.

Be that as it may, Mr. Speaker, it is undoubtedly a fact that very real fears were expressed in 1839 when the Metropolitan Police Bill had its Second Reading, "Infringement of the liberty of the subject", "Establishment of a military force which would keep in power a military oligarchy" and all the other arguments with which we are not unfamiliar to-day. Mr. Speaker, of course, now everyone says how wonderful our police are, when referring to the Metropolitan Police, and of course those fears, which were real fears at the time, have in practice proved to be unfounded and I trust, Mr. Speaker, that those fears which were expressed on the Second Reading of this Bill will prove either to have been met, or to have been equally unfounded.

Mr. Speaker, Sir, the purpose then of this Bill and the primary object which the select committee sought to achieve was to make quite sure that corruption should not pay, and the method of making sure that corruption does not pay is to shorten the odds against detection and punishment. You see, a heavy penalty does not necessarily frighten the criminal off, but if he knows that he stands a very good chance of being caught, convicted and punished, then he thinks twice about committing the particular crime which at first sight had appeared so attractive to him.

Mr. Speaker, that is the object of the Bill, but in obtaining that object, the Select Committee had also to bear in mind this safeguard, that however much one wanted to load the dice against the criminal, one must be very careful under

[The Minister for Legal Affairs] no circumstances to put an innocent man in jeopardy of conviction. And those are the two principles which were followed by the select committee in their consideration of this Bill.

Now, Mr. Speaker, the report has been laid for some days and has been a public document and has been circulated, and therefore I do not consider that it is necessary for me to go through the report in detail, but I think it might be desirable to mention some of the more important amendments which were the matters considered by the committee and which have been incorporated in the copy of the Bill circulated with the Select Committee Report.

Mr. Speaker, if hon. Members will turn to clause 2, they will recall that on the Second Reading objection was taken to the wide—it was suggested over-wide definition of the word "advantage" and representations were made to the select committee that the word "advantage" was too widely defined and it included the words "or influence" which made it much too wide and would create dangers of injustice. Mr. Speaker, we gave consideration to the objection which was made in the Second Reading and to the representations which were made to the select committee, but eventually we decided that there was no danger in leaving the words "or influence" in. This definition is taken from the English Act of 1889; research showed that no injustice had been brought about in the period from 1889 to date, and we thought it was a great advantage to the Courts of Kenya, in interpreting this definition, to be able to go away to the English cases which were based upon similar words, and for those reasons we decided not to amend that definition.

Mr. Speaker, in clause 3, we increased the maximum punishment which a court could give by providing that where a person had been twice convicted of corruption in office, the court should be enabled to say that he was incapable, for life, of holding public office. It did not seem to us to be unreasonable, and as one of the practical and hard-headed businessmen on the committee said, if he has been twice convicted of corruption in office, then he had probably been guilty of it two hundred

times. Mr. Speaker, that also is in line with the similar legislation in England.

Mr. Speaker, the next clause that caused us difficulty is clause 6, and there we enacted several amendments. Mr. Speaker, objections were raised to this clause on the Second Reading and I think it is only fair to point out to hon. Members that something very similar to this was the law of Kenya up to 1930, because this is very much the same as section 162 of the Indian Penal Code; which was the Penal Code for Kenya 25 years ago. It was then replaced by our own Penal Code, which has a section not dissimilar to this one, but we have, in the Bill here, we hope, improved upon the existing section and made sure that it complies with the two principles which we kept in front of us—the first that crime should not pay, and the second that no innocent man should be put in danger of conviction. What we did there was this, this clause creates the offence of a public servant obtaining advantage by reason of his position, without any consideration, and at first, Mr. Speaker, the Bill, as it was on Second Reading, provided in every case that where a public servant did obtain such advantage, he should automatically be guilty of an offence, whether he had done so corruptly or not. Now that, Mr. Speaker, seemed to us, possibly, to open the gates to injustice and therefore we have amended the clause to provide that a public servant who obtains advantage without consideration shall only be guilty of an offence if he does so corruptly. Our first principle then came into play; it is very difficult to prove corruption, but it is comparatively easy to disprove it and, therefore, in following the other principles laid down in this Bill, we said that a public servant shall only be guilty of an offence against this clause if he obtains advantage without consideration, if he does so corruptly, but where it is proved that he has obtained such advantage, he shall be deemed to have done so corruptly unless he proves the opposite. Therefore, a rebuttable presumption of corruption is raised if it is proved that a public servant has obtained advantage without consideration.

Mr. Speaker, another amendment which would at first sight appear to be

[The Minister for Legal Affairs] minor, but does involve a matter of some principle, is in sub-section (2) of clause 6. Originally that clause provided that where an advantage is received by any person who is closely related to the accused, and there is reason to believe that it was received by that person on behalf of the accused, then it shall be deemed to have been received by such accused person. An obvious case is the criminal person who salts the proceeds of his crime away in his wife's bank account. Now, Mr. Speaker, it seemed to us wrong that the test there should be "reason to believe". It seemed to us that justice required that the court should be satisfied, and accordingly the clause, as amended by the select committee, provides that where the court is satisfied that the relation received this money on behalf of the accused, it shall be deemed to have been received by the accused.

Mr. Speaker, the next clause that was a matter of considerable discussion was what is now 10, and was originally clause 9, that is the special powers of investigation to be given to the Law Officers. Mr. Speaker, the first amendment made by the Select Committee is that the Law Officers should not be able to exercise this power, which is the equivalent of issuing a search-warrant, unless it was proved to the Law Officer's satisfaction that there is reasonable cause for suspecting an offence has been committed. Mr. Speaker, it may indeed be carrying coals to Newcastle to point out to the Law Officers that a matter has to be proved to their satisfaction before they exercise certain statutory powers. I do not think, in respect of the Law Officers, that it is necessary to make it clear, but it is very necessary to make clear for the information of the public, the burden of proof that has to be satisfied before that power is exercised, and that we have done, I trust, in the clause as amended.

Mr. Speaker, we were then at pains to remove the impression which some people had gathered from the clause, in its origin form, that the police would be able to go into anyone's office, search through any accounts relating to anyone, on a general roving, fishing expenditure; that was never the intention of this clause, but we have, I hope, now made it clear that any authority given under

this clause will be specific. It will be addressed to a person, and it will authorise a named police officer, accompanied if necessary by a named accountant, to go and search specific accounts.

Mr. Speaker, there was one other matter in respect of which representations were made to us by the Law Society of Kenya, and that was that this clause should not derogate, in any way, from the privilege which attaches to communications passing between a client and his lawyer. Mr. Speaker, I think, looking at the clause as originally drafted, there was no danger of that, and I think that the courts would have been slow to have read, by implication, into the clause a reduction of a privilege such as that. The courts would only have said, I am sure, that such a privilege can be taken away by specific words. Nevertheless, it again seemed to us to be desirable, for the purpose of making it clear to the general public, that we should put in a declaratory proviso, and that we have done to sub-section (1) providing that the powers of investigation would in no way derogate from or reduce the existing privilege. Mr. Speaker, I think it also proper to point out that that privilege is not as wide as many people imagine. It only relates to communications between a lawyer and his client relating to legal matters. Therefore, if a lawyer acts as an estate agent, or a trustee, or a banker for his client, then the communications passing between them in that connection are not privileged. Nevertheless, I think that—I am speaking personally here—and I am sure I am speaking for the substantive Attorney General, we would, indeed any lawyer would, be very slow to advise that it was safe, in cases of doubt, to issue a special power of investigation under this clause.

Mr. Speaker, we go now to clause 11. That was one that caused us a certain amount of difficulty and eventually we came to the conclusion that it really did not help us very much in carrying out our objective of making crime not pay, that there was a possibility that it might create injustice and we rather thought that the existing provisions of the law were sufficient. Therefore we recommended that clause 11 in the original Bill should be revoked and it has been deleted from the Bill. The existing powers of the law, contained in the

[The Minister for Legal Affairs] Indian Evidence Act, provides that a witness is not excused from answering incriminating questions, but that where he is compelled to answer, then that answer will not be held against him in any criminal prosecution except in respect of perjury arising from the evidence which he gave.

Then, Mr. Speaker, we came to what was clause 12 and which has now been deleted from the Bill, and that created a considerable amount of trouble for us too. That clause, as originally drafted, provided that evidence of a custom in trade, showing the payment, lending or receiving of a gift, should not be admissible in evidence. That worried us a great deal, because it seemed to us that there was a possibility, albeit a remote possibility, that this clause might conceivably work injustice. You might have a man in a job, which received some minor gift at Christmas, and that his job all over the world attracted such a gift; there was no question of corruption. Although domestic regulations for nearly all public services lay down that those gifts should not be received, nevertheless we felt that if a man were tried for corruptly receiving that gift, and the burden of proving no corruption but honest intention rested on him, we would possibly be shutting out a legitimate defence if we left clause 12 in the Bill, and so accordingly we deleted.

Mr. Speaker, the next clause to which I think I should refer—my note here is "King Charles's head" that refers to the rule with regard to accomplice's evidence and the requirement for collaboration.

Mr. Speaker, I hope that this is the last lesson on the subject of accomplice's evidence and the requirement of corroboration and I feel rather worried that the last lesson should be given before a General Election, because it would be most discouraging if I find new faces opposite to whom I have to start—that is, the learned Attorney General would have to start—in the new Council in giving new lessons on the subject of the law of accomplice's evidence. That, Mr. Speaker, is an additional reason for hoping that I shall see all the familiar faces back here when the new Council reassembles.

Mr. Speaker, section 133 of the Indian Evidence Act provides as follows, and

I must point out that the Indian Evidence Act is specially applied to Kenya and is the law of Kenya!

"An accomplice shall be a competent witness against an accused person, and a conviction is not illegal merely because it proceeds upon the uncorroborated testimony of an accomplice."

You cannot have a more categorical statement of the law: and that, one would think, would do away with the English rule of practice that an accomplice's evidence is unsafe to proceed to conviction upon unless the court has warned itself of the danger of so doing without corroboration. But, Mr. Speaker, we come back again and again to the explanation which has been given in this Council in respect of this rule, that it is a question of belief, it is a question of credibility. A court is faced with the question of whether it should convict upon the sole evidence of an accomplice; and the court is faced before that with the question: "Have the prosecution proved their case?" Now, it all boils down to a question of credibility: "Do I believe the witness, or not?" Where you have an accomplice it is inevitable that the court should warn itself of the danger that an accomplice may be giving evidence not to help justice but for some ulterior personal motive; and therefore the rule which is followed—and it is a perfectly proper rule and it is a rule created by the Common Law for the protection of the innocent man—is this: A judge must say to himself, "I am prepared to believe this accomplice but because he is an accomplice, then before I do so I must warn myself of the danger of accepting his evidence". If, having warned himself, he says, "In the particular circumstances of this particular case I consider it is safe to accept the uncorroborated testimony of the accomplice" then he can convict and that conviction will be upheld on appeal.

Many people, Mr. Speaker, have, I think, an incorrect view of the rule with regard to an accomplice's evidence. It is not—I repeat it is not—that the court should say to itself, "Because this witness is an accomplice we cannot believe him unless he is corroborated." That is not the rule. It can believe him but it must warn itself of the danger of doing so.

[The Minister for Legal Affairs]

Now, Mr. Speaker, as originally drafted what was clause 13 and is now clause 11 contained three sub-sections—(3), (4) and (5)—which I think were declaratory of the proper rule with regard to accomplice's evidence; and we were worried in the select committee that it might be possible for an inexperienced, possibly an unqualified magistrate, to read more into those three sub-sections than they really merited: he might read into them a direction to accept the uncorroborated evidence of an accomplice and in view of the fact that the rule as to an accomplice's evidence is that I have already stated it seemed to us to be redundant and dangerous to leave those three sub-sections in this clause, and accordingly we recommended their deletion and they have been deleted.

Mr. Speaker, I do not propose to speak any further as to the contents of the Bill; but I should like to thank the hon. Members of the select committee for the great care and attention and for the long meetings they have attended. Mr. Speaker, the select committee was composed of hard-headed businessmen and lawyers. I hope that as a result of our meetings the hard-headed businessmen have learned a little law and that the lawyers have become more hard-headed and business-like.

I reiterate again that our object in considering moving amendments to this Bill was first of all to prevent corruption by making sure that a possible criminal would consider that the chances were not so good after this Bill becomes law, and secondly to ensure that no innocent man was put in danger or jeopardy of conviction by the new procedural and evidential clauses which are in this Bill.

Mr. Speaker, I hope that we have performed our task properly; and again I should like to thank the hon. Members for the very considerable amount of work which they did in the select committee.

Mr. Speaker, I beg to move.

THE ACTING CHIEF SECRETARY (Mr. Griffith-Jones) seconded.

The question was put and carried.

The Prevention of Corruption Bill

THE MINISTER FOR LEGAL AFFAIRS (Mr. Conroy): Mr. Speaker, Sir, I beg

to move that the Prevention of Corruption Bill be now read the Third Time.

THE ACTING CHIEF SECRETARY (Mr. Griffith-Jones) seconded.

Question proposed.

The question was put and carried.

The Bill was accordingly read the Third Time and passed.

COMMITTEE OF WAYS AND MEANS

Order for Committee read. Mr. Speaker (Sir Ferdinand Cavendish-Bentinck) left the Chair.

IN THE COMMITTEE

[D. W. Conroy, Esq., O.B.E., T.D., Q.C., in the Chair]

MOTION

EXPORT DUTY (COFFEE, COTTON AND SISAL FIBRE) (ABOLITION OF DUTY).
ORDER, 1956

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): Mr. Chairman, I beg to move that the Export Duty (Coffee, Cotton and Sisal Fibre) (Abolition of Duty) Order, 1956, be approved.

This completes matters in so far as the Budget proposals are concerned with regard to the abolition of export duty on coffee, cotton and sisal fibres. The Order has been signed by the Secretary of the Council of Ministers, published in the *Official Gazette, Supplement* No. 40, and has to be laid on the Table of Legislative Council, which has been done. Now in accordance with the Ordinance it requires a resolution of the Legislative Council passed within seven days of the Order being laid so that it should be brought into effect.

I do not imagine, Sir, that there will be one dissentient voice raised against this particular measure.

Question proposed.

THE CHAIRMAN (Mr. Conroy): If no other Member wishes to speak, I will put the question.

The question was put and carried.

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): Mr. Chairman, I beg to move that the Committee

[The Minister for Finance and Development] do report to Council its consideration of and adoption of the Resolution without amendment.

Question proposed.

The question was put and carried.

Council resumed.

[Mr. Speaker (Sir Ferdinand Cavendish-Bentlck) in the Chair]

THE MINISTER FOR LEGAL AFFAIRS (Mr. Conroy): Mr. Speaker, Sir, I have to report that the Committee of Ways and Means has considered the Resolution on the Order Paper and approved a Resolution in respect thereof.

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): I beg to move that the Council doth agree with the Committee in the said resolution.

THE ACTING CHIEF SECRETARY (Mr. Griffith-Jones) seconded.

Question proposed.

The question was put and carried.

COMMITTEE OF THE WHOLE COUNCIL

Order for Committee read. Mr. Speaker (Sir Ferdinand Cavendish-Bentlck) left the Chair.

IN THE COMMITTEE

[D. W. Conroy, Esq., O.B.E., T.D., Q.C., in the Chair]

The African Courts (Suspension of Land Suits) Bill, 1956

Clause 1 agreed to.

Clause 2

THE MINISTER FOR AFRICAN AFFAIRS (Mr. Windley): Sir, I beg to move an amendment to clause 2: that clause 2 should be deleted and the following substituted:

"The Minister may by Order apply this Ordinance to any land in the Native Lands, being land to which any Rules, made under the Native Lands Trust Ordinance relating to the tenure of such land as between Africans apply."

This amendment, Sir, has been published before I think, Sir, and I think it is quite clear that it is merely meant to clarify our intention which is that this

Ordinance should be only applied to such areas as the Rules published under the Native Lands Trust Ordinance will be applied to.

Question proposed.

The question was put and carried.

Clause 2, as amended, agreed to.

Clauses 3 to 6 agreed to.

Title and enacting words agreed to.

The Bill, as amended, to be reported.

The Regulation of Wages and Conditions of Employment (Amendment) Bill

Clause 1 agreed to.

Clause 2

MR. ADIE (on behalf of the Minister for Education, Labour and Lands (Mr. Coutts)): Mr. Chairman, I beg to move the following amendment—that clause 2(a) be amended as follows: in the definition of labour inspector add immediately after the words "senior labour inspector" the words "labour inspector".

Question proposed.

The question was put and carried.

Clause 2, as amended, agreed to.

Clauses 3 to 13 agreed to.

Title and enacting words agreed to.

The Bill, as amended, to be reported.

The Immigration Bill, 1956

Clause 1 agreed to.

Clause 2

THE ACTING CHIEF SECRETARY (Mr. Griffith-Jones): Mr. Chairman, I beg to move that clause 2(1) be amended by deleting therefrom the definition of "destitute person". I might just explain, Mr. Chairman, that this amendment is moved as a result of consideration of a point made by the Member for Aberdare, and I shall have a related amendment to move to clause 7(2)(a) which will insert into the latter clause an objective test, and therefore we shall not need this definition of "destitute person" in this clause. The case of the person arriving at a point of entry will be dealt with separately under the regulations by providing, as in the present regulations, for a certain sum to be deposited either in cash or by way of security to cover the cost of repatriation should the need arise.

[The Acting Chief Secretary]

Accordingly, I beg to move this amendment.

Question proposed.

The question was put and carried.

Clause 2, as amended, agreed to.

Clause 3

MR. J. S. PATEL: I wonder whether the hon. Minister will consider the appointment of an advisory board now that they have abolished the Control Board.

THE ACTING CHIEF SECRETARY (Mr. Griffith-Jones): Mr. Chairman, I cannot accept the implication that all the advice that is needed is not available in the Council of Ministers.

Clause 3 agreed to.

Clause 4

THE ACTING CHIEF SECRETARY (Mr. Griffith-Jones): I have three amendments to move to this clause, and I suggest that I move them separately rather than all together.

THE CHAIRMAN (Mr. Conroy): If you please.

THE ACTING CHIEF SECRETARY (Mr. Griffith-Jones): I beg to move that sub-section (1) of clause 4 be amended by substituting for paragraph (b) thereof a new paragraph as follows:

"interrogate any person who desires to enter the Colony or any person whom he has reasonable ground for believing to be a prohibited immigrant, or any person whom he reasonably believes can give material information regarding any such person as aforesaid."

If hon. Members would care to compare this amendment with the original wording in the Bill, they will see that the purpose of this amendment is to remove from the compass of this particular power of interrogation, the investigation of offences. I shall deal with that by a later amendment.

This particular power of interrogation by this amendment will be restricted to the investigation of immigration status, rights and entitlements.

Question proposed.

The question was put and carried.

THE ACTING CHIEF SECRETARY (Mr. Griffith-Jones): Mr. Chairman, I beg to move that sub-section (1) of clause 4 be further amended by substituting for the words "the Principal Immigration Officer" which appear in paragraph (d) in sub-section (1) the words "the Minister for the time being responsible for health".

This amendment is moved as suggested in the debate on the Second Reading in order to meet a suggestion made from the other side of the House that it would be more appropriate if the Minister for Health were to nominate the medical officers who are to carry out these medical examinations at the point of entry.

Question proposed.

The question was put and carried.

THE ACTING CHIEF SECRETARY (Mr. Griffith-Jones): Mr. Chairman, I beg to move that clause 4 be further amended by substituting for sub-section (5) a new sub-section as follows:

"5 (a) All answers to questions lawfully put in interrogation under paragraph (b) of sub-section (1) of this section, and all documents produced on requisition under sub-section (3) of this section, shall be admissible in evidence, in relation to any matter arising under or connected with this Ordinance or any regulations made thereunder, in any proceedings to which this sub-section applies.

(b) This sub-section shall apply to—

- (i) any civil proceedings;
- (ii) any criminal proceedings in respect of an offence against sub-section (4) of this section; and
- (iii) any proceedings under section 388 or 389 of the Criminal Procedure Code.

(c) Nothing in this sub-section shall be construed as rendering any such answer or document inadmissible in evidence in any proceedings in which they would otherwise be admissible."

Now, Sir, the purpose of this amendment, which is related to the amendment to paragraph (b) of sub-section (1) of clause 4 which I have already moved, is to ensure that where under paragraph (b) of sub-section (1) a person is interrogated in relation to immigration status, he being compelled under sub-section (4) to speak the truth under penal sanctions,

[The Acting Chief Secretary] his answers and any documents that he may be called upon to produce shall be admissible in civil proceedings, in criminal proceedings under sub-section (4) (which would relate to the truth or otherwise of those particular answers or to the validity of the document which he had produced) and in proceedings under section 388 or 389 of the Criminal Procedure Code. Those two sections of the Criminal Procedure Code relate to proceedings for directions in the nature of habeas corpus and other writs in the nature of prerogative writs—and I include that category in addition to civil proceedings because it has been held in this country that the fact that that particular jurisdiction of the Supreme Court is prescribed in the Criminal Procedure Code means, or is construed to mean, that it forms part of the criminal jurisdiction of the court even though of course it is not of the nature of a prosecution.

Question proposed.

The question was put and carried.

THE ACTING CHIEF SECRETARY (Mr. Griffith-Jones): Mr. Chairman, I beg to move that clause 4 be further amended by adding thereto a new sub-section, as follows:

"(6) An immigration officer investigating any offence or alleged or suspected offence against this Ordinance or any regulations made thereunder shall have all the powers, privileges, protections and authorities conferred by law on a police officer for and in relation to the investigation of offences."

This is the last part of the exercise of amendment of this particular clause, and follows what I understood to be the proposals from the other side on the Second Reading in regard to criminal investigations—that immigration officers should have the same powers as police officers—and that is what this new sub-section provides. I will just recapitulate, to make it quite clear to my hon. friends opposite, that the effect of these amendments in regard to criminal investigations is that immigration officers will have the same powers of investigation as police officers; they will have the special powers under clause 4 (1) (b) of interrogation in regard to purely immigration

matters, not criminal offences; and in regard to those special powers of interrogation and the related powers to require the production of documents, the answers given in interrogation will have to be true and the answers so given and the documents so produced on requisition will be admissible in civil proceedings, in proceedings for prerogative writs and in criminal proceedings under sub-section (4) of the clause, that is to say in respect of the truth of the answer or document itself. In other criminal proceedings the admissibility or otherwise of the answers to interrogation and of documents produced will be decided by the normal rules of evidence in criminal proceedings.

Question proposed.

The question was put and carried.

Clause 4, as amended, agreed to.

Clause 5, agreed to.

Clause 6

THE ACTING CHIEF SECRETARY (Mr. Griffith-Jones): Mr. Chairman, I have a number of amendments to move, and again, with your permission, I will move them in turn and not altogether.

I beg to move first that clause 6 be amended by substituting for the words "he is, in the opinion of the Principal Immigration Officer" which appear in paragraph (b) of sub-section (3) thereof, the words: "the Principal Immigration Officer is satisfied on reasonable grounds that he is".

This follows an undertaking which I gave on the Second Reading to make the criterion in regard to addiction to drugs, habits of intemperance and conduct involving moral turpitude, as they affect eligibility for resident's certificates, more clearly susceptible of judicial enquiry on appeal to the Supreme Court.

Question proposed.

The question was put and carried.

THE ACTING CHIEF SECRETARY (Mr. Griffith-Jones): Mr. Chairman, I beg to move that clause 6 be further amended by inserting the words "by reason of his being a risk to the security of the Colony" immediately after the words "the Minister deems such person to be not so entitled as aforesaid" which appear in sub-section (5) thereof.

[The Acting Chief Secretary]

This relates, as Members will recall, to the power of the Minister to issue a certificate that a person is not of sufficiently good character to qualify for a resident's certificate where the grounds for that opinion affect security and are not such as it is in the public interest to disclose. The purpose of this amendment is to limit that certificate to the ground of security and not to any other ground of bad character.

Question proposed.

The question was put and carried.

THE ACTING CHIEF SECRETARY (Mr. Griffith-Jones): I beg to move that clause 6 be further amended by substituting for the words "long association with and substantial economic interests in the Colony", which appear in sub-section (8) thereof, the words "long association with or substantial economic interests in the Colony". This meets the point raised by my hon. friend, the Member for Ukamba.

Question proposed.

The question was put and carried.

THE ACTING CHIEF SECRETARY (Mr. Griffith-Jones): Mr. Chairman, I beg to move that clause 6 be further and finally amended by substituting the following for the first five lines of sub-section 10 thereof, as printed:

"Where a certificate of permanent residence was issued under the provisions of the Immigration (Control) Ordinance (now repealed) or any regulations made thereunder—

(a) at any time before the commencement of this Ordinance to a person born in the Colony; or

(b) on application made in that behalf before the 26th day of June, 1956, to a person not born in the Colony,

and the period of validity of such

I apologise for the abrupt ending—it is merely to reflect the end of the line.

I have, I think, explained this. The purpose of this amendment is to provide, in effect, that whereas, in general, certificates of permanent residence under the existing law will lapse on the commencement of the new Ordinance unless they were applied for before 26th June, which was the date of publication of

this Bill, under this amendment certificates of permanent residence obtained by persons who were born in the Colony will be preserved and adopted under this new Bill, whenever they were applied for or obtained, provided they are still valid.

Question proposed.

The question was put and carried.

SIR CHARLES MARKHAM: Mr. Chairman, could I raise a matter on clause 6, sub-clause 9. We were told yesterday that this was to prevent forgeries. I looked up my file this morning and I found that for income tax purposes in England, you have got to produce a resident's certificate. I have had to do that myself—get a letter from the Immigration to say that I was a resident of Kenya, for income tax purposes in England. This particular sub-section now prohibits that.

THE ACTING CHIEF SECRETARY (Mr. Griffith-Jones): No, it will not do that, because the letter which the Principal Immigration Officer or the Immigration Department issues for those purposes would not be, technically, a resident's certificate.

SIR CHARLES MARKHAM: Thank you.

Clause 6, as amended, agreed to.

Clause 7

THE ACTING CHIEF SECRETARY (Mr. Griffith-Jones): Mr. Chairman, I beg to move two amendments, but as they are short, perhaps, with your permission, I may move them both together. I beg to move that sub-section (2) of clause 7 be amended by substituting for paragraph (a) thereof a new paragraph as follows: "(a) any person who is incapable of supporting himself or his dependants"; and by substituting for the words "other than" which appear in the second line of paragraph (d) therein, the word "including". The first of these amendments follows upon the deletion from clause 2 of the Bill of the definition of "destitute person" and is designed to import into this clause the objective test whether the individual is, in fact, capable of supporting himself or his dependants. As I explained when we were dealing with clause 2, when I fear the hon. Member for Aberdare was absent, I propose to arrange for the difficulties that may arise at points of entry (where immigration officers have to decide whether a person is destitute or

[The Acting Chief Secretary] not) by providing in the regulations that that decision at the point of entry will be, as it is in practice, related to the question whether or not the individual is able to make a deposit, whether in cash or by way of bond or other security, to cover the prescribed amount which may be necessary to defray the cost of repatriation.

Question proposed.

The question was put and carried.

Clause 7, as amended, agreed to.

Clause 8 agreed to.

Clause 9

THE ACTING CHIEF SECRETARY (Mr. Griffith-Jones): Mr. Chairman, I beg to move that clause 9 be amended, first by substituting for sub-section (1) thereof a new sub-section as follows:

"(1) No person to whom this section applies shall enter the Colony unless he is in possession of—

(a) a resident's certificate; or

(b) an entry permit; or

(c) a pass; or

(d) a certificate of exemption."

And, secondly, that the following shall be substituted for the first line of sub-section (2) thereof—

"(2) Without prejudice to the provisions of section 7 of this Ordinance this section shall apply to every person other than—"

Now, the purpose of these amendments, Mr. Chairman, is, first, to delete from sub-section 1 the reference to production of passports, since that is already provided for in clause 7 (2) (f), and to include a reference to certificates of exemption which authorise a person to enter the Colony; and, secondly, by qualifying sub-section (2), to ensure that persons who are exempted from the restrictions of sub-section (1), nevertheless have got to produce a passport on entering the Colony, even though they may not have to have a pass or other immigration authority.

Question proposed.

The question was put and carried.

Clause 9, as amended, agreed to.

Clause 10

THE ACTING CHIEF SECRETARY (Mr. Griffith-Jones): Mr. Chairman, I beg to move that paragraph (a) in sub-section (3) of clause 10 be amended by inserting the words "without the written approval of the Principal Immigration Officer" immediately after the words "such person fails".

I introduce this amendment at the request of some of the Members on the other side of Council to ensure that there is no hardship to a person entering on an entry permit who, owing to some cause beyond his control—illness—he might break a leg or something—is unable to take up the employment or other occupation for which he has been granted an entry permit. Provided he gets the sanction of the immigration officer, he will not lose his entry permit.

Question proposed.

The question was put and carried.

Clause 10, as amended, agreed to.

Clauses 11 to 13 agreed to.

Clause 14

THE ACTING CHIEF SECRETARY (Mr. Griffith-Jones): Mr. Chairman, I beg to move that clause 14 be amended by substituting for the words "No action or other legal proceedings whatsoever, whether civil or criminal" appearing therein, the words "No suit or other legal proceedings for damages".

This, on consideration, has been found to be the most convenient and suitable means of meeting the point made by my hon. friend, the Member for Aberdare, to ensure that proceedings for habeas corpus are not excluded by this indemnity. As I explained in the debate yesterday, the purpose of this clause is to avoid claims for damages in respect of acts done in good faith in the administration of this Ordinance, and I think, therefore, that we should make quite sure that the indemnity does not extend too far or beyond the extent which is required. This new wording, with its express reference to suits or proceedings for damages, is more suitable than a second sub-section as I had contemplated originally.

Question proposed.

The question was put and carried.

Clause 14, as amended, agreed to.

Clause 15

THE ACTING CHIEF SECRETARY (Mr. Griffith-Jones): Mr. Chairman, I beg to move that sub-section (1) of clause 15 be amended by deleting the words "or to have acted in contravention of the provisions of this Ordinance or of any regulations made thereunder" which appear in paragraph (f) therein.

This amendment is designed to limit the offence of harbouring under this Ordinance to the harbouring of a person whom the harbourer knows, or has reason to believe, is a person whose presence in the Colony is unlawful, and to exclude from the scope of that offence the harbouring of a person known, or believed, to have acted otherwise in contravention of the provisions of the Ordinance or any regulations made thereunder.

Question proposed.

The question was put and carried.

Clause 15, as amended, agreed to.

Clauses 16 to 19 agreed to.

First Schedule

THE ACTING CHIEF SECRETARY (Mr. Griffith-Jones): Mr. Chairman, I beg to move that the First Schedule be amended in the first place by substituting the words "10 years out of the 16 years" for the words "14 years out of the 20 years" which appear in item 2; and, in the second place, by substituting for items 5 and 6 thereof a new item as follows:

"5. The wife, or the child born in Tanganyika, Uganda or Zanzibar, of any person falling within paragraph 4 of this Schedule, who is of good character and has been lawfully resident in the Colony for an aggregate period of not less than 4 years out of the 10 years immediately preceding the date of her or his application for a resident's certificate, and has been resident in any of the East African territories during the whole of such period of 10 years."

The first of these amendments, Mr. Chairman, is in response to representations made from the other side of the Council, and the effect of it is to provide that a person resident 10 years out of 16 can obtain a resident's certificate valid for the life of the holder. That would ordinarily succeed a resident's certificate

obtained under item 3, for which the qualification is half—that is to say, five years out of eight, and for which the period of validity is limited to 10 years from the date of issue.

The second amendment—the combination of paragraphs 5 and 6 into one—was, as I have already explained, intended originally—before publication of the Bill. Owing to an error, however, the earlier draft—with two items—was included in the published edition. The new clause 5 will therefore deal with the case of the wife and the child—the child being born in Tanganyika, Uganda or Zanzibar of a person falling within the provisions of category 4 of the Schedule, which is one which relates to a person being in East Africa for ten years—in the Colony for an aggregate period of four out of ten—and is designed to cover the case of a person employed or engaged in an occupation which involves transfer and movement within East Africa.

Question proposed.

The question was put and carried.

The First Schedule, as amended, agreed to.

Second Schedule agreed to.

Title and enacting words agreed to.

THE ACTING CHIEF SECRETARY (Mr. Griffith-Jones): Mr. Chairman, I beg to move that the committee do report to Council its consideration of the following Bills, clause by clause, and its approval thereof, in each case with amendment—

First: The African Courts (Suspension of Land Suits) Bill.

Secondly: The Regulation of Wages and Conditions of Employment (Amendment) Bill.

Thirdly: The Immigration Bill.

Question proposed.

The question was put and carried.

Council resumed.

[Mr. Speaker (Sir Ferdinand Cavendish-Bentinck) in the Chair]

REPORT

THE MINISTER FOR LEGAL AFFAIRS (Mr. Conroy): Mr. Speaker, Sir, I beg to report that a Committee of the whole Council has gone through the African

[The Minister for Legal Affairs]
Courts (Suspension of Land Suits) Bill, 1956, and has directed me to report the same, with amendments.

Report ordered to be considered to-morrow.

REPORT

THE MINISTER FOR LEGAL AFFAIRS (Mr. Conroy): Mr. Speaker, I beg to report that a Committee of the whole Council has gone through the Regulation of Wages and Conditions of Employment (Amendment) Bill, 1956, and made amendments thereto.

Report ordered to be considered to-morrow.

REPORT

THE MINISTER FOR LEGAL AFFAIRS (Mr. Conroy): Mr. Speaker, I beg to report that a Committee of the whole Council has gone through the Immigration Bill, 1956, clause by clause, and has directed me to report the same, with amendments.

Report ordered to be considered to-morrow.

ADJOURNMENT

THE SPEAKER (Sir Ferdinand Cavendish-Bentinck): That concludes the business on the Order Paper. Council will stand adjourned until 2.30 p.m. on Tuesday next, 24th July, 1956.

Council rose at seven minutes past Eleven o'clock.

Tuesday, 24th July, 1956

The Council met at thirty minutes past Two o'clock.

[Mr. Speaker (Sir Ferdinand Cavendish-Bentinck) in the Chair]

PRAYERS

ADMINISTRATION OF OATH

The Oath of Allegiance was administered to the following Member:

Mr. Edward-Walter-Moyle Magor.

PAPERS LAID

The following Papers were laid on the Table:

The Colonial Office Report on the Colony and Protectorate of Kenya for the year 1955.

(BY THE ACTING CHIEF SECRETARY (Mr. Griffith-Jones))

The Land and Agricultural Bank of Kenya Annual Report, 1955.

(BY THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey))

The Labour Department Annual Report, 1955.

The Report of the Select Committee appointed by Legislative Council to consider and report on the situation with regard to Domestic Labour.

The Education (Issue of Teachers' Certificates in Schools for Africans) Rules, 1956.

(BY THE MINISTER FOR EDUCATION, LABOUR AND LANDS (Mr. Adie, on behalf of the Minister for Education, Labour and Lands (Mr. Coutts))

MINISTERIAL EXPLANATION

SUPPLEMENTARY ESTIMATES No. 3 OF 1955/56

THE ACTING CHIEF SECRETARY (Mr. Griffith-Jones): With your permission, Sir, I would like to make a statement.

In the course of the proceedings in relation to Supplementary Estimates No. 3 of 1955/56 in the Committee of Supply on 12th June, reference was made to Capricorn Film Productions Limited. The Chief Secretary referred to that Company's failure by reason of incompetence and to the over-optimistic assessment which the Government had made of the qualifications and achievements of two unnamed gentlemen connected with the Company.

[The Acting Chief Secretary]

My attention has been drawn to the possibility that these references might have been misconstrued as references to the two directors who had been nominated to the Board of the Company by the Industrial Management Corporation. The Chief Secretary had, earlier in the proceedings, mentioned those two directors.

The proceedings were reported in the Press and in order to dispel any misunderstanding I wish to make it quite clear that the Chief Secretary's references to inexperience and incompetence and the over-assessment of the qualifications and achievements of two gentlemen connected with the Company were not intended to relate in any way to the two directors nominated by the Industrial Management Corporation. These two directors made every endeavour to ensure that the Company's affairs, both before and after the Receiver was appointed, were conducted on business-like lines and the failure of the Company was in no way attributable to them.

On behalf of the Chief Secretary I wish to express regret for any embarrassment that may have been caused to them as a result of his remarks and of any unintended construction reflecting adversely on them that may have been placed on those remarks.

BILLS

CONSIDERATION OF SELECT COMMITTEE REPORTS

The African Courts (Suspension of Land Suits) Bill

THE MINISTER FOR AFRICAN AFFAIRS (Mr. Windley): Mr. Speaker, Sir, I beg to move that the African Courts (Suspension of Land Suits) Bill as amended be considered and that the Report of the Committee be agreed.

THE ACTING CHIEF SECRETARY (Mr. Griffith-Jones) seconded.

Question proposed.

The question was put and carried.

THE MINISTER FOR AFRICAN AFFAIRS (Mr. Windley): Mr. Speaker, Sir, I beg to move that the African Courts (Suspension of Land Suits) Bill be now read the Third Time.

THE ACTING CHIEF SECRETARY (Mr. Griffith-Jones) seconded.

Question proposed.

The question was put and carried.
The Bill was accordingly read the Third Time and passed.

The Regulation of Wages and Conditions of Employment (Amendment) Bill

MR. ADIE (on behalf of the Minister for Education, Labour and Lands (Mr. Coutts)): Mr. Speaker, Sir, I beg to move that the Regulation of Wages and Conditions of Employment (Amendment) Bill, 1956, as amended, be considered and that the Report of the Committee be agreed.

THE PARLIAMENTARY SECRETARY FOR EDUCATION, LABOUR AND LANDS (Mr. Wanyutu Waweru) seconded.

Question proposed.

The question was put and carried.

MR. ADIE (on behalf of the Minister for Education, Labour and Lands (Mr. Coutts)): Mr. Speaker, Sir, I beg to move that the Regulation of Wages and Conditions of Employment (Amendment) Bill, 1956, be now read the Third Time.

THE PARLIAMENTARY SECRETARY FOR EDUCATION, LABOUR AND LANDS (Mr. Wanyutu Waweru) seconded.

Question proposed.

The question was put and carried.

The Bill was accordingly read the Third Time and passed.

The Immigration Bill

THE ACTING CHIEF SECRETARY (Mr. Griffith-Jones): Mr. Speaker, Sir I beg to move that the Immigration Bill, 1956, as amended, be considered and the Report of the Committee thereon agreed.

MR. WEBB seconded.

Question proposed.

The question was put and carried.

THE ACTING CHIEF SECRETARY (Mr. Griffith-Jones): Mr. Speaker, Sir, I beg to move that the Immigration Bill, 1956, be now read the third time.

MR. WEBB seconded.

Question proposed.

The question was put and carried.

The Bill was accordingly read the Third Time and passed.

COMMITTEE OF THE WHOLE COUNCIL

IN THE COMMITTEE

[D. W. Conroy, Esq., O.B.E., T.D., Q.C. in the Chair]

The Legislative Council (African Representation Amendment) Bill

Clauses 1 to 11 agreed to.

Title and enacting words agreed to.

The Bill to be reported without amendment.

THE ACTING CHIEF SECRETARY (Mr. Griffith-Jones): Mr. Speaker, I beg to move that the Committee do report to Council its consideration of the Legislative Council (African Representation) (Amendment) Bill and its approval thereof without amendment.

Question proposed.

The question was put and carried.

Council resumed.

[Mr. Speaker (Sir Ferdinand Cavendish-Bentinck) in the Chair]

THE MINISTER FOR LEGAL AFFAIRS (Mr. Conroy): Mr. Speaker, Sir, I beg to report that a Committee of the whole Council has gone through the Legislative Council (African Representation) (Amendment) Bill, 1956, and has directed me to report the same without amendment.

THE MINISTER FOR AFRICAN AFFAIRS (Mr. Windley) seconded.

THE MINISTER FOR AFRICAN AFFAIRS (Mr. Windley): Mr. Speaker, Sir, I beg to move that the Legislative Council (African Representation) (Amendment) Bill be now read the third time.

Question proposed.

The question was put and carried.

The Bill was accordingly read the Third Time and passed.

MOTION

EMOLUMENTS OF MEMBERS: SELECT COMMITTEE REPORT

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): Mr. Speaker, I beg to move—

That the Report of the Select Committee set up to consider the emoluments of Members of Legislative Council be adopted.

Sir, it gives me very great pleasure to move this particular Motion. It takes me back, Sir, to those very happy days when I sat on the other side of this Council and had the honour and privilege of being the Chairman of the Unofficial Members Organisation and the

Chairman of the European Elected Members Organisation.

MR. COOKE (Coast): You may be so again!

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): However, we were firmly convinced that we were all of us underpaid, even in those days. But we all of us decided that it would be most undignified if we were to move an increase in our own salaries, so we all of us decided that the best thing to do was to consider the matter towards the end of the Council and then confer whatever blessings there were to be conferred upon our successors. Unfortunately, Sir, although we came up to the hurdle we did not quite jump it and thus this Legislative Council has had to go on with the old rate of pay which was fixed in 1948 and which has remained unchanged since those days despite our changing circumstances.

I am very glad to see, Sir, that this Council has, however, had regard to this matter, though it has again wisely decided that it will move no increase in its own salaries but will confer whatever blessings are to be conferred upon its, his, her or their successors.

The principle of payment, Sir, is one that has been accepted and I think needs no stressing. Your Committee paid attention to the position in many other Legislative Councils and many other Parliaments. It recognised, of course, firstly, Sir, that a Member of Legislative Council—to quote the words and principles which are quoted in paragraph 10 of the report as laid down by Earl Lloyd George in 1911, "Salaries which are the remuneration of Members should be sufficient to enable a Member to maintain himself comfortably and honourably but not luxuriously. A Member should be allowed his expenses wholly, necessarily and exclusively incurred in the performance of his duties". Your Committee has said Sir, "We are of opinion that Legislative Council should ensure that the emoluments of its Members are based on these principles".

In paragraph 11 (c) of the report, when dealing with the question of subsistence allowance, your Committee says, "We have already noted that with the growth of the work of Members there

[The Minister for Finance and Development]

has been a serious encroachment upon their earning capacity. Legislative and political duties by their very nature make the regular pursuit of a profession, commercial or other remunerative occupation difficult, if not impossible. We believe that the duties and responsibilities of Members will increase rather than otherwise in the future. It is equally true that this growth in the work of Members has involved them in additional expenditure of a kind which if incurred in any other employment would probably be reimbursed by the employer". I would say, Sir, that the word "probably" there shows the modesty with which your Committee approached this particular problem.

In this connection we probably cannot do any better than to quote the words of Sir Winston Churchill, the then Prime Minister, spoken in the House of Commons on the 8th July, 1954, "In most cases, no doubt, the most important item is subsistence. The extra costs of living which are incurred by attendance at Westminster: for most honourable Members this means not only being obliged to take many more meals away from home than most other people but incurring also the much more significant cost of residence in two places". These considerations apply also to Members of Legislative Council.

Having now had, Sir, some ten years of experience of this Council, I think I can say without fear of contradiction that the duties and responsibilities of Members have increased tremendously. For whereas in the old days one could reckon that Legislative Council and its Committees would occupy something, probably like 60 or 70 days being taken up in one's working year, I think it is correct to say now that very few Members of this Legislative Council find themselves free one day out of two from the work which is to be carried on in connection with this Council: particularly for Members who live at a distance has that added to the burden of representing the people—the financial burden, and I am not speaking about the burden which is so very obvious at the present moment. Sir, it has become—and I think we all agree on this—imperative that there should be some increase in the level of the remuneration.

If we look back, Sir, at the present salary levels which are set out in the report, we will find that there is a basic allowance of £300 and an attendance allowance of £3 a day. That means, indeed, that the average Member of this Council, for his work in this Council has been drawing between £600 and £800 a year according to the number of committees on which he has served and acted. If, Sir, he has no private means the sacrifice that the individual Member has had to make in order to represent the people who have chosen him or elected him will be fairly obvious. Therefore, I can say, Sir, that the Government is whole-heartedly in support of and welcomes the proposals which have been put forward by this Committee in so far as the basic salaries and general allowances are concerned. It might be of interest, Sir, to know that for instance in the Parliament of South Africa they have only recently had to increase their remuneration by adding £3 a day tax-free allowance, which means £450 a year addition, and the basic salary of the Member there, for instance, is £1,400 of which half is statutorily tax free. Now, your Committee did consider at one time this principle of a tax-free allowance but did not feel, Sir, inclined to go forward with it at the present moment.

Therefore, Sir, I think that the principle is something which will be accepted by every Member of this Council. I believe the amounts that are put forward by the Committee are reasonable, but they will of course, if the report is adopted, have to be placed in an Ordinance—a Bill—which can be put before the new Legislative Council and debated in detail by the new Legislative Council, I think, Sir, it will be sufficient to say at this stage, therefore, as a Council, that we recommend to our successors whoever they may be that the remuneration of Members of Legislative Council should be considered on the lines set out by the Committee, and that they should be instituted in a Bill to be placed before this Council so that in future the salaries and allowances are fixed by Ordinance.

There is only one other point, Sir, and that is the question of a reference here with regard to the salaries of Ministers and Parliamentary Secretaries. We, of course, on the front bench of this side, have for long agreed with our

[The Minister for Finance and Development]

colleagues on the other side that we are grossly underpaid; but we, like they, Sir, have been very reluctant to put anything forward. What, of course, we are doing now, Sir, is to accept their suggestion merely that the salaries of Ministers and Parliamentary Secretaries should be similarly fixed by Council by Ordinance, so that they too will appear as a matter of political responsibility expressed in a statutory manner.

Sir, I beg to move.

THE ACTING CHIEF SECRETARY (Mr. Griffith-Jones) seconded.

Question proposed.

The question was put and carried.

VALEDICTION

THE ACTING CHIEF SECRETARY (Mr. Griffith-Jones): Mr. Speaker, Sir, we have now reached not only the final stage of the present Council, but what I might describe as the ante-post stage of the next.

There are three declared non-starters. If I may mention them in turn and, perhaps, with your permission, Sir, this is an occasion for personal reference rather than the periphrasis to which we are accustomed; the first is, by seniority of age, our friend Col. Grogan, "Groggs" to all of us; and may I say, Sir, that we shall miss very greatly his ready and pungent wit and that we shall be the poorer in this Council without the breadth and majesty of his vocabulary. I think that if we do have further income tax debates in the new Council they will without Col. Grogan be very dull affairs. However, although we shall lose him from this Council, we shall still have him, and the advantage of his very long experience and the sagacity of his years in the Colony.

The next non-starter is our friend, Mr. A. B. Patel. He leaves us despite the efforts of people of all shades of opinion, of all races and creeds, to dissuade him; he leaves us to embark on a very noble purpose which I understand to be the study of means of improvement of the human race. I trust that it is not only as a result of his experiences in this Council that he has felt this call to what I might describe as a mission. May

I say it, Sir, in speaking of Mr. A. B. Patel—and I know I say it for all my ministerial colleagues on this side of the Council—what a very great regard we entertain for him and what a very great affection we have built up for him in the period during which we have been privileged to have him among our number. And may I also, on behalf of the Council, wish him the very best of good fortune and success in the field of endeavour to which he proposes to translate himself.

Thirdly, Mr. Letcher, Sir, has not been with us as long—indeed, he has been with us a fraction of the time that the other two gentlemen have served in this Council. Nevertheless, we shall miss his stolid and down-to-earth participation in our proceedings which, I am sure he will forgive me for saying, have had the great merit of brevity.

Sir, to those three gentlemen, we extend our best wishes. For the remainder, Sir, as I say, we are in the ante-post stage of the next Council, and I think that most people would prefer to have their bets at starting prices. May I, Sir, on behalf of those of us who are not about to embark on the particular lottery on which they are about to embark, wish them the best of luck and with that impartiality which one has to maintain on this side of the Council also wish their opponents the best of luck.

ADJOURNMENT

THE SPEAKER (Sir Ferdinand Cavendish-Bentinck): That brings us to the end of the business on the Order Paper.

Before adjourning Council I would like to express my personal thanks to all Members of the Council for the consideration which they have always shown to the Chair which has made my task very much easier.

THE ACTING CHIEF SECRETARY (Mr. Griffith-Jones): May I say, Sir, on behalf of the House that that consideration has been very freely given by reason of the great patience and courtesy with which you, Sir, have always heard our sometimes rather poor efforts.

THE SPEAKER (Sir Ferdinand Cavendish-Bentinck): The Council will now stand adjourned *sine die*.

Council rose at five minutes past Three o'clock.

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COLONY AND PROTECTORATE OF KENYA

LEGISLATIVE COUNCIL DEBATES

OFFICIAL REPORT

11th COUNCIL INAUGURATED
OCTOBER, 1956

VOLUME LXXI

1956

FIRST SESSION—FIRST MEETING
15th October, 1956, to 13th December, 1956

List of Members of the Legislative Council

President:

H.E. THE GOVERNOR, SIR EVELYN BARING, G.C.M.G., K.C.V.O.

Speaker:

THE HON. SIR FERDINAND CAVENDISH-BENTINCK, K.B.E., C.M.G., M.C.

**Chairman of Committees:*

THE HON. D. W. CONROY, O.B.E., T.D., Q.C.

Ministers:

CHIEF SECRETARY (THE HON. R. G. TURNBULL, C.M.G.)

MINISTER FOR LEGAL AFFAIRS (THE HON. E. N. GRIFFITH-JONES, Q.C.)

MINISTER FOR FINANCE AND DEVELOPMENT (THE HON. E. A. VASEY, C.M.G.)

MINISTER FOR AFRICAN AFFAIRS (THE HON. E. H. WINDLEY, C.M.G.)

MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (THE HON. M. BLUNDELL, M.B.E.)

MINISTER FOR INTERNAL SECURITY AND DEFENCE (THE HON. J. W. CUSACK, O.B.E.)

MINISTER FOR LOCAL GOVERNMENT, HEALTH AND HOUSING (THE HON. W. B. HAVELOCK)

MINISTER FOR EDUCATION, LABOUR AND LANDS (THE HON. W. F. COUTTS, C.M.G., M.B.E.)

MINISTER FOR FOREST DEVELOPMENT, GAME AND FISHERIES (THE HON. D. L. BLUNT, C.M.G.)

MINISTER FOR COMMERCE AND INDUSTRY (THE HON. A. HOPE-JONES, C.M.G.)

MINISTER FOR WORKS (THE HON. I. E. NATHOO)

MINISTER FOR COMMUNITY DEVELOPMENT (THE HON. B. A. OHANGA)

EUROPEAN MINISTER WITHOUT PORTFOLIO (GROUP CAPTAIN THE HON. L. R. BRIGGS)

ASIAN MINISTER WITHOUT PORTFOLIO (THE HON. C. B. MADAN)

Parliamentary Secretaries:

PARLIAMENTARY SECRETARY TO THE MINISTER FOR LOCAL GOVERNMENT, HEALTH AND HOUSING (THE HON. J. JEREMIAH)

PARLIAMENTARY SECRETARY TO THE MINISTER FOR EDUCATION, LABOUR AND LANDS (THE HON. WANYUTU WAWERU)

PARLIAMENTARY SECRETARY TO THE MINISTER FOR FOREST DEVELOPMENT, GAME AND FISHERIES (THE HON. SHEIKH MOHAMED ALI SAID EL MANDRY)

Nominated Members:

THE HON. T. F. ANDERSON, O.B.E., M.D. (Director of Medical Services)

*THE HON. D. W. CONROY, O.B.E., T.D., Q.C. (Solicitor-General)

THE HON. M. H. COWIE (Director of the Royal National Parks)

CAPT. THE HON. C. W. G. HAMLEY, O.B.E., R.N. (RET.)

THE HON. SHEIKH MBARAK ALI HINAWY, O.B.E. (Liwali of the Coast)

THE HON. R. E. LUYT, D.C.M. (Commissioner for Labour)

THE HON. K. W. S. MACKENZIE (Secretary to the Treasury)

THE HON. JONATHAN NZIOKA

THE HON. SIR EBOO PIRIBHAI, O.B.E.

THE HON. J. L. RIDDOCH, O.B.E.

THE HON. M. F. L. ROBINSON

THE HON. R. J. M. SWYNNERTON, O.B.E., M.C. (Director of Agriculture)

THE HON. G. A. TYSON, C.M.G.

THE HON. W. J. D. WADLEY (Director of Education)

†THE HON. WANYUTU WAWERU

THE HON. KIRPAL SINGH SAGOO

* Chairman of Committees—also Nominated Member.

† Also included in list of Ministers or Parliamentary Secretaries.

LIST OF MEMBERS OF THE LEGISLATIVE COUNCIL—(Contd.)

European-Elected Members:

*THE HON. R. S. ALEXANDER (Nairobi West).
 †THE HON. M. BLUNDELL, M.B.E. (Rift Valley).
 †GROUP CAPTAIN THE HON. L. R. BRIGGS (Mount Kenya).
 THE HON. S. V. COOKE (Coast).
 THE HON. W. E. CROSSKILL (Mau).
 LT.-COL. THE HON. S. G. GHERSIE, O.B.E. (Nairobi North).
 THE HON. N. F. HARRIS (Nairobi South).
 †THE HON. W. B. HAVELOCK (Kiambu).
 THE HON. MRS. E. D. HUGHES, M.B.E. (Uasin Gishu).
 THE HON. SIR CHARLES MARKHAM, BT. (Ukamba).
 THE HON. J. R. MAXWELL, C.M.G. (Trans-Nzola).
 THE HON. MRS. A. R. SHAW (Nyanza).
 †THE HON. H. SLADE (Aberdare).
 THE HON. C. G. USHER, M.C. (Mombasa).

Asian-Elected Members:

Central Electoral Area: *East Electoral Area:*
 †THE HON. C. B. MADAN. †THE HON. S. G. HASSAN, M.B.E.
 THE HON. N. S. MANGAT, Q.C.

Eastern Electoral Area: *West Electoral Area:*
 THE HON. A. J. PANDYA. †THE HON. T. E. NATHOO.

Western Electoral Area:
 THE HON. J. C. M. NAZARETH, Q.C.

Arab-Elected Member:

THE HON. SHEIKH MAHMOOD S. MACKAWI

Representative Members:

African: *Arab:*
 THE HON. W. W. W. AWORI. †THE HON. SHEIKH MOHAMED
 THE HON. F. F. ARAP CIUMUAI. ALI SAID EL MANDRY.
 THE HON. M. GIKONYO.
 †THE HON. J. JEREMIAH.
 THE HON. E. W. MATHIU.
 THE HON. D. T. ARAP MOL.
 †THE HON. B. A. OIANGA.
 THE HON. J. NZAU.

Clerk of the Council:

A. W. PURVIS.

Clerk Assistant:

H. THOMAS.

Reporters:

MRS. I. V. HOLMES,
 MISS S. RIDDICK.

MRS. J. MASTERS,
 MISS E. D. ROBERTS.

Editor:

MRS. E. TUNSTALL.

* Col. the Hon. R. D. C. Wilcock: Acting Member from 13th November, 1956.
 † Also included in list of Ministers or Parliamentary Secretaries.
 ‡ The Hon. Mr. A. M. Christopher: Acting Member from 15th October, 1956,
 to 11th December, 1956.



COLONY AND PROTECTORATE OF KENYA

LEGISLATIVE COUNCIL DEBATES

ELEVENTH COUNCIL

FIRST SESSION—FIRST MEETING

Monday, 15th October, 1956

Council assembled in Parliament Buildings, Nairobi, on Monday, the 15th October, 1956, at Four o'clock.

[His Excellency the Governor in the Chair]

PRAYERS

Prayers were read by the Bishop of Mombasa.

APPOINTMENT OF SPEAKER

HIS EXCELLENCY THE GOVERNOR: Hon. Members, I have come among you in order to announce to you that in accordance with the powers vested in me under the Royal Instructions, I have great pleasure in reappointing Sir Ferdinand William Cavendish-Bentinck to be your Speaker. (Applause.)

(The Chief Secretary and Mr. S. V. Cooke conducted Sir Ferdinand Cavendish-Bentinck to His Excellency and introduced him. The Oath of Allegiance was administered to the Speaker by His Excellency the Governor.)

APPOINTMENT OF CHAIRMAN OF COMMITTEES

HIS EXCELLENCY THE GOVERNOR: Hon. Members, I announce to you that in accordance with the provisions of the Royal Instructions, as amplified by the Standing Orders, I have pleasure in appointing Mr. Diarmaid William Conroy to be Chairman of Committees. (Applause.)

(The Clerk conducted Mr. Diarmaid William Conroy to His Excellency and introduced him. The Oath of Allegiance was administered to Mr. Conroy by His Excellency the Governor.)

Council suspended business at ten minutes past Four o'clock and resumed at thirty-five minutes past Four o'clock.

[Mr. Speaker (Sir Ferdinand Cavendish-Bentinck) in the Chair]

COMMUNICATION FROM THE CHAIR

THE SPEAKER (Sir Ferdinand Cavendish-Bentinck): Hon. Members, I rise in accordance with ancient custom to submit myself to the will of the House, and on taking the Chair for the first time as Speaker of this newly elected Council to express my respectful and humble acknowledgments to His Excellency the Governor and to Hon. Members for the great honour that has been bestowed upon me.

I expressly thank my two hon. friends, my hon. friend the Chief Secretary and the Leader of the House, and my hon. friend of very long standing and Member for the Coast, who for the second time have done me the honour of leading me before His Excellency for his appointment to this high office. (Applause.)

On this somewhat special occasion I would ask Members to bear with me if I reiterate, though in different phraseology, much of what I said only a year or so ago—as from my point of view repetition is justified.

[The Speaker]

It may be that some among you, more especially Members who come new to this Council, consider that our ceremonial and form of speech is perhaps old fashioned when viewed in the circumstances of a very modern and rapidly developing part of the world. I therefore venture to remind us all that in this legislature, as is the case in many overseas dominions and dependencies, we Members, men and women of various races, are embarking on the tremendous task of endeavouring to institute stable parliamentary government in a very new country, and in this endeavour we naturally must seek inspiration from that fountainhead of liberty, commonsense and experience, the mother of and model for Parliaments which sits in the Palace of Westminster. In so doing we are bound to become imbued with age-long traditions evolved over centuries in a country with a long and most eventful history and an old civilisation. I would, however, emphasise that the Parliamentary rules, ceremonial and form of speech which we thus absorb are by no means relics of a bygone age; on the contrary, they have emerged and are still emerging from long experience to embody and safeguard certain very simple ideas and principles. They are to secure that the majority of the Council in the long run has its way but that the rights of the minority are rigorously preserved, and that our manner of speech in addressing one another, even when in disagreement, remains a development of that courtesy which all men should show to each other when they are cast together for a certain period for a great object, that object being the good of our country, as we see it.

Turning now to the responsibilities of any occupant of this Chair. It has, I know, been said that a Speaker's principal duty is to guard minority parties and the rights of individual Members, and that I shall try to do. But there is something even wider than the rights of individual Members which we must guard, cherish and develop, and that is the character and prestige of this very young House of Assembly, and in this regard I trust I shall be no less zealous and that I can rely on the support of every Member. Our common ambition must be to emulate what the British

House of Commons has accomplished over the years, and in due course here also, so to combine the ideas of liberty, loyalty, co-operation and order that we shall eventually firmly establish a parliamentary institution which remains unaffected by passing fluctuations of party fortunes but which will be capable of enduring from generation to generation maintaining and safeguarding the essential features of British free institutions.

Hon. Members, in the course of this short speech I have touched on what I believe to be the aims of each one of us, and if I am right, and such they be, I am sure all will agree that it is an honour to serve this Council in any capacity. But to be called to adequately discharge the duties of the occupant of the Chair is a great honour, but also a great responsibility, which can only be shouldered in all humility. With these words once again I promise you all I can promise—impartiality of decision and loyal and faithful service to the House and to its Members—and I submit myself to your desire. (Applause.)

WELCOME TO THE SPEAKER

THE CHIEF SECRETARY (Mr. Turnbull): Mr. Speaker, Sir, on behalf of all Members on this side of the Council, may I say with how much pleasure we have seen your reappointment to the office of Speaker. We are confident, Sir, that under your wise care and skilful guidance the character of this Council will continue to develop in the tradition of humour, sympathy and good sense which for so many hundreds of years has inspired the Mother of Parliaments at Westminster. We can assure you, Sir, that we shall not fail to play our part in ensuring that the prestige and dignity of the Chamber is constantly enhanced. (Applause.)

MR. COOKE (Coast): Mr. Speaker, on behalf of the Members on this side of the Council, it is my great privilege to say that I have been associated with you, Sir, for over 18 years in this Council and I always admired your great wisdom, sagacity and judgment, and now, as Mr. Speaker, we also greatly appreciate your impartiality, fairness and great knowledge of procedure. Sir, it is with great pleasure that I second the Motion. (Applause.)

ADMINISTRATION OF OATH TO MEMBERS

The Oath of Allegiance was administered by the Speaker to the following hon. Members:

Richard Gordon Turnbull.
Ernest Albert Vasey.
Edward Henry Windley.
Walter Fleming Coult.
Denzil Layton Blunt.
Reginald Stanley Alexander.
Theodore Farnworth Anderson.
Wycliffe Work Wasya Awori.
Michael Blundell.
Llewellyn Rolls Briggs.
Shirley Victor Cooke.
Mervyn Hugh Cowie.
William Edmund Crosskill.
Stanley George Ghersee.
Mucchi Gikonyo.
Cyril William Archie Gooding Hamley.
Norman Francis Harris.
Sayed Ghulam Hassan.
Wilfred Bowen Havelock.
Mbarak Ali Hinawy.
Eugenie Dorothy Hughes.
James Jeremiah.
Richard Edmonds Luyt.
Mahfood Saleh Mackawi.
Mohamed Ali Said Mandry.
Chunilal Madan.
Nahar Singh Mangat.
Charles Markham.
Eliud Wambu Mathu.
James Robert Maxwell.
Daniel Toroitich arap Moi.
Ibrahim Esmail Nathoo.
John Cazimir Maximian Nazareth.
Jonathan Nzioka.
Benaiah Apolo Ohanga.
Anantprasad Jaganath Pandya.
Eboo Pirbhal.
Michael Frederick Laud Robinson.
Kirpal Singh Sagoo.
Agnes Ramsay Shaw.
Roger John Massy Swynnerton.
George Alfred Tyson.
Cyril George Usher.
Walter Joseph Durham Wadley.
Wanyutu Waweru.
Angela Marjorie Christopher.

PAPERS LAID

The following Papers were laid on the Table:

Despatches from the Governors of Kenya, Uganda and Tanganyika and from the Administrator, East Africa High Commission, commenting on the East African Royal Commission 1953-55 Report.

Secretary of State's Commentary on the despatches from the Governors of Kenya, Uganda and Tanganyika and the Administrator, East Africa High Commission on the East African Royal Commission 1953-55 Report.

East Africa High Commission Annual Trade Report of Kenya, Uganda and Tanganyika for the year ended 31st December, 1955.

East Africa High Commission Annual Report on the East Africa High Commission, 1955.

East Africa High Commission: The East African Hides, Tanning and Allied Industries Bureau Report, 1955.

The Kenya Police Annual Report, 1955.

Sessional Paper No. 7 of 1956/57: Inspection of Prisons Establishments.

Treatment of Offenders Annual Report, 1955.

Report on General Administration of Prisons and Detention Camps in Kenya.

Medical Department Annual Report, 1955.

Annual Report, Transport Licensing Board, 1955.

Mines and Geological Department Annual Report, 1955.

Commission of Enquiry into the Separation of the Roads Branch from the Public Works Department (Manzoni Report).

Road Authority Annual Report, 1954/55.

Probation Service and Approved Schools Annual Report, 1955.

Annual Report of the Department of Community Development and Rehabilitation, 1955.

(By THE CHIEF SECRETARY (Mr. Turnbull))

Printing and Stationery Annual Report, 1955/56.

(BY THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey))

African Affairs Annual Report, 1955.

(BY THE MINISTER FOR AFRICAN AFFAIRS (Mr. Windley))

The Trade Testing (Amendment) Rules, 1956.

The Survey Regulations (Amendment) Rules, 1956.

The African Teachers Service (Employment) (Amendment) Regulations, 1956.

The Education (Grants-in-Aid of African Education) (Amendment) Rules, 1956.

The Crown Lands (Fees) (Amendment) Rules, 1956.

(BY THE MINISTER FOR EDUCATION, LABOUR AND LANDS (Mr. Courts))

Review of Kenya Fisheries, 1955.

(BY THE MINISTER FOR FOREST DEVELOPMENT, GAME AND FISHERIES (Mr. Blunt))

MOTION

LOYAL ADDRESS TO H.R.H. PRINCESS MARGARET

THE CHIEF SECRETARY (Mr. Turnbull): Mr. Speaker, Sir, I beg to move the following Motion:

That the following Address be presented to Her Royal Highness The Princess Margaret, and that you, Mr. Speaker, do deliver the Address personally to Her Royal Highness:

The Legislative Council of the Colony and Protectorate of Kenya in session in Nairobi this Fifteenth day of October, 1956,

To Her Royal Highness The Princess Margaret.

May it please Your Royal Highness.

On the occasion of Your Royal Highness's visit to Kenya, we, the Members of the Legislative Council of the Colony and Protectorate of Kenya, desire to extend to Your Royal Highness a most affectionate

welcome and to assure Your Royal Highness of our humble and loyal attachment.

We pray that Your Royal Highness's visit to which we are looking forward so greatly, may bring as much happiness to Your Royal Highness as it brings to us.

This Motion, Sir, can only express a small part of the pride and pleasure we feel in being able to welcome Her Royal Highness Princess Margaret to Kenya. Her Royal Highness's presence here will bring unmixed gladness to us all and it will give us a taste of that rare happiness which comes from the unstinted performance of an eagerly awaited duty.

This Council, Sir, is to be accorded the privilege of presenting the Address in person to Her Royal Highness and I know that I speak on behalf of all Members when I say that it is our wish that the presentation, Sir, should be made by you yourself, Sir, I beg to move. (Hear, hear.) (Applause.)

MR. COOKE: Mr. Speaker, on behalf of all Members on this side of the Council and of all races on this side of the Council, it is my great honour to be associated with my hon. friend in welcoming Her Royal Highness to this country. We wish her a very joyous and a very happy visit and we are all looking forward to her coming here. (Applause.)

Question proposed.

MR. NATHOO (West Electoral Area): Mr. Speaker, on behalf of the Asian Members of the Council, I have pleasure in associating myself with the sentiments expressed in the address by the hon. Chief Secretary in the remarks he has made, and the previous speaker.

Sir, I beg to support.

SHEIKH MAHMOOD S. MACKAWI (Arab Elected Member): Mr. Speaker, Sir, I associate myself with the previous speakers. All extend their welcome to Her Royal Highness Princess Margaret. The Arab community will not forget Her Royal Highness's visit to Mombasa and her smile.

I beg to support. (Applause.)

MR. MATHU (African Representative Member): Mr. Speaker, Sir, I should like to support the previous speakers in

[Mr. Mathu]

welcoming the Motion before the Council that there should be an Address of Welcome to be presented by the Speaker in person, and to say, Sir, that we have every confidence that the weather will support us by providing the usual full measure of Kenya sunshine.

The question was put and carried *namine contradicente*.

THE SPEAKER (Sir Ferdinand Cavendish-Bentinck): Before you get to Order Number Six, perhaps I might be allowed to make a communication in respect of the last order and that is that as the Chief Secretary has explained to hon. Members, a message has been received from Her Royal Highness stating it has pleased Her Royal Highness to agree to receive the Loyal Address which has just been passed, in person, in the course of her ceremonial drive from the airport to Government House on Thursday next. The presentation of an address from Members of Legislative Council will, in fact, be the first public function on Her Royal Highness's arrival in the capital of this country.

I am given to understand that most hon. Members have expressed their desire to be present and as providing seating accommodation and parking facilities for a large number of people is not very easy, I would ask all hon. Members and their guests to arrive here not later than 3.45 p.m. on Thursday, if possible I think half past three, and to make their approach, if possible, from Whitehouse Road by that small earth road which used to run past the old Church Mission Society church which was recently demolished. We shall have to use the space between the County Hall and this building as a car park. Connaught Road, of course, will be closed to traffic. Hon. Members can get details from the Sergeant-at-Arms. I thought you would allow me to make this communication as the occasion is a somewhat exceptional one.

MOTION

COMMITTEE OF SUPPLY—APPOINTMENT OF

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): Mr. Speaker, I beg to move that the Committee of Supply be appointed, consisting of the whole Council, to consider

the supply to be granted to His Excellency the Governor.

This, Sir, is in accordance with Standing Order No. 131 and is necessitated by the financial procedure of the Council. I beg to move.

THE MINISTER FOR EDUCATION, LABOUR AND LANDS (Mr. Courts) seconded.

Question proposed.

THE SPEAKER (Sir Ferdinand Cavendish-Bentinck): If no other Member wishes to speak, I will put the question.

Question put and carried.

MOTION

COMMITTEE OF WAYS AND MEANS—APPOINTMENT OF

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): Mr. Speaker I beg to move that the Committee of Ways and Means be appointed, consisting of the whole Council, to consider ways and means of raising the supply to be granted to His Excellency the Governor.

This, Sir, is a Motion necessitated by Standing Order No. 131 and by the financial procedure of the Council.

I beg to move.

LT.-COL. GHERSIE (Nairobi North) seconded.

Question proposed.

THE SPEAKER (Sir Ferdinand Cavendish-Bentinck): If no other Member wishes to speak, I will put the question.

Question put and carried.

MOTION

SUSPENSION OF STANDING ORDERS

THE CHIEF SECRETARY (Mr. Turnbull): Mr. Speaker, Sir, I beg to move that the Council do now adjourn and that Standing Orders be suspended to the extent necessary to enable the Council to reassemble at 2.30 p.m. on Tuesday, the 13th November, 1956.

With the agreement of the Council, Sir, I should like to vary the time of 2.30 p.m. to 3 p.m. as I understand that the later hour will suit the general convenience.

I beg to move, Sir.

Lt.-COL. GHERSIE seconded.

Question proposed.

THE SPEAKER (Sir Ferdinand Cavendish-Bentinck): I take it that the Council agrees to that change in the Order Paper?

If no other Member wishes to speak, I will put the question.

Question put and carried.

ADJOURNMENT

THE SPEAKER (Sir Ferdinand Cavendish-Bentinck): In accordance

with the Motion just passed, Council will now adjourn until 3 p.m. on Tuesday, 13th November. I would, however, point out that there is to be a meeting of Members now in the Uganda Committee Room upstairs in order to confirm the appointment of a fourth Unofficial Member to the Central Legislative Assembly. That, I am afraid, will have to be dealt with as part of the business.

Council rose at twenty-five minutes past Five o'clock.

Tuesday, 13th November, 1956

The Council met at Three o'clock.

[Mr. Speaker (Sir Ferdinand Cavendish-Bentinck) in the Chair]

PRAYERS

The Prayers were read by the Bishop of Mombasa.

ADMINISTRATION OF OATH

The Oath of Allegiance was administered to the following Members:

Eric Newton Griffith-Jones, Q.C.

John Winder Cusack, O.B.E.

Arthur Hope-Jones, C.M.G.

Kenneth William Stewart Mackenzie.

John Louis Riddoch, O.B.E.

Richard Donald Croft Wilcock.

Francis Kiprotich arap Chumah.

James Nzau.

COMMUNICATION FROM THE CHAIR

INTRODUCTION OF USE OF MACE

THE SPEAKER (Sir Ferdinand Cavendish-Bentinck): I have to inform the House that a beautifully constructed Mace, made of local wood, has been taken into use today with the most gracious approval of Her Majesty the Queen. Her Majesty's approval was conveyed through the Secretary of State for the Colonies last August, but it was decided not to introduce the use of a Mace in this Assembly until the beginning of this newly elected Council, the eleventh in our history.

As hon. Members are aware, it is hoped that we shall, in due course, be able to acquire a Mace of a very lovely design, largely constructed of ivory, which design has also received the gracious approval of Her Majesty the Queen, but even under the most auspicious circumstances such a Mace could not become available for at least 18 months. Meanwhile, in using a wooden Mace, we are following the example of

New Zealand, Southern Rhodesia and the new Rhodesian Federal Parliaments as well as of other Dependencies in the Commonwealth.

I should like to add that this wooden Mace was made by Kenya craftsmen employed in the Public Works Department, whilst its design, as is that of the Mace we one day hope to acquire, was the work of Mr. H. R. Thompson, the Government Architect, to whom we are greatly indebted. (Applause.)

In conclusion I would add that the use of a Mace has great traditional significance and marks yet one more stage in the development of this Assembly and of this House.

I will now suspend business in order to enable me to go and meet His Excellency the Governor.

SUSPENSION OF BUSINESS

Council suspended business at ten minutes past Three o'clock and resumed at twenty-five minutes past Three o'clock.

COMMUNICATION FROM THE CHAIR BY HIS EXCELLENCY THE GOVERNOR

HIS EXCELLENCY THE GOVERNOR; Mr. Speaker, Honourable Members of the Legislative Council, last year I spoke on a security position which was beginning to improve sharply. The security forces had begun to obtain results against the gang leaders as distinct from the rank and file of *Mau Mau* terrorists. Measures to cut the gangs off from food were proving successful. During the last year this double process has gone much further. In May, 1955, a list of 51 major gang leaders was prepared; of these only two are still at large. A year ago the position in the reserves had greatly improved but there were black spots. Late in 1955 cattle thefts had been reduced in number but were still a great trouble to farmers in the settled area. Now the black spots in the reserves no longer exist and cattle thefts have been practically eliminated. The British battalions and the battalions of the K.A.R. have both done invaluable service to Kenya. Following his brilliant success General

[H.E. the Governor]

Lathbury has recommended that the police should now take over the control of operations from the Army and that, in support of the Provincial Administration, they should resume responsibility for the maintenance of law and order. This change will take place on the 17th November. General Lathbury's position will remain unchanged. The War Council will continue as at present. The Army will stand by in support of the police.

But there are still between two and three hundred men living as terrorists, whether in or out of the forests. They include one very notable leader. They can only be brought to book if they are pursued as actively in the future as they have been in the past. If they are not, then they are perfectly capable of reviving *Mau Mau* activities. But the record in this country of Mr. Catling leaves no doubt in my mind that the surviving terrorists will be pursued with the greatest determination and with great success. I am sure that hon. Members will join with me on this occasion in paying two special tributes. One is to the young men, mostly either in the Kenya Police, or Field Intelligence Officers—mainly drawn from the Kenya Regiment—who have recently gained striking successes against the terrorists. The other is to the administrative officers, the police officers, and others in the African land units, as well as the chiefs and headmen, who have succeeded in a long struggle and have now re-established peaceful conditions there.

But after speaking these words of praise and encouragement I must take this opportunity of reminding hon. Members that the *Mau Mau* movement was in two parts. There were the terrorist gangs in the forests. There was also the elaborate, the long established, the deeply rooted system of committees which covered the countryside where Kikuyu lived and worked, as well as the City of Nairobi. Our struggle has been against the movement as a whole. Now that most of the leading gangs have been eliminated we have made great progress. But our troubles with active *Mau Mau* will be at an end only when

we have shown that we can keep the peace not only in conditions as they now are but in the future when all but the worst of the detainees and *Mau Mau* convicts now in custody have been released.

For this reason I will now turn to the question of the release of detainees and *Mau Mau* convicts. Among these are both those who were in terrorist gangs and those who were part of the organisation supporting them, which has come to be known as the Passive Wing. We are faced by a problem of absorption back into the normal life of the country. It applies to released detainees and *Mau Mau* convicts, to repatriates who have returned from the settled area into the reserves and who have no land, and finally, but perhaps most important of all, to those Kikuyu who have actively helped us but who will not remain in the permanent security forces.

At one time the problem of absorption appeared to me to be almost insuperable. But since I spoke to you last year much progress has been made and great credit is due to the Special Commissioner, Mr. Johnston. Many thousands of former detainees have come back to their districts and they have given very little trouble. But it should be remembered that they are closely supervised by their Chiefs and Headmen, who shoulder an ever-increasing burden of responsibility as the number of releases grows. With the co-operation of European farmers the return of Kikuyu labour to the farms of the Rift Valley, and now to the Nyanza Province, has proceeded smoothly and, subject to careful supervision, will I hope continue. We hope soon to absorb an increased number of Kikuyu in forest villages. A number more are working on the Mwea Irrigation Scheme in Southern Embu, though this project is still in the proving period.

The reabsorption of displaced persons who have land to farm is a comparatively simple process. That of the landless is more difficult, but we have hopes that by the end of 1957 it will have been possible to make arrangements for the majority of landless Kikuyu.

[H.E. the Governor]

In this connection I draw the attention of hon. Members to the great success throughout the Kikuyu land unit of the campaign for the consolidation of land—a campaign which is now being extended to Nyanza Province. This success has been almost the most striking feature of Kenya during the last year. It should lay the necessary foundation for a big agricultural advance in the Central Province where the land is good, the rainfall is sufficient, and the people hard-working. It has been found that in the Central Province the average family cannot farm more than seven acres without assistance. There will therefore be a considerable demand for paid agricultural labourers or for part-time workers who themselves have a holding of some sort.

It has been suggested in some quarters that Government intends to enforce land consolidation against the wishes of the people. This is not true. The development can only proceed with the voluntary co-operation of the great majority. The rules made recently under the Native Lands Trust Ordinance to establish the machinery of land consolidation are specifically designed to safeguard African interests. The entire process of determining rights, consolidating holdings, enclosure and demarcation, will be carried out by committees of elders chosen by their people themselves. Moreover, the consolidation is that of pieces of land already held by individuals. No communal land is being taken into the scheme without the consent of all those who have an interest in it.

These rules are an interim measure to give quietude of possession and will only be applied to areas in which there is a demand for land consolidation. A start is being made now on the preparation of the final legislation governing the issue of titles in the African areas. This is, however, a subject of great complexity which requires considerable study and cannot be hurried if we are to produce substantive legislation of lasting value to the Colony.

After speaking of the fighting with the terrorists and the problem of reabsorption I will now turn to that of

the detainees. I think that the opening of this new Legislative Council is an appropriate moment for me to speak at some length on this subject. First, in case there is any doubt, let me remind Hon. Members why it is we are faced with this problem of detainees. Before I do this Hon. Members should know that approximately 18 months ago there were 50,000 detainees and 16,000 *Mau Mau* convicts, making a total of 66,000 persons in custody. Many have been set at liberty and during the past 12 months the Government released just over 24,000 detainees and convicts. At the moment there are 34,000 detainees and 8,400 *Mau Mau* convicts, giving a total of 42,400 persons in custody.

In October, 1952, in the Kikuyu land units, in many parts of the settled area and in Nairobi there was a reign of terror by night which was of such strength that before long no man dared to give evidence in court against an accused member of the *Mau Mau* movement; the operation of the criminal law broke down and decent law-abiding men were compelled, through fear of the consequences if they resisted, to submit to the tyranny of the movement. This is no surmise. The truth of what I say has been confirmed by the number of corpses dug up all over the Kikuyu land unit during the past 18 months, that is since the time when the great body of the Kikuyu people started to co-operate with the Government. The number of corpses found has left no doubt in my mind that it was the calculated policy of the *Mau Mau* leaders to do away with those of their fellow Kikuyu who supported the Government and who tried to maintain law and order; indeed it is clear that they went further and paid off innumerable private scores.

The safety of those—and they were many—who remained steadfast and, indeed, the task of restoring peace and good government, demanded that a large number of the organisers and leaders of the movement should be detained, for only in this way could the influence of those who defied the law be removed. The alternative to the detention of these people would have been the spread of this reign of terror—first to all the areas

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where Kikuyu lived and then to other parts of the country. Such widespread intimidation, relying both on physical force and on superstitious fears, could not have been established except by men, who in many cases had become the fanatical followers of what was almost a fake religion. To reconcile the requirements of a country in which there are still irreconcilable fanatics of this nature with a genuine desire on the part of the Government to be quit as soon as possible of as many special measures as possible is very difficult.

Our policy stands on two affirmations and may be divided into two parts. One statement is that each individual detainee must have his chance to work his way back into normal life. The other is that the irreconcilables will not return. No Mau Mau detainee or convict can be allowed back into the normal life of the country unless his own behaviour and the condition of the area to which he will return gives sound reason to believe that once at liberty he will not again become a menace to peace and order. On the other hand the Kenya Government regard no man as lost and the most assiduous efforts are being made and will be made to reclaim him for society.

The implementation of our policy falls into two parts for this reason. We have established a method by which detainees are gradually passed from the larger camps, which inevitably arose from the stringent requirements of the worst days of the Emergency, to the smaller camps in their own areas. After examination by Government officers and by their own people in these areas they are, if thought fit, released. This process will continue. Its continuation is the first part of the effort of rehabilitation. But there will come a moment when we find that we have set at liberty all those who can be comparatively quickly reclaimed and that the only detainees left are those so deeply imbued with the fanatical Mau Mau spirit that their rehabilitation will require a period of years. I cannot say exactly when that moment will be. What I can say is that up to date very few of the large number released have caused any serious trouble and it has not been

necessary to return more than a handful to custody. I hope that we can successfully continue to release detainees in the same manner as we have been doing in the past, though hon. Members will no doubt realise that the further we go the more difficult are the characters with which we have to deal.

I will now turn to the second part of the implementation of our programme—that is to our plans for those who can only be made good citizens again over a period of years. For these persons our main idea is that of an agricultural settlement in a comparatively remote area. I will describe this idea as the Tana concept. Our aim is that there should be an agricultural settlement on land irrigated from the Tana River in a place distant from the main centres of population. The African cultivators of this irrigated land will live in family conditions. They will not live behind barbed wire and their detention orders will be cancelled. Restriction orders will be passed restricting them to the settlement area, which may be between 20 and 50 square miles; they will not be permitted to leave it. Each will have the opportunity to re-establish himself as an ordinary citizen. We hope that the area will gradually become an administrative division under an administrative officer. Careful arrangements will be made to guard against those on the Tana leaving the area of that scheme and coming into populated areas.

Acceptance of the Tana concept involves also acceptance of two corollaries. The first arises from the fact that the Tana settlement is a means of offering as wide a measure of liberty as is consistent with security to those who have not yet proved their readiness to resume a place in a peaceful society. The success of this experiment could well be jeopardised by the few now in detention or prison who by their attitude and behaviour have shown an obdurate attachment to the objects and methods of the Mau Mau conspiracy. Such people might well destroy the effectiveness of the plan and they must, therefore, be restricted in their liberty to do so. It will be necessary to place these persons in a special settlement under more stringent conditions.

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We hope that while those on the irrigated Tana settlement will be numbered in thousands, these last will be numbered in hundreds. They will include any who, having been placed on the Tana, prove to be so recalcitrant that their removal from the Tana comes to be necessary if the plan is to succeed. Our idea here is the same as that which up to date has been successfully carried out in the main Kikuyu areas. In these areas we have gone ahead with release knowing that there would be some failures—in other words that some of those released would have to be put again into detention. But up to date the number of these last has been very small. We hope that the same will be true on the Tana.

The other and more short-term corollary is that the technical problem of irrigation on the Tana is a complicated one and experience has shown that we cannot cut short the period of experiment and of pilot schemes. With certain exceptions, which I will mention later, we hope that gradually it will be possible to absorb on the Tana the worst of the present detainees and Mau Mau convicts. But it is inevitable that there will be an interim period while the scheme is not yet in full operation. During this period those who will eventually go to the Tana will have to remain in camps elsewhere. We will try and keep as many as possible in small camps.

I have tried to explain the two statements on which our policy is based and the two parts into which it is divided. Let me make one final observation. Both in absorption, for example on the farms of the Rift Valley Province, and in the release of detainees, our experience up to date has been that we must advance step by step. On the one hand we cannot allow either absorption or release to stop. On the other hand experience has shown the danger of any short-circuiting of the rehabilitation process. Evidence in support of this view is that detainees who have escaped before the full rehabilitation process was completed have, in 1956, attempted to revive Mau Mau by the very methods of 1953. By contrast, as I have already mentioned,

those who have been released after full examination have, with very few exceptions, so far made no trouble.

Our experience with the Mau Mau conspiracy has prompted the Government to review the powers on which in normal times it has to rely to preserve the peace. This review has embraced both the permanent law of the Colony relating to the maintenance of public order and the special measures which it has been found necessary to introduce during the last four years under Emergency powers. In this connection the Government is devoting particular attention to the needs of the sort of situation which is apt to arise in a period which, although one of increasing tension and disturbance, does not yet amount to a full-scale Emergency. In such circumstances any Government must be empowered to retain the initiative in preserving public order, and at the right time the Government intends to introduce legislation designed to reinforce its authority for this purpose.

I will now turn to other matters connected with the administration of the law. The staff of the Legal Department is now less heavily engaged with work in connection with the Emergency and it is the Government's intention to undertake a planned programme of law reform. A number of Bills which represent important measures of reform have already been published and are now ready for introduction into this Council.

First, there is the Law Reform (Miscellaneous Provisions) Bill, which incorporates a number of measures of reform which have been introduced of recent years in England in relation, principally, to the law of tort.

Then from the constitutional aspect, two other Bills are of particular interest. One is the Crown Proceedings Bill which, if enacted, will remove the procedural obstacles and disabilities which now prevent or inhibit the citizen from suing the Crown. The other is the Rules and Regulations (Laying) Bill, which will give the legislature statutory control over the exercise of delegated legislative powers.

A further important measure is the Government Contracts Bill which will

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regulate the law and practice with regard to contracts entered into by and with the Government.

An essential part of this programme of reform is the replacement, by substantive Kenya law, of the Indian Acts which still apply to the Colony. These Indian Acts were applied as at 1907, and difficulties arise, for both layman and lawyer, by reason of the fact that progressive amendments of those Acts in India during the last half-century do not apply in the Colony. To some extent, therefore, these applied laws are obsolete and related case law out-dated. The first Bill of this type will shortly be published, the Contract Bill, repealing and replacing the Indian Contract Act in its application to the Colony and moving substantially towards English law. A further Bill, to repeal and replace the applied Indian Evidence Act, has been drafted, and is now with the Law Society of Kenya and other interested bodies for comment.

As hon. Members will appreciate, Bills of this nature raise subjects of some complexity, and it is desirable to ensure that all interested parties are fully consulted before the legislation is crystallised into final form. To this end it is proposed to establish a Statute Law Revision Committee under the Chairmanship of the Attorney-General, comprising members of the Judiciary and of the legal profession.

In addition, a new Interpretation and General Provisions Bill has been published and awaits introduction in this Council, and the preparation of a new Companies Bill in consultation with other East African territories is almost complete.

Agreement has now been reached between the three territories as to the future composition of the Central Legislative Assembly and on the methods by which its members shall be chosen. The revised Order-in-Council will be ready for consideration by Her Majesty in the near future and it is hoped that the enlarged Assembly will hold its first meeting in April, 1957.

The first African elections to be held in Kenya will take place during this

Session. As Hon. Members know, one of the happy results on the recent discussions between the various groups has been agreement for the increase of African representative seats from six to eight. The necessary amending legislation will shortly be brought before the Council. Prior to the registration of voters, which started on 14th August, every effort was made at *barazas*, in the vernacular Press, by the production of special pamphlets, posters and cinema films, and on the radio, to explain the election procedure to the African people. The electoral rolls will close at the end of the year and, now that a final decision has been reached concerning constituency boundaries, I hope that all those Africans who are qualified to do so will register before then. I am glad to know that the African Representative Members are doing all they can to encourage Africans to register.

The year has seen some notable advances for the King's African Rifles. The Queen's Commission may now be given to residents of East Africa of all races: the new rank of *effendi* has opened up further promotion for African Warrant Officers; pay for African Other Ranks has been increased, and pensions have been introduced. It is intended to revive the K.A.R. Reserve of Officers, and a Bill is being prepared to replace the Ordinance, of 1927 which originally established this valuable Reserve. The Kenya Regiment, which along with the K.A.R. Battalions has rendered such valuable service from the very beginning of the Emergency is now reverting to its peacetime role. The Operational Company and the other National Service elements of the Regiment are in the process of being disbanded, and the Regiment has reformed as a Territorial Force Battalion; it is intended to bring the Battalion up to its full establishment of a Headquarters Company and seven Rifle Companies. This will mean that by this time next year the Regiment will have reached a strength of 900, including volunteers, of whom 70 have already enrolled.

Compulsory military training will start again in January, 1957, and there will be three courses at the Kenya Regiment Training Centre during the year.

Estimates for the public services will

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be laid before you in due course. The Colony has continued to receive generous financial assistance from the United Kingdom, but it cannot be expected that this aid will continue at its present level. There is a danger that our own sources of revenue will not continue to expand at the rate of previous years.

My Government's proposals for development expenditure for the period 1957/60 will be laid before you in the present session. The size of this Development Plan will be severely limited by the inability of the London Market to meet the full needs of East Africa for loan moneys.

Legislation to replace the existing Banks Ordinance by a measure which will provide more effective control over Banks will be introduced in the near future.

I now come to the important subject of Agriculture. The Minister for Agriculture expects to proceed with three important enactments which have already been widely discussed. These are the Kenya Produce Marketing Board Ordinance setting up a statutory board to replace the present Maize and Produce Controls. This follows the recommendations of the Ibbotson Committee. Next an Ordinance to set up the European Cereal Producers' Board with the function of looking after the interests of European Cereal Producers in general, particularly in regard to the negotiation of prices guaranteed under the Agriculture Ordinance. And, thirdly, a Bill to set up a statutory board to control the Dairy Industry on the lines recommended in the Troup Report on the Dairy Industry, published earlier this year. A White Paper on this subject will be laid at the present session.

As regards development finance we are now in the last year of the Development Plan ending June, 1957, and the Ministry of Agriculture, along with most other Ministries, is coming to the end of funds available for this period and is completing the various schemes authorised. In the present year £350,000 is available for issue as loans to farmers under the Agriculture Ordinance or from the Rehabilitation Fund for developing their farms, and this will help the swing in the balance of mixed farming towards

livestock production, which has already started, to be continued. As regards the European Agricultural Settlement Board, satisfactory financial arrangements have recently been concluded by the Board with the three major commercial Banks in Kenya, and this finance will be available to assist further settlement in the present year. I am informed that there is renewed interest in London in farming prospects in Kenya; this is a very healthy sign which will, I hope, be reflected in an increased flow of suitable farmers in the near future.

Special attention will also be paid to drainage (for which suitable machinery is being sought) and animal husbandry, especially sheep in the European Highlands. A scheme for testing agricultural machinery under East African conditions will start shortly, financed by the Colonial Development and Welfare Fund to a total of £37,000.

In the African lands of high potential the main effort of the Government will be directed towards the consolidation of holdings and the planning of economic farming units. This important process, combined with the expansion of cash crops, is already having an appreciable effect on African farm incomes, which are beginning to rise and will rise further in the next few years; it is intended to plant over 3,000 acres of new coffee in African land units during the coming year, and farm institutes for the agricultural education of adult African farmers will be extended and increased in number. Particular attention will be paid to the problem of markets and marketing.

The main areas where the development of irrigation will be pursued are Mwea/Tebere in the Embu district, and Perkerra near Lake Baringo. At Mwea/Tebere the programme includes a 500-acre pilot scheme and 300 acres in the Nguka Swamp. At Perkerra it is intended to cultivate some 1,200 acres during the year, which may rise to 1,500.

Rice is still the main crop in Mwea/Tebere, but on the small areas of red soil there, and at Perkerra, a wide variety of crops can be grown; and experimental programmes covering cotton, tobacco, citrus, tomatoes, chillies, fibres, etc.; have been initiated; tomatoes show high promise at Perkerra as a canning crop for tomato paste.

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The problems of irrigation on Kenya soils are by no means solved yet, and it is advisable that there should now be a period for consolidation and continued investigation rather than any very rapid expansion of the areas under irrigation. Besides the two schemes mentioned, investigation will continue at Hola on the Tana River and on the Yatta Furrow. Similar work has been planned for the Kano plains near Kisumu and it is hoped that land for an experimental station in that area will be found during the present year by agreement with the local right-holders.

The Makueni Settlement Scheme is expected to reach its present target of 1,800 families during 1957, and is already being absorbed as an ordinary part of Machakos district.

In the pastoral areas the development of grazing management and ranching schemes under the general control of the African Land Development Board will continue, a large part of the finance for these schemes being found by means of loans. These schemes have already shown encouraging results. In the South Baringo Crown lands, for example, conditions have substantially improved and, with the co-operation of the Suk, the cost of the scheme is now more or less covered by revenue from grazing fees. We have, also, high hopes of the West Suk grazing scheme at Riwa. Elsewhere in the Rift Valley Province effort will be concentrated on improving stock marketing facilities and increasing the numbers of livestock sold and exported from the over-stocked areas of the Province.

In the Masai country the Veterinary Department will undertake an inoculation campaign in an endeavour to wipe out contagious bovine pleuro-pneumonia. The Tanganyika authorities are co-operating. It is hoped that this campaign will enable the present restrictions on stock routes to be lifted; and that it will remove many of the difficulties which now stand in the way of the sale of surplus stock.

The Veterinary Department will also proceed with schemes to eradicate sleeping sickness from Nyanza Province by the use of a new insecticide, and with experiments in ranching cattle in tsetse fly areas with the aid of trypanocidal drugs without intensive bush-clearing.

Work will continue on grassland research, plant-breeding research and the Central Specialist Services at the same level as at present. It has not been possible to increase the Government contribution to research on specific industries and expansion of the services on coffee, pyrethrum and horticultural crops must mainly depend on the willingness of the industries concerned to provide funds.

There has been good progress during the year on afforestation schemes in African areas, financed, in the main, out of funds provided under the Swynnerton Plan. Schemes, providing jointly for protection of catchments and hillsides and also for plantation crops, have been formally sanctioned in Machakos, Kitui, Kilombe, Teita Hills, Taveta, Lambwe Valley, Maseno-Kisiani and Maragoli. Co-operation received from the African communities concerned is encouraging and good progress is to be expected.

Inroads on the game population of Kenya caused by human pressure and by an alarming increase in poaching led me to appoint, early in 1956, a Game Policy Committee charged with the duty of making recommendations for the long-term preservation of game. The Game Policy Committee has already submitted an interim report making certain recommendations for the preservation of game in the Amboseli National Reserve and for dealing with poaching. The Committee will remain in being.

Action already taken by the Government to deal with organised poaching includes the strengthening of the Game Ranger and Game Scout staff; the secondment of a specially chosen police officer to the Game Department; and proposals for the direct control by this Government of the Mombasa Ivory Room. In addition, an operational plan for action against poachers in the Tsavo Park, on the Tanganyika border and in the coastal areas, has been drawn up by the Commissioner of Police in consultation with the Game Department and the Royal National Parks.

I will now deal with matters coming within the portfolio of the Minister for Commerce and Industry. The improvement in facilities at the Port of Mombasa and the increased capacity of the Railway, together with such projects as the Mombasa water scheme and progress in

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bringing electric power from the Jinja dam, do much to create conditions in which further economic growth is possible. With limited resources, the Industrial Development Corporation seeks to assist private enterprise in suitable projects and the Crown Estates Development Committee, together with the newly formed African Industrial Estates Development Committee, will play a useful part in making industrial sites available in various parts of the Colony, including the African areas.

The basic geological mapping of the Colony is now proceeding at an increased rate since it is now possible to recruit further geologists from overseas and, as a result of releases, from the Security Forces. There is evidence of a greater interest by important mining houses in mineral prospects in Kenya, notably at Mirima Hill where the Anglo-American Corporation are carrying out large-scale exploratory experiments.

As regards new legislation, the Landlord and Tenant (Shops) Bill, 1956, will shortly be introduced to replace the Landlord and Tenant (Shops and Hotels) (Temporary Provisions) Ordinance, which was enacted in 1954 and which will expire on 24th December, 1956. New legislation is also under consideration in connection with the Hotels Ordinance, the Companies Ordinance, the Electric Power Ordinance and the Transport Licensing Ordinance.

On the related subject of public works and communications, the report by Sir Herbert Manzoni, City Engineer of Birmingham, on the separation of the Public Works Department into specialised branches, is being considered by Government and a White Paper giving Government's views will shortly be laid.

It will be of interest to Members to know that the Government has hopes of major improvements to communication links north and south of Mombasa. The needs of the Likoni Ferry service between Mombasa Island and the south mainland, which is operated on licence by the African Transport Company, have been investigated by special consultants. Negotiations are proceeding to which the Mombasa Municipal Board is party, on the purchase by the Company of improved ferry craft capable of much

better performance than the present craft. A sum of £50,000 is also earmarked in Development Funds for improvements to the ramps. To the north at Mtwapa Creek, proposals have been made by a private company for the construction and operation of a toll bridge. Discussions with the company are proceeding and it is hoped the stage will soon be reached when the necessary legislation can be brought to this House for approval.

In European and Asian education the Government will continue to meet its statutory obligations.

In African education the Government's policy is to provide eight years of schooling for all African children as soon as the necessary finance, staff and buildings can be made available. To meet the increasing demand for more education at all levels the Government will, given its financial resources, continue to do all it can to increase the speed of the present programme for primary and intermediate schools; but the problems of trained staff and of finance are not matters which can be lightly dismissed. The Government will pay particular attention to the extension and improvement of the present teacher-training system, on which the whole educational system inevitably depends. It realises the importance of encouraging the education of African girls and proposes to increase facilities for the training of African women teachers.

In trade and technical education it is the intention of the Government to meet the needs of industry and commerce by raising the standard of craftsmanship in the wide variety of courses now being offered, and to expand the secondary technical courses which have already been started in African and Asian schools.

The Government welcomes the increasing demand for both primary and secondary education from the Arab community, particularly for the education of girls. It is its intention to meet this demand as far as possible, and at the same time to base the curriculum on a foundation of the Islamic religion and culture and the teaching of the Arabic language and Arab history.

Labour legislation to be brought before Council includes one important

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Bill designed to encourage and regulate the employment and training of apprentices. This measure will, it is hoped, contribute to the proper and extended training of Kenya's youth in the skilled trades. Other new labour legislation include an Accidents and Occupational Diseases (Notification) Bill.

Amendments are being proposed to the Employment Ordinance, primarily to remove provisions, now included in other legislation, concerning the employment of juveniles. Effect will also be given in this Ordinance to some of the recommendations contained in the Report of the Committee on African Wages.

During the session consideration will be given to the Report of the Select Committee on Domestic Service and the Report of the Rural Wages Committee.

Sessional Paper No. 21 of 1954 sets out Government's policy in respect of statutory minimum wages in the main urban centres. At the beginning of 1956 the first step was taken in the transition from a minimum wage based on the needs of the single individual to one based on the needs of a man and wife. Government will shortly announce its intentions concerning the second step.

The problem of the incentives which should be applied to increase efficiency and output will continue to receive close attention. A Training within Industry project is to be undertaken in one of the larger Government departments; and arrangements for the trade-testing of artisans will be expanded. Hon. Members will be interested to know that the numbers tested have risen from 360 in 1954 to an estimated figure of 1,800 for 1956. The trades at present covered are those of building, furniture-making, tailoring and engineering; the electrical trades and the printing trades are to be added to this list in the coming year.

The rapid developments in local government which have taken place over the last few years have revealed the necessity for some changes in the legislation governing the different types of local authority in the country, and it is intended to introduce Bills as soon as possible to amend the relevant Ordinances. In particular, the Legislative Council will be asked to make certain amendments to the African District

Councils Ordinance with regard to the functions of local councils. It is also proposed to introduce a Bill to set up a Central Provident Fund for local government staff, particularly the staff of African district councils. Although the fund is intended primarily for the staff of African district councils, it will be possible for other local authorities to contribute to it if they so wish.

During the past year the Central Housing Board has given financial assistance to local authorities for the provision of African housing in the form of loans from the Kenya Housing Fund; this fund is financed by a £2,000,000 loan from the Colonial Development Corporation. Approximately half of this sum has been lent to local authorities outside Nairobi, the remaining £1,000,000 having been reserved against the joint Government/Nairobi City Council Housing Scheme.

There is an increasing demand that local authorities should provide a superior type of housing which can be owned by well-to-do Africans, and schemes are now under consideration for the provision of such houses to be offered for sale on a tenant-purchase basis.

The general shortage of African housing accommodation will be met, in part, by the construction of orthodox local authority housing schemes on a rental basis; and in part by the subdivision of extra-urban areas into individual plots, planned for the provision of essential services, such as roads, water and drainage, where Africans can be granted considerable freedom as to the type of building they erect. Areas thus to be treated include Mombasa and Kisumu, where the problem of the orderly planning of extra-urban residential neighbourhoods is most acute.

Local authorities hope to provide more housing for Europeans and Asians. It is expected that a part of the capital which can be made available for housing these sections of the community will be provided by building societies which are now functioning under the new Building Societies Ordinance. It is hoped also that the experimental scheme, at present confined to Nairobi, under which the Government and local authority propose

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in certain cases to guarantee excess loans made by building societies, will be expanded to include other centres in the Colony. Neighbourhood units for European and Asian housing have already been planned to provide serviced plots for high density housing schemes, and efforts are being made to interest private investors in the development of these areas.

In the Department of Lands a Recorder of Titles has been appointed to continue the adjudication of titles in the Coast Province. He has already made recommendations to Government as to the method which should be adopted to complete the work.

The Survey Department has, during the Emergency, produced a series of topographical maps of very high standard. These maps have proved to be of such value in connection with communications, town and country planning and public works, that it is proposed to extend the work to cover parts of the non-Emergency areas. Great credit is due to the officers of the Department for the skill they have displayed in this important task.

With regard to medical and health services, the prevention and treatment of tuberculosis has now become one of the most important and pressing public health problems in Kenya. Plans are being evolved for the treatment of known cases of tuberculosis throughout the Colony, part of the treatment being carried out in the patient's own home under supervision; and an officer with special experience of tuberculosis has been detailed for full-time duty to co-ordinate the campaign. Additional hospital beds are being set aside for the treatment of tuberculosis and a special 52-bed ward is being built at Nyeri Hospital.

The policy of developing rural health services, particularly in the African land units, through rural health centres, will be continued in so far as trained staff and funds allow. Ten new health centres will be completed during the year. The building of the new Medical Training Centre in Nairobi, in which all senior grades of medical and health auxiliaries will be trained, will be started during the year. This has been made possible

through a generous grant by the United States International Co-operative Administration. We shall continue to receive financial assistance from the World Health Organisation and the United Nations Children's Fund for maternity and child welfare and malaria control schemes. From our own resources we are providing Public Health Nurses for the supervision of child welfare and maternity services in African rural areas.

A Hospital Relief Fund for the Asian and Arab communities is under consideration and it is hoped to bring the necessary legislation before the Council during the year.

I now turn to another important branch of the social services.

The rehabilitation programme is supplementary to the constructive work and discipline provided by the camps, and is designed to fill the vacuum created by a renunciation of *Mau Mau*. It includes informal adult education, simple literacy, talks on better farming and hygiene, and sports and recreation.

Preoccupation with rehabilitation has restricted the work of the Ministry in the field of community development, but good progress continues to be made in work amongst women with the development of the *Maendeleo ya Wanawake* Organisation. It is the aim of the women's groups, which form this organisation and now number over 590, to help their members to achieve higher standards in the home and to encourage a sense of responsibility to the community. The total membership now amounts to close on 42,000 women.

With the aid of a £68,000 grant from the International Co-operation Administration of the United States Government 21 Community Development Officers (men and women) are now being recruited on two-year contracts to expand the work now being undertaken in non-Emergency areas by officers of the department.

The United Nations International Children's Emergency Fund will shortly be providing vehicles and equipment to assist with the training of women in child care and nutrition.

The work in the field will continue to be supported by adult training courses

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at Homecraft Training Centres in various districts and at the two Jeanes Schools. The Second Jeanes School at Maseno for the Nyanza Province was opened on the 8th November by the Provincial Commissioner. The Jeanes Schools will continue to give instruction in economic, social and public affairs integrated with courses in such subjects as trading and farming and courses for Government and African District Council employees.

The work of the Probation Services continues to grow. Now that African courts can be given powers to make probation orders, the use of probation by them will be encouraged. A new Juveniles Ordinance, dealing with the treatment of juvenile offenders, is now in the preliminary drafting stage, and the construction of a juvenile remand home for Nairobi is in hand. There are permanent approved schools at Kabete and Dagoretti, and emergency approved schools at Wamumu and Makuruweini.

With regard to children who are badly treated or neglected, the Child Welfare Society of Kenya has been approved under the Prevention of Cruelty to and Neglect of Children Ordinance; this Society, as well as being able to take action on its own initiative, will co-ordinate the work of other societies engaged in the same field. Branches of the Society have been set up in Nairobi, Nakuru and Mombasa where encouraging interest has been shown by the local authorities. A full-time executive officer has recently been appointed.

During the last year great efforts have been made by many people of all communities in Kenya; as a result for the first time I speak to you to-day with the black cloud of civil war almost dissipated. The peaceful progress of the country can now claim more of our attention than at any time since I first came to Kenya. The economic recovery of Kenya is proceeding at remarkable speed. But we have to remember that our financial position is very difficult and is affected by the financial troubles of the United Kingdom and by world events. If we can continue our efforts, I think that Kenya can make great progress in the next few years. But we have to remember that recent events have shown that in our return to normal life we should

proceed step by step on the basis of experience and with the chance to adjust our measures should a mistake be made.

At fifteen minutes past Four o'clock His Excellency the Governor left and Mr. Speaker resumed the Chair.

PAPERS LAID

The following Papers were laid on the Table:

East Africa High Commission—East African Posts and Telecommunications Administration Annual Report, 1955, together with Report of Acting Auditor-General, East Africa High Commission Services, on the Appropriation and Operating Accounts for the year 1955.

East Africa High Commission—Report of Desert Locust Survey and Control, 1st January, 1953, to 30th June, 1955.

Draft Estimates of Revenue and Expenditure East African Railways and Harbours: 1957 and 1956 (Revised).

(By THE CHIEF SECRETARY (Mr. Turnbull))

Pensions (Amendment) (No. 2) Regulations, 1956.

(By THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey))

Legislative Council (African Representation) (Registration of Voters) Rules, 1956.

Transfer of Powers (Minister for African Affairs) Draft Order, 1956.
(By THE MINISTER FOR AFRICAN AFFAIRS (Mr. Windley))

Sessional Paper No. 9 of 1956/57. Report of the Committee of Inquiry into the Dairy Industry, 1956.

(By THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell))

Employment of Juveniles (General Revocation) Rules, 1956.

Employment of Children Rules, 1956
(By THE MINISTER FOR EDUCATION, LABOUR AND LANDS (Mr. Coultis))

Industrial Development Corporation. Report of Directors for Initial Period 15th February to 30th June, 1955.

Industrial Development Corporation. Report and Accounts for the year 1955/56.

Weights and Measures (Sale and Importation) (Amendment) Rules, 1956.

Weights and Measures Department. Annual Report, 1955.

(By THE MINISTER FOR COMMERCE AND INDUSTRY (Mr. Hope-Jones))

Report of the Public Accounts Committee on the Colony's Accounts for the year ended 30th June, 1955.

(By Lt.-Col. the Hon. S. G. Gherisic, O.B.E.)

LT.-COL. GHERSIE: Mr. Speaker, I beg to lay on the Table the Report of the Public Accounts Committee for the year ended 30th June, 1955.

This report was tabled before the dissolution of the last Council, and it was for the convenience of Members to lay it originally in a cyclostyled form. We now, Sir, have the printed copy of the report together with the copy of the verbatim evidence which was not available on that occasion.

NOTICES OF MOTIONS

THE CHIEF SECRETARY (Mr. Turnbull): Mr. Speaker, Sir, I beg to give notice of the following Motion:

THAT in accordance with the provisions of Standing Order 159 the following Members be appointed as Members of the Sessional Committee:

Chief Secretary (*Chairman*).
Minister for Legal Affairs.
Minister for Finance and Development.

Group Capt. the Hon. L. R. Briggs.
Hon. S. V. Cooke.
Hon. N. F. Harris.
Hon. S. G. Hassan, M.B.E.
Hon. C. B. Madan.
Hon. E. W. Mathu.
Hon. J. C. M. Nazareth, Q.C.

THE CHIEF SECRETARY (Mr. Turnbull): Mr. Speaker, Sir, I beg to give notice of the following Motion:

THAT in accordance with the provisions of Standing Order 158 the following Members be appointed as

Members of the Public Accounts Committee:

Lt.-Col. the Hon. S. G. Gherisic, O.B.E. (*Chairman*).

The Minister for Finance and Development

Hon. R. S. Alexander.
Capt. the Hon. C. W. A. G. Hamley, O.B.E., R.N. (Ret.).

Hon. S. G. Hassan, M.B.E.
Hon. E. W. Mathu.
Hon. A. J. Pandya.
Hon. J. L. Riddoch, O.B.E.
Hon. C. G. Usher, M.C.

THE CHIEF SECRETARY (Mr. Turnbull): Mr. Speaker, Sir, I beg to give notice of the following Motion:

THAT in accordance with the provisions of Standing Order 153 the following Members be appointed as Members of the Estimates Committee:

The Minister for Finance and Development (*Chairman*).

Hon. R. S. Alexander.
Hon. W. W. Awori.
Lt.-Col. the Hon. S. G. Gherisic, O.B.E.

Capt. the Hon. C. W. A. G. Hamley, O.B.E., R.N. (Ret.).

Hon. N. F. Harris.
Hon. S. G. Hassan, M.B.E.
Hon. Mrs. E. D. Hughes, M.B.E.
Hon. C. B. Madan.
Hon. Sheik Mohamed Ali Sald el Mandry.

Hon. N. S. Mangat, Q.C.
Hon. D. T. arap Moi.
Hon. Jonathan Nzioka.
Hon. Sir Eboo Pirbhai, O.B.E.
Hon. G. A. Tyson, C.M.G.

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): Mr. Speaker, Sir, I beg to give notice of the following Motion:

THAT this Council approves the Draft Regulations cited as the Pensions (Amendment) (No. 2) Regulations, 1956, in so far as the same have retrospective effect.

SIR CHARLES MARKHAM (Ukamba): Mr. Speaker, Sir, I beg to give notice of the following Motion:

THAT having regard for the strategic and economic importance of the Suez Canal to this Colony, this Council notes with satisfaction the recent action in the Middle East by Her Majesty's Government.

BILLS

FIRST READINGS

The Interpretation and General Provisions Bill—(the Minister for Legal Affairs (Mr. Griffith-Jones))—Order for First Reading read—Read the First Time—Ordered to be read the Second Time to-morrow.

The Rules and Regulations (Laying) Bill—(the Minister for Legal Affairs (Mr. Griffith-Jones))—Order for First Reading read—Read the First Time—Ordered to be read the Second Time to-morrow.

The Crown Proceedings Bill—(the Minister for Legal Affairs (Mr. Griffith-Jones))—Order for First Reading read—Read the First Time—Ordered to be read the Second Time to-morrow.

The Law Reform (Miscellaneous Provisions) Bill—(the Minister for Legal Affairs (Mr. Griffith-Jones))—Order for First Reading read—Read the First Time—Ordered to be read the Second Time to-morrow.

The Fatal Accidents (Amendment) Bill—(the Minister for Legal Affairs (Mr. Griffith-Jones))—Order for First Reading read—Read the First Time—Ordered to be read the Second Time to-morrow.

The Bankruptcy (Amendment) Bill—(the Minister for Legal Affairs (Mr. Griffith-Jones))—Order for First Reading read—Read the First Time—Ordered to be read the Second Time to-morrow.

The Registration of Business Names (Amendment) Bill—(the Minister for Legal Affairs (Mr. Griffith-Jones))—Order for First Reading read—Read the First Time—Ordered to be read the Second Time to-morrow.

The Government Contracts Bill—(the Minister for Legal Affairs (Mr. Griffith-Jones))—Order for First Reading read—Read the First Time—Ordered to be read the Second Time to-morrow.

The Registration of Documents (Amendment) Bill—(the Minister for Education, Labour and Lands (Mr. Coutts))—Order for First Reading read—Read the First Time—Ordered to be read the Second Time to-morrow.

The European Cereal Producers Bill—(the Minister for Agriculture,

Animal—Husbandry and Water Resources (Mr. Blundell))—Order for First Reading read—Read the First Time—Ordered to be read the Second Time to-morrow.

The Customs Tariff (Amendment) Bill—(the Minister for Finance and Development (Mr. Vasey))—Order for First Reading read—Read the First Time—Ordered to be read the Second Time to-morrow.

The Widows and Orphans' Pensions (Amendment) Bill—(the Minister for Finance and Development (Mr. Vasey))—Order for First Reading read—Read the First Time—Ordered to be read the Second Time to-morrow.

The Special Tax (Temporary Provisions) (Amendment) Bill—(the Minister for African Affairs (Mr. Windley))—Order for First Reading read—Read the First Time—Ordered to be read the Second Time to-morrow.

The Wheat Industry (Amendment) Bill—(the Minister for Agriculture, Animal Husbandry and Water Resources (Mr. Blundell))—Order for First Reading read—Read the First Time—Ordered to be read the Second Time to-morrow.

The Landlord and Tenant (Shops) Bill—(the Asian Minister without Portfolio (Mr. Madan))—Order for First Reading read—Read the First Time—Ordered to be read the Second Time to-morrow.

The Eviction of Tenants (Control) (Mombasa) Bill—(the Asian Minister without Portfolio (Mr. Madan))—Order for First Reading read—Read the First Time—Ordered to be read the Second Time to-morrow.

The Kenya Society for the Blind Bill—(the Minister for Education, Labour and Lands (Mr. Coutts))—Order for First Reading read—Read the First Time—Ordered to be read the Second Time to-morrow.

ADJOURNMENT

THE SPEAKER (Sir Ferdinand Cavendish-Bentick): That brings us to the end of the business on the Order Paper. Council will stand adjourned until 2.30 p.m. to-morrow, Wednesday, 14th November.

Council rose at twenty-five minutes past Four o'clock.

Wednesday, 14th November, 1956

The Council met at thirty minutes past Two o'clock.

[Mr. Speaker (Sir Ferdinand Cavendish-Bentick) in the Chair]

PRAYERS

NOTICE OF MOTION

THANKS TO H.E. THE GOVERNOR FOR HIS COMMUNICATION FROM THE CHAIR

CAPTAIN HAMLEY (Nominated Member): Mr. Speaker, Sir, I beg to give notice of the following Motion:

BE IT RESOLVED that the thanks of this Council be recorded for the exposition of public policy contained in His Excellency the Governor's Communication from the Chair on the 13th November, 1956.

MOTION

APPOINTMENT OF SESSIONAL COMMITTEE

THE CHIEF SECRETARY (Mr. Turnbull): Mr. Speaker, I beg to move:

THAT in accordance with the provisions of Standing Order 159, the following Members be appointed as Members of the Sessional Committee—

Chief Secretary (*Chairman*),
Minister for Legal Affairs,
Minister for Finance and Development,
Group Captain the Hon. L. R. Briggs,

Hon. S. V. Cooke,
Hon. N. F. Harris,
Hon. S. G. Hassan, M.B.E.,
Hon. C. B. Madan,
Hon. E. W. Mathu,
Hon. J. C. M. Nazareth, Q.C.

This Committee has the responsible duty of arranging the day-to-day business of the Council whilst the Council is in session. This is a formal Motion, Sir, and I beg to move.

MR. USHER (Mombasa) seconded.

Question proposed.

The question was put and carried.

MOTION

APPOINTMENT OF PUBLIC ACCOUNTS COMMITTEE

THE CHIEF SECRETARY (Mr. Turnbull): Mr. Speaker, I beg to move:

THAT in accordance with the provisions of Standing Order 158, the fol-

lowing Members be appointed as Members of the Public Accounts Committee—

Lt.-Col. the Hon. S. G. Gherrie, O.B.E. (*Chairman*),

The Minister for Finance and Development,

Hon. R. S. Alexander,
Capt. the Hon. C. W. A. G. Hamley, O.B.E., R.N. (Ret.),
Hon. S. G. Hassan, M.B.E.,
Hon. E. W. Mathu,
Hon. A. J. Pandya,
Hon. J. L. Riddoch, O.B.E.,
Hon. C. G. Fisher, M.C.

This Committee, Sir, is charged with the duty of scrutinising the accounts of public expenditure. Hon. Members will notice that in accordance with the provision of the Standing Orders, the majority of its members are Unofficial Members.

I beg to move.

MR. HARRIS (Nairobi South) seconded.

Question proposed.

The question was put and carried.

MOTION

APPOINTMENT OF ESTIMATES COMMITTEE

THE CHIEF SECRETARY (Mr. Turnbull): Mr. Speaker, I beg to move:

THAT in accordance with the provisions of Standing Order 153 the following Members be appointed as members of the Estimates Committee—

Minister for Finance and Development (*Chairman*),
Hon. R. S. Alexander,
Hon. W. W. W. Awori,
Lt.-Col. the Hon. S. G. Gherrie, O.B.E.,

Capt. the Hon. C. W. A. G. Hamley, O.B.E., R.N. (Ret.),
Hon. N. F. Harris,
Hon. S. G. Hassan, M.B.E.,
Hon. Mrs. E. D. Hughes, M.B.E.,
Hon. C. B. Madan,
Hon. Sheikh Mohamed Ali Said el Mandy,

Hon. N. S. Mangat, Q.C.,
Hon. D. T. arap Moi,
Hon. Jonathan Nzioka,
Hon. Sir Eboos Pirbhal, O.B.E.,
Hon. G. A. Tyson, C.M.G.

[The Chief Secretary]

Sir, the responsibilities of this committee are well known to hon. Members. The Motion is a formal one.

I beg to move.

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey) seconded.

Question proposed.

The question was put and carried.

MOTION

DRAFT REGULATIONS CITED AS PENSIONS REGULATIONS, 1956

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): Mr. Speaker, I beg to move:

THAT this Council approves the Draft Regulations cited as the Pensions (Amendment) (No. 2) Regulations, 1956, in so far as the same have retrospective effect.

Yesterday, Sir, I laid before the Council the Regulations to which I am now referring, the Pensions (Amendment) (No. 2) Regulations, 1956. Under the proviso to section 3, sub-section (iii), of the Pensions Ordinance, 1950, it is laid down that whenever the Governor in Council is satisfied that it is equitable that any regulations made under this section should have retrospective effect in order to confer benefit upon or remove a disability attaching to any person, that regulation may be given retrospective effect for that purpose provided no such regulation shall have retrospective effect unless it has received prior approval of the Legislative Council signified by resolution.

Now, Sir, the reasons for making an amendment to the Regulations which are incorporated in the Regulations laid yesterday are that, as I am sure hon. Members who were in the last Council will remember, at the time of the adoption of the Lidbury Report, the question was raised by hon. Members opposite as to why the Government had not adopted the reduction in the pensionable service age to 18 years. At that particular time the Government felt, in view of what it thought would be the reaction of other Governments and in view of the case, that we should not adopt that particular recommendation. A little later, however, Sir, we did adopt the procedure that pensionable age should begin to count

from the age of 18 years, and Tanganyika, Uganda, Zanzibar and the East Africa High Commission have indeed adopted this recommendation in that respect, with effect from 1st January, 1954. It now becomes, in our opinion, Sir, therefore, just and fair that we ourselves should make this particular concession retrospective to the date concerned. Therefore, Sir, the purpose of this Motion is to bring that particular regulation into operation as from the 1st day of January, 1954. Also the Regulations have another section which is dealt with in 4 and 5, making the qualifying period for a compassionate gratuity in the case of an unpensionable officer who leaves the service on medical grounds from 15 to 17 years' continuous service. This was based on the United Kingdom Superannuation Act of 1949. It should, Sir, have been effected at the same time as regulation 26 (i) was originally recommended, but there was an oversight in this connection. It is important that we should rectify that omission and that the amendment to regulation 26 (iii) should have the same effective date as the original amendment to 26 (i). Therefore, Sir, it is now moved that this regulation should be deemed to have come into operation on the 22nd day of February, 1955.

I beg to move.

THE MINISTER FOR COMMUNITY DEVELOPMENT (Mr. Ohanga) seconded.

Question proposed.

The question was put and carried.

BILLS

SECOND READINGS

The Rules and Regulations (Laying) Bill
Order for Second Reading read.

MR. CONROY (Nominated Member): Mr. Speaker, Sir, I beg to move that the Rules and Regulations (Laying) Bill be now read the Second Time.

Sir, it was fashionable a short while ago to fulminate against the evils and dangers of delegated legislation. One used to read volumes such as the late Lord Hewart's *The New Despotism* and really get rather frightened by his forecast that the rule of law, and the British Constitution was on the verge of collapse owing to the evils that were being persisted in by delegated legislation by the Imperial

[Mr. Conroy]

Parliament. I must point out that that book was written some 30 years ago and the evils described therein have not yet come to pass.

Sir, I think in theory that delegated legislation is wrong. In practice, of course, we must have it. If we did not have delegation of legislation this Council would sit 365 days a year, morning, noon and night in order to deal with a vast mass of minute details—matters which are now dealt with in the rules and regulations which are made as subordinate legislation by the authority to whom legislative power has been delegated by this Council.

Mr. Speaker, I mentioned one reason for delegated legislation, and that is to save the time of the Council. Another reason, of course, is to allow for flexibility and to permit legislation to be introduced (within the principles laid down by this Council) for matters which require speed, and for matters which change so rapidly that it would not be possible for this Council to cover them in an Ordinance.

Now, Mr. Speaker, it would appear that delegated legislation is undesirable. (Hear! hear!) I think that the hon. Members who say "Hear! Hear!" also agree with me that it is necessary. As in nearly all constitutional problems, we find a solution in a compromise. The compromise is that the legislature, which gives the delegated authority, should retain in its own hands control over the exercise of that power. That is the principle which is set out in this Bill, of which I am now moving the Second Reading. The compromise is that where an Ordinance has given to some subordinate authority power to make rules or regulations, when such rules or regulations are made they must be laid on the Table of this Council. Having been laid, power is then given to this Council, by Resolution, to annul those rules within 20 sitting days after the laying.

Mr. Speaker, I put that forward as a reasonable compromise between the undesirability on the one hand and the necessity on the other. There are two exceptions to which I think I might draw attention. One is that the definition of rules and regulations does not extend to include by-laws. The reason for that, of course, is that by-laws have their own

protection—or rather the subject has his own protection against the by-laws—and it would be unnecessary or redundant for them to be considered in this Council and for powers to be given to annul them.

The other exception is that rules of court are exempted from the provisions of this Bill. The reason for that, of course, is that the authority of making the rules of court represents all the interested parties. They are made by a committee which consists of judges, advocates in private practice and the Attorney-General, and therefore all interested parties have their point of view put forward before the rules are made. Those parties are then protected against any evils of delegated legislation—theoretically speaking that is.

Mr. Speaker, it is proposed in this Bill to repeal the long and variegated list of sections or to amend those sections which now make provision for several different kinds of laying of regulations. Therefore, not only is this Bill a constitutional step forward in that it gives this Council specific authority to annul regulations and that it has the markedly beneficial effect of tidying up our statute book.

Mr. Speaker, I beg to move the Bill be now read the Second Time.

THE MINISTER FOR LEGAL AFFAIRS (Mr. Griffith-Jones) seconded.

Question proposed.

MR. HARRIS: Mr. Speaker, I welcome this Bill as being a step forward and in standardising the method by which rules and regulations are approved, at any rate, theoretically by this Council.

As the hon. Solicitor-General has said, Sir, there is some form of safeguard necessary when this Council gives to subordinate organisations powers to make rules and regulations. There are, of course, Sir, two methods of providing a safeguard. There is the positive form whereby a regulation does not come into force until it has been the subject of a Motion in this Council or the form suggested where unless a Motion of Annulment is moved within 20 sitting days then the regulation stands.

However, Sir, although I personally welcome the fact that the Government have chosen the second of these methods namely, the negative procedure, I think that a further safeguard is necessary. It

[Mr. Harris] has been found necessary in other Legislative Assemblies where this method has been used. I would commend to the Government that they might consider setting up a Scrutiny Select Committee which would scrutinise the rules and regulations before they were laid. Members would then have the satisfaction of knowing that these regulations have been scrutinised and if I may, Sir, I would just like to quote the terms of reference of the select committee in this particular case in the Union of South Africa, although it varies very little from the same committee in the House of Commons. It has slight variations in the Australian Central Government and also, as far as I can find out, in the Government of Trinidad.

You will recollect, Sir, that some of us two years ago had the privilege of listening to the Commonwealth Parliamentary Association debating this very question of delegated powers. In fact, the Minister for Finance on that occasion Sir, as usual was not silent.

The terms of reference of the South African Committee, Sir, is that they shall bring to the attention of the House an instrument on any of the following grounds:

- (a) that they appear to make any unusual or unexpected use of the powers conferred by the Statute under which they are formed;
- (b) that they tend to usurp the control of the House over expenditure and taxation;
- (c) that they tend to exclude the jurisdiction of the course of law without explicit enactment, and,
- (d) that for any reason their form or purport calls for elucidation or special attention.

Now, all those things, Sir, are merely safeguards that this Council might like to be aware had been considered when a rule or regulation is laid and then, I think, there would be no fear in this procedure whereby a Motion can be brought within 20 days. If there is no safeguard such as that, a great deal of harm can be done between the laying of a rule or regulation and an annulling motion being brought in this Council because it is explicit in this proposed law that any action done or taken under a

rule shall not be void, although a subsequent Motion of the Council annuls it. I feel that if we could set up the Committee which I have suggested, there would be sufficient safeguard.

For the information of the Council, Sir, the composition of the Select Committee in the British House of Commons is that it is an all-Party Committee of the House with an Opposition Member in the Chair. I would recommend that Government should consider this procedure which, I believe, is a natural adjunct to the measure they are now producing.

MR. MATHU: Mr. Speaker, Sir, I should like to endorse what my hon. friend the last speaker has just said in support of the Second Reading of this Bill. It is true, as my hon. friend has said, that legislation can be dangerous at times and particularly if the negative procedure is the only compromise, as my hon. friend has said.

In 1932, Sir, in the House of Commons, it was found very necessary to appoint what they then called the Committee on Ministers' Powers, because these powers usually go to the Minister or to a subsidiary authority in order to have what they call organised scrutiny. These regulations and rules regulate the day-to-day affairs of the citizen and I think it is very important that there should be some organisation in the form of a select committee which my friend here has suggested, and which, as he said, appears to be necessary in other Parliaments, to scrutinise our rules and regulations after they have been laid.

I feel, Sir, that, as my hon. friend the Mover has said, the principal body responsible for legislation in this country is Legislative Council and I think, as he has rightly said, the Legislative Council does not sit all the year round, so I agree with him that it is necessary that some delegation of legislation in this, in the form of rules and regulations, should be made. However, I do think that we have to safeguard against the danger of the servant, who in this case is the Minister or any other body, forming himself into the master—because the master here is the legislature and I think the select committee as suggested should be appointed. In fact we have a precedent in the House of Commons in England and

[Mr. Mathu] in Northern Ireland, which is the answer to the criticism that I made.

I should like to ask my hon. friend the Mover in replying to this debate, to tell me where the orders come in. He did suggest, Sir, that by-laws have their own safeguards. The rules of court have their own safeguards and, of course, the very Motion that has just been passed, of my hon. friend, the Minister for Finance, which came to this Council as a draft originally, is also safeguarded and that is why we are debating now, but what about the orders? To give an example, the Minister for Education, Labour and Lands occasionally publishes wages orders. He is empowered to do that under principal legislation passed by this Council, and these too I feel should come under the power of a select committee. I do not think they are covered under the present Bill, unless, of course, they are covered under the definition of rules and regulations under the Interpretation and General Clauses Ordinance. If not, I do suggest that they, too, should be brought into the picture because they affect the life of the community as well.

There is a final point I should like to mention and that is in other parliaments the select committee to scrutinise delegated legislation has the Speaker's counsel and I do suggest that in the event of the Government accepting the recommendation, we shall, I am sure, have the honour of having the counsel of the Speaker in matters of this kind.

Mr. Speaker, I beg to support.

MR. USHER: Mr. Speaker, Sir, in welcoming this Bill and supporting what has already been said on this side of the Council, I should like to draw attention to an expression, phrase, in the Bill, which seems to me of the utmost importance. I refer to the words in clause 3, to the effect that all rules and regulations shall be laid before Legislative Council without unreasonable delay. Now normally, Sir, it would not be necessary for me to ask for any guarantee that this would be strictly honoured, but I think it is, because it would be in the recollection of many members of the last Council that this should be asked for. For instance, the amending Liquor Ordinance which provided for rates to be made according to the procedure laid down in the present Bill.

Sir, recently, regulations or rules have been made in regard to the licence fees, which affect many people in this Council and—I am subject to correction—I believe that even although effect has been given to the rules, they have not been laid. It is, therefore, necessary accordingly for me to ask for that guarantee concerning unreasonable delay—it should normally mean that they will be laid immediately.

MR. CONROY: Mr. Speaker, Sir, if I may deal with several points which have been raised by the Opposition Benches. First of all, the point raised by the hon. Member for Nairobi South which I think is the principal point made, and that is the recommendation to Government that they should consider setting up a scrutiny committee. Mr. Speaker, Sir, too much control can be worse than too little. Too much control can defeat the very purpose of delegated legislation. The Government willingly undertakes to consider the setting up of a committee, but I must point out that if such a committee were to sit and go through delegated legislation regulation by regulation, then the delay might be tremendous.

I must point out that we are a small council. The size of the Gazette, as it comes out every week, is an indication of the mass of subordinate legislation which is made in this Colony and, therefore, although I would willingly give the undertaking that Government will consider the desirability of setting up a scrutiny committee, I must point out the dangers of too much control.

I think in these matters we should be practical. We had for many years no control at all. The proposal is that we should now introduce a first step of control and I think; all hon. Members approve of that. The setting up of a scrutiny committee is a second step. It is an entirely distinct aspect of the same problem and it is one which requires very careful consideration. It is theoretically attractive, but practically it possesses many difficulties. Mr. Speaker, I would also remind hon. Members that for many years we have been having regulations made, but for a number of years now we have had Ministers in this Council to be shot at from the Opposition in respect of any regulations which have been made on matters within their respective portfolios. I cannot,

[Mr. Conroy] within my short membership of this Council, remember any occasion on which such an attack has been made. It may therefore be that the bogey which has been raised by the hon. Members opposite may not exist at all. But certainly the Government will consider this problem.

Mr. Speaker, the point raised by the hon. African-Representative Member in regard to orders will be considered. Speaking from recollection in respect of the Wages Regulations Ordinance, my recollection is that some of the orders made under that Ordinance can only be made with the positive authority of this Council. I think I am right in that. Some of them are made subject to the proper approval of this Council and some of them are not.

Mr. Speaker, finally, the hon. Member for Mombasa raised the question of the Liquor Regulations. Those were made within the very recent past. This Council is now in the second day of its life. The delay has been rather less than 24 hours so far.

MR. USHER: A fortnight.

MR. CONROY: Mr. Speaker, if the hon. Member will look at the Bill, it is 20 sitting days. The Council has not been sitting since these Regulations have been laid.

MR. HARRIS: Stop being broody on the past!

MR. CONROY: The hon. Member for Nairobi South says we must stop being broody. One cannot lay unless sitting. Mr. Speaker, I am sure those rules will be laid within the time of the sitting days of this Council.

Mr. Speaker, I think that deals with the points the hon. Members have raised. Accordingly I beg to move that this Bill be now read the Second Time.

The question was put and carried.

The Bill was read the Second Time and committed to a Committee of the whole Council tomorrow.

The Registration of Business Names (Amendment) Bill

THE MINISTER FOR LEGAL AFFAIRS (Mr. Griffith-Jones): Mr. Speaker, I beg to move that the Registration of Business Names (Amendment) Bill be now read the Second Time.

This Bill, Sir, has the dual merit of brevity and simplicity. Anybody who has read the Objects and Reasons hardly needs any further explanation from myself. However, as one has to assume on these occasions that nobody has read the Objects and Reasons, I am compelled to give a short explanation of the Bill.

The main object of the Bill is to provide a sanction by way of punishment for a criminal offence for non-compliance with the requirements of section 23 of the principal Ordinance, which requires that the name of the individual proprietor or of all the partners in the case of a partnership firm, or the corporate name of the business in the case of a company registered under the principal Ordinance, shall be stated on all the business's newspaper.

The need for this amendment has recently been emphasised by the persistent refusal of at least one business to comply with this requirement; for, despite that persistent refusal, as the Ordinance now stands, there is no sanction.

The only other amendment of any consequence is the provision for the appointment of Assistant Registrars of Business Names. This is desired in order to assist in the administration, not only of the registration of business names, but of the many other registering duties and functions which are undertaken by the same department, namely the Registrar-General's Department.

Mr. Speaker, I beg to move.

THE MINISTER FOR COMMUNITY DEVELOPMENT (Mr. Ohanga) seconded.

Question proposed.

LT.-COL. GHERSIE: Mr. Speaker, Sir, there is only one point on which I would like clarification which is that as the hon. Mover has pointed out, this Bill seeks to remedy an omission: Are we to understand that in regard to section 3, sub-section (iv), that is in regard to those who fail to comply, are we to understand that the penalty for such an offence is already provided for in the existing Registration of Business Names Ordinance?

THE SPEAKER (Sir Ferdinand Cavendish-Bentick): If no other hon. Member wishes to speak, I will call on the hon. Mover to reply.

THE MINISTER FOR LEGAL AFFAIRS (Mr. Griffith-Jones): Yes, Sir.

The question was put and carried.

The Government Contracts Bill

Order for Second Reading read.

MR. CONROY: Mr. Speaker, Sir, I beg to move that the Government Contracts Bill be now read the Second Time.

Mr. Speaker, one advantage of this Bill is that it caused me to look up the definition of what a contract is, and I am now able to inform the Council that it is "An actionable promise, made by one person to another, which is legally enforceable". It consists of an offer and acceptance. You can have contracts made in the most formal way, that is to say, by a deed—signed, sealed and delivered; you can have it made in a less formal way but in writing—the ordinary agreement over a stamp; you can have it made, as very often happens in business affairs, by a series of letters passing between the parties. You can have it made orally; you can have a contract made by conduct, for example, if I go into a restaurant, sit down and order a porter-house steak and the waiter fetches it—there is a complete contract with all kinds of legal consequences made in the restaurant—to my pocket, to my teeth, possibly, if there is some foreign object in the steak. The terms of contract implied by law, from our conduct, will govern the responsibility of the restaurant not to include any foreign matter in the steak which is deleterious to the consumer.

Mr. Speaker, it is this informality which often surprises people when they come to consider the law of contract. You see, it is the law of merchants that has grown up over the years, and contracts can be entered into with marked informality. As a result, I often have to advise Government officers who come to me and say "We have been having these long negotiations—what is the position?" They are often horrified to discover that (a) they have entered into a contract and (b) that they have entered into it personally, and that they themselves are responsible for not necessarily vast sums of money, but certainly for very substantial sums of money. The object of this Bill, Mr. Speaker, is to ensure that the rules with regard to the making of Government contracts are clearly known to both parties. That is to say, they are laid down for the protection of the Government, who is the taxpayer, and

for the protection of merchants of businessmen who enter into the contract with Government. Therefore we provide, in clauses 3 and 5, in effect, that all written contracts must be entered into by prescribed officers, and the merchant or businessman will know who the prescribed officer is. It is proposed, in committee, to move an amendment that a receiver of revenue shall also be a prescribed officer.

Mr. Speaker, a further difficulty which often arises in regard to contracts made by Government is for the contractor to be able to discover whether the officer with whom he is entering into a contract has authority to contract on behalf of the Government. That point is also covered in this Bill. Every merchant will know after this Bill becomes law, that he is entering into a contract at his peril with anyone who is not given authority under this Ordinance; but if the law gives authority, then the merchant is safeguarded.

Mr. Speaker, we have covered clause 7, the question of limitation of personal liability of public officers. I think that it is really an additional protection, because, of course, in the past, the Government has always stood behind the officer. Nevertheless, the way in which clause 7 is drafted will, you see, Mr. Speaker, cover—protect the merchant who does comply with the provisions of this Bill.

There is one other clause to which I desire to draw attention, and that is that under clause 6 existing bona fide contracts are protected and validated under this law.

Mr. Speaker, Sir, I beg to move that Government Contracts Bill be now read the Second Time.

THE MINISTER FOR LEGAL AFFAIRS (Mr. Griffith-Jones) seconded.

Question proposed.

LT.-COL. GHERSIE: Mr. Speaker, I am rising merely on a question of clarification. While we agree that it is proper that accounting officers should enter into contracts on behalf of the Government, provision exists for delegation of powers to other public officers. May we have an assurance that in respect of the accounting officers, or the power they may delegate to other officers, that they must

[Lt.-Col. Gherie]

again refer, or put contracts out to public tender? Alternatively, these contracts must be referred to the Tender Board. In other words, the point I want to establish is that these officers cannot enter into contracts or delegate powers to other officers to enter into contracts without the normal procedure of public tender and tenders being submitted to the Tender Board.

THE SPEAKER (Sir Ferdinand Cavendish-Bentley): If no hon. Member wishes to speak, I will call on the hon. Member to reply.

MR. CONROY: Mr. Speaker, in regard to that point, this Bill makes no difference to the existing arrangements for tendering for Government contracts. This Bill does not, in any way, alter or underline or strengthen the existing practice of going to tender. That is something entirely different. All this Bill does is to say that certain officers shall have power to enter into contracts. It is not for me to give undertakings with regard to tenders—going to tender—but I can give the hon. Member this undertaking: that this Bill does not affect the existing practice with regard to going to tender.

Mr. Speaker, I beg to move.

The question was put and carried.

The Bill was read the Second Time and committed to a Committee of the whole Council to-morrow.

The Registration of Documents (Amendment) Bill

Order for Second Reading read.

THE MINISTER FOR EDUCATION, LABOUR AND LANDS (Mr. Coultis): Mr. Speaker, Sir, I feel that this Bill is a very formal one, and there is very little that I need say about it. As Members of this Council probably know, the original Bill, Cap. 161, was enacted as far back as 1901; by Orders of 1902 and 1908, all district commissioners were made registrars. In actual fact, in practice over the years, no documents have been registered, with the exception of Lamu, Malindi and Kilifi, at district offices. The registration has, to a large extent, been both in Mombasa and Nairobi, and this Bill seeks, therefore, in its amendment, to establish what, in fact, has been the *status quo* for quite a long time. In so doing, we believe that

there will be, in the first place, greater efficiency, and in the second place, it should help the public in order to facilitate them in making searches. It should also help with the security of records, and lastly a matter which I think is of some considerable importance, it means that the documents can be stamped and registered at the same time. At the moment, if you have your document registered in an office such as Lamu or Malindi, you cannot have it stamped. You must take it to one of the central offices in order to get it stamped. By centralising the registration of documents as is proposed in this Bill, you would be able to do both of these things at the same time.

As far as the clauses are concerned, Sir, clause 3 is a matter of definition; clause 4 relates specifically to immovable property which is a necessary provision in view of the fact that we wish to put the Registries in Nairobi and in Mombasa, and clauses 5, 6, and 7, are really consequential amendments.

There is nothing more, Mr. Speaker, that I feel I need say about this Bill, and therefore I beg to move that the Registration of Documents (Amendment) Bill be now read the Second Time.

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey), seconded.

Question proposed.

The question was put and carried.

The Bill was read the Second Time and committed to a Committee of the whole Council to-morrow.

The Customs Tariff (Amendment) Bill

Order for Second Reading read.

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): Mr. Speaker, Sir, I beg to move that the Customs Tariff (Amendment) Bill be now read the Second Time.

This Bill gives two or three what I am afraid hon. Members on the opposite benches will call minor concessions, still, nevertheless, concessions.

First of all, the item 60 (j), which appears in clause 2 of the Schedule. This is to improve the position with regard to the importation of wallspan. Wallspan, as I am sure a lot of Members on

[The Minister for Finance and Development]

the opposite benches will be aware—although I was not until this came to my notice—is a form of curtain walling which, to use the trade words, is made of aluminium, and replaces the more conventional method of clodding building, i.e. bricks, concrete and stone.

This is a very useful type of material, and had it been made of steel instead of aluminium it would have been allowed to have been imported, carrying a 10 per cent *ad valorem* duty.

Of course, when this tariff item was originally introduced, steel was the predominating building material and used for such types of framework for which other metals and alloys are now much more available for construction purposes.

So, Sir, we feel we should encourage the importation of this material, and also assist to some small extent in the building process which is going on in the country by fitting it into the *ad valorem* 10 per cent duty rate.

The next item, Sir, No. 132, is to assist the fishing industry by remedying an existing anomaly, and it is proposed that we, in agreement with the Governments of Uganda and Tanganyika, should therefore amend item 132 (b) to read "Cork or other floats for fishing nets and lines", import duty free.

The third item in the Schedule, Sir, deals with the question of goods coming in for the British Red Cross Society which are for free distribution in relief work. Now, as a subscriber to the International Red Cross Conference, Sir, the Kenya Government is committed to provide the International Red Cross Organisation with, amongst other things, "Special facilities for exemption from customs duty on Red Cross relief supplies", and owing to the absence of any appropriate item in the customs tariff current list, administrative arrangements have had to be utilised from time to time to make *ex gratia* payments on relief supplies imported through the British Red Cross Society Agency, with the approval, of course, of the Ministry of Local Government and Housing. The East African Governments feel that it is foolish to continue this practice of having to make administrative arrangements

each time this happens, and so we have agreed to insert in the tariff list the item "Goods consigned to the British Red Cross Society for free distribution in relief work subject to such limitations and conditions as the Commissioner shall specify.—Free."

That, Sir, covers the object of the Bill, and I would say that in the Committee stage, I shall be moving a small amendment in so far as the number of one of the items is concerned, in order to bring it into line with the numbering of the customs tariff list in one of the adjacent territories.

Sir, I beg to move.

THE MINISTER FOR COMMUNITY DEVELOPMENT (Mr. Ohanga) seconded.

Question proposed.

MR. USHER: Mr. Speaker, Sir, may I be allowed a few short comments? Perhaps the Customs are almost on top of me, and with me 'night and day.

May I take the items in their reverse order. There have, I think, been occasions on which the British Red Cross Society has not been able to get certain items in, even for this purpose, without payment of duty. It is a very welcome provision because in these days, societies which subsist on voluntary contributions are at a loss on account of the fact that there has been no schedule in the Income Tax Ordinance allowing for those contributions and donations to be free. The springs of charity tend to not so much dry up as to be diminished.

In regard to cork or other floats, I only want to say that I am glad to see these things regularised. There is obviously nothing fishy about it.

With regard to fabricated gliders, the hon. Minister did say modestly that the Government contribution was small. Indeed, Sir, when I read the memorandum of objects and reasons, the first part of it, anyway, my heart leapt up because I felt—here, at last, is Government recognising that if it can reduce the cost of housing, it is doing a very good thing. I thought, "Now is the winter of our discontent made glorious summer", but, Sir, I was a little dashed when I read the end part of the memorandum, which says, "It is considered that if the provisions of this Bill become law the loss of customs duty will be negligible".

[Mr. Usher]

All I can say now is that we do welcome this change and hope that the Government will not be weary in well doing and will be a little more generous next time.

Sir, I beg to support.

THE SPEAKER (Sir Ferdinand Cavendish-Bentick): If no hon. Member wishes to speak, I will call on the hon. Member to reply.

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): Mr. Speaker, the only remark I think I have to make is that I hope my hon. friend, the Member for Mombasa, is aware that I am too old a fish to be caught by the fly that he flew about income tax.

The question of loss of revenue, Sir—I would say I very much doubt, in so far as the walls are concerned, whether there will be any loss of revenue. We think it is unlikely there will be any importations of this material while the duty remains at 22 per cent. We hope that, having reduced it to 10 per cent, there will be greater importations, and therefore perhaps more revenue to balance any loss of revenue on the other side.

The question was put and carried.

The Bill was read the Second Time and committed to a Committee of the whole Council tomorrow.

The Widows' and Orphans' Pension (Amendment) Bill, 1956

MR. MACKENZIE (Nominated Member): Mr. Speaker, Sir, I beg to move that the Widows' and Orphans' Pension (Amendment) Bill, 1956, be read the Second Time.

Hon. Members who sat in the previous Council will no doubt remember, Sir, that the gracious lady, the former Member for Ukamba, Lady Shaw, raised some considerable time ago the question of making provision under the Widows' and Orphans' Scheme for pensions to be paid to adopted children of contributors. At the time, my hon. friend, the Minister for Finance, gave an undertaking that the Government would look into this matter, that they were extremely sympathetic, and would act as quickly as possible.

It has taken some little time to bring this amendment forward, the reason for this being that the Widows' and Orphans' Pension Schemes are matters which affect a number of different territories and administrations, and which are coordinated by the Secretary of State. It was necessary to consult with all these authorities and to draft clauses to meet the position which would suit all concerned. This has now been done, Sir, and the necessary provisions are now before the Council.

I do not think it is necessary for me to go at any great length into these clauses which are straightforward and fairly self-explanatory. The first clause—clause 18A (1)—makes the necessary provision for a child adopted by a contributor who falls within the age limits for the scheme, to be deemed to be a child of the contributor for the purposes of the Widows' and Orphans' Scheme.

The second sub-clause rectifies an anomaly which exists at the present time. That is, whereas in the existing scheme adopted children—children, that is, who are adopted by a contributor—do not become members, children of a contributor who are adopted by someone else remain members, or at least, retain their benefits in spite of the fact that for all normal and legal purposes they have gone out of the family of the contributor. The opportunity is being taken to rectify that anomaly, although a contributor will be able to notify the Crown Agents, the managers of the Scheme, in writing within 12 months of the date of the adoption order, if they wish the child to retain its rights under the Scheme. In that case, Sir, the child will remain eligible for the benefits, but otherwise, the child which has been adopted out of the contributor's family will cease to qualify for benefits, which will, of course, go to a greater degree to the remaining members of the contributor's family.

Finally, Sir, there is the third subsection, which merely ensures that vested rights at the present time will in no way be affected.

I think, Sir, that these are very useful amendments to the Scheme. They will make it possible for contributors who have adopted children, to be satisfied that those children will be properly cared for should the contributors die, and I

[Mr. Mackenzie]

should like once more to express the thanks of this Council to Lady Shaw for having raised the matter when she did, and enabling the Council to take the necessary action.

Sir, I beg to move.

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey) seconded.

Question proposed.

The question was put and carried.

The Bill was read the Second Time and committed to a Committee of the whole Council to-morrow.

The Special Tax (Temporary Provisions) (Amendment) Bill

THE MINISTER FOR AFRICAN AFFAIRS (Mr. Windley): Mr. Speaker, Sir, I beg to move that a Bill entitled the Special Tax (Temporary Provisions) (Amendment) Bill be now read the Second Time.

The object of this Bill, Sir, is quite simple; it is to extend the provisions of the Special Tax Ordinance, which applies to the Kikuyu, Embu and Meru peoples, for another year. This has come up annually, Sir, since the Special Tax was imposed. I think it right and proper that it should be considered by this Council every year. This year, Sir, in the light of the much improved circumstances connected with the Emergency, rather special consideration was given to this matter, as to whether it should be continued or not. It was discussed also by the Central Province Advisory Council, composed, as hon. Members know, of the loyalist leaders of the Kikuyu, Embu and Meru people, and they all unanimously recommended that we should continue this tax for another year. They felt, I think quite rightly, that the financial burden of the Emergency had diminished to only a comparatively small amount, and there certainly seems to be room for improvement in that respect. I think, Sir, in view of the advice given by the district commissioners in this province, who agreed with them, that we should continue this tax for another year, and I do recommend to the Council to approve this Ordinance.

At the same time, in view of the improving situation, I feel that we must take a rather more lenient and rather more positive action in approaching the

question of exemption, both for loyalty and in respect of poverty, Sir, and I do propose to initiate this action if this Ordinance is now approved.

Sir, I beg to move.

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey) seconded.

Question proposed.

MR. MATHU: Now, Mr. Speaker, Sir, I just want to raise one point in supporting the Second Reading of this Bill, and it is this, Sir. It bears on what my hon. friend, the hon. Member, has just said before he sat down, and that is, that in view of the very improved situation in the Emergency, the Government should take some positive action to alleviate some of the hardships which are experienced by the very poor and infirm; and also have a lenient definition of loyalty, in order that the fellows should get exemption. I think it is very important, and I am glad he said so.

I have a further point I should like to ask him and the Government to consider also at the present, and that is that relaxation of restrictions on movement of employees to allow them to earn the tax should be made more lenient than hitherto. My hon. friend knows that in the Kikuyu, Embu and Meru areas, trading centres, shops, barter-markets, either close the whole day or open part of the day, and I suggest, Sir, that the time has now come when favourable consideration should be given to allow commercial activities to take place in these areas, so that taxpayers could get money, not only for this Special Tax, but for the ordinary poll tax, the local rates, the locational council rates, and what not. I think then people would feel less troubled in their mind, if they are looking for money to pay their taxes.

I should like to mention, as I think my hon. friends know, that in many areas in Central Province we have got people who are unable to pay these taxes and are put in detention camps by the various native tribunal courts, and if facilities are given in the way I am suggesting, then you will have less of them going to detention camps because they cannot pay the tax because they will have been able to earn it honourably and pay the Tax Department.

THE SPEAKER (Sir Ferdinand Cavendish-Bentinck): If no hon. Member wishes to speak I will call on the hon. Mover to reply.

THE MINISTER FOR AFRICAN AFFAIRS (Mr. Windley): Mr. Speaker, Sir, I am glad that the hon. Member who has just spoken noted with approval my assurance concerning our approach to exemption, but I think perhaps this is hardly the place for me to dilate at length on the number, scope and type of restrictions that have already been lifted in the Kikuyu country, because I think he certainly must be well aware of them. There has been a considerable lifting of restriction on movement and on markets, and I trust that during this year, as the situation improves still further—as I hope it will—the other restrictions on trade will decrease and the gradual improvement in the life of the Kikuyu will continue.

Hon. Members are certainly aware of the proposals which have been approved from time to time for pilot schemes for the re-employment of the Kikuyu in various areas in Kenya, and I have no doubt this will go on and lessen the burden this tax imposes on the Kikuyu people.

I would, in conclusion, like you to note in the Memorandum of Objects and Reasons the figure given for additional revenue which is suggested here is £290,000. The figure should have been £250,000.

I beg to move.

The question was put and carried.

The Bill was read the Second Time and committed to a Committee of the whole Council to-morrow.

The Eviction of Tenants (Control) (Mombasa) Bill

Order for Second Reading read.

THE SPEAKER (Sir Ferdinand Cavendish-Bentinck): Hon. Members will be aware that there is a mistake on some Order Papers, and the Eviction of Tenants (Control) (Mombasa) Bill has been substituted for the Wheat Industry (Amendment) Bill.

THE ASIAN MINISTER WITHOUT PORTFOLIO (Mr. Madan): Mr. Speaker, Sir, I beg to move that the Eviction of Tenants

(Control) (Mombasa) Bill be now read the Second Time.

In doing so, I would like to draw the attention of hon. Members to clause 11 of the Bill, which seeks to repeal the Eviction of Tenants (Control) Ordinance, 1949, which is the Ordinance now in force on this subject. I do so, Sir, so that hon. Members will appreciate that there is no new principle involved in this Bill. It is a new Ordinance because the 1949 Ordinance, being in itself a very small one, it was considered desirable, instead of amending it, to introduce this new Bill instead.

Sir, the 1949 Ordinance was enacted in order to give protection to tenants of certain lands who build temporary houses on such lands which were described in the Schedule to the Ordinance, as there was no other form of protection available to such tenants. The shortage of housing then made it desirable to provide such protection.

The circumstances and conditions which made it necessary to enact the 1949 Ordinance, and which also made it necessary to keep it alive until the end of the current year, unfortunately have not fully disappeared yet, and it is therefore necessary, once again, to tackle the problem. In the ordinary course of events, Sir, as I have already mentioned, this Council probably would have asked to agree to extend the 1949 Ordinance for a certain period, and I have already stated the reason why it has been decided to introduce this new Bill instead of merely asking for an extension of the old existing Ordinance.

The amendments to which I referred, Sir, and which are incorporated in this Bill, were envisaged in the debate on the Resolution which took place in this Council in 1954, when it was moved to extend the 1949 Ordinance until the end of the current year. It was also pointed out then, Sir, that it was Government's intention to introduce a Bill to amend the Ordinance so that it should not stand in the way of slum clearance and the progressive development of Mombasa.

This Bill, Sir, while retaining the necessary and desirable element of protection which it seeks to give the tenants, also aims to achieve the two objects which were mentioned in the debate in 1954.

[The Asian Minister without Portfolio]

Now, Sir, while the various clauses of the Bill are explained in the Memorandum of Objects and Reasons, there are certain of them to which I would like to draw the attention of hon. Members. First, clause 3 of the Bill, Sir, appoints or constitutes a Board without whose consent—such consent to be given under clause 4 of the Bill—no tenant, owner or occupier of a house, built on land which is covered by the provisions of the Bill, may be evicted or any action taken for his eviction without such consent. Nor may the rent of land be increased without such consent, the level of such rents to be that which was being paid therefor on the 6th day of September, 1949.

Also under clause 3, Sir, the Minister for Local Government, Health and Housing may appoint three members of the Board, two of whom must be present when consent for eviction is given. I will refer to this again later.

I will now pass on to clause 5, Sir, which lays down the circumstances under which consent for eviction may be given, and in this connection I would particularly draw the attention of hon. Members to sub-clause (1) (b) and sub-clause (1) (c) of this clause.

Clause 6, Sir, empowers the Board to postpone the granting of consent from time to time, and under clause 9—again my hon. friend, the Minister for Local Government, Health and Housing, if he is satisfied that it is essential in the public interest to do so, may direct that the Board shall not sit to hear and consider applications for consent to evict, and he may also direct that the Board shall not grant such consent, except at such times as may be specified and published by the Minister by notice in the *Gazette*.

This provision, Sir, together with the right to appoint three members of the Board under clause 3, will, it is hoped, enable the Ordinance to be administered on a sound basis. It is also hoped, Sir, that the enactment of this Bill into law, while protecting the class of tenants who are affected, will also enable the progressive development of Mombasa to take place and it will further ensure that, subject to the provisions contained in this Bill, and in so far as it can be achieved, slum clearance will take place in Mom-

bas as speedily as possible, without unnecessary eviction of tenants taking place which might cause either hardship or distress because of lack of alternative accommodation.

Finally, Sir, I should like to draw the attention of hon. Members to clause 10 of the Bill, which says that this Ordinance shall continue in force until 30th December, 1958. Then there is the proviso to this clause for extension, with the approval of this Council. But, while Government would take into consideration the situation as it may exist before this Ordinance is about to expire, it is hoped that it will not be necessary to extend it.

Sir, I beg to move.

THE MINISTER FOR COMMUNITY DEVELOPMENT (Mr. Ohanga) seconded.

Question proposed:

MR. USHER: Mr. Speaker, Sir, I welcome this Bill, which is entirely necessary, and I am quite sure that it will be necessary for the three years of its life: I believe it will be necessary for longer than that.

There are certain matters to which I must refer, and I am glad that, in fact, the Committee stage will not take place to-morrow, because I hope to be able to discuss these matters with the hon. Mover. I must, for the purposes of record, however, mention them now.

Hon. Members will be aware that ownership of land in Mombasa is not quite what it is here. We have three classes of people involved in this, and I might ask the hon. Mover to consider whether he would not prefer to alter the nomenclature in order that the matter might be more clear to all. There is first of all the landowner in this matter, and then there is the house-owner and, finally, there is the tenant, and those are the words which I should prefer, because they express the state of affairs which subsists in Mombasa and on the coast, where you may build a house on land without owning the land at all, and are therefore a tenant-at-will of the land-owner.

That, Sir, brings me to consider whether eviction does not, in some cases, involve hardship, and I am quite sure that it does. The landowner is not perhaps necessarily to be considered in this

[Mr. Usher] matter, because he does enjoy an increased value of the land when these near-slum conditions are removed from it. He will benefit in the long run. The tenant, that is to say the person who lives in the house, likewise will have the protection of the Administration, because, Sir, I think it is extremely unlikely that eviction, anyhow on any great scale, will take place unless there is alternative accommodation for the tenant. So he, too, is protected. The person who suffers most, in my opinion, Sir, is the house-owner; as it is, his rent will be restricted to a rent based upon the value of the house in 1939 and, Sir, I must point out that in quite a number of cases—it may be very many cases—the owner of the house is a single person, often a widow, and that the rent which she derives from that may be her sole means of subsistence. I should, therefore, like to ask the hon. Mover to consider whether he could not introduce a clause which would allow compensation to be paid—say, amounting to rent for two years—in a necessitous case—the necessity to be proved to the satisfaction of the Board by the house-owner, and paid, of course, by the landlord.

In regard to the Administration, Sir, I would like now, with your permission, although it does seem a matter of detail, to ask the hon. Mover if he will consider providing that the District Commissioner should be a member, and that there should also be a representative of the Municipal Board; further, that the District Commissioner should be a necessary component of a quorum.

The hon. Mover, Sir, referred to clause 9, which provides that the Minister, if satisfied that it is essential in the public interest, may direct that the Board shall not sit. Now, Sir, I do not want to go into the question of why he might wish to intervene, but I would like to say this: that the reasons would probably be administrative, and I am now questioning whether it would not be better that the power to direct that the Board shall not sit, should not reside rather with the Administration, which is cognisant with the state of affairs in Mombasa and would know when to use that particular power. I think, Sir, that would tend to do what we all wish to do—to strengthen the authority of the

Administration without any derogation of the dignity and powers of the Minister.

Sir, I beg to support.

THE SPEAKER (Sir Ferdinand Cavendish-Bentick): If no hon. Member wishes to speak, I will ask the hon. Mover to reply.

THE ASIAN MINISTER WITHOUT PORTFOLIO (Mr. Madan): Mr. Speaker, Sir, I am grateful for the support that the hon. Member for Mombasa has given to this Bill. I would deal with the points that he has made. It is true, Sir, that if there is an order made for eviction, it must cause some hardship to someone, but I think, if I mistake not, my hon. friend has confused the issue under clause 5 which lays down—"The Board shall not give any consent under section 4 of this Ordinance except—(a) on the ground of hardship." There, Sir, hardship is being referred to in relation to the house-owner for whom my hon. friend was taking so much pains to make out a case.

I think one would agree with the hon. Member that it is quite safe to say that eviction on any great scale will not take place as a result of the enactment of this Bill, because I also believe, like him, that orders for eviction will not be made unless alternate accommodation is available or unless the conditions which are laid down under clause 5 of the Bill are complied with.

Knowing the situation in Mombasa as the hon. Member does, and as some of us also do, it is difficult to visualise, Sir, that orders for eviction on any large scale—or any scale which might cause us any great deal of worry—would take place.

So far as the question of compensation is concerned, that is a difficult one. It is not a policy, I feel, which Government could accept, Sir; first, because, in cases where there is hardship, as I have already pointed out, the house-owner could, if he succeeded in satisfying the Board, get an order for eviction. On the other hand, if the intention is that the provision which we have under clause 5, that in suitable cases the clearance of land in Mombasa should take place, then I think it would be unwise to introduce

[The Asian Minister without Portfolio] the principle of paying compensation, because there may be cases where a house-owner is unable to foot the bill and the amount of compensation that is payable will be greater than the value of the land itself.

My hon. friend's third point, Sir, was that the District Commissioner should be a member of the Board, as well as a representative of the Municipal Board. On this, I would like to draw his attention to sub-clause (2) of clause 3 of the Bill, which lays down, Sir, that the chairman, or the deputy chairman and any two members of the Coast Board, together with any two of the persons appointed by the Minister as hereinbefore provided, shall constitute a quorum of the Board. The point I am trying to make, and I take it it is the point the hon. Member had in mind, is that unless two of the three members appointed by the Minister are present, the Board may not give its consent for eviction. That is intended to ensure that the Administration will be represented, which will strengthen the hands of the Administration, and the viewpoint of the Administration will be available in the proceedings before the Board.

As to who the members of the Board to be nominated by the Minister should be, what I can do, Sir, is to bring to the notice of the Minister for Local Government, Health and Housing, the point which has been stressed by the hon. Member for Mombasa—that the District Commissioner of Mombasa should be represented and the Municipal Board of Mombasa should also be represented on the Board, and I see no reason why the Minister should not give sympathetic consideration to the suggestion made by my hon. friend.

MR. USHER: Would you not write it into the Bill?

THE ASIAN MINISTER WITHOUT PORTFOLIO (Mr. Madan): Well, my immediate reaction is that I would not like to write it into the Bill, because it would unnecessarily fetter the discretion of the Minister, but that is also something which I am prepared to discuss with the Minister to see if he is agreeable to accept it.

My hon. friend, Sir, then referred to clause 9 of the Bill and the right of the Minister to direct that the Board shall not sit if he so says, by notice published in the *Gazette*. As I said, the Minister will do that only if he is satisfied that it is essential in the public interest to publish such a notice, and my hon. friend may rest assured that any decision that is made to publish such a notice—the views of those whom he has mentioned, such as the District Commissioner and the representatives of the Municipal Board of Mombasa, would be fully taken into consideration.

Sir, I beg to move.

The question was put and carried.

The Bill was read the Second Time and committed to a Committee of the whole Council to-morrow.

ADJOURNMENT

THE SPEAKER (Sir Ferdinand Cavendish-Bentick): That concludes the business on the Order Paper, Council will now stand adjourned until 2.30 p.m. to-morrow, Thursday, 15th November.

Council rose at ten minutes past four o'clock.

Thursday, 15th November, 1956

The Council met at thirty minutes past Two o'clock.

[Mr. Speaker (Sir Ferdinand Cavendish-Bentinck) in the Chair]

PRAYERS

NOTICE OF MOTION

THE TRANSFER AND DELEGATION OF POWERS ORDINANCE, 1955

THE MINISTER FOR AFRICAN AFFAIRS (Mr. Windley): Mr. Speaker, Sir, I beg to give notice of the following Motion:

THAT the order cited as the Transfer of Powers (Minister for African Affairs) (No. 3) Order, 1956, be approved.

MOTION

THANKS FOR EXPOSITION OF POLICY BY H.E. THE GOVERNOR

CAPT. HAMLEY: Mr. Speaker, Sir, I beg to move:

THAT the thanks of this Council be recorded for the exposition of public policy contained in His Excellency's Communication from the Chair on 13th November, 1956.

In other words, Sir, mine the hand to the telegraph to ring down and start the screws turning in this, the major debate of this Council.

Sir, thanks to the resolution and bravery of many people, those screws will now turn in comparatively tranquil waters after the spindrift and spume of recent years and I feel sure Sir, that hon. Members will all wish to join with me in the fervent hope that we can now look forward to many, many years of tranquillity in this Colony and that we shall now have a chance to put a coat of paint and a turn of speed on the ship that but for those stormy years, would have been many, many miles ahead of the place in which we now find her. Not, Sir, that I am averse to an occasional brisk sailing breeze or a flash of summer lightning to enliven these benches on the sometimes dreary afternoons that we endure, but, Sir, I do hope that those several small clouds that I see on the horizon, now no bigger than a man's hand, will be kept cut down to size. I do hope, Sir, that we shall have no petty squabbles among the crew, and I

hope that those brass-mounted friends of mine on the bridge, Sir, will be able to navigate the craft as a happy ship forging ahead towards the silver linings that are now opening up, always, of course, remembering Sir, that the money has got to be found to do so.

All that, Sir, is rather sugary. For those people who do not take sugar I will summarise. What I mean, Sir, is that although we are not out of the wood, the end of the Emergency is in sight and we should now concentrate our energies on recovering the economic and social stability of the country, and should shelve all extraneous problems until that has been achieved.

Now, Sir, passing on, I want to add my small voice to that of His Excellency the Governor in paying tribute to all those brave people who have brought us into these calmer waters. Sir, many times when appreciation has been expressed in this Council I have seen hon. Members bobbing up all over the place to say that somebody has been omitted or to say that insufficient praise has been given to someone else. Sir, I want to avoid that, so let me try to give an omnibus tribute which will cover all those people of whatever race, creed, sex or unit, who have so successfully and in so many ways brought law and order back from chaos in this country. I make no special mention, Sir, except in the case of one particular group. Sir, I delight in brave men—and many people have been exceedingly brave in standing by the Government in this crisis; often Sir, in the great loneliness which, in my opinion is the greatest test of bravery and I delight in them. But there is one particular group which commands my especial admiration, Sir, hon. Members will be aware that there is a difference, not a very subtle difference, between lion-hunting in general with all its individual and particular perils, and the hazard of walking into the lion's den and spitting in the lion's eye. That, Sir, is what some of our people have done and by Jove, Sir, I have got the very greatest admiration for them. I do pay a special tribute to those men of the pseudo gangs, who are braver men than I.

Perhaps, Sir, I should take this opportunity to apologise to the lions for using them as an illustration in this context.

[Captain Hamley]

Mr. Speaker, Sir, the Government's policy in regard to the irreconcilables and the detainees in this Emergency has won my very warm support, because, Sir, it has been common-sense policy. It is the common-sense policy of the rotten apple in the barrel. So long as there is a risk of contamination, so long as any apple remains bad, it obviously, Sir, must be kept out of the barrel. This task of segregation has been one of great magnitude, but I think it has been handled most successfully and most efficiently. Sir, even the hard core of the irreconcilables have not, as they would in many countries, been smacked under lock and key and kept there for the remainder of their lives. They have been put in settlements with fellows of their own kidney (whose company I presume they prefer) and they can look forward to a very reasonable life far removed from the concentration camp conditions which some people in other places ascribe to us and I think, Sir, that is an achievement which we can look back on with no regret.

Sir, I have listened to your words of wisdom from time to time regarding exaggeration in this Chamber, so I am only going to say that I regard with no great esteem those people in other places who make political capital out of the misfortunes of this Colony, particularly by misrepresentation.

I am also very pleased, Sir, to see the Government's housing policy, although where the money for it is going to come from I do not quite know.

The housing policy has many more ramifications than the bare provision of roofs for people. At the bottom end of the scale, Sir, we must expect that people who are housed as animals will act as animals. At the top end of the scale, Sir, we must realise that we shall never get the technicians we want to stiffen the technical standards in this Colony unless we provide them with houses. The wives are the secret of this matter. No wife is going to be content if she has to come out here and just live in places as opposed to making a home, and she cannot make a home, Sir, unless she has a decent house to do it in.

Passing on, Sir, I should like to say that I have always been an opponent of

what I might call the "organised games and spoon-feeding policy", but, nevertheless, I find myself able to welcome the community development that is going on, particularly the influx of some 21 new Community Development Officers. Sir, am somewhat fortified in that attitude when I see that someone else is going to pay for them and that their contract is only going to last for two years. However, I welcome them because I do suggest to hon. Members, Sir, that there is one particular problem which they could with great advantage study and that is the way that some members of some communities spend their leisure hours.

Sir, rather like the old Umbilical Contemplators, I find that some of the men in this country spend much of their time in sitting at the foot of tall trees contemplating their real or imaginary wrongs and it is a pity that they cannot be better occupied. There seems to me to be a gap, which is filled in other countries by the games and hobbies which the youngsters pick up very early in life and which does so influence their attitude to their fellow men and give them a contented outlook on life. I would suggest, Sir, that these new Community Development Officers—or some of them—might well study that aspect of community development.

Mr. Speaker, Sir, as a coast resident I am very happy indeed to see that the question of the ferries on the coast, particularly the Likoni Ferry, is at last emerging from the talking stage to the action stage. It rather reminds me of a chrysalis which has forgotten one or two summers before opening its wings but, nevertheless, it looks now as though we are going to have some action. I hear that there is some reconsideration of the terminal facilities and the matter as to whether floating terminals might not be better than plain ramps is being gone into. I hope that that is not going to hold up the proceedings too long.

I do not think, Sir, that many hon. Members here realise what is involved in this question of the coast ferries. I do not think that they will realise it until they have had the frustrating experience, which many of us have had, of sitting in our car on one of those ferry landings for two or three hours waiting to cross a few hundred yards of calm water.

[Captain Hamley]

Neither do I think they realise what a sound investment these ferries will be. I think a lot of revenue will come in which is not now coming in when communication is made easier on the coast. Nevertheless, Sir, I congratulate Government on having brought this ferry problem to the stage of action.

Lastly, Mr. Speaker, I want to support Government in the action it is taking over the poaching of wild game. I think that terrible things are taking place. I think the poaching of wild game falls into several aspects.

In the first place there is the un-speakable cruelty. These poachers, Sir, have no bowels of compassion whatsoever. In the second place there is the depletion of the wild game which is our heritage and, lastly, Sir, there is the fact that the game of this country is the cheese in the mousetrap of the tourist trade. All success to all those concerned, Sir, in putting this poaching down and confusion to the poachers, and more strongly, confusion to the receivers because they are at the bottom of this infamy, Sir, I do hope that every endeavour will be made to catch these receivers whose incentives are the cause of nearly all the poaching.

In conclusion, Sir, "Sail on, O Ship of State! Sail on" has a nice sonorous cadence; and makes a nice rolling sentence, but I do hope, Sir, that we are going to rather improve on it. I should like it to be "Sail on, O Ship of State— but get a move on".

Mr. Speaker, Sir, I beg to move.

MR. SAGOO (Nominated Member): Mr. Speaker, Sir, I rise with a sense of great responsibility and full consciousness of the honour of being allowed to second this Motion—so ably proposed in the best of the naval traditions by the hon. Mover. He has, indeed, left very little for me to add, but, as human nature would have it, I cannot allow this opportunity to pass without underlining some of the salient features in His Excellency's Communication.

His Excellency has reviewed the whole position in a very comprehensive manner and—if I may be allowed to say, Sir—with scrupulous fairness. His restrained optimism, to which the

Secunder of a similar Motion a year ago referred, has now been more than justified. That we find ourselves in the happy position in which we are is a tribute to His Excellency, his sagacity, his foresight and his statesmanship. Indeed, it can be said with conviction that had it not been so the recent visit of Her Royal Highness the Princess Margaret could not have been possible. That happy and memorable occasion was the first indication to the general public that some marked improvement in the state of Emergency must have taken place. I would, therefore, like to add my tribute to that of His Excellency and the hon. Mover to all branches of the forces of law and order who have served the country so wonderfully well in bringing about a state of normality in the City of Nairobi, in the townships and in the reserves.

We also owe a great debt of gratitude to the peoples of all races for having displayed such tranquility, equanimity and forbearance in the face of such perils as we have had the misfortune to experience.

By far the most heartening news is the announcement that the control of operations is to pass from the army to the police and that, for the first time His Excellency could speak to the Council "with the black clouds of civil war almost dissipated".

However, before we plunge ourselves headlong into rejoicings of such joyous tidings let us pause a while and reflect lest we forget that much blood and many tears have been shed in the process. We have come a long way; we have still a long way to go, and the path that leads to the attainment of the ideals and the objectives which we all cherish, will now require toil and sweat, industry and application. If we have to ensure permanent peace in this country then we will have to direct our energies and our resources to improving the quality of our citizens. To make them worthy we have to provide them with more schools and better educational facilities; to make them healthy we have to provide them with more hospitals and better medical facilities; to make them feel secure we have to provide them with more houses and better living conditions and, finally, Sir, in order to enable them to earn their daily bread we should take such steps as

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may be found necessary to develop our agriculture, improve our livestock and expand our commerce and industry.

These, then, Sir, are some matters of policy as emphasised by His Excellency the Governor in his Communication and to this end the Government has introduced certain Bills representing important measures of reform which I commend to the serious perusal and consideration of the hon. Members of this Council. It may be hazarded that all these increased services and reforms cost money, and all of it is not going to come from the national Exchequer.

The Minister for Finance is but the trustee of people's money and it may be the people will be called upon to make even greater sacrifices and effect more compulsory savings to pay for these services. We have received continued assistance from Her Majesty's Government in the United Kingdom for which we are ever grateful, and I should like to say here that in spite of the differences between various communities, there has been no diminution in loyalty to Her Most Gracious Majesty the Queen.

One last observation, Sir, before I resume my seat, I have always been brought up *not* to say that this country belongs to us, and thereby throwing overboard every selfish propensity which may lead to a clamour for power and supremacy, but instead to say this: that we belong to this country and, therefore, must give devoted and selfless service for the betterment of all who live in it. It may sound somewhat grandiloquent in my mouth as a junior Member of this Council to speak in this vein; but I have done so with all humility, in the hope that we may cast away fear, suspicion and mistrust of our fellow beings and lend our collective might to build a more peaceful, happy and prosperous Kenya. The prayer uppermost in my mind is taken from Shakespeare's *Henry IV*, "God befriend us as our cause is just".

Sir, I beg to second. (Applause.)

MR. COOKE: Mr. Speaker, it was a pleasure to listen to the humorous speech of the Mover of this Motion to-day, especially as in the past we have had sometimes to listen to rather pedantic and liturgical speeches from the other side of the Council and I would like also

to congratulate Mr. Kirpal Singh on this, I believe, his maiden speech in this Council. I am sure we will all hope that it will not be his last by any means!

The Mover made a remark, I think, about a happy ship, and I imagine that his motive was to hope that we, on this side of the Council, would make this Council a happy ship. Well, I think a happy ship depends largely on the captain at the helm, and I am sure that if we are under right and wise leadership, this side of the Council will co-operate with the other side to the best of its ability. But I, myself, was disappointed in the speech which we heard on Tuesday; I suppose we all had conceptions of what a speech of that nature should be. I, personally, would have preferred to hear a rallying call to the various peoples of this country. I would even like to have seen a rebuke to the warring politicians of this country—who, in spite of the Lyttelton proposals, seem to be warring too much amongst themselves. I would like to have heard His Excellency say "A plague on both your houses", so far as politics is concerned and let us get down to establishing the economic stability of this country, which I think in the opinion of most people is all that really matters. I would like to have heard some warning of the effects, for instance, of the lack of revenue which is being received by the Railways and the Post Office and other services to-day, warning as to what may happen in the future. We Britons do not mind, indeed, we like to receive, as Mr. Churchill gave us many times during the war, a warning of what might happen in the future, without, of course, being unduly pessimistic. Or it might have been that another conception might have been a factual statement about the finances of this country, or something about a curtailment of the development plan which, I believe, is being reduced to one-third of what was originally proposed. We might have heard something about the future of the taxation structure of the country, or we might have heard something about the need for productive enterprise rather than for enterprise which is not immediately productive. And after the great pageantry of the military display on Tuesday, and—if I may say so—the dignified procedure and proceedings which followed in this Council, it was to me a little bit

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disappointing to hear the peroration which ended in these words, if, indeed, by any imagination one would call it a peroration. "But we have to remember that recent events have shown that in our return to normal life, we should proceed, step by step, on the basis of experience and with the chance to adjust our measures should a mistake be made".

Well, Sir, I do not think that is a good rallying cry for a new country like this, and I think that we would prefer, I certainly would prefer, something a great deal more of a punch in the Government of this country.

Now I am not blaming, indeed, it would be impertinence for me to criticise His Excellency. The voice was the voice of the Governor, but the words are naturally, well, the words of the Ministers on the other side of the Council, and it is those gentlemen, who, in spite of what we were promised would happen when the Lyttelton proposals came into being, have produced this most disappointing. If I may call it, document, which we heard read out on Tuesday. Now if the Lyttelton proposals are going to justify themselves, they would have to show, I think, that the Government appreciated the realities of this country, and would pay good deal more attention to the facts of this country, to its economy and to its financial stability.

Now, we heard nothing about loans, which are absolutely essential if this country is to go ahead. We know how difficult it is to borrow money in the City of London to-day, or indeed to borrow it anywhere. That applies especially, Sir, I think, to what are called gilt-edged securities, because people nowadays are not going to lock up money with a small rate of interest, and with a chance of a great depreciation in the sums that they lock up. They have had a warning from the Victorian era where the bonds, the consols, of those days are now about half the price of what they were, and money purchasing about one-fourth of what it purchased then, and people are more out now, I think in this younger age, for more of a gamble, and want to see their money turned over quickly, and they put their money into the equities rather than into gilt-edged securities. So it seems to me that we have got to face the fact that we have to offer very much

better terms for any loans that we float in future. I was told by a financial expert only yesterday that the big companies—he was not one of the gentlemen on the other side of this Council—I would not say a more distinguished gentleman, it would be very difficult to be that, but quite a distinguished member of the Kenyan community—and he said that the Shell Company, or one of its subsidiary companies, went into the market the other day for £10,000,000, and had no difficulty whatever in obtaining £16,000,000, and, of course, the reason was that they were able to turn over that money and pay a better interest to their shareholders. It is only natural, therefore, that if we are going to attract purchasers of our bonds or shares, whatever it may be, we must offer them in the future at a bigger rate of interest. I would utter this warning, if I may call it so, to people of this country, a warning which I think should more properly come from my hon. friend, the Minister for Finance, but he always seems to me to be rather out to please the people of this country rather than to lecture them. Perhaps he is right—I would not know. I should utter this warning to the people of this country: if they are not prepared to subscribe to our local loans they have to pay by taxation in some other way enough to carry on the government of this country. They cannot have it both ways. They cannot refuse, as they have refused, or declined, or have not contributed in any great measure to our local loans, but if they do not do that, I do not see how the Minister for Finance has any other alternative but to put up taxation in this country.

Now, I think that is a very firm warning which should be given, and I think a person in the position of His Excellency the Governor, if he thinks so, of course, should give a warning such as that, because it is only being fair to the people to whom one has the responsibility for governing. I know that the words I am using today will probably be completely distorted in certain sections of the Press, especially what one might call the Press of Nakuru, and I would be reported as having said in this Council that income tax must go up, or something of that sort. Of course, I never said any such thing. What I say is that taxation—one way or another—must go

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up if the people of this country do not subscribe, as they should, to local loans. It is quite impossible to think this country can go ahead with the atrocious roads it has at the moment, and with the underdevelopment in many ways. I believe local government for instance is looking for a lot of money to carry out very necessary sewerage works, and other works of that nature in the larger towns in this country, and we will just be the laughing stock of the rest of the world unless we can show an example that we are prepared to tax ourselves to carry on the Government of this country. Warnings have been issued already by the Governor of Tanganyika, and I think by the Governor of Uganda, at any rate, by the Chairman of the Central and East African Board, that nothing is so upsetting to big finance as political instability and that it is another point which we must seriously consider; as to whether we can go on with all these quarrels, and people manoeuvring for position as is being done by all races, both to obtain Ministries and other advancement. I am not making any reference to my hon. friend, the Member for West Kenya, it is not going to attract capital if we are constantly quarrelling amongst ourselves, manoeuvring for position.

A small instance, if I might be allowed to mention it, Sir, in this respect, is the deplorable decision of the non-European races to abstain from attending the Unofficial Members' Organisation. Now they blame, in complete distortion of the facts, the independent group for certain things that they said, both in their speeches and manifests, but if we are not going to allow freedom of expression to various groups in this country, it is going to be an intolerable country to live in. I say, Sir, with every weighing of my words, that it is absolutely infantile and childish to abstain from the Unofficial Members' Organisation when they should join us in the very necessary work, arranging the procedure and other necessary proceedings of this Council, and if I wanted to find fault, I could indeed find a great deal of fault with what special Asian Members said during the election campaign, and more than fault. But I respect their views and I would reply to them from the public

platform, even if the meeting was composed entirely of Asians. I think it is childish and completely infantile to register their dissent by absenting themselves from the Unofficial Members' Organisation and that sort of thing must have nothing but the worst effect outside this country.

Now, Sir, there is, I am told, plenty of money knocking about which could be obtained, with a good rate of interest, and I hope Government will consider such attractions. I myself have always been against Government bonds of any kind, but I do think that if a lot of money in this country is going out—I am referring to lotteries—to places like Rhodesia and other countries, we should try to obtain some of that money in the form of lotteries, because although, as I have said, I have always been against lotteries, however, I believe if we are not being successful in persuading people not to bet, then we might have a share of that money which is at present going abroad, and I hope that my hon. friend will give consideration to this suggestion which, of course, has been made to him many times in the past.

Now, with regard to—indeed, I cannot say in regard to His Excellency's Speech, because there is very little in it I can find—he does refer to the African boycott of their registration of voters, and I think that is a matter which must greatly concern everybody in this country, because a matter like that could be very easily worked up to a grievance and before we know where we are, we would find that, after the next election, charges will be brought against Government that those elections have been rigged and that therefore the more extreme elements in this country have been kept out of representation in this Council. I am one of those who would like to see some of the more extreme people in this Council, because I think it would be a good thing if they could let off their grievances here rather than outside.

But I was a little bit perplexed at a letter which appeared in to-day's paper, from my hon friend the Minister for African Affairs, in which he replies—I think rather inadequately—to Mr. Tom Mboya and he rather takes the line that it would be impossible for the rigging

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which Mr. Mboya alleges is going on, to take place. But I do not think, with all due respects, to him, that he made a very good case in his reply; and I think the use of that word "probable" is a little bit unfortunate and "certainly" I think, should have been substituted for it. But the fact of the matter is that unless we take a strong line about that now, we will have sooner or later to take a much stronger line. Now this gentleman to whom my hon. friend replied in the letter to-day is either right or he is wrong. If he is right—no matter how much we dislike him, and I personally do not dislike him—if he is right, we should give consideration to his views; and if he is wrong, then we should take, I think, some kind of judicial action against him for making statements which I think must be very nearly sceditious. It is better to do it now than later on, when the situation may become more complicated than it is to-day. It is hope personally the gentleman in question will see the error of his ways and he will co-operate, because I think he has got the ability, from what I have seen both meeting him on the platform and off the platform, which should be brought to the aid of Government. It may easily lead to a very ticklish situation if he is not dealt with wisely.

Now, Sir, I have only one further remark to make, and that is coming back to the roads. I notice in the Annual Report of the Road Authority they very rightly draw attention to the fact that development here—agricultural development especially—is outstripping transportation, and when the Swynnerton Plan comes into being, when it matures, it will be very unfortunate, and will lead, indeed, to a lot of recrimination, if the produce from the African areas cannot be taken to the markets because of inadequate transport. Now, I and others have warned the Government about this in the past, and I do say again, because it is one of those sticks with which Government is later on whipped, if they do not take action now; and I do plead with them to put in the forefront this development of the roads; not only the main roads, but the feeder roads from the African areas to the railway lines. And you will at the same time, of course, not only be helping agriculture

but also helping the whole of the development of this country, including tourism and those other attractions which we wish to see encouraged.

Sir, I beg to support.

MR. MANGAT (Central Electoral Area): (Applause.) Mr. Speaker, Sir, 20 years less one, have passed since I spoke last in this august assembly. On that occasion the audience was slightly smaller than and not quite so composite as this, but it was none the less distinguished, including as it did the then Leader of the Unofficial Members, the late Lord Francis Scott, whose qualities of head and heart were excelled only by another noble lord before him. It also included that master of English prose, the late Mr. Conway Harvey, and also a leader in my own profession, the late Mr. Eric Schwartz. That audience had in it another earnest and eager-looking gentleman enjoying his first term in the Council, with the look of that utter confidence which proclaims to the world that he has mastered the past, has captured the present, and is determined to pierce the future. For his lordly name, he had accepted the affectionate abbreviation of C.B.

Now, Sir, those times are as fresh in my memory as if they were yesterday. Standing before this bigger and more representative audience this afternoon, when I cast about for a comparison of my present condition, I feel like the soldier who gets his discharge in order to apply himself to placid pursuits and then finds that his old regiment had gone from one victory to another, till it stood resplendent in its accumulated glory and then he is tempted to rejoin it.

I have come back to that regiment, and what could be more gratifying for me than to find that one from my own ranks has risen to be its commander. You have, Sir, been felicitated already more than once on the attainment of the position which your probity justly awards you, yet I would crave your indulgence to do so once more on behalf of those who initiated you into this Council in the fourth month of 1934, of whom I happened to be one.

Sir, when an old soldier returns to start again as a private, he does so with a purpose. I think I owe it to the Council to disclose mine. On the 4th August

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this year, from the high place where my community had set me, for some years, and yet sustains me, I had said this: "I am convinced that the time has come when we should, that is we Indians, should declare an end to our 50-year feud with the European community and bury the hatchet". Now, Sir, my community has not only buried the hatchet, but it has enjoined me to come here and proclaim so from this, the most solemn of places in this land. The hatchet has been buried, irretrievably, I hope even though many of the original causes for its coming into existence are still above the ground. Nevertheless, the Indian community is anxious to give its full co-operation to all the other races in their march towards the attainment of a common endeavour.

I may differ on many things with the hon. Member, but I do agree with him that "the ship is more important than the crew".

I have made no mention of feuds or hatchets in relation to the African community. This is so because I feel that those horrid words would be redundant in that context. The Indian community has always had full sympathy with the legitimate aspirations of the African community.

On the journey on which we have embarked, I am one of the travellers. I shall seek and profit by the guidance of more experienced friends. During the next four years, on occasions, my clumsy gait, or my insistence on following a particular direction in our travels, is sure to cause annoyance to them, but I assure them that there will be no intent to annoy.

This is not my maiden speech, Sir, that occurred 23 years ago. It makes me feel all the more grateful to you, Sir, and the Council, for granting me the latitude which convention grudged me.

Now, Sir, if I may turn to the subject under discussion. I feel, Sir, that the Speech commences as it also ends, with thanksgiving for our very survival during the last four years. I do not think, Sir, that the Government talks in that language. As the previous speaker has said, it should have been stronger than that. There is an expression of hope and there are concepts, but there is very little

concrete on which the country can base its future policy.

The Lyttelton Plan was mentioned by the hon. speaker who has just sat down. I would also like to say a few words on that, because I feel that it was incumbent on the Government to affirm its own stability before it embarked on any other programmes in this speech. The whole of the Speech seems as if the Government is not stable.

Soon after the Lyttelton Plan was introduced, I had an occasion to listen to our present Member for Agriculture, Animal Husbandry and Water Resources speak at a social function where he propounded the virtues of the plan. Among many of the blessings which he said the plan brought to us, he told us that it had given to the country an E-MWOP and an A-MWOP. Those words, Sir, sounded as if they were some new brand of insecticide for our Plant Breeding Station, but he proceeded to say that he himself was the E-MWOP; that certainly made me look at him more intently, but the mist was dissolved when he interpreted it to be "European Minister without Portfolio", and by the same code the A-MWOP became the Asian Minister without Portfolio.

Last month, Sir, when I entered these premises for the first time, I was given several publications, among them Volume LXIX of the Legislative Council debates and I respectfully opened it as one would open any tome of this size, and as if predestined, I struck on columns 257 and 258. On the top of both these columns there were two very famous names. One is Mr. Cooke and the other is the Minister for Legal Affairs, Mr. Griffith-Jones. Now these two gentlemen have their own special places in my heart; the latter, of course, holding one slightly warmer than the other, so I looked at what he had to say. This is it, "Mr. Speaker, Sir, in reply to the last speaker, I will tell him, and will tell him on behalf of myself and all my Ministerial colleagues, that the Council of Ministers is no farce. It is the Government of this country. I will also inform the Member for Aberdare that as an experiment, it is not a failure, it is a remarkable success. It is obviously a coalition". I should be the last person, Sir, to join issue with the Minister for Legal Affairs, but it does strike me as

[Mr. Manga] odd that if the experiment was so successful, was remarkably successful, why is it being continued? We should have got then something substantive to follow and that should have been the basis of the Speech which we are asked to approve this afternoon. One would imagine that when an experiment is finished the beakers would be put away, and the burner would be taken away from the crucible, but that is not done in this instance and the result is that, perhaps due to overheating, we are getting more MWOPS out of the crucible. Already we have got an AF-MWOP and an AR-MWOP is in the process of formation.

Now, Sir, I seriously think that this MWOP-craze is going to cause us tremendous trouble. Anything established once is extremely difficult to dissolve. It seems that Ministers without Portfolio are being created indiscriminately; certainly it is not wise for the country or for this Council, and as far as coalition, I think coalition is becoming chronic, and like any chronic disease it is going to be very expensive and perhaps incurable.

A tornado has risen up north. It may take any direction not excluding ours, and, Sir, this Government is trying to strengthen its defences with decorative MWOPS who are being created one after the other without discrimination, and then you expect that the Government of the country should carry on in a manner in which governments should. The whole Speech shows the weakness of the Government in many directions. I do not find a single sentence which shows the confidence which the Government should have in themselves before they come to the Unofficial Members for support.

I might also say, Sir, that the vigour and ability which the Government thinks that the Lyttelton Plan has is not here. It is quite true that the Ministers, like so many little Jack Horners, have been sitting eating their Christmas pies, but the corner in which they are sitting is extremely vulnerable. It was nearly raided last month by a group of eight and it was saved simply because the monitor of the group was offered the most luscious plum in the pie. He has put it in his mouth—I do not think he

has swallowed it yet. He could spit it out any moment and resume his old exploits.

Indeed, Sir, if I were not running too near the praising of myself, perhaps one man could bring down the whole Lyttelton Plan to the ground and the Government would be in a dilemma as to what to do with it. So the first essential the Government should have observed in this Speech was to tell the country what sort of Government it is—it has not done so—and what it proposes to do during the next four years. Does it mean that the Government is going to sit quiet for the next four years, until 1960 is finished, and only then start to do something? I think the Government is aggravating the whole situation by not bringing in constitutional proposals which should be brought on the basis of a common electoral roll. I would suggest to the hon. the Leader of the Council, that he should take the risk to bring constitutional proposals to this Council. We often hear it suggested that there should be a round table conference among the races in the country; may I ask, Sir, what is wrong with this solid square table, and are not the residents of the country sitting around it?

I hope very soon, without waiting for the end of 1960, we shall have something completed in the way of government, real government, for the country, not a Government obsessed with the idea of security, and not a Government which goes on giving thanks to everybody for the little he has done. I think we have been thanking people too much who have been merely doing their duty, although I do not reserve for a moment the praise given by the honourable Mover to the quarters where it was best deserved.

Now, Sir, the Government are reclaiming lost souls and gathering in the stray sheep, which, of course, is laudable, but I am wondering at what expense it would be done, accustomed as we are to very extravagant means to do very small things. At page 2 of the Communication from the Chair, I see that a start is being made now on the preparation of the final legislation for governing the issue of titles to the African areas. I respectfully say, Sir, that the titles should have been ready by now. When this land consolidation is

[Mr. Manga] going on the titles should be available to those who want them. The psychological healthy reaction of the man who gets his title deed embossed and stamped and signed by the Governor himself, is tremendous. The Government could have saved a lot of expense in propaganda if only they could show the title deeds to those to whom they are going to be given later. And then, of course, by association of ideas, it comes to mind as to under what Ordinance those titles would be given, although we are promised that legislation is getting ready for the purpose. That made me think of the contents of page 5 of the Communication, Sir, where the Government is turning its attention towards new laws, the administration of laws.

Now, on that point, I respectfully suggest to the Minister for Legal Affairs that the first nuisance which should be abated and should have been abated many years ago is the Indian Transfer of Property Act. For the last 10 years at least, the legal profession has been clamouring for its abolition. I know it is a very big task to replace it, yet it has to be done, and done as soon as possible. That law was framed in 1872 and in those days there were no forms of conveyances or registration in India and it contains such archaic provisions as have to follow religious proclivities of many communities in India. For instance, section 69 lays down that if one of the parties to a mortgage is a Muslim, Hindu or Buddhist any provision made in the deed for the sale of the property is void. Now, in this country, one is certainly not a Buddhist—he is either a Muslim or non-Muslim, which means a Hindu, and for many years past hundreds of thousands of shillings have been wasted in litigation, in costs and in fees, simply because there was no power in the deed itself to enforce the sale. That is only one instance. There can be many others; of course they are on the fingertips of the hon. the Minister for Legal Affairs. This Act should be repealed first, and since that is going to be done we must replace that law with a new one.

Now to draft law relating to property, is the work of a specialist. It might require the services of a commission, but I would respectfully commend to

the Minister for Legal Affairs that he may care to look at the Registration of Titles Ordinance in Uganda. I think that would suit our conditions very well indeed since we in this country have leaseholds, with very rare exceptions of free grants, old holdings as well as new holdings would properly be covered by the Registration of Titles Ordinance in Uganda.

I welcome, Sir, the law reforms which are being brought in, the Crown Proceedings Bill in particular, although it is belated—I think it came into force in England about eight or nine years ago—when it is put before the Council in its Second Reading, I shall certainly have to make some observations on it and I should reserve my comments for that occasion, but on the whole it is a very desirable legislation because from my experience in courts I know many an Indian civil servant has been deprived of his rights because one of his superiors decided that he had committed an act of misconduct and he never had an opportunity of seeking a decision of law.

The Indian Contract Act. At the moment it is merely a shell because we have our own Sale of Goods Act and we have our Partnership Act which has really taken away a very large portion of the Indian Contract Act, so it is just as well that we utilise the rest of the sections for contracts alone and it would certainly be very convenient for the profession.

But when we come to the Indian Evidence Act I think I should strike a note of warning there. My respectful submission would be "Do not touch it". This Act is one of the best that was ever framed by a committee of English Judges in India. Every word of its 167 sections is worth retaining. The commentary is up to date and there has been hardly any amendments in India though we have had to amend some sections here merely to suit our local circumstances and those are the only sections which need repealing; otherwise retain it in its entirety. I do not think any other Act can replace that marvellous Act. It is going to serve the country even better now when our police force is being increased, in which the Africans and Indians are going to have a very big share.

[Mr. Mangat]

Now, while I am at legislation, Sir, I would draw the attention of the Minister for Legal Affairs to a very bad piece of legislation in our Ordinances, and that is Chapter 149 which concerns Hindu marriages, divorces and succession. Now under that Ordinance we are countenancing something which is not allowed under the English law. This Ordinance sanctions divorce only by collusion.

There is no jurisdiction in the courts to grant a divorce, but a divorce arranged between the parties may be recognised as a divorce in this country. Now that is a principle of law which must not be permitted in this British Colony, Chapter 149, as far as husband and wife are concerned, has only two remedies. One is restitution of conjugal rights against the wife in which no attachment is provided for, and the wife can usually make it abortive by resorting to what can be called passive resistance, and the second is an order for periodic payments which may be equally rendered void by the demeanour of the husband. Beyond that this Ordinance is no help in solving the difficulties of the Indian community.

Now, I would recommend to him that it be replaced by the latest Ordinance in India which is the Hindu Marriage Act of 1955 which provides for divorce, nullity of marriage, custody of children, and every other thing which should be provided in the best interests of families. Unless some of my friends may think that simply because it is an Indian Act it may not be quite appropriate to be applicable here I would just say that this Act for the first time ordains that neither party shall marry as long as he has a spouse living at the time of the marriage.

Monogamy is coming into force in India through this Act while in Kenya there is no such prohibition at all. A Muslim can marry four wives here, but a Hindu can have 40, and since we are trying to bring the laws of the country into conformity with the British principles of justice and equity I think it most essential that the Hindu Marriage Act, which would govern two-thirds of the Asian community here, should be at once adopted and Chapter 149 replaced by this. I have a copy of this which I shall pass on to the Minister

for Legal Affairs as soon as I have finished.

Now, Sir, going on, there is one point and that is the appointment of a Statute Revision Committee. Of course, at the appropriate time we shall have some sort of a Bill sanctioning its appointment, but I do consider that anything done through committees always means delay, and delay to the extent that the law begins to lose its force. We see that the hon. Solicitor-General is assiduously following legislation, I am convinced that if this responsibility was given to him alone we would have better results.

Now, passing to page 9 of the Communication, Sir, I am indeed disappointed at the Government's indifference towards the educational and medical needs of the Asian community. On these two topics all that we get is three lines on page eight and five lines on page nine, and the same in European and Asian education that Government should continue to meet its statutory obligations. Now, Sir, if anybody observes his statutory obligation he is not obliging to anyone at all. He observes them because he has to observe them according to the statute. It is a pity that the Government could not spare a word of encouragement for the Asian community who are spending millions of shillings on their private girls' schools. There is no statutory obligation on the Indian community to maintain such a vast system of education at their own expense; there was not statutory obligation on the Indian community to promise to give £400,000 to the Ghandi Academy so that the Royal Technical College may have some assistance in its funds and, similarly, there was no statutory obligation on the Gandhi Samarak Nidhi in India to give £100,000 for the help of education in this country. So statutory obligations are the least that a man is expected to observe.

I cannot be grateful to the Government for simply saying that they will observe those obligations, and the Indian community is not carrying out its statutory obligations by providing children for the schools; the most essential part of the schools is provided by the community themselves—the children and there are plenty of them.

[Mr. Mangat]

As regards hospitals, all that is mentioned, Sir, is that a hospital relief fund for Indian and Arab communities is under consideration. Now that has been under consideration for a good many years. We are waiting for some sort of solution to this most important social service which touches the Asian community. The most important thing which I note in this speech is the absence of any mention of doing away with the racial discrimination in many Ordinances which are the laws of the country. A few months ago I think it was discovered that about 100 Ordinances have discriminatory clauses—racial clauses—in them.

Now, is it not astonishing, Sir, that the Government brings in a programme and there is not a word of doing away with that discrimination. As a matter of fact, it seems to me that the policy of the Government is to maintain and perpetuate such racial differences. An instance has come to my knowledge only recently, and that is that under the Land Control Ordinance and the Crown Lands Ordinance the list of approved banks who can lend money on farms has contained only three banks for many years—Barclays Bank, the National Bank of India and the Standard Bank of South Africa. The Government must be aware that Indian banks have opened their offices in this country, and one of them applied that it should be included in that list and its application was turned down.

Is that not a glaring example of racial discrimination? After all, banks are not out to buy land; they are merely out to invest money. Does the Government think that Indian banks should confine their activities to lending money to those who import rice and curry powder in this Colony? The Indian banks are prepared to provide you with capital and still they have not been included in those Schedules which relate to the Crown Lands Ordinance. After all, the borrower shall have the option of not invoking the financial aid of any bank if he does not like them, but to prohibit a bank which celebrated its golden jubilee only last week—a bank of 50 years standing—from being included in the list of approved banks in the Crown Lands Ordinance is incredible.

With reference to the last paragraph of the Communication from the Chair, Sir, I cannot accept the statement of the Government that the economic recovery of Kenya is proceeding at a remarkable speed or, in fact, that it is proceeding at any speed whatsoever. It is not proceeding at all. You need only to go out of this Chamber to see the plight of the traders, and if any endorsement was needed, I think it is provided in the Draft Estimates of Revenue and Expenditure, 1956-57 (Revised) of the East African Railways and Harbours. In the memorandum at page IX there is a long paragraph full of the wallings of the head of the department that he has not got a cent to spend on any development, and he says, if they prolonged, the situation would become precarious because all the Administration's available funds have been used to finance development works pending the raising of long-term loans.

Now, does the Government behave like this? They have not got anticipation enough to see that if they do not get loans they must have something in the kitty. They have spent all the money and now because they do not get loans—which they must have presumed they would get—they are in this trouble. If additional evidence is wanted, I think it is provided on the report of the East African Posts and Telecommunications Administration's Annual Report of 1955, at page 3, paragraph 3, the ending words are "If this is not done—that is the provision of staff from among the Asians and Europeans". I think I would rather read the full sentence because it is very relevant: "It is, however, proving extremely difficult to recruit Asians and Europeans into the basic grades. It cannot be stressed too often that modern telephone communication systems will only prove satisfactory if properly maintained. For proper maintenance specially trained experienced people are required. Unless, therefore, local secondary school candidates can be attracted into the basic grades, there will be no alternative but to continue to recruit from overseas—if, indeed, that can still be done—the necessary skilled artisans and supervising staff for a very long time to come. If this is not done, then the standard of maintenance will suffer and all the efforts which have been made to provide a

[Mr. Mangai] modern service in East Africa, comparable to that in any other part of the world, will be brought to nought."

Now, I hope that my friends who were so enthusiastic about Sessional Paper No. 78 and its paragraph 30 will now realise where the country is going, without the Asian immigration. As I said, you need only look outside this Chamber to find that trade is going down. The lower grades of the Civil Service are still discontented. The circulation of paper money has assumed alarming proportions and inflation still roams unleashed.

Under those circumstances the hon. Mover must not be disappointed if he does not get my support. He called the Motion as expounding the Government's policy on public policy. If this Communication had come from a less dignified source, I should have called it the suppression of public policy, not the exposition of public policy. And, with due respect, I would—to use that old and famous phrase from *Punch*—say to the hon. Mover "It is a bad egg", and all that he can say in reply to that, I am sure, is that parts of it are excellent, but for those parts he cannot expect me to thank him unequivocally.

Therefore my only alternative is to oppose the Motion, which I hereby do.

SUEKH MAIHOOD MACKAWI: Mr. Speaker, Sir, I rise to congratulate His Excellency for his excellent Speech from the Chair, and to welcome the good news of marked improvement of the general situation in the Colony.

On previous occasions I was compelled to criticise His Excellency for omitting to mention the Arabs in his speeches. Lately, Sir, however, I have found to my comfort that there has been a marked change in Government policy towards the Arabs. This change of attitude is welcomed by my community and I should like to express my appreciation.

There are, however, a few points which I should like to make to the Council.

One is the statement on Arab education. I am still worried because I cannot see even when a start will be made. More than six years ago the Education Department proposed publishing a book in English on Arab history for the use

in Arab schools. Neither the book has so far been published, nor Arab history has been taught in Arab schools. I now, however, trust that for once at least the Government will mean what they say in regard to Arab education, and will truly base the curriculum on a foundation of the Islamic religion and culture and the teaching of the Arabic language and Arab history.

Sir, I am glad to hear it from His Excellency that Government are trying to do something in regard to improvements to communication links north and south of Mombasa and I would like them to reconsider the proposal of Takaungu Causeway. I should also like to ask that an effort be made to make the Malindi-Lamu road passable for at least nine months in a year, if not for the whole year.

Sir, I am also glad to see that a Recorder of Titles has at last been appointed. May I ask the Government to re-examine the problem of the claim of the Arabs of Lamu to their land on the mainland, and also the problem of Shimoni and Wasini communal reserves.

It is also time for consideration to be given to the issue of individual titles to the people of what are called Bajun Lands in Lamu district.

I am glad, Sir, to note that the Government realises that tuberculosis prevention and treatment is the present-day important health problem, and I would like them to give serious consideration to the expansion of services provided at the Chest Hospital, Mombasa.

Sir, I beg to support.

MR. HASSAN (East Electoral Area): Mr. Speaker, Sir, I rise to support the Motion. It is no doubt that His Excellency just gave us a review of what was done in this country during the last year, and what is intended to be done during the current year. I shall confine my remarks to the improvement of what is contemplated to be done rather than criticising what was not done.

Sir, the information given by His Excellency that the *Mau Mau* war was coming to an end was greeted with satisfaction. I take it by almost everybody in Kenya. There is no doubt that everyone, and I myself would associate with His Excellency to pay tribute to the military police, Kenya Police Reserve,

[Mr. Hassan] Administration and, above all, the loyalist African for helping us to get rid of the lawless element from this country.

The question of reabsorption explained by His Excellency, by several means, one of them consolidation of land, this is one of the most important points which can help the present conditions in the reserve. No doubt there are very large numbers of Africans in the reserve who do not understand the benefits of it, but this method is likely to help and assist the people to make maximum use of the land for the maximum number of people. To make a success of consolidation it is also essential that every locality must be provided with commonage for grazing of stock and for other purposes. Unless it is done the scheme will not be a complete one and self-contained.

The question of detainees is likely to create a headache for some considerable time according to the address of His Excellency. We still have very large numbers of such people in the detention camps, and I think the Government realises that we cannot afford to maintain these gentlemen for an unlimited period. We have very large tracts of land in Kenya where these gentlemen could be placed to maintain themselves, and support themselves and feed themselves, and pressure on the country and the taxpayer should be removed. They are now being maintained by the funds which we are accepting as loans from the British taxpayer.

Another mention was made by His Excellency of Queen's Commission in the Forces, which is now open to members of all communities and a promise has been given that there is going to be training for such persons in 1957, and I hope members of all communities will be encouraged to take advantage of this generous offer.

The Minister for Agriculture, we understand, is going to move three important Bills, which, when they are brought up, will naturally be thoroughly discussed in this Council. One of them particularly which especially concerns the community I represent, is the question of control of the dairy industry. I hope this is not going to be similar to the Meat Commission. We have been deprived of the good meat and we do

not want to be deprived of the good milk of this country. At the moment we can use our discretion and choice and we can get the type of milk we want, and if, like the Meat Commission, it is going to be a job for the statutory board to give us what they like, and force down our throats adulterated milk, I am sure we would not like to give our blessing to such Bills.

His Excellency made mention of the Likoni Ferry. This question was raised by us in Mombasa about three years ago and we have been at it ever since. It is going from the hands of one specialist to the other, so much so that now we are in the hands of some specialist in England. Every specialist who handles this matter, he always gives us hope that something beneficial is going to be the result of his enquiry and that we are sure to get quick results, but after five or six months we hear that there was some flaw in the scheme. It needs consideration of some technical points which should be re-examined by another expert. I hope we shall soon be free from these experts and get something done to help and assist in building a very suitable ferry for the people of Mombasa.

His Excellency made mention of Masai and Amboseli. This is one of the very important subjects for which a Game Policy Committee was appointed. Government must realise that the Masai problems cannot be dealt with singly. If we like to bring about any improvement in the Masai, we have got to see that improvements are made in all directions. When we have provided no water for their stock, when we have provided no grass for the stock, when we have provided no means of marketing their stock products, the only thing we can expect is that hundreds of thousands of those cattle will be running on to the only water available and cause soil erosion and chase game out from that area. What I have said always, and I still maintain it, is that we must provide water in different areas of the Masai Reserve, and spread out their stock so that they should not collect in hundreds of thousands and rush into the only water available, and ruin their country. Up to this time the Masai has no idea what is the value of their stock and what use should be made of that stock. Unless

[Mr. Hassan] their products are properly marketed and they get some cash value from their development, they will never realise the value of the stock, and not go in for the quality stock.

These are some of the most important things which have got to be tackled by the Government before we can expect improvement in directions like soil erosion in Amboseli to the great annoyance of the game lovers.

Government has been kind enough to give blessing to the building societies to help to assist people to build houses on loans. Now, I find every year Government is making some plots available to the intending house-builders in this town of Nairobi, but I would like the Government to give this similar facility to us in Mombasa, because unless the Government has made some arrangement to make some plots available to us, we shall not be able to take advantage of the facilities provided by the building societies.

MR. SPEAKER (Sir Ferdinand Cavendish-Bentley): Has the hon. Member much more?

MR. HASSAN: I have still got quite a bit.

MR. SPEAKER (Sir Ferdinand Cavendish-Bentley): We will have the usual break. There will be an interruption of business for 15 minutes.

Council suspended business at fifteen minutes past Four o'clock and resumed at thirty minutes past Four o'clock.

MR. HASSAN: Mention was made in the Speech about the Tana irrigation. His Excellency said the river was very treacherous. I quite agree with him; I would like to say that the methods adopted for carrying on experiments for agriculture by means of pumps—by pumping that muddy water—I am afraid will not make very much success. It is a treacherous river and it needs very, very strong measures to deal with it. Unless some funds were made available to dam this river somewhere higher up and carry on agriculture instead of wasting time in experiments, we shall never be able to get any results in that place. Half-hearted attempts like digging out a smaller canal, like they did once in the lower reaches of the Tana River, is

not going to help in holding that river. The best thing is some major project, and unless some major project is undertaken with funds from somewhere, we shall never be able to get the full benefit of that water, which is carrying away some very useful fertile soil of Kenya into the Indian Ocean.

His Excellency mentioned about the appointment of the Recorder of Titles. The Member for the Arabs, Mr. Mackawi, did mention about it. We have been waiting a very long time for the appointment of this officer. Now that he is appointed, I hope he will be able to get on with it and do some work, instead of wasting his time in writing out schemes how to do it. If he is needing some surveyors to start his work at once, it is better he should be given the help of those people to do it.

His Excellency mentioned about health, that arrangements are being made to deal with tuberculosis in this country. This news will be heard with great pleasure all over the country, because, in the absence of any countrywide arrangements to deal with this danger, people suffering from tuberculosis—they are almost in every corner of large towns, and those people who have some regard to keep themselves healthy do not know what they are coming across in a restaurant or hotel or railway train. Now that the Government has undertaken to use curative treatment on a countrywide basis, it will be one of the best measures that everyone was expecting would start some day.

His Excellency mentioned about Asian hospitalisation, that the scheme is now being considered. I thought after the report was submitted, that the scheme has had its necessary blessing and, according to the promises of the Minister for Local Government, Health and Housing, it only needed an announcement that it is implemented. It is very disappointing to read in His Excellency's Address that it is still being considered. I thought it was above that stage, and we have given promises to all our people suffering great hardship in the absence of this scheme, that something was going to be implemented very soon.

With these few observations, Sir, I beg to support.

MR. MATHU: Mr. Speaker, Sir, like most of the previous speakers, I would like to support the Motion moved by my hon. friend, Captain Hamley. I shall, however, be a bit critical in giving that support, because I feel that the Speech from the Chair could have been done with greater vigour—or rather, contained words or language that were more energetic than the ones that we read in this.

I, Sir, would like to start by referring to the point to which His Excellency did refer, regarding African elections, and in doing so I should like first of all to congratulate the two African Members who took their seats in this Council only the other day. I should like also, Sir, to congratulate the Government on the most expeditious manner which they used in appointing those hon. gentlemen. If the Government act in other cases as they did in this case, I do not think you will find my hon. friend, the Member for the Coast, will be able to complain about delaying tactics, and I think that this time Government deserves congratulations in this matter.

I should like also to say, Sir, before I go on to the rest of my remarks in this matter, that although the two hon. gentlemen were appointed by His Excellency on the advice of the Electoral Colleges, very much as we were returned in this Council, I should like to say, Sir, in answer to critics outside, that in my 12 years' experience in this Council, there has never been any pressure from the Government to come to a decision on any matters, because Government was unwilling to do that, and I think that is the view of all the African Members on this matter. I would like to put that on record, because in another five months' time that system will be history, and some people might say that Government was appointing people who have played Government's tune. That has never been my experience during the years I have been in this Council.

Fears have been expressed in this Council, and outside, as to the slowness with which Africans have come forward to register as voters, and I should like, Sir, to make some comments on why I think there has been such reluctance in some areas to come forward. The first is this question of registering officers asking prospective voters various questions in order to find out how many

votes they are going to have. As you know, Sir, under this scheme there are seven qualifications for men; of which they have to satisfy the registering officer if they are going to have one vote or two or three, and there are six for women. Now they have to do a lot of questioning of some of these people to find if they have the necessary qualifications. They may have lost their certificate of education many years ago and then there is the problem of enquiring in the Education Department whether they have any records of the certificates of the particular individual and then that takes many weeks.

There is also the question of the property qualifications. As you know, Sir, Africans do not keep accounts and for people to satisfy the registering officer that they have property worth £500 or an income—if they are not wage earners—of £10 a month is not an easy matter. Thus, for Africans to satisfy the registering officer with all these matters they find it almost a bore, and that is one of the reasons, Sir, why we suggested during the debate on the Legislative Council (African Representation) Bill that the Government were unwise over this question of a multiple vote. It is one of the stumbling blocks in the whole scheme and I think we are going to be proved right in our criticism of this scheme when we are discussing this matter. The remarks I make are, of course, for Africans in general.

Now, as you know, Sir, there are special provisions for the Kikuyu, Embu and Meru communities under part 6 of the Legislative Council (African Representation) Ordinance.

Now, Sir, in moving the Second Reading of that Bill my hon. friend the Chief Secretary said on 24th February this year, if I am right, in column 205 of HANSARD, when he was explaining the registration of voters, that the district commissioner would be the final arbitrator as to who was loyal among these communities. It was not only those who took part in armed fighting but also the ministers of the Church, the Church elders, schoolmasters, and similar folk who, although they did not bear arms, demonstrated their loyalty to the Government by their devotion to their duties—very often at the risk of their lives. Now, these were the words of my

[Mr. Mathu]
hon. friend the Chief Secretary in February this year.

Now, we would be satisfied if when these words were put into actual practice, that the definition of loyalty should be such that it would allow more of these people of the K.E.M. to come forward and be given loyalty certificates for registration. But, now, Sir, we find that these words are not being interpreted that way and that every district officer or district commissioner has his own interpretation and that people who have been throughout the Emergency in the Government service or in private firms—in fact, the very people mentioned in the Chief Secretary's speech—have been refused registration.

In particular, I have in mind school-teachers in many schools, especially the teachers in the Kagumo Government School where there is a large African staff of the K.E.M. These teachers have been refused registration and yet they have been teaching in Kagumo with bullets whistling over the school buildings throughout the Emergency. I would have thought that there the words "devotion to duty", which were used by my hon. friend in February, would have covered the case.

Now, there again, Sir, is one of the problems which irritate the prospective K.E.M. voters because they find that it is almost impossible for them to prove that they have actually helped the Government during the Emergency, and that their work in the offices or schools throughout the Emergency does not count.

I would like to put to Government for their consideration whether they cannot, even at this late hour, be more lenient towards these particular people who have been working for the Government, private firms or individuals throughout the Emergency, without being detained, and try to ensure that they are encouraged to come and register.

Now, Sir, there is a special case which I should like to mention with regard to registration of voters and that is in Nairobi. I do feel, Sir, that with regard to the Nairobi cases there have been very low figures which have been published of people who have registered. I would like

to suggest to the Government, Sir, that I do not think it would be out of the way if they sent registering officers to the thickly populated areas of Nairobi to ask those who can qualify to register to do so.

When one considers that most of the African Government servants—educated Government servants—are in Nairobi in the Police, the Prisons, in the P.W.D., in the Railways, the Post and Telegraphs, and all the other departments which we have and yet we have not got more than 100 registered Africans in Nairobi, one cannot understand that and I put it to the Government whether they should not go round these places and ask the people to register.

Now, Sir, the letter which was in the paper today—which was referred to by my hon. friend Mr. Cooke—from my friend the Minister for African Affairs replied to some of the allegations about those who are responsible for the registering of African voters. I should like to say, Sir, that we have had a few meetings with my hon. friend the Minister for African Affairs when we heard these rumours. We even had a discussion about this with His Excellency the Governor, but we do feel, Sir, that there is still room for demonstrating to the outside observers that there is complete sincerity in registering these African voters.

For instance, there is one very peculiar case which strikes one when one reads the figures which were published only recently by Mr. Ryland who is in charge of registration, and that is that if you count all the registered voters of all the Kikuyu, Embu and Meru outside the Meru District, the Meru has the larger figure than all those put together. It is difficult to understand how a district of 200,000 people has more registered people than all the other people in the whole Colony. It must be due to something—either the election assurance for a particular people before it comes, or something. Those doubts are there, Sir, and I do think that the Government should clear them by convincing all those interested that there is nothing "fishy" in the whole thing.

I would like to tell my hon. friend, the Member for the Coast, that I would welcome any extreme African who

[Mr. Mathu]
could be returned by the people to come into this Council. That is the only way he could be made more moderate because he would find that the stuff which they talk in the open air and in the market places can be answered here by intelligent people with experience and then they would start to feel small. Once you let them debate with illiterate people in the country then they feel that they know everything in the world. This is the place, I think, for them to come. I feel they should be encouraged and we should see that the educated Africans become voters, because they are the people who will vote for these educated extremists—or so called "nationalists"—and I personally would welcome them very much indeed. In fact it would do the Government a world of good to have people who can crack their heads in this Council—but not outside.

I would like to ask, Sir, before I finish this question of registration, to ask the Government to tell this Council what arrangements they are making for the illiterate voters to cast their votes. What system are they going to use? I have no idea of what proposals they have—whether they are going to use symbols or colours or what—and I should also like to know what arrangements they are making for polling stations because we feel that polling stations should not be too far away since that also might discourage the people during their period of political training to go to cast their votes. I should also like to know what arrangements Government is going to make to provide facilities for candidates to go to public meetings to explain to their voters the policy which they are going to stand for if they are returned in the Legislative Council.

The Emergency, fortunately, has improved to allow such things to take place, at any rate, in most of the areas and I think it would be best if prospective candidates knew that these facilities would be provided without much trouble.

Now, Sir, I would like to go to that subject and to make a few remarks on what His Excellency said about agriculture. I feel, Sir, that His Excellency's Speech and the inclusion of three Bills which will mainly deal with the agriculture of only one community did suggest

—or rather give me the impression—that there was lack of unified policy for the agriculture of this country.

I thought that the Agricultural Act was going to do a world of good by telescoping all agriculture into one legislation yet we now have three Bills coming forward which will continue to destroy that unity which is very important, I feel, in the agricultural development of this country. We are told there is nothing new—exactly, there is nothing new—but I do feel that the time has come when we have to reconsider the whole question of setting up separate statutory boards for every crop which grows in the country and every four-legged animal that moves in that country only for one community because in the end you will find that Government will only become a rubber stamp since they will be recruiting staff, employing staff, paying their pensions and, in fact, doing everything. All they will have to do is to tell the Government "This is what we have agreed and what about the rubber stamp".

I do feel, Sir, that the time has come when we have to review this type of policy. I feel that this is the time because we have formed hundreds of boards of this kind and now we are adding too many more.

I feel, Sir, that I would have liked to have heard in His Excellency's Speech about a positive approach to African agriculture. This is what I mean, Sir. For many years we have been faced with a policy—a right policy—of preventing soil erosion by terracing, by planting grass and all the other methods which are necessary in order to prevent our soil from going away into the Indian Ocean. Now, I do feel, Sir, that the emphasis should be shifted from that to the positive side. This is how I look at it. I think that a particular district or a part of a district should be given a target—a production figure—and if they do not produce so many bags of maize, if it is a maize-growing area, or so many pounds of vegetables, or potatoes or what you will, then they will not have done properly in that particular thing, granting, of course that there is plenty of rain. Now, if the people in the African areas did not dig their trenches or their

[Mr. Mathu] terraces they would be prosecuted. I would do the same in these areas but I think this is a better way of doing it. If a fellow does not do what is required of him per head per year, granting that the rains were sufficient, then they would be prosecuted because then they are not helping the country to grow economically; but why should we punish them when they fail to do something negative?

I do feel that the time has come when we should set a target—a production figure—per district or per location and if the agricultural officer in charge of that area does not give us that return, then he should be sacked. There can be no two ways about this matter: either we produce or we do not. If we think our soil can produce we have to be drastic in getting our people to produce what we want for our country and that, I think, is the answer for my lion, friend the Mover of this Motion to those people who sit at home under the tree and wait for the paw-paw to fall on their heads. They should not sit and wait; they should go and produce the paw-paw and not wait until it is ripe. I think this is the answer to that problem.

I would like also to suggest, Sir, that as far as the agricultural policy in regard to cash crops is concerned, I should have liked to hear from His Excellency the Governor what they propose to do to remove any disparity between the prices of cash crops grown by the European and those grown by the African. I have in mind in particular the question of wattle bark. The wattle bark price from a European fetches a higher price than that which is grown by an African.

The factory fuel taken from a European farm has a smaller diameter of 3 in. about 3 ft. in length, than that of the factory fuel—wattle fuel—grown by an African which has a larger diameter, in fact 3 in. in one and 4 in. in the other, so that one gets more money in one case than in the other. I do think that should be said.

Now further, dealing with agriculture, I feel, Sir, that the time has come, or rather this is just the right time when we are doing land consolidation to move those people who have their holdings

consolidated back into their holdings from the villages. From the agriculture point of view there could be no use for the fellow who had his five or six or seven acres of land consolidated five or six miles away. They want to go back on their own smallholdings and I would like to put it to Government for favourable consideration.

While on the subject of agriculture there is the very small problem arising, that is the question of animal manure. In some places there are terrific restrictions in that people cannot move manure without a permit, if he has a lorry he cannot move it even a mile without a permit. That I do think, Sir, is something which is sabotaging agriculture. The agricultural officer may be miles away and they have to walk to get a permit for manure.

There is one problem which I should have liked—which I thought might have been mentioned in His Excellency's Speech, and that is the future of land and villages on which they are built. He was absolutely silent on that issue and it is bound up with land consolidation, and bound up with the question of the final issue of titles later. I do think as the Central Province is concerned that one big headache the Government is going to have is when the landowner finds that those people who have no rights could be given rights in land. As a result of this policy of land consolidation, I do think, Sir, it will prepare the ground for those among the landowners and those who are landless.

There is the further problem which I think we should face and which His Excellency did indicate that by the end of 1957 we shall have met the requirements of the landless people in the Central Province. I should like to know how that is going to be done. I think there is a bold statement that we would solve that problem and I should like to know how it is to be done when only those who own the land will have it. Of course, we cannot have that because we intend to prevent the fragmentation of holdings.

Now, Sir, I welcome that part of His Excellency's Speech which deals with the Emergency and I have only one comment to make and that is in regard to Mwaa

[Mr. Mathu] Tebere irrigation scheme and the particular section I want to mention, Sir, is that there were arrangements made to take landless Kikuyu from various districts of the Central Province and from the Embu, Meru and Kikuyu who were displaced from the European area of the Rift Valley and give them plots in the Mwaa Tebere area. These are people who supported the Government, landless people and those people who may have been detained without reason and eventually found not to be undesirables, also those people who have got through the pipeline and are fully rehabilitated. These are in open villages in the southern part of Embu which have 1,000 people who have not been allotted a plot of land as promised. They are used as labour at 55 shillings a month. They would like to know what happens to the promises of the Government before they were sent to Embu. It is a point which requires looking into.

Now, African education. I feel that there we would have liked something more definite about the provision of African education in this country. His Excellency's Speech repeated the eight years' course and said that he would like to provide education for these as soon as money, teachers and buildings could be made available. But I would like to suggest, Sir, that we would like something absolutely definite from the Government as to when they propose to fulfil this promise. They cannot allow this to go on, the eight-year period for the whole of the African people in Kenya will never come to it. I know that the Africans will be prepared to pay every penny that they have to see that their children have a full education up to the age of 15 and we have suggested this to the education authorities until we are tired. On one occasion I think the Minister for Education gave at a meeting in Nairobi an undertaking that the Government will use its own money, but the money the Government uses to educate the African is always inadequate. That is, I think, the crux of the matter. You can tax us to the last drop of our blood until our children are well educated. That is the feeling of every parent in the country. In the European and Asian cases you have to meet statutory obligations, but we have no statutory obliga-

tions in the case of Africans. But you are responsible for them and we are going to do what we can to provide you with the children and in large numbers! There should be no difficulty about that! Also we can provide you with the material necessary to train teachers and to put up buildings.

Having said that, what excuse can the Government give us why they should not start compulsory education for Africans in Nairobi? We will pay, we will go without clothes if necessary. I am absolutely serious about the matter.

I have said the last word on the question of education. I do therefore suggest to the Government that it should take serious steps. It can prove very frustrating to us. Our children are roaming through the streets of Nairobi, Kisumu, Mombasa, Eldoret and in the reserves without provision for education for lack of finance, just because Government has not been completely determined. If they were, I know they can do it to give our children what we want for them.

Housing is a very serious matter. We understand the plans for superior housing are under consideration. The last time there were to be superior houses near the Infectious Diseases Hospital which when we refused we were told were to be near the Royal Nairobi Golf Course. The plans were ready; now we are told they are under consideration. Where do we go from there? That is the problem you see about this matter. I would like to impress upon the Government that this is a serious problem. We are having Africans now gradually grading among themselves according to cultural standards. There are those of the lower level and those on the higher levels of our society and I do not think they should be lumped altogether at Pumwani. That is what we would like to do for the community which we represent. I seriously hope that the matter will receive very, very serious consideration.

I should like to suggest, Sir that senior Africans in high position should not be situated in another location. If they are members of the Education Department, for example, surely they should be among the officers of that department or whatever department they are in. They have had the same educational qualifications, the same background, except that they

[Mr. Mathu]

of a different colour. I cannot see where we are leading to.

I would like to suggest that this is one of the most important problems which we feel should be tackled and if the Minister for Housing is short of staff, I say "Come to the Council and ask for money to do it. But it is very difficult".

I have two points I would like to mention which were raised by previous speakers. One is one which we have already discussed, the words that were used by my hon. friend the Mover, of this Motion about community development and the 21 officers coming into that department. I would now like to suggest, Sir, that I am sure if my hon. friend the Mover looks at this problem objectively, he will find that there is no reason given that if the money did not come from elsewhere, this Council should not support a scheme of that kind. It is, I think, something that is already in the policy of the Government and I do not think that the Government can shrink it and say that we will have nothing to do with it.

My hon. friend the Member for the Coast talked about the Unofficial Members' Organisation. I thought it was a bit irrelevant. However, I would like to say he will know later some of the reasons why we think that the whole set-up should be looked into and see whether it could be put on an even better footing with the registration of African voters.

I would like to mention, when speaking of land consolidation, that I disagree with my hon. friend the Member for Muslim East Area on the last part of his sentence that he thinks the maximum use of land should be made for the maximum number of people. I do not see how you can have the maximum number of people on the land when you give titles to the landowners only. I do not know what you are going to do with the tenant class. That is one of the considerations which Government should give to this matter.

I would like, Sir, to end by agreeing with the Mover that we have reached a stage now when we should devote most of our own attention to the economic and social stability of the country. I think we have reached that stage and I do not think that there is any reason why we

should feel diffident, in fact, we can produce this economic and social stability in the country if we all work together sincerely without distrusting one another. But at the same time we should remember that all of us belong to this country and the good we do in this country is for all and we should avoid any bad thing because it is going to harm all of us.

I think in this Speech there is a foundation which has been laid for the future of Kenya which could compare most favourably with any country in the Commonwealth.

Sir, I beg to support.

SIR CHARLES MARKHAM: Mr. Speaker, Sir, I would like to thank the hon. Member for Nairobi South for allowing me to speak out of turn, but I have to go to another meeting and also to-morrow I shall be absent to go to Nakuru, (with the permission of the hon. Member for the Rift Valley). I would like to say that I think we were all grateful to learn from His Excellency's Speech about the improvement of the Emergency position, and at the same time he also mentioned that the Army were being withdrawn from operations as from to-day or yesterday.

Perhaps, Sir, it is an opportune moment to express the thanks of this Council for the work they have done, both the King's African Rifles and the Kenya Regiment, also those regiments from overseas, who have done so much valuable work in this country. I attended a parade the other day of "O" Company of the Kenya Regiment and that same company also provided a guard of honour when Her Royal Highness the Princess Margaret visited the Royal Show at Mitchell Park and I must admit I was proud of them, being Kenya's only Territorial Regiment.

As well, Sir, I think a lot of us have read with the greatest pride the reports of the activities of the pseudo gangs and I was glad the Mover of this Motion, my hon. friend, Capt. Hamley, did pay tribute to their work. As unfortunately in the course of that there is one particular case which is *sub judice*, we cannot go further, but Mr. Henderson of the police, has done much and I hope that one day it may be possible for the Government to publish the full story of

(Sir Charles Markham) the efforts of this particular individual. I believe it would make far more exciting reading than any thriller published and on sale in the bookshops.

Sir, I was glad His Excellency emphasised the question that *Mau Mau* had two definite sides to it, one military and one passive. I was also glad to hear that at long last it has been decided to go ahead with the experiment of the Tana River Scheme. A lot of us have been pressing that idea for many years now and although it may be quite impractical, I am very glad that the Government are at least going to experiment.

At the same time we know that the passive wing of the *Mau Mau* has not been completely wiped out and many of them are living respectably in Nairobi or the reserves just because the numbers involved in these camps were so large that they were not picked up. I believe there is evidence to-day, certainly in Ukambani that some of the *Mau Mau* creed is being preached in the various labour organisations that exist in that part of the world. I hope perhaps that our new Minister — the European Minister without Portfolio — will look into that and keep a close watch on the investigation into the various labour organisations, into the *Mau Mau* creed and the previous *Mau Mau* members.

Sir, recent events in the world have shown that there is a gigantic Soviet plot to virtually take control of Africa and it is, perhaps, not the time now to discuss details except to say this much. I believe if there are Soviet or Communist agents in other parts of Africa, there is no reason to suppose there are not some in Kenya. I believe we are all inclined to imagine the Communist goes around with a beard and a black hat and is obvious, but a lot of people who might have Communist sympathies may be in this country at the moment and if there are any I believe the time has come to eject them forcibly from this country. I do not think we should allow the situation to arise when we think it is rather bad luck for people to have those sympathies and allow them in Kenya. I suggest to Government that they should be removed as quickly as possible to a more unhealthy spot.

I was glad to hear my hon. friend the African Representative Member, Mr. Mathu, give his views on the question of registration of voters and the difficulties he has encountered, and was also glad to hear him on the desirability of having some extremists in the Council. It might be a very good idea, although it might make our work more difficult.

I feel the time has now come for the Government to relax their restrictions on African Members holding meetings because I believe a lot of misunderstandings which have existed for the last three months over this question of registration of voters would have perhaps been eased had the African Members been allowed to hold meetings. Now we welcome two new Members, I hope Government will relax that restriction because if we do not, we are placing them in an unenviable position, knowing very well that behind their backs meetings are being held outside this Council inciting to sedition. I do hope Government will reconsider their decision about the African Members before their election in plenty of time to give them a chance to tell the country what is right.

Sir, I have got very little more to say, except that I want to touch upon one point which arises from His Excellency's Speech. That concerns the remarks on poaching and that the interim report of the Game Policy Committee had been received and that the committee was going to continue. Well, Sir, government by committee is not a bad way of governing, as long as it reaches a stage further than the committee. I do hope that Government will tackle this problem of poaching in a vigorous manner. I was glad to hear the Mover of this Motion comment on this but I do not think the secondment of one police officer to Voi will solve the problem. I think we will have to go deeper than that.

During the Royal Show at Mitchell Park the National Parks, in conjunction with the Wild Life Society of Kenya, exhibited one month's collection of ivory from Tsavo Park and it was quite a fantastic quantity which was collected in under ten days. If there is that much to be found in ten days, how much more is undiscovered? I believe that the problem has got to be tackled as a major crisis and not just by the secondment of one

[Sir Charles Markham] police officer. Could it be, perhaps, that our law is too complicated in so far as the poacher and receiver is concerned? There seems to have been a great deal about poachers being caught, rather like the criticism that terrorists were caught but rarely did we read of their conviction.

After all, if somebody does do to death, and a very lingering death, elephant or rhinoceros, he deserves more than the maximum of two years' hard labour. I do hope that Government will tackle this problem and be as severe as they can on all offenders, of whatever race. I do not know if there is any medicinal value in certain parts of the rhinoceros, but I do believe that its export should be banned because if it is banned there will be no point in selling it. I believe it should be banned completely and the rhinoceros protected in so far as they should not be used for medicinal purposes.

Before I sit down I would like to make one plea which I hope you will allow, and that is that many Governments in the world are offering sanctuary and employment to the Hungarian refugees. We have often stressed in this country that we are short of technicians and short of agricultural workers. I believe it might be a gesture if we could have some Hungarian refugees in to Kenya where we are told so often they look to the freedom of the British Empire. I hope that it may be possible that we can allow some in and absorb them into our way of life.

Sir, the hon. Mover finished his speech by quoting and then amending an extract of that famous poem "Roll on thou Ship of State". Having heard some of the speeches in this Council I hope it does not develop into rock and roll!

Mr. HARRIS: I beg to support, Sir.

Mr. Speaker, Sir, the purpose of this debate, which should serve us well, is usually to indicate to the Government the nature of the plans we feel they should make for the country and to enable the Minister for Finance to take those plans into consideration in framing the following year's Budget. So far, Sir, I have only heard claims for increased taxation and, Sir, I hope the

Minister for Finance in his Budget does not think that the hon. Member for the Coast was speaking for Members on this side of the Council when he advocated greater general taxation, and decided that it was time that we were ready to tax ourselves. Good heavens, if this country is not overtaxed already! I believe that it is a very dangerous thing in this debate to suggest to the Minister for Finance that we would welcome increased taxation in next year's Budget. I would have preferred to see, Sir, rather more on finance in the Communication from the Chair. I think it would have been nice to have seen that it was hoped that we should reduce taxation by widening the net of those who pay tax.

I would have liked, Sir, to have seen a reference to graduated poll tax which has been bandied about this Council for many years, which was the subject of a select committee report. I think four or five years ago—and to which the hon. Representative Member, Mr. Mathu, subscribed with the reservation that implementation should be delayed. From his nodding head, Sir, I think he probably agrees that is correct. I hope the Government will agree that the delay in implementation has now gone on long enough and reconsider the matter very urgently in order that, for a change, advice can be given to the Minister for Finance as something to do in his Budget next year. And, Sir, talking of next year's Budget, it does seem to me that although the Minister for Finance has in the past done excellent work for this Colony in the raising of loans and the instituting of financial policy, I believe he might consider as a possibility trying out the system which has, I believe now become general practice in the United Kingdom. That is to set up an economic and budgetary committee of the Council of Ministers consisting of those Ministers who are most interested in the economic affairs of this country. I believe before the Minister frames this Budget he should get the advice not only of his very excellent staff in the Treasury, but should also get his head together with the heads of those other Ministers who have, I am quite sure, something to contribute in the economic field. I believe, Sir, that although in the good old days of Gladstone, the cloak and dagger secrecy of the Budget was

[Mr. Harris] quite a good thing, we have, I hope, advanced from those days and Government itself should accept some responsibility for financial measures in the annual statement of financial policy.

Reading the Speech, Sir, I did decide that I was surprised to find ramps now included in the Ministry of Works. It came in that Minister's essay in the speech, Sir. I would have thought it should have been in the Portfolio of the hon. Minister for Local Government. However, I will skip that one.

Going on to a point of the paucity of information given to us on educational policy.

To say the Government will continue to carry out the statutory requirements in regard to European, African and Asian education is hardly inspiring. This country is fully alive to the education problems, not only of the Europeans and Asians, but also of the Africans and Arabs.

In the Speech, African and Arab education is mentioned, but I would suggest to the Government, Sir, that it is about time they decided on a real educational policy. I have an idea that probably because of a financial stringency, or for some other reason they have been *ad hoc*ing their education policy from year to year, and I do not believe that they have got a true education policy.

The hon. Representative Member, Mr. Mathu, has, on several occasions, raised the question of compulsory education for Africans in Nairobi. The attitude of Government has always been to say, "Well, not yet—we cannot afford it". But I feel that what the hon. Member would like Government to say is, either, "You can have it!" or "You can have it to a degree", or "You cannot have it at all". I believe the same applies to Europeans' education, we are not quite sure where we are going, and I feel that this speech would have been a very excellent opportunity for Government to have told us what they have in mind.

Reference has been made in the debate, Sir, to 21 Community Development officers who are being paid for by the International Co-operation for the Administration of the United States

Government. I thought it was rather cynical, Sir, of the hon. and gallant Mover to say that he would like them better as somebody else was paying for them, because I am one of those people who always feels a bit concerned when other people pay for things. I would like to know whether... (Interruptions.) The Minister for Commerce and Industry remembers, Sir, that I once, made a speech on this subject before, and brought in the word "obligated", I want to know, Sir, whether this Government is "obligated" in any way by the acceptance of this payment. I would like to know who is recruiting them, where they are being recruited, and who is responsible for them. If we find any more Miss Fletchers amongst those who are recruited—if we find any more Miss Fletchers, there will be some very awkward questions in this Council.

I would have thought, Sir, as a country which is so close to a considerable amount of international explosive matter that reference might have been made in the Communication to the preparedness of this country in the event of that explosion going off, or alternatively, at any rate, an assurance that the situation was being watched and plans were being made. I feel that this is a serious omission from the Communication.

I would now like to deal very briefly, Sir—but before I do that, I would like to support the plea made by the hon. Member for Ukamba that the African candidates in the forthcoming election should have every reasonable facility for putting policy across to their electorates. I think possibly if they could be given opportunities now, not only to talk about how to register and why to register, but quite possibly to talk, say, on sensible policy to those electorates before the closing date, then I believe that far more people would register.

Now, Sir, I come to the speech made by the hon. Member for the Central Area, who posed to us the problem of when is a maiden not a maiden and I leave hon. Members to give the answer although, Sir, after his dissertation of the Hindu Marriage Act, I think he probably knows the answer himself. In any case, Sir, I feel after a lapse of 20 years he should renew his acquaintance with this Council in a maiden speech, and I,

[Mr. Harris] Sir, am going to interpret it as a maiden speech, and not reply to the most controversial points that he made except two short observations; the first is, he asked what had happened as a result of the Lyttelton constitution. My answer to that, Sir, is this: that since that plan was accepted in this country, the temperature in speeches in this Council has very considerably subsided and that is a very good contribution that has been made as a side-effect of the acceptance of the Lyttelton plan. I do, Sir, suggest that, if, on every possible occasion, and particularly an occasion when we are dealing with major policy, Members introduce such matters as the common roll, knowing that it is a reserved subject under a plan which was criticised, or talking of racial discrimination in connection with a banking Ordinance, which seems to me a pretty flimsy excuse to bring it in, then, Sir, the good that the Lyttelton Plan has done to this country will be negated. The bad it has done—for the benefit of the hon. Member for the Coast—will be enhanced. The example that he used is rather an amusing one. That is, that the Standard Bank of South Africa, Barclays Bank and the National Bank of India are the only three banks who are allowed to do something under the present banking Ordinance.

AN HON. MEMBER: Land Control Ordinance.

MR. HARRIS: Land Control Ordinance? Sir, the position is this; that the local daily paper a little while ago had very large items of space devoted to the anniversary of the National Bank of India and there were photographs of the general manager—

HON. MEMBERS: Bank of India—

MR. HARRIS: The Bank of India? I am sorry, Sir, I withdraw the remarks. I did not read the advertisement very carefully. I was merely going to remark that if the gentlemen there were British bankers, then they must be making *dholis* to Savile Row!

THE SPEAKER (Sir Ferdinand Cavendish-Bentineck): Does any other hon. Member wish to speak?

MR. TYSON (Nominated Member): Mr. Speaker, in supporting the Motion there

are only one or two remarks I would like to make. They are in regard to the comments of the Member for Nairobi South regarding increased taxation. I think, if he will refer back, he will find that the policy of the Minister for Finance has consistently been to keep taxation at the lowest possible level in order to encourage investment for development purposes, and under present conditions I can see no reason why that policy should be departed from. The Member for the Coast seemed to think that capital was going to be attracted to this country by increasing the rates of interest, but it is not quite so simple as that. We have been warned by the Chancellor of the Exchequer in Great Britain that there is an enormous demand for capital throughout not only the Colonies but the Dominions as well. The queue is a long one, and our place in the queue, I imagine, is fairly low down.

What I do think we have got to face up to is that we have got to find more money, not only in this country, but in Great Britain the same situation arises. We have got to find more capital for development by savings, and I believe there is room in this country for a savings campaign by which we could demonstrate to the City of London and to the outside world that we were not relying entirely on outside sources for our capital requirements. It would, I think, be very unfortunate if this business of football pools which is now being advertised in our local paper began to assume anything like the proportions which it has been allowed to get to in Great Britain and the Chairman of the London Stock Exchange has on several occasions pleaded that every effort should be made to divert some of the millions of pounds, which apparently go down the drain in these football pools could be diverted into investments in industry in Great Britain. I hope that this matter will be watched here before it gets out of hand.

Subject to those remarks, Sir, I support the Motion.

THE PARLIAMENTARY SECRETARY TO THE MINISTER FOR EDUCATION, LABOUR AND LANDS (Mr. Wanyutu Waweru): Mr. Speaker, Sir, I rise to support the Motion which is before the Council, and when

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congratulating the hon. Mover of the Motion on the way he has placed the Motion before the Council, I have some points to make which arise from His Excellency's Speech the other day.

One thing is about the Emergency: I do know, Sir, that there is no one who understands how difficult it is more than the loyal Kikuyu, Embu and Meru who were present all the time and were living in the reign of terror in the villages.

I cannot forget, Mr. Speaker, when some of the loyalists who had to move away from their own villages or from their own homes to go to live in the Home Guard posts; and although they were present so often, they risked their lives and decided to be murdered rather than be disloyal. Thus, the loyal Kikuyu, Embu and Meru at present, when they see how much has been achieved by the forces of law and order, cannot forget and are most grateful to the Government for the effort which has been taken in the last four years.

One thing that has pleased loyalists so much is to see that they are being remembered by the Government. It was just last year when the Government devoted something like £200,000 to assist the African farmers, together with the European farmers who have suffered so much during the Emergency, and this money, although it is not enough, has given different spirit to the loyal Kikuyu, Embu and Meru, because they see that they are being remembered by the Government.

I was a bit surprised, Mr. Speaker, when I saw some of the excellent work that had been done by the screening teams under the Community Development to change the ideas of some of the Mau Mau who have been detained, and when they have come back, the result to live together with the Kikuyu, Embu and Meru; I do know, as His Excellency said, that their attitude has been greatly changed.

I would pay tribute to the screeners, and to the officers in the field in that connection who have done so much to change the ideas of those who were so bad before they were detained.

It has been mentioned of the land consolidation, by His Excellency the Governor from the Chair, and as being one of those who have some interest in land consolidation, I have got some points I would like to say here, and that is to pay personal tribute to the officers who have been dealing with the land consolidation business in the Central Province, especially the district officers who, after going to address the *barazas*, do sometimes do away with their lunch and still they do continue with the work, and I feel, Sir, that although they are being overworked, they have done very well; and it is not only the district officers who have done so well, but the committees which have been helping the district officers, because everything is done by the committee of elders who are selected by the local inhabitants, and they do advise the district officer in charge of the land consolidation on what should be done and in what ways and how it should be done.

About the excellent work they have done in the Central Province, this should be remembered by the Government and they should be congratulated for the effort they have raised. In addition to that, although they have been overworked, I would suggest here, Mr. Speaker, that additional staff would help to relieve those officers who are also busy in many cases until dark.

About the point of the village sites, which has been mentioned by the hon. Member, Mr. Maithu, before the land consolidation was started in the Central Province—every tenant had the right of living on his own smallholding; and although he had that right, he could be moved away by the landowner—that is very true—but unless he had been a nuisance, he had the right to get somewhere to build his house; and when the land is being consolidated, I have seen some of the landowners who have been saying: "Instead of my tenant being given a piece of land to build his house by another person, I will do that." Some landowners have, up to now, stuck to that point and are prepared to carry on with land tenants, other than being given a common land by all.

In that connection, the land on which the village sites are being built, is contributed communally by all the landowners according to the percentage which

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would be agreed on by the local inhabitants, that they will contribute so much for the common land, which cannot be had through any other sources but through the landowners giving land, and it has been done during the past and this is not the first time.

Mr. Mathu mentioned the teachers and money on the subject of African education. It is true, Sir, that the Africans are wanting so much to educate their children, but the mere fact of getting qualified teachers and money to pay the qualified teachers, to train the qualified teachers—that has been the stumbling block. I have been a teacher myself, Mr. Speaker, for 18½ years, and so was the hon. African Representative Member, Mr. Mathu, who has been my teacher, and we do know that in the teaching profession—not many have been coming forward to be trained as teachers. I know that a good number of the Africans do like their children to be taught by trained teachers. A few may say: "Why not employ untrained teachers", but although untrained teachers have been allowed by the Minister for Education to be employed, still the demand for trained teachers is there. How it can be met if teachers are not coming forward, and if the Minister for Education is not able to get the money—about that, I do not know.

MR. MATHU: Tax the parents!

THE PARLIAMENTARY SECRETARY FOR EDUCATION, LABOUR AND LANDS (Mr. Wanyutu Waweru): Mr. Speaker, the hon. Member, Mr. Mathu, has said that we should tax the parents. Just last week there was a conference in Nairobi to discuss about the future of African education, at which I was honoured to be present, and quite a good number of the members who were present were very much doubtful how money could be raised, if extra tax could be increased to the present African taxpayers. From what I learnt at the conference, I do know that although it may be possible in some areas, it may be impossible or practically impossible in most of the areas.

With these remarks, Mr. Speaker, I do support the Motion which is before the Council.

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): Mr. Speaker, I have heard debates in this Council for a number of years, in which the hon. Member for the Coast, whether inaugurating the debate on his side of Council or coming in later, invariably produces the remark that he has heard no clarion call. He accused us this time, Sir, of there being no punch in the Government of this country. I think that is a tremendous distortion of fact. Only the other day I met a gentleman from England, who was engaged in business and came to this country; he told me a thing that astonished him most about this country, was the pulsating and dynamic energy that was obviously coming out in every corner of it. It is true, Mr. Speaker, that the gentleman was interested in the effervescent mineral water trade, but nevertheless I do believe the Government of this country can take a fair share of the credit for that. When I think that during the four years of this terrible Emergency, we have had the courage to build this Parliament building, to build the Princess Elizabeth Highway, to open the Royal Technical College at the end of it and to indulge in the Swynnerton Plan—for the hon. Member to stand up opposite and say that the Government of this country has no punch—well I think the hon. Member must be suffering from astigmatism.

The hon. Member, Sir, mentioned the question of roads, and asked whether we were making proper allocations as between roads that were carrying off produce from African areas and other areas where the produce would be increasing, and roads for other purposes in this country. Now, I am astonished at the hon. Member raising that and accusing hon. Members on this side of Council of not having a proper plan, because the hon. Member, so far as I know, for the last four years has been a member of the Road Authority, and I would like to ask—

MR. COOKE: Will the hon. Minister please give way?

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): No, I will not, and I would like to ask the hon. Member whether he thinks—Mr. Speaker,

[The Minister for Agriculture, Animal Husbandry and Water Resources]

nobody on our side of Council interrupted the hon. Member when he was speaking—ask the hon. Member whether he thinks that 40 miles at £10,000 a mile around Mackinnon Road is going to contribute terrifically to the movement of produce from this country, or whether the expenditure of £20,000 upon a bridge at Lanet is going to improve such movement?

MR. COOKE: I should like to state that I have been a member of the Road Authority for two years, not four, and the point is that the Road Authority have not got the money. It is a question of funds.

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): The Road Authority has had a considerable allocation of funds, and the point I am making is that whatever the funds available, the hon. Member cannot accuse us of being solely responsible for the allocation of the funds, which, after all, is done upon his advice.

(Mr. Cooke indicated his disagreement.)

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): The hon. Member does not accept that.

Now, Sir, he also accused, I think, the country of devoting itself to political manoeuvring—and he immediately withdrew any remark directed at his late colleague, the hon. Member for Mount Kenya. Well, I would like to say something, Sir. I believe the hon. Member for Mount Kenya took a very great step when he agreed to join the Government and place his ability at our disposal and I deny that there was any suggestion of political manoeuvring in it. Secondly, I believe, Sir, that recently we have come to an agreement which has enabled the two hon. Members I see opposite from the African areas to enter this Council, and if that is the result of the political manoeuvring, then all I can say is it is a very good thing we have them, and it is only the hon. Member's jaundiced outlook on constitutional advance which caused him to make those remarks at all.

MR. COOKE: You are out of order.

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): The hon. Member for Central Area accused the Government, or the Governor in his Speech, of not laying down a plan for our political progress after 1960. I think, Sir, it would have been very unwise for the Government to have done that. These issues are highly explosive, and I hope that as a result of being in this Council the hon. Member will create so much confidence in other Members that he will be able to woo them with his ideas. In other words, Mr. Speaker, I very much hope that in the constitution which will evolve after 1960 hon. Members in this Council will have the good sense to sit down—and try to find the solutions for themselves and not rely upon the Government, which I regret to say is still largely imposed upon us, to put them before us. Surely it is up to us to work out, by confidence amongst ourselves, what are the next steps that we want to take, and the hon. Member's conduct in this Council will finally decide how far other hon. Members want to go in agreement with himself.

He mentioned, Sir, the controversial issue of racial discrimination. I had the misfortune, as a result of a Motion moved by his predecessor some time ago, to sit for hours going through the legislation of this country in order to find out whether there was racial discrimination in the Ordinances. If the hon. Member will enter the library of this Council he will find laid there the result of our deliberations, and he will find that the great majority of discrimination is protective discrimination in favour of the African, who is not, as yet, fully able to take his part with us. I would recommend to the hon. Member that before he makes these statements he should go into the library and look and see the results of the deliberations held with his predecessor.

The hon. Muslim Member for East Electoral Area raised the question of milk. I am distressed. For the last four years I have had to listen to ghee and rice and sugar and meat; and now I can see that even the production of milk is going to be a subject with which to belabour me. He says, Sir, that under the

[The Minister for Agriculture, Animal Husbandry and Water Resources] new Dairy Industry Bill, milk will be adulterated. I can tell him that in that event there will be no change from today, because a large proportion of the milk that is moving into a town like this under free enterprise I regret to say is not as pure as it might be, and I should have thought in the interests of the communities that drink milk in large quantities—of which I believe his is not one—control of the dairy industry would be a wise thing. At any rate, Mr. Speaker, I promise him I will do my best to see that the milk, Sir, is not adulterated. I feel the hon. Member is rather like Lady Macbeth—"You are too full of milk".

Now, Sir, the hon. Member also accused me of wasting time in experiments on the Tana River. I find that a most extraordinary statement from a distinguished ex-member of the Veterinary Department. When the hon. Member held responsibilities and was not free to indulge in irresponsibilities, did he charge all over the country waving syringes and sticking them into cows without having examined first what the result would be. If he did, I am surprised he remained so long in the Veterinary Department and was such a distinguished member. Surely, Sir, if we are going to spend something like £3,000,000 even on the preliminary stages of the Tana River Scheme, we ought at least to satisfy ourselves that (a) the pumps would pump, (b) that they will pump water filled with dirt, and (c) that when we have pumped the water, what can grow, and the whole of the apparatus of a modern irrigation scheme. I do suggest, Sir, to put forward to me that we should charge irrevocably forward on these schemes, without undertaking the proper investigation first, is not consonant with his own record in his own profession.

Now the hon. African Member, Mr. Mathu. I would assure him, Sir, that the Bills coming forward—the "three Bills for one community"—have not a strong racial slant, for it is true, Sir—I do understand that coming from the Central Province he will have difficulty in believing this—that even African cows produce milk, and it will be necessary to organise the flow of production from

them. The Produce Marketing Bill will enable us to deal with matters like potatoes, which are a favourite production and diet among the people of Central Province. So I think it is not really quite true to say that the marketing Bills are solely designed for one community. It is particularly hurtful to me, Sir, because during the time I have held my present responsibilities, I have brought Africans on to a number of Boards, from which formerly they were excluded for various reasons. I should like to tell him this. I am very much in agreement with him that we cannot segment agriculture into various compartments.

He made, Sir, a suggestion that we might switch our emphasis from conservation to production, and I think there is something in his idea of setting a target for each district. I would certainly thank him for the suggestion and will look into it. I only want to say this—that it would be quite wrong to over-emphasise production and neglect conservation. Conservation is a discipline to which every farmer has got to get accustomed; it is irksome because it affects the pocket, but nevertheless it provides a security for the future. I would only say this to the hon. Member—I will certainly look at the idea of increasing production, but I can only do so on the basis that conservation is fully maintained.

He mentioned, Sir, the disbalance in prices and I am afraid I cannot deal with wattle bark; it is not a crop which I have ever grown myself, so I cannot say I have the knowledge on this extra four inches or three inches, whatever it is; but I will certainly look at it and assure him that I believe a disbalance of prices between any two communities in the agricultural world is utterly wrong. I made a note, however, that consistently, over a number of years, African growers have secured rather more for their coffee than Europeans. I do not know whether the hon. Member was suggesting that I should aggregate the prices, divide by the number of tons, and issue a level amount to each community. I should be only too happy to look at that suggestion too.

Finally, Sir, I must confess I have been thrown into this debate because of the

[The Minister for Agriculture, Animal Husbandry and Water Resources] obvious reluctance of hon. Members on the opposite side to continue to put forward their views about how the country should proceed. May I say this, Sir, from the agricultural point of view we obviously cannot retain for such farmers who have got these 7- to 15-acre intensive holdings in villages. It will be essential, if the holdings are going to be properly run from the agricultural point of view, that we should get some dissemination into the holdings, because livestock needs constant attention; but we cannot ignore at this stage entirely the security issue. I would assure the hon. Member, from the agricultural point of view, we shall naturally do our utmost to meet the point he raises, provided that security is not destroyed in the process.

He also mentioned, Mr. Speaker, the question of manure. Well, we have got restrictions on the movement of manure and the hon. Member did speak to me privately about it and I have written to him and I think he was a little naughty to raise it in the debate. The fact is the restrictions are to prevent people selling their manure to areas outside the land unit, and thus denuding the soil of its fertility. What I can promise the hon. Member, is that we are looking at the restrictions with a view to easing movement within a location area and I think that should help it.

Now, Mr. Speaker, there have been so very few agricultural matters raised that I have not been able to say very much. I would like to finish, though, I have no time for people who first of all demand clarification calls, and then themselves get up and give us 20 minutes of the most miserable jeremiad in the world. I am proud of this country of ours; I think that after the Emergency which we have had, it is wonderful the way it is going ahead. I am absolutely confident about its future; it is untrue to say that the Government has not warned people of tight times ahead in regard to finance. The hon. Minister for Finance did it perfectly clearly in a major speech which he made at Molo, and I, myself, in addressing the Agricultural Conference, indicated equally clearly to the people of this country that possibly the halcyon days in regard to the flow of money were over, but at any rate, of one thing I am

certain—that if the people of this country and the representatives of this country never get up except to moan about the future of the country and pour forth dismal thoughts, then it is unlikely that foreign capital will come here in abundant measure. Now, I will say this to any foreign capital—I mean capital from outside this country—there is a good, secure and stable field for its use, and we welcome it.

DR. ANDERSON (Nominated Member): Mr. Speaker, Sir, there are a few other points to which I should like to reply which have been raised on matters of public health.

First of all, the hon. Member for Central Electoral Area said he was rather disappointed that in His Excellency's Speech indifference was shown to the medical needs of the Asian community. Now, of course, it is impossible for His Excellency to touch on all matters in a speech of this sort, but I think that the fact that some £13,500 has been included in the Development Estimates, and has already been considered by this Council as a contribution by Government to the building of the other important Asian hospitals, shows that the Government is not unmindful of the needs of the Asian community.

He also mentioned his disappointment that the Asian Hospital Relief Fund had not made more progress. The hon. Member for the East Electoral Area also mentioned the same thing. Well, as my hon. friend, the Minister for Health, mentioned in the last session, negotiations on this matter had even then been almost completed, and the only matter, as far as I know, which is holding up finality on this measure, is the fact that it has recently been referred to the Asian Civil Servants' Association, who have received various objections. Now, I would suggest that hon. Members who have complained about this delay might go back to those of their constituents who are members of the Asian Civil Servants' Association, and point out to them the great importance of this measure to all of the Asian community. I think they might point out that some years ago, when a European Hospital Relief Fund was introduced, the European civil servants accepted the measure and the contributions that went with it, as far as I know, with very little question.

{Dr. Anderson}

The hon. Member for East Electoral Area, also the Arab Elected Member, commended the fact that His Excellency, in his Speech, had drawn attention to the Government's plan for a country-wide campaign against tuberculosis. I would like just to say a word of warning about this, that, although this is a comprehensive plan, it is by no means certain yet that it will be a success. For one thing, it does depend, of course, on funds from various sources being made available to make it a workable plan.

Again, the scientific basis for this plan, namely the treatment of people in their own homes with the new forms of chemo-therapy, although there is a good deal of encouraging evidence that under optimum conditions it will work, we do not yet know whether it will work under domestic conditions. However, we have every reason to believe that it will, and if it does, as I have said before in this Council, I believe that Kenya will be showing the way to many other tropical countries in an up-to-date method of handling this problem.

The hon. Arab Elected Member mentioned that he hoped it would be possible to expand the Port Reitz Chest Hospital. Although one would very much like to do this, I would like him to bear one point in mind, and that is that the Port Reitz Chest Hospital is in fact the only specialised hospital for tuberculosis in the country, and consequently the Coast has had rather more than its share of the available cake, and I am sure he would agree that any further available funds which we may have at our disposal ought, in fairness, to be given to other parts of the country.

Now, Sir, the hon. Member for Ukamba challenged me to say whether rhino horn had any medicinal value. I find great difficulty in knowing whether that was a rhetorical question or not, but, as the hon. Minister for Agriculture has already admitted, it was put up for a special reason, perhaps I should also admit that I am here to play out time, so I will assume it was not a rhetorical question. Now, Sir, it is a belief amongst many people who live to the east of this country—I mean far to the east of this country overseas, that rhino horn, peculiarly when it is powdered and mixed with other ingredients, has a most

remarkable stimulating and enlivening effect on those powers of generation which are held in such high esteem in that part of the world. So far as I know, Sir, there is not the slightest scientific foundation for this belief. But, Sir, whether that is true or not does not make the slightest difference. What is really important is that these people who have this belief in it, and as long as they believe in it, Sir, so long will the price of rhino horn remain high.

ADJOURNMENT

MR. SPEAKER (Sir Ferdinand Cavendish-Bentinck): The time for interruption of business has arrived. Council will now stand adjourned till 9.30 a.m. tomorrow, Friday, 16th November.

Council rose at fifteen minutes past Six o'clock.

Friday, 16th November, 1956

The Council met at thirty minutes past Nine o'clock.

[Mr Speaker (Sir Ferdinand Cavendish-Bentinck) in the Chair]

PRAYERS

PAPER LAID

The following Paper was laid on the Table:

The Royal National Parks of Kenya Report for 1955.

(BY THE MINISTER FOR FOREST DEVELOPMENT, GAME AND FISHERIES (Mr. Blunt))

ORAL NOTICE OF MOTION

MR. MATHU: Mr. Speaker, Sir, I beg to give notice of the following Motion:

BE IT RESOLVED that in the opinion of this Council Government should fix a date on which to introduce compulsory primary education for African children in Nairobi.

MOTION

THANKS TO HIS EXCELLENCY THE GOVERNOR FOR HIS COMMUNICATION FROM THE CHAIR

(Debate continued from 15th November, 1956)

MR. CROSSKILL (Mau): Mr. Speaker, a degree of disappointment has been expressed on this side of Council at His Excellency's Speech and I have come to the conclusion that perhaps only a clarion call lasting three hours would have filled the bill. I think, myself, that there is ample justification for the modest satisfaction which His Excellency has expressed. Perhaps the words were too modest to describe adequately some of the great achievements of the past year. Perhaps it is an example of typical British understatement, or should I say English understatement, as I believe the Irish are not quite so modest as we are ourselves.

I myself was disappointed in one or two small aspects of the Speech; in particular I was very sorry there was no reference made with regard to the excellent idea put forward by Government recently for the establishment of industry in the reserves. Also I was disappointed that there was so little said with regard to

forest development and also, perhaps at the manner in which the problem of education was dealt with. It lacked perhaps the human touch which we should have liked to have seen and we were rather apprehensive at the obvious doubts which had been in Government's mind as to whether they would meet their statutory obligations or not. I shall refer to that a little later.

But the most astonishing omission, to my mind, Mr. Speaker, was with regard to finance. I think we might have expected a great deal more and I am not certain what conclusion to draw, either that our economy is buoyant or that we are in such a parlous state that it is not fit to mention.

However, on the whole, Sir, I think His Excellency's Speech does point, and justifiably point, a much brighter picture than it was able to do at this time last year. His Excellency has said that the black clouds of civil war are now dissipating rapidly. It is interesting, Sir, to look back over the last few years and to remember how difficult it was to get the hon. Members on the other side of Council to accept even the word rebellion. It was a disturbance. Now we are saying quite openly and quite rightly that it has been a civil war.

I would like to associate myself, Sir, with the tributes which have already been made in particular to the Commander-in-Chief and the forces under him, and I welcome very greatly the remarks which have been made by my hon. friend, the Nominated Member Captain Hamley. I have only one suggestion to make for an improvement in his very admirable speech, and that is the substitution of the words "snake pit" for "lion's den".

His Excellency brings us down to earth, Sir, and he tells us that by no means is the civil war over. There are still several hundred *Mau Mau* in the forests and we must not be complacent. We must exercise continual vigilance and I would urge Government to exercise great caution with regard to the establishment of Kikuyu in the forests; also in the cities of this country. It is salutary to realise that only very recently there have been oath ceremonies and *Mau Mau* is by no means dead. We are people who do not hate very strongly,

[Mr. Crosskill]
we quickly forget our hates, but we must exercise this continuous vigilance, Sir, and see that there can be no recurrence.

With regard to the reabsorption of the many thousand detainees, I would now like to make reference, Sir, because I believe it is a very, very great achievement. His Excellency has stated in his Speech that only 18 months ago there were some 66,000 detainees and prisoners in custody. That figure has now been reduced to 42,000. His Excellency said in his Speech that it appeared some time ago to be an almost insuperable task. I think we all agree with him. But, I think, too, with determination this very difficult task is being solved and I think great credit is due to the hon. Member opposite, the Minister for African Affairs, and to his colleague, Mr. Johnston, the Special Commissioner, and I know they will continue with this process and they will exercise the caution which is their watchword at the present time.

I would ask them two things, that they will give us an assurance that they are keeping a very watchful eye on the immigration of the Kikuyu into Nairobi, I think that is the main point on which we must keep our finger. We must see that it is restricted to a number with which we can deal and there must not be the excessive immigration into the cities which did take place halfway through this Emergency and may well overcome us at any time. And the other point which I would like him, if he will, Sir, to give us some more information about is the Tana River irrigation scheme, particularly with regard to the finance. I gathered from a chance remark that it is by no means, Sir, the large scheme to which some people have made reference, about which many speak but few people appear to have read the whole report. The larger scheme was a very costly one running into millions of pounds and I would like to know in what manner this smaller scheme is going to be financed. How, for instance, are we going to overcome the very great difficulties of communications for the extraction of their produce from that area to railhead and so forth.

Now, Sir, with regard to the reserves. Just very recently I had the most exhilarating experience of driving through the

Kisii and Kipsigis reserves and I found the picture most delightful. Certainly the face of our country is changing very, very rapidly indeed. Great credit is due to the Kipsigis and the Kisii people and also the Government departments responsible. The neatness, the intensification of the agriculture, rotational pastures, hedges and so forth have really changed the whole countryside. I think we European farmers must now look to our laurels as many of these African people are catching us up and many of their farms are absolute models of what they should be. It was also very interesting to read in His Excellency's Speech, Sir, that seven acres is now reckoned to be the most with which one African family can deal. That, Sir, is a great step forward. A few years ago there were doubts in people's minds as to whether ten acres would be enough. That shows the results of the application of industry and science to the development of these African smallholdings.

A great achievement which was prophesied also, Mr. Speaker, is that by the end of 1957 arrangements will have been made for all the landless Africans. That is a bold prophecy but if it can be achieved it is a tremendous achievement of great importance. It emphasises the point that all Africans, all Europeans, cannot live by and on the land alone. It is very satisfactory to see that arrangements are being made for them in other ways, particularly by the establishment of industry in the reserves, by their occupation in plantations and farming industries and in other ways. I would suggest here, Sir, that it is time that we had a census of the population in Kenya so that we have something on which we can base future planning. I believe I am right in saying that since 1948 we have not had a census, nor, I believe, have we had an interim demographic survey on which we can with accuracy plan for the absorption of the excess population and to know how we are going to occupy them in future years.

On the question of development projects, I am sure we all welcome still another big irrigation one and this time at Perkersa, and I rejoice with Mr. arap Moi that his own country will no longer be the Cinderella country which it has been up to the present. Not only has he now got two irrigation schemes in the

[Mr. Crosskill]
Tugen area but the ranching is being put on a really good footing. Another interesting point with regard to that is the use of the system of loans by which these ranching lands are being rehabilitated. Not grants, Sir, but loans for which we have pressed time and time again from this side of Council. It is interesting to see that this is working and that the interest on those loans and amortization is being paid by grazing fees. It says a great deal for the Tugen people that they appreciate this help which has been given to them and are perfectly willing to see that the money is repaid.

Now, Sir, I want for a moment to talk about the perennial question of the marketing of surplus native cattle. I shall refer to it very briefly as I have spoken many times in this Council about it, Sir. The hon. Minister for Agriculture recently told me in this Council that the average take off was, I think, around 10 per cent. Now that, Sir, I believe to be inadequate. I am prepared to agree with him on about 12 per cent, but his figures, on analysis, showed that, whereas some were only 6 per cent, others were 25 per cent. Therefore, although the average is satisfactory, if we examine the picture in detail it is not, and I would urge him to make fresh endeavours next year, particularly with regard to the Masai to see if the rate can be raised to a proper economic level.

I believe the greatest difficulty is with the Masai, and I have been wondering in what way we can make them realise the benefits of a modern economy. Certainly, money is no attraction to the, Mr. Speaker; it is only their cattle. The sleeker and fatter these are, then the more satisfied they are.

However, I am wondering if we could not breed sleeker, better and bigger beasts and perhaps exchange them one for two with the Masai. We might use something on those lines in the way of barter in order to attract their surplus.

Interpolation by Mr. Blundell:

The Minister has bluffed me by levity, Mr. Speaker, but I would ask him to pay greater attention to this and I think that by a system of barter—by going to the Masai in his own coin—we might be able to improve the situation.

With regard to the marketing of products, which we have emphasised from this side of the Council many times, a brief reference is made by His Excellency, but I would like the Minister for Agriculture to state in what manner he is going to implement this organisation for marketing—this looking into the future—preparatory for the greatly increased products which will result not only from the Swynnerton Plan but from development throughout the whole country.

I did at one time suggest a bureau but I think that less than that would suffice.—I think we have all the marketing organisations which we require. What is required, I believe, is the co-ordination of the information which Government and those organisations alone can supply. I would instance a point which was brought to my notice by the District Commissioner at Kapsabet, only very recently when he told me that the Nandi people—who were big consumers of milk only two or three years ago—are now very rapidly becoming large producers and sellers. I am not sure whether that point is known to the Creamery. That situation may be arising in other parts of the country other than among the Nandi and I think such points as those must be co-ordinated. I believe we have the organisations—all we want is the co-ordination.

Now, the Minister for Agriculture, Sir, intends to spend some £37,000 on the scheme for the testing of machinery. That, I think, may prove very valuable but I would urge him to consider that one of the main points with regard to whether a machine is satisfactory or not is if it can be purchased at an economic price. That is one of the biggest stumbling blocks which is militating to the disadvantage of agriculture at the present time—the high cost of machinery. It may cost double what it does in the United Kingdom and I would ask him to consider this suggestion, that no machinery be tested by this organisation unless first of all it can pass a means test to show it is an economic purchase; if that machine can sell in this country at, let us say, 15 per cent over the United Kingdom cost then it will come within the province of this organisation, but otherwise not. It

[Mr. Crosskill] will be ruled out as being unsatisfactory on the grounds of cost.

I believe this may possibly show us the way in which we can control the price of machinery, which at the present time is of almost prohibitive cost in many cases. It is quite ridiculous, but it is possible, Mr. Speaker, for anyone to buy a machine in the United Kingdom at the retail price, import it into this country privately and it will be landed here at just less—or at the same—cost at which one can buy it retail in this country from the shop.

One small point for the attention of the Minister for Agriculture and it is with regard to development loans. I think it is burdensome and wrong in principle that the interest and amortization charges should be operative immediately when the loan is made. I think there should be a moratorium. These loans are for capital development which is going to take some time before it brings in its return and, therefore, I think it is only right in principle that there should be some delay before the interest is payable.

One short point, Sir, with regard to surveys in this country, surveys of land and farms. I would urge those who are responsible for this to do all they can to see that the cost be reduced—it is at present excessively high—and also, Sir, that surveys can be carried out with greater speed. I would suggest, Sir, that we might have apprentices and other not fully qualified surveyors who would carry out the initial work—the clearing of the bush—and their work could later just be checked by a fully qualified and certified surveyor. At the present moment it is holding up development in quite a large way.

One final point which I would like to make to the Minister for Agriculture, Sir, is with regard to this rather extraordinary racial discrimination shown on his part by calling it the European Cereal Producers' Bill. Now, I suggest, Sir, that we are not the only cereal producers and I think the provisions of that Bill may well usefully be utilised by African farmers as well as by ourselves.

One of the objects of this Bill is to enable this statutory body to cress crops such as wheat in order to devote those funds to the further examination of seed production. I think the African people may well wish to do the same thing with regard perhaps to the production of hybrid maize and I ask him if he would agree to changing the name and the intent of the Bill in that small way.

With regard to the Minister for Legal Affairs, Sir, I see that the tempo among the legal draftsmen is now such after the Emergency that we shall have a spate of Bills in the near future. I think it is very laudable, and I think it is very satisfactory to see that we are not slavishly following the English law, nor the Indian law, but that we now have substantive Kenya law.

However, not being a man who can appreciate the niceties and details of these many Bills with which we are being faced, Sir, I would ask him if he would meet us on this point. I see now that he has a Statute Law Revision Committee. Now, that could be most useful because two or three days ago we on this side of Council, when these Bills were being read through, were getting more and more puzzled as we went along. Now, if it could be noted on the bottom of these Bills that each has had the approval of the Statute Law Revision Committee we should know then that we may agree with the hon. Members on the other side. That would save us a great deal of trouble. It could be noted in the same manner as it is generally noted that there is to be an increase in public expenditure or not.

Now, Sir, with regard to the forests. There is a great deal of uneasiness in the country with regard to the return to the system of squatters. I would like to say a few words about this problem. The uneasiness arises not only from the question of security but also from the question of economy, and the economic grounds on which these squatters are to be employed.

Now, I think it would be quite wrong if we were to revert now completely to the system which existed before the Emergency. We have now the opportunity to put aright what was wrong—to revise where necessary. We may not have another such opportunity as we

[Mr. Crosskill] have now. I believe that it was wrong from the point of view that the labour was inadequately supervised, that the amount of land available to the African squatters in the forests was unrestricted and that the manner in which it was cultivated was not controlled as it should be—it should be as it is in the reserves and the European farming areas.

Now, the land is very rich and the squatters, of course, did extremely well for themselves, but I believe it is wrong and I think we should control it. Possibly the squatter system is the only one, but it should be more controlled. I believe that there should be no possibility of them making much more money than they do in the reserves or in the farming areas and that the manner in which they make their money should be controlled, either by paying a rent or by paying a cess on the crops which they grow.

Unfortunately, the Minister for Forest Development, Game and Fisheries saw fit to say only recently at the conference in Nairobi that it was only natural that the Africans would prefer to work for Government rather than the farmers in this country. With that I profoundly disagree. It is not only wrong but it is a very unwise statement, I can instance to him the difficulty the P.W.D. are having to get employees up-country in spite of the fact that they are paying higher wages in actual money than are being paid on the farms. If it is far preferable for an African to work for the Forestry Department than for the farmer it means that he is getting too much out of it. I would repeat, Sir, that I think it is wrong that the African should be better off working for the Forestry Department than he is working in the reserves on his own land or in the farming areas. The remuneration in its various forms should be co-ordinated and if there is any surplus that should come as revenue ability of them making much more to the country or through the Forestry Department and not to the individual squatter himself.

It is quite easy for the Forestry Department to pay higher wages and to give a higher scale of remuneration in various forms than the farmer, but the Forestry Department does not pay income tax, nor, Sir, does the Forestry Department pay school bills. I would be

grateful if the Minister would let us know when the Craib Report is being laid. Again, I think that would be of considerable interest to us and I should also be grateful if he would comment as to whether he has in view any afforestation of the dry areas in this country. I emphasise that again now. It has been raised by us on this side of the Council many times. The particular reason in raising it now is that from the point of view of security it would be perhaps safer to employ Kikuyu in some of the drier areas than in the mountain forests, as is proposed at the present time.

I wish to make a brief reference to the Manzoni Report. It is very satisfactory to hear in His Excellency's Speech that the report is shortly to be accompanied by a White Paper—which we await with interest. I would here, Sir, like to address a word to the Minister for Works and ask whether he has yet been able to see the roads to which I referred some time ago in this Council in Tanganyika. I would just briefly like to reiterate what I believe is our policy on this side of the Council with regard to roads. That is that we—this country at the present time—cannot afford high specification and costly tarmacadamed roads such as those which are being built, but we must have tarmacadamed roads.

Tarmacadamed roads can be made for about a third of the present cost as has been demonstrated by the Tanganyika Government and, also by the Nakuru County Council. Those are lower specification roads but they do serve the purpose of 99 per cent of the traffic in this country. The rest, the heavy traffic which destroys these lower specification roads, must be controlled. I emphasise that it is not only the fault of the Minister for Works that this has not been so far put into operation; it is the particular responsibility of the Road Authority on which many of my colleagues sit. I hope they will, in association with the Minister, see that that heavy traffic is controlled. It is controlled in Uganda by governors which are fitted to the vehicle. That system could be brought into this country. It is not the weight of the vehicle which destroys the roads—it is the weight multiplied by the speed. It is low-specification tarmacadamed roads which, I think, we must have in this country.

[Mr. Crosskill]

Now, with regard to education, Sir, I have mentioned that Government appear to be in doubt whether they will meet their statutory obligations. I only have one brief word to say and that is with regard to the several rural day schools which are springing up throughout the country. These are springing up as a matter of self-help by the European community, and they are very difficult forms to run on account of the distances they are away from the centres where people live.

But it is an attempt to reduce the cost of education. That is one of the larger problems with which we have to deal in this country. This is an attempt to do so, and therefore—on the grounds that people are helping themselves and attempting to reduce the cost, they should have every consideration. The Minister, I know, has assisted them to a great degree; but the whole problem is not co-ordinated at the present time. I ask him to let me know that Government intend to assist those rural day schools financially in the same way as Government does to other private schools.

With regard to labour, Sir, it seems an extraordinary thing in this year of grace that the labour supply and demand is still unco-ordinated throughout the country. The Minister, Sir, has done a great deal—I am not blaming him in the least. He has taken the very bold step of trying to solve the problem by introducing labour from the Belgian Congo. That was very admirable. Again, it is a question which must be solved by self-help and by people on this side of the Council and by the plantation and farming industries which they represent. I say that at the present time supply and demand is unco-ordinated and we have not exercised sufficient imagination to solve this problem. It is not just a question of arithmetic: we see there are 30,000 detainees so why a shortage here and there. It is more difficult than that, and I do suggest it is time we had a Labour Utilisation Board devised on the same lines as they have in Tanganyika. At the present moment it is very sad to know that there are millions—several millions of pounds—awaiting investment in Kenya, and in particular in the Nandi Hills, for the growing of tea. That money cannot be brought here because there is

not the labour to develop the land and to plant the tea. I think we must have this Labour Utilisation Board, or some organisation which can co-ordinate the two. On this point, Sir, I know a great deal of the organisation which could be brought into operation awaits the Report of the Rural Wages Committee. I hope that that will be laid at the earliest possible moment.

Finally, Sir, I should just like to say something about taxation. Now I am not apologising to this Council for the reiteration, very briefly, of some of the points which I have made on previous occasions with regard to taxation. I intend to repeat what I believe are the iniquities in the present policy and the present system of taxation in order possibly that some of these may be engraved on the stony heart of the Minister of Finance. I think the slow, steady drip, drip of water can often make an imprint on even the hardest granite.

We all, Sir, on this side of the Council realise the tremendous financial difficulties which he is facing which this country has before it. But, Sir, there comes a time when we must realise that we are convalescing. I believe that we are convalescing now. We must look to the brighter future. We must not fall into the hypochondriac feeling that we are always ill and always shall be ill. I would ask him to look ahead, and let us know what his plans are for the alleviation of the present tremendous burden of this taxation. I believe that our policy should be, quite naturally, the restriction of expenditure to the limits which are possible; that we should not demand the impossible. We should not demand services at the present time which we can do without for a few years longer, but I believe that should be accompanied, Sir, by a bold fiscal policy of encouragement to development which might halt any recession into which we are falling at the present time, and I think it is this boldness, encouragement to development which we require, and I hope, Sir, that will be the policy of the Minister.

It has been said by my hon. colleague, the Member for the Coast, that he thought taxation should be increased, but I am quite certain that he meant that the spread should be broader and perhaps the total revenue—

Mr. COOKE: I did not say that.

MR. CROSSKILL: — reading into his mind!

Mr. COOKE: Could you give way a moment? What I said—I would like to explain, because I was misquoted by another Member yesterday—was that unless the people of this country are prepared to contribute to the local loans it will be necessary to increase taxation, that is, broaden it—both increase and broaden it, in order to get the money to carry out necessary works in this country.

Mr. CROSSKILL: I am much obliged. I read quite correctly into his mind, Mr. Speaker. It is to broaden the basis and not to intensify the drive on the willing horse—that was exactly the point I wish to make. I do hope, Sir, with regard to that, that the Commissioner's Report on Taxation will be published at the earliest time, and will not suffer the same fate as the Gill Report which was to be pigeon-holed for an unconscionable time. Now, Sir, the situation is bad with regard to taxation in this country. We have a vicious and dangerous circle which we must break—I would refer to two particular instances, with regard to income tax personnel with whom I was talking recently, when they told me that they, on account of the excessive cost of living in this country, intended to go back to the United Kingdom as soon as possible. Now, one of the contributory factors to that cost of living was the taxation. They are paying at least as much taxation for less in this country than they would be paying if they were back in the United Kingdom. Now, those people are the ones we want in increasing numbers in order to increase the revenue of the country and to broaden its basis. We cannot afford to let them go because the tax is too high. So I say we have a vicious and dangerous circle which must be broken.

I have said before that the taxation here is approximately double what it is in Southern Rhodesia. I generally wait a moment at this juncture, Mr. Speaker, because the Minister for Finance usually gets up and says "What about company tax?" He has not this year, but I am not referring to the development on a large scale by companies in this country but to the effect of taxation on the small man, the employee, and even the men who

collect our taxes. I think it is urgent that three matters in particular should have adjustment as soon as possible. First with regard to the personal tax. It was necessary to impose personal tax—we have no grouse about it—but I think at the earliest possible opportunity, that should be offset against income. I think the most important matter of the whole lot is with regard to development allowances. Now, many of our young settlers in this country, the younger settlers just starting, are suffering great hardship owing to the present system of taxation which is less helpful than it is in the United Kingdom. Our young settlers of the Settlement Board come out to this country to get farms going. They clear some land, and plant wheat. If they have a successful crop, it is taxed up to the hilt, and they are not allowed to do what they would be allowed to do in the United Kingdom; that is to put in water installations, fencing, farmhouses and so forth, and offset that against the revenue from wheat. It is to my mind ludicrous and nothing less than there should be greater incentives to development in the United Kingdom than there are in this country of ours to-day, and I say it is a matter of urgency that there should be alleviation in respect of that. They should not be allowed to keep that money to spend. They should be allowed to invest it in the development of their land. The money which is said to be profit from the wheat crop is not all profit. A great deal has been taken out of that land, and consideration should be given to that fact, and it is a scientific fact.

I believe, Sir, that evasion is on the increase. Evasion of income tax I think that when you get that, Sir, it means that the collection of tax is becoming more costly, and I think that when taxation rises to the level at which it is near-impossible to save and to build something up for the future, we have passed the limit of tolerance of a very reasonable people.

The Minister for Finance said in his speech at Molo the other day, Sir, he felt that we should buy our leadership. With that, Sir, I cannot agree.

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): I would be very grateful, Sir, to the hon. Member if he would read my words correctly. I used no such phrase.

Mr. CROSSKILL: I fear, Sir, I must apologise to him if the words were not correct, but I think the meaning was there that we must be prepared to pay for our position as leaders of this country.

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): No, no. I am sorry, Sir, but the hon. Member must be checked. What I said was that that was the price that had to be paid and that the leaders of the country must be prepared to pay that price, or forfeit their leadership.

Mr. CROSSKILL: Mr. Speaker, Sir, I think that is playing with words but I cannot agree with those words. If we pay, we pay in qualities and not in coin.

THE SPEAKER (Sir Ferdinand Cavendish-Bentinck): Order, order. I do not think we want to argue about what was said outside this Council at too great a length.

Mr. CROSSKILL: Finally, Sir, before I sit down, I would like to say one word about racial relations. The question was raised by my hon. friend, the Member for the Central Area, Mr. Mangat. Now, since he mentioned the question, I have been thinking a great deal about it, and the conclusion I have come to is that I had not thought there was a racial relation problem for many, many months and I attribute that to a great degree to the new form of Government which has been introduced.

I would say this to him, that the plant "racial relations" is a very tender one. It is a plant which is a slow grower, but a sure grower, and it does from time to time produce very satisfactory fruit. It is a plant which does not like being brought out into the light of day, particularly in this Council too often, and it certainly is not stimulated by excessive spraying with an insecticide called by my hon. friend "AMWOP".

Mr. Speaker, I beg to support.

Mr. GIKONYO (African Representative Member): Mr. Speaker, Sir, I would like first of all to pay my very sincere tribute to all members of the Security Forces of all races who, through their great efforts, have made the Security position to be what it is to-day. The hon. Member for Ukamba in the course of his

speech yesterday, did mention in particular Mr. Henderson of the Special Branch. He said that he had done very much in the struggle against forest terrorists. I endorse everything he said and, in addition, would like also to mention an African inspector who works hand-in-hand with Mr. Henderson. Inspector Elias Githieya and Mr. Henderson have done so much for this country, and I feel that the people of this country do owe a great debt of gratitude to these two police officers.

When the activities of Mr. Henderson come to be published as was suggested by the Member for Ukamba that the name of this particular African inspector shall not be forgotten.

Mr. Speaker, I have some observations which I want to make on the Speech from the Chair. First of all I wish to deal with the question of these detainees and Mau Mau convicts. His Excellency told us that during the last 12 months the Government has released over 24,000 detainees and Mau Mau convicts. Now these people have left the camps and have gone back to their own home districts. Most of them have lost everything they had and they have to start life afresh. Now my question is, what is going to happen to them? There are some people who suggested that these people should not be absorbed in employment outside their districts. But my feeling is this: if you keep these people too long in their villages doing nothing, the results, naturally, will be that they will go without food and clothes. Their children having no fees cannot go to school. They cannot provide food for them and at the same time they know that their former employers want them back to work.

I do know that at the moment there is a process of allowing just a few to come back to their employment, in places like Nairobi and I do feel that when there is desire on both sides, the employers and the employees, the Government should do more than they are doing now to encourage that move, because I feel that unless this is done a great mistake is being made. The first thing you have got to remember is that it is not so easy for detainees to go back to their own homes; they are screened and re-screened, and it is only after very

[Mr. Gikonyo] careful examination that they are able to go back to their homes. According to what His Excellency says, only a handful of these detainees have been sent back, but the screening process is very efficient and I feel that there is no fear of allowing these people to go back to employment.

In any case, Sir, if these people come back to Nairobi, or other places, and they proved themselves a nuisance, there exists machinery to deal with them. We have closer administration in Nairobi, and it is not easy for anyone to misbehave without the knowledge of the police and other people who are helping the administration. I for one have no fear that as soon as these people come back they will behave. I am sure it will have more effect than keeping them many miles away from their homes. They do not know what is going on in their district, as any amount of telling them will not convince them that the things are good.

In addition to that, if they come back to their districts, they can do some useful work instead of keeping them behind barbed-wire doing nothing all day and all night. I feel that the move is a very wise one.

Next, Sir, I want to deal with the question of the education. This is a matter which affects the African population very much indeed, and at risk of repeating some remarks made by my hon. friend, Mr. Mathu, yesterday, I will first of all deal with the Government policy on African education.

We are told that the Government policy is to provide an eight-year primary and intermediate schooling for every African child who comes to school. That is qualified by the fact that this can only be done when finance, staff and buildings can be made available.

To me, that is no good. That is a very vague policy. It does not give the African parents any hope that their children will get their primary education.

It is very easy to say that it will be provided as soon as possible, but my question is, when is that? It can be to-morrow; it can be next month; it can be next year, in the next 10 years, 20 years, or 30 years. We want a policy that gives a definite aim—to say that we know we have not got this now; we have not got the money now, we have not got the

staff now, but after one, two, three, four years, we will be able to have them, and then proceed to implement that policy.

At the moment, I feel that I must accuse this Government for having no bold policy with regard to Education.

It was only last week, on Friday, that we had a conference on African education, and the deliberations of that conference are still fresh in our memories. The chairman of the conference was the Minister for Education, and I am sure he took note of all that that conference said.

First of all, they were very emphatic about having a start on this question of eight-year education, and in Nairobi, to start with. He said that we want to have a start with Nairobi, so that we know exactly what it is going to cost the Government and the country to give an eight-year primary education to the African child, and then, on the basis of that knowledge and experience, we can extend the scheme to other areas.

I must here thank the Minister for Education for calling that conference. Most of the members, in fact, the majority, were Africans, and the opinions that they expressed were really African, and I hope that when he reconstitutes the Advisory Council on African education he will take a note that the majority of that council should be Africans. I know he did talk to me about it, and I hope he will put it into effect.

Now, I want to pass on to the question of teachers. My hon. friend, the Parliamentary Secretary to the Minister for Education talks of the "shortage" of teachers, but where are we going to get them. Are we going to induce teachers to come forward—are we going to do something to see that we get teachers? I do not think I can do better than refer him to an article by a teacher which appears in the *East African Standard* of to-day: "You do not give incentives and encouragement for the young African to take up the teaching profession." Now, this particular article goes further and says: "If you do not give us incentive, if you do not give us better conditions, we are going to quit the teaching profession," and he suggests that all the teachers form a trading company and then go and teach their own children. What about the children of

[Mr. Gikonyo] those who are not teachers? They suggest to the Minister that then you can import teachers from the Congo as you intend to import labourers. If you get teachers from the Congo or not it is immaterial to them. These things will show you that there is something wrong with the terms and conditions of teachers and it is no use coming here and everywhere else saying: "We have not got teachers," if you do not give attractions in the teaching profession people can choose where to go. They can go to the Railways, go to other departments, go to their Information Office where they can get a better salary, and for any one to say that for lack of teachers: "We cannot implement this policy," I think it is absurd. Now, Mr. Wanyutu did also say something with regard to taxation in connection with education, the conference on African education did unanimously say: "If you put up taxation especially for education, the African parent will pay; but on the contrary, if you put up taxation to go to the general revenue, they will not pay, because they know from experience the amount of money that the Government will need to educate an African will be smaller than that for Asian, and still smaller than that which will go to the European child."

But they were emphatic that African parents would be prepared to pay a tax especially for African education. I think that I am right.

There is a very large number of children who leave school, mostly failures—and those who pass, and there is no accommodation in secondary schools for them. The only alternative is to train them in some sort of trade, and I feel that the Government either increases the number of trade schools, or expands the existing ones, because I feel these trade schools absorb a very large number of the children, and train them to be of some use to the community. Whilst I am on education, I would like to mention about making use of untrained teachers. This is not a new principle. We already have had about 2,500 untrained teachers, and I feel this number could be increased without any danger of lowering the standard. If you have a certain amount of untrained teachers—I do not think there is any danger of the standard going down. I think it is wrong to put too much

stress on the quality. Therefore, Sir, I do know that the Education Department is using a certain proportion of these untrained teachers, and I think there is room for an increase of these untrained teachers to help us in this very difficult task until such time as we can get qualified teachers.

Now, Sir, I want to go from there to the question of housing. It is unnecessary for me to say that there is a very acute shortage of African houses in the country, especially in Nairobi. We had been told many months ago about the joint Government and City Council scheme. I really would like to know from the Minister for Housing what is going on—what is hindering the project from being started. Every time it is, "The matter is just coming up for finality," but up to now, we have had no definite reason why something has not been done. Whether it is due to this question of experiments with pumice—I do not know. I do not know whether the experiments are breaking down—let us know the true position.

The other thing is the question of superior type of African housing. There is a rumour going on that the Government was to abandon this scheme. Whether that is true or not, I do not know, because my recollection is that during the last Budget debate, the Minister for Housing told us that a scheme was already going up near the Nairobi Golf Club. I do not know what is the truth. I would like to know whether it is true or not that the Government want to abandon this in preference to building lower standard houses in the African location.

While I am on this question of housing, I would like to touch very briefly on the question of rents for African housing. There is an intention on the part of the City Council to increase rents in their African estates and this intention has met with opposition from the African tenants. I notice in to-day's *East African Standard* that there is a joint enquiry by the Minister for Housing and the City Council into rents in African locations. The reason for the increase of rents seems to be talk about the wages for the staff necessary to collect these rents. My knowledge of this is that they have not installed new water pipes. It is not necessary for extra staff

[Mr. Gikonyo] to go round and say, since the tenant is bound to pay. They walk up to the rent office before they go to work and pay the rent. I do not think we need more staff for that. That is all.

Well, I do not know what will be the outcome of this enquiry, but in my opinion I would have liked to see a committee, call it what you will, Rent Fixation Committee, in which all parties will be represented, such as the Chambers of Commerce, representatives of tenants and representatives of the Government. Perhaps Council can make a case for the increase, but at the moment I have my own doubts as to whether anything worthwhile will come out of this enquiry. It should be remembered that local authorities do not come under the purview of the Rent Restrictions Ordinance and, therefore, they have got a free hand to increase the rent at any time they like. I do not think it is wise for the Government to give the local authorities quite the latitude they have.

Before I sit down, there is only one other thing I want to mention with regard to these rents. It is suggested by the City Council that they are going to increase rents also with regard to plots in the African locations. They mentioned in particular Pumwan and Makadara. I would like to remind the members of the Council that these two locations are the property of the Africans themselves and the suggestion they have put forward is to increase the rents of these plots by 100 per cent. Now there is no doubt that this suggestion would have the effect of discouraging Africans to own property and I would like to appeal very strongly that instead of discouraging the Africans we should encourage them to own property.

With those remarks, Mr. Speaker, I beg to support.

Mr. RIDDOCH (Nominated Member): Mr. Speaker, Sir, in the early stages of a very admirable and comprehensive speech. The Member for Mau expressed disappointment that too little reference had been made in the Speech from the Chair to forestry. Well, Sir, I do not think that the Speech from the Chair could contain in great detail all aspects

of Government policy and, indeed, I think it is merely a précis of what the Government are doing and intend to do.

If that is a correct interpretation, I was particularly pleased to find that special attention had been given in the Speech to protective forestry in certain parts of the country. I think many people know—or they should know if they do not—that the activities of our Forestry Department are divided into two. One concerns itself essentially with protective forestry and the other branch deals with the economic exploitation of our indigenous forests and also the establishment of new plantations.

To-day I will not touch upon the economic side of forestry except to repeat again how important an asset it is for this country. Indeed, if the plans which are on the way, and which may be adopted in the near future, fructify—as I have no doubt they will—the forest asset in itself will be a very, very important element in the economy of this country in some years to come.

However, with regard to protective forestry, it concerns itself with the protection of our catchment areas and the headwaters of our rivers; unless this work is done—and in many parts of the country it has not been done—the flow-off of water would be far greater than it should be, with an acceleration of erosion in so many ways and the diminution of our water supplies.

If our land were allowed to go without protection in the sense that I am referring to, the climate of the country would very soon alter and, indeed, this beautiful land of ours would soon be destroyed.

Now, Sir, the Forest Department consider—I think I am right in saying—that protective forestry is, in the first place, even more important than economic forestry, and in the forest areas great attention is being paid to this activity. Unfortunately, however, there are vast areas in this country of ours where, until recently, no measures were taken to establish protective forestry, with the result that a lot of our dry areas have become drier still and unless this tendency is arrested the desert will approach at an ever-increasing rate in many parts of the country.

[Mr. Riddoch]

In his Speech, His Excellency referred to the establishment of the protective forests in Nyanza Province, Machakos, Kitul, and various other parts of African land units. There are, however, other areas which require most urgent attention. There is the Masai country where the forest areas have been devastated at an alarming rate; there is the area of the Northern Frontier—not to far from the White Highlands—and there, I am pleased to say, some measures are being taken to protect the original forest lands on which have been eaten into through means of time by forest fires and over-grazing. In the West Suk, which I was able to visit a few days ago, I was very much impressed with the scheme at Mawa, where controlled grazing has been instituted and is still proving a great success. It has only been going for a couple of years, I believe, but within that time the improvement in the grazing there is spectacular.

However, this improvement cannot be very advantageous unless we get protective forestry established on the hillsides which border on that country. The establishment of forests will control the headwaters of the rivers flowing down into the drier areas. They will regulate the flow of water to a greater extent than happens now and will not only provide water for the cattle which graze down below, but will, I hope, ensure a greater flow of water than exists at the present time.

The Member for Mau also made reference to other aspects of forestry, particularly with regard to the squatter system. I do not propose to go into that very controversial question now because I am sure the Minister for Forestry will deal with the matter himself.

Sir, I beg to support.

MR. MACKENZIE: Mr. Speaker, Sir, I have been rather surprised at certain suggestions that have been made during the debate complaining that His Excellency's Speech did not contain more references to finance. In actual fact, Sir, it would have been very surprising had there been more references than there were, since the object of the Speech from the Chair is to set out the Government's policy in general terms, and that policy is given

a financial shape at a later stage when the annual Estimates are introduced into the Council.

It would obviously have been most in-appropriate at this stage to anticipate the Budget statement, and equally it would have been inappropriate in a speech which sets out the programme for the coming year, to have a post-mortem on what had happened in the past year. It is, however, possible for any hon. Members who wish to find out what the present financial position is, to do so at regular intervals by studying the *Official Gazette* in which, at the end of every month, the Exchequer account is published, and reference to that will show in a very simple, straightforward manner what is the financial position and the trends of revenue and expenditure at any one time. I strongly commend the study of these statements to any hon. Members who are anxious, from time to time, to know what the score is. I mentioned, Sir, some time ago that it would not be appropriate in the Speech from the Chair to anticipate the Budget statement which I have no doubt my hon. friend will be delivering in due course. There were, Sir, certain other points that were made during the debate.

My hon. friend, the Member for the Coast, mentioned that he thought that a warning should be given about falling revenues. Well, Sir, my hon. friend, the Minister for Finance, has, from time to time, mentioned that, in his view, we cannot continue always to rely on boom conditions and has given warnings, from time to time, that the boom of the last few years cannot be expected to continue. We are all aware that there have been certain indications of slackening off in that boom, and those indications have been reflected to a certain extent in recent months' Customs' receipts. It is difficult to say at this stage to what extent this trend is a permanent one, because we all know that there has been a good deal of overstocking and that kind of thing; we know that the credit squeeze has been having an effect which, in some ways, has, no doubt, been a healthy one in shaking out the overstocking position. At the same time, a lot of things that we have all been looking forward to for quite a long time, such as the greater speed of deliveries of goods and the easing of the position and the removal of

[Mr. Mackenzie]

phasing at the Port of Mombasa, have had the effect of bringing goods forward more quickly than was expected. The result of that was that during last year, and during the early parts of this year, the revenue from customs and excise rose very considerably and there were record monthly collections over quite a considerable period at the beginning of the year. There has been a falling off from those very high levels, although the collections this year would still have been regarded as excellent ones had it not been for the very high level which obtained at the same period last year.

As regards the rest of the revenue, Sir, the position is that most of the items of revenue show increases over the position at the same period last year. This is particularly marked in the case of income tax, where a great effort has been made to get out the assessments more rapidly and to collect arrears, and it is shown in the actual collections which have taken place to date this year. There are also minor, but very welcoming, increases in most other revenue items.

I am glad to say, too, that the tax reserve certificates, which brought us in very welcome receipts during the last year, are still bringing in to the Exchequer cash in anticipation of future payments of income tax. I hope that this trend will continue and that we shall continue to get receipts from this source, although, of course, we cannot expect that the net gain will, in future, be quite so high as it was in the past year.

On the expenditure side, Sir, the position is that expenditure is running at more or less the level which was forecast when the Estimates were brought before the Council; and I do not think there is anything more that need be said on that score, except that the issues from the Exchequer for contributions to the Emergency Fund illustrate, by being very much smaller than they were at the same time last year, they illustrate what was said in the Speech from the Chair about the very much improved position on the Emergency Fund generally.

Now, Sir, there are one or two other points which I should like to mention. One of them was the extent to which people subscribe to local loans. Well, Sir,

I am for obvious reasons unable to give the exact figures, but the facts are that local loans were issued in Kenya in 1954 and again in 1955, and in both cases they were quite heavily over-subscribed. I think that shows, Sir, that the people of the Colony have shown a willingness to subscribe to local loans in the past and I have no doubt that they will continue to do so in the future.

As regards the terms for loans, to which my hon. friend, the Member for the Coast, also referred, there the terms are largely dictated by an appreciation of market conditions at the time, and all I need say is that when any further issues are made the Government will keep those conditions in view, and there is not really very much more that they can do than that.

Then, Sir, my hon. friend, the Member for the Central Electoral Area, mentioned that there was an alarming increase in the circulation of paper money at this time, and that that was leading to most appalling inflation. Those were not his exact words but I think that was the general tenor of his remarks. Well, I shall leave my hon. friend, the Minister for Commerce and Industry, to deal with the general arguments there—which I am sure he will do most effectively—but I would like to deal with the specific points that were made about the increase in the circulation of paper money. I got the figures for the position at the 30th September, 1956, and the 30th September, 1955, and the actual position is that on the 30th September, 1955, the total note circulation in the whole of East Africa was £48,366,265. On the 30th September, 1956, the total circulation for the whole of East Africa, which for these purposes I should mention includes Aden and British Somaliland, was £49,943,746. In other words, the total increase in note circulation for the whole area during this period has been £1,500,000, but so far as this Colony was concerned, Sir, the position is that in September, 1955, the note circulation is given as £6,200,195, whereas at the same date this year it had actually fallen by £1,500,000 to £4,680,678, so that whatever else may be happening, it does not appear that there has been a great increase in the circulation of notes, or other forms of currency, in this

[Mr. Mackenzie]
Colony. In fact, there has been quite a considerable falling off.

At any rate so far as one can see, the fact is, too, that there has, in fact, been a very appreciable slackening in the rate of inflation during the past year, so much so that I believe that the rise in the cost of living has been quite fractional during the period. This, in a developing country, is not necessarily the happiest position we could have, but it does at least show that inflation has, to a very great extent, been stopped in this part of the world and that if political conditions permit, we may look forward to a period of some stability.

With that, Sir, I beg to support.

MR. PANDYA (Eastern Electoral Area):
Mr. Speaker, Sir, I rise to support the Motion before this Council moved so ably and with great clarity and lucidity by my hon. friend Captain Hamley. Not only that, Sir, but he has brought into the debate the very necessary quality for which we Coast residents are very famous. I refer to sea level and sanity, and thus he brought in with a great naval background.

I realise, Sir, that it is a disadvantage to speak so late in this debate as there is bound to be some repetition of observations and arguments while, if a new Member speaks too early, he does it with some diffidence. However, Sir, it is rather difficult to resist the temptation of making a maiden speech on such an occasion, and I am told, that on a Motion on this nature before Council, one can get away with it, so, to say, if one were to indulge in slight irrelevance and irregularity, I do not propose to do that. I would like to associate myself with the remarks made by some hon. Members in this Council and heartily congratulate the army, Kenya Police, the Kenya Police Reserve, many administrative officers and all those who have, by their willing sacrifices, brought about the happy position that we find ourselves in to-day, and, indeed, Sir, the fact that the police force to-morrow is resuming responsibility for the maintenance of law and order, is a sign that the confidence is returning not only in

the Government, but also among the people of this Colony.

It has been alleged that the Speech of His Excellency from the Chair lacked force; that caution was the keynote of that Speech, but I fail to see, Sir, how it could have been otherwise, coming so soon after things have just been beginning to look hopeful and rosy. I, personally, did not expect any fireworks on such an occasion, but felt that here at last the difficult conditions were coming to an end, and that we were beginning to come out of the serious position that we were in.

Now, I feel, Sir, that what was most impressive in the Speech from the Chair is the fact that Government are very much alive to the problems of rehabilitation and reabsorption; for in these are the tasks immediately before us and they will, if properly and originally tackled, bring us that necessary period of peace and tranquility and constructive approach to the problems that face us to-day. I feel, Sir, that the Government has shown some vision in the schemes put forward, and this, I am sure, will contribute in no small measure to the ending of this Emergency or whatever is left of it and sooner than we think is possible.

A welcome feature of this part, Sir, was the Tana concept. It will not only mean an opportunity for some, but it will also mean the development of this area which would eventually prove beneficial to the whole Colony, and in spite of the difficulties of development, I hope, Sir, the scheme will prove successful and will solve the immediate problems that are before us.

Now, I would like to say a word, Sir, with regard to the registration of African voters. Several hon. Members of this Council have given their views on this matter and in addition to the normal activity, and I know, Sir, that many administrative officers, particularly in Mombasa, have taken great pains not only to publicise this matter but also have implored the employers and urge them to do all they can to encourage the Africans to register, and keeping in mind the difficulties and anomalies that have been pointed out in this Council, I think the eventual responsibility will fall on the candidates themselves in whose interest

[Mr. Pandya]
it would be to have as large a number as possible of voters, and I think that this, Sir, is the experience of many of the candidates of other communities.

It was good to know, Sir, that Government is alive to the necessity of preservation of wild game. This country has got a great potential tourist traffic, mostly based on our precious game and wild animals, and it would be a great loss, Sir, if we were to lose this great source of revenue. What is needed are greater measures of control to defeat the activities of poachers who are a menace to the preservation of wild game. Let us hope, Sir, that the Government will earnestly continue its measures until this evil of poaching is eradicated.

It was heartening to see in the Communication from the Chair, references to developments at Mombasa and the Coast Province. There have been inevitable delays in the development of the Port of Mombasa and other facilities, but it is good to know that things are now moving at a fair pace. But quick action is needed in improvements to the Likoni Ferry, and, as has been suggested by one hon. Member, it has too long been in the hands of experts, in fact, so much so, that it has hardly gone beyond that stage, but it is very encouraging to see that things are developing, and this encouragement I find, in view of the discussions we had last week in the Development Committee at Mombasa. What is more important, Sir, is that communications in the coast area leave much to be desired. We hear a lot about a north and south road and, indeed, the road to Tanga is equally important. I know these matters are in the programme, but I think what is needed is evidence to show that it is happening actually, rather than that we are at the discussion stage. Particularly so far as the Coast Province is concerned, roads are essential for the development of this area and it would then be well to consider other possibilities of future development.

Mention has been made by some hon. Members as to the lack of education policy in the Speech of His Excellency from the Chair, I would like to support these views, Sir, and I feel that in a major speech of this kind, more than a

mere reference should have been made on such an important subject, as indeed, it does affect us vitally in this Colony. And this suggestion that the statutory obligations will be met does not meet with the requirements of the people of this Colony. Indeed, Sir, one hears allegations many times outside this Council at this time, that the Government has not enunciated a policy with regard particularly to Asian education, and I find, Sir, that the speakers for other communities have voiced the same feeling, in the same matter of the social services. I would like to say, Sir, that inadequate mention has been made of the facilities with regard to hospitals. I do not want to go into the merits or demerits of the question of the Asian Hospital Scheme, this scheme has been discussed for the last three or four years. It has still been in the exploratory stage and we have not still had an occasion to decide whether this scheme is coming or not, and I hope, Sir, an early opportunity will be taken so that we will know whether this scheme is finally being accepted or rejected.

Mr. Speaker, Sir, hon. Members will, I am sure, welcome the plan for the treatment of tuberculosis in this Colony. I would like to support the hon. the Arab Elected Member, that in spite of the explanation that was given by the Director of Medical Services, I feel, Sir, that in many countries of the world such facilities for special treatment exist at very few centres, and that at times it is better that this type of treatment should be confined to those centres. Now, the Port Reitz Chest Hospital at Mombasa has got good facilities and, I think it would be well that this be further improved for the betterment of all the inhabitants of this Colony instead of developing a new centre, for if we develop a new centre the facilities there would not meet the requirements of special treatment.

Now, Sir, we have heard in this Council some matters about taxation. I would just like to touch on a very small matter and I feel that the time has now come that effective reduction should be made in the personal tax. This tax, Sir, affects very greatly people of the low-income group, and I feel that now it is almost the end of the Emergency and we ought to return to the normal rate and do away with the rather exorbitant

[Mr. Pandya] rate of Sh. 200 which has been in existence for the last two or three years.

With these few words I beg to support the Motion.

Council suspended business at nine minutes past Eleven o'clock and resumed at twenty-four minutes past Eleven o'clock.

THE MINISTER FOR AFRICAN AFFAIRS (Mr. Windley): Mr. Speaker, Sir, I have welcomed the rather more constructive approach of the more recent speakers in this debate, having listened to my hon. friend, the Member for the Coast, and some of the earlier speakers resorting to political gambits such as references to clarion calls. I must say that listening to them in the earlier stages of this debate, Sir, I did feel rather that if they were trying to give us a demonstration of clarion calls, they were failing rather miserably. They sounded to me like the rather muted chorus one would expect from a farmyard before the dawn.

Various hon. Members have referred to the need for control Sir control in reabsorbing the Kikuyu—control in Nairobi, and the like. I would like to assure them, and particularly the hon. Member for the Mau, that the whole object of Government policy is to remember the lessons that we have learnt in the last four or five years. I think it will be obvious from the start that we now maintain on the ground the whole fabric of closer administration, which is designed just to this end. We propose to continue this and to maintain this control and to carry out our policy step by step, of reabsorbing the Kikuyu people into employment. Hon. Members will be aware of the extent to which this is already being done in the Rift Valley and pilot schemes—pilot schemes even in the Coast Province and in Nairobi as well. We propose to continue this, Sir, under control, under supervision, and to maintain our policy in this matter, and I would like to reassure him on that point.

I would like, Sir, to cover points raised on the registration of voters. The hon. Mr. Mathu, in particular, was vocal on this point. I think, Sir, as one of his main points concerned the loyalty test applicable to the Kikuyu, I think it

would be as well if I reminded hon. Members of the legal position, which was discussed and debated in this Council, Sir, if I may read the relevant section of the Legislative Council African Representation Ordinance it will perhaps refresh hon. Members' minds.

The section reads, Sir: "Notwithstanding the provisions of this Ordinance, no person being a member of the Kikuyu, Embu and Meru tribe, shall be eligible to be registered as a voter unless the district commissioner of the district in which such person normally resides certifies in writing that such person, on account of his loyalty and active support of the Government in the Emergency, may be so registered; and the grant or refusal of any certificate under this subsection shall lie in the absolute discretion of the district commissioner."

Well, Sir, that is quite clear, and a policy approved by this Council in this Ordinance. It does, Sir, place the sole responsibility for granting this certificate on the district commissioner; and I believe, Sir, in our discussions, that we were agreed, almost unanimously, that the district commissioner was the right person to grant this certificate.

The hon. African Representative Member, Mr. Mathu, did use the word "fishy" in his speech. I trust, Sir, that the word "fishy" in that respect in no way reflects on the integrity of the district commissioners in this matter.

MR. MATHU: No.

THE MINISTER FOR AFRICAN AFFAIRS (Mr. Windley): I believe, Sir, they are the right people to carry this responsibility, and I believe they will do this with the utmost integrity and utmost impartiality. There will, Sir, be a certain divergence of opinion, obviously, as to the grounds on which these certificates should be granted. The responsibility rests on the district commissioner, and while lines of policy such as those laid down by the hon. the Chief Secretary in the original debate will be followed, district commissioners must use their discretion; discretion has been deputed to them: they will use their discretion and they cannot be directed in particular cases. Perhaps, Sir, I should recapitulate the policy, with which the hon. Mr. Mathu agreed, as enunciated by the Chief

[The Minister for African Affairs] Secretary in the HANSARD of the 24th February. The Chief Secretary: "I would also say that by active support, the Government has in mind not only the deeds of those who took part in active operations, but the conduct of the many ministers of the Church, church elders, schoolmasters and similar posts, who, although they did not bear arms, demonstrated their loyalty to the Government by their devotion to their duty, very often at the risk of their lives."

This, Sir, puts into a nutshell Government's policy in this matter, which we propose to carry out, and which I believe is being carried out by the district commissioners in exercising their discretion, Sir, and in doing so, I can only assure hon. Members that there is nothing fishy—there is nothing that is not impartial in this whole performance of their rather difficult duty in this matter.

The hon. Mr. Mathu did refer to teachers at Kigumu School, near Nyeri. I have, Sir, been told by the Special Commissioner that the position there is that 15 applications from Kikuyu, Embu and Meru teachers there have been made. Of these, five have been accepted at once; six have been referred back to their districts of origin for further checking—which I think is reasonable—and four were rejected outright. I am not really in a position to comment in detail on the reasons for the rejection outright, which again was in the discretion of the District Commissioner, but I understand, Sir, that the reasons that influenced him were that, in the particular cases, these teachers were asked earlier and at a very difficult stage of the Emergency to assist in part-time voluntary Home Guard duties. At that particular time they refused to do so, Sir. On those grounds, if I were the district commissioner, I should say he was fully justified, Sir.

In this connection, Sir, it is interesting to know that there have been so far granted some 28,000 loyalty certificates to the Kikuyu, Embu and Meru. I know that the hon. Mr. Mathu expressed some doubts about the large number of Meru voters, the Meru loyalist certificates being granted. I know, Sir, that a large number have been granted in comparison with the Kikuyu districts. It is also true that, of course, a large number of these may

not qualify, and probably will not qualify, as voters. I think, also, that the position will be that there will be more multiple votes granted among the Kikuyu districts than will qualify in Meru. I do not think, Sir, under the circumstances, as we remember them, that it can be regarded as surprising that there should be more loyalty certificates granted to the Meru. There may have been a greater campaign among prospective candidates there to urge them to obtain loyalty certificates with a view to voting. That may well be true, but I would not be prepared to be dogmatic about it, but the record of the Meru people by and large has reflected a greater degree of loyalty—in certain areas there a high degree of what I may call "abstinence from Mau Mau"; if I may so, Sir, I think on these grounds that this position on loyalty certificates is only to be expected.

Hon. Members also suggested various means of stimulating voters to register, and particularly in Nairobi by visits to be paid by teams to firms and to Government departments. I would like to assure them that arrangements have already been made with the larger Government departments about teams to be sent round with forms to try to encourage voters. A start has been made with the larger commercial firms, whom I feel sure will co-operate in this. I can only say, after all this, having left no stone unturned, having used every means known to us of propaganda, and having been constantly on the warpath during the last three months, that the result in Nairobi certainly has been a conspicuous failure. There are now, after all this, only some 171 voters registered from all the tribes in Nairobi constituency.

MR. COOKE: Shame!

THE MINISTER FOR AFRICAN AFFAIRS (Mr. Windley): As a matter of interest, in Nairobi some 197 loyalty certificates have been issued—more than those who have taken the trouble to register as voters. I am sure that we would all agree this is a deplorable situation. It indicates a lack of responsibility in taking up their political responsibilities among the African population of Nairobi and elsewhere, particularly in Nairobi. But this, Sir, I believe, is not due to any defect in our system, or our efforts to achieve results in persuading people

[The Minister for African Affairs] to register as voters; we have done our best. Hon. Members opposite have done their best in many ways, and I am sure that they are all co-operating in trying to persuade the population to register, but the fact that they have not been successful so far in Nairobi is, Sir, I believe, largely due to the apathy of the potential voters themselves, who do not appear to be really interested or realise their responsibility in this matter. There is not a great deal of time left, Sir, but all I can say is I only hope there will be a greater rush of Africans to register in the month to come than there has been in the last two months.

It has been suggested by hon. Members opposite that greater freedom of public meetings and less restrictions on public meetings would encourage the registering of voters—they should be given greater opportunity to do so. Well, Sir, restrictions of public meetings are governed by law. It is necessary to obtain permits under the Police Ordinance. These restrictions apply to all hon. Members opposite, regardless of race—to anybody in this country. They cannot be regarded as something purely applicable to the hon. African Representative Members opposite.

The only departure from this, Sir, has been in the Central Province, and I believe nobody in this Council can suggest that there is not good reason for that and that our need to maintain control at public meetings by a restriction there is still essential and necessary; and, indeed, the Kikuyu loyalists themselves urge us constantly to maintain this position under present circumstances. We propose to do so.

Naturally, also, it is subject to certain restrictions in that we cannot agree to large, open-air gatherings, though meetings, as hon. Members will be well aware from reports in the Press, do occur from time to time in Nairobi, and any hon. Member opposite wishing to obtain a permit for a meeting under those conditions is always able to do so, and I feel confident it would be granted. The point I really wish to make, Sir, is that elsewhere there is no restriction, other than such restrictions as are imposed by law on all members of the community in Kenya. The suggestion that Government policy is deliberately causing restrictions

on one section of the community as against the other in this respect is, I suggest, Sir, inaccurate. Nevertheless, during the next few months, we will be seeing an election campaign among the African community—the first time elections have been held in their own districts; the first time, I think, in this part of Africa that elections on this basis of franchise have been held. There will be a great deal of electioneering. Hon. Members opposite have become all too familiar with the propensity of the human being, when on his feet, to indulge in almost any form of verbal facility. Sometimes, Sir, and particularly among an unsophisticated, often uneducated, audience, the effect of this can be quite deplorable and one must remember, I think, the necessity to relate freedom of speech, which is always described as one of the greater adornments of our democracy, to relate this, Sir, to its effect on the people themselves. The basis of government—of good government—the necessary background to it—is surely law and order and security; and where, Sir, you have a situation that can arise of public speakers being carried away by unbridled demagoguery, gradually merging into what can be described as “rabble rousing”, this situation could be a great danger.

It will need to be closely watched during the coming months. I say this largely as a warning, Sir; Government has no intention of divesting itself of its powers and of the great need to maintain law and order and to control the situation. I can only hope, Sir, that—as I do hope and believe—this sort of situation will not occur; but I hope, Sir, we can rely on both the intelligence and good sense of the potential candidates in the forthcoming election, that this sort of situation will not occur; that they will show a sense of responsibility to the community, a sense of providing for the great need for political leadership among the African people themselves; that they will respond to this responsibility and that we shall not be faced with a situation in which Government will have to restrict their approaches to their potential voters, and that the situation, that I know only too well from past experience could arise, will not arise, and that this will be due to their own good sense.

The hon. Member also asked for information on the proposed mechanics of

[The Minister for African Affairs] election, and what provision we should make for polling stations, illiterate voters and the like. Well, Sir, we have been starting from scratch, trying to organise, step by step, the existing machinery for registering voters. I have been rather loath to confuse the issue, by starting too soon on propaganda or on rules governing the actual process of voting. This, Sir, is now in train. The rules are ready for publication. They will be published shortly and I can only assure the hon. Members that the simple rules for the whole paraphernalia of voting will go into operation as the rules are published next month, and the population will be left in no doubt as to how to do it.

The hon. African Representative Member, Mr. Gikonyo, was referring to the process of rehabilitation of detainees. He described the process, I am glad to hear, as being not so easy to return. Indeed, we have endeavoured to hold a fairly close sieve on those returning, so as to have them filtering back bit by bit in digestible doses, and not to let those get through the net in the early stages that should not have done so. Otherwise, I believe that our policy in this respect would be defeated by the wrong people coming back and upsetting the machinery and off we would go again.

Having done all this, he used it as an argument why we should have a quicker return to employment of these detainees who have returned. Well, Sir, I think the key to this is the attitude—the reaction—of these detainees when they are finally returned home. If they settle down and it is apparent among their own people that they have renounced *Mau Mau* and are settling down to an orderly life in support of law and order among their own community, well, Sir, that is the time when they should be considered for return to employment. This is happening and will happen to an increasing extent, but one must maintain one's standard of having them under very close observation, particularly at the final stage of the pipeline.

If I may turn, Sir, to the question of land consolidation, which was another subject touched on by a number of hon. Members opposite—and in this respect, Sir, I do welcome the tributes paid by my hon. friend, Mr. Wanyutu Waweru, and

others to the work that has been done by the staff—district officers, the African staff, the trained surveyors, the agriculturalists and the like and, indeed, above all, to the committee members—the people themselves—who are doing this. They have done an amazing job of work. I could hardly believe in the time that such progress could have been made or such enthusiasm shown. It has been necessary, as hon. Members know, to proceed, step by step, in this matter, to develop the work on the ground, to develop and to encourage and support the demands of the people for this, which has now arisen.

Hon. Members may have seen, but they may not have perused, perhaps, the rules that have been published recently under the Lands Trust Ordinance, to provide the legal framework—the legal machinery—for what is going on on the ground. I do commend these Rules to my hon. friend, the Member for Central Area, who pressed that at this stage he felt it would have been right to introduce, at the same time, a legal registered title. Well, Sir, what we have done so far, I can assure him, is designed to fit into that framework when legal provision is made for the actual ultimate title. Nevertheless, we are proceeding by experience step by step, and I trust that he will assist us in this matter with his legal brain in due course; we do need to take it carefully and to study the implications of the reaction of our law and the law of such other countries as might be applicable, in forming a law that will fit in ultimately with the African concept of land tenure—the psychological implications behind it and his whole sociological reaction to this problem. We cannot too closely study that aspect. The whole basis of this is a human one—a psychological one—and we must not allow ourselves to be carried away in the early stages by a purely legalistic approach. I say this knowing I have the support of my hon. friend, the Attorney-General, who has been most understanding in this matter.

The position, anyway, Sir, as far as the African consolidation is concerned, is that having consolidated his holding under the existing machinery, he is safeguarded, and the safeguard will, I can assure him and assure the hon. Mr. Mathu and others, as I have done already, will be merged into the ultimate

[The Minister for African Affairs] safeguard of a title. That is the position and I can also assure hon. Members that very close study is being given to this now to produce the ultimate legislation which will come before this Council, but it is not easy and there are a great many problems to be solved in studying the whole psychological background.

Our whole aim and endeavour in this land consolidation, as those Members who have studied the Rules will see, is to base it on the people themselves, and I cannot say this too often, Sir; this is not purely a Government manoeuvre with Government staff setting out an operation. The operation itself is done by the people, by their own committees, entirely. They have our support and our guidance, and our assistance when necessary. Our object, Sir, is to respond to their enthusiasm and to endeavour to assist them by all help possible to give effect to it—to give effect to it with the training of the staff, the surveyors, the registrars and so on, that are necessary. This is being done, but the operation is being done by the people themselves and it is very remarkable the extent to which the Kikuyu people have shown enthusiasm and are developing enthusiasm, and the speed with which this work is going on.

You can only visualise, I feel certain, the difficulties that arise from time to time—the sorting out that needs to be done—with the degree with which this is working smoothly and satisfactorily—has indeed surprised me. But, nevertheless, it is so and I welcome it. If we succeed in these efforts, Sir, I can only say that I believe we shall have achieved an agrarian and social revolution among the African population here which will be unparalleled in Africa. But it is interesting to know that the impetus should have emanated really in the Central Province; it had started before the Emergency; but the impetus has been given to it really among the Kikuyu people, partly I think from an extraordinary camaraderie that has grown up among the people themselves as a result of the flames and the fires that have burnt among them in this Emergency. So that indeed, in this respect, I think that out of evil may come good, certainly in this.

The hon. Mr. Mathu was talking about land for villages, and as part of the policy, Sir, it is quite clear and has been accepted by the Kikuyu themselves that there will be landless Kikuyu—there will be those who wish to live in villages and the artisan type and so on—and they have, I think, recognised the value of village life in the community. On this basis I would reiterate to him that the people themselves in the land consolidation areas are setting aside land for villages; that is to say, those landowners already in that area are extracting a percentage of their land to give towards a village site. Therefore, in those areas it is a voluntary giving up of land to accommodate the landless, the artisans and the village dwellers. This is being done voluntarily and is being incorporated into the land consolidation plan, and I trust will be of great use in the future.

I would, Sir, just like to mention one matter that the hon. Member for Mau raised, the question of livestock marketing and what is being done in pastoral areas. This, Sir, is a very difficult problem as he is well aware. We have had great stresses and strains with the Meat Commission and the African Livestock Marketing organisations, quarantine, stock routes and the like. I have always felt that we could never get anywhere from the administration point of view and the psychological point of view of the African and persuading him to sell cattle, until we had the machinery working properly for him to do it. That, Sir, has always been our big problem. It is one very much in the mind of my hon. friend the Minister for Agriculture and we are as one man on this, the administrative machine and his machinery for trying to organise the disposal of cattle. We have not yet solved all these problems but I believe that we will do so. He certainly has devoted a priority of attention to this and I am in full support and I trust that we shall work our way through this very difficult problem. Having got the machinery for the stock routes and the inoculation programmes organised, one can then attack the psychological one of trying to persuade the African to sell cattle but if you, having done all this, try to organise sales, the thread or momentum of selling cattle is broken by months of quarantine, months of difficulties selling the

[The Minister for African Affairs] cattle, stock sales abandoned because the market happens to collapse for one reason or another, that creates an almost impossible impasse. But I trust, Sir, that the dual approach psychologically to the Africans and the clarification of the process of sale will achieve a better result than we have had in the past.

Sir, I think I have covered most of the points raised by hon. Members which really concern me, but I would, Sir, in conclusion, like to congratulate my hon. friend Mr. Pandya, Member for the Coast who treated us to a most pleasant and a most constructive maiden speech, on which I would like to congratulate him and welcome him, and it was, Sir, in the tradition of the Coast which he himself noted from my hon. friend Captain Hamley.

MRS. CHRISTOPHER (Aberdare): Mr. Speaker, Sir, there are one or two points arising out of His Excellency's Address about which I would like to say a few words.

First the question of State lotteries, already mentioned by the hon. Member for the Coast. I realise that there will be opposition from certain sections of the Church and State to this, but I still think that there is great merit in having a State lottery of our own in Kenya. Certain interests in this city concerned with raising money for charity, have gone into this question and it has been computed that the amount of money which leaves these three territories yearly for lotteries outside this country and for football pools runs into six figures. I am not going to suggest that we would get the whole of that, but a very large proportion of it would come to this Colony and I hope I am in order if I say that money is very badly needed for both schools and hospitals. For that reason alone I would advocate that this question be given very serious consideration.

On the question of game preservation, several hon. Members have already touched on this point, but although I think there is some realisation of the gravity of the situation, not sufficient urgency is being brought to this problem. If I may quote just one small figure, in the Tsavo National Park and the Coast Province of this Colony, it is estimated that there are 3,000 elephants.

Of that, the annual loss is said to be 600—is not said to be, is 600—I believe that naturalists estimate that a decrease in the elephant population of 10 per cent per year is capable of being replaced, but that is a decrease of 20 per cent and a very serious situation.

For the figures of lesser game it is unfortunate that I cannot quote any entirely local figures, but in the Serengeti area where most of the poaching is going on, there have been between 180,000 and 250,000 of the smaller animals slaughtered in one year. Poaching has not yet assumed those proportions in Kenya, fortunately, but it is the kind of thing against which we must guard. I am amazed that in this Speech of His Excellency's that although the Wild Life Preservation Committee has been sitting for nine months, an interim report is only promised. I would ask that it is laid as soon as possible. In only two years, so they say, unutterable damage can be done. This matter, I repeat, is of the very gravest urgency.

There have been criticisms to-day and yesterday of the general content of His Excellency's Speech. I, to a certain extent, join in that criticism, but from a different angle. It is the usual stolid, slightly indigestible document which we expected from Government and I would suggest that they have neglected an opportunity to publicise Kenya and the efforts of the people of Kenya to ourselves and to the world. It is a British failing to be too modest. I attribute this to, possibly, too much indulgence in cricket. Let hon. Members make no mistake, I am most interested in cricket and am delighted that we retained the Ashes and was very pleased indeed that Laker decided to remain in England. But, nevertheless, indulgence in cricket—this business of keeping a stiff upper lip, and provided you play a good game you do not say anything about it, has done us a lot of harm. I would ask that occasions such as His Excellency's Speech be used for putting over a bit of propaganda which we can well do in retaliation for what is said in criticising us.

And arising out of this question of criticism we have recently had two instances of people in certain territories saying that bad self-government now is preferable to good government by the British. Lest that situation should arise,

[Mrs. Christopher]

I would like to say here that obviously the people who made that statement foresaw a sweetly pretty situation for themselves, as members of the Council that might be doing the governing. I would ask Government to be prepared for such a situation in this country with a campaign ready to point out what a hideously ugly situation it would be for those who would be governed.

The hon. Member for the Central Area yesterday criticised the Speech of His Excellency on the ground that not enough had been said on constitutional development. I would disagree with that statement. I deprecate that suggestion that Government should have initiated any discussion of constitutional development. Surely, it is up to us on this side of the Council to do that ourselves.

Finally, Mr. Speaker, Sir, as the first Kenya-born European—I believe—who has had the great privilege of addressing this Council, I ask for real co-operation of the other races of this country of ours. Together we could achieve so much, apart, mischievous propaganda from all races occasionally, certain speeches from all races occasionally, can divide us even further. As long as our feelings are ones of undivided loyalty to Kenya, in that common loyalty to our country we can achieve in the fullness of time all that we have dreamed of.

MR. ARAP CIUMAMU (African Representative Member): (Inaudible.)

THE SPEAKER (Sir Ferdinand Cavendish-Bentinck): If the hon. Member has difficulty in making himself heard, perhaps he will come down to the front.

MR. ARAP CIUMAMU: Mr. Speaker, what we want is education and for education we want money. But where shall we get the money? We shall get money from people and we are the people ourselves.

Now yesterday Mr. Mathu was talking about education and he said we want education for Africans and then he mentioned something about taxation. He asked the Government to tax us so that we can get education, but some hon. Members here objected to that, saying

that we do not want you to be taxed. We want to be taxed. I am supporting that very strongly.

For instance, in my country, Kipsigis, we asked the Government several times to tax us so that we could get money for education, but the Government was not willing, so we taxed ourselves and built schools, Sir, the Kipsigis has now about 11 intermediate schools built by the Kipsigis themselves. Now you can tax us in general, but we want the whole Colony to be taxed very heavily so that we can get money to educate our children.

If we say we want teachers, just give us the money. But we now tell the Government that we want money from taxation. If you ask me to pay so much for the sake of educating my child I will pay myself. Now if you are saying where shall we get teachers, I will tell you once we have the money we shall get teachers from abroad, either from England or America, anywhere provided we have money. With money we can do anything, without money we can do nothing.

Now there is also the point that if we want education we want teachers. We want European teachers to start teaching our children English from the primary schools up to the higher forms. If an African teaches English it is probable that he will not teach his pupils correct English so I want Englishmen to teach our children English right from the beginning up to the higher schools.

Now the policy is also mistaken in that African teachers are getting very low pay. We want to advocate that better pay be given to our teachers; we should vote a large sum of money for the Education Department. I am not confining myself to the Africans, this applies to all races of Kenya. I am sure the Asians also require teachers, particularly Europeans and very educated men, but where shall we get them from unless we vote more money for the Education Department?

Now there is a very fantastic thing I find in schools. In some schools there are experimental plots, small plots being given to the schools and to teach the pupils how to farm. That is nonsense.

[Mr. arap Chumah]

It is not correct and the children learn nothing from a very small field. We want children to know, very often, something about agriculture, but these small things will not teach them to keep farms. Please remove these small plots from the schools and build classrooms.

Now we have some other schools. We have settled areas and we have children, particularly African in the settled areas. It is really very wonderful that I find some children in the settled areas who are not coming up well educated. I do not know what is happening there. I would like to ask the Government to investigate this very well, because we have schools in the settled areas but when the African children come home they appear as if they have not been to school although they may claim that they had been learning in settled areas. They do not even appear as if they had been taught their ABC.

The hon. Representative Member Mr. Eliud Mathu yesterday pointed out that we want compulsory education up to the age of 15. I am also supporting that very strongly. We want money and through taxation we shall get it. We shall be able to educate our children right from the age of eight right up to the age of 15. Therefore, will Government please help us for we want our children to be educated, that is all.

Now, coming to agriculture, an African will only be able to pay his taxes if he is taught better farming. I heard very many people refusing consolidation of land which is very useful. If you go up to Kipsigis—I am sorry I am not acquainted with hon. Members' names—but somebody mentioned that if one travels through Kipsigis Reserve he will see land consolidation with nice hedges and fields. The Government showed them how to do that correctly. I will ask hon. Members to encourage the consolidation of land. It is very useful, the only way whereby we shall be able to get better farms and farming. In the past the Kipsigis had a lot of cows. They used to breed them and afterwards they ran to the European farms to buy milk. Now they no longer buy milk.

Now coming to the land owned by the Masai. They waste a lot of land really

and we would like to ask the Government to go into the land question and teach the Masai how to farm otherwise the country will not develop.

Irrigation. I must thank the Government, also I have seen in my country (I am confining myself to the Kipsigis Reserve) that just a few months ago the Governor opened the water supply in the Kipsigis Reserve. I do not know where the money used on that particular project came from. The Kipsigis living in that area are very happy because of water. The Africans should be allowed to plant cash crops, such as tea and coffee, and there should be no limitation to the number of trees required to be planted. With a small number of trees an African will not be able to make enough money.

There is not very much more I have to say to-day, but since I am a new member in the Council I would just like to thank the Government for having been able to restore law and order once again in Kenya. People like ourselves were very far from the *Mau Mau* activities and we did not realise how bad it was, but from reading newspapers we understood that it was very bad.

MR. NZAU (African Representative Member): In supporting the motion under discussion I would like to pay my most heartfelt tribute to the Home Guards who in addition to the forces in the field did so much in the first stage of the emergency, although they were defenceless.

I would like also to pay my tribute to the statement made by His Excellency the Governor in his Speech on African education. As one who has been connected with African education for the last 19 years now, I am very much pleased and I must say, Sir, the statement made by the Governor that there are great demands for more African education, and that is a point which I would like to lay very much stress on.

Now it is an agreed principle that there is a very great demand for African education and we must have this education. We want it. But also there are obstacles as a reason for not getting this education and as I read the Governor's Speech I see he also realises the obstacles. I will just mention what

[Mr. Nzau]
The Governor was pleased to mention and one subject was that we must have money and we cannot provide education without the necessary money. Secondly, we must have trained teachers and, thirdly, we require buildings for our children to go to school in.

Well, I am not very much conversant with the proceedings of the Council here but I would like to suggest two ways. We cannot simply leave it there when we say we want money. We cannot leave the thoughts there. I know people do not like the word "tax" when it is mentioned, but I must say it is a necessary evil which we cannot avoid, and whatever the case may be, if we want to provide education for our people, we must tax the people.

Well, I am going to suggest two ways which I think will provide more finance for educating our children and I would like to support the last statement of His Excellency the Governor on speaking of African education. He said that the Government realises the importance of educating African girls. I think that is very important indeed. I am an African who has dealt with African education for some years and I must say that to-day the educated African girls realise more value than the ignorant African girls. If we take a girl who is only at the higher educational Standard IV, her bride price is very little indeed compared with a girl who has reached Form 2. More than that, a girl who has reached Form 2 and trained as a teacher, for example, has more value in our community than a girl who reached Form 2 and has taken the three certificates, and so it goes on. To-day, the more an African girl is educated, the more value she realises. Now then, Sir, how are we going to tax the fathers of these girls? Well, the Government is arguing with the African to encourage income tax and, surely, this is one way of persuading the fathers to pay more tax and the better education of their daughters will result. I am sure they will agree to pay the tax.

Now, another way I feel is that whether we like it or not we must do it. As the result of the Emergency, Government found it meet to impose a special tax on the three tribes who were mainly connected with the troubles, and although it was bitter in the first instance, I think they have now got used to it. I do

not, for a moment; see why Government should not impose a special tax on all Africans for education. I am sure that at first it will seem bitter to most of us, but in the end they will like it and they will pay more tax.

On the question of trained teachers, as one who has dealt with African education for some time, I would, Sir, also like to touch on the drawbacks of why most Africans are not prepared to come into the field of teaching. To-day, as I see it, in my own country, they like it and we have made them like it. There have been complaints for quite a long time that we teachers are not treated on equal footing with the people in other departments. Well, we must appreciate the fact that Government has found it meet to improve the teachers' conditions of service, but I feel if they are improved many more people will come out on the field of teaching.

It is a common fact that the man must always make mistakes and if he makes these mistakes to the offence of the public he must be punished. But I have heard complaints from teachers such as if a teacher commits an offence—even a very technical offence which anybody else in another department may commit, the teacher is first punished by a withdrawal of his certificate to teach. If somebody has spent all his life training as a teacher, the certificate is withdrawn and he cannot any longer practise as a teacher. I am sure that if they are old and have spent their lives in the profession they cannot go back to school and train as somebody else can, but they do suffer this drawback.

The argument given by the Government is that G.P.s never close their doors or go outside their own district, he is there all the time, just as a teacher is, and teachers have the vacations free. But nevertheless after he has served for three years, the G.P. enjoys at least 60 days leave. These are only small things which I think we should not seriously take into consideration but I am sure that if Government is prepared to put right such minor things there will be more people coming into the profession as teachers.

Another thing about teacher-training. I must say I was educated and trained at a Government school throughout, but

[Mr. Nzau]
now it looks as if Government is discouraging training teachers at centres run by the Central Government and giving the training centres to the missionaries to run, who may not be on very good terms with all the people. I would like to see every mission training centre to be run by missionaries alone. I must point out that it is essential for all my own tribe and they had a training centre—a Government-run training centre for men teachers and I understand that it now is going to be moved, and that there is much talk about it. We very much want it, we have used the Government centre and now it is taken away from us.

ADJOURNMENT

THE SPEAKER (Sir Ferdinand Cavendish-Bentinck): Council will now stand adjourned until Tuesday next, 20th November, at 2.30 p.m.

Council rose at thirty minutes past Twelve o'clock.

Tuesday, 20th November, 1956

The Council met at thirty minutes past Two o'clock.

[Mr. Speaker (Sir Ferdinand Cavendish-Bentinck) in the Chair]

PRAYERS

PAPERS LAID

The following Papers were laid on the Table:

East Africa High Commission: East African Literature Bureau. Annual Report, 1955/56.

(By THE CHIEF SECRETARY (Mr. Turnbull))

The Land Preservation (Scheduled Areas) Rules, 1956.

(By THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell))

The Hotel and Catering Trades Wages Council (Establishment) (Amendment) Order, 1956.

The Road Transport Wages Council (Establishment) (Amendment) Order, 1956.

The Tailoring, Garment Making and Associated Trades Wages Council (Establishment) (Amendment) Order, 1956.

The Baking, Flour, Confectionery and Biscuit Making Trades Wages Council (Establishment) (Amendment) Order, 1956.

The Motor Engineering Trades Wages Council (Establishment) Order, 1956.

(By THE MINISTER FOR EDUCATION, LABOUR AND LANDS (Mr. Coutts))

The Liquor Licensing Rules, 1956.

(By THE ASIAN MINISTER WITHOUT PORTFOLIO (Mr. Madan))

MOTION

(Debate continued from 16th November, 1956)

MR. NZAU: Before I continue with my speech I would like to make one or two corrections to my speech on Friday.

When I said that the more education we give to our African girls the better price they realise and the better they

(Mr. Nzau) become to the community. What I meant was that the better the African girl is educated, the better member of the community she becomes.

The second point I want to make is a correction of my statement regarding the African's willingness to pay more tax towards education in order to give the African child better education. What I meant was that the African educated girl was not to be put on the market as an article of trade for the Minister of Finance to assess tax on African education, but, on the contrary, if we can assure the African that his daughter will receive better education and hence will become a better member of the community, the African father will no doubt pay more tax towards education.

Another point, Sir, I want to make on the Speech from the Chair, is that it is alleged that we are faced with the difficulty of school buildings. This argument is also advanced by Government as one reason why we cannot give education to our African children. I must say, Sir, that the land belongs to us and water is a free gift. The fact that we cannot put up buildings for our schools, I think, is not a very strong argument. I am sure if we can give the African a policy that we are going to give his child the education that he or she requires, I am sure he (the African) will come out and put up school buildings such as I have seen in some districts. For example, in my own Kamba districts, the local people do not have to wait for the Central Government, or the local government to provide money for school buildings: they go out themselves and put up the buildings ready for the children. The fact that the buildings are not there is not a very material obstacle for not providing African children with the education they so badly require.

The final point I would like to make is in connection with teacher training. Sir, we lack leaders in our African schools. If we want leaders in our schools we must use some of the older teachers who, I think, although they may not be academically qualified they can make leaders compared with the young chaps just out from training. Government could find means of improving these older teachers in the form of courses for older people. They will, I

am sure, make some of the best leaders in our African schools.

Therefore, Sir, I beg to support. (Applause.)

THE MINISTER FOR FOREST DEVELOPMENT, GAME AND FISHERIES (Mr. Blunt). Mr. Speaker, Sir, there have been two major items raised in connection with my Ministry. The first one that I would like to speak on is this question of poaching. It was referred to by the hon. Mover and by the Member for Ukamba, for the Eastern Electoral Area and the Member for Aberdare. Before I go on may I be permitted to congratulate the hon. and gracious lady on her very thoughtful and charming speech.

Now, Sir, there is no question that poaching is a very serious business in this country at present and that it has increased, considerably during the past few years, also that measures must be taken which will have the effect of stopping it. A good deal of propaganda has been carried out over the past few months on the subject and I welcome that propaganda in bringing home to people in the country generally the position. But in some respect that propaganda has gone a little too far. I cannot for a moment agree with the suggestion which has appeared recently in the Press that if poaching is not stopped at once, there will be no game left in two years time. That is carrying the thing altogether too far.

Let us think what has really happened. There have been in this country, over the years, numbers of tribes who have lived very largely by hunting. Take, for instance, the Waliangu, who have, I believe, no other means of livelihood and never have had. They have been hunters. Now 10 or 15 years ago we should have spoken of them with some pride and considered that they were extremely fine fellows who were prepared to go out with primitive weapons and face dangerous game and make their living that way. Now we more or less term them murderers of game and think that nothing is bad enough, that they should be imprisoned for long sentences. But our views change fairly rapidly and their way of life can hardly change rapidly enough to keep up with our changed views upon them.

This position, although it has increased of recent years, has been going on, it was probably not called poaching,

(The Minister for Forest Development, Game and Fisheries) but the killing of game has been going on for generations and for that reason it is all the more difficult since it has been going on so long, to put a stop to it in a short while.

Now, what has been done already to try to check this position? We have, as was already mentioned during the earlier part of this debate, added to our staff. We have added one policeman and two assistant game wardens, and the necessary ancillary staff. They started work in the present financial year, in July and later, and they are having a considerable effect. Since they began they have obtained 17 convictions of poachers and receivers and there are at present five cases pending, four of poachers and one of a receiver. We have recovered a considerable quantity of ivory.

The question of penalties was also referred to and under the Penalties Section of the Wild Animals Protection Ordinance, the maximum penalty for poaching offences is Sh. 5,000 fine or imprisonment not exceeding six months, or both fine and imprisonment, and where more than one animal is concerned, further fines and further periods of imprisonment can be imposed for the second and subsequent animals. So, I suggest to you, in fact, the penalties, if they are imposed, are sufficiently serious to act as a deterrent to poaching, but, having looked at these particular cases that I have mentioned, which we have had in the last few months, I must admit that in my view the penalties which have been imposed have not been adequate to act as a deterrent.

All I can say on that is that I hope, as it becomes more and more evident what is happening in the way of poaching, that those penalties may be increased in the future. The further action which we propose in connection with this poaching is, first of all, to take over the Ivory Room, at Mombasa. The Ivory Room—the place to which ivory is consigned and in which it is supposed to be handled—has been run by the Customs up to the present. We have come to the conclusion and the Customs have agreed, that it would be better if we were to take it over, and provided the Uganda Government agrees—and I have every hope that

they will, as it is partly their room—we shall take it over and reorganise the control of the receiving of ivory into the room and the cutting and the export. We shall ensure that that work is done under close supervision.

Further to that we propose to increase the licence fee for handling ivory and together with the stricter supervision we think that it is probable that this will reduce the number of dealers in ivory from the present number of about 40 to perhaps somewhere in the region of a dozen or so who will be of the more reliable type. In this way we hope to bring the dealing in ivory under such control as is possible, but it is a thing which we shall never, I am afraid, bring entirely under control because ivory can be slipped out of the country very easily to other places not far away and handled there—that we shall prevent, too, as far as we possibly can.

We are concerting with the police and with the Game Department and with the National Parks further action against poachers, and we shall have to come back to this Council on the Budget and ask for further funds to provide more staff before we can be certain that we have enough to bring this matter really under control.

The next matter I would like to refer to—also a game question—arises from the point made by the Member for the Eastern Area in regard to Amboseli. He pointed out that in his view the problem at Amboseli is really a problem of overstocking, and I quite agree with him. I believe that the root cause of the difficulty in that area is the fact that the whole area surrounding it is overstocked with cattle more than the carrying capacity of the country. It is the same kind of thing which we have seen in other areas; it happened years ago in the Kamasia; it has happened in Ukamba, and it is one of those things which is very difficult to deal with. However, it will have to be dealt with, not only from the aspect of preservation of game but from the point of view of the Masai and their own cattle.

As I see it, however, what is likely to happen—or what would be likely to happen if nothing were done—is that first of all the game at Amboseli will

[The Minister for Forest Development, Game and Fisheries] disappear before the pressure of the cattle, and that subsequently the cattle will begin to decrease because there is not sufficient grazing and watering to hold them.

This question of Amboseli, as I think Members are well aware, has been dealt with specially by the Game Policy Committee, who have already submitted an interim report dealing with this question and with certain aspects of poaching. Without going into details of their report, as far as Amboseli is concerned the main recommendation is that watering points shall be laid down to provide water for a large proportion of the cattle that now water in Amboseli, and thereby keep them out of the game area at Amboseli.

The second thing is that the Masai will have to be persuaded, if we can do so, to agree to fall in with our proposals and help us to carry them out.

Now, Sir, I would like to put in a word about the Masai, particularly in reference to Amboseli. I believe it is perfectly true that if Amboseli had existed in any other native area other than the Masai there would not be an animal there now. The Masai have, in the past, not exterminated game; they have, in fact, protected it. It is due to that protection, to a large extent, that places like Amboseli and other areas of the Masai hold the large quantity of game that they now do hold.

There has been a good deal of uninformed criticism in the Press in the last few months about the Masai and how they should be compelled to do this and driven to do that about game and so on, but I very strongly deprecate that kind of talk. The Masai have been helpful. There is no reason why we should antagonise them by that ill-informed criticism, and I am quite sure they will be helpful again.

Now, that interim report of the Game Policy Committee was received in my Ministry nearly two months ago, and there is a good deal of work which we have to do on it because it involves serious political and financial considerations and those we have been trying to deal with. I hope that before the end of the year I shall be in a position to submit definite proposals to the Govern-

ment, after agreeing them with other Ministries and with the National Parks. We can then get the whole thing considered by Government and I hope to see the report published in the near future.

I would like to turn now, Sir, to certain forest questions that were raised by the hon. Member for Mau but I will also refer later to points raised by the hon. Nominated Member, Mr. Riddoch. The hon. Member suggested that now was the time to review the squatter problem. Now, that problem is a large and controversial one and while I appreciate his suggestion that one might review it in detail now I do not propose to do so for this reason. We have on the stocks a draft White Paper on forest policy and one of the major aspects of forest policy to be settled is this squatter question, of course. I hope that it will be possible within a month or so to put that forest policy before this Council and that it will then be very fully debated. I do not wish to anticipate that particular debate on the question of squatters. All that I would say at this stage is that as squatters are taken on again after the Emergency, in the areas where we can take them on, they are being taken on under conditions of much greater control than has been the case in the past since they are all being housed in villages. Also, it has been laid down that an average of not more than 110 squatter families shall be looked after by a European forest officer.

The second point that the hon. Member made was a reference to something I said in another place in regard to squatters and he suggested that I had said that Africans preferred to work for Government, and he quoted the difficulty that the Public Works Department have had in raising the necessary labour. I am afraid he quoted me somewhat out of context. The particular argument that I was answering at that time was an argument that farmers would not be able to obtain labour if they were in competition with the Forest Department. I suggested—and I still think that I was correct—that if forest labour was paid by the ticket the Kikuyu would still prefer to work for Government as forest labour rather than work on the farms at the same wage level. I believe that they like the work better and that that would be the case. However, I am glad to see

[The Minister for Forest Development, Game and Fisheries] that the hon. Member disagrees with the suggestion that was made to me and which I was then answering that farmers would not be able to get any labour in competition with the Forests.

The hon. Member then suggested that it was easy for Government to obtain labour and that they could pay higher wages for such labour because they were not faced with the ordinary difficulties the private individual has such as having to pay taxes and having to educate his children and so on. That is perfectly true but it seems to me that the suggestion he made was that Government would wish to pay wages higher than the normal average wage without any consideration of the economics of the forest crop that was being planted. Well, Sir, I suggest that that is far from being the case. The major reason why we wish to employ squatters is that we may be able to produce forest estate as cheaply as possible, and that in the future we may be able to supply the country with its needs of timber at a reasonable cost and that we may be able to enter into the export market of timber. In fact our main object in our forest policy is to try to cheapen the production of timber in the future as far as we possibly can, and that is one of the major reasons why we cling to the squatter system.

The next point, I think, that the hon. Member made was when we might expect to see the Craib Report. That report has been received and is now under examination. One of the major suggestions which I think we must accept in it is that the forest units should be larger than they have been in the past.

Craib suggests they should be 10,000 to 20,000-acre units from the point of view of development and utilisation. Now, that, if accepted, involves a considerable reorientation of all our plans for planting and the exercise of working out how we can fit these larger units in is now being undertaken and is nearing completion, and I hope in the near future to be able to submit to Government our proposals as to how far we can agree with the Craib Report and that the report will then be published with a White Paper.

And now, Sir, I should like to make one or two remarks on this question of protective forestry which was raised by my hon. friend, Mr. Riddoch. He suggested that not enough was being done in the way of protective forestry in this country, and there I entirely agree with him.

He referred to the question of the Masai forest which is at present one of the biggest areas of forest which is not managed by the Forest Department. Now that forest of course belongs to the Masai and they are somewhat jealous of it, naturally. They are proposing to exploit parts of that forest with a co-operative mill, and to that end every possible assistance is being given to them by both the Administration and the Forest Department. I hope and believe that in due course, they will see that it will be to their advantage that the forest should be brought under the control of the African District Council, and under the management of the Forest Department as far as both silviculture and conservation parts of the work are concerned. I believe that that is the proper solution for the future of that forest and I have every confidence that that, in due course, will be the position.

Certain large areas of forest in the Northern Frontier have either recently been gazetted as forest estates, or are about to be in the very near future, particular areas being the Mathews and Ndotos Ranges and Kulal and Nyiru.

All those are rather isolated forest areas on hills, and all of them are vital to the existence of the cattle and the population dependent on them. They are the only things which ensure water supplies in those areas. I quite admit, that those forests have in the past been destroyed by uncontrolled grazing, by fire, and in other ways, and it is high time that they were brought under proper management and further deterioration prevented. That we hope we can begin to achieve, immediately. But in the not far distant future, it will be very necessary to go further than that and to do something in the way of regeneration and reforestation in those areas to make them even more effective in this matter of water conservation. There are a number of other areas

[The Minister for Forest Development, Game and Fisheries] smaller than they, of the same kind, which we hope in due course we will be able to gazette and bring under control, and ultimately to reafforest.

His Excellency, in his Speech from the Chair, referred to certain Swynnerton Plan work on the protection of catchment areas and the production of timber and other forest products in African areas. I do not think I need say any more on that particular point.

Now, I would like to refer to the last point made, I think, by the hon. Member for Mau, and that was the question of afforestation of the drier areas. That, of course, is very much tied up with this question of protective forestry.

Now, it is all very well to try to forest dry areas and it is very necessary; but it is not, from the utilisation aspect, an economic proposition in many cases. That point is brought out very well by Craib in his report. He recommends that we should undertake no commercial afforestation on a rainfall of less than 38 inches. That is putting it pretty high, but still, I believe that he is correct, and that high rainfall is necessary to get really profitable economic forest established. In these drier areas, the growth rate, of course, is low, and many of these areas are far from rail or any other method of communications. Thus it would be difficult if a forest were established there and came to maturity, to make use of it, except quite locally.

But, although it may be uneconomic from the commercial timber production aspect to afforest those areas, they are the areas that are vital to the production or conservation of our water supplies. The hon. Member, who spoke last, I think, said that water is a free gift. It is a free gift certainly when it leaves the heavens and comes to us in rain, but it is a gift of which we are extremely prodigal and we allow a great deal of it to escape down the rivers into the sea without being of any use to us. Now, this country is not well watered, and it will not, in my view, be very long before we come to the position where further economic development of the country agriculturally is prevented by lack of water supplies. The only known method is afforestation of

the catchment areas. We shall undoubtedly have to face up in the near future to a very considerable expenditure on that afforestation and preservation of those catchment areas. If we do not, we shall never see the development of this country towards the bright future that we all hope for it.

Mr. Speaker, I beg to support.

COL. WILCOCK (Nairobi West, Acting): Mr. Speaker, Sir, in rising in support of the Motion, I would like to refer to three points. They are, I fear, not novel ones as I would have wished, as some reference has already been made to them by earlier speakers, but it is the penalty, if I may continue the metaphor of an earlier speaker, it is the penalty of one coming in to bat on the third day to find a rather worn pitch, and although the light is still good, I fear the interest of the spectators may begin to flag, so I will keep to the point as closely as I can.

Firstly, Sir, I would welcome with approval—with enthusiastic approval—the reference His Excellency made to the proposed programme of law reform, and I was particularly gratified to see the speed with which the Minister implemented His Excellency's assurances, for I think I am correct in saying that eight legal Bills have already been Tabled and had their First Reading.

The first Bill to which His Excellency gave specific reference was the Law Reform (Miscellaneous Provisions) Bill. That gave me particular pleasure, for, Sir, if I may be permitted a personal note, I have, as an individual in the last five or six years, represented—through, of course, the proper channels—that the majority of the provisions in this Bill should be incorporated in our law. I would hasten to add here that I am not trying to usurp any of the credit properly due to the Minister for this Bill. But it is a short Bill. It is based very largely on various law-reform Acts passed in England some 20 years ago. It has in large been adopted by our sister territories, Tanganyika and Uganda. I cannot but feel that any intelligent draftsman could have produced it in one short afternoon. Nevertheless, although it is delayed, I do indeed welcome it; I will

[Col. Wilcock] not look this particular gift-horse any further in the mouth.

I feel that a most important part of His Excellency's reference on this subject was his assurance that an essential part of the programme was to be devoted to the replacement of the adopted Indian Act by indigenous Ordinances. As hon. Members know, the Indian statutes that we follow were produced in 1907, and we have taken them over as at that date. In India there have been innumerable amendments to ensure that these Acts adequately cater for these modern times, but these amendments have not been for us, and we get no benefit from the case law in Indian since 1907, and I must agree with the expression used by a previous speaker that they are, in fact, archaic. I thought His Excellency used, if I may with respect say so, a very apt expression when he referred to the difficulties caused to both lawyers and laymen by these adopted statutes. Quite apart from having no benefit of any current law from India, there is a more practicable problem which causes me, as an individual, some distress, and that is the fact that the text-books covering these statutes, and the annotations thereof, are out of date, and, whilst I am in no way suggesting that they are worth their weight in gold, these text-books most certainly cost it. As a matter of example, I think I am right in saying that the number of copies of the Indian Probate and Administration Act in this Colony can be numbered on one's fingers, whereas the number of the lawyers is legion.

From every point of view, Sir, I do welcome this replacement of the adopted Indian legislation by our own substantive Kenya law, but I would like to add one word of warning: if we are going to follow the United Kingdom statutes, may I ask that the wording should be followed exactly and not approximately. I say this so that we may have the benefit of the English case law on the interpretation of the parent Act, for, as hon. Members will know, however astute and experienced the draftsman, each new statute is followed by a spate of litigation in an endeavour to establish beyond reasonable doubt what is

meant by the statute. Now, I think it will be of great advantage if we could have the benefit of that English case law, although I am conscious that in saying that I shall possibly be pilloried by my legal brethren for taking the bread and butter out of their mouths. It may seem an obvious point to mention; but there does occur to me one particular Ordinance that we have, which was lifted largely from an English parent, where the draftsman, for no reason that I can see, other than it was a peculiar whim of his own, substituted the word "may" for "shall", making the whole clause permissive and discretionary rather than mandatory. I do know that that particular clause has resulted in a case going to appeal, fortunately to the satisfaction of both layman and lawyer.

The hon. Member for the Central Electoral Area referred in particular to the Evidence Act and suggested that this was such an admirable Act that it should not be replaced. I agree with him that many passages are, indeed, admirable, but I do go to issue when he suggested that it should remain on our legal list. I think it should be replaced by our own Ordinance, and I am confident that the Minister, in his undoubted wisdom, will be able, by adopting and adapting that Act and the English equivalent Act, be able to produce—with, of course, the assistance of hon. Members of this side in debate—a wholly satisfactory document.

The learned and hon. Member for the Central Electoral Area complained of the state of our laws, and with that I agree, and he complained of the lack of action in the drafting department, and there I do not think he is being quite fair. There has, in the last year or two, been a trickle of law reform, and I think there is every chance that—with the impetus given by His Excellency in his Communication—that will become in due course a torrent, which will refresh the parched, though not yet barren, fraternity of lawyers. I think it is proper that I, from this side, should to a degree take up cudgels—though he does not need any shield from me—on behalf of the present Minister for Legal Affairs. Since his advent, the mills of the Legal Department have begun to grind. They grind exceedingly slow,

[Col. Wilcock]

is true, and what they have produced is so far exceeding small, but I feel we must not be too critical, for seemingly law reform in this Colony is a somewhat delicate flower and we must encourage and nurture it so that we may one day have the benefit of it in full bloom.

*Sir, I would welcome particularly the setting up of the Statute Law Revision Committee, for there is, indeed, much to be done.

The hon. Member for the Central Electoral Area referred to the law relating to land, and he very aptly pointed out that the law we follow at the moment was drafted some 80 years ago. When I first came to this Colony, Sir, I was told that English law obtained here, and I was positively horrified when I was faced with the law relating to land that we have. In my student days, alas now long past, I had read of the 1881 Conveyancing Act and the Magna Charta, and I placed them more or less on a level as matters of purely academic interest, but here we are working on a law drafted in 1872. The hon. Member did suggest that this was a task for the Legal Draftsman, and there I would go to issue, for I think it must necessarily be the work of a commission. It is far too complex a subject for the Legal Draftsman. It took four years in England to get through Parliament alone those statutes which are together known as the Law Property Act (1925), and that period of four years was preceded by several years in the Committee stage, and I think it is an impossible task for a draftsman. I would exhort the Minister to endeavour to arrange for a commission to sit on the law relating to land as soon as possible.

A final word on law reform, Sir. As hon. Members will know, the law here consists of our own Ordinances, our adopted Indian statutes, and of the Common Law and Statutes of General Application in force in England at the close of the last century. The Order in Council dealing with this Common Law and these Statutes of General Application was passed some 35 years ago, and it is still troubling lawyers and, with respect, Her Majesty's learned Judges, to know exactly what that phrase—Statute of General Application—means. Sir, I do look forward to those happy days when

the law of this Colony will be reasonably certain.

As for my second point, I would like very warmly to support the suggestion put forward by my friend, the hon. Member for Ukamba, when he spoke concerning the Hungarians. Hon. Members will no doubt have received from various sources invitations to subscribe to the fund, which I believe has now reached the figure of £2,000, which is being collected to assist these unfortunate people, but I do feel that the hon. Member's suggestion that we might offer them asylum here is infinitely more positive and practical. I agree without stint or reservation with the remarks made a few days ago in this debate by the Minister for Agriculture, when he expressed his confidence in the future of this Colony, and it occurred to me at the time, that in the farms which are under his aegis, he could employ many hundreds of skilled and conscientious workers with advantage. Through his hands alone we could employ hundreds of these people, and I think we could offer them a wonderful future and also that it would be of real advantage to this Colony were they to come here. I would commend this suggestion to Government.

Finally, Sir, I would like, in a very discreet and gentle way, to raise one of those little clouds to which the hon. Member referred. I must, Sir, record my regret, despite the remarks that have already been made from the Government Benches, record my regret that His Excellency omitted any reference, in his Communication, to income tax. I am very conscious, Sir, that when I utter the words "income tax", I am dipping my toe in very dangerous waters. I would assure hon. Members it is not my wish to indulge now in that universally popular parliamentary pastime of endeavouring to twist the tail of the Minister for Finance. That, Sir, is a pleasure I should like to reserve to myself until such day as my experience and knowledge more adequately equip me for such stimulating and hazardous jousting.

I had intended, Sir, to dwell in some detail upon the inequitable, and therefore iniquitous burden of taxation borne by the professional man or the self-employed man, but I feel, on reflection,

[Col. Wilcock]
that this is probably not the time or place.

I mention this subject of income tax because, in all sincerity, I do believe that income tax is the most important single factor which is going to affect the future of this Colony, both politically and economically. The hon. Member for the Coast expressed the opinion that it was necessary that our national income should be increased. I agree with him, but I do feel that this system of direct taxation is to a degree the bludgeoning of the most acquiescent strata of our society.

The hon. Member for Nairobi South mentioned graduated poll tax, and by the tenor of his remarks and the reception which they received, I gather graduated poll tax has been referred to in this Chamber before, possibly *ad nauseam*, and therefore I will say no more on that, other than to commend it once again to the Minister.

I am very conscious that our national income must be increased, that we need vast sums of money, but I am concerned lest the cupidity of the Treasury man should disregard our need for ability, which is equally great. We must have ability here. I have no authority for saying so, and I hope the Minister will not correct me, but I believe some 80 per cent. of the total income raised by income tax and surtax comes from men whose incomes are over £2,000 a year. There are a happy few whose income arises, without any effort on their part, from accumulated capital, but the majority of the money raised by income tax and surtax comes from men who have an enthusiasm for work—men who do not consider the hypothetical hour of the day when they cease to work for themselves and commence to work for the Commissioners of Income Tax. I feel our present system of direct taxation is a levy on ability and industry. It is a penalty levied upon the industries for the benefit of the indolent. We must encourage ability—encourage industry—we must provide an incentive. I believe I saw reported in the paper—I think it was yesterday—a remark made by His Worship the Mayor of Nairobi, who said we must attract to this Colony more skilled men, more professional men. But, Sir, we have no incentive for them at the

moment; we have nothing with which to attract them; and I would ask that this incentive should be unleashed and be no longer stifled.

I see some parallel, Sir, between this Colony to-day and England in the early part of the 19th century. England in that period enjoyed a stage of economic progress and prosperity which is probably unequalled in history, but I do not think that period of progress would have been possible had England in those days been subject to the same scale of direct taxation as we have now. We are not in our infancy—we are in our teenage—a most important period of growth—and we must be free of the fetters, the completely stultifying unimaginative fetters, of this present system of direct taxation.

I would ask, Sir, that the Minister, in his wisdom, should review our national balance sheet and that he should consider the cost of educating, developing and generally emancipating the African, and capitalising that cost and then writing it off over a period of years, for I feel that we are possibly at present bearing too large a part of the burden which should properly be shared with posterity or at any rate with later years.

Sir, I have very gently criticised and I would now endeavour very briefly to be constructive. Recently, many of our farms have had their tenure changed from 99 years to 999, but the vast majority of the most valuable land in this Colony is still held on lease from the Crown for a term of 99 years, which the next century, I feel that it is part of, at any rate, the English heritage, that a man likes to own the land on which his house is built, that he likes to think that his castle is his own, and I would suggest that there should be offered to the present holders of this leasehold land the opportunity to purchase the reversion from the Crown. By that I mean that they should be given the opportunity of converting from leasehold to freehold, and that they should pay a price therefor, a price that could possibly be paid over a period of five or ten years. And I would emphasise that that should be an offer—not a "take it or else"—but the present holders should be given, should they so wish, the opportunity of purchasing the reversion from the Crown.

[Col. Wilcock]

I think this is a hitherto untapped source of income that might prove very useful.

I am aware, Sir, that a commission on the subject of income tax has been sitting, and I do not intend to attempt to anticipate the findings, but I would ask the Minister that, so soon as the report is available, he should arrange to see that it is published as a White Paper with the minimum of delay.

Sir, while I was having lunch in this building to-day, there occurred to me the words, I think, of Logan-Smith—I am not quite sure—who said "there are few sorrows, however poignant, in which a good income is of no avail". My sorrow, Sir, is that to-day so often it is the case that a really good income, before income tax is deducted is, after the ministrations of the Treasury, so often of little avail. If I can summarise, Sir, in conclusion, I would say again that I am very concerned about our system of income tax, and I feel that this singularly unenterprising system is, indeed, the greatest impediment to national progress to-day.

Sir, I beg to support. (Applause.)

THE MINISTER FOR COMMERCE AND INDUSTRY (Mr. Hope-Jones): Mr. Speaker, I should like to congratulate the hon. Member for Nairobi West on his most lucid and challenging maiden speech. I listened to it with the greatest of interest. The hon. Member will forgive me if I make one or two observations on it of a factual nature.

As he was speaking, he referred to the early 19th century—as a time of great prosperity in England—and the time when there was no direct taxation. Well, it so happens that in 1815 the income tax was Sh. 4 in the £1. It also happens that the 40's, a little later, were universally known as the "Hungry 40's". I do not wish to draw any particular conclusions from these remarks, but merely to place them before the Council for their consideration in relation to what the hon. gentleman said. However, there is, of course, no doubt that his main thesis that the 19th century was a time of abounding prosperity is correct. However, there was only a comparatively short period from 1816 to 1842, I think it was, when there was no direct income tax. There was an income tax during the whole of the 19th century except during that interregnum.

Now, Sir, I would like to refer very briefly to the remarks of the hon. Member for the Coast: I found myself in agreement with him when he said that economic stability was a condition for successful political progress. I am glad that the hon. gentleman indicated that that was the trend of his thought. He will forgive me for paraphrasing to the extent that I have done so in quoting him: However, I found it difficult to follow him when he spoke as though the national income of this country were not increasing. Of course, at the present time, facing the dangers arising from the Suez position, facing the results of the credit squeeze, and various other factors outside our control, it may be that there is some levelling off of the indices of economic progress. However—and what I say I believe is relevant to what certain other hon. Members have referred to—it would be wrong to suggest that many of the conditions for economic progress are not present and are not being created in increasing tempo. I need only refer here to the vast extensions of the harbour works at Mombasa, the progress the Railway has made in dealing with greater tonnages both of exports and imports, and also the progress made in bringing power from Uganda. Again, another condition for economic progress is industrial development. These conditions obtain and, I suggest, are important in relation to the remarks made, not only, as I say, by my hon. friend, the Member for the Coast, but also by other hon. Members.

I would like also to congratulate the Member for the Central Area on what he disclaimed as a maiden speech. However, I think it would be etiquette to refer to it as a second maiden speech. He spoke, if I may say so, with the greatest confidence about the Lyttelton Plan, and of his views on 1960, and his views on the common roll, but apart from one or two gloomy references he made—unless my recollection is wrong—no reference whatsoever to economic progress, without which his dreams, the dreams of many other hon. Members, are illusions.

Now, Sir, I want to comment on one fallacy—at least it appears to be a fallacy to me—in his argument. He referred to the indices of trade going

[The Minister for Commerce and Industry]

down. He envisaged bankruptcy; he envisaged depression; and then he went on to refer to inflation—an increase in the circulation of paper money and the like. My hon. friend, the Secretary to the Treasury, dealt with that from the statistical point of view. I would merely like to make one observation, for what it is worth, which is this. One can have trade depression; one can have indices falling; one can have inflation and the money in circulation rising; but one cannot have both; at least it has never yet happened anywhere in the world, and I would suggest to the hon. Member that just as I cannot follow him with any expertise into what I thought were his most constructive views upon the reform of the law, so I suggest that on economic matters he does not confuse inflation with depression.

Now, Sir, the hon. Member for the Mau raised one particular point, which I feel called upon to attempt to answer. He pointed out that machinery from the United Kingdom could be landed and imported into Kenya on private account for 15 per cent. above the United Kingdom list price, and asked why it was that it cost more if it were bought in Kenya from Kenya suppliers. Now I do not wish in any way to condone profiteering. I do not wish in any way to condone those who have taken advantage of the difficulties of certain consumers, but generally speaking the trade as a whole invests many millions—and I say that advisedly—millions of pounds in stock and in spares so that, as a general rule, the farmer does not have to wait or the other consumer does not have to wait till those supplies come over the water from the United Kingdom—a six or seven weeks' job—get it up from the coast to the area where he wants it and then, if he want spares, to bring them in himself. The supplier has got money locked up both in stock and spares and at prevailing rates of interest, is it unreasonable that it costs a little more than 15 per cent above the United Kingdom price when all those risks and delays are borne by the supplier on behalf of the consumer placing an individual order? I do not want to overstate the case that I have made, I merely want to make

that observation for the hon. Member's consideration.

Now, Sir, there was one further point as well that the hon. Member raised. He said he regretted that in the gracious Speech there was not more reference to the development of industry in the reserves. There was a reference to the fund that has been set up and the Speech itself was limited in point of time. I think I can say there will be many opportunities later to deal with the activities of the fund. For the information of the hon. Member, it has only just been set up and in spite of that, surveys have been made in a number of places in the reserves considered suitable for industry to develop. So far nothing more than that has been done, although I think in two places plots are now being demarcated. When that process has been gone through, it is then a matter of attracting industrialists to the reserves, and I would say to my hon. friends, the African Members, that those areas will be competing with established industrial areas. Those who go there must be assured of co-operation and a welcome from the inhabitants, or else the competitive attractions of other areas outside the reserves may have a bad effect on our schemes. Having said that, I do want to say that I personally, as I believe most Members of this Council are, am very keen to see industry in the reserves, particularly in those areas where the labour is easily available. I do not think it would be appropriate to say more at this stage on that particular point.

Mr. Speaker, I beg to support the Motion.

MRS. SHAW (Nyanza): Mr. Speaker, Sir, it is at a time when the army has handed back responsibility for law, order and good government back to the police force of this Colony, that a tribute, and a very high tribute, should be paid to the Commander-in-Chief and all branches of the Security Forces. Although it is quite invidious to pick out any particular branch, I think we all agree with the hon. Member when he said that special mention should be made of the young men of our own Regiment who, in the early days of this Emergency, stood practically alone between us and the terror that stalked this land, and in the closing stages did

[Mrs. Shaw] much to bring about a speedy end to the Emergency through their courageous work in pseudo gangs in searching out the gangsters in the forests or wherever else they might be. Such bravery is really beyond praise and I do think that our debt to them might be summed up in Churchill's famous words, "Seldom have so many owed so much to so few".

In our thankfulness that the dark days of the Emergency are over, we must not allow ourselves to be lulled into a sense of false security, for in a country such as this, where the great mass of the people are illiterate, just emerging from the past, bound up with intrigue and filth, there is always the danger that a similar situation may arise again. So whatever may have been omitted from His Excellency's Communication from the Chair, I do welcome the assurance that he gave the Council when he said, in this connection, "The Government is devoting particular attention to the needs of the sort of situation which is apt to arise in a period which, although one of increasing tension and disturbance, does not yet amount to a full-scale Emergency. In these circumstances, any Government must be empowered to obtain the initiative in preserving public order and at the right time the Government intends to introduce legislation designed to reinforce its authority for this purpose". How different the situation might have been in October, 1952, had that legislation existed then. The Administration must bend all its efforts towards rehabilitation, and I should like to pay a tribute towards all officers of the Administration who have been engaged on this work, for what they have accomplished in such a short time, for it is a most formidable task and although there have been failures—and in this sort of work there are bound to be failures—yet the successes have far outweighed the failures.

Pilot schemes for the introduction of the Kikuyu to areas other than Central Province must, of course, depend on, and be governed by the security angle. But if they prove successful, I should like to see them extended in that part of Nyanza where before the Emergency, farmers depended largely on the Kikuyu tribe for their labour on the farms bordering on the Rift Valley. But

security must be our first concern, and I realise the danger and, in fact, how vital it is to be cautious in dealing with a province like Nyanza, especially at a time when we may be faced with crimes of violence such as those recently committed in Kisumu, which are a direct aftermath of the Emergency.

Here it might be opportune to thank the Commissioner of Police and all those officers concerned for the measures they have brought in recently to ensure that further tragedies of this kind do not occur in that town.

I was very interested to hear that the Veterinary Department are going into the matter of controlling tsetse fly through a new insecticide instead of through bush clearing. This is good news, for with overpopulation in certain areas, such as Maragoli, it is tragic to see so much of our land lie idle and useless under the scourge of the tsetse. In the last few years great strides have been made in this work, both in the laboratories and in the field, but it has sometimes been rather heartbreaking to see much of this work in danger of being lost because of the slowness of follow-through of other Government departments. For if this land is to be kept free from bush, these clearings must be settled and that settlement must come hard on the heels of the bush clearing.

Another urgent problem which must be tackled if the cattle population of this Colony are to be safeguarded, is the drug fastness which is appearing in the tick population, which in some districts is causing many deaths and great concern.

As to agriculture generally, now that the Minister is no longer distracted by the trumpeting of federal independence, and can give his whole attention to his Ministry, we shall expect great things. I have schemes for opening up land, highlands for tea and lowlands for sugar, which I shall push with all the tenacity of which I am capable, but, I do know and realise that all other districts will claim the Minister's attention, but just as I know that, I know too, Sir, that everyone would be assured of a fair hearing.

Turning to commerce and industry, I was very glad to hear the hon. Minister say that he is giving consideration, although he could say no more, to my

[Mrs. Shaw] favourite plea for the decentralisation of industry which I feel is so essential, for then when land consolidation comes in, there will be some means of absorbing the surplus population near their homes, thereby avoiding a greater consideration of labour in and around Nairobi which, in the light of past experience, is so undesirable from the security angle.

Communications are the life-blood of every country and although I know the limiting factor is finance, yet I am sure that hon. Members in this Council will agree with me that after security, on which all development must depend, our communications, with an accent on roads, must be given first priority. In this connection I should like to see the recommendations of the Manzoni Report debated in this Council as soon as possible. Although it has been said recently in this Chamber that a report could not be laid unless Council was sitting, too often, in our past experience, the Government has sat and sat on these reports until they have gone broody on them. In welcoming the statement that the Government is pressing on with a geological survey, it is not necessary to stress how the discovery of oil or new mineral wealth would change the outlook for our Colony.

Development for Kenya rests on two things. First and foremost our capacity to attract new capital, and, secondly, our ability to use that capital which must depend on a sound labour policy. The capacity to attract new capital is tied to our credit-worthiness and our taxation policy.

And here I should like to support what the hon. Member in his very able maiden speech for Nairobi West said, for I do believe, with many others, that certainly as far as income tax and company tax are concerned, a level has been reached which, if it is to be exceeded, may well discourage the continued flow of new capital to this Colony which has been such an encouraging feature of our economy in spite of the troublesome four years through which we have just come. In this connection, I should also like an assurance from the Government that the commission of enquiry into the incidence of income tax will report shortly, so that their report may be laid and will be

available for the Minister for Finance to take their recommendations into consideration when framing his Budget policy this next year.

Turning to the second essential for development a sound labour policy, here I cannot agree with my hon friend, the Member for Mau, who said that the Labour Department was to be congratulated on bringing in labour from outside this Colony on a contract basis. No doubt this action was necessary to save an industry, but surely the fact that we had to do so with the millions of potential labour in this Colony is an admission of failure. To me, Sir, that is obvious, but I am sure that our labour policy, to be effective, must be much stronger than it has been in the past, and I would like to suggest that the Department give their serious consideration to the recommendations of the Committee set up to investigate rural wages.

Neither do I agree with the hon. Member for Mau in his statement that labour to develop tea is not available, for in my experience, the labour is available but it is the poor quality of the labour which is causing such concern. No, I think the labour is there, but even if it is not there in certain areas, there is obviously something wrong about our labour policy which is failing to attract labour, and/or to make it work, and I feel that a great deal more thought must be given to this aspect of our labour problem by providing incentives. I do not think that this failure to attract labour is entirely the fault of nor can the blame be laid entirely at the door of the Labour Department, for as far as the farmers are concerned they must accept some of the blame. For instance, I believe that there has been a time lag where the farmer has failed to realise that with the passing of the squatter system, with its basis in feudalism, a new technique must be found for establishing contact with his labour force. For to-day the majority of farmers are no longer known to their labour as father of the family, and I suggest the settling up on large farms of social centres, or on the smaller farms of inter-farm centres, might be a means—could be a means of providing that essential link, the human touch which is completely missing on many farms to-day.

[Mrs. Shaw]

Schools, too, are an essential part of the farmer's responsibility towards his labour, and while disagreeing strongly with the remarks made by the hon. Minister for Forests, when he said that African labour is happier working for Government than on the farms, I do agree completely with what was said by the hon. African Member, that on many farms children do not get the opportunity for education which they should have. This fact undoubtedly acts as a deterrent where juvenile labour is concerned, although land consolidation will eventually solve our labour problems for us, that is a long-term view. And if we are to attract labour in the meantime, we must see to it that labour conditions on the farm are brought into line with the rise of the standard of living in the African reserves, as well as devising incentives which will ensure a higher standard of output per labourer which can be the only justification for better conditions and higher wages.

Before I leave, Mr. Speaker, I must comment on some remarks made by the hon. Asian Member for Central Area which have a bearing on this question. These remarks were surprisingly inconsistent. I say surprisingly because, although we expect a certain agility in the legal brain, we do not usually find inconsistency. On the one hand, the hon. Asian Member deplored Government's failure to provide sufficient education and schools, although he said his community was providing the essential for the schools, which were the children, and he added "there are many of them", and in the next breath he warned members of the dire effect on commerce and industry of Government's immigration policy. Yet I venture to suggest that in his more realistic and less political moments, the hon. Member knows full well that to flood this country with Asian immigrants would deny the hope of any future to his children or his grandchildren or, indeed, the children of any of the Kenya-born Asians. But to return to his latter statement, if a department such as Posts and Telecommunications are finding it so difficult to recruit staff, where do the hundreds of children, that we see flooding out of Asian schools, go when they grow up? Surely they should be

providing the trained technicians and artisans which we so badly need.

It is not customary, Mr. Speaker, to criticise what has been said by a hon. Member in a maiden speech, but as this hon. Member stressed that his was not a maiden speech, I feel at liberty to refer to one other of his points. He criticised the Coalition Government and the success of the Lyttelton Plan, which I gather he would like to see set aside and some other form of constitutional development brought in after discussion—further constitutional discussion with the various communities. Heaven forbid, that just having achieved unanimity on the proposals designed to correct the faults of the Lyttelton Plan, which are to be introduced shortly, we should reopen the whole constitutional question at this moment, a question which has torn the country asunder, dividing not only community from community but even communities within themselves.

The hon. Member and several others welcome law reform. So do I, for in many cases it is long overdue. But surely it is even more important that the Colony should put an economic Council in order, in fact, it is essential if we are to repair the ravages of the last four years instead of belittling what has been achieved in these last few years, I would like to say that our progress has been quite remarkable. For in spite of combating an armed rebellion which disrupted every facet of our social and economic life, we have introduced a new constitution. We have amended that constitution in the light of experience and you have only to look outside this Council Chamber to see the progress that has been made in both the industrial and commercial spheres. To do all this when our resources and manpower were strained to the limits, has meant long hours, hard work, and sacrifice for many people, and in my opinion, the hon. Member, rather than decrying the efforts of others, by saying that they only did their duty, would have done well to add his thanks to those who bore the heat and burden of the day. But there is no doubt that what we need now, Mr. Speaker, above all else, is peace from strife of all kinds so that we can get on with the job of stepping up our production, to repair the damage done to our economy by the Emergency and to

[Mrs. Shaw] ensure the economic recovery of this Colony on which the future and happiness of all races in Kenya depends.

Mr. Speaker, I beg to support.

Mr. ROBINSON (Nominated Member): During the last two days hon. Members have covered nearly every passage of His Excellency's Speech. The debate has ranged from the medieval value of certain parts of the rhinoceros to the enhanced value to the community of educated African brides. Much has been said with eloquence, and I rise to contribute to the debate with diffidence. Little remains also to be said constructively of the ideal, and I hope that Members will forgive me if I devote the major part of my speech to controverting certain aspects of my hon. friend's arguments.

I would like first to refer to the speech of my hon. friend, the African Representative Member for the Central Province. In his speech, he suggested that production targets might be set to certain African communities, and that penalties could be imposed if these targets were not achieved. I suggest to the Council that such a proposal is unrealistic. I would like the Council to imagine the uproar which such measures, if they were adopted, would cause. There would be cries of fascism, Russian farms collectivism, and so on.

Mr. MATHU: Communal penalties.

Sir CHARLES MANKHAM: Maiden speech.

Mr. ROBINSON: And I must say—I must express, surprise that my friend should suggest a system which would include communal penalties. Surely this method of enforcement would not be popular with the people he represents.

Next turn to the speech of my hon. friend, the Member for Ukamba. My hon. friend very rightly warned the Council of the danger of communism, but with the next breath suggested that the country might offer political asylum to Hungarian refugees. I am sure the Council fully sympathise with his very Christian suggestion, but I feel I must make a note of warning. The Council must remember that these unfortunate refugees are themselves Communists, and during the last decade have assented to very harsh treatment to their fellow

Hungarian Conservatives and Liberals by the Communist régime. I am not unsympathetic with the hon. Member's suggestion, but I do ask the Council to consider this suggestion with caution.

I am sure that all Members of this Council, Sir, must have been struck by the almost fanatical demand for education by every single African speaker. Their expressions were backed up by offers of self-help, and I feel that Government must meet them more than half way. Would it not be possible to start some pilot scheme, take some selected area and provided that the local inhabitants provide the capital cost for the school, let Government be responsible for any recurrent operating costs. I feel that it is an experiment worth while. I know there are many difficulties in the way of lack of teachers, but these difficulties have been solved elsewhere and I feel it is our duty to solve them here. In my opinion, Sir, African education is one of the best investments that Kenya can invest in. Many people complain of the low output of African workers which, in my opinion, is due mostly to a lack of responsibility which is a direct result of poor education, and so within the limit of my appointment I will do what I can to support the African Members in their request.

The other side of the Council approved to have no major criticism of His Excellency's Communication. It seems to me, Sir, that they were searching rather frantically for arguments with which to belabour Government policy. Many valuable suggestions were made and I am sure Government will examine them in full, but it must be heartening to the Ministers on this side to know that their policies, on the whole, have the backing of the whole Council. As a newcomer, the Council has given me an impression of great co-operation and I wholeheartedly support the Motion and look forward to a year of real progress with both sides working together for the good of our country. (Applause.)

THE MINISTER FOR COMMUNITY DEVELOPMENT (Mr. Ohanga): Mr. Speaker, Sir, before I go on with the few remarks I want to make, I should like most happily to congratulate my hon. friend, Mr. Francis Kijrotich arap Chumah on his maiden speech. Very little has been said, Sir, about rehabilitation, but at the

[The Minister for Community Development]

same time I realise that now the Emergency, as a whole, is quietening down, the whole question of Emergency, and particularly those aspects which have to do with rehabilitation and reabsorption, will begin to loom even larger. In his Communication from the Chair His Excellency the Governor repeated this assurance which has been given to this Council several times, that the irreconcilables, among those who are now in the detention camps who do not respond to rehabilitation measures, will never be allowed to come back. If you followed the Speech from the Chair, you would see that His Excellency added that Government does not regard anybody at the present time as being completely lost. Each and every one of those now detained in the camps will continue to be given this opportunity to see for themselves the folly of their ways and to take the opportunity to come round to admitting and confessing their *Mau Mau* affiliations and coming back to be the normal people that we used to know them to be.

Those who now hold an uncompromising attitude against the Government's rehabilitation effort have no hope, except that they are destined to long and continued detention in the form of exile camps. As it is the case now in detention camps so will it be in the exile camps. The rehabilitation measures will continue to be put before them, and those of them who react quickly to see that they are foolishly holding tenaciously to those views, which have been shown and proved clearly, will not bring good to anyone in this country, will turn round and come in the sure knowledge that Government will have nothing to do with them except to detain them there according to their own wishes will be accorded opportunities for release which are without limit right up to the end.

With the Emergency situation improving markedly, I think the attention of the country should now be rightly turned to the question which, in my opinion, is much more important, I refer to the reabsorption of the rehabilitated Kikuyu. These people have quite rightly been detained for a period of time, and the Government have been offering them opportunities for confessing their mis-

deeds and becoming right. Quite a lot of them have come round and they continue to come round in good numbers, but the whole question of rehabilitation is governed by two straight factors. If we are going to get the detained *Mau Mau*, Kikuyu, Embu and Meru, to see round quickly the speed at which the work can be done depends entirely on how quickly the detainees' mind can respond to these measures. Secondly, it depends on how quickly the loyal inhabitants of Kenya, of all communities, will be prepared, in their own minds, to accept them back again as the Kikuyu whom they used to know before the Emergency days.

I feel, Sir, that the Kikuyu have gone wrong—they have gone very wrong—but at the same time I want to suggest that they have paid for their wrongdoing fairly adequately, and that the time has come for those of us who are looking forward to the constructive development of this country to see if we cannot open our minds and the doors of all our activities outside the detention camps a little more widely to receive these people back. This is a problem, Sir, which is not confined to people outside the Kikuyu community. Again and again we realise that the strongest opponent of the returning rehabilitated Kikuyu detainees is not the Government, it is not the police, but the loyal Kikuyu himself. Quite rightly. He suffered from the hands of the terrorists. He will remember very clearly the atrocities that took place as a result of their activities, and he is most loath to accept them. But I would like to appeal to them and everybody else to think again. It is human to err. The Government, realising the seriousness of the position, has not only fought resolutely everything that has to do with terrorism, and very nearly overcome completely the shooting war of *Mau Mau*, but has also made very elaborate safeguards for the future to ensure that never again will a thing like this happen in this country, except in such ways as we are altogether not aware of. But, generally speaking, the time has come, Sir, when the people of this country should begin to open their doors a little more widely to receive rehabilitated formerly detained Kikuyus back, so that they can be a part of us again and help in the work for the development of this country.

But the view held by the Kikuyu loyalists in the reserves could also be

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extended to other areas all over the country. It is a welcome fact, Sir, to see that in many settled areas within the Rift Valley and outside it, a large number of farmers are no longer so afraid of the rehabilitated Kikuyu gentlemen as they were before. I hope that this feeling of generosity of allowing people, who were once part and parcel of their farms, to come back, will continue to increase and that many more Kikuyu will be accepted back everywhere so long as the Government, in their opinion, feel that these people are fit to live amongst us again.

Sir, the Government has shown by practical example during this Emergency that they are not in a position to tolerate any nonsense about lawlessness. *Mau Mau* terrorism took the country by surprise and at that time nobody could clearly see how far it was all going to go, but the steps that were taken by the Government, and with the assistance of Her Majesty's Government at home, have shown that Government means to play the game whenever things of this kind happen, and the whole community of all races in this country has learnt what the Government has in mind should any nonsense of that kind take place again.

Now, to turn to some of the more general comments arising from speeches made by my friends opposite and on this side.

THE SPEAKER (Sir Ferdinand Cavendish-Bentinck): Has the hon. Member got a lot more to say?

THE MINISTER FOR COMMUNITY DEVELOPMENT (Mr. Ohanga): I may be another ten minutes.

THE SPEAKER (Sir Ferdinand Cavendish-Bentinck): Perhaps, then, we will take this opportunity for interrupting business for fifteen minutes.

Council suspended business at fifteen minutes past Four o'clock and resumed at thirty minutes past Four o'clock.

THE MINISTER FOR COMMUNITY DEVELOPMENT (Mr. Ohanga): Mr. Speaker, before the Council rose for the short adjournment I was about to thank my hon. friend, Mr. Wanyutu Waweru, for the tribute which he paid to the work of Community Development officers in the camps. I am sure this

is a very well-merited tribute and I am grateful to him.

The hon. Member, Sir, in his very interesting speech made it plain to the Council that a country in which people are in the habit of sitting about under the trees and brooding over grievances—real or imaginary—can never produce useful results in their endeavours. I could not agree with him more. I am very glad that he went on to pay tribute to the work which the officers and assistants in the Community Development Department throughout the country are endeavouring to do to provide for these people who in their leisure hours have nothing to do except sit about and do nothing.

It is known, Sir, that football is one of those more important recreational activities and items of sport of which the African people in this country are very fond. It is one of the main and more regular items in our list of activities throughout the country, to ensure that Community Development Officers, wherever they are active, have regular programmes of football as well as other games. And this one, apart from several more which are being tried, can be said to be a really successful one.

I would like to assure the hon. Member, Sir, that he need not be unduly worried over the question of "spoon-feeding"—as he put it—as far as the actions of the Ministry of Community Development is concerned. Indeed, Sir, it is Government policy that in Community Development the main effort should be to arouse the interest and enthusiasm of the people in such a way that they are able to take the initiative themselves, and only call upon the Government for assistance, help and direction. At no time is Government in a position to take the initiative for the people, so as to appear to be "spoon-feeding" them in any way. The Government is very aware of this.

The hon. Member for Nairobi South asked for some information about the I.C.A. grant which had been given to the Ministry of Community Development and is about to be spent in the employment of some 21 officers. He wanted to know, first of all, whether there are any strings attached to this grant, and the answer is "No". There are no strings at all. The only obligation on the Government is the usual one of the Financial matching of £-for-£.

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but that cannot be regarded as a policy string at all.

Secondly, he asked to know who was going to recruit these people. Of the 21 posts, five are being filled by transfers within the Department, and of the remaining posts, half are being recruited by the Civil Service Commission in Kenya locally, and the remainder, with the Commission's permission—the Kenya Commission—are being recruited in the United Kingdom by the Colonial Office. Selection Boards have recently been held both here in Kenya and in London and, from the preliminary information which has already come to the notice of the Ministry, it does not appear that all these posts will be filled at once; some may have to wait a little while until we find the type of people we need.

Again, the hon. Member wanted to know where they are coming from. From the nature and method of recruitment, we should suggest they will be people who are in no way strangers to this country. Who will be responsible for them? The Commissioner for Community Development will have the overall responsibility for the direction of these people's activities. They will work in accordance with the plans for social development of the district team and the African district councils of the districts to which they will be posted, respectively. They, in their work, will be directed by the district commissioner, who has the overall direction in the field.

Mr. Speaker, I accept the Motion.

MRS. HUGHES (Uasin Gishu): Mr. Speaker, last week in this Council my hon. friend, the Member for Nairobi South, asked us a riddle, and that riddle, Sir, was "When is a maiden not a maiden?" In a recent issue of the *Daily Telegraph* that well-known writer, Elspeth Huxley, described me as "A home-bred architect and mother of six." I feel I must be that answer, Sir.

Much has been said in praise of our Security Forces, and I would like to add my very humble thanks to those young men who during the Emergency not only risked their lives, but, at a very impressionable age, witnessed scenes too bestial to imagine. Sir, I trust we will not forget them, and that we shall show our grati-

tude—if I may use the expression—in a concrete way. Their experience of fighting and being in contact with the loyal African must be used. They have got to know and understand one another on a common basis of loyalty, suffering and love for their country. And I suggest, Sir, that priority and assistance must be given to these young men, to take their proper and rightful place in the running of this Colony, be it in the Administration, in commerce, or in agriculture. And, furthermore, Sir, I would suggest that our Kenya youth should be employed under similar conditions of salary and benefits—that is, where they are equally qualified—to those persons who are brought into the Colony from overseas.

We have heard a great deal about economic stability. With the world in its present state of unrest and preoccupation in its own affairs, it is essential that we make the fullest use of our available manpower, and we must train our young people to contribute to their utmost capabilities in the development of Kenya. And, Sir, I use the word "train" advisedly. Education seems to have grown to mean a sort of academic schooling and "Open Sesame." Some 300 years B.C. Aristotle defined education as follows: "The true aim of education is the attainment of happiness through perfect virtue". Well, Sir, that might be a little idealistic, but the whole framework of our school programmes should be based on that spiritual aspect, and with two purposes—the first to fit a person for life; and, secondly, to fit a person to earn a living.

Unfortunately, in Kenya, and perhaps in other places, too, we have erred on the academic side and forgotten partly, if not wholly, the fundamentals. After some eight years of working for certificates, what is then open to the youth of Kenya, and particularly to the hundreds of children who fail those examinations? I submit, Sir, that we lack a very important strata in Kenya, the artisan, or, better, the craftsman. More emphasis must be placed on vocational schools, leading up to those vocational schools naturally from the very earliest stages of schooling, so that we can co-ordinate and make the fullest use of those private institutes and enterprises already in existence for the training of our young people. Trade schools and agricultural

[Mrs. Hughes]

centres, I feel, should be reinforced by apprenticeship schemes, to give us a more balanced community; and I noticed with interest that His Excellency did suggest that he intended to introduce legislation regarding this aspect.

Efficient craftsmen will do much to reduce our present high cost of living. It is due, I think, this high cost of living, in no small measure to the very high building costs. One of our hon. Members said it was very necessary, and I agree with him, that people should be encouraged to own their own homes. Well, part of the expenses of building homes is the high cost of land, and I hope that Government will do something in this regard, too, in these neighbourhood units of which His Excellency spoke, to provide them to the public at a reasonable price.

Building costs rely very much on efficient labour; labour forms possibly anything up to 60 to 70 per cent of building costs, and I suggest this is completely out of all proportion and due in no small measure to the excessive amount of supervision that is necessary because of irresponsible and inefficient labour. I suggest that we must do something about this, in order to help hundreds of our people here.

To assist us, it is essential that we have European immigration, but I suggest that it should be of a calibre that, by their qualifications, their willingness to work and to make this their home, will benefit the country. Those are the people to whom we should give first priority.

I will go further and ask if it is possible that a report be prepared by the appropriate department, analysing our present labour potential, with a view to the type of immigrants necessary to balance and co-ordinate development here. An educational programme, too, should be drawn up, with a view to training all races to take part in the fullest development of our natural resources and our industry. I cannot stress too much the necessity to make the utmost use of our available manpower, resources and our income.

His Excellency realised the importance of education, in particular, of the African girl. I hope this, too, will have a bias, to fit them to be good wives and

mothers, particularly as we have heard from one of our hon. Members that their bride price is so much higher when they are educated. We hope that the husbands, too, will benefit.

When I first became an Elected Member, I was given this volume of Standing Orders, Sir, and I read it with great interest. I would like to quote one of the rules of debate, and that is: "Every Member desiring to speak shall rise in his place uncovered and address himself to Mr. Speaker or the Chairman. If through infirmity or illness a Member is unable to rise, he be permitted to address the Council seated. This rule does not apply to lady Members". Sir, to what legislation do we put this down? To discriminative legislation or protective legislation?

Sir, may I end on a note regarding roads. My constituents view this matter with great concern. While so many industries and such bodies as the Kenya Meat Commission remain centralised transport problems must affect those people living hundreds of miles from these centres. Sir, we are studying this problem with the help of people locally, and also obtaining information from experts overseas. We hope, Sir, to bring some constructive recommendations before Legislative Council on this subject, and I hope they will be received sympathetically, as it is so very necessary to the development of our Colony.

Sir, I beg to support. (Applause.)

THE MINISTER FOR EDUCATION, LABOUR AND LANDS (Mr. Coult): Mr. Speaker, Sir, I rise to support the Motion and in view of certain remarks that have been made in this Council, I also rise to support the Government.

I feel, Sir, that this Government has done in the last four or five years quite a lot, and not least in education. When this word education is mentioned, an enormous gush of emotion appears to flow over the country. People's eyes come out on sticks, their moustaches bristle, their ears begin to twiggle, they thump the table, and they say all sorts of most extraordinary things. Sir, to-day I am going to put in a plea that this emotional approach to education should now be dropped by everyone and that we should consider this matter according to the cold logical facts.

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Now, Sir, my hon. friend, the Member for Nairobi South, said that the Government apparently had no educational policy. Sir, I would like to refute this by saying this is grant nonsense. Everyone on the other side of the Council—and, indeed, on our side of the Council—knows quite well what the Government's educational policy is. I would like to quote, for instance, to the hon. Member, these school certificate results for 1955: "In one school three failures out of 73, in another school two failures out of 104. In Higher School Certificates one failure out of 18 and two failures out of 17."

Sir, if there is something wrong with the policy of this Colony in education, you could not get these results.

I would like now to turn to the remarks which were made by the Member for Central Electoral Area, who mentioned that the Speech, apparently, was indifferent to Asian education and did not express any sympathy. He did, I think, use a certain simile to being in the army in the past and having rejoined the army. Now, I would like to remind him that when the colonel sets us off on a route march he very rarely gives us any sympathy. He certainly does not think of the blisters that are going to come.

However, Sir, I would like to say this—I have said publicly in the past and I shall continue to say so—that I have got the greatest regard for the amount of money and contributions which the Indian community in this Colony have made towards education. It is one of the finer efforts that have been made in this Colony; and I can assure the hon. Member that this Government is extremely appreciative of what they have done.

As regards the Arab Elected Member who talked about a history text-book, I would like to explain to him that the history never, in fact, came to be written, because the publishers turned it down as there were not enough copies which could be sold. Nevertheless, teaching history still goes on, and indeed questions on history are set in the Kenya Arab Preliminary examination. I can therefore give him an assurance that,

although he may be worried that there is no text-book in history, nevertheless they are getting the necessary instruction in it.

Now, Sir, I come to the hon. Representative Member, Mr. Mathu, and the whole difficult question—I say this advisedly—the whole difficult question of African education. We had this matter thrashed out in this Council, I think, in the month of August, and we had, I believe, at least two days on the whole subject, and therefore it fills me, I must admit, with a certain amount of gloom to see that there is about to be another Motion on this subject coming up very shortly.

I would, however, like to deal with one or two points which he himself raised, and also his colleagues. I held a conference and this has been mentioned already in the debate, about a fortnight ago, and that was because I gave the hon. Member an undertaking that I would look into the whole question of African educational policy, during the course of the debate to which I have referred. Now, apart from the fact that the conference regretted very much that it was impossible at the present time for Government to carry out its declared object of eight years of primary education for all Africans, nevertheless, it was interesting to me to note that, by and large, they endorsed practically every point of policy which at the moment we are carrying out. Therefore, although Mr. Mathu, I feel, is one of these people who thumps the table and, possibly with an electorate in view, makes a lot of statements about the future of African education, nevertheless, I do want to assure him that we are trying to do as much as we possibly can; and the conference did make one particular point which was of great interest to me, and that was, that although, Mr. Mathu said that apparently all Africans were prepared to go to school in that state known as the "altogether", the conference did say with regard to recurrent expenditure on education, it felt that this would have to be a matter for local option. Indeed, there would be quite a number of places in the Colony where Africans could not, in fact, subscribe more than they are subscribing at the moment; and I should mention to the Council that, in so far as capital expenditure is concerned, the principle has already been

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agreed that if Africans—or, indeed, anybody else—wishes to raise money for capital expenditure on education, they are permitted to do so.

Nevertheless, there is one point, I think, which has cheered me to a certain extent, and that is during the previous debate the hon. Member in question, I think, was up in Olympus, at any rate he shook his fist across the Council and said, "Never mind the money, let's get on with the education". Which reminds me about that man who was watching a football match and said, "Never mind the ball, let's get on with the game", which is just about the same sort of thing. Nevertheless, instead of drinking, shall we say, honey nectar from heavenly-handed Hebes, he has now come out of Olympus and I think he has got his feet almost on to the ground. I say almost on to the ground, because he has made a specific proposal, and that is that Government should regard a particular area—and I think he did suggest Nairobi—as an area in which we might show our willingness to get to eight years of education as a pilot project. Well, he himself knows that he attended a meeting in 1954 when this very subject of bringing in what might be described as compulsory education in Nairobi was discussed, and it was pointed out to him then—as, indeed, also to the hon. Representative Member, Mr. Gikonyo—that it would probably require about £1,000,000 for capital expenditure, and a further £500,000 for recurrent expenditure in Nairobi; and, presumably, that would also mean that we would have to exclude all children from outside by some other means.

Nevertheless, I am prepared to give the hon. Member an undertaking that I will look into the proposal of his—as, indeed, I gave him an undertaking during the last debate. We will look at Nairobi as a special problem. However, the costs are formidable and I, personally, do not see how we can produce the eight years of education in Nairobi immediately. It must be a slow business.

Now, I come to the whole question of the cost of African education again. I am sorry to be tedious about it but, nevertheless, this matter is raised so

often that it is, in my view, essential to get the facts clear in our minds.

If we give every African in Kenya eight years of primary education it is going to cost recurrently £21,000,000. You cannot give that number of people the education which they want at the primary level without taking at least a percentage of them on to secondary education: if even a quarter of these are taken on, the bill is then increased by a further £24,000,000—which includes, of course, teacher-training and all the other ancillaries which go with it—and the result is: £45,000,000. That is on the present population.

The hon. Member, Mr. Mathu, may feel that it is a good electioneering point to say that we must have eight years of education for the whole of the African population, but is he also going to tell them that, in addition to going to school in the "altogether", they are going to have to pay about Sh. 600 per head per year, and that I am not so certain about. However, that seems to me what the bill is going to be. Are the richer areas, in addition to that, going to pay for the poorer areas? It would seem to me, therefore, that it is not really a practical proposition at the present time and I do suggest that we agree to look at a specialised problem, and that is perhaps Nairobi city.

As regards teacher-training, which has been mentioned—and I believe that one of the African Representative Members brought up the question of using untrained teachers—I would like to reiterate again this whole question of standards. There is a standard below which I will refuse to let the education go. There is absolutely no point, in my mind, in having schools in which the children are going to be taught by people who are little better than themselves because we are going to produce nothing as a result. What we must have are properly trained teachers who are, or will be, able to turn out the type of citizen which we must have for the future development of this Colony.

I, myself, together with the Education Department, am doing my best to lay complete emphasis on this in the next development period. What we really want to do is to go in to the teaching position and if we can get the teachers then there

The Minister for Education, Labour and Lands) is a chance of getting the dreams which have been expressed across this Floor during this debate realised.

Sir, I will now turn to the question of land. There possibly were one or two other matters concerning education, but perhaps the hon. Director of Education might deal with them. With regard to lands, the hon. Member for the Central Electoral Area brought to the notice of this Council that a particular bank had applied for general exemption from the provisions of the Land Control Ordinance, and he said that it was refused. That, Sir, is perfectly true but I would like to remind him that what was refused was general exemption and there is no reason why individuals should not still apply to the Land Control Board if they wish to deposit their securities by way of equitable mortgage with this particular bank. I say it is a matter of general exemption from the Ordinance and not a ukase on everyone.

Next, I would like to deal with the remarks made by the Arab Elected Member and also the Member for the East Electoral Area about the Recorder of Titles. In my view, Mr. Speaker, we have got quite a remarkable man to do this particular job. We waited long enough for him and we have been lucky in the person whom we have now got. He is a man of great experience; he is also himself a surveyor and he is also obviously a very practical man. The hon. Member for the East Electoral Area said something about wasting time writing out reports. I can assure the hon. Member that this gentleman does not do that sort of thing. He has produced one report only—very short indeed and very much to the point—and as a result of that he has managed to get under way. We have agreed, for the Arab Elected Member's information, that he should start in Malindi in deciding the unjudicated titles and that he should then probably go into the hinterland beyond Malindi. After that we have not yet planned a programme for him but I would like to assure the hon. Arab Elected Member that we shall bear in mind his request that he should then go on to Lamu.

As regards labour, Sir, very few people actually have spoken on matters arising

out of labour. The hon. Member for the Mau and the hon. Member for Nyanza in particular have mentioned labour problems. I find it a little bit difficult to answer the particular points about Banyaruanda labour because the hon. Member for the Mau, mistakenly, I think, complimented me on the decision to bring Banyaruanda labour in and the hon. Member for Nyanza has said that it is quite wrong and that we should keep them out. Therefore, it is a little difficult to comment on that, but what I would like to say about this is what I have said before and that is I feel at the present moment that there is a shortage of labour and if we can improve the production in this country in certain industries by the introduction of that labour—it still depends, I may say, on whether the Belgian Government agree or not—but if we can improve the production then I think we should try.

I was grateful to the hon. Member for Nyanza for mentioning that there is, of course, another side to this picture. As I see it, and I said so at the time when we were debating the Budget, incentives are most important and I also said at that time that we should consider the whole of this matter when the Rural Wages Report is published. I still stick by that because I think that that is the right time when the whole of this matter should be thrashed out.

Now, Sir, I would like to congratulate all new Members on their maiden speeches. I would like particularly to congratulate the hon. and gracious lady from the Aberdares on her speech, particularly where she talked about unity. I remember when I was quite young going to a production of the *Three Musketeers* when the gentlemen used to run down to the front of the stage, cross their swords and say, "We are all for one and one for all" and then go back and chase the cardinal's guards. I feel that if we had a bit more in this country of "all for one and one for all" and less of the political machinations for which the cardinal was famous we should get on a bit better.

Sir, I beg to support.

MR. SWYNNERTON (Nominated Member): Mr. Speaker, Sir, a civil servant is normally supposed to be a silent servant, Sir, and he has the reputation,

[Mr. Swynnerton] normally, of allowing his Minister to "carry the can". In this case, my hon. friend, the Minister for Agriculture, shot his bolt on the first day, and I rise to answer one or two points in the debate, but will stick to my last.

Two or three Members criticised the European Cereal Producers Bill as having a racial flavour. The Minister for Agriculture has asked me to say that in fact an amendment to the title will be moved at an appropriate time.

The hon. Member for the East Electoral Area was very critical of what the Government was doing in Masailand. He said that Government had provided no water, no grazing control and no outlet for stock. That may have been so when he decorated the Government service. In fact the African Land Development Board in recent years has devoted quite a bit of attention to Masailand. One particular area—the area of the Il Kisongo clan—has been taken as a pilot scheme. It does run close by Amboseli, but I do not think it will make a difference. From the Railway pipeline from Kilimanjaro taken down to the railway, it was arranged for three watering points from that area to be put in. In the last year 12 water-tanks have been put in in the area and half a dozen boreholes. The Il Kisongo clan has accepted grazing control in that area and that is now beginning to take place. They have accepted it in principle. The question about disposal of stock from that area is that a market has been established at Lasset and at the present time is working successfully. I agree that this is but a small area of Masailand and a pilot area, but unless disease stops the sales of stocks I can say that it is working very well.

In other areas pilot schemes have also been started and the Narok African District Council have started a sheep ranch at Purko and also a cattle ranch near the Mara in an area which was formerly cleared of tsetse.

I think it was the hon. Member for Mau who asked the Government to treat development as much as possible on a loan basis. The Il Kisongo clan is in fact working on a £10,000 loan which the African District Council has taken to help the development of the Kikuyu.

Two hon. African Representative Members, Mr. Mathu and Mr. arap Chumah, raised the question of production and cash crops. Cash crops is a hardy perennial in this Chamber and I hope that Members will forgive me if I go back to them. I think, perhaps, Mr. Mathu was confused in his talk on production. Soil conservation has been designed to save the land from the effects of production. I think perhaps what he meant was productivity. By production one can very rapidly ruin the land. On the other hand, if you aim for productivity—that is increasing production and at the same time increasing the fertility of the land—you will achieve something, but you cannot do that by placing orders and giving everyone a target and saying you have got to produce seven or eight acres of this, that and the other. If you do so you will achieve production, but you will certainly not produce productivity.

On the subject of cash crops I would like to use a Swahili phrase which is "Haba na haba hujaza kibaba". My hon. African friends will understand. There is no point at all in going flat out with cash crops if by doing so you plant large areas which become derelict through neglect. His Excellency in his Speech from the Chair said that when an African family cultivates an area over seven acres it requires additional labour. The same thing applies to the cash crops. In the case of coffee unless the man and his family have labour available to assist them, once they grow an area in excess of one acre, that coffee may become derelict. In fact, I know coffee-growers who are reducing their acreage for that very reason.

On the question of labour, hon. Members may be interested in some figures taken from three villages in the Fort Hall area. From 578 holdings it was found that 22 per cent of landowners had from nought to two acres, 37 per cent had from two to five acres, 21 per cent from five to eight acres and 20 per cent over that. You will see that the percentage of owners of holdings of over eight acres is approximately covered by the percentage of people who have completely un-economic holdings. What we have to do now is to devise a system of holdings for people in the two to seven or eight-acre groups. Seven to eight acres is quite easy,

[Mr. Swynnerton] but for the two to five acres we have had experience in Nyanza that a good living can be made by intensive farming and by specialisation.

Therefore, on this question of the cash crops, where a farmer has a smallholding —by a smallholding I mean two, three or four acres—undoubtedly he will have to specialise. He may have to concentrate on growing coffee and mulch on a small acreage like that. But if he does so, he will have to cultivate very well if he is going to get a living from it.

One of the things which is slowing up the development of cash crops is the very effort which is going on now of land consolidation. Where a man has seven or eight fragments and they are about to be consolidated, it is no good his turning over one of his fragments to pineapples or coffee, if in a week or two he is going to have another holding half a mile away. Therefore, we have to be certain when we do develop the permanent cash crops that they are planted where his eventual holding is going to be. If we rush into planting scattered crops all over the place, we shall find a lot of them abandoned or people who find that crops belonging to somebody else are on their land and will not be prepared to look after them.

If I might just touch on a few of the cash crops, coffee is quite an easy one because there is a good market at the present time and the cost of developing a factory is relatively small, a coffee pulping factory costs about £2,000. When we come to a crop like tea or sugar, we have to consider the great expenditure necessary for a factory. To get a reasonable size tea factory may cost some £50,000 to £100,000 and we have to be certain that the tea will be produced for a factory of that value. If we put a large amount of money into an expensive factory and at that time the tea is not plucked regularly throughout the year, that factory will be uneconomic.

In the case of sugar, the hon. and gracious lady from Nyanza mentioned sugar and tea, but she did not say whether she was discussing them on a racial basis, or a multi-racial basis or a non-racial basis, but they can be developed in close proximity, the European and African areas, for both those crops.

But, again, with sugar the factory is a most expensive item. They run from £500,000 to £1,500,000. If your supply of cane cannot be assured, then there is no prospect of our getting money invested in the factory or keeping it going. We have, in fact, at the present time an expert from Mauritius reporting on our sugar potential, particularly in the Nyanza Province and that is the very point which he raises. There are suitable areas there but two factors will militate against development. One is that a large area has to be put under the crop and it has to be grown in bulk, therefore the owners of that crop must be prepared to pool their land and come in as shareholders and working partners in the scheme. If everybody retains his individual identity with scattered crops of cane here and there, then the development of the sugar cane and of the white sugar industry will not work.

With tea also we are getting an expert who was in this country previously—Dr. Eden—to come out in February to investigate the various potential African tea-growing areas. Those near various European tea-growing factories and those away from them. But we have got a warning from the Tea Board of Kenya that while we may now have facilities to send green leaf to an established factory, that factory has its own development programme and may have to throw over later the Africans who are supplying it, and, therefore, whatever supplies, we will have to consider the erection of a factory sooner, or later, although the company can help us in the early stage.

The hon. Representative Member for the Central Province raised the question of the discrepancy in wattle bark prices. In fact, I think he is probably well aware that African district councils charge cesses on most of the produce that is marketed in their area and the total discrepancies between the prices paid to Africans and other wattle producers is accounted for by this African district council cess. In the case of dry wattle bark it is Sh. 38/19 a ton, and in the case of green bark it is Sh. 24/8/1.

I would just like to make one point on marketing, pyrethrum is an easy crop to plant and grow and many people wonder why they cannot go flat-out on pyrethrum. The answer to that one is that it is an extremely delicate market, so much

[Mr. Swynnerton] so that Kenya, Tanganyika and the Belgian Congo co-operate extremely closely in their acreage planting, in their processing, production and in their marketing. In the present crop year the estimated production of those three countries is about 7,000 tons of flowers, but at June next the estimated market prospects may result in those three countries having 1,000 tons of flowers on their hands, which is worth a lot of money. Therefore, if we have unlimited pyrethrum we shall undoubtedly break the market and it is much better to suffer small acreage restrictions, which will be expanded as the market expands, than to put the pyrethrum industry out of business.

Finally, Sir, I would just like to say one word on the machinery-testing team which is coming to Kenya. In fact it is a team which is working for the whole of East Africa, Tanganyika and Uganda as well as Kenya and is being financed from the Colonial Development Welfare Fund.

Mr. Speaker, Sir, I beg to support.

MR. ARAP MOI (African Representative Member): Mr. Speaker, I should like to support His Excellency the Governor's Speech from the Chair. I am very proud to be a member of those tribes which brought the Emergency to an end. I am glad that General Lathbury at the Nandi reunion at Kapsabet did mention that the Nandi reunion is going to be established as something to last for many generations to come.

Now, first of all, Sir, I should like to deal with matters affecting the pastoral tribes. His Excellency, in his Speech from the Chair, did mention some development and improvements in those areas, in particular, the Samburu area and West Suk, which have established ranching schemes and some projects which will help those districts.

Equally, I must accuse Government for not speeding up cattle sales in these areas. I, more than once, asked the Minister to consult the Government of Uganda to see whether they could take our surplus cattle into their own country for consumption, but he has not done so.

THE MINISTER FOR AGRICULTURE,
ANIMAL HUSBANDRY AND WATER

RESOURCES (Mr. Blundell): I have done so and I will report the results to the hon. Member later.

MR. ARAP MOI: Thank you very much. I hope the matter will be speeded up.

Secondly, Mr. Speaker, Government say that African people are very reluctant to sell their stock. I must tell you frankly that they are very willing, but the prices offered are so low that they cannot accept them, because they cannot replace the animal which they are going to sell. Furthermore, I am glad that the Report of the Enquiry into the Kenya Meat Industry will soon be placed on the Table and this Council will have an opportunity to debate on it. I shall only be too glad to see that Africans have freedom to sell their stock and I further ask Government to tell us the number of cattle in the African areas in the Colony, the annual increase and also those which are sold for consumption. If Government says that we should work hard to improve the stock to help Africans to get some assistance, and improve the land, I do not see the reason why Government should not show cause why it has not taken this step.

I have suggested before in this hon. Council that Africans are very willing to sell their stock provided that they are given a very reasonable price. They are not going to accept a very small price which will not replace their wealth which is in their cattle, because their ideas and culture and traditions are changing very gradually and, therefore, in order to adapt to the present conditions they must switch over. Therefore, with this changeover, money is very important.

Now I want to deal with a very small point. Those people living in the settled areas, particularly the African squatters, are so many and I am only concerned because many of those squatters belong to my tribes, and therefore, I must ask what is Government doing to help those people to educate their children? I must pay a very warm tribute to the farmers who have contributed by way of money, manpower and material in improving the education of the African children living in the settled areas. This has been a great achievement on the part of the European farmers.

[Mr. arap Moi]

Now the next thing, Mr. Speaker, is education. Although the hon. Minister for Education had asked us to stop this for education about education, nonsense of speaking about education, I must say now there will be no stoppage at all on education.

THE MINISTER FOR EDUCATION, LABOUR AND LANDS (Mr. Coutts): No, I was not asking you to stop talking, I merely asked you to stop injecting emotion into your talk.

MR. ARAP MOI: The African claim is so high that no one can resist it at all. I must suggest in this Council, Mr. Speaker, that this is to test Government's attitude towards African education and it is a test that will prove whether Government has failed to meet the needs of the African people or not.

When the question of labour comes up, Government is very quick and anxious to act and meet such a call, but when the question of African education comes in, then the Government becomes deaf. "Let them talk, but we will not listen to them." That is what Government says. But I assure the hon. Member, Sir, and the Government Members, that Africans will never stop until Government can meet our request. We do not want a colossal amount of money to meet African education. When we ask for African education, the Minister tells us a very large sum, a gigantic figure, £20,000,000, which cannot be met, the whole Colony's income. The Minister for African Affairs did suggest that the Kikuyu Special Tax was £250,000, a quarter of a million. Supposing Africans were asked to pay such a special tax to meet African education, how much could all the people in the whole Colony pay?

Now that £250,000 is 5,000,000 shillings, which is a lot. It will help meet capital expenditure and partly recurrent expenditure for some time. But Government has never initiated it at all. The Minister for Finance seems to be quiet, but he should show signs that he is going to do something for the African people. Therefore, I suggest that the African teachers' pay should be increased. If the Minister for Education, Labour and Lands suggested in the course of his speech that Government is going to try to import, or perhaps

try to send somebody—a member of the Education Department—to the United Kingdom or to the Commonwealth countries to try to get teachers from those countries—then the African people will welcome such a suggestion, but to say "No teachers, and no money", Africans will not be satisfied with such astonishing remarks.

I must also say that as far as county and city councils are concerned, they have not done anything to aid African education. African district councils are paying subvention, as well as Government, to meet the education of the African children in the reserves, but what do the city and county councils do, in Nairobi in particular, and also in Nakuru and Eldoret and Kitale. They do not contribute money to meet the cost of African education. It is left to Government and district councils because children in the townships and settled areas are repatriated to the reserves to be educated there, while the labourers work in towns. I thought that those who work in Nairobi pay money to the City Council and half of the money is put into native trust funds. What is done to this money? They ask people to pay taxes and so on, but nothing is being done in return.

Now, before I leave education, Mr. Speaker, I think there should be no question at all about African education. I am not trying to say that the African people are prepared to meet fully the expenses and all the rest, but I can only say that Africans are willing to contribute to some extent to meet the cost, particularly capital expenditure, not recurrent expenditure. I hope Government will do something to raise the teachers' pay so that many teachers can come forward.

Now, the third point, Mr. Speaker, is that in His Excellency's Speech from the Chair he did not mention anything about those people living in the N.F.D. area. Those people are our concern and yet there was no mention at all of them, their needs for water and their stock.

The next thing, Mr. Speaker, is that there is a widespread belief that the Civil Service Commission is becoming a rubber stamp for heads of departments. Who actually decides who they want. In this regard, Mr. Speaker, when the Civil Service Commission was set up I thought

[Mr. arap Moi] it was going to act, not merely to be advised by the members or heads of departments, but to improve Civil Service. Heads of departments should submit the number of people they want, particulars of qualifications and so on. I hope the Government at this juncture will make it clear that such a belief is untrue, that heads of departments or their representatives are sent to the Civil Service Commission when it meets, then advises them, then the man they want and then they leave. In that way, Sir, I think Government should make it quite clear that it is not so.

I am very sorry that I left a matter which refers to education. I hope the Minister for Legal Affairs will deal with it. That this Government should make provision for Kenya students of all races to study law and qualify locally, by opening a Faculty of Law at Makerere or at the Royal Technical College in Nairobi. My suggestion, Mr. Speaker, is that students who study overseas, when they come back they find it very difficult and it takes a year before they are allowed to practise. In that case I ask the Government to initiate with other East African Governments to open such a faculty at Makerere or here in Nairobi. It will help us a lot for why should we send our students overseas. It involves money. I hope this matter is worth while considering.

About commercial industry. I was very glad to hear that the Minister for Commerce and Industry said that African development will be attended to but as I heard the hon. Director for Agriculture saying that some other industries will not allow Africans in future to participate. I hope that the Minister now will see that Africans have a tea industry of their own.

Mr. Speaker, the last matter which I should like to mention is in regard to communications. There was a time when Posts and Telegraphs were proposing to extend telephone services to Tambach, the headquarters of the Elgeyo-Marakwet District, that has been stopped for some time, since 1953. I hope Government will see to it that such a facility is considered.

Mr. Speaker, I must congratulate the Minister for Forests, Game and

Fisheries in defending the African forests and also that the Masai is going to get assistance from the Government. I saw that very big forest, Mau Narok, and I hope Government will give help to that particular people. Also that Government should provide water boreholes and grazing and, in addition, Government should help the Masai who live in the Kajiado area to get water for their cattle.

Mr. Speaker, I beg to support.

MR. MAXWELL (Trans Nzoia): Mr. Speaker, Sir, it is with some diffidence that I rise to make this, my first speech in this Council.

Many Members have already made reference to very many subjects and I must claim the indulgence of the hon. Members if I make reference to certain points which have already been discussed. I am confident that the majority of other Members have noted with satisfaction the references made by His Excellency the Governor to the irrigation schemes under way and to the trade and technical education to raise the standard of craftsmanship in many spheres of industry. In my opinion, in the final analysis, the whole of the economic structure of this economy is dependent on agriculture, at least for the present, that is, in the absence of any mineral wealth of any importance. Therefore, I consider it is essential that greater attention should be given to the training of Africans in up-to-date farming methods. In this respect I believe the European farmers, backed by Government, could set a lead, at least in one direction. I would like the hon. Members of this Council, particularly those representing farming areas, to give serious thought to the establishment of farming training centres in certain districts where Africans could receive a general and practical farm training to embrace the operating and light maintenance of tractors and implements, milking machines, etc.

In fact, to produce a handyman, the equivalent of a European farm labourer, whose life is not governed by the clock. I know that a great demand exists for such men, men known to possess the skill and the knowledge and who appreciate the dignity of labour and who are

[Mr. Maxwell] prepared to do an honest day's work. I am convinced that most farmers would have little difficulty at the present in recruiting a regiment of clerks or *karanis* and headmen, but, regretably, there are pathetically too few skilled farm labourers available. The vast agricultural possibilities arising out of a practical utilisation of our water resources are in my opinion not, as yet, sufficiently appreciated by the majority of the inhabitants of this Colony. Any observant traveller from here (Kenya) to Europe cannot fail but be impressed by the magnitude of the Nile irrigation schemes, and it is an inspiring and practical example of what can be achieved. The ultimate success, however, of large-scale local irrigation projects will greatly depend on a hard-working, industrious indigenous population. It is my fervent hope that the majority or mass of Africans will learn that they must be prepared to work for many of the things they want, and clamour for. The final results—due largely to their own efforts—will be appreciated by them all the more.

Occasionally, one hears of land hunger—utter nonsense, bearing in mind the vast untouched areas of land offering a challenge and scope for a courageous irrigation policy, coupled with bush-clearing: a policy I am confident that both hon. Members and the Ministers for Agriculture and for Finance and Development will pursue with vigour and determination.

With regard to agricultural stations, Sir, from information that has been passed on to me by farmers, it would appear that there is, at times, a lack of continuity of policy or programmes with regard to field experiments or trials, with the result that few definite or positive conclusions are reached. For instance, many farmers and new settlers would like some advice on the cultivation of, say, maize in their particular district. I appreciate that much valuable information is published in the Department's Annual Reports, but I would like to suggest that pamphlets dealing with specific crops, in a non-scientific language, giving the details of experiments carried out in a particular district would prove invaluable, and these pamphlets should be made readily available, at moderate cost if necessary.

I wish to mention, Sir, that the agricultural station in the Trans-Nzoia is situated on the outskirts of Kitale and, although it is efficiently run, cannot possibly give the answer to many local agricultural problems, bearing in mind the varying climatic and soil conditions of the district. Therefore I would like to suggest to the hon. Minister for Agriculture that sub-stations, at least two, be established at other points, preferably with irrigation facilities. The proposed sub-stations could very well tie up with the proposed farm training centres that I mentioned earlier on. I shall, however, be happy to discuss details with the hon. Minister at a more convenient date.

I conclude, Sir, by supporting the motion so ably proposed by the hon. and gallant Member from that part of Kenya where sanity is linked with altitude. (Applause.)

MR. USHER: Mr. Speaker, Sir, I am not going to indulge in tributes, except in so far as to repair what I think is a slight omission on this side of the Council in issuing congratulations to certain hon. Members who have made maiden speeches, notably the hon. and gracious lady, the acting Member for Mount Kenya, whose experience in other fields fits her for such performance as I know she made. I did not hear her speech, but I have read it—all I can say is—

HON. MEMBERS: The lady is the Member for Aberdare—

MR. USHER:—Aberdare.

The second is the hon. African Representative Member, Mr. arap Chumab, who describes himself as a "new boy" most modestly. I have also read his speech, and I am sure that he will make excellent contributions in this Council. The hon. African Representative Member, Mr. Nzau, whose speech I did hear, and who at any rate will go down in history as the gentleman who advocated a purchase tax on brides. Then there is the hon. Acting Member for Nairobi West and I wish—of course, he has the training that enables him to put across his performances—that he could stay with us for longer.

Lastly, there is the hon. and gracious lady, the Member for Uasin Gishu, whom we shall have the pleasure of hearing again.

[Mr. Usher]

Criticism of the Speech from the Chair indicates, I think, really that it is unrealistic, and it is unrealistic because the Planning Committee is still sitting, and the Government really has not got very much of a programme to give us.

We have been given a prospect of shortage of capital finance. We have also been of some apprehension in regard to ordinary revenue. I would rather like to deal with one point in connection with ordinary revenue to begin with.

If we look at the Exchequer Account, we see that we are about £500,000 down on customs and excise, as compared with the same period last year. That is perhaps not a very useful thing by itself, but it is also the fact that last year by this time we had collected 31 per cent of estimated revenue, whereas this year, we seem to have collected about 22 per cent only of the estimated revenue.

The Exchequer Account does not give a breakdown between customs and excise, and I have heard—I do not know how true it is—that there is a short fall also of excise. If that is so, one would like to know the reason. I see the hon. Minister for Finance shaking his head, but if it is so, it is possibly due to personal economy.

Now, Sir, in regard to the Development Programme, I do not wish to anticipate the debate which will arise upon it, but I understand that the demand for capital finance, something like four times, or five times—three times—the probable supply. I am not suggesting we should go outside for the balance but I am suggesting that possibly we may have to go outside the usual source of our finance to some unavoidable extent. I know that we shall have to pay for it, possibly to pay rather heavily, but on the whole, it may be worth it. There are projects which positively must be proceeded with. In particular, of course, we are faced with the problem of capital finance for local government.

I want to say a word or two about that, because local government authorities not only cannot get at the moment, the finance that they want, but they have to pay a very great deal for it. Their housing programmes are costing them, I fancy, 6½ per cent interest, and other loans, 6 per cent. Well, this, Sir,

means that, of course, in 26 years they will have paid as much in interest as the value of the project. Now it is not for me to suggest how this situation is going to be cured, but I do think to some extent we should relieve the Colony itself of that part of its burden. At present, certain local authorities are making provision out of their savings to create a capital fund, but they want a great deal more that they can do in that way. The Mombasa Municipality has invested a very considerable sum in the Cereals Finance Corporation. I am suggesting that good as this was, it might have done better if there had been some local loans stock to which it could have made a contribution, and it may be possible that all local authorities can have access to some such pool of finance. It may be possible also that this should be supplemented from what Colonel Grogan called stagnant pools of finance which may still exist in this country.

Sir, there is a proper demand—a thoroughly healthy demand—for the increase of local authority with a little "I" and a little "a" in this country, but the suspicion of the man-in-the-street, and I dare say the man-on-the-shamba too, is that he will have to pay for services which were formally rendered by the Central Government; and that he will not enjoy a corresponding decrease in general taxation. That is a criticism which perhaps has a little justification, but I understood that a little time ago, there was going to be clarification through an official committee that was set up to examine the functions of the local Government authorities—vis-à-vis the Central Government. I do not know if it has reported, but I should like that question answered—and to know what was the result of this committee's deliberations.

I was glad to see, Sir, that we are shortly to have hotel legislation. I should be very glad to learn if the Minister could pass the answer on—in what direction that legislation is going, and when we may expect it—because this question has been raised by me—as he knows—quite a number of times in this Council. I must say thank you in advance for it.

I would like to take this opportunity to say that I am glad also that the Government when I moved a Motion in this

[Mr. Usher] Council on the subject, received it with, shall I describe it as mild enthusiasm—it was very mild. I did ask that inducement should be provided for enterprise in this field, and I was answered by the Minister for Finance that anybody wishing to launch forth in this way had only to come to him and he would discuss with him how we could meet his needs.

But, Sir, if I may say so, that is not going to satisfy the San Francisco investor; he sits at his desk with his money which he would like to put in this industry. He says "Where is Kenya?—I've never heard of it". What inducement even if he has heard of it? "What inducement do I get, Sir?" "I don't know." "I'll have to go all that way and talk to a gentleman called Mr. Vasey"—and he is not prepared to do that. He wants to know. We must try to sell our goods to let them know what inducement they are going to have. This is a serious matter, Sir. I have recently been speaking to a friend of mine who has been in correspondence with a man whose name is a household word in this field of enterprise. I am sure his name can be quoted by me: I am talking about Conrad Hilton. Mr. Conrad Hilton wrote the other day, in this letter, about hotels in Kenya. He did not actually say that he did not know Kenya, but he said he was not interested at present, though possibly he might be induced later on to interest himself in this country. But the real point of my story is this: that he has very recently put up a luxury hotel in Istanbul. That is an interesting fact, because Turkey happens to be one of the two or three countries that are offering inducement and publishing the fact.

One other thing about it I do not know quite, how this hotel of ours is getting on at Mombasa. I have seen certain holes in the ground but it does not seem to be going ahead very quickly and I do hope that when it does go up it will be a luxury hotel. The American visitor to our shores does not mind having to pay a great deal more than the three or four dollars a day that is expected of him here. What he wants is service, and good service. I hope that this really will be a luxury hotel.

But, Sir, all this makes me think, as I thought long ago, that what we do need

is a Minister who will deal with information in a much more comprehensive way. I am not at all criticising the Portfolio of the hon. Leader of the Council. His job is to look after the limited scope of information that we have, that is the African Information Services. I will say no more about that for the moment.

A very eloquent plea has been made, Sir, about education, both by the hon. Representative Member, Mr. Mathu, and other African Members. I do sympathise very much with their aspirations, in fact I have supported them in this Council frequently, particularly so far as concerns the children in towns, because it is quite necessary to keep them properly employed and, in the negative way, prevent the spread of juvenile delinquency. I am not quite so sure whether I am so enthusiastic about compulsory education for anybody as I used to be—I think in England we were the pioneers of compulsory education. Certainly it is rife in the land at the moment, but it does not seem to have taught people to live and to employ their leisure, and if universal education out here is merely going to mean a demand for television, rock 'n' roll, football pools and the like, then I do not think it is worth having.

I do not decry the efforts of those people, mostly associated with community development, who are trying to bring a little lightness into the lives of the African, but I sometimes think that this is what Browning used to call "The natural fog of a good man's world". I notice that the expenditure, particularly in local government, by the way, incidentally, from trust funds, is largely connected with beer-halls, dancing places and so on. Well, where are we going?

While on education, I should like to associate myself with what was said by my hon. friend, the Arab Elected Member. The Arab Primary School is really quite a model. It is very well worth a visit and it is enthusiastically supported by the Arab community, and you will see there, I was going to say children of all ages. Quite a number of primary scholars have moustaches and broken voices. I was a little bit worried about the move to teach more of the Arab language.

Well, Sir, a great deal has been said in praise of multi-racialism, whatever that may mean. Now, I mean by multi-racialism something that will

[Mr. Usher] produce some assimilation of thought, some community of objective. As such, it has great virtue, but I am not at all sure that multi-lingualism will do that. I am afraid that if this becomes widespread it will tend to separate the community from the rest of Kenya, rather than bring it closer to other communities. I am very glad that it should be given to those who can profit by it, but I feel as if it is a scholarly pursuit, perhaps not well adapted to the ordinary run of pupils.

Perhaps that might be borne in mind.

In regard to communications on the mainland, I know that my hon. friend, the Member for Nairobi, South, could not resist a word about expenditure on what he called "Mombasa ramps", but I would like to remind him, and the Council, that in the last Development Plan but one, that is to say the first development plan after D.A.R.A., the yellow peril, there was £500,000 provided for communications between Mombasa and the mainland. One day that sum just disappeared, where to I do not know, but I can make a suggestion for its restoration. The opportunity is here and now. I am told that the reconditioning of the Port Reiz Aerodrome will cost a figure approaching £300,000, and what with that and the ramps I think we should be satisfied for the time being, if we can lay hands on that money.

There is a subject that has not been mentioned in the Speech from the Chair, which I should like to introduce now. I thought I say in the newspapers the other day that there was a possibility of our having a census in the following year. I am told, however, that I was wrong about this and that the remark applied to Tanganyika. Well, Sir, it is not impossible. I am told that there should be a census in both countries. How badly we need a census here I think it is very well known to hon. Members, but when I spoke to a member of the Department recently, I understood that so far as the programme was concerned, a census was not to be expected for Kenya until 1959. I feel, Sir, that that is far too long to wait. The census, as you may say, is the basis of a social survey and of that we are in desperate need. Whenever we try to produce an argument we find ourselves short of the kind of figures that a

census, and other information, would provide. If we can have it next year, so much the better, but I would urge the Government to consider this matter and see what they can do about it. I will give one particular reason for it. If we could have a census I think we could get our electoral rolls put in order. It would only need one more question on the paper, probably, and I could think of no better department to undertake a job like that than the Statistics Department. It would be able to help us very much in that direction.

In spite of what has been said, Sir, and as I understand it, by the hon. Member for Kiambu recently, I still should like a careful examination of the possibility of bringing in Hungarian refugees. I do not think, from what I understand the hon. Member to have said in public, that he was referring to quite the sort of immigrant that we require. I am thinking of immigrants who come from the land, who are real farmers, and I imagine that something like 200 or more could be absorbed. I am thinking also that perhaps some of these unfortunate people come from the towns and would have other technical abilities of which we could make use. I know that there would have to be a very careful security check, but I would remind hon. Members in regard to that, that Mr. Holt—quite recently did say that he was willing to put at our disposal his organisation for doing that part of the work.

I see time is getting on, Sir, so I will leave other matters and just come to the last question that I meant to touch on. I should like very much to support what was said by my hon. friend, the Member for the Coast, about politics and our concentration upon them—concentration of some of us upon them—to the exclusion of really serious matters of economic development. I cannot resist saying, Sir, that I hope the hon. Member will take the medicine he has prescribed.

The Royal Commission made a very real point of this. They pointed out that political considerations must influence our development here, but they said that in so far as they do affect it, the economy is likely to suffer. We have been warned of extremism. Those who read *The Times* and the letters in *The Times* will realise that we cannot have it both ways. If people preach extremism here, the inflow

[Mr. Usher] of capital investment will cease. We must make up our minds. We can either have the money or have our political fun, but not both. I shall be two minutes, Sir. May I close with a brief reference to that very great luxury, a speech by the hon. Member, for the Central Area, which I have looked forward to so much, because I always enjoy them—and this not less than any that I have heard already? But, Sir, of course, he and the other charming young people who have come to join us here, no doubt have all the answers. I was, when I was in first, the same, and I constantly had to remind myself of that bit of jungle law, "The jungle is large and the cub he is small, let him think and be still".

I am not, of course, referring to the hon. Member's speech when I say that, but I do notice that he had rather a pat answer to what has been suggested from time to time in this Council, that is that the Lyttelton Plan was a success. This pat answer was this, "Well, if it was a success, why not leave it at that? Why have these E-MWOPs and A-MWOPs?" I quite agree with him. We should not have them, but unfortunately, and here is the reason. The reason is that we are not angels but men, and we are not always ready to put our theories into full practice. We are men and we cannot breathe the empyrean for very long, but I think we are on the right way.

Sir, I beg to support.

ADJOURNMENT

THE SPEAKER (Sir Ferdinand Cavendish-Bentinck): The time has arrived for the interruption of business. Council will adjourn until 2.30 p.m. tomorrow, Wednesday, 21st November.

Council rose at fifteen minutes past Six o'clock.

Wednesday, 21st November, 1956

The Council met at thirty minutes past Two o'clock.

[Mr. Speaker (Sir Ferdinand Cavendish-Bentinck) in the Chair]

PRAYERS

PAPERS LAID

The following Papers were laid on the Table:

Transfer of Powers (Minister for Works) (No. 1) Draft Order, 1956.

Transfer of Powers (Minister for Works) (No. 2) Draft Order, 1956.

(By THE MINISTER FOR WORKS (Mr. Nathoo))

ORAL NOTICE OF MOTION

TRANSFER OF POWERS

THE MINISTER FOR WORKS (Mr. Nathoo): Mr. Speaker, I beg to give notice of the following Motion:

BE IT RESOLVED that the draft Orders cited as the Transfer of Powers (Minister for Works) (No. 1) Order, 1956, and the Transfer of Powers (Minister for Works) (No. 2) Order, 1956, be approved.

ORAL ANSWERS TO QUESTIONS

QUESTION NO. 1

LT.-COL. GHERSIE asked the Minister for Internal Security and Defence to state whether Kenya students studying in the United Kingdom are liable to be called-up for service in the United Kingdom in the event of a general mobilisation or are they permitted to return to Kenya for service in the local Kenya forces.

THE MINISTER FOR INTERNAL SECURITY AND DEFENCE (Mr. Cusack): Under the United Kingdom National Service Acts persons residing in the United Kingdom only for the purpose of attending a course of education are not liable for National Service in the United Kingdom.

QUESTION NO. 3

MR. CROSSKILL asked the Minister for Education, Labour and Lands to state when he intends to publish the report of the Committee on Rural Wages.

THE MINISTER FOR EDUCATION, LABOUR AND LANDS (Mr. Courts): The Report of the Committee on Rural Wages is now being studied by Government, and I hope that it will be published by about the end of the year.

MOTION

THANKS TO HIS EXCELLENCY THE GOVERNOR FOR HIS COMMUNICATION FROM THE CHAIR

(Debate continued from 20th November, 1956)

THE MINISTER FOR LOCAL GOVERNMENT, HEALTH AND HOUSING (Mr. Havelock): Mr. Speaker, there are one or two points that have been raised in the debate concerning my Portfolio, those that were particularly to do with medical problems, the hon. Director of Medical Services has already replied to.

Before I start dealing with the points, I would like, in the usual tradition to congratulate the maiden speakers who have been left out of the rather long list of the hon. Members who have already been brought forward, one in particular is the hon. Nominated Member, Mr. Robinson, whose speech, I suggest, was an extremely good one and very constructive.

Sir, if I may deal now with the points made by the hon. Member for the East Electoral Area, I think the first point that he brought out was with regard to the guarantee for building societies. Government guarantee and local government guarantee so that building societies can lend up to 90 per cent of the value of the property. I gathered that he asked that this condition might well be extended to the Municipality of Mombasa. Well, Sir, when this particular guarantee was entered into, or agreement entered into by the Government, I did state at the time and I think it is right, that that condition should remain, that we should have at least one year's trial period in Nairobi before extending it to other local authority areas.

Now, Sir, I must admit to disappointment that owing to a considerable number of technical matters and technical disagreements between the building societies on the one hand and the City Council on the other, that this scheme has not yet been launched, but I have

to-day found out that at last every technical detail has been settled and the scheme will actually be in being in the very, very near future, in fact in the next few days.

The real dispute which did arise was as to a matter of valuation of the property if and when the owner of that property did not pay his dues, and a decision as to whether or not there should be a foreclosure. At one time it was suggested that a special arbitration should be set up to decide whether there should be a foreclosure or not, but now it has been agreed that myself, the Minister, will arbitrate in this matter and thus save a lot of expense and time.

Sir, I will also give the assurance to the hon. Member that although the condition stands that after one year's run certainly I will try to extend it and Mombasa will be the first place in which I will extend this particular agreement.

The hon. African Representative Member, Sir, Mr. Mathu, mentioned the higher grade housing and I think the hon. African Representative Member, Mr. Gikonyo, said that he had heard a rumour that the Government and the City Council were not proceeding with this scheme which I had outlined before. I would categorically deny that rumour and state that the scheme will be proceeded with. Now, Sir, there will be laid before this Council I hope, in the fairly near future a request for capital money in order that we can go ahead with this scheme and I will go into more detail on that occasion.

The hon. Member, Mr. Mathu, Sir, said that he saw no reason why Africans should not be able to, or rather that this particular housing scheme should not be open to everybody. He saw no reason why we should confine it to Africans, I think that was more or less his point. The point is this, Sir, that some Africans do not wish to live in the areas apart from their own people, although there are large areas in the City districts where they could buy property if they so wished. Some do not want to do so and others, of course, find it very expensive. So it is expensive. The reason, therefore, why we are proceeding on the lines that I have outlined before in this particular estate is that we wish to help the African to establish himself on a higher level and

[The Minister for Local Government, Health and Housing] a higher standard of housing. In fact I hope that the land will be made available at a very reasonable price, whereas to other races it would not be made available at that price. In fact it is racial discrimination in the reverse.

MR. MATIU: We do not want it.

THE MINISTER FOR LOCAL GOVERNMENT, HEALTH AND HOUSING (Mr. Havelock): Also I believe if this scheme was launched and open to everybody, it would be very difficult for the African to obtain accommodation in this area because there is a great shortage of housing for other races and I am quite certain that they would rush in to buy, so I do feel from the point of view of the Africans themselves it will be best to start off the way we are.

I would like to say here and now, Sir, that it is encouraging that a number of employers—big employers—have shown interest in this scheme, and when the plots are surveyed and available, I have every hope that quite a number of employers will buy plots themselves to erect houses of this standard, and I do remind hon. Members that the standard we are aiming at is a house worth in the region of £1,500-£2,000; that quite a number of employers will take up land in this area to build such houses. That, of course, I would welcome very much indeed, as apart from anything else, it would save the Government and the City Council a certain amount of capital.

Now, Sir, the hon. African Representative Member, Mr. Gikonyo, I think, particularly mentioned the delay in the Nairobi housing project, for the rather lower standard houses which I have described in this Council previously, and I would like to say straight away that I am myself extremely disappointed in this delay and the delay is due to a number of points. The first one is that investigations into the design, technique and materials of this particular estate and these houses has taken very much longer than I at first anticipated. That is now cleared, the materials and designs have been pinpointed and we consider that the pumice block, not the pumice slab, design is the cheapest and most efficient, and that, I think, we have proved to our

satisfaction in the particular pilot scheme which I think the hon. Member has already seen.

The second point, Sir, is that this scheme is a joint Government and City Council scheme. £1,000,000 of capital has been put up by the Government and £1,000,000, approximately—approximately on both sides—has been put up by the City Council. That means close consultation between the two bodies on every step taken. It is, of course, just a matter of what one might call the democratic way, if you wish for dictatorship, then give the power to one man and let him get on with it, but do not let us have any grumbles afterwards. But we have not adopted that line, we have adopted the other line of consultation and getting the agreement of the different interested parties at every stage, that takes time, and I am afraid we cannot have it both ways.

Also, the third point is that the City Council themselves have suffered very severely lately with regard to staff—we will not go into details of the reason, but they have—and the estate services for which they are responsible they felt they just could not cope with. At this moment I am in consultation with the City Council that the Government will cope with the services so we can get ahead with the scheme, providing a big proviso—that the City Council indemnify the Government if it makes any loss in that regard.

Another very important point, Sir, is that I myself, who have had a considerable amount to do with the scheme, naturally, had to spend quite a considerable amount of time in the last two months, in what I might call "tiger hunting". The hon. Member, Mr. Gikonyo, may be more sympathetic when he has been through a similar sport, as I have in the last few months. That, too, has led to a certain amount of delay.

I would state straight away, Sir, that I have given a deadline to the officers that the tenders will be out before the 15th December, and, Sir, that is the best that I can offer.

I am afraid it has been rather an apology, but I hope you will recognise that some of the reasons I have put

[The Minister for Local Government, Health and Housing] before you are very important ones and will excuse the delay.

This does not mean that in any way we are going to back-pedal on this scheme and I want to mention one thing, that when the tenders go out, they will not only be for the technique and material such as I have described to you, but contractors will be able to put in their tenders on any type of design which will fall in with the actual specifications.

Now, Sir, the hon. Representative Member, Mr. arap Moi, complained about the lack of activity, one might say, on the part of the City Council on the one hand, and the county councils on the other in African education.

Well, Sir, the City Council is not allowed under the Ordinance to be an education authority and if they were to be so we would have to amend the Ordinance. The point on this, though is that the City Council has spent a considerable amount of money, and does spend a considerable amount of money, on other services for the Africans and the actual urban poll tax, to which, the hon. Member referred, and the actual expenditure on African services: I might give a few figures for hon. Members' interest. The City Council has estimated to spend £104,000 approximately in the next year on services to Africans, as against £79,000, which will be returned to them in the form of fees or Government grants. That leaves a net deficit on which the £11,000 of the African urban poll tax will be used to try to fill the gap. That still leaves a deficit of over £13,000 which the ratepayer of the City will bear.

As hon. Members know, the City Council are active in the way of day nurseries, women's welfare, home industry, social halls and so on, and all these activities cost a considerable amount of money. The £11,000, therefore, which comes from the African urban poll tax is a very small proportion of the expenditure on these services.

As regards the county councils Sir, there is no special allocation of tax to them. They have to bear all their social services themselves. With regard to education, there are certain areas in certain counties where social centres have

been established and there are schools in those centres. There are, too, dispensaries, sports grounds and so on. I know, in fact I have had application made to me and I welcome the spirit behind the application, I know the county councils wish to expand these social centres, with, of course, schools attached. But they have put forward a programme to me with a request for capital moneys to start these things off and all I can say, Sir, is that I do not think there is any possibility that capital moneys will be able to be made available to them in the next three years because of the shortage of capital moneys in this Colony. I do not believe that we will be able to expand, although we wish to do so. It is a very unfortunate thing to have to say, but there it is, we have to face facts.

I would touch quickly on farm schools as well. There are, after all, quite a number of farm schools, I think, under the inspection of my hon. friend, the Minister for Education, and I would point out that if local authorities in the settled areas undertook education of Africans, then, of course, the farmers, who after all are the ratepayers, they are the same people, would not run their own farm schools, they would hand them over to the county councils to run. So, therefore, one could not expect any considerable expansion, because it all comes out of—the expense of this activity—one pocket. So all we can do is to try our best through revenue and any little grant or help that we can make from Government to expand the educational facilities within the county council area will be given. I personally, would like to see it, because there is no doubt that more and more Africans who are now in the settled areas are there for a very considerable time and they are not, as they were before, birds of passage, when they leave their children behind to be educated in the reserves and so on. I quite recognise that difficulty and as far as the policy is concerned I fully support it, but the matter of money of course, is always the limiting factor.

Now, Sir, the hon. Member for Mombasa raised one or two points. I think he said that local authorities pay a lot for their capital. They do not pay more, or certainly not much more, than Government does, for its capital. A very large

[The Minister for Local Government, Health and Housing.]
 amount of money is outstanding, borrowed by local authorities, at 3½ and 4 per cent which, of course, Government loaned to them when money was cheap. Now money is getting more and more expensive and the Government has to pay interest which must be passed on. We just cannot afford to subsidise in this regard, I can assure the hon. Member that with regard to any service fee, the actual percentage charged by the Local Government Loans Authority or the Central Housing Board is very small indeed. The hon. Member also said, that we may be moving towards the situation where services which were originally run by Government are now run by local authorities and the ratepayer is now taking on that burden, and thus relieving the taxpayer. Well, I do not think this is quite true. If any service is undertaken by a local authority which has been performed previously by the Central Government, the Government does pay generous grants—percentage grants—at least to cover and more than cover the actual service which the Government has performed previously. Admittedly, if the service then expands and is expanded, the ratepayer has to pay, but it is up to them to decide whether they wish for a higher standard service or not. If they do, they pay it; if they do not, they do not have it. That, I think, Sir, is really the position and if the hon. Member will go into them and investigate the percentage grants, the structure of those grants, he will find that on the whole the Government is paying quite generously and even paying for expanded services over and above for what the Government itself performed previously.

The hon. Member also mentioned a committee to examine the financial relationship between Central Government and local government. I think that he is slightly confused in this one. There has been a committee sitting and has reported which has examined the relationship between the African district councils and Central Government with regard to finance, and that Committee's report is now being studied by the Government and has been circulated to the provinces for their advice. I hope very much that most of the recommendations of that committee will be able to

be adopted and, if so, I hope that it will take place and actually become part of the structure by the 1st January, 1958. That date is chosen because it is the most convenient one to fit in with the financial year of the African district councils.

If the hon. Member, Sir, for Mombasa has any particular ideas and suggestions that he would wish to make with regard to obtaining further financial loans to finance local authorities I would be only too pleased to discuss it with him, because I can assure him that I am very concerned at the difficulties the Central Government is faced with in finding capital moneys for expansion of local authority activities. It is my view that local authorities must be helped a bit, otherwise, if they stand still they would just wind up, they must continue to develop. I am afraid that the tempo of development will have to be pretty slow in the future because of the very, very stringent lack of capital moneys. Sir, I repeat, if the hon. Member has any ideas on how we can increase the money for local authorities, I will be only too pleased to hear them.

Sir, I beg to support.

THE PARLIAMENTARY SECRETARY TO THE MINISTER FOR FOREST DEVELOPMENT, GAME AND FISHERIES (Sheikh Mohamed Ali Said el Mandry): Mr. Speaker, Sir, I had no intention of speaking in this debate, but after hearing my hon. friend, the Member for Mombasa, saying what he did about Arab education and the Arabic language I thought I should reply briefly to his criticisms.

Frankly, Sir, I did not expect to hear such criticisms from the hon. Member for Mombasa, taking into consideration that he has lived at the coast for many years. I thought he was in a much better position to understand the Arab mind than most people. I think, Sir, his criticisms were unnecessary and uncalled for for the following reasons.

Mr. Speaker, Sir, to an Arab and also to any Muslim for that matter, no system of education is complete without religious instruction, and in order that a child should understand even the simple elements of the Muslim religion, it is necessary that he should be taught Arabic, and in any case, Sir, I cannot see how the teaching of Arabic in Arab

[The Parliamentary Secretary to the Minister for Forest Development, Game and Fisheries.]
 schools can interfere with the development of multi-racialism in this country as suggested by my hon. friend the Member for Mombasa.

It was not suggested, Sir, that Arabic should not be made a compulsory subject in each and every school in the country. All we are asking for is that it should be taught in our own schools not for any political reason, but for religious reasons, as I have already explained. I cannot understand why that should worry my hon. friend, the Member for Mombasa.

Sir, with all due respect to him, I think he has been unnecessarily critical in his remarks and I sincerely hope that he will change his attitude and be more sympathetic towards our aspirations and legitimate demands in future.

Mr. Speaker, Sir, like my hon. friend, the Arab Elected Member, I was also very, very pleased to see that His Excellency the Governor made mention of Arab education in his Speech. The Arabs are now beginning to realise the value of education and it is gratifying to see, Sir, that there is an awakening in the community in that respect. The Arab parents are very anxious that their children, particularly girls, should receive the right kind of education and that includes the teaching of Arabic. I should like to urge Government to give a certain amount of priority to the education of Arab girls. More teachers of good quality should be found and I would go even further, Sir, and suggest that the time has come for Government to give a very serious consideration to the question of starting a secondary school at Mombasa for Arab girls. That, Sir, is very important if Arabs are expected to play their part in the future development of this country.

Finally, Sir, I am very glad to say that the news that the Emergency was coming to an end was received with the greatest interest and satisfaction by my community, and I should like to join hands with the hon. Members of this Council in paying a very warm tribute to the forces of law and order, to the army and to the police and to all those people who helped so much to bring the

country to its present happy position. I hope there will be many years of tranquility and the country will be able to get down to its reconstruction programme more peacefully in the future.

Before I sit down, Sir, I should like also to congratulate my hon. friend, the Mover, for the humorous way he presented his Motion to the Council; I can assure him; Sir, that we from the coast are very proud of him.

With those few words, Sir, I support the Motion. (Applause.)

THE SPEAKER (Sir Ferdinand Cavendish-Bentick): If no other Member wishes to speak—

MR. WADLEY (Nominated Member): Mr. Speaker, Sir, practically every hon. Member who has taken part in this debate has referred to the subject of education, and I would not venture to say anything more on it now if it were not for the fact that there are a number of points on which I feel I should comment as Director of Education.

There is one general matter to which reference was made by my hon. friend, the Minister for Education, yesterday when he referred to the examination results obtained in our schools and quoted them as an example that there cannot be very much wrong with our policy when we get such good results. But, of course, as the hon. and gracious Member for Usin Gishu said yesterday afternoon, the academic side is not the whole of education. There is also the spiritual side, and all those activities which go to build up character, as well, of course, as games and athletics. I venture to say, Sir, that in that field also we have met with no little success. It is not so easy to prove a statement of that kind as it is to prove academic worth by examination results, but I would like to say this: that for the greater part of this year, when I was on overseas leave, I did some 40,000-odd miles in travelling to a great many countries. One of the purposes of my tour was to study educational problems and conditions, and not unnaturally I took particular note of the sort of pupils produced by other educational systems at all levels. I can say this, and I think I am not unduly prejudiced—some 20 years' experience as an inspector of schools has given me a critical and, I think, an impartial eye—I can quite honestly say that

(Mr. Wadley) the children we produce in our schools in Kenya—I refer to the children of all races—compare very favourably indeed with any others I have seen. I think that this is a sure sign that there is not much wrong with our policy and it is a great tribute also to our teachers.

I should like to refer to one or two points which were made on the subject of Arab education, and first of all I should like to confirm and support what was said a few moments ago by the hon. Arab Nominated Member, Sheikh Mohamed Ali Said. I think the hon. Member for Mombasa must have thought that Arabic and Arab history were the only subjects to be taught in Arab schools. I would like to assure him that the curriculum is a very wide one, and the integrating factor, as I see it, is in the teaching of English particularly, because all these schools, as indeed do all the schools of all races in Kenya, aim eventually at having English as the medium of instruction. I really cannot see why the teaching of Arabic and Arab history should not find a place in these schools in the same way as Latin and Greek do in the curriculum of the European secondary schools.

Now, the hon. Arab Representative Member said that he trusted that the Government would mean what it said in regard to Arab education, and would really try to base the curriculum on a foundation of Islamic religion and culture and the teaching of the Arabic language and Arab history. In the first place, Arabic is already taught to pupils for whom Arabic is their home language. I do not say that the teaching is always at the necessarily high level which we require, and the hon. Member is well aware of the difficulties we have had in organising this kind of instruction. I would like to say this, however, and that is that in this field, as in a number of others, I am convinced that we must not hope to rely on staff imported from overseas; we must rely more and more on our own resources and see that we train suitable young men and women, through courses either locally or overseas, to undertake tasks of this kind. I can give him the assurance he asked for, because we have at the moment one Arab student at the London School of Oriental Studies undergoing an honours degree course in

Arabic, including, of course, the study of history, religion and Arabic culture in general. There is another Arab student at Home taking a general degree, including Arabic as one subject. I trust the hon. Member will agree that the prospects for the future are good.

If I may turn to European education for a moment: I would like to answer a question raised by the hon. Member for Mau, who asked whether Government intended to assist the rural day schools in the same way in which it assisted the other private schools. Well, Sir, these rural day schools—there are only two of them at the moment, one at Molo and one at Machakos—are both Government institutions and there is no intention whatever of not continuing them. I trust the hon. Member is satisfied with that answer.

The hon. arap Ghumah said that he was not entirely happy about the education of African children in the settled areas. Well, figures of the African population—up-to-date figures of the African population in the settled areas—are not available to me, but I must say that I cannot help feeling, after reviewing the situation very carefully, that the facilities available to Africans in the settled areas compare not unfavourably with those which exist elsewhere. There are difficulties: it is a scattered population. There are difficulties over the siting of schools, and there are also difficulties over capital funds for buildings. But these difficulties are now being examined, and I hope that something useful will emerge. With regard to teacher-training, there are two colleges training teachers for the Rift Valley with an annual production of a 100 teachers who go quite a long way towards meeting the needs of the province.

The same hon. Member also suggested that far too much land was made available to schools for the purpose of running gardens and farms. I certainly agree that a great deal of land is not needed in a primary school. All that we aim at in the primary school is to grow a few plants and have a small garden so that nature study may be taught, but at the intermediate level, since practical instruction is part of the curriculum, and since agriculture is of such great importance to this country, it seems to me inevitable that a fair amount of land

(Mr. Wadley) should be made available, particularly in the predominantly agricultural areas, for intermediate schools.

If I may turn now to the remarks made by the hon. Mr. Nzau. I should like to say that I noted with some amusement his comments on the education of African women; but I trust that he will agree that, in addition to the advantages which he mentioned, it is important that African women should be educated in order that African education as a whole and the development of the African community as a whole may be properly balanced. I hope he will do his best to encourage a process which has been growing over the past few years whereby parents are sending their daughters to school in increasing numbers. The situation is certainly most encouraging.

The same hon. Member referred to the difficulties of recruiting teacher students, and he thought that there were two reasons for this: one, the rather harsh penalties inflicted on those who departed from the straight and narrow path; and the other, the fact that teachers do not enjoy good leave conditions.

The fact is, Sir, that, save at the top level, there is no difficulty at the moment in securing an adequate intake to African training colleges. At the highest level, that is, at the level where the School Certificate is the qualification required for entry, there is more difficulty because, at this stage, there is an enormous demand for people with that particular qualification. There is bound to be difficulty over recruitment for some years to come until the number of people who qualify at the School Certificate level has increased.

I would like to observe this, too, in regard to the comment that teachers are dismissed sometimes for offences which in other walks of life would pass by without comment, that is really not quite in accordance with the facts. As the hon. Member knows, there recently came into being the African Teachers' Service, which provided for all African teachers, wherever they might be employed, common terms of service and a common code of discipline. The position now is that an African teacher is not dismissed from the profession unless he either commits a professional misdemeanour or is guilty of an offence which in any event

would render him liable to criminal proceedings. I would like to say this: that this code, this disciplinary code, was not imposed on the African teaching profession by an outside body—it was agreed after prolonged consultation between representatives of the African teachers themselves and their employers and the Government. I, for one, could certainly not agree that there should be any relaxation of the present rules and regulations. It is absolutely vital that our teachers should be beyond reproach in their conduct and that any who prove themselves unworthy should be dismissed from the profession.

With regard to the question of leave, it is really strange to hear the sort of criticism that the hon. Member made because the usual comment made in connection with the teaching profession is that they get too many holidays—I must say that that is not a criticism with which I would agree. But the fact again is that any African teacher who is a member of the Teacher's Service is entitled to 42 days' leave per annum, and any other African teacher normally gets the ordinary school holidays. If the hon. Member still considers that there is any real difficulty, I shall be grateful if he will come and see me, and I will endeavour to put it right.

The hon. Member for Uasin Gishu referred to the need for more extensive provision of trade and technical training. There has, of course, been some increase in the last year or two; a new trade school has been started at the Coast at Kwale and if funds become available, other schools will be started in the near future, but the sole responsibility for this should not fall upon the Government. Industry also must play its part, and I hope that it will do so increasingly in the next few years.

The same hon. Member suggested that we had been too academic in our approach to the whole question of education. That criticism is, I think, to some extent, true. At least, it was true until a year or two ago in our secondary schools, where what is now known as the "grammar school" course was the only one given. However, we have, in the last few years, increased the scope—widened the scope—of the secondary curriculum which now provides technical and commercial courses for pupils of all races.

[Mr. Wadley]

I would like to mention, too, that the very valuable work done by the Kabete Technical and Trades School in experimenting with new building materials has brought about a considerable reduction in some cases of the cost of building, and has enabled work to proceed with very great speed on the accelerated plan for African schools in Nairobi.

I should like to assure the same hon. Member in regard to the education of African girls, that it is aimed at turning them out to be good wives and good mothers.

The hon. Mr. arap Mop suggested that a law school should be set up at Makerere or at the Royal Technical College. Well, Sir, there would be enormous difficulties in embarking on such a scheme. There would be difficulties of staff, difficulties of buildings. There would also be a very great difficulty in securing recognition for such a school, and I think, strange as it may seem, that the cost of sending students to such a school would be even higher than sending them to the United Kingdom. Indeed, I really cannot agree that there is a need for such a school at the moment. There are now, in the United Kingdom, 72 students from Kenya studying law. I would have thought that that was a reasonably satisfactory position.

The same hon. Member thought that £250,000 would go a very long way to meet the needs for the development of African education. I really cannot understand how, after the figures quoted by my hon. friend, the Minister for Education, he can say such a thing. I would assure him now, once more, that such a sum would make hardly any impression at all on this enormous problem; when the total quoted by my hon. friend, the Minister was given as £45,000,000, it is obvious that a mere £250,000 would meet something less than 1 per cent of the problem and no more.

The hon. Arab Nominated Member made one point, one further point, in regard to Arab education, on which I feel I should comment. He referred to the enormous interest shown in Arab education in recent years by the community, and mentioned particularly the growing number of girls in Arab schools,

and the need for some provision to be made for secondary education for them. It is true that the number of girls in schools in Mombasa and along the coast has increased enormously in the last two or three years, but as yet, the number suitable for secondary education is very small indeed. My own view is that that need can be met for a few years to come in another institution which already exists in Mombasa, and that the need for a secondary school can therefore be postponed, for, I think, another three or four years at least, though I would assure the hon. Member that we are watching the situation very carefully, and will bear that particular need in mind.

There is one more thing I should like to say, Sir, before I sit down, on the question of African education. I do not think really fundamentally that there is any divergence of view between hon. African Members on the other side of the Council and the Government. We both want the same thing. The only difficulty is to find the money with which to carry it out, and I can assure those hon. Members that we will make the very best use of the money we get. I think it can be fairly said that we have made good use of the money we have had in the past, and they can rely on us to do the same in the future.

Sir, I beg to support.

MR. AWORI (African Representative Member): Mr. Speaker, Sir; just very briefly, I would like to make some comments.

Much of the ground I would like to cover has been covered already by previous speakers. However, before I continue, I would like to say that throughout the whole of this debate, there has been better co-operation than ever we have had in this Council, and I do hope that Members on both sides of the Council are able to keep up to standard, particularly when one remembers some two years ago—there used to be a lot of riffs against each other in this Council. One point I want to stress upon the Minister for Health and Local Government has not been mentioned. But it is a point which does affect the African staff on the district councils. He did mention quite a lot, particularly in reply

[Mr. Awori] to what the African Members raised. Since he has spoken, however, I do hope that maybe his Parliamentary Secretary would be able to give us some information in regard to African terms of service of the African district councils. They are in a quite different category from the civil servants, and particularly in employment, you will find some of the Africans in senior posts all of a sudden being sacked, not due to their own fault, but the reason being that there is not enough money in the African district councils. This has happened in quite a number of African district councils, particularly after they have made up their budget and they find that there is not enough money to be spent on more senior staff.

Well, Sir, if such a policy does continue, it does not give encouragement to responsible Africans to participate in the work of their African district councils, and as it is the policy of the Government to see that the Africans are trained in looking after the affairs of their own people in their own areas, with the continuation of such dissatisfaction, eventually the best Africans will go either to the Central Government or into commercial firms, and will later be found, when the African district councils are not run efficiently, that Africans cannot run such institutions. It is a point, Sir, which I would like Government to look into very seriously so that Africans who work in the African district councils know exactly where they stand. A person might, Sir, be in the African district councils for nine or ten years, and all of a sudden due to scarcity of money, he is sacked, and for him there is no pension, no gratuity. It is a very important matter which I feel should be looked into very carefully. I have already noticed it in my own African District Council, North Nyanza, and I think that such a matter might apply to other African district councils.

The other point, Sir, is the question of African agriculture. I do appreciate what His Excellency did say, that there would be an increase, particularly in coffee, of something like 3,000 acres which will be grown by Africans. Well, Sir, it is a point that the African Members and others on the Unofficial side did raise

from time to time and we are quite happy to see that the Government is now very keen on seeing that African agriculture is enhanced. Not only that, Sir, but I do appreciate, and I suppose that other Members on this side of the Council do, to see that a gentleman who was responsible for a plan called the Swynnerton Plan for African Agriculture is now in this Council, and will be able to give us more advice and particularly when we raise any criticisms affecting this department.

I would have liked, Sir, to say something on the question of the coming African elections, but my friend, Mr. Mathu, put the whole subject very clearly; and the hon. Member, the Minister for African Affairs, did give us some replies to that effect. However, I would like to stress on Government to spend more time and maybe more energy in publicising this matter because, according to the Government statement some time ago, it was visualised that something like 450,000 Africans would be eligible for voting, but now the present figure, when we have got less than two months to go before the close of the year, is most disappointing and particularly in a more enlightened area like Nairobi, when we are given the figures of 170 Africans of all types who have registered. I must say that my area, the two districts of Elgon-Nyanza and North Nyanza, should have the credit of having more Africans registered in comparison with others who have come forward and been registered in other areas of Kenya.

I do hope that since this is going to be the first time for Africans to go to the polls that the whole world will be watching us, and we find it very disappointing when we discover that less than 100,000 Africans have been registered. The whole fault, Sir, does not lie on the Africans alone. I would blame the system which has been introduced and which has made everything so difficult for Africans to go to register as voters.

The speech over the radio made by the hon. Chief Native Commissioner did remove a lot of the fears from the African mind and quite a good number of them have come forward since then. Also, the African Members on this side of the Council have made a promise to

(Mr. Awori) Government and said that they are prepared to be used in any way for spreading the truth to the Africans on these lines.

Now, Sir, I come to one point which I did raise when you yourself were on the other side of the Council as the Minister for Agriculture—this is to do with the African cotton growers. I do feel, Sir, that the time has come when the African cotton growers both in Nyanza and the Coast Provinces should be encouraged not only to grow more cotton, but they should be able to participate in the cotton industry as it is done in Tanganyika and Uganda.

The first step that could be done would be for Government to acquire one ginnery in the Coast Province and one ginnery in Nyanza Province on a co-operation basis so that the African cotton growers will not believe that they are only growers but were participating in the ginning of cotton at the same time. It is a point which people from my own area who grow cotton have raised from time to time when I visit them and I do feel that there is a justifiable case for them to be allowed to participate in cotton ginning.

This has increased the acreage in both Tanganyika and Uganda since the African who grows knows that he will be able to get a better income if he has got anything to do with the ginning, and this will be done with the support and help of Government by affording good technicians of all races—Asians and Europeans—to assist Africans on that line.

A few small points, Sir, before I sit down. First, I would like to support the views expressed by my friend, the Member for the Coast, and who was supported by the Acting Member, the gracious lady from Aberdare, about sweepstakes and lotteries. I do feel that the time has come when State lotteries should be introduced into this country. My main reason for saying that is whatever excuse which might be given, that a lot of money from this country goes outside, either to Ireland, to Malta or to Rhodesia for that matter and so we are not going to lose anything.

In Rhodesia, only a short while ago, the Government got something like

£636,000 from the lotteries alone. Now, the money from these lotteries would be able to help, particularly with things which we are asking for, like compulsory African education, like hospitals, and so it is a thing which Government should reconsider and see if that could be arranged.

On the question of education, Sir, much has been said about it and I do not like to say more except to emphasise and to support the previous speakers on this side of the Council on the matter. Just now, the hon. the Director of Education has told the Council that 72 people from Kenya are studying law in Britain. Well, Sir, we do not want to have this country full of lawyers. I know very well that in Nigeria, say in Lagos, there are some 200 African lawyers and not many of them have got much practice at all. Some of them have taken up jobs as bus drivers, for that matter, because they cannot make law a paying practice.

However, the reason why we would like Africans to take law is not because we want them to be lawyers, but if they know law they will be able to be better acquainted with the administrative work and other work which demands a knowledge of law. Even when we have the figure of 72 people studying law I would be able to challenge my friend, the hon. Director of Education, that less than a dozen of those are African.

MR. WADLEY: It is 12 exactly.

MR. AWORI: Well, Sir, we are not going to fill this country with many African lawyers at all. At the present time out of all those in the country there is only one in his own private practice and less than four in the Government.

We should like Africans to take law so that they would be better acquainted with the Government machinery in the Administration as district officers and as administrative officers. Therefore, this country, as far as the African is concerned, would be much more satisfied if we could have more Africans able to study law besides administration. For that matter, Sir, I would like to add that whenever Africans go to Britain on a Government bursary or scholarship they are discouraged even to take public administration at Torquay—where you find the majority of Africans taking

(Mr. Awori) public administration from other countries—and I know that if they did they would be better fitted to come and serve this country in the Civil Service, as those from the West Indies and West Africa. I only got this fact the other day from a gentleman who returned from Britain less than two months ago.

I do agree that Africans who go to Britain are more encouraged to take education—which is a good thing—and we would like as many as possible to do that, but I do not think it will help us very much if we send so many of them to go and get honours in mathematics and so on. I do not think it will be of very much use to us in that sphere.

A point which was raised by the hon. and gracious lady from Nyanza, and I do support it entirely, is that of the tsetse fly areas in Central Nyanza and which, if cleared, would be able to remove the congestion from other areas such as Maragoli, North Nyanza and Uyoa, but there is one fear in that line, particularly with this question of land consolidation because from an African's point of view it would be very difficult in an area such as Sakwa, Uyoa or Samia to consent to people from Maragoli to go and settle there.

What I saw a few years ago, in an area adjacent to mine was that the Government did a lot of clearing and by then most of the people had moved to Uganda. However, as soon as the Kenya Government had cleared the area of tsetse fly they all rushed back and they found some people who were not supposed to be in that land at all and so land suits started until eventually the rightful owners had to occupy the land.

I know that in areas where there is a congestion of people of, say, 1,000 persons per square mile, as in Maragoli, they will only find land consolidation difficult from time to time.

Before I sit down, Sir, I would like, like other hon. Members, to pay tribute to the work which has been done by the military and the police and the Kenya Police Reserve who, throughout the Emergency, did such wonderful work and to such a great extent to end the Emergency, but everybody now in the country is anxious to know when Govern-

ment will make a definite statement as to when the Emergency will end.

I think, in particular, that Government could help us by gradually removing many of the restrictions which have been apparently due to the Emergency, particularly in Central Province, as far as African trade is concerned. Most of the shops have been closed and most of the African lorry owners and bus owners should be allowed now to operate, especially if it is proved that they are no risk to starting another trouble such as we have faced.

MR. SPEAKER, with those words I support the Motion.

THE SPEAKER (Sir Ferdinand Cavendish-Bentick): If no other hon. Member wishes to speak I shall ask the hon. Member to reply.

THE MINISTER FOR WORKS (Mr. Nathoo): MR. SPEAKER, Sir, I rise to support the Motion and deal with some of the questions which have been raised by the hon. Members opposite in connection with roads and other matters which fall under my Portfolio.

Sir, the hon. Arab Elected Member raised the question of the permanent road to Lamu. The hon. Member is fully aware of the fact that a great deal of this road runs through very low land which with the rains and quite a long time after the rains remains under water. Unless we are prepared to spend large sums of money to bring it to an all-weather standard, I am afraid little can be done. Government has looked into the possibility and the Road Authority has gone into the question of seeing whether it is possible to do something to make that road an all-weather road throughout the year, but we have come to the conclusion, I am afraid, that apart from doing some betterment and making the road of a standard which will be usable during about eight months of the year, it is felt that more expenditure would not be justified, even though it might to a certain extent increase a little production in that area.

The hon. Member also raised the question of the Takauku Causeway when he suggested that something ought to be done in that direction. The position is done in that direction. The position is that Takauku is in a position on the way from Mt. Wapa to Kilifi and it is felt

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that the road from Mtwapa has three alternatives. One is round the head of Kilifi Creek over the bridge, the other is on the improved line over the improved Kilifi Ferry and the third is over the causeway at Takaungu. It seems to me from the information we have at our disposal, and the Road Authority is of the opinion, that it is more likely that the route taken will be round the head to Kilifi and it would not be justified in spending any more money in the direction which the hon. Arab Member wants to do. The consensus of opinion from other Members at the coast and the Coast Development Committee is that they favour this route "A" which, as I say, runs over the Kilifi Creek and for that reason I regret that very little can be done about it.

The hon. and gracious Member for Nyanza, Sir, raised the question of the Manzoni Report. I would like to tell her, Sir, that the report is under consideration by the Government, but it has such a far-reaching effect, both regarding policy and the cost that no decision can be taken until the matter is gone into extensively. At the moment, Sir, it is under consideration and I can assure the hon. Member that the very first opportunity will be taken to lay the report in the Council with the White Paper about the Government policy. However, I would like to say, Sir, that there is likelihood of a little delay because, as I said, it involves a great amount of expenditure and a complete reversal of the policy which has been followed in this country so far.

The hon. Member for the Mau, Sir, referred to the question of roads and mentioned that in Tanganyika, particularly, a large number of roads had been built on a very low specification and that the cost to the Government was much less than what it is in this country. He also mentioned, Sir, that a very low-specification road was built by the Nakuru County Council costing about—I believe he said—16,000 a mile. The hon. Member will be interested to know, Sir, that the Road Authority in Kenya designed this road to Nakuru—I mean in the Nakuru area—with this low specification simply on account of the fact that it is a road which is not of such a dense traffic.

Now, Sir, the hon. Member is under the impression that the Tanganyika Government has done something which we stubbornly and obstinately refused to do. I would like to assure him, Sir, that what the Tanganyika Government has done, if we can learn from them we are quite ready to do so, but I will tell him this that after a period of eight years the Tanganyika Government has found that the low specification which they used on the bitumen road is a policy which is not economic in the long run, and they have decided to go back on that and I will quote one or two passages from their recent report on the roads. Here is an extract from the road report of the Tanganyika Government and I think if the hon. Member has not got a copy I can let him have a look at the whole thing.

For that purpose of debate, Sir, I will only quote one of the passages there and it says: "It is not believed that there is a need for high standard bituminous roads, except in townships or on certain difficult stretches of trunk roads for a number of years to come. It is Government's policy to concentrate by and large on providing well formed and drained gravel roads capable of being brought up to bituminous standards when the traffic warrants it."

It has been felt, Sir, and it has also been shown that the cost of maintaining low-specification bituminous roads is so heavy that Government has given up that policy of bituminising any more roads, and they are concentrating on gravel. As far as we are concerned, Sir, from the indications which we have of the moneys which are going to be available to the Road Authority, I would like to say that there is very little likelihood of our having very many bituminous roads in the country for many years to come.

We have, Sir, the provision of £25,000 in our Estimates to experiment with what we call the spraying of these roads with a very thin bituminous surface and we shall await the results of these experiments. However, it has been proved that where heavy traffic is taking place the low-specification bituminous roads crack up very soon and then the results are terrible. As you know, Sir, on the Thika Road particularly, in spite of the fact

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that it was built on a very good specification, the traffic has increased so heavily that at the moment it is, I think, one of the worst roads as far as the safety of the motorist is concerned.

The Nakuru road, Sir, was built at an enormous cost and after about only 14 years we find that large stretches of this road will have to be repaired and reinforced at an expense which will run almost to the cost of building a new road per mile. For that reason, Sir, I think that until such time as the country can afford vast sums of money which are provided either by minerals being found in this country or by some *bonanza* we may come across in other parts of the world, or by the schemes of my hon. friend the Minister for Agriculture by which he can provide millions of pounds so that this could be made available for roads, I am afraid we shall have to be satisfied with the roads we have at the moment. I think, Sir, the Road Authority's policy is that we must try to build our roads to a standard where they will be passable through all weathers all over the country. That, Sir, in my opinion, is the only solution to the problem for the Government and we must see that our policy should be that we should provide our production areas with suitable roads.

The hon. Member for Mau also asked whether I had been to Tanganyika to see what they had been doing. I would like to assure him, Sir, that arising out of the last debate which, I believe, was a few months ago—in June, I think—we made arrangements to go over to have a look at some of their roads, but due to the Royal visit this visit was cancelled. However, the Chairman of the Road Authority and myself hope to visit Tanganyika before the end of the year to go and look at some of the roads which they have been building and also to see what they have done in the way of new roads, both bitumen and the high standard gravel roads.

There is another question, Sir, which affects the question of roads and that is the use of roads by heavy vehicles, which we have been noticing during the last year or two. It has been noticed, Sir, that lorries of 15 and even 20 tons, loaded, tear across the main roads from Mombasa to Nairobi, and also from Nairobi to Eldoret and Kisumu. Now, Sir, some

people say that there is a marked lack of co-ordination between the Road Authority and the Transport Licensing Board to see that these heavy vehicles are prevented from using the roads. I would like to say this, Sir, that from the statistics which we have at our disposal we find that a large amount of our revenue, both from licences and in petrol tax, is derived from these heavy lorries which use the roads and, Sir, if by a stroke of the pen these lorries were prevented from using the roads a serious drop would result in the revenues of the Road Authority and it would almost become a vicious circle, and we should not have enough money to maintain any other roads from these moneys.

Now, this question is being considered by Government with the Road Authority and the Transport Licensing Board and we do not want to involve ourselves in this question of competition of the lorries with the Railways but our policy is to see that, as far as possible, these heavy trucks should be confined to the main roads, ensuring at the same time that the proportion of the revenue which is derived is justified to allow them to do so. To that extent, Sir, we can take action.

As regards these lorries using the subsidiary roads, we are going into the question to see that even in the dry weather these lorries should not be allowed to go on these roads and that there should be a restriction on the tonnages. However, I would like to assure the hon. Member for Mau, and the Council, that we are going into this question and we shall take what action is necessary in light of the information at our disposal.

There is also, Sir, an impression in some quarters that quite a lot of good work is done by the Road Authority engineers and that a lot of rotten and bad work is done by the P.W.D. Now, I would like to say for their information, Sir, that they are forgetting that the engineers of the P.W.D. and the Road Authority are one and the same people. The task of the P.W.D. is to provide the engineers for the Road Authority and they go under the vote of the Road Authority. If some people are of the opinion that there are some engineers who are employed by the Public Works

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Department who are not much use and that some of the engineers of the Road Authority are the "cat's whiskers", well then the only thing I can say is that they are the same persons in different guise and—as all human beings—some of their work is good and some of their work is bad and we must make allowances.

I am coming to the question of ramps, Sir, when I deal with one or two questions which the hon. Member for Mombasa raised in connection with the island communications. The hon. Member for Mombasa, Sir, suggested that there was a provision of £500,000 in the Estimates of about two years ago which had to be used for improving communications on the island. I would like to mention for the hon. Member's information, Sir, we had also about £8,000,000 of surplus money in our kitty which we thought at some time or another we would be using for purposes such as this, but the Emergency came down and at the moment we are in a position where I think we have to go and look for every penny we want for whatever expenditure, however necessary.

I do not think, Sir, there is any possibility of providing Mombasa with this £500,000 which used to be in the Estimates, but I would like to assure the hon. Member that the matter of the Likoni Ferry on one side is now coming to a finalisation and I am sure that he is fully aware of the fact because he is a member of the Coast Development Committee. Government hopes that by a certain amount of expenditure on ramps from our side and the ferries from the private companies' side that the services will be very much improved, and be such that will give satisfaction to the Mombasa residents. In that connection, Sir, I am very glad to say that in the past the Mombasa Municipal Port was not very anxious to take much responsibility in this direction but they are now seeing that unless they do so they will not be able to get a satisfactory ferry service and agreement has been reached between the Ministries of Local Government, the local authority and the Government whereby it is possible, Sir, that within the very near future we shall be able to provide a very satisfactory service at Likoni.

On the other side, concerning the Mtwapa Ferry, negotiations are going on and I think we are nearing a conclusion in the experiments which the private companies are making of putting up a bridge over the Mtwapa Ferry, and we are hoping, Sir, that very soon agreement will be reached whereby this portion also will come under the line which will give satisfaction to the Mombasa traffic in that direction.

The hon. Member for Mombasa, Sir, also raised one of the questions about hotels. As far as the hotel at Mombasa is concerned, I am surprised to see, Sir, that the hon. Member has not noticed that work has been going on in this hotel and it is hoped that the first phase of the scheme will be ready by the end of 1957. The people who run this hotel, or who are interested in this hotel, are anxious to see that it is put up to a very high standard and run as a luxury hotel.

As regards the remarks of hotels being put up in other parts of the world—and I think he mentioned Istanbul—Sir, by some American interests, I would like to say this, Sir, that at the beginning of the year when I was in Cairo—I would like to assure the Council that there was nothing sinister or political about my visit—I noticed that the Hilton Group is putting up what they call the Hilton Nile Hotel just near the Semiramis Hotel which is on the River Nile. I made enquiries and I find, Sir, that not only in Cairo and Istanbul but in other capitals of the world, wherever this Hilton Group has gone, generally the policy is that they get the Government or the people of that country to put up money and they only advise them how to spend that money and how to put up hotels.

Now, Sir, if we had the money here, I am sure that more than one source would be quite ready to give all the advice and assistance we want in putting up hotels. As regards his crack at the Minister for Finance, as to whether the American people will come here to talk about hotel finance, I would like to say, Sir, in this connection, that if it had not been for the great assistance the Minister for Finance gave to this private group of people who are putting up the Mombasa Hotel in obtaining finances from the Colonial Development Corporation, the

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efforts of this company would have been frustrated and we should not have been able to have the hotel at all. I have not the slightest doubt, Sir, that even although the Minister for Finance is not going out to America each year, like he does to England, that he is fully aware of the country's needs and he does not lose any opportunity of obtaining finance from whatever sources possible, to see that our development goes on.

Sir, I think those are most of the points which have been raised by the hon. Members in connection with the roads and I beg to support.

THE MINISTER FOR LEGAL AFFAIRS (Mr. Griffith-Jones): Mr. Speaker, Sir, I had thought that when it came to my turn to speak in this debate I might lay what I might describe as the "maiden bog". A number of hon. Members have spoken earlier and have been at pains to repair omissions on the part of their predecessors to congratulate individual constituent members of our bevy of maidens. Each one, I think, however, has himself been guilty of some omission and I should merely like to say, Mr. Speaker, on behalf of this side of the Council that we feel that the standard of speeches—of maiden speeches—which have been made in this House during this debate have been extremely high and to congratulate all our maidens, not forgetting our own proprietary maidens on this side of the Council. I must say, Sir, while on the subject, that we have encountered one or two odd types of maidens. We have the phenomenon of the maternal maiden from the Usain Gishu and of the second-hand maiden from the Central Area—the latter, perhaps, a less uncommon variety. I am disappointed that one maiden, in whom I have a particular interest, and whom, possibly, I might have described affectionately, together with the hon. Member for the Central Area and the hon. Acting Member for Nairobi West, not so much as maidens but as hoary old professionals. Unfortunately, one of these three, in an attack of some shyness or other form of timidity, has resolutely kept his seat. He has therefore lost the inestimable advantage of putting any points to me!

Now, Sir, dealing with various points which have been made in the course of

the debate, on matters which are primarily my concern, I come first to my hon. and learned friend, the Member for the Central Area, and, before I go on to what I might describe as the professional part of his speech, I should just like to disabuse his mind on two points which he made in his speech. He said, first of all, that he did not find in His Excellency's Speech from the Chair a single sentence which shows the confidence which Government should have in themselves before they come to the Unofficial Members for support. Now, Sir, let me assure him, most emphatically, that we in the Government have every confidence in ourselves; we perhaps have not that facility or, may I say, enthusiasm, for blowing our own trumpet as have some of our friends not on this side of the Council. We would like, perhaps, to put the matter, as my hon. friend for the Mau did, as one of "modest satisfaction" founded on achievement over the period of two and a half years, during which the Lyttelton form of Government has been directing the affairs of this country—solid achievement which is there for anyone to see who is not too blind to see it.

Secondly, the hon. gentleman criticised, as I understand it, the Government for not introducing proposals for constitutional advance in this Council. Well, as he knows, the Lyttelton Agreement—of which, I think, he is somewhat cynically critical—is nevertheless an agreement, and it does inhibit all parties to it from modifications and changes, save with unanimous agreement.

Now, passing to the points which he made on matters of law, he referred to the legislation governing the issue of individual titles in the African areas following the physical consolidation of holdings, and he suggested that that legislation should have been introduced already. I think that on reflection he will agree with me that that feature of land consolidation is fraught with the greatest complexity and, indeed, with the greatest danger that we may set out on the wrong road. There are in the project, which involves the superimposition, and attempted assimilation with native concepts of tenure, of a concept of modern jurisprudence, implications which are very wide and very far-reaching. There are a great many matters, Mr. Speaker,

[The Minister for Legal Affairs] with which we have got to deal in this legislation, matters not merely concerning the issue of tides; we have got to decide from what source and origin those tides are to flow; what type of tides they are to be; what is to be the impact of this form—the introduction of this new form of individual tenure—this injection into tribal concepts of communal tenure—what are going to be the repercussions on matters such as succession because we must remember that one of the purposes of land consolidation and the issue of individual titles is to get away from the pattern of fragmentation which has arisen in the African areas by reason of the African concept of succession.

We have got to consider negotiability of titles, the transferability of titles, safeguards, and all sorts of other matters such as insolvency, bankruptcy, foreclosure, etc. It is, as I say, a matter of the most formidable complexity, necessitating the very widest possible research and the most careful consideration before we embark on a course from which there will be no going back, once we set out on it.

We have introduced, as he will be aware, certain interim safeguards in relation, for instance, to land suits to hold the situation following the physical consolidation of holdings on the land, and the identification of consolidated holdings by way of definition of boundaries and the like, I think, again, that on reflection he will be perhaps disposed to agree that this is a matter in which we must go carefully and gradually and not take too great a risk of making mistakes.

I entirely agree with him, Mr. Speaker, that the Indian Transfer of Property Act needs to be replaced by local legislation. It is, as he appreciates, I am sure, and as my hon. friend, the Acting Member for Nairobi West, appreciates, a very great undertaking and one for which we shall undoubtedly have to have a commission and, I may say, it is a matter which I propose to bring before the Statute Law Revision Committee when that body is fully functioning, to consider not only how we should go about this enquiry but also whom we might best recruit to conduct it. It will be, of course, a highly specialised enquiry and

will be one which will take probably a number of years.

In the meantime, about a year ago, I was requested by the Member for Aberdare, acting on behalf of the European Elected Members' Association, I think, or the whole body of Elected Members, with, as I understood it, the support of the Law Society, to consider the introduction of certain interim amendments to the Transfer of Property Act, including an amendment to section 69 which the hon. Member mentioned.

Now, that project was undertaken with, if I may say so, extreme rapidity. The letter which I received was dated 25th November and on 30th December the amending Bill and three other amending Bills involving consequential and related amendments, were despatched to the Law Society and to the Member for Aberdare for consideration. Those Bills were also despatched to the Mombasa Law Society for consideration.

During the months of January and February this year there was a certain amount of correspondence on points arising, as he will agree that this is again a highly technical subject, and, finally, nothing further was heard after March this year until about three weeks ago when the suggestion was made to me by the Law Society that the whole Act needed to be replaced, which was, if I may say so without disrespect to the Law Society, a glimpse of the obvious and where we came in.

However, I propose to proceed with those Bills and to let them be debated and to enjoy the assistance of my hon. and learned friends in regard to them, because I do not think that it is sensible to blink at the realities of the difficulty in replacing the whole of this Act—in effect the whole of our property law—which is bound to take a very long time.

I am grateful to him for his reference to a precedent in Uganda of possible assistance, which, he will appreciate, will have to be a matter for the Commission to consider in due course.

As regards the Indian Contract Act, the general consensus of professional opinion in this country which I and my officers have canvassed, is that it would be generally to the advantage of this

[The Minister for Legal Affairs] country, not only of course in relation to the legal profession but also in relation to the commercial and industrial world, if we were to move substantially towards the English law of contract, and I think that that is likely to be the nature of the advance which will be presented to this Council for debate in the form of a Bill in the relatively near future.

As regards the Indian Evidence Act, I entirely agree with my hon. friend that it is a remarkably fine statute. It is, I think I am right in saying, just about the only attempt which has ever been made at the codification of the English law of evidence, because it was, of course, substantially, a codification of the English law which was compiled by very crude English lawyers.

My purpose in presenting an Evidence Bill, as I shall fairly shortly, to this Council, is not to throw overboard the Indian Evidence Act but to re-enact it substantially in the form of an Ordinance

of your own. I think the time has come—and I am sure the Council will agree with me—when this Colony is growing up and should no longer rely on referred legislation more than is necessary. In regard to the Indian Evidence Act—or rather its re-enactment in the form of an Ordinance—it is my purpose to consider those few features of that Act which represent a departure from English law. In so far as the Act reflects English law it will be re-enacted in our Ordinance; the only differences will flow from possible reversion to English law in those few features in which the Act departs from English law.

The hon. Member also requested me to consider the replacement of the Hindu Marriage, Divorce and Succession Ordinance of the Colony by a more up-to-date statute founded on the recent Act passed in India. I shall be very happy to do that, Mr. Speaker. I shall want the hon. Member, of course, to assure me that this is not merely a professional idea of his own but is one which stems from his whole community, and I shall, with hesitation in calling upon him to assist in this project in any way possible, I am grateful to him for letting me have a copy of the Indian Act in question.

On the matter of Statute Law Revision, it is not my intention to introduce a Bill setting up the Statute Law Revision

Committee. It must necessarily be an advisory committee because, of course, the decisions on policy in regard to statute-law revision, as in regard to other legislation, must rest with Government, but the idea is to have available to the Attorney-General the wealth of experience and talent available, both in the profession and the judiciary, in his function of advising the Government as to the measures, the pace of advance et cetera of law reform and statute-law reform generally. It is not a matter—and here I profoundly disagree with my hon. friend—for one man, still less for the unfortunate Solicitor-General whose multifarious other functions added to this would leave him with rather more than 24 hours a day to occupy himself.

I have still got, I fear, some more to say, Mr. Speaker.

THE SPEAKER (Sir Ferdinand Cavendish-Bentick): I think this might be a convenient time then to take the customary quarter of an hour break. Council will suspend business for fifteen minutes.

Council suspended business at twenty minutes past Four o'clock and resumed at thirty-five minutes past Four o'clock.

THE MINISTER FOR LEGAL AFFAIRS (Mr. Griffith-Jones): Passing, Mr. Speaker, from the Central Area to Ukamba, The hon. Member for that constituency in referring to poaching of game, said, "Could it be perhaps that our law is too complicated in so far as the poacher and receiver is concerned?" Well, I do not think, Mr. Speaker, that our difficulty lies there. You will remember that in 1953 we in this Council introduced an amendment of the Wild Animals Protection Ordinance, by which we reversed the onus of proof of innocent possession of game, game trophies, game meat, etc., and placed that onus fairly and squarely on the accused. Well, there is not very much more, in fact I do not think there is anything more one can do to make the law more easily applicable. Basically I think the problem is one of detection, though if in given cases it should be thought by the game authorities that punishments meted out by the courts are inadequate, it is always open to those authorities to refer the matter to my Department, and I can in appropriate cases take action to ensure that the gravity of the particular offence is represented to the courts on

[The Minister for Legal Affairs] future occasions. There is, moreover, the revisionary jurisdiction of the Supreme Court over the orders, including the sentences, of subordinate courts, where the latter are found to be manifestly inadequate or of an inappropriate nature.

The hon. Member for Mau in welcoming our programme of law reform asked if it would be possible to indicate in a Bill, when it is published, that it has been considered by the Statute Law Revision Committee. I do not think that is probably necessary, or indeed the correct way to go about it. Already Bills which are prepared in my chambers—and in case anyone should be under any misapprehension, that is, all Bills—are referred to the Law Society for comment, and unless it should be that the judiciary are not in any way concerned in the subject matter. I do also take the opportunity of seeking the most valuable advice and comments of the Chief Justice, and, where appropriate, of the President of the Court of Appeal.

The function of the Statute Law Revision Committee will be more to decide on what advice should be given to the Attorney-General and, through him, to the Government in regard to the nature of reform measures which should be adopted and the priorities, etc., and not to consider and to concern itself with the detail of either drafting or the content of such Bills, but the hon. Member may be assured that these Bills are referred to the Law Society, which has recently, at my request, set up a number of standing committees of advocates experienced in various branches of the law, to which I can refer proposed draft legislation for the assistance of their comments. These standing committees are, therefore, available at any time. We have been in the habit for some time past now, of referring draft legislation to the Law Society, but it has always taken rather a long time to obtain their comments, since the council of the society only meets once a month, and if it receives a Bill just after one meeting, it may be the better part of a month before it is brought up in the general council of the society the following month. There is then, possibly, the appointment of a sub-committee to consider it. That committee sits; if it does not report in time for the next meeting

the month after, it is yet a further month before its report is received by the general council of the Law Society, and some time later when it is communicated to me. By substituting, therefore, these standing legislative committees, this whole process should be considerably expedited.

Now, Sir, the hon. Member for Nairobi West. He made a number of constructive and helpful points, if I may be permitted to say so, and I will deal with them in turn as he made them. He suggested that if, in our legislation, we followed United Kingdom statutes, we should be careful to follow the wording of those statutes exactly, rather than approximately, so that we can then have the benefit of the assistance of English case law—judicial decisions. I entirely agree with him, but, of course, it is not always practicable in the sense that an imported statute, even from the United Kingdom, will not always precisely meet our own local needs and circumstances without some modification. I do assure him, however, that it is never lightly that we meddle with the wording of a United Kingdom statute adopted as a precedent or model for our own legislation here.

The hon. Member was kind enough to make some congratulatory reference to myself in respect of the start which we have made on law reform. There was, perhaps, a sting in the tail, when he suggested that we should have done so a long time ago. Well, I should like to make it quite clear—and I do not think it is always appreciated either in this Council or by the public at large—that however keen we may be—and I, personally, have always been, extremely keen—that we should bring our law up to date and in conformity with the thought and advance of modern jurisprudence, there has been, in the last four years at any rate, in this Colony the most monumental out-turn of legislation. I do not know if hon. Members realise that not only are the Bills—and in fact every Ordinance which this Council has passed in those four years has been drafted in my Chambers, but also the whole bulk of subordinate legislation throughout that period—for the benefit of the law members I mean the stuff that is contained in the annual volumes of what is called the *Proclamations, Rules*

[The Minister for Legal Affairs] and Regulations—and over and above all this there has been the vast bulk of Emergency legislation. Now that volume of legislation has been turned out by a staff of draftsmen which consisted of one man at the commencement of the Emergency, was increased to two in 1953, and is now four; and I propose as soon as possible to increase it to five, because the legislative programme—the legislation which we should desirably introduce—would, in my view, keep a body of draftsmen of ten or a dozen fully occupied for a number of years to come. Not so very long ago I read, in an Australian Government publication, that Parliamentary drafting counsel in Australia number 13, that is to say in the Federal Government, and I have every reason to believe that their annual out-turn is but a fraction of the annual out-turn of the Legal Department during the last four years. So I do ask hon. Members to realise that if we are late from their point of view, and indeed from my own point of view, in embarking on law reform, it has not been from want of any desire to do so or from want of any recognition of its necessity, but it has just been that we have had to deal with matters of priority first, and they have at times threatened to inundate us.

I warmly sympathise with the hon. Member in his remarks about the "Statutes of General Application", as I think every practising member of the profession in this country would do. That is a matter which, I can assure him, I shall place before the Statute Law Revision Committee in due course to take its very importance place in the considerations of that committee of future measures of reform.

I do not think there is anything very much else that calls for a reply from me. Mr. Speaker, but if I may digress for a moment to mention a point raised, or a fact stated, by the hon. and gracious lady for the Uasin Gishu, I would remind you, Sir, that she told us that she had read Standing Orders. Now that, if I may presume to say so, is a highly commendable undertaking. Perhaps it is one, Mr. Speaker—and I feel that perhaps you may share my sentiments in this regard—it is an undertaking which other Members of rather more ancient stand-

ing in this Council might with advantage also embark on.

I beg to support.

MR. NAZARETI (Western Electoral Area): Mr. Speaker, Sir, I rise to support the Motion; but being one of those maidens, although I rise somewhat late, I do so with a reserve and hesitation proper to maidens. I am not in the position of the hon. and learned Member for the Central Area, who perhaps experiencing a second maidenhood, has unabashed and seasoned as he is, been able to reject the advances that have been made in the Communication from the Chair.

I give my support to this Motion and I rise somewhat late in this debate; because—although I must confess I suffer from timidity and hesitation—our strength in this Council is so small that we are compelled to distribute ourselves and so I have remained towards the end of this debate.

I have not felt reluctant to come forward at this late stage because there is not much that I was going to say in criticism of the Minister for Legal Affairs. I intended to congratulate him on the good work he has done. I share some of the disappointment expressed by the Member for the Coast who felt that the Government had missed an opportunity to sound a clarion call. Perhaps that Member has cried "Woi!" too often, and is not taken very seriously when he asks for a clarion call.

On this occasion, seeing that the opening of this Council coincides with an announcement that the military will be handing over to civilian police, one feels that it was an occasion when a somewhat more adventurous policy might have been announced by the Government. On the whole, the policy that has been announced, though I must say it is somewhat pedestrian, is one that contains many good features. One of those that I welcome is the policy regarding detainees. I have some misgivings in regard to the policy as to those who are called irreconcilables. I notice that, while the others are going to be kept in family conditions, nothing is said about these irreconcilables being kept in similar conditions. It is to be remembered that these irreconcilables consist of two classes, either those who have been convicted and served their

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or those who have not been sentenced, or those who have not been convicted at all, and I hope that if it is necessary to keep them in confinement, no doubt may be necessary, there will be no idea of punishment associated with that confinement, and that they will be treated like persons who have got to be reclaimed rather than punished. One cannot imprison the minds of men and these men will in no way be better if they are treated in any sense as persons to be punished. I do not think it is in the mind of Government to treat these persons as convicts or persons to be punished, but I think Government should realise, the necessity of keeping a very close watch to see that these men are treated just as one might treat either dangerous lunatics or persons who have to be confined because it is necessary to safeguard society against them, and with no further idea than that.

On the whole I welcome, and welcome warmly, the Government programme in regard to law reform. I welcome the policy of replacing the applied Indian and other Acts by local legislation.

As the Minister for Legal Affairs has said, we must stand on our own legs and we must look to our own books and our own codes, but there are certain dangers which are to be watched for in regard to the replacement of applied legislation by our own legislation. Many of these Acts are Indian Acts and, while I do not in the least attribute to the Minister for Legal Affairs any anti-Indian prejudice, I hope that when this legislation is replaced, there will be nothing in the nature of just replacing legislation because it is Indian, and just importing some English law because it is English law, but that each matter will be examined entirely on its own merits. Indian legislation, in most respects, is of the highest calibre. It has—I do not say that in depreciation of Indians—it has generally been drafted many years ago by English lawyers of the highest ability. India, being a large country with an expensive Civil Service and expensive administration, was able to pay the men and able to bring men of the highest ability from England, and these Acts are, certainly in most cases, very well drafted. Besides, they were drafted with the needs in mind of a country such as this—a mixed society—

and it was the introduction of an entirely new system of legislation for a country that had had a different system of legislation, and therefore it is eminently suited to a country such as Kenya. I have therefore listened with satisfaction to the statement of the Minister for Legal Affairs when he said that in regard to the Indian Evidence Act, it was intended more or less merely to re-enact here the sections of the Indian Evidence Act itself, with some changes.

But even in regard to those changes, it is important to be careful, because the circumstances of this country are more like those of India, than the circumstances of England. For instance, the police here are in a similar position to what the police were in India when the Indian Evidence Act was drafted—and in which the police, I think, are even now—and therefore it would be very advisable to retain sections such as those relating to confessions and not to import English legislation, when the circumstances may be so very different.

In regard to the Transfer of Property Act again, I hope that that Act will be re-enacted, or will be enacted here, but making the necessary changes due first of all to change of circumstance since it was passed, and bearing in mind any differences in our local circumstances that exist. It is said that the greatest source of friction is property, and since property gives rise to so much stress, it is inevitable that laws relating to property must undergo changes. Amendments are therefore necessary and laws relating to property must change more frequently than laws relating to other subjects.

As the Minister for Legal Affairs has said, it would be a great undertaking to pass an Act in relation to property or to replace the Indian Transfer of Property Act by an Act of our own. A commission would be required and a commission would be very expensive and a commission would take a long time, and I personally believe that if a commission sat to undertake the work of drafting an entirely new Property Act for Kenya, its work would be much less satisfactory than if the Indian Transfer of Property Act was revised, brought up to date and enacted as an Act of the Kenya legislature. One particular section has been mentioned—section 69—that is

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the one that prevents persons selling out property without going to the court, in the case of a mortgage. Now such a section was particularly fit for the circumstances of India, because, there, ignorant persons might create mortgages and yet not be able to protect their interests when the mortgagee wished to foreclose or sell. A section such as this it might be very desirable to have in a country such as this when sooner or later you might wish to bring Africans on to the same property law as the rest of the people in this country. Therefore I do hope that this discouragement that the Law Society has given to the Minister for Legal Affairs will not continue, and that the Minister for Legal Affairs will renew his efforts with the Law Society and succeed in persuading the Law Society to accept the re-enactment, or an enactment on the lines of, the Indian Transfer of Property Act, with the necessary amendments made in the light of Indian experience, and having regard to changes necessary in the light of local experience.

The Minister for Legal Affairs was rather concerned about whether the Hindu marriage and divorce law, which he was asked to take steps to enact here on the lines of the recent Act passed in India has the support of the Indian community. I think I can support the hon. and learned Member for the Central Area, who advocated the introduction of legislation on those lines. I have had requests made to me that we should press the Legal Department for legislation on those lines, and perhaps one department of the Government might view such legislation with great satisfaction. That is the Immigration Department, which I believe has experienced great difficulty in choosing between the two wives of Indian husbands. If legislation on these lines is enacted, Indian husbands will be able to have only one wife, and the Immigration Department will not be forced to undertake the very difficult task of keeping some of the Indian husbands who seek to bring their second wives into Kenya from enjoying the consortium of these wives. It might perhaps also give satisfaction to certain sections on this side of the Council who are concerned about the great increase of Indians in one direction or other. The

reduction in the number of Indian wives might result in a decrease in the Indian population of this country.

I should like to say a few words also about the Statute Law Revision Committee, which did not commend itself to the hon. and learned Member for the Central Area. I personally welcome the constitution of such a committee. It is suggested that it might result in delay. It might possibly result in delay in some cases, but in other cases it might result in speed, because the Statute Law Revision Committee might suggest to the Legal Department certain subjects on which reform might be introduced, and so in that respect it might speed up and not delay.

But the profession of the law is not one of speed. We hear proverbially of the law's delays, and the profession of the law and the practice of the law is not like that of a surgeon who plunges in a knife and pulls out an appendix. Our profession goes by the process of trial and error, appeal and revision, and the work of the law is necessarily a slow business.

A very learned and great lawyer and philosopher has said, and said well, that the counsels to which time hath not been called, time will not ratify. So I think the greatest advantage is to be obtained from the constitution of a Statute Law Revision Committee. It would very greatly outweigh any disadvantages that might follow from any consequential delay, if delay did occur.

There are one or two small matters I might mention. One is the perennial subject of roads. I do not want to say much about that; many have said a great deal on it; but I have fought an election in the Western Area and I should not like to fight another in the same way that I have fought the last one, pushing cars along the roads of my constituency. I think generally it is a matter of priorities, and that that very beautiful stretch of ten miles or so that we have near MacKinnon Road. I think might with great advantage have been put piecemeal in the various townships and trading centres of the Colony. I have had complaints made to me during the course of my election campaign about the dust that blows into the houses in these townships, and it would be a great encouragement

[Mr. Nazareth] to these people if, when it comes to putting tarmac, the townships and trading centres were chosen in preference to a place out in the blue like the neighbourhood of Mackinnon Road.

I should also like to say a few words about housing. This is a subject that troubles all communities; they experience the problem in different degrees. But the Indian community suffers a great deal from it, and I feel that, in one respect, something might be done which has not been done over a long period of time, although efforts were made some time ago to secure that. In the case of Europeans they can flow out of the towns into the surrounding areas, when those surrounding areas consist of the White Highlands. I know the subject of land is a closed subject and the subject of the White Highlands is a closed subject, but one feels that if four or five miles next to the towns could be excluded from the Highlands for the purpose of housing, one of the great grievances of the Asians—and it would be also a grievance of the African community when it comes to want housing in those areas—would be removed. I know that a certain section on this side of the Council would come up in arms against any such suggestion, but the Indians, to take the case of Nairobi, have got about one-third of land available to them with about three times the population, and although it is a poorer community it pays, in general, three or four times the price for land that the European does. I should like this matter to be treated as a separate subject and not treated as a question of land as if it were a part of the White Highlands. This might be said to be the thin edge of the wedge, but it is a matter which must be faced and I hope Members on this side of the Council will view that suggestion with sympathy. Otherwise, you might talk as much as you like about a united Kenya and things of that sort, but if suggestions of this kind are turned down without any sympathy at all, you will find that this talk will yield no fruit at all.

There is one small matter in connection with an advertisement that appeared in the *Official Gazette* about Nairobi South "C" Area. The terms on which these plots are advertised are onerous, and if the Government is to solve the

housing problem, I submit that it is desirable that the prices should not be very near the prices that can be obtained in the open market. If Government is out to solve the housing problem, obviously it cannot expect to obtain and ought not to ask for the same prices as those that can be obtained in the open market. I understand that the prices and terms on which these plots are being offered are very near the market price. They may be snapped up, but the pressure of the Indian community for land is so great that that itself would not furnish any argument to the Government to offer land at those prices or on those terms.

Education is a subject on which the Asian community never fails to speak and I have a few words to say about that too. It is poor satisfaction to be told that the Government will fulfil its statutory obligations. That, of course, it is bound to fulfil, but one feels that nearing the end of the Emergency a new approach is needed. I know that we need a great deal of money for education, and that without money you cannot do all you would like to do, but after all we must move towards equality of rights and opportunity and we must take the matter, if necessary, in stages.

Now, one of the subjects on which a certain section of this Council brings a closed mind is the matter of education in separate schools. No one suggests that European schools should be thrown open to members of all races, but one feels that it would be desirable to break down racial boundaries, and if a small percentage in these schools were set aside for members of other races, it would break down racial barriers without bringing down the standards of education in European schools in the Colony. I do not suggest that the standard of the European schools should be lowered, but it would not set up great stress in the European community to allow the admission of a small percentage—it might be a token percentage at the start. I hope that that idea will be explored and that, again, it will not arouse strong opposition in any group on this side of Council.

The hon. Member for the Coast made a reference to attacks by Indians on the

[Mr. Nazareth] Independent Group. Well, first of all I should like to say that I do not remember any attacks having been made on the Independent Group by Indian candidates who stood for election; most of them were too busy dealing with their own opponents. But quite apart from that, think I will be able to assure him that none will be made in future, because the Independent Group, having lost its independence, is likely, apparently soon, to lose its existence.

He also complained about the Asian Members' Organisation. Now, we have said that unless we receive a statement from the Independent Group that they withdraw the election stand they adopted, we would not be able to join. Now, organisations are intended to serve a purpose, and there must be a certain community of purpose if you are going to have an organisation, and when a certain section of the Council stands by separation in land, separation in schools, separation in franchise, one wonders why they want unity or community in a common association. What is there that we have in common? In everything else you want separation. In this you want unity. But it is not a closed subject with us. We shall explore it, and seeing that such great transformations have taken place in the Independent Group, it is possible that the situation is now much more promising than it was when we issued that statement, and if we are not able to join the Unofficial Members' Organisation as a group, we may be able to join in our individual capacities. At any rate, I would assure him we have not rejected the idea of the Unofficial Members' Organisation entirely, though we do not view it with much satisfaction.

I should like to associate myself with the request that has been made by the hon. African Representative Members—or at any rate by the hon. Mr. Mathu—to lift restrictions on African meetings. I know that that has been rejected by the Minister for African Affairs, but I feel that he might reconsider the matter; the Government might think it worse to be too much security-minded than to be too little security-minded, especially now that the army has handed over to the police. It would have the effect

that it would greatly weaken the African Members who are elected at the next election; if they had not been allowed to hold meetings on the scale that they desire; at any rate an experiment might be made because it might be suggested by those who are unsuccessful in getting into the Council that it was because of the restrictions placed on African meetings that they were not able to win the support they might have won. If an experiment were made and failed, Government might refuse to allow further meetings; but they might experiment and I suggest they would be well advised to do so.

The hon. Member for Ukamba brought in the usual boggy of Soviet plots. Now, though I recognise the danger of Communism in other areas, this danger is greatly exaggerated here. The Government has done its best to discover evidence of Communist plots in Kenya and has not found any. I am not a sympathiser of Communism—I detest it—I dislike anything that works against individual personal significance—but I feel that concentration on non-existent Communist plots in Kenya draws away attention from real matters that give support to Communism. African grievances and so on, and so I hope that the Government will not be drawn away by this boggy of Soviet plots to reduce the attention that it should give to genuine African grievances which are the best allies of Communism.

I welcome the steps that have been taken by the Government for land consolidation, but I should like to stress that mere redistribution of land does not help very greatly to increase the size of the cake, and that discouraging African farmers is a policy that is fraught with great danger. There are great spaces in the Highlands either undeveloped or underdeveloped, and efforts are made to import farmers from overseas. It would be far better, I suggest, that African farmers should be given encouragement and that the Government should not merely concentrate on the land consolidation, but should now set about the problem of dealing with the redistribution of land.

I view with some disappointment the policy of Government to introduce more boards and controls. I hope that Government will be induced to reduce the

[Mr. Nazareth] number of controls, one in particular in respect of which representations I have had made to me, the control that is going to be introduced on the dairy industry. While that may be necessary, it may affect Nairobi producers and distributors—to tie them up with the butterfat section of the industry. It may well send up the price of milk and do great harm to the consumers in Nairobi. I hope, therefore, that when the Government comes to draft the legislation in regard to the dairy industry, this effect on Nairobi in particular—the Nairobi producers and the Nairobi distributors—will be borne in mind and that careful consideration will be given, not to tie them up with the rest of the control or to bring this part of the industry under countrywide control.

On the whole, Mr. Speaker, I welcome the Communication that has been made from the Chair, so far as it goes. I hope that although it has been a rather pedestrian performance, the policy outlined will be carried out, but that when the next Communication comes to be made, Government will adopt a much more imaginative approach and that we shall be able to have announced to us a policy which will be more suited to this very important Council, which is going to settle the constitution for the next few years. I know that that is a closed subject, but I hope Government will initiate steps to bring about a constitution that will promote stability and harmony in this country and set us on a footing that will promote both political and economic progress.

Mr. Speaker, I beg to support. (Applause.)

LT.-COL. GHERSIE: Mr. Speaker, Sir, I would first like to congratulate our hon. friend, the Member for Western Area, on his maiden speech. Some of the remarks he made may be considered rather provocative, but I will content myself with saying this, Sir, that once the hon. Member has a little more experience in Legislative Council, he may find that an organisation which has stood the Unofficial Members of Legislative Council in good stead for many years, may have considerable value. I will leave it at that.

Now, Sir, in associating myself with previous speakers in congratulating my

hon. friend, Captain Hamley, on the manner in which he moved this Motion, I must say I was rather intrigued with the nautical touch which ran through his speech, and more particularly, I think, with his very appropriate reference to the ship of State. And, Sir, as pointed out by the hon. Member for East Electoral Area, the spirit of the ship and the smooth running, I think, to a very large extent would depend upon the captain and, for instance, as far as this Council is concerned, that person is our hon. friend, the Chief Secretary, in whom I suggest we have complete confidence. But, Sir, in order that the right atmosphere may be achieved, there must be complete confidence between the officers and men of that ship, so they have complete confidence and respect for one another.

I am unaware whether or not the hon. Minister for Agriculture is regarded as the chief officer, or the first lieutenant, but when he was addressing this Council last week he might quite easily have been a petty officer of or the bos'n. Well, Sir, during the course of that speech, when he attempted to reprove hon. Members on this side of Council, he gave me the impression that he thought he was addressing the lower deck and, for instance, Sir, not only one—I have your remarks here, Sir!—for instance, this was a reference, of course, to my hon. friend, the Member for the Coast, and it was—the Member must be suffering from astigmatism—later on, addressing the same Member, he said, "The Member's jaundiced outlook on constitutional advance caused him to make those remarks at all". He goes on, Sir, and on this occasion it is my hon. friend, the Member for East Central Area, well, anyhow, my hon. friend Dr. Hassan. Well, Sir, he said, "When the hon. Member held responsibilities, and was not free to indulge in irresponsibilities". Really, Sir, I suggest that those sort of remarks do not augur well for a contented ship and this I could not quite understand, Sir—he was finishing up with, "I feel the hon. Member is rather like Lady Macbeth—you are too full of milk!"

I do not know, but I cannot imagine that the hon. Minister was referring to the milk of human kindness! Anyhow, I will give way—

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): I was indeed.

LT.-COL. GHERSIE: Well, I can make an excuse for him, Sir, if I refer to his final remarks. He says, "Finally, Sir, I must confess that I have been thrown into this debate", and so I thought he had and he gives a reason, Sir: he says, "Because of the obvious reluctance of the hon. Members on the opposite side to continue to put forward their views about how the country should proceed".

Now, Sir, this is the point: up to that stage, no less than seven hon. Members on this side of Council had participated in the debate, and it was not until then that one—a Nominated Member, Mr. Tyson—entered the lists.

MR. HARRIS: They are too modest.

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): You are not.

LT.-COL. GHERSIE: Now, Sir, it was also my hon. friend, the Minister for African Affairs. He had something to say about "I did feel rather that if they were trying to give us a demonstration of elation calls they were failing rather miserably. They sounded rather to me like the rather muted chorus one would expect from a farmyard before the dawn".

Well, Mr. Speaker, I do not know how often the Minister for African Affairs witnesses the breaking of the dawn but I can assure you, Sir, that it would take more than the crowing of a cock or the cackling of a hen to arouse certain hon. Members opposite from their slumbers.

Now, Sir, I would suggest a further matter, and it does apply to certain Ministers apart from hon. Members, and that is that when they are attacking a Member on this side of the Council, on what the latter is alleged to have said, I do suggest that when the hon. Member attempts to arise to correct a misunderstanding, the hon. Member or Minister should give way. This is one of the most important debates, Sir, during the course of any given year in this Council, and I do suggest that when a Minister or an hon. Member has harangued somebody on this side, or vice versa, then that person should remain in the Council to take his medicine if there is something coming to him. In fact, he might even hear words of wisdom.

Further, Sir, for very obvious reasons, this debate has been the occasion of a number of maiden speeches, and I think that is another reason why hon. Members and Ministers in particular might observe a little politeness and courtesy by remaining in their seats. Naturally, I do not propose to mention names, but I am sure that the cap fits in many instances.

Now, Sir, there was a great deal in His Excellency's Communication, but most of it was devoted to the improvement in the Emergency position, and the manner in which it was proposed to deal with detainees, and it was most interesting, Sir, to realise, that Government now appreciated that the hard core of the Mau Mau organisation had originated here in Nairobi. We only hope, Sir, that Government will benefit by this experience and will take the necessary precautions to ensure that neither Mau Mau, nor any other subversive organisation can raise its ugly head in, perhaps, a more subtle manner, namely, through alleged peaceful organisations. I understand, Sir, that at certain meetings held recently in Nairobi, the same technique, the same catch-phrases, have been used as were used by the organisers of the Mau Mau rebellion, and I hope the Government will take heed of what is happening in this city to-day.

In fact, Sir, I entirely agree with remarks of my hon. friend, the Member for Ukamba, when he advocated that Communists and fellow-travellers should be expelled from this country. Communist propaganda is bad enough in a place like the United Kingdom where people are, to a certain extent, reasonably well educated. But it is a much more serious matter in a country such as this, where, comparatively speaking, the vast majority of the population are primitive, or certainly, uneducated—the vast majority. And there are, Sir, unfortunately in this territory, some would-be leaders who are probably, I am afraid, less interested in the improvement and advancement of their own fellows and this Colony, for that matter, than they are in building up their own personal positions, regardless of the cost.

Now, Sir, there are two Government departments, which I suggest in particular to-day have a very tremendous

[**LT.-COL. GHERSIE:** I am referring in particular, Sir, to the Education Department and the Labour Department. We must do our utmost to see that the right type of officer is selected and appointed to those departments, I would go even further, Sir, and suggest that a request should be made to the Colonial Office to be ultra-careful in the selection of officers for those two departments.]

Now, Sir, His Excellency, in his Speech from the Chair, made very little reference to the Development Plan with the exception that Government's proposals for the developments estimated for the period 1956 to 1960 were to be laid before Council at the present session. But, Sir, there was no indication given of our future Development Programme, and I think my hon. friend, the Member for the Coast, hit the nail on the head when he suggested that, of course, the Development Plan was not yet ready. I think most hon. Members who frequent Parliament Buildings have seen that the Development Committee have been meeting consistently now for a considerable period of time and no doubt they were not in a position to furnish the necessary information in time for His Excellency's Address.

Nevertheless, Sir, it was my hon. friend, the Secretary to the Treasury, he was replying to a Member on this side of Council and he stated that he would have been surprised if greater reference to financial matters had been made in His Excellency's Speech, and he also stated that it was wrong to anticipate the Government's Budget policy. He also reminded the Council that the Colony's financial position was disclosed in the *Official Gazette* each month and therefore hon. Members could obtain the necessary information they required.

Sir, the financial statement is merely reflection, as far as the revenue and expenditure are concerned, of the approved estimates, and how, in fact, the revenue and expenditure have been collected, and disposed of, and that is not what we require. What we require, Sir, is some indication of Government's future policy in order that we can make recommendations or express our views on what we consider should be Government's policy before the actual Budget is framed for next year.

MR. MACKENZIE: If I may explain, Sir, what I actually said was that "Since the object of the Speech from the Chair was to set out the Government's policy in general terms and that policy is given a financial shape at a later stage when the annual Estimates are introduced into the Council". In other words, Sir, the whole of the Speech from the Chair was setting out the Government's policy which will be given financial shape later.

MR. SPEAKER (Sir Ferdinand Cavendish-Bentinck): We do not require "other words", only those you actually used.

LT.-COL. GHERSIE: I think my hon. friend will also agree that he did say that it would be wrong to anticipate the Government's Budget policy. Well, I can assure you that you did, Sir.

MR. MACKENZIE: My actual words, Sir, were that it would not be appropriate in the Speech to anticipate the Budget policy—not be appropriate. This is not the place to do so.

LT.-COL. GHERSIE: I do not propose to play on words, Sir.

MR. MACKENZIE: Thank you.

LT.-COL. GHERSIE: Sir, it will also be remembered that my hon. friend, the Minister for Finance, during the course of the Budget speech which took place early this year, informed Council that his information was such that there would be no credit squeeze in this Colony.

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): The hon. Member has just said one must be responsible for the accuracy of one's statements. The hon. Member should read my speech again.

LT.-COL. GHERSIE: I have it all, Sir; do not worry, I will read it. I can assure you, Sir, I am most meticulous. "The effect of the credit squeeze in the United Kingdom must be felt here" (straight from your speech, Sir). "I am assured that there is no directive overseas for the East African branches of the banks to restrict lendings."

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): Sir, would not the hon. Member agree that that is an entirely different statement from saying that there would be no credit squeeze here?

HON. MEMBERS: Answer, answer.

LT.-COL. GHERSIE: Well, what I was going to say was that he understood, there would be no credit squeeze here, there was no directive from overseas for a credit squeeze here as he understood the position; and therefore there should not be a credit squeeze.

MR. COOKE: On a point of order, is the hon. Member, the Minister for Finance, in order in interrupting a Member who is replying to that statement, when the Minister for Finance does not come into the picture at all?

THE SPEAKER (Sir Ferdinand Cavendish-Bentinck): The hon. Member is quite in order because he was alleged to have made a statement which he decided did not represent what he actually said.

LT.-COL. GHERSIE: Then again, Sir, my hon. friend, the Secretary to the Treasury, informed us, of course, that the customs and income tax showed continual increases. I suggest, Sir, that these are due to abnormal circumstances.

In the first instance we had the sudden cessation of phasing at the coast which as a result meant the rather expeditious delivery of goods at the Port of Mombasa and with the result that there would be an increase in customs at that stage, but if the hon. Members will read the report and study the figures of East African Railways you will find that there is a considerable fall-off in revenue as far as goods traffic is concerned and that has been the prevailing position for some months.

MR. MACKENZIE: There have been certain indications of a slackening in the boom and these indications have been reflected to a certain extent in recent months' customs receipts. In other words, Sir, there has been a fall-off.

LT.-COL. GHERSIE: Good. Again, so far as income tax is concerned, I do suggest that a great deal of the increase in income tax collections had been due to the activities of the Income Tax Investigation Branch and the time will arrive when presumably the arrears of income tax have caught up, which is the main feature of their investigation, and presumably at that stage we will get to what may be the normal income for the year. I submit, Sir, it will not be until we do catch up on these arrears of income tax that we will really know

what our annual recurrent income really is, on which to base the expenditure of this Colony. I am only sounding a warning note there, Sir; I do believe it is due to the activities of the Income Tax Department that a great deal of this revenue is arrears of income tax and not current revenue.

Now, again, my friend the hon. Secretary to the Treasury made a reference to tax reserve certificates, Sir, I do not wish to have to withdraw anything at this stage, but it does appear a little misleading. It states, Sir, that the completed form should be sent to the Treasury with a cheque and the date it is received by the Treasury will be the effective date of the certificate. Effective date for what, Sir? Effective date for the payment of interest? Because it is not. Now, Sir, this is quite immoral I think really. If a sum of money is deposited in a given month, we will say the 1st of November, the interest does not accrue or is not payable until the 1st of the following month. Now, Sir, you can go to any savings and loans societies who accept money and they will give you interest from the date that you place that money with them. Here, under those circumstances, the individual will be losing a month's interest. And what is even more significant, Sir, is this, that if that money is withdrawn before the end of the month, again, the individual forfeits the interest for the month. Now, Sir, the point is this, that the second half of the period for an income tax payment, to the Income Tax Commissioner is on the 31st March of each year. Are we to understand that we would have to withdraw that money either before or on the 31st March and therefore lose interest for that particular month? That is perhaps an unfair question, Sir, the Secretary to the Treasury would probably like to think that one out because he has not been faced with it before, but it does want a little explanation.

Now, Sir, I find it a little difficult to understand the Government's loan policy and it was only a few months ago—we are always reminded, mark you, by the Minister for Finance that there is difficulty in raising loans and this was confirmed in His Excellency's Communication from the Chair—it was only a few months ago that the hon. Secretary to the Treasury was referring to

[Lt.-Col. Gherisie] the £2,000,000 loan which Her Majesty's Government had so generously allocated to Kenya for the purpose of Emergency expenditure. Now, Sir, that loan was payable over a period of 20 years, payable in half-yearly instalments and the date of payment, was to commence five years after the loan was actually drawn upon. Now, Sir, within a few months of that speech, at least £1,000,000 has actually been returned to Her Majesty's Government.

I will anticipate the reply from the Minister for Finance, he will say, "That money was earmarked specifically for the Emergency, or Emergency expenditure". That may be so, Sir, but I maintain that the Emergency is not over, that the maintenance of 34,000 detainees, 8,400 convicts in custody, and the proposed Tana River settlement scheme, which was referred to in His Excellency's Communication from the Chair, as fair and proper charges against Emergency expenditure. I would like an assurance from the Minister for Finance that now as we were informed and I believe it became effective from the 17th of this month, the police have now taken over the responsibility for the maintenance of law and order from the army, that we shall have an assurance that we are not expected to shoulder the whole of the financial burden of that organisation.

Now, Sir, we realise, in any case, that the Colony is overtaxed and other hon. Members have dealt with that, I will merely add to it to this extent, Sir, it is practically impossible to-day to encourage or persuade a professional man to seek employment in this Colony because of taxation in particular. This also applies to professional people in the Income Tax Department itself. But quite apart from the natural reluctance on the part of certain people in the United Kingdom to leave the United Kingdom, I understand that the terms of service and the emoluments offered in other parts of the Commonwealth are such that employment in Kenya offers little or no attraction. I believe that the majority of the people who are on these short-term contracts have no intention of renewing them. So if we are going to encourage the right type of income tax investigator and assessor, I do believe we will have to consider very seriously

placing them on special terms of service. And I do believe, Sir, it would pay handsome dividends. In fact so much so, I believe the increased collections would be such that we could reduce the incidence—the scale of taxation in this Colony. I hope the Minister heard that one.

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): I have already heard that one.

LT.-COL. GHERISIE: I do believe the revenue would increase by some hundreds of thousands of pounds per annum.

Now, Sir, I am just going to touch very briefly on the fact that most hon. African Members, both Representative and Nominated, have dealt with the question of African education. While we sympathise with them and appreciate their views on the subject, I was rather surprised that although African education was their main theme, it was my hon. friend, Mr. Gikonyo, who said that they would only subscribe to education and not any further taxation for the central revenue. Well, Sir, this Colony has many other commitments besides education and it was the Minister for Education, Labour and Lands who pointed out the colossal sums which would be required if their ideals were to be achieved. I would ask Government, and I think the time has now arrived, when they should introduce the recommendations which were made by the committee set up in 1950 and who reported on the advisability of introducing the graduated poll tax for Africans. I suggest, Sir, that while Government had a very good excuse during the period of the Emergency—that the personnel were not available, or the mechanics for the collection of the sums, it is time now, Sir, that they made a start. Personal tax was referred to and I may not be very popular on this one with a few of my friends on my left, but, Sir, I do believe that personal tax should be doubled. I believe it would bring into the net a large number of people who do not make their contribution to income tax. But, Sir, in doubling personal tax, I would do so with this proviso, that is that the personal tax would, of course, be deductible from the amount paid in income tax.

[Lt.-Col. Gherisie]

Well, Sir, finally, we realise that during the next few years we shall have to pay a good deal of attention to constitutional matters, because we are all well aware that we must create political stability in the country, if we are to instil the necessary confidence in overseas financial circles in order to attract the much needed private capital for investment in this Colony. But, Sir, I do believe that we would be doing a far greater service to the African community if we concentrate a little less on their political development and a little more on their economic development. Sir, Africa cannot be rushed and I believe that equally applies to its people. Sir, I believe there is a great future in this Colony, provided we keep our heads and if we are not too much subject to influences—pressure influenced by people outside this country who, experience has shown, display a pathetic degree of ignorance with regard to the problems of Africa in general and this Colony in particular.

Sir, I beg to support.

THE PARLIAMENTARY SECRETARY TO THE MINISTER FOR LOCAL GOVERNMENT, HEALTH AND HOUSING (Mr. Jeremiah): Mr. Speaker, Sir, I rise to support the Motion, and in doing so, Sir, I am conscious of what the previous speaker has said in thanking the army, the police and everyone who helped this country to reach the position it has now, that is the Emergency is almost over.

At the same time, Sir, I think we are fortunate to be where we are, though we perhaps forget to offer deep thanks to the One who has enabled us to be where we are and that is to offer our thanks and gratitude to God who has helped us. I wonder, after the Emergency is declared over, whether we could set aside a day for thanksgiving, but I think it is also time to offer thanks to the Most Highest. My reason, Sir, for standing is just to reply to what the hon. Representative Member, Mr. Awori, said with regard to Africans employed in the African district councils being employed without conditions or terms of service.

The African district councils are controlled by an Ordinance which empowers them to engage staff and dismiss staff and to do everything necessary for their employment and for the area over which

they have jurisdiction. If the African district councils have not produced any conditions of service or salary scales for their employees, the main fault lies with the council concerned. It is possible that some have done so and some have not. What I say is that most of them try to follow Government's Scale of salaries but not Government's conditions of service. This is quite understandable because it is not possible for all the African district councils to produce one set of conditions of service or scale of salary, as conditions differ from area to area. It is, however, Sir, necessary that the African district councils should consider introducing conditions of service with regard to leave and dismissal and so on which can be applied in all the district councils. The salary conditions depend on how wealthy the country is. What I have also found is, Sir, that the African district councillors do not properly appreciate the responsibility they have to their people or to the staff they employ.

They seem to think that all these matters are, perhaps, under the president or under the European officers who are assisting them. I urge my hon. friend to do his best to impress upon the African district councillors the importance of their appointments and how they should see that the responsibility which rests upon them is carried out. I find that in many cases they do not think they have any power at all, and that is wrong. We ourselves should understand that African district councils have as much power as municipal councils or other local authorities, such as rural district councils or county councils. But the main defect there, I find, is that the members themselves, the councillors do not understand that, and it is up to us to impress upon them what their duty is. But it has been mentioned by my hon. friend, the African Representative Member, Mr. Awori, that staff was sacked due to the shortage of funds. This is very much regretted and if the hon. Member will provide or give full details the Minister will be pleased to investigate the matter.

I must, however, point out to the hon. Member that such happenings, however regrettable, are not very peculiar, it also happens in Government, that is why the word "retrenchment" is found in the English dictionary.

Sir, I beg to support.

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): Mr. Speaker, Sir, some many, many days ago my hon. and gallant friend Captain Hamley launched a barque upon these waters which has almost, I think, reached its harbour. It has, I think, found itself, Sir, somewhat becalmed from time to time, assisted only by the—at times—hardly generated puffs of wind from hon. Members opposite such as that recently displayed by my hon. friend, the Member for Nairobi North.

I would like, Sir, first of all to start by congratulating, on behalf of the Members of this side, the hon. Member for Western Electoral Area on his maiden speech. I think, Sir, that it shows that in so far as he is concerned, the waters are not always going to be calm, nor the wind gentle, but on this occasion he was prepared to let the barque ride fairly smoothly in a reasonable sea.

I would like first of all to deal with the general position called to our attention by my hon. friend the Member for the Coast and by several other Members on the question of mention of finance in the Communication from the Chair. It was a question, I think, about "finance missing" and that there should have been "more about finance" in this Paper. Well, Sir, as I read the Speech, on page 6 and on page 11, I see references to finance which are indeed more than are usually found in any Communication from the Chair of this kind. There are warnings that we cannot expect our revenue to expand, there are warnings that our development plan must be limited, because we are unlikely to raise sufficient loan money, even in the last paragraph of the Speech, Sir, there is again this warning, and although our economic recovery has been proceeding at a remarkable pace, nevertheless, our financial position is extremely difficult.

My hon. friend the Member for the Coast, who, as usual, is erecting wind-mills at which he himself adores tilting, said that I am "out to please the people of this country rather than to lecture them". That, I may say, came somewhat strangely, Sir, from the hon. Member who time and again has accused me in this Council of adopting the attitude of a schoolmaster, but it is nice to know, Sir, that the hon. Member's opinion of me is changing.

However, Sir, may I just quote from a leader in the *East African Standard* which followed a speech I made at Molo? "Mr. Vasey's speech at Molo was very much on the traditional 'Crippsian austerity' model." That makes me shiver, Sir, I do not know what it does to the hon. Members opposite. "He was saying that some projects, desirable and indeed essential though they may be, will have to be postponed. The message is really this—save now to spend later on development."

Well, Sir, what I had in fact said in that speech, and they are figures which should be, I think, recognised, and statements which should be on record in this Council. I had in fact said, Sir, that "although the shooting side of the Emergency had almost ended, it had left the country with a legacy of increased expenditure on police, prisons and the like". I had said that it was likely that "we must look to Britain for financial help for some years yet and until we had so built up our economy that it can provide without fatal strain a sufficient revenue to meet expenditure, and make us financially independent again". "Until that point had been reached, there could be little hope of relief from the present burden of taxation and any taxation extra would have primarily to be devoted to reducing the country's calls on the British Government." All I can say, Sir, with a statement like that, if that is a question of being out to please the people, Heaven forbid that I should ever try to make them sad.

Sir, the point that the hon. Member made about local loans and extra taxation. I cannot quite understand what the hon. Member meant because our local loans have always been extremely successful. It has been one of the satisfactions of the past few years that the country has not appealed—the Government has not appealed to the country in vain for money for development. The country has indeed answered, I think, almost to the limit of what can be regarded as accumulated savings in a small country of this kind. You must relate the amount of money that can be raised by loans locally to the wealth of the country, to the money which is ploughed back into the individual—and private development which is serving a very useful purpose and in many cases is saving

[The Minister for Finance and Development]

Government expenditure. The margin that is left after that for investment in such things as Government bonds in a small country like our is extremely small and if we look at the total that we have drawn from the people of this country through our local loans, then I think we are justifiably proud of the fact that they have answered extremely well. But, Sir, what the hon. Member was propounding was a theory that if you could not raise money for capital development by loans, you should increase taxation and make capital increase available out of the current revenue. That is the principle which the hon. Member is expounding and I ask hon. Members in this Council really to assess the position and say whether they would be prepared to agree. Although every wise people, every wise authority, be it a local government authority or a Central Government authority, does small things out of its current revenue, there is a limit to which that can be applied, unless the burden of taxation is going to be so heavy that it grinds the machinery of industry to a standstill. I confess, Sir, that if you look at what we have done in the past few years, we have indeed followed the principle, but there must be a limit as to what we can do in the way of capital development through taxation and we have swung over to a policy which many hon. Members who sit on this side of the Council, who some years ago sat on the other side of Council have urged the Government to adopt, a policy of development through loans, rather than development through higher taxation for, Sir, I consider that is the type of policy which can certainly keep industry away from this country. I cannot help, Sir, at this particular time, thinking of a book I read only the other day, in which Mr. Asquith in the House of Commons in 1906 said how terrible it was that the burden of taxation was now arriving at the stage where, to use his words, "It was bringing about the destruction of initiative and the ruin of industry". That was in 1906, when income tax was one shilling in the pound in the United Kingdom and I have not noticed British industry grinding to a standstill in the meantime.

Sir, at this point I would like to deal with something raised by the hon. Member for Nairobi North in his last remarks.

He spoke about the £2,000,000 loan money which has been returned. That loan money, Sir, and to this extent, he anticipated the answer correctly, that loan money was granted to us by the United Kingdom, on the repayment terms that he set out a five years moratorium and after that to be paid over 20 years, interest free, for the specific purpose of Emergency expenditure, annual and recurrent Emergency expenditure. It was obviously done with the idea that because we have to repay it, and because it was not a free grant, the Kenya Government would be all the more keen to watch expenditure rather than draw upon money which had to be repaid. But it is not available for any other purpose, and I must make that perfectly and absolutely clear as I have had to do on many occasions. It is not available for any other purpose. The hon. Member spoke about the number of detainees in prison and the number of convicts, and said, "What about the charge of rehabilitating them?" That is being met out of the grant which this year will be in the neighbourhood of £4,000,000, which Her Majesty's Government is making to us. And if the position continues into next year, we shall again have to make application for a grant to assist. But again let me make it absolutely and finally clear, Sir, that I can give no assurance that there will be any assistance from Her Majesty's Government next year at all, that entirely depends upon the attitude of Her Majesty's Government and Her Majesty's Treasury at the time when we have conversations in January and if at that time Her Majesty's Government considers that we should meet the whole burden ourselves, we shall have to meet the whole burden ourselves. I cannot believe that Her Majesty's Government would take that line, indeed I have expressed publicly, time and time again, my appreciation of the way the Chancellors of the Exchequer, with whom I have had to deal, and members of the British Treasury, have looked with sympathy at our case, but it is no use the hon. Member for Nairobi North asking me for such an assurance. I am the pleader.

LT.-COL. GHERSIE: I thank the hon. Member for giving way. I was not asking for an assurance from the Minister.

THE SPEAKER (Sir Ferdinand Cavendish-Bentlinek): I am afraid that you are embarking on a second speech.

LT.-COL. GHERSIE: No, I am—

THE SPEAKER (Sir Ferdinand Cavendish-Bentlinek): Yes, I am afraid that you are. I rule that you are making a speech.

LT.-COL. GHERSIE: May I explain what I said, Sir?

THE SPEAKER (Sir Ferdinand Cavendish-Bentlinek): No, I have given my ruling.

LT.-COL. GHERSIE: Sorry, Sir.

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): I certainly cannot give an assurance from Her Majesty's Government—an assurance from the United Kingdom on the question of the actual expenditure which is going to be met this year from the £4,000,000 grant—that there will be any grant to meet that expenditure next year, and we may be left to meet the whole cost ourselves. The answer to that would be a heavy increase in taxation or a terrific decrease in the services for which so many hon. Members have been calling.

Now, Sir, I would like to turn to—

THE SPEAKER (Sir Ferdinand Cavendish-Bentlinek): Order, order. I have been given to understand that Members may wish to finish this debate to-day?

THE CHIEF SECRETARY (Mr. Turnbull): We, on this side of the Council, are in agreement, Sir, with the other side that we should continue this debate and, if possible, finish it to-day.

THE SPEAKER (Sir Ferdinand Cavendish-Bentlinek): Well, if that is the general wish I am afraid I must ask you to move something to the effect that Standing Order Number 10 be suspended in order that the business of Council may this day be pursued until such time as Mr. Speaker decides to adjourn proceedings.

MOTION

SUSPENSION OF STANDING ORDERS

THE CHIEF SECRETARY (Mr. Turnbull): I beg to move that Standing Order Number 10 be amended to the

extent necessary to enable this debate to continue until such time as Mr. Speaker decides to suspend business.

MOTION

THANKS TO HIS EXCELLENCY THE GOVERNOR FOR HIS COMMUNICATION FROM THE CHAIR

(Debate on main Question resumed)

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): I would like now, Sir, to turn to my hon. friend, the hon. and learned Member for the Central Electoral Area. My hon. friend queried a statement in the Communication from the Chair that our economic recovery was proceeding at a remarkable pace. Now, Sir, I must disagree with my hon. friend: That statement is a perfectly true statement. It has been true throughout the Emergency.

The hon. Member has only to look at the figures of our national income, our national production and our national wealth. Look at the position of African agriculture and the way that it is bounding forward in its production. Look at the sustained effort of our European agriculture; look, indeed, at the position in the Central Province where I went round a fortnight ago. The difference between the economic situation in the Central Province to-day with that of two, three years ago is remarkable and most encouraging, and that is the true basis of the economic recovery—production is going on well.

There has been some overtrading. The hon. and learned Member has he not heard me in the past, time and time again, in this Legislative Council warn the traders of this country against overtrading, pointing out to them that the injection of many millions of pounds, free grant from Great Britain, plus the presence of a large number of European troops has created a false atmosphere of boom-trading conditions. Time and again I have tried to warn the traders that they must not base their trading upon this false position and what, of course, is now happening is that with the falling away of Emergency expenditure and with the removal of British troops, trading has begun to find its normal level and it has caught a number of merchants with overstocking because they imagined, foolishly, that these conditions would continue.

[The Minister for Finance and Development]

However, I would say that the banks, for instance, in their October review have recently remarked upon the fact that the position is improving and that, to quote the words of one bank review, "In general, merchants are now able to meet their liabilities". That, I should say, might be regarded by the hon. Member as a little optimistic but the banks are the people who have to deal with this situation. We must, of course, watch the effects of the Middle East crisis. We are worried—and it would be no good saying we are not worried—about the effect of the Middle East position upon our general trading position. The increasing cost of freight upon imports and also the increasing cost of freight upon our exports are matters of deep concern to us; but there can be no question about the fact that in the basic atmosphere of economic recovery—that is in production and increased wealth—the country has, during the Emergency, recovered extremely well and is recovering at a remarkable pace.

Now, Sir, there are often a lot of comments made about inflation in this Council, particularly by Members. I think, who are not aware that usually development at the pace which we have taken forward—development is accompanied by inflation. Naturally, the Government's task is to control that inflation as much as possible but I would like to quote, Sir, from a report by Sir Douglas Copland in "The Economist", dated 12th November, who has been studying the position of the Australian State Governments and who advised these Governments and industry "to go ahead and develop the country without fear and pessimism. On looking at the national accounts", he said, he found "everything buoyant", and the next sentence will interest hon. Members, I am sure: "The cost of living has increased by 50 per cent in 1949-1950 and in 1953-1954 it was 50 per cent, but it had risen by only 6 per cent since. If inflation could be kept at the reduced level of the past year it would be a tolerable price to pay for continued development".

I would suggest, Sir, that if you place the position in this country against that background, the price that other countries

are paying, you will see that the Government's achievement has been no mean one in continuing development at its present pace and still keeping the inflationary weight down.

Now, Sir, my hon. friend the Member for Nairobi South, I think I must say thank you to him because he has surely stated the purposes of this debate. The purposes of the debate on the Communication from the Chair is to range over the fields of policy, to give opinions, as he said, and act as a guide to the framing of the Budget—especially on the expenditure side. It is in this debate that the Government looks for the emergence of opinions from the other side of the Council on priorities—I regret to say, that they have mostly this time been requests for more services and more expenditure, with the continual reference—or occasional reference—to less taxation.

The hon. Member spoke about graduated poll tax. Sir, we have, I suppose, to repeat this again and again, but the Government has said many times that it has accepted the principle of graduated poll tax and will put it into effect the moment the Administration—which has to carry the weight of this thing—feels that it is possible so to do. We have had meetings from time to time and when the Administration gives us the word "Go" it will be carried into effect. We have accepted the principle and, therefore, we are only waiting the physical and general circumstances to enable us to implement them. I think, however, the hon. Member went slightly awry when he spoke about budgetary procedure in the United Kingdom. He seemed to imagine that there was in the United Kingdom Cabinet some committee which met, and, as it were, formed the Budget. Of course, that is not correct, Sir. The Budget in the United Kingdom is a matter for the Chancellor and he does not convey, officially, to his colleagues until the night before, but he does, I imagine, exactly the same as I do and that is that during the year, not being, I hope, too stubborn and too hard-hearted, he talks over with all his colleagues the lines on which they would like the policy of taxation—and relief where possible—to go. I see the hon. Member wants to get up—

MR. HARRIS: My authority, Sir, was Ivor Jennings, and if the Minister—I do not want to continue the debate—would care to turn to page 237 of *Cabinet Government* he will find the answer.

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): I have, Sir, a later authority than that. I have something which occurred in *The Banker* in October, 1956, which is Professor Ursula Hicks writing on "The Problems of Maturing Colonies" and she says: "It will almost certainly be found as it has been found in Britain, that the most satisfactory solution is to concentrate final responsibility for all aspects of budgeting and planning under the Ministry for Finance since otherwise it will not be in a position to exercise its coordinating duty".

I think, Sir, what has happened is that my hon. friend is thinking back and probably Jennings' book is referring to that day when there was an Economic Planning Committee section under the Cabinet but, with the initiation of a Conservative Government, that was returned from the Cabinet to the Chancellor and it is now a section of the Treasury. However, there is no budgetary committee as a budgetary committee and the procedure is fairly well defined.

Now, Sir, the next point I think I have to deal with is that of my hon. friends the African Representative Members, Mr. Chumah and Mr. Nzau. I would like to say this one on education, Sir. We agree that it might be possible to import teachers but I wonder if the hon. Members have stopped to think of the cost of importing teachers and the fact that, if you have to pay your teachers at the level that imported teachers would cost, you would have to reduce the amount of education available to the children tremendously. Therefore, my hon. friend the Minister for Education, is following the policy which can be the only correct one for African education—the treatment of as many teachers as possible from our own human resources. It is the only possible long-term policy.

I was very interested, Sir, to listen to my hon. friend, Mr. Nzau, who gave me, I may say, a completely new principle for the capital gains tax. I shall

pay great attention to it in the near future. However, he and quite a number of African Members, Sir, keep talking about this "special tax" for education, this hypothection of revenue, this rather weird belief that a special tax produces wealth and money which were not there before. All taxation comes out of one pocket. There is only one pocket—and that is the nation's pocket—and that pocket and its size must be limited by the nation's revenue based on the taxable proportion of the nation's wealth. That is the only pocket and whether you pull it out in the guise of a special tax on education or a poll tax, or income, tax, or excise duty, or customs duty, in the long run it comes out of one pocket and you cannot draw more from that pocket than a certain proportion of the taxable wealth. There is no magic formula—no magical formula at all—that can produce more money than that unless the wealth is increased.

We turn, now, Sir, to my hon. friend who gave us such pleasure in his speech, the hon. Member for Nairobi West. As he sat down I murmured to myself, "He is following in his political father's footsteps". Almost, Sir, could I have heard the voice and theory of that dear old Member who did not stand for his constituency at the last Election, particularly, Sir, when he spoke about income tax. There are two points, Sir, on which I would like to deal with as far as he is concerned. One was his suggestion of the capitalisation of money spent on education, to be repaid at a later date. I presume that he meant, of course, the recurrent part of educational expenditure. Well, Sir, I have to plead guilty to this extent that I suggested that myself when I was on his side of the Council in 1945, so that he can see that I am in great sympathy with his idea, but the point is that we have never had the spare capital with which to do it and our capital—I have to repeat it so often I know—must be limited by borrowing sources and the ability of our annual income to service the loans.

I agree with the principle that he put forward and that is that education is a long-term productive service and therefore it becomes a drain upon the present energy and resources of the people. But unfortunately we have never had the

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capital available to move along educational expenditure on those lines, even though a number of us have believed that it would have been a very useful bridging step during the period of development.

Then, of course, he spoke about the early 19th century in Britain and income tax. My hon. friend the Minister for Commerce and Industry dealt with a great deal of that. But he (the hon. Member for Nairobi West) spoke about it as a time of prosperity in England. Of course, Sir, it depends upon what point of view you look at the prosperity from. What roads were there? What transport was there? There was the ox-wagon and there was the pony and trap, but you had not got the metalled communications and the road transport that you have to-day, nor had you anything like the intricate railway system which was built up later in the 19th century. What education did you give the people? What medical service? I am sure the hon. Member does not really believe that any people in England today would tolerate a return to those days and to those standards. I must remind him that taxation levels are set by the level and standard of the services which the people demand. That is all that money is spent on by a government. If the people demand high-standard services, services sometimes beyond the real capacity of the country to afford, then they have to be paid for and taxation levels are set at a fairly high rate. Of course, in all countries of the advanced and advancing civilisations, the principle has long been accepted that the rich must bear the heavier proportion of taxation than the poor in order to help to maintain the level of the services. I cannot believe that this country will ever depart from that principle.

My hon. friend the Representative Member, Mr. arap Moi, spoke about African education. Sir, I do not propose to dwell in great detail on this, but I think we should put on record the levels of increasing expenditure on African education from the Government point of view. In this I am making no allowance for general administration costs, nothing for pensions, for housing of staff, medical attention or anything of that kind. We have taken Makerere in because that

is practically entirely African and we have only taken a proportion—and probably a smaller proportion than is justified—of the Royal Technical College expenses. And what is the pattern over the last few years? In 1951, in the Colony's Budget, it was £490,000 on African education. In 1952 it was £864,000, in 1953 it was £1,147,000, 1954/55 £1,830,000, 1955/56 £1,930,000, and in the 1956/57 Estimates £2,380,000 on African education.

Now that is a jump within six years from £490,000 to £2,380,000. I suggest that the hon. Member should think again before he says that nothing is being done for African education. The figures speak for themselves and show the burden that the people of this country have been prepared to undertake in order to provide for African education—the education of our people.

Sir, my hon. friend the Member for Mau—Sir, I do not want to go all through the arguments all over again—asked for a reduction of taxation and a bold policy of development. I would like to be able to carry both into effect at the same time, Sir, but so far we have not been able to do it. When I did agree with him was when he started talking about the necessary restrictions we should have to put on expenditure on services which we cannot afford. It is right, Sir, the country may have to do without macadam roads, boarding facilities at schools, all these things in order to spend money on revenue-producing projects. If we do not spend the money on revenue-producing projects then we shall not have the revenue to spend on the other things and I agree and hope that every hon. Member on that side of the Council will remember his words that we must accept that we must do without things which we cannot afford.

There is one point, Sir, where I had a little disagreement with the hon. Member, he spoke and quoted me as saying that I had said that we, the Europeans, must "buy our leadership". Perhaps, Sir, I might be permitted to read and put on record what I said. "The European community, and I belong to it, every penny I have invested in this country where I live and hope to die, although not for a long time yet, claims leadership, and it therefore, must be prepared to accept

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the financial burden which that leadership entails. If it does not, its period of leadership will rapidly disappear. It is an unpleasant fact but it is one which must be accepted".

Sir, nothing in that can be quoted either one way of the other, either in words or meaning, as that one should "buy leadership" with money. But what I would say to the community of whom I have the honour of being a member is this, that if the price of liberty is eternal vigilance, then the cost of leadership is continual sacrifice. There is no other way.

Now, Sir, the hon. Member raised the question of the Coates Commission. The Coates Commission, I am sure you will realise, is an East African commission and it will be, therefore, an East African report. The report will be published and I have no doubt that Government's reactions to it will be shown by its Budget proposals in the following years.

Sir, my hon. friend the Member for Mombasa dealt with the question of revenue and asked for certain figures. He also asked for the position with regard to the census. The position in so far as the census is concerned, is that the Kenya census was originally planned to take place in 1953, but because of the Emergency had to be postponed. It takes about 18 months to prepare a census. Tanganyika Territory and Uganda are already ahead with their plans and for this reason and the staff position of the Statistical Department, Kenya, must take its turn after the other territories, and it does not seem to us possible, looking at that position, to hold a census in Kenya before 1960, though it may be possible to bring it forward to 1959 if things go reasonably well.

He then raised the question of the revenue falling and rising and this, I think, Sir, might be, late though it is, a good opportunity to give hon. Members the figures. He seemed to be under some misapprehension, I think, that the revenue collected, according to the Exchequer Account, this year was smaller in proportion to that collected at the same date with regard to last year. The trap, of course, is that one has forgotten what has happened in the meantime. The receipts to the 31st October, 1955, were

£8,231,000, which was 32 per cent of the original estimates of £25,337,000, but only 23 per cent in actual receipts of £35,396,000. I am going quickly because of the time, but you will be able to read them in the record. Exchequer receipts to the 31st October, 1956, were £7,936,000, or 28 per cent of the estimated annual revenue of £28,250,000, that is 28 per cent as against 23 per cent.

After four months of this year, therefore, revenue collected into the Exchequer was 4 per cent lower as compared with the estimates, than at the same date last year, but was 5 per cent better than if last year's figure is compared with the actual total of collection for 1955-56. In terms of the actual figures, approximately £300,000 less had been received into the Exchequer by the 31st October this year, than at the same date last year, but that does not mean that the revenue collections are lower, in fact the opposite is true. The reason for that is that the gross receipt figures for the two years are not comparable, because last year's figures included large sums of departmental revenue, appropriations-in-aid, put in as offsetting revenue, which do not appear as revenue this year because of the manner with which they have been dealt, and therefore to place the total receipts of the two figures on a comparable basis it is necessary to produce new figures on the same basis, on a comparable basis, and it is necessary to deduct approximately £630,000 from the 1955-56 total. When this deduction has been made, the net comparable figure of receipts show that £300,000 more has been collected this year than has been collected last year.

The returns, Sir, for the week ending the 17th November, show, I am glad to say, an even more marked improvement in the position so far as this year is concerned. By then total receipts this year were say, £9,590,000, as against £9,490,000 last year. Gross receipts are therefore slightly ahead of actual gross receipts last year and if we make the adjustments necessary to allow for the appropriations-in-aid factor, we will find that the net receipts this year are about £350,000 greater than at the same period last year. In percentage receipts by the 17th November, 1956, they represent 34 per cent of the published Estimates for the year. The figure for the same date

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last year is 37 per cent of the published Estimates and 26 per cent of the actual collection for the year, but of course we believe that this year's published Estimate, also, is a much more realistic figure than last year's.

Now, what do these figures show, Sir? They show that so far at any rate, the revenue as a whole is coming forward in a satisfactory manner.

As regards the details, with two exceptions all items of revenue are either at approximately the same level as or slightly ahead of the receipts at the same time last year. The exceptions, Sir, are on what one might call the right side. Actual income tax collections are now over £1,000,000 ahead of the same period last year, and I can assure the hon. Member for Nairobi North that is not a question of arrears but is mainly a question of the rate of profits which has accrued during the boom trading period of the past few years.

The excise figure is £41,000 below the estimate, but £83,000 above last year's collection figure, the explanation being, as hon. Members must have seen, that in my anxiety to avoid increased taxation last year, I took a somewhat optimistic view of the collection figures that we should obtain.

Now, issues of expenditure amounted to £11,000,000 at the end of October, that is 32 per cent of the published estimate. At the same period last year, the expenditure issues were £12,300,000 or 31 per cent of the actual issues for the year. Expenditure, therefore, has so far been kept at the level that we anticipated, and is being well held. The deficit for the year stands at present, the 17th November, at £3,285,000—I forget the odd pounds—that is the deficit for the odd year so far—£3,285,000 as against £5,267,000 at the same period last year, and by the end of the year, it should be, appreciably lower. We are, therefore, clearly getting nearer towards closing the gap between our receipts and our expenditure, and it was for this reason that together with the surplus of £2,641,000 we had at the end of our last financial year that we have been able to reduce our demands on the British Exchequer from £6,000,000 to £4,000,000 by telling

them that we did not need the loan—which I would emphasise, we have to repay—to spend on recurrent expenditure.

Now, Sir, that, I think, sets out a reasonably good position for the country at the present moment. It justifies one in using that old and well-worn phrase, "the revenue is buoyant", but again, as I did in the Budget debate last year, and the year before, and as I have tried to do again to-day, I must warn the country that they must be prepared for a tighter time in regard to finance generally, because the intake of money on a free grant basis from abroad is not likely to continue at the old level; I am referring to the United Kingdom grant—nor are we any longer benefiting from the numbers of European troops who came here as a result of the presence of the British battalion in the Emergency.

LT.-COL. GHERSIE: Past few years?

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): Of the past few years. No, no, no! I am talking about the past few years and the boom in trade—I am not talking about the income tax collection.

On the wrong side, however, import duty receipts are some £500,000 below last year's figure and nearly £1,000,000 below the Estimates. That, Sir, despite the fact mentioned by the hon. Member in his speech about phasing causing a great boom forward, Phasing came to an end in July but our customs and Import duties figure is some £500,000 below last year's figure and nearly £1,000,000 below the Estimates.

Now, Sir, I have nearly finished. The relation of Central and local taxation was, I think, a point raised by my hon. friend, the Member for Mombasa. I could only say, Sir, that in my opinion, local government development is designed to enable local people to have a higher standard of services of local benefit through contributions by themselves and through control by themselves. That is the position on which the local government situation has developed in Great Britain, and I have never seen in any country it have any effect in the reduction of Central taxation; I have merely seen it lead, as a rule, to a higher demand for more money from the Central

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Government in the way of grants to enable local government to go forward.

Now, Sir, the hon. Member spoke about hotels and my hon. friend, the Minister for Works, did, indeed, deal with that on some points, but I feel that I must quote from a circular sent round by one of our local stock and share brokers which throws a light upon this particular problem. It quotes the Kenya Hotels, Limited, who published their results for the year to the 30th June, 1956. It refers to the fact that the net trading profit from the two hotels concerned has fallen. It says this is accounted for by the fact that at the beginning of the present year, in consequence of the virtual end of the disturbances—I hope my hon. friend the Member for Central Electoral Area is listening to this one—"the army, police and civilians who had been posted to Nyeri to deal with the Emergency began to move away, taking their families with them. The White Rhino has not, so far, been affected but the Outspan was left almost empty and until its normal patrons begin to return in the shape of tourists from abroad, and East African holiday-makers, business is likely to be slack". Now let me turn to Block Hotels, Limited, who publish their balance sheet at the same time, and it is interesting to see what they have to say in view of the pressure that there has been for additional hotel accommodation in Nairobi: "Your board has authorised capital expenditure of £45,000 to provide 30 single bedrooms and bathrooms at the Norfolk Hotel. These additional rooms should be ready for occupation by the end of January, 1957, and with this extra bed-space Nairobi needs, the travelling public should be well covered for the next few years.

It would be opportune at this stage to refute some of the wild statements made by ill-informed members of the public regarding hotel taxation. During the months of June, July, August and September of this year, the height of the tourist season, according to detailed figures of accommodation which are kept by your Board, the Norfolk and New Stanley Hotels had vacant accommodation. These empty bed-spaces, plus

reduced spending in our public rooms, will effect the financial results during the coming year."

Now, there is the opinion of a Board of a very experienced hotel firm, who do not seem to think that there is need for extra-hotel accommodation. Well, I can only quote from the report. However, the point is that we have had many discussions, and we do keep trying to interest people in hotels in this country, but most of them want to operate on Government money, and the moment they want to operate on Government money, the position of priorities enters into it straight away. Must an hotel come before a road, must a road come before an hotel? I can assure the hon. Member that we have, from time to time, offered very attractive terms on land and on the provision of the limited finance we were likely to be able to make available, but so far without success.

Now, Sir, that is all that I have to say with the exception of one last little word. My hon. friend, the Member for the Coast, who I see has now departed, said that this speech was no clarion call.

Sir, does this country really want a clarion call? You know, Sir, I suggest that what this country wants and needs very badly is a cessation of the trumpeting of recent months, and a cessation, or a withholding, of the trumpeting that are to come in the months following, of which I have no doubt. That is what this country needs. It needs no "clarion call". It needs a trial at a period of political stability and a recognition that the task in front of this country, and in front of us all, is not one for effervescence and ebullience but one for a long haul and a steady pull through the troubles that lie ahead of us, because that alone will bring this country and its people their due rewards.

THE CHIEF SECRETARY (Mr. Turnbull): Mr. Speaker, Sir, I have some general remarks, half a dozen specific answers to questions, and the usual final platitudes—to put before the Council. If I abridge and compress, I am very careful to eschew metaphors and figures of speech, I can probably get through in about twenty minutes. It may be, Sir, that the Council would be reluctant to stay so long.

THE SPEAKER (Sir Ferdinand Cavendish-Bentick): I presume that Members on both sides of the Council were consulted regarding this Suspension of Standing Orders. I think, as was our experience during the last Council, that we have always got to be rather careful about suspension of Standing Orders. We should do so only with the knowledge and agreement of as many Members as possible.

MR. HARRIS: I think, Mr. Speaker, the general impression here is that we would like to adjourn now.

THE CHIEF SECRETARY (Mr. Turnbull): We would agree, Sir.

THE SPEAKER (Sir Ferdinand Cavendish-Bentick): If that is the case, then I think we will adjourn, but before doing so I would just like to make two remarks. Actually I was going to make three, but I have already made the first one and that is that we must not take the suspension of Standing Orders too lightly.

Secondly, hon. Members may be rather astonished at my insistence on Members who have already spoken only rising a second time in order to explain what they have said in the event of a subsequent speaker actually misquoting them, or in order to explain something on which he has been clearly misunderstood. They can, of course, interpolate "What I said was this", but they must not, repeat *not*, then proceed to add "in other words" and then proceed to elaborate the argument they used in their original speech by dotting "i"s and crossing "t"s.

Lastly, we were told in the course of this debate that Standing Orders have been studied at any rate by some Members. This is the first long debate of a new Council, so I would just mention one Standing Order that possibly some Members may have overlooked, and it is not only the various categories of maidens who might tend to be offenders. I refer to Standing Order No. 62.

ADJOURNMENT

THE SPEAKER (Sir Ferdinand Cavendish-Bentick): The time has now come for the adjournment. Council will stand adjourned until 2.30 p.m. to-morrow, Thursday, 22nd November, 1956.

Council rose at fifty-five minutes past six o'clock.

Thursday, 22nd November, 1956

The Council met at thirty minutes past Two o'clock.

[Mr. Speaker (Sir Ferdinand Cavendish-Bentick in the Chair)]

PRAYERS

MOTION

THANKS TO HIS EXCELLENCY THE GOVERNOR FOR HIS COMMUNICATION FROM THE CHAIR

(Debate continued from Wednesday, 21st November, 1956)

THE CHIEF SECRETARY (Mr. Turnbull): Mr. Speaker, Sir, it is almost impossible to devise a logical and constructive summing-up to a debate which of its very nature has to cover almost every field of the Government policy, and, indeed, after my colleagues have given such full expositions of the policies of their Ministries, in particular the close analysis of the Colony's financial position given by my hon. friend, the Minister for Finance last night, there is little left for me to say. I have passed certain general points: Before I come to them I should like to deal with a number of specific matters which still remain unanswered.

The hon. Member for Nairobi North has, I feel, been a little unfair on my hon. colleague the Minister for Agriculture. We, on this side of the Council, endured his merry quips and his quaint figures of speech for a considerable period and we enjoyed them. I am disappointed to see that hon. Members appointed to see that hon. Members opposite lack that fortitude under attack which has so distinguished the Government.

I agree with a good deal of what the hon. Member said about the attendance of Members. If an attack is made, courtesy demands that one waits to hear the reply. But I must make the point that it is not possible for all Ministers to be in the Council all the time. There are a score of important matters to be dealt with which do require skilled and experienced guidance. Although a Minister's first responsibility is to the Council, he has many calls upon his time in his Ministry and the day-to-day work of the Colony must go on.

The hon. Member for Nairobi North and the hon. Member for the Western

[The Chief Secretary] Area both dealt with the question of public meetings: the former answered the latter with great cogency. The Government's attitude in this matter has already been made clear by my hon. friend the Minister for African Affairs, but I feel that I can usefully add something.

The Government is satisfied that the time has not yet come for the lifting of restrictions on public meetings. We have just come through an Emergency, in which the lives and the livelihoods of decent law-abiding citizens have been threatened and interrupted and destroyed, and the Government is determined that there shall not be a recurrence of this state of affairs. It is the duty of the Government to protect the interests of decent citizens and to make certain that conditions are not created which may lead to indiscipline and disturbances.

I have said this before and I must say it again. There are a number of evil-intentioned men who have developed a skill in bringing crowds to the edge of violence without themselves breaking the law, and of saying extreme things which, although not coming within the legal definition of sedition, are, nevertheless, subversive of public order. This kind of inflammatory stuff creates uncertainty and bewilderment amongst decent law-abiding men, encourages the politically subversive, and in addition gives the criminal and the hoodlum unlimited opportunities.

For the present, therefore, the restrictions imposed on the holding of public meetings must stand. I hasten to add that what I have said does not, of course, apply to responsible African politicians, and that they will have every reasonable opportunity of addressing their constituents. When I say "reasonable opportunity" I am not trying to hedge. What I mean is that we should be reluctant for them to lay on a mass meeting of a million constituents in, say, Kisumu.

The hon. African Representative Member, Mr. Awori, expressed some robust and common-sense views on the subject of the overstocking of the country by lawyers.

Now, Sir, it is most important that these folk should not be allowed to exceed the carrying capacity of the

economy. I listened to the legal disquisitions of my hon. and learned friend, the Minister for Legal Affairs, and my three hon. and learned friends opposite with considerable awe and, I confess, with a trace of foreboding. There is an old Chinese proverb which says that if a piece of paper blows into a courthouse, it often needs a yoke of oxen to drag it out again.

To return to my hon. friend, Mr. Awori, I must disabuse him of the impression that a legal degree or a barrister's qualification is the best possible equipment for a career in the Provincial Administration. They are not, Sir. If a man wishes to have the best possible chance of becoming an administrative officer, he must be soundly beaten regularly throughout his school days and after that he must apply himself to a study of the classics. Let us have no journalism, none of these trifling certificates for secretarial efficiency or public administration. If a man follows this infallible recipe he cannot fail to secure eminence in the service.

The hon. Member, Sir, raised the question of the African cotton production at the coast. I am advised by my hon. friend, the Director for Agriculture, that his best course will be to commit his recommendations to writing and to represent them to the Cotton Seed and Lint Marketing Board.

He also touched upon the important question of the run-down of Emergency legislation. Now, Sir, this is a matter which the Government has continually before it. Government has no desire to keep these measures in operation for a day longer than is necessary, but while security conditions demand the retention of any particular regulation, that regulation must be retained. These special measures are being continuously and progressively run down. This is being done by way of revocation, amendment, or removal of the application from certain areas or by a less strict application. The Government is at present engaged on a comprehensive review of all the Emergency legislation, and it is hoped to increase the rate at which they can be dispensed with. This progress must depend on the security position in the areas concerned and, of course, of neighbouring areas from which a threat could be

[The Chief Secretary] imposed upon the area to which the legislation applies.

The hon. and learned Member for the Central Area, in a maiden speech, Sir, to which I hasten to add my congratulations, raised two or three important points. His first concern—or rather the concern he expressed, first—was for those detainees who continue to be classed as irreconcilables and over whom the Government must continue to exercise control, after the end of the Emergency. There is, of course, no question of their being punished or of the Government exacting some retribution upon them. Indeed, Sir, I am rather surprised that he should have suggested that the Government could have lent itself to such a questionable design. These men will be treated with all the care and attention which 20th century governments lavish on those who are dangerously unbalanced mentally. Legislation is being drawn up to keep these people out of circulation and to protect honest men from being infected with the cult which they have invented and professed. This legislation will come before the Council at the proper time.

The hon. Member also dealt with the possibility of areas adjoining the larger towns being made available for Asian and African housing. What problems he hopes to solve by this measure, I do not quite see, Sir, for in a rambling estate such as he envisages, the cost of roads, water, lighting, sewage, public transport and so on would be quite prohibitive. That is, of course, in addition to the complications arising from the land issue.

Nevertheless, I am quite prepared to receive a paper from the hon. Member on this subject. But I should warn the hon. Member that, as I am, sure all of us know, the Government has undertaken to refrain from proposing legislation which in any way concerns the special rights of racial communities in those areas established for their respective use by treaty, order in council or law.

The hon. Member also raised the question of mixed schools. The policy of the Government in this connection was explained by the previous Minister for Education, on the 17th May last year,

in connection with a debate on the Estimates. The account can be found in HANSARD.

Finally, Sir, I wish I could feel as carefree as the hon. Member does about the threat of Communist penetration into Africa.

Going back a day or two in time, Sir, the hon. African Representative Member, Mr. arap Moi, raised a matter relating to the Civil Service Commission. I am not quite certain what he had in mind when he told the Council that the Commission had become nothing more than a rubber stamp for heads of departments. I take it he meant that the heads of departments are exercising an undue and undesirable influence on promotions inside their departments. I can scarcely believe I am right in this interpretation for it is clear that considerable weight must be attached to the views of the head of the department in which the candidate has worked. I cannot see who else is better qualified to advise the Commission in this respect. I do not, of course, suggest that the head of the department should be in a position to impose his views upon the Commission. But if the hon. Member will be good enough to let me know precisely what he thinks has gone wrong, I shall be very happy to look into it.

In the meantime he may care to study the HANSARD of last year's debate when my hon. friend the Secretary to the Treasury replied in detail to a similar allegation. He will find the passage to which I refer in columns 103 and 104 of Volume LXVII of HANSARD.

The hon. and gracious Member for Uasin Gishu, whom I congratulate warmly on her maiden speech, sought information about the methods of recruitment in the Provincial Administration and in the technical services and urged that priority should be given to the claims of those local young men who have played such a distinguished part in the Emergency.

Well, Sir, this is a matter which was examined in great detail in last year's debate and the position has not changed much since then. As we are all getting much shorter of breath, I hope the hon. Member will absolve me of any disclaimer if I ask her to refer to last year's HANSARD, in particular to a speech

[The Chief Secretary] by the hon. Member for Aberdare in columns 187 and 188, and my reply in columns 307 to 310, in Volume LXVII. I think she will find all the information she needs.

I would add that on the 25th September, my hon. friend the Minister for African Affairs addressed a letter to the *East Africa Standard* in which he set out the present position very fully. He explained that since January, 1954, 70 regular district officers have been appointed and of these 25 per cent—or rather 25 which is more than 25 per cent—were locally born, locally educated or locally domiciled. As for the appointment of European district assistants, all but two of the local men who have applied have been appointed. But, Sir, we cannot wait for another Emergency to provide field training for local young men to fit them for the Administration. What we need and what we are still not getting, are the sons of local people who had their schooling either in this country or in the United Kingdom, who afterwards studied for a degree (I have to add preferably not the law) at some Home university, and who do their national training and return here. They are first-rate material. They are the men we want, but we find them extremely elusive.

Once again, Sir, we are indebted to the hon. Member for Mombasa who, with his usual urbanity, regaled us with the entertaining story of the San Francisco tycoon who built himself a luxury hotel in Byzantium. The pages of Gibbon abound with such questionable enterprises. I do not think it is fair, Sir, to blame the Information Department or the Tourist Travel Association for the tycoon's failure to locate Kenya on the map. There are 150,000,000 people in the United States and I suppose around 1,000,000 of them would describe themselves as tycoons of some sort or other, and it would be beyond our resources to send them all publicity material. Our proper course, and that adopted by my hon. friend the Minister for Commerce and Industry, is to send specialised information to selected recipients.

AN HON. MEMBER: Who can read!

THE CHIEF SECRETARY (Mr. Turnbull): Who can read, and also who are interested in the hotel business.

The hon. Member for Ukambani and I think the hon. Nominated Member, Mr. Robinson, enquired if there were a Government scheme for the reception of Hungarian refugees. No, Sir, there is not. This Government has the profoundest sympathy with these unhappy folk but we are a small country with big problems and to bring a group of people here, for whom we could find neither housing nor certain employment, would benefit neither us nor them. But on the basis of individual immigrants coming to guaranteed employment in a capacity which would benefit the economy of the country, the Colony should be able to absorb quite a number. I suggest, Sir, that potential employers should consult amongst themselves and decide precisely what offers they are prepared to make. If they will then approach me with a suitable scheme I will do all I can to help them, but I must add that I shall be compelled to act, I would wish to act, inside the framework of the immigration policy as laid down earlier this year.

I now turn, Sir, to the hon. Member for East Area. Sir, I owe him an apology for the rather obscure reference to Lady Macbeth and the milk. Sir, it was I who instigated it, and I apologise. But, quite apart from being too full of milk, he really is a bit too full of imagination. He said, that, in the Communication from the Chair, His Excellency speaking of the Queen's Commission had undertaken to establish training courses in 1957. Pure imagination, Sir. He did not say it at all. And I must also correct the hon. Member concerning his views upon the Tana River. He suggested that it should be dammed higher up and that we should make a major effort of some kind with funds from somewhere. Sir, I speak from my notes for I regret I have not checked the HANSARD on this particular point. The Member must excuse me if I misquote him, but that is the gist of it. If the hon. Member will study the Sampson and Harris Report of 1934, which dealt with the Tana generally, and Mr. Tetley's report of 1948 which dealt specifically with the problem of damming the Tana fairly high up for purposes of irrigation, he will find that the scheme is not only prohibitively expensive but that it is quite impracticable.

[The Chief Secretary] Now, Sir, at the risk of being repetitive I turn to one aspect of the African election. I should like to refer to the letter in the *East African Standard* of the 13th November, which has already been mentioned by one or two other hon. Members.

In that letter, the writer said, "Rumours are current in Nairobi, and some of the outlying African reserves that the person presenting himself for registration is sometimes asked to state the name of the prospective candidate he intends to vote for. Discouragement by word of mouth or action usually follows" and, in particular, when the potential voter gives a name unfavourable to the registering officer".

The hon. African Representative Member, Mr. Mathu, felt that Government should show its good faith by finding out whence these rumours arose. Well, Sir, I can tell the hon. Member whence these rumours arose: they are invented by ill-conditioned men, so that later on these persons can pass themselves off as the victims of some colonialist plot organised by an unscrupulous Government to rob them of their political rights. There is not an atom of truth in any of these rumours. They are inventions, fabrications, lies; and I defy those who repeat them to produce one single man who has been asked to give the name of the candidate for whom he proposes to vote; I know how much the average man enjoys a feeling hardly done by. That rich feeling of martyrdom and self-righteousness is pretty well irresistible unless, of course, you are a man of strong moral fibre and have a sense of humour.

I can make allowances for those who indulge in self-pity, but this is very different from an imagined grievance. It is deliberate malice. This leads me to reinforce the plea made by my hon. friend, the Minister for African Affairs, and the hon. Mr. Awori, for the adoptions of a responsible attitude by African politicians.

In the European and Asian political arenas campaign audiences are used to the vague boasts and the promises which it is extremely unlikely will ever be fulfilled. They preserve a slightly ironic attitude towards the whole business and

refuse to let themselves be too much carried away. And very little harm is done. But to the African all this is new. He is convinced that there is some powerful spirit in the hustings which is going to release him from some imaginary servitude and give him political influence, economic stability and free social services. They are eager to believe all these promises of increased health, wealth and happiness, and it really would be a disgrace if we imposed upon their immaturity. I was going to say that it is a waste of time to ask young politicians to impose moderation upon themselves, but as the hon. Mr. Awori has already done so, I will join with him in this appeal. I may say that *Gresham's Law* applies in politics just as in finance. Bad politicians drive out good, and we shall have much to reproach ourselves with if, in this country, as has happened elsewhere in the world, respectable people would never think of taking up politics.

Now, Sir, I come to an important matter—a little out of date—but nonetheless urgent on account of that. It was with the greatest surprise that I heard the hon. Representative Member, Mr. Mathu's, adjurations that we should relax our emphasis on soil erosion, and that instead we should apply drastic measures to ensure the maximum production from the soil, and that these drastic measures should be enforced by draconian punishments. When, later, he boasted of the African's capacity to produce children in endless numbers to be processed through the educational machine my surprise turned to consternation. Sir, may I amplify from a layman's point of view the really important remarks made by the Director of Agriculture. This past half-century has seen an enormous increase in the population of Africa, an increase so great that the light tropical soils on which we depend have had an intolerable burden placed upon them. And it is only by ceaseless and scrupulous attention to soil management that we can continue to support the still increasing number of human beings who depend for their food and for their sustenance on the soil. Any slackening of our attempts to keep the land in good heart will end in nothing but disaster. Civilisation after civilisation, from the Andes to the Indus, has gone down in

[The Chief Secretary] ruins through over-population and through imposing on the soil demands far greater than that soil can possibly carry. I do beg hon. Members to take warning from these gloomy examples. There is a real danger that with our increasing urban population, and I speak both of the African and European population, we shall come to regard the soil as an inexhaustible source of wealth which only needs powerful machines and subtle chemicals to yield up vast sums of money by way of cash crops. If we take this view, and if we fail to keep up our defences against erosion and our measures designed to maintain the physical and chemical structure of the soil, we shall destroy ourselves and I do implore the hon. African Representative Member to believe me that the need to cherish the top soil, upon which our rather precarious existence on the surface of this planet depends is greater now than it ever was before. Thinking as I do, I listened with the greatest relief and pleasure to what the hon. Nominated Member, Mr. Riddoch, had to say on the subject of forest policy, and to the confirmation of what he had said by the hon. Minister for Forests Development, Game and Fisheries.

I hope hon. Members will turn to their HANSARDS and study his sound advice and his well-informed comment.

One further point, Sir, before I turn to more general matters. My hon. friend, the Minister for Finance, has asked me to explain that the Development Estimates for 1956/1957 have already been submitted to the Council. Some Members seemed to be under the misapprehension last night that they had not been made aware of them. The Development Plan for the new period 1957/1960 is now being worked out, and a very arduous task it is.

Sir, at the risk of being repetitive, I should like to give yet another authoritative description of the nature of the Communication from the Chair.

Its purpose is to give an account, against the background of the present state of the Colony, of the policies the Government intends to pursue in the coming year, of any development in those policies and of the legislation which it is proposed to introduce to give

effect to those developments. It affords hon. Members an opportunity of debating some particular field of policy and enables Ministers to expound the policies of their Ministries, and to explain points which are not fully understood, or about which there are conflicting views.

In the words of the gracious and witty predecessor of the hon. Member for Ukambani: "It gives us a chance to have a jolly good tow-row."

The Communication is not intended to contain that clarion call for which the hon. Member for the Coast—

MR. COOKE: What I said, Sir, was "clarion", not "carrion" calls!

THE CHIEF SECRETARY (Mr. Turnbull): I think, in fact, that the hon. Member said "rallying cry" as if it were at a girl guides' meeting. Nor would it be proper to include in that type of contentious political crystal-gazing so much desired by the hon. Member for Central Area.

As for the vigorous words recommended by the hon. Mr. Mathu, and the propaganda desired by the hon. and gracious Member for Aberdare—they would be entirely out of place.

All that the Communication seeks to do is to present the facts with clarity and restraint, and with as much urbanity as the subject permits. And, Sir, in annual Communications of this sort, first things must come first.

His Excellency's Speech dealt primarily with the most urgent of all the problems now facing the Colony. That is the measures proposed for the reabsorption of displaced Kikuyu and for the return to ordinary life of those detainees who are not irrevocably committed to the cause of rebellion. His Excellency also explained the measures proposed for those detainees whom he described as "so deeply imbued with the fanatical *Mau Mau* spirit that their rehabilitation will require a period of years". These matters, Sir, are of vital importance to the present health and future progress of the Colony.

The first part of the Communication ended with a paragraph the importance and the significance of which seems to have escaped most of the hon. Members. The hon. and gracious Member for

[The Chief Secretary] Nyanza, with her usual perspicience, detected it at once. I refer to the passage towards the end of page 4, beginning "Our experience with the *Mau Mau* conspiracy has prompted the Government to review the powers on which in normal times it has to rely to preserve the peace".

May I commend this paragraph to the attention of hon. Members.

As for the omissions, Sir, for which the Communication has been criticised, I would repeat what some of my hon. colleagues have already said: that it is just not possible in a speech of this sort to go into the detail of every issue of policy. Nevertheless, every matter of importance was touched upon in the Communication, and there are no issues the Council has not been able to debate.

This is a debate which is designed to survey plans for the future rather than past achievements, and I think both sides of the Council can congratulate themselves on a searching and comprehensive examination of the Government's programme for the coming year.

I do not propose to conclude this debate with any adjurations or quasi-profundities. There are no easy years in this unpredictable half of the century, and it may be that the coming 12 months will call for all our qualities of good sense and resolution. In spite of the allegations of uncertainty and defeatism which have been made by some hon. Members opposite on the contents of the Communication from the Chair, the Government is stable, confident and strong.

It has the stability of the support of all men of good will and moderate views, and it has the confidence born of its achievements during the past two and a half years, both in the Emergency and in the ordinary development of the Colony. It takes its strength, Sir, from that reservoir of courage and steadfastness with which the Colony is so splendidly endowed and to which tribute has been paid by many hon. Members. I would like to repeat those—to my mind—Churchillian words of the hon. Mover: he said "I delight in brave men".

—One last word, Sir. We are a stable country on the edge of an area of increasing turmoil, and insecurity. Our

stability rests on the happy fact that we are a British Colony with complete confidence in Great Britain and with a vigorous and utterly unreserved loyalty to the Crown.

Sir, I beg to support.

THE SPEAKER (Sir Ferdinand Cavendish-Bentick): If no other Member wishes to speak I will ask Capt. Hamley whether he intends to follow the usual precedent of not making a reply.

CAPT. HAMLEY: That is so.

The question was put and carried.

MOTION

PRIMARY EDUCATION FOR AFRICAN CHILDREN IN NAIROBI

MR. MATHU: Mr. Speaker, Sir, I beg to move:

THAT in the opinion of this Council Government should fix a date on which to introduce compulsory primary education for African children in Nairobi.

Now, Sir, I feel that the subject of education has been discussed in this Council very often, but, in spite of that, I do not think that I have any reason to apologise for bringing this matter up once again. I should like, however, to apologise to the Minister for Education because only the other day he replied to points raised on education in a previous debate. I was not in the Chamber; in fact I was doing a part-of-his-own-job, since I was explaining to one of his schools how the Council is conducted, and that is why I was absent while he was speaking. It was not due to any discourtesy at all on my part.

The question of compulsory education for Africans has been raised for many years—it goes back to the twenties and the thirties—and since the Africans have had direct representation in this Council it has been raised almost every year. I would like to assure hon. Members and the Minister for Education, in particular, that there is no intention of using this subject for an electioneering campaign, and in order to put his mind at rest I would like to say that in my maiden speech, which was made on the 23rd November, 1944, this passage was included: I suggested that consideration should be given to the compulsory education for African children in the first

[Mr. Mathu] instance in such towns as Mombasa, Nairobi, Nakuru and Kisumu and then spreading throughout the country as the years go by. I am sure that he will not suggest in the slightest that I started my electioneering campaign in 1944.

It has been a very sincere and honest approach on the part of the African Members in this Council to try to impress upon the Government the importance of rapidly spreading education among the African people in Kenya. As the years have gone by, Sir, the African Members have modified their demands very considerably. As I said, Sir, the African public for many years has been demanding universal primary education for all the children in the whole of the Colony and from 1944 we had found that that was not possible to be done straightaway and we brought down our demands to the major towns of the country, as was mentioned in the first speech which I ever made in the Legislative Council.

Now, Sir, since then we have pressed the Government in this matter and we have still found that we should still modify our position still further because we are absolutely certain that there are difficulties in the way—financial difficulties, the provision of staff in the way of teachers and the provision of buildings. Those difficulties are very clear in our minds, but we do think, Sir, that, with determination and good will on both sides of the Council, it is not impossible to find a solution to at least a start in a small way to show that Government does mean that it intends to follow a policy of compulsory primary education for the African children throughout the Colony in the years to come.

I shall be very brief, Sir, in putting this matter because, as you see, Sir, the Motion asks the Government to fix a date—that is the main point in this Motion. However, I would like to give two or three authorities as far as this general question of compulsory education is concerned. I should like to refer to the recommendations of the Binns Group Committee on African Education—a study of educational policy in the British parts of Africa—which were published in 1953, and on page 130 of that document there is a definite recommendation by the Binns Committee that as soon as

possible eight years' compulsory education between the ages of seven and 15 shall be provided in urban areas. You will notice, Sir, that the recommendations here include all urban areas. We are becoming more reasonable even than this committee because we are asking the Government to introduce a scheme in only one urban area to start off with and that is Nairobi.

About last year, Sir, when the East African Royal Commission Report was published, there is a definite recommendation in that report in regard to the introduction of compulsory eight years' education in urban areas. I refer, Sir, to pages 179 and 180 of the East African Royal Commission Report of 1953-55, paragraphs 17 and 18, where the gist is that we should certainly consider compulsory education in the larger towns up to the end of the intermediate stage, and that it should be introduced for African children as early as possible. There again, the East African Royal Commission deals with all larger towns and I think that the Minister will see that we are now confining our demands to one urban area only.

Now, the Governments of East Africa made their comments on these recommendations of the East African Royal Commission in their despatches to the Colonial Secretary which were published in July this year and on that particular recommendation the Kenya Government had this to say: they quote the recommendations of Sir Hugh Downs' Commission: "Compulsory education to the end of the intermediate stage should be introduced for African children in the larger towns as early as possible." And this is the comment of the Government of Kenya: "Accepted as an objective", and then they go on to say, that is the Kenya Government, that there are three major difficulties in the way and, with your permission, Sir, I should like to quote a very small paragraph of what the Government has gone on to say beyond saying that they accepted it as an objective: "It is already the Government's expressed policy to move as rapidly as its means permit towards compulsory education for the children of Africans resident in urban areas". The special problem of the urban areas is already being met by

[Mr. Mathu] extending the present four-year primary course to one of six years' duration, the additional two years catering for those who fail to gain admission to an intermediate school. Although the social problems of children living in a town are clearly recognised, the actual rate of development to allow them eight full years of education in advance of the rural areas would, undoubtedly, cause resentment in native land units and would encourage a drift to the town. Moreover, it is doubtful whether eight years' schooling would do more than partly solve the problem of juvenile delinquency in towns.

There are, however, plans for building new schools in the towns, especially in Nairobi, and by 1960 there should be accommodation to give six years of education to the great majority of children in urban areas. Thereafter, extension to the full eight-year primary-intermediate course will take place as circumstances permit, *pari passu* with the development of intermediate education in rural areas.

Now, Sir, there are three main obstacles that Government has put forward in not introducing the eight years of compulsory education in larger towns and these are that it will cause resentment in native land units. I, personally, would like to challenge that because I do feel, Sir, that if you had a primary and intermediate education made compulsory in a place like Nairobi where there is a representation of all African communities throughout Kenya, I do not think anybody outside Nairobi would complain. I am very uncertain whether that is a problem that should stand in the way.

Then they said it would encourage a drift into the town. I have been a supporter of a proposal that in the event of primary education being made compulsory in Nairobi for African children every effort should be made to exclude any children who do not belong to the bona fide residents of Nairobi, because otherwise the scheme would be unworkable, and I think the African Members have made it clear to the Minister and other previous Ministers in this subject that they would do everything in their power to see that there should be no

uncontrolled drift of children into Nairobi wanting to take advantage of the facilities provided.

Finally, one other difficulty they mention, Sir, is that it would only partially solve the problem of juvenile delinquency in the towns. Well, that may be so, but I do not think that anybody has ever suggested that if you introduce compulsory primary education in Nairobi or any other towns that you will completely solve juvenile delinquency. It would be unfair for anybody to suggest that, but what we have suggested is this, that the reduction will be appreciable and it will produce a more healthy atmosphere in these towns than we have at the present moment. That is the point which we have put forward to the Government for a long time.

Now, Sir, in these despatches from our Government to the Colonial Secretary they have said that certain things will happen by 1960, and if they say that certain things will happen by 1960 they should also say that certain of the other things will happen after 1959 or 1960, and that is actually the principle which I am asking them to establish as a result of this Motion. They can fix a date—it may be three years' time or it may be four—when they should then get ready in preparing and making arrangements for the introduction of compulsory education in Nairobi.

My hon. Friend, the Minister for Education, on the 28th September this year addressed a meeting in Nairobi on which he spoke about this subject. "It is generally estimated", he said, "that there are 10,000 children of school-going age in Nairobi and that already we are providing education for 2,600", at the date the Minister was speaking. There is a balance of 7,000-odd. Of that balance I hesitate to say that, possibly, some of them are already juveniles and they are not actually perhaps intending to go to school—they may have taken up jobs—and yet they are still juveniles and of school age and therefore the balance of seven-year-olds, eight-year-olds or nine-year-olds must be very much less than 7,000, which is the balance that the Minister—the Minister is the Minister—has given. He also said figures the Minister gave. He also said that by 1960 it would be possible to provide for between 80 per cent and 90 per cent of children of school-going age in Nairobi. It seems to me that there is a

(Mr. Mathu) difference of between 10 per cent and 20 per cent that he does not visualise, that these could be provided for in the period that he now would discuss, and that is the planning period 1957 to 1960, and I suggest, Sir, a greater effort on the part of all the Government and the local authorities and the African parents, if it is possible, I suggest, to include the balance that he visualised would be out of school, that is between 10 per cent and 20 per cent.

Now the worry of the Minister, Sir, and the worries of the Government, has always been this question of finance, buildings and teachers. My hon. friend says, of course, if you want primary education for children between the age of seven and 15 you would require capital expenditure up to £1,000,000 and that you would require recurrent expenditure following that of about £500,000. Therefore he thinks that these figures are prohibitive—prohibitive, Sir, I suggest, if the figures are correct, and I hope he will have an opportunity of explaining how he has calculated these figures, because it is easy to say these are the figures without telling us the formula he uses; I suggest even if it is £1,000,000 and there was a concerted effort on the part of all those concerned, I do think, Sir, that it is not impossible to finance a primary compulsory course for African children in Nairobi between the ages of seven and 15.

Now, Sir, it has been suggested, Sir, that the African cannot pay any more. Now, in a previous debate, we were attacked by the suggestion that we had said that the African cannot pay any more. We have come unanimously and said we would like to recommend to the African and support the Government in any method they like, that the African people should pay more for education of their children by way of increased fees or by special tax or by loans. At one time, Sir, we suggested that this Government should go to the Government of the United Kingdom with a proposal that there be a £5,000,000 loan to this country for five years to use for the development of African education, and I do suggest, Sir, that these avenues should still be pursued. My hon. friend, the Minister for Finance, says he does not like the hypothecation of finance. He thinks the

money should go into general revenue, and that he thinks the country now is overtaxed in that he does not think the economy of the country gets money from one pocket, whether it is by income tax or by special tax, it comes from the same one pocket, the Kenya economy. I suggest to him, Sir, that that pocket can be widened a bit by greater sacrifices, and what we are suggesting to him, Sir, and to the Government, is that we would like to make greater sacrifices for the education of our children, and the way to get the African people paying willingly and give this sacrifice is to hypothecate finance in this particular instance towards the education of the African child, particularly, as this Motion says, in Nairobi.

Now, as far as buildings are concerned, I think the Minister for Education has already methods and something can be done, because when we initiated discussion of this particular subject with his predecessors in the Ministry in 1953 or 1954, since then they have accelerated the development programme of African education in Nairobi, putting up three new primary schools which were not within the planned period as arranged by getting cheaper building materials and they have, I think, got accommodation for 1,200 children earlier than they anticipated. It is that principle that we are suggesting something can be done, and I should like to pay a very warm tribute to the Education Department and to the Trades and Technical School at Kabete, who helped greatly to show that they can use cheaper materials and produce very good products. I have seen them myself, and I should like to congratulate them in this matter. It is important to mention this because I do think that Government should realise that when things are done initially the African is very grateful, and I want to show our gratitude in this particular matter. On the same basis I suggest we can do what I am suggesting.

Now, Sir, I should like, therefore, to make this proposition for the consideration of the Government. That they should accept this Motion as the basis of a pilot scheme for Nairobi's sake, and I suggest then they should consider fixing a date, say three years' time from now, 1959 or 1960, because I am not suggesting that we should embark on this tomorrow. It is not possible. I am suggesting it is up to them to fix the date; but

(Mr. Mathu) I am suggesting to them that even if they could accept a date, say, three years from now, or 1959 or 1960, Sir, it would be, I think, a thing that would encourage the parents and the children and those who will contribute towards the finances of running these schools, to pay the money necessary towards it—it would also give the Minister for Finance an opportunity to see how best to provide more money for this particular purpose if they commit themselves to a date. But if they do not commit themselves to a date, the thing runs on, and on, and on, and on, but if there is a D-day to it, I have the greatest confidence in this Government, that if they have a D-day to it, they will do it. There is no question of not being able to do it. They have got all the brains and resources and authority in the country. All that is required is to say "this is something which is going to be done" and it would be done. There is no question about that. All I want the Minister to do is to commit himself to a date—then I know the rest will follow.

Mr. Speaker, I beg to move.

MR. NZAU: I know that when the subject of education is mentioned there is hesitation in the mind of the Minister for Education, but I should like to ask the Minister for Education to place himself in the place of a parent rather than a Minister. Well, I believe that the Members of the Council are quite aware of the uneasiness with which a child approaches the mother when he is faint with hunger. As I said the other day, it is an agreed principle that there is hunger and there is a great demand for African education. Well, much has been covered in the field of education in the previous debates and I think I need not repeat what has already been said, but the Englishman tells us, or says, that a barking dog must not bite, and the Wakamba say that a dog must not groan without a bone. Well it is this hunger for education that is causing the African to look rather uneasy when the subject of education is mentioned.

Well, it has been, as the hon. Mr. Mathu has remarked, put to the Government for quite a long time now, that it was time that Government did

something to impress on the African mind that he really intends to impose compulsory education for African children. Well, in this respect, Sir, I feel we should not go on talking more and more without doing something to show the public that we really mean business. What I am driving at is that we should try to apply this scheme of compulsory education for one particular place like Nairobi, and then we will see what the reaction will be. Well, I feel that if compulsory education has been successful in other parts of the world, there is no reason why it should not be successful in Kenya, apart from Nairobi alone.

Well, I am not forgetting that there is also this hunger for education in the reserves, but, as the Minister for Education pointed out to us in the previous debate, we should, we Africans, like to see the scheme tried on a small scale and see if it would prove successful when applied on a wider scale.

Well, the Wakamba have also a saying that the devil finds work for the idle. Well, as a father, and anybody else, I think the African is much worried about his children or his child in both the urban and rural areas. If I remember from my childhood, there were many things which kept the children busy in the reserves, such as tending cattle, helping the parents in cultivating the gardens and such, but looking at the state of affairs today, we find that there is not very much in the reserves to keep the children busy, much more in the towns; and that is why most African children resort to the roads, like the old roads, and some of them to pick-pocketing. I think that is a very bad thing which we should try to combat at an early stage by providing the African child with not only the eight-year primary education, but also with something to keep him busy when he has attained this eight-year education.

Well, the African has always been worried about the Government's statement *bulo kidogo*. Well, the Wakamba have a tradition, somebody stricken with poverty goes to a neighbour and says, "I have a henry, could you loan me a cow?" and then the borrower gives a promissory and the wife is pregnant and will note that the wife is pregnant and probably give birth to a baby daughter and the man would pay the daughter

[Mr. Nzau] instead of the cow. Well, nobody knows whether a boy baby will be born or a cow baby will be born, but the man from whom the cow is borrowed is so patient as to wait until the borrower can pay. Therefore, I think our worry, Sir, is to get a promissory note from Government that something will be done. It does not matter whether it is a century to come, but we would like to feel that Government has given us a sort of a promise that this would be done in the years to come. Well, if we are given 100 years to come, 1957 will come and go, and there will come a time when we will feel that the time is ripe for Government to fulfil its promise, and that is our worry. We would like the Government to give us a date when we can anticipate this compulsory education for African children.

Therefore, Sir, I beg to support.

Question proposed.

MR. HARRIS: Mr. Speaker, Sir, I support. I feel that all Members of the Council would like to be able to support this Motion as it stands. Unfortunately, Sir, as we know in other fields, there is not the money available, and there seems to be some doubt as to exactly what financial commitment we would be entering into if this Motion were carried as it stands and implemented.

I cannot quite accept, Sir, the figures that were given in a recent debate by the Minister for Education, that compulsory education in Nairobi would mean capital expenditure of £1,000,000. I do feel, Sir, that that is one of the things that is probably wrong with Government planning, that when they think of a school, they think of a very well-appointed and designed school, but if we are going to give compulsory education to the Africans then I believe, Sir, that we could reduce the standard of the buildings in order to give the maximum possible standard of education. I would have thought to start with, the African Members, in making this plea, could perhaps have been happier with a tree and compulsory education rather than a large building and no education.

I think, Sir, a special case can be made for the urban African. I think everybody who has studied African development during the last 50 years has always

agreed that we have deprived the African of the sanctions and the disciplines of tribal life, and we have so far failed to put anything in their place. I believe, Sir, that education is possibly one of those disciplines which might well replace the tribal disciplines that have now gone. In any case, Sir, listening to the hon. Mover of this Motion, his undertaking that if there were compulsory education in Nairobi, he and his colleagues would support the prohibition of immigration of the Africans from the rural into the urban areas, I believe that we would be going a very long way to solving one of our major security problems, and also, Sir, I would have thought that idea would have appealed to a Minister with a different hat on in his capacity as Minister of Labour, because I believe if we could get compulsory education in Nairobi, we might be going a very long way towards stabilising the labour of the parents of the children who were being educated. It would give them an incentive to stay in the town.

Now, Sir, the hon. Mover, I think it was, quoted a figure given by the Minister of some 6,500 children—estimated—of school age in Nairobi.

AN HON. MEMBER: Ten thousand.

MR. HARRIS: Ten thousand children of whom, I think it would be fair to say that probably 6,000 or 6,500 are of school age. Now, Sir, if this scheme was started at any time, I presume that in the first year—the only children subject to compulsory education would be those coming into the educational sphere, namely the 7-year-olds, which would not be a problem of 10,000 or 6,000. It would, in fact, mean a problem as near as the Statistical Department can give me, of between something between 600 and 800. Admittedly, Sir, if this scheme proceeded in the second year, there would be a further 600 to 800, and so on until in the seventh year you would be up to your estimated 6,000 children between the ages of 7 and 15. But I believe that that figure of 600 does put the problem in better perspective than talking about 10,000, certainly a third of whom would not require any education for quite a number of years, and it is a rather frightening figure until one analyses the actual age groups that go to comprise that 10,000.

[Mr. Harris]

One of the reasons, Sir, why I am supporting in principle this Motion, although I intend to suggest an amendment in a minute, is that we only have two real assets in this country which have not yet been fully developed. The first is the land, which the Minister for Agriculture, we hope, is taking care of, and the second is our potential labour force, and I believe that an educated labour force is a very much more efficient labour force than is an illiterate one, and the standard of work and the standard of productivity which could eventually be achieved in this country, if we had an educated African population instead of an illiterate population, which is so often mentioned in this Council, then I believe we might improve productivity in the way in which all hon. Members are saying we ought to do.

Now, Sir, I would like to propose an amendment, because I believe that if Government accepted this Motion, they would be, in fact, accepting at some time, on behalf of all Members of this Council, an undertaking to give compulsory education to all the 6,000 or 6,500 children in Nairobi that I have mentioned, and I would prefer first of all, Sir, to have a smaller scheme in order that we can judge whether the hon. Mover is right in his contention that the African, rather like the mother heron is willing to pluck her breast to feed blood to her children, or whether that is not a political gambit at this stage of our development. I would like to see that compulsory education, in fact, has the support of African parents and not only of the African parents' representatives in this Council, and I believe, Sir, it would also be worth while seeing what the product of compulsory education was at the end of the system, so that we could judge whether that expenditure was worth making when we were able to judge what came out at the end of the machine. And I would have thought a small pilot scheme in say one of the locations in Nairobi—I would have thought Kaloleni would have been an excellent one as they have a very nice hall—would not have cost very much during the experimental period, and if the experiment were successful, then we would be able to shape educational policy for the Afri-

cans primarily or firstly in Nairobi and later in other urban areas.

Therefore, Sir, I would like to move an amendment that between the word "introduce" and the word "compulsory" in the Motion, the words be inserted "a pilot scheme for". The Motion would then read, Sir, "That in the opinion of this Council, Government should fix a date to introduce a pilot scheme for compulsory primary education for African children in Nairobi".

I beg to move.

SIR CHARLES MARKHAM: Mr. Speaker, I beg to second the amendment moved by my hon. friend. I must admit when I saw the wording of this Motion I was frightened of the reaction of Government to the query, of course, of expense. I believe nobody could quarrel with the amendment moved by my hon. friend for the very reasons he gave that the expense should be negligible. I must admit, Sir, I was intrigued by some of the reasoning of my hon. friend, the Second of the substantive Motion. Nothing I would like more, I must admit, if I lent somebody a cow would be to get a young girl in exchange. But perhaps my hon. friend, the Minister for Agriculture, might look into that side of economics.

But, Sir, I would like in all seriousness, although perhaps it may be thrown back at us as we have complained on this side of the Council, for cheaper buildings for a pilot scheme, I am remembering now, particularly, the criticisms the Minister of Works suffered for having built with cheap material a school at Muthiga, but that is slightly different in this case, because this is a pilot scheme in order to see whether the African parents do support the idea of compulsory education. I wonder, Sir, whether my hon. friend is right about Kaloleni? I would not like to commit myself to any of the locations. I would like that to be gone into by Government to find the most suitable spot, but having seen many a dreary hour of many a dreary day in Bahati Location, I have a certain feeling for that location. At one time I was there every other night and there is plenty of space suitable for a very large primary school which might be suitable. I did not walk round Kaloleni so I am not capable of arguing on their merit, but Bahati I know fairly well.

(Sir Charles Markham)

There is a principle involved in this and perhaps the Minister for Education might like to tell the Council the Government's view. A pilot scheme can be a very limited scheme, or it can develop into a major industry. Now, so often we have been told in the past, those of us who have been in industry, that if you are going to start something you should start with the pilot scheme and see whether that scheme is successful before changing to the major industry. Now, if the Minister could tell us of the numbers of Africans who have approached him that they are willing to pay in Nairobi for this compulsory education, we might get an idea of the desire by those parents. At the moment we are all rather inclined to talk of the hypothetical cases of the demands for universal education, but I do believe the Mover of the substantive Motion, and Second, are right that there is general demand, and, therefore, I can see no reason why we should oppose it, provided the pilot scheme be operated to start it. But I could not support the idea of going into something major without the scheme building up first of all which is the desire of the amendment.

Sir, I beg to second the amendment.

Question proposed.

MR. MAXWELL: Mr. Speaker, Sir, am I permitted to ask a question of the hon. Member for Nairobi South, for information?

MR. SPEAKER (Sir Ferdinand Cavendish-Bentinck): Yes.

MR. MAXWELL: That is, what does he precisely mean by a pilot scheme? If it is proposed to introduce compulsory education, surely it would have to apply to the whole of Nairobi and not to any particular location. Sir, I would like information on that point.

MR. HARRIS: I am sorry I did not make it clear. I was thinking particularly in terms of either a geographical area, one of the locations, or possibly classes of parents, such as civil servants.

MR. TYSON: Mr. Speaker, Sir, we have heard a good deal in the course of this discussion about the formidable costs of providing compulsory education for the African children, at any rate in

Nairobi. The Minister himself, a day or two ago, gave us the figure of £1,000,000 for buildings and something like a recurrent expenditure of another £500,000.

What, to my mind, is disappointing is that there has been no constructive alternative put forward for dealing with this problem. It divides itself quite obviously into two main items, firstly, the capital expenditure and secondly, the provision of teachers.

Now those difficulties, I submit, are going to remain with us for a considerable time, and as a result, I suggest, it is imperative that we should at once think about alternatives by which this capital expenditure can be avoided. What I would like to ask the Minister, is whether he or whether the Education Department have given any consideration to using broadcasting services for this purpose of educating the African children. In remote villages in the west of Scotland, classes in various subjects are given to the children—very successfully—in various subjects, and I do submit, Sir, that if it is possible to teach Gaelic to small children in the west of Scotland, then it should equally be possible to teach English to African children in the locations here by the use of broadcasting facilities.

The Minister himself has promised to treat Nairobi as a special problem and I support the Mover of the amendment in his suggestion that we should use a pilot scheme—establish a pilot scheme—in our African locations, here, which could, if successful, be repeated in other places like Mombasa, Kisumu, Nyeri, and so on.

Now, so far as our African locations are concerned, by the use of broadcasting, the problem of the cost of buildings, I think, could be very largely avoided. We have, as already been pointed out, social halls which are not used during the daytime and which could be used for classrooms for children organised to listen to broadcasting. To-day a teacher, I suppose, conducts a class of 40 or 50 children. By the use of broadcasting, I suggest that that same teacher can be lecturing to another ten classes of 50 children each. It would, of course, need some organising of the classrooms or the meeting places to ensure that the children assembled at a certain hour and that

(Mr. Tyson) their attention was directed to listen to the lessons which were being given to them over the broadcast. I, quite frankly, do not think it would be beyond the capabilities of the Education Department to introduce something on those lines and I would like the Minister to start straightaway an investigation on the lines which have been indicated by the hon. Member for Nairobi South, with a view to introducing a pilot scheme into the African locations, where there is electric power, where, as I say, we have suitable buildings which could be used for classrooms, and where the teaching staff available could be made of much more use and spread over a much larger number than is the case to-day, because it is quite evident that for a considerable time, we are going to have considerable difficulty in finding the numbers of teachers required.

I think a scheme on the lines I have indicated, of using the broadcasting services, would need—as the children reached the school-leaving age—to be tied up with the apprenticeship scheme which is under consideration, with our evening classes and with the scheme of training within industry about which we have just received a booklet from the Labour Department. It does seem to me, Sir, that, in spite of these difficulties, what we must aim at is to try to design a scheme by which the African children—in the same way as the children of other communities—have at their disposal facilities for elementary education, and subsequently for technical education, so that they can take their rightful place in the development and the building up of this Colony.

I support the amendment.

THE SPEAKER (Sir Ferdinand Cavendish-Bentinck): Order, order. As this is the first time the new Council have handled an amendment to a Motion, I would draw hon. Members' attention to the fact that when an amendment is put, under Standing Order No. 75 the debate should be confined to the amendment. What we are trying to do now is dispose of the amendment, and then continue dealing with the substantive Motion, whether it is the amended Motion or the original one. Under Standing Order No. 73, when an amendment has been moved, any Mem-

ber who has already spoken to the main question may speak to the amendment, and any Member who has not spoken to the main question—when it comes up—it is still open to him to do so. The only person who cannot speak, unless there is a second amendment, is the Member who, at the end of his speech to the original Motion, proposed the amendment.

MR. GIKONYO: Mr. Speaker, Sir—

THE SPEAKER (Sir Ferdinand Cavendish-Bentinck): Will you please confine your remarks, at this stage, to the amendment.

MR. GIKONYO: Mr. Speaker, I just want to deal, as you say, with the question of the amendment. I was rather surprised, Sir, by the step that my friend, the hon. Member for Nairobi South, took. He, like me, has been dealing with African affairs in this town and perhaps he has done more than I have, because at one time he was the Mayor of this City, and no doubt he knows the African problems better than I think most other Members, although I recognise that my friend, the Member for Trans Nzoia, also was the Mayor of this town and he knows that what we say is true.

Now I would have expressed support for this Motion without amendment, but now that he has seen fit to amend the Motion, by inserting the words "a pilot scheme", I hope that my hon. friend, the Mover, will find it perhaps fit to accept this amendment, but what worries me is this question of a suggestion of having a pilot scheme in one particular location. At the moment it is rather difficult for me to support that suggestion or to oppose it, but I do feel that in the event of the amendment being accepted by the Government, means and ways how this pilot scheme could be gone into because there can be quite a lot of danger if you confine the scheme to one particular location, because my fear is this—you may perhaps initiate this scheme for a particular location where there is no enthusiasm, in which case it will fail. On the other hand, you may take it to another area where you find a lot of enthusiasm. Therefore, I feel in the event of the amendment being accepted, it is a matter that should be gone into, to find exactly methods and ways by which we can initiate this pilot scheme; but, as I say, it is not for me

[Mr. Gikonyo]
to say—it is for my hon. friend, the Mover, either to accept the amendment or not, and whether Government do accept the Motion as it was tabled or otherwise—but for the moment I would reserve either my support or opposition to this.

Mr. Speaker, I beg to—

MR. MATHU: Mr. Speaker, with the qualifications that have been suggested by my hon. friend, Mr. Gikonyo, I personally would not oppose the amendment. I should like to underline this qualification that my friend put, because it might be too small a pilot scheme, in which case it would not be effective in the way we want, because, of course, if the Minister accepts that this matter should be discussed with him and the Government and the representatives of the children in Nairobi, I will be quite happy, Sir, to support the amendment.

THE SPEAKER (Sir Ferdinand Cavendish-Bentinck): The amendment will have to be put to Council, so I should like to hear if any other Members want to speak to the amendment.

MR. WADLEY: Mr. Speaker, Sir, I should like to say a few words lest it should be assumed from what my hon. friend, Mr. Tyson, has just said—that the cost could in fact be greatly reduced through the use of broadcasting in any plan for accelerated development in Nairobi. I would not like it to be thought that I do not agree that there is a great value in the use of broadcasting in education, but it has a value as an adjunct and not as the main means of educating children.

The idea is, undoubtedly, superficially attractive—that you may have some central fount of wisdom from which knowledge is poured out—but I must remind hon. Members that, assuming that knowledge could be imparted so easily in this way, there is a lot of follow-up work to be done. Teaching involves expression—expression work on the part of the children after knowledge has been given to them—after the facts have been given to them—and this takes the form, sometimes, of oral questions and sometimes of written work; and that work has to be corrected. Some will make mistakes; they will have to be shown the right way and they will have

difficulties which will occur frequently—daily—and there must be someone available to remedy those difficulties and to explain them away. Of course, that is only one side of the picture. There is the other side. Education is not merely the imparting of knowledge; there is character training and all the other school activities, and I must point out, too, that only in a limited number of subjects could broadcasting be used. It is suitable, perhaps, for senior pupils in a limited number of subjects, but for small children it is not suitable, and in any event children rapidly begin to lose their interest if there is not someone speaking to them, someone in the room.

In other words, there is no substitute for a teacher in the classroom, and hon. Members of this Council must be prepared to face a plan which will involve the provision of one teacher for, on the average, every 40 children. I am afraid there is no other way of doing this.

THE SPEAKER (Sir Ferdinand Cavendish-Bentinck): Were you speaking to or against the amendment?

MR. WADLEY: Speaking for the amendment.

MR. USHER: Mr. Speaker, Sir, I oppose the amendment, as I am going to oppose the substantive Motion. It is not perhaps realised that compulsory education involves not only the provision for the children, but pains and penalties for the parents. I should like hon. Members to bear in mind that if compulsory education is brought in all parents will have to subscribe to it or suffer the penalties provided for non-subscription.

I am very doubtful whether, if compulsory education were applied to a confined area, the scheme would work at all. If the area were so confined as a single location, I should have thought that the obvious way to go about it was to say we will, on a certain date, give education facilities in the location, which will be sufficient anyway for the present, and that should be a sufficient pilot scheme. But I cannot see why compulsory education—why it is assumed, I think, by the hon. Mover, that all the parents are pelicans. Now, we know a good deal about pelicans and their pious habits. They do not do what they are supposed to do in St. James's Park, nor do they do it on the Nile, but it is a very

[Mr. Usher]
pretty legend, and the figure was quite aptly used, I believe. What I am thinking is there might not be that universal response that is assumed by the hon. Mover.

Sir, in conclusion and referring to the hon. Nominated Member, Mr. Tyson, I do appreciate that something can be done by way of broadcasting, but I still do not know how the wireless is going to provide a beating for a naughty boy.

Sir, I beg to oppose.

THE SPEAKER (Sir Ferdinand Cavendish-Bentinck): This might be a suitable time to take the customary quarter of an hour's break.

Council suspended business at fifteen minutes past Four o'clock and resumed at thirty-five minutes past Four o'clock.

THE MINISTER FOR EDUCATION, LABOUR AND LANDS (Mr. Coult): Mr. Speaker, Sir, I rise to say that this side of the Council will gladly accept this amendment.

THE SPEAKER (Sir Ferdinand Cavendish-Bentinck): The Motion mentioned is that on the Order Paper, since which an amendment has been proposed as follows: that the words "a pilot scheme for" be inserted between the words "introduce" and "compulsory". It means that the amended Motion, if passed, will be:

THAT in the opinion of this Council Government should—fix—a date on which to introduce a pilot scheme for compulsory primary education for African children in Nairobi.

The question was put and carried.

THE SPEAKER (Sir Ferdinand Cavendish-Bentinck): The Motion is now open to debate. May I add that every single Member may speak again, with the exception of Mr. Mathu and Mr. Harris.

MR. AWORI: Mr. Speaker, Sir, with great reluctance I rise to support the present Motion as amended by my friend, the hon. Member for Nairobi South, and accepted by the Government.

I do feel, Sir, that the former Motion which was moved by my friend, Mr. Mathu, will not be able to get either the support of the Government—or even the Council at large—for one major reason and that is the question of finance. I do sympathise with that, and I do feel that it is no use to cry for

the moon when you cannot get there. But now, on second thoughts, I do feel that half a loaf is better than nothing.

However, Sir, while I do not agree with some of the views which have been expressed by several Members on this side of the Council, in particular the hon. Member for Nairobi South who moved the amendment, and the hon. Member for Ukamba who seconded, as far as the question of making such a move for locations such as Bahati or Kaloleni are concerned.

My main reasons, Sir, in not wanting to be specific on that issue are these. Take for instance, in a location like Kaloleni you will find that most of the residents there come from Nyanza areas and some of them have their wives and children in the reserves, where the children are getting education in the local schools there. Now, when this Motion is accepted, as far as compulsion is concerned, they might feel on the question of fees that they will not be able to meet them. For that matter, they would rather see their children educated at home where perhaps the education will be cheaper if the children live in the homes of their parents.

For that reason, Sir, it is a point which Government should look into and investigate as far as the question of starting this pilot scheme is concerned. At the present time we should not commit ourselves by either naming Makadara or Bahati or Kaloleni for that matter. Once the principle is accepted, as far as compulsion is concerned, it will just be as far as poll tax is concerned. When a person fails to pay poll tax, well, he is supposed to pay double the fee and is compelled to do that, and this might be able to bring some fear among the African parents towards this matter although, as it has been mentioned, due to illiteracy the Africans might not be able to understand the importance of this scheme.

The African Members on this side of the Council, although not quite happy as to the present Motion as amended, we do feel that it is a step forward and we should support it and see that the Government starts it.

Before I sit down, Mr. Speaker, I do feel that the hon. Minister for Education and Labour should specify a definite

[Mr. Awori] date as and when the former Motion was moved and seconded by my friend, the hon. Mr. Nau. Mr. Nzau indicated that if Government were able to give us a date—whether it is a century's time—it would be accepted.

On my part, Sir, I do not think that would be fair, we shall be nowhere. My hon. friend, Mr. Mathu, did indicate that "Let us have it either in 1959 or 1960", but, I believe, when he speaks on this Motion he will accept that date, and in my view I would like to see the hon. Minister for Education specify the date six months from now, that is some time in July of next year or, at the latest, in 1958 for the start of this pilot scheme. This would be able to give us a definite date for the Government to make the necessary investigations and, at the same time, for the African parents in Nairobi to know exactly what the aim of this Motion is.

Mr. Speaker, Sir, with great reluctance I support the present Motion.

Mr. Crosskill: Mr. Speaker, I would like to support the Motion. I support the Motion every year when my hon. friend, Mr. Mathu, brings it up, but not always in the manner in which he hopes and believes that it will be put into practice. I do so, Mr. Speaker, because I believe firmly in the principle that the minds and bodies of urban children must be usefully occupied.

However, I am going to ask that the manner in which it will be carried out will be treated with greater flexibility than normal, particularly as this is a pilot scheme. Now, when the hon. Minister for Education was speaking I pictured him, Sir, taking his mortarboard off, scratching his head and wondering whether he was going to be able to work out syllabi or syllabuses and whether he would have enough slates and so forth, for the normal traditional manner in which primary education is inflicted upon children.

We must look on it in a more flexible way and try other methods of education. What we are really trying to achieve, Sir, is that these children will become good disciplined, cheerful, happy little citizens. We must not stick slavishly to the definition of what is primary education and

what is the syllabus at the correct time for that type of education.

Now, one point I should like to clear up, Sir, is that there seems to be some misunderstanding on the part of our African colleagues on this side of Council with regard to what my friend, the hon. Member for Nairobi South, said about the pilot scheme being tried out on locational basis. That was merely an idea, Sir, which he put forward. It would not necessarily have to be on a locational basis; it might be on the basis of the children of a group of civil servants—or a group of any other type of citizens—and I think the factors which would decide would be the question of distance, the number of children who could be accepted for the education, the willingness of the parents to pay and so forth. That was merely an idea put forward but it would be up to the hon. Minister opposite, Sir, to decide who, what group of people, should first of all try this pilot scheme.

When I say I should like more flexibility in the treatment of this educational pilot scheme, Sir, I think we should first of all see that the children are healthy, that they play games, that they learn languages, and as and when it became possible they would start on the three "Rs" of reading, writing and arithmetic. I think first of all it is very important that they should have games. We have been told by my hon. friend, the Member for Ukamba, that we must have some substitute for tribal discipline. What better substitute could we have, Sir, than football? It might even achieve a greater object than that, Sir, and provide a substitute for the tribal gods in the form of Stanley Matthews or some other star.

Again, I think the hon. Director of Agriculture was rather scathing in his criticism of the suggestion from the hon. Mr. Tyson that the radio should be used. Well, I think it could be used to very great effect. One of the limiting factors obviously will be the shortage of teachers. We hear this every time a debate on education is held in this Council. The radio could assist in subsidising these teachers.

I was very astonished only two days ago in Legislative Council, talking in the restaurant to two of my friends on

[Mr. Crosskill] this side of Council, to hear that they had never heard of the use of gramophone records for teaching English. They were saying that they must have more teachers, more teachers from Europe, in order to learn the English language as she is spoken and I said that I thought that they should buy gramophone records. So, Sir, my plea is for a certain degree of flexibility in the treatment of this proposal.

The hon. Member, Sir, said that we should have a pilot scheme in order to see whether the idea of compulsory primary education would be successful. Now, I must here state a word of warning, Sir, because I do not quite know what is the criterion of success. I know they will not believe me when I say that it is my firm belief that education has brought more unhappiness than it has brought happiness, and so what is the criterion? Also, I think it is rather dangerous, this pilot scheme, in that quite naturally the first who qualify after this period would be absorbed into some form of occupation which is suited to the education which they have acquired, but if, Sir, we had complete universal, compulsory education I fear we might create more unhappiness than happiness by not being able to absorb those educated minds. Now, it took many, many hundreds of years of development of our civilisation in Europe before we could impose—for financial reasons and social reasons—compulsory primary education. One which we should have met would have been the impossibility of absorbing those educated minds, and I think we must co-ordinate supply and demand in exactly the same way as we do in agriculture or other forms of industry. We must not think that education is an end in itself. It is only a means to an end. I would ask my African friends to think about that and not demand universal education because it is not, Sir, a panacea to all evil.

I would, Sir, end these few words by reiterating that I think this question of education must be treated with flexibility. The manner in which it is given must be co-ordinated with the demand for it and also be regulated according to the potentialities, financial and the other limitations which we hear so much about.

Mr. Speaker, I beg to support.

CAPTAIN HAMLEY: Mr. Speaker, Sir, I want, very briefly, to support the rather nebulous suggestion of the Member for Nairobi South which has been discouraged by several of the previous speakers.

I would suggest that if a pilot scheme is carried out, the locations are the best places to carry it out in for two reasons. One is the question of distances because you would be taking pupils from one particular area close to each other and the other is the matter which was first touched upon by the hon. Member for Mombasa.

I foresaw the difficulty of making some citizens potential law-breakers whilst others remain lawful. It would be very difficult I suggest, Sir, to take pupils by groups and to say that, for instance, Nairobi civil servants should be forced to have their children compulsorily educated and they would be lawbreakers if they did not do so, because you would then have some civil servants being law-breakers and some civil servants not being lawbreakers. However, I suggest, Sir, that if it is introduced by a pilot scheme in a location the matter is much simplified because I think it should be quite easy to introduce a by-law making it a condition for living in that location, or leasing a house in that location, that the parents should agree to having their children compulsorily educated and that they would not be allowed to live in that location if they did not agree to that.

I think the hon. Mr. Awori's argument on this point was somewhat of a quibble. I think that if parents, for instance, are having their children educated in Nyanza when they are living in Nairobi it would be quite an easy thing to say that they must have their children educated compulsorily if they are living on a certain location, but if they are being educated in Nyanza there is no compulsory education in Nairobi. That seems to be no difficult thing to get over.

Mr. Speaker, Sir, I support the Motion.

THE MINISTER FOR EDUCATION, LABOUR AND LANDS (Mr. Coult): Mr. Speaker, Sir, having left my spectacles at home to-day I am going to have no difficulty in following your adjuration last night about reading speeches. My only doubt is

[The Minister for Education, Labour and Lands]

that I am not certain whether I am going to be able to read my notes in order to make a speech at all.

However, I would like to begin, Sir, first of all by congratulating the hon. Mover of this Motion on his very eminent reasonableness to-day. Two or three days ago I said that I had always found that when the hon. Mover was speaking about African education his head was in Olympus and his feet were nowhere near the earth.

To-day, I feel that he has at last his feet on solid earth and he has made, probably for the first time in this Council, a really constructive proposal on this subject and, therefore, Sir, I am prepared to welcome this constructive proposal which he has put forward.

He has put this forward with various suggestions which have been heard in this Council before, such as special taxes on the African and the sacrifices to be made by them, and I would like to say, Sir, that that is a very laudable viewpoint to take and I sincerely hope that when we come to examine this particular proposal in detail that we will find that the African is prepared to make these sacrifices because if he does not, any proposal of this nature will just not be possible.

Now, Sir, I would have thought that the hon. Mover had been long enough in this Council and long enough in contact with Government to know that they should never ask Government to give specific dates. It is one of the things which we, Sir, are not in the habit of doing. I have already given him an undertaking in the previous debate that we had that I would look into this problem and, Sir, I have now accepted on the behalf of the Government this amended Motion, that we will examine the possibility of a pilot scheme for compulsory primary education in Nairobi and we will give a date for it.

Before I come to the difficulties which, of course, do surround this proposal I would like to get a few figures straight. A number of figures for costs, for population and for children going to school have been quoted in this Council and I think it is probably time that I got them absolutely right so that nobody is in any doubt whatsoever.

Let me first of all deal with the population figures. At the present moment it is estimated that in Nairobi there are about 120,000 Africans, of whom there are about 15,000 children under the age of 15; of school-going age there are 7,500. I must apologise to the hon. Mover for the figures which I gave at Starehe because I quoted an old figure for those at school which he has rightly said was 2,600, and I also gave the advanced figure for the year 1960 for the number of school-going children in Nairobi on that occasion. However, the correct figures are 7,500 at the present time at school-going age, of which approximately 4,000 are now in primary schools. Therefore, the position as everyone sees it is probably slightly better than I have indicated in the past.

However, I must qualify that by saying that primary means up to Standard IV and not eight years of education. Therefore, if we are going to adopt this pilot scheme, there are quite a large number of children who leave school after four years for whom places will have to be found in intermediate schools.

Under the present scheme—I think I have said this before—it is likely that there will be about 80 per cent of this figure which I have given, in school by 1960, and it is assumed as far as we know, that there will be about 10,000 children in the year 1960 for whom schools will have to be provided.

Now, Sir, I want to stress one particular point at this stage, particularly about population. On a population of 120,000 we should have, in fact, about 3,000 children, not 15,000. In other words, the predominant part of this population are either single men or single women who have come in to the city in order to work and have not got any children with them.

Beyond 1960 we do not know what the trend will be. It may be, because of better housing, that that figure will go up very substantially, and, although we at the present moment are basing our calculations on this figure of 10,000, there might, in fact, in 1961 be 30,000 children we shall have to look after; and that is an aspect of this problem which everyone must realise and it is that aspect which makes the Government naturally rather cagey—to use a

[The Minister for Education, Labour and Lands]

modern expression about giving any intimation whatsoever about when we can, in fact, produce the education which all Africans want.

Now, Sir, turning again to costs, because I wish also to quote all figures here again, the hon. Mover, in a previous speech, said that I told some Africans at Starehe that the Government would provide the money and that there was no necessity for Africans to produce the money. In fact, Sir, I think I said that Government was always short of money, but in the speech that I made I doubted the ability of Africans to produce the enormous amount of money that we would require for education; and that also, I think, is a point which we have got to remember.

The next point I want to make is the one that I quoted in the last debate, when the hon. Member unfortunately was not here. The point I was trying to make at that time was that he and the hon. Representative Member, Mr. Gikonyo, attended a meeting with my predecessor in the Secretariat in 1954, and the figures given at that time for introducing compulsory primary education in Nairobi was £1,000,000 capital and £500,000 recurrent. Now, Sir, there were several points included in these figures: the first was that that figure was based on the population which everyone expected would be in Nairobi by the time that we could bring this in, and at that time they were thinking in terms of 12, 15, 20 years ahead; secondly, since that meeting was arranged, the method of construction of African schools has been altered to the pumice block, which, in fact, has halved the cost of schools—and also, on the recurrent side, the figures were in the same way expanded, because it was expected that we would have to deal with a much larger number of children.

Now, Sir, in order to get the record straight, I would like to say what we believe are the correct figures. Now, based on the population figures which I have already quoted, I believe that we would require—using the pumice block construction—about £170,000 capital for further schools in Nairobi in order to produce eight years of education for

those children who are here at the moment. In addition to that, we would require a special teacher-training institution, which would cost about £50,000; and in addition to that, one must always remember that there is no use educating children up to the end of the intermediate stage, without providing some places for some of them to go on to further education, which means a further provision of about £80,000 for a secondary school or schools.

Therefore, if we were accepting the terms of the original Motion, it would cost us about £300,000 capital for the necessary buildings. At the present moment, on the recurrent side, we are spending £12,000, and this, if we were going to provide education in Nairobi on the present basis, would rise probably to about £46,000, to which must be added a further £15,000 for teacher-training and another £30,000 for the secondary school, making an annual recurrent commitment, over and above what we are paying now, of about £91,000.

Well, that, Sir, really is the present position.

Now, Sir, turning to the present Motion which is before the Council, I feel that there are so many imponderables in this matter that it is very difficult indeed for me to be precise—or, as the hon. Mover said, to commit myself in any way whatsoever. For instance, the two old favourites will crop up again—money, teachers, also the whole question of the economic situation. We do not know whether the present economic situation will go on as favourably as it has done in the last two to three years. Also, we do not know whether the population will increase. Also, I heard a hint in what my hon. naval friend from Mombasa said just now, that possibly, once this was done, Mombasa might be wanting to join in this pilot scheme.

So, Sir, there are a large number of things to which we have got to give very careful consideration before we can decide what we are going to do. Some Members have suggested that the pilot scheme might apply to locations; other people have suggested that we might apply it to those who are permanent residents of Nairobi; other people have said, "Oh, well! Just bring in a pilot

[The Minister for Education, Labour and Lands]

scheme". Well, Sir, I myself feel that it would be quite impossible to say at this stage whether we could apply it to a particular location; whether we could apply it to a particular group of people, or to whom we could apply it. All I say, Sir, at this stage is that I am prepared and happy to accept this Motion in its amended form and I am prepared to discuss it with those people who are particularly interested and, at the end of that time, I hope that I will be in the fortunate position of being able to name a day.

Sir, that, virtually, is all I wish to say in this debate, but I feel that there are one or two points which have been raised by hon. Members to which I feel I must reply.

My hon. Nominated friend, Mr. Tyson, referred to "no constructive alternative". Sir, I must take him to task on this one. Indeed, at the present moment in Nairobi, just prior to my taking over this post and during the time that I have been in it, we have constructed five schools in Nairobi; and, what is more, we are proposing to build nine more before July, 1957. Sir, I feel that this is not only a constructive, but a constructional, answer to what has been said from the other side of this Council.

The hon. Representative Member, Mr. Awori, raised the question of fees and the possibility that some of the parents might not wish to provide the fees, nor extra taxes. Sir, I feel, as I have already said at the beginning that this really is the nub of the whole scheme. If, in fact, the African feels that he can provide more—if, in fact he does provide more—and if he is prepared to give us every assistance we need, I believe that a pilot scheme of this nature is practicable.

And I would just like to close on this note, Sir, that I feel that the real answer is what the hon. Member himself said in the previous debate on His Excellency the Governor's Speech, when he was talking about agriculture, and said that what we need is production figures for districts or locations. Sir, if we are going to have the social services that we need, if African education is really going to go ahead, it will depend entirely on the efforts of those Africans in the rural

areas and the production which they can make on their own pieces of land, and also on the increased standard of living which they will thereby provide.

Sir, I beg to support.

MR. COOKE: Mr. Speaker, I was rather surprised at the hon. gentleman taking exception to the remarks of the hon. Mr. Tyson accusing this Government of being unconstructive. I thought my hon. friend was rather like Satan rebuking sin, because a few minutes previously he had said that my hon. friend, the African Member, had made the first constructive statement that he had heard in this Council for some time—or, indeed, that he had ever heard in this Council. I thought, as a matter of fact, that that was a rather ungracious remark to make. If my hon. friend will excuse me for saying so. In fact, I thought his speech was a little trulent from start to finish, in the pleasant atmosphere that has so far prevailed.

Well, Sir, I have been longer in this Council than my hon. friend, and it is not by any means the first constructive speech I have heard my hon. friend, Mr. Mathu, make. I have heard him make many constructive speeches in this Council, and I have been very glad to hear him make those constructive speeches.

I merely got up to get it off my chest, because I felt very indignant about this remark.

And I support the Motion.

MR. GIKONYO: Mr. Speaker, when I spoke first on the amendment, I was not quite sure whether to support the amendment or not; but, after a second thought, I found that I must accept the amendment, yes, the Motion as amended.

Now, there is one thing that I want to remind the hon. Members in this Council of, that this matter is not a new matter. We have raised it in this Council, and outside, and I must congratulate the Minister for Education and the Government as a whole, for at last accepting this amendment.

The other thing that I want say is this—just to repeat what my hon. friend, Mr. Mathu, said—that there is no electioneering motive by this Motion. It is the feeling and knowledge and experience that we have learned in Nairobi, and I

[Mr. Gikonyo] do know that most Members here realize the trouble that we have had in Nairobi, particularly during this Emergency. Most of those who took guns—the "gun-boys"—were the fellows who were brought up in Nairobi without any form of education, and I do feel that it is a very wise thing that the Government at last have found it fit to accept this small pilot scheme. I hope and believe that as soon as we start, it will be successful, and it will be expanded.

Nairobi, unlike other places, should be treated as a special area. There is only this—that most of the parents come to Nairobi to work, and more increasingly women also are going to work. Now, the children of these parents are left without anybody to look after them, and, of course, they get into mischief. For this reason, I and my African colleagues feel very strongly that something should be done for them. Nairobi, unlike the reserves, the children cannot do otherwise. They have no other activities. In the reserves, children can go to *shambas*, they can look after the cows and goats, but in Nairobi they have no alternative but to go in the streets and start petty stealing; and when they become of age, they become much worse and tougher and the rest of it, and we have seen it. There is no question of supposing it can happen, it has happened, and I think this Emergency has taught us some lessons.

And I am very grateful that this pilot scheme has been accepted by the Government, and I hope that once it is successful it will be extended, so that all those children of bona fide residents and working in Nairobi, should go to school compulsorily.

Mr. Speaker, I support the Motion as amended.

MR. CIUMAH: Mr. Speaker, Sir, I beg to support the Motion.

You will understand that Government has been very wise now to accept this small scheme, because we know when a man is growing, he is first of all a small thing, but will grow later to be a big thing. Therefore, the Government has been very wise to accept this small scheme which will later grow to be a very big thing.

From an experimental point of view, I am not going to advise the Government because naturally they are going to recommend this for Nairobi, but I will only ask them to grow—as the Minister for Education has just said—that he is going to meet the people who are concerned, so we shall leave it like that.

We Africans here to-day, want this to be applied to Africans only, and therefore I feel it is not wise for us to urge the Government to do what it is going to do. I want them only to do and apply it on the up-country and Nairobi locations.

Very many things have been said about education. We have been asking the Government every now and again to give us education, and this at least would again be a very small proportion of it, but this will be a very big thing in the end.

Mr. Speaker, Sir, I beg to support the Motion.

MR. ROBINSON: Mr. Speaker, Sir, all the previous speakers in this debate, I think, assumed that this pilot scheme should be initiated in Nairobi. In my opinion, Sir, if this scheme were initiated in Nairobi, difficulties would be increased. If one selected a smaller area like Nakuru, in my opinion the scheme would have a much better chance of success. I can foresee many difficulties, if the scheme were put in Nairobi, in the way of locations or selecting certain classes of African children to be educated. I think it would be far easier if the scheme was started in a smaller place like Nakuru or Kisumu.

Sir, I beg to support.

MR. ARAP MOI: In supporting this Motion, Mr. Speaker, I think Government has done one of the greatest things to mankind and I think, although we are not in a position to say that we have achieved anything at all, there are obstacles ahead; but Government should not at all relax and say that there are difficulties and therefore we shall not overcome those difficulties.

I know in Great Britain, where compulsory education had been implemented, particularly for children from 5 to 15; after primary education or what it was then called—elementary education—it was not then difficult for the

[Mr. arap Moi] parents, because parents had to pay by way of tax.

Mr. Speaker, I very much support the hon. Member, Mr. Robinson, in saying that the scheme should be extended to some other towns.

Mr. ROBINSON: If the hon. Member would give way, I did not say "extended". I said it should be initiated.

Mr. ARAP MOI: Well, Mr. Speaker, in that case I think we should then specify ourselves to Nairobi.

With those words, Mr. Speaker, I beg to support.

THE PARLIAMENTARY SECRETARY TO THE MINISTER FOR EDUCATION, LABOUR AND LANDS (Mr. Wanyutu Waweru): Mr. Speaker, I was not intending to speak on this Motion, but I have got a few comments to make, while I am supporting the Motion as amended.

As it was suggested by the hon. Nominated Member, Mr. Tyson, of using the broadcast to the children, I strongly support what was said by the hon. Director of Education, on how it is difficult for the children to be taught through the broadcasting, because while I always listen to the news, I do not remember a single day when I have ever had an opportunity of asking one who is on the microphone any question, and I do know, Sir, that pupils like very much to ask their teachers questions. Although I am in support that it should be used in schools, as I saw it being done in Britain, there are some lessons which cannot be taught through the microphone.

I do know, Sir, that some of the parents would be prepared to contribute more than they are now contributing towards educating their children, but on the question of Nairobi, Sir, many city workers do have one foot in the city and the other in the African land units. When the Minister for Education discovers how this can be achieved, I know that many questions will come into the picture. How many of those who have got children in the African areas would be prepared to be taxed in Nairobi? That is a question that I think still remains to be answered, but I would appeal to the African Members on the opposite side of this Council to use their influence to see that the Africans who are living in the city do all

they can to put into practice or to help the Minister for Education to make what is going to be suggested by the Minister possible, because I know that unless that is done—and I know that they will do so—there may arise some arguments.

It was earlier said that the city dwellers may not complain, but I still think that they would. But I know that the African Members are not neglecting this suggestion and I know that the problem is there and while I congratulate the hon. Mover, I would still ask the hon. Mover to do the same—for the African Members to see that what the Minister for Education will arrange is put into practice without much difficulty.

With these words, Mr. Speaker, I support the Motion as amended.

Mr. NZAU: Mr. Speaker, in supporting the Motion as amended, I would like to correct one or two points made by one African hon. Member on this side of Council. I am only too glad when I hear the words of the Minister for Education that he is going into the matter, and I think I have confidence in what he has said.

When I said we would like to be given a definite time when we could expect this compulsory education for our children, I had in mind a story I read some years ago of a certain soldier who was asked by his chief officer how long he had been in the service. He said he had been in the service for 30 years. Then when asked how old he was, he said he was three weeks old. Well, by that I mean that when I said a century, I did not mean we had to wait for a century before Government gave us a time when we could expect compulsory education for our children, and I am only too happy that the Minister for Education has undertaken to go into the matter and see that something is done.

Well, what I say that we are now fighting for is details of which I think the Minister is going to go into and will also go into the details of where to start the scheme and what is to be done when the scheme has been started, and I think I should like the hon. African Members on this side of Council to wait and see what the Minister for Education is going to achieve.

I beg to support the Motion as amended.

THE SPEAKER (Sir Ferdinand Cavendish-Bentick): The last speaker spoke when he seconded the original Motion. He then had every right to speak a second time on the amendment, but once the amendment has become accepted by the Council, he really had no right to speak the second time.

Mr. MATHU: There are perhaps a few points I should like to clear up. The first is to assure my hon. friend, the Parliamentary Secretary to the Minister for Education, again that the Minister for Education can use us as much as he pleases. Not only now, but we have given our services many times before, not only when he asked us. It will be our bounden duty, as we move along, to encourage our people to support the proposals that may be put up by Government to implement this scheme.

As far as the Minister for Education is concerned, he did make a point on which I may have perhaps misquoted him before, about his speech in Starehe. I have got his speech here and the point I wanted to make is this, which is given out by the Information Office—"That speakers told him that African were prepared to meet all education costs from their own pockets. Mr. Couits replied that the sum involved could not be raised at present by any community in the Colony; the Government were doing its best for African education with the resources at its disposal." The point I wanted to emphasise is that at that time he had an offer in that meeting—and it was quite a representative meeting of Nairobi Africans—that they would do this, and I feel that this Motion now would encourage these Africans to come forward again.

On the finance figures, Sir, I feel much happier now with the revised estimates. They are not quite frightening now, working up to something like £300,000 as far as the first scheme is concerned and £91,000 for the natural projection to secondary education of this scheme. They are figures, I think, that are within the possibility that Africans can help him to raise. Also, I am happier about the figures of the children as he has now revised them.

It seems to me, Sir, that this Motion has been extremely useful in that it has, I think, reassured most of us now that

something can be done along these lines, in view of what the Minister for Education has done. I would like to reassure my hon. friend, the Member for Mau, who has been very helpful in this matter in debate in this Council, that discipline is, I think, one of the most important factors in bringing up the youth, and that discipline can be brought about in some of the methods that we have advocated before and which I have supported.

I think that is all, except to say, Sir, that the Nominated Member, Mr. Robinson, says that it might be easier to start in some places other than Nairobi, but Nairobi has been so in the picture for so many years about this matter, that psychologically it is ready for it, and I personally feel we should leave it for Nairobi at the moment, and out of that lesson we can see what we can do in other places. That applies, of course, to the suggestion about Mombasa.

Sir, I would like again to thank the Government for accepting this Motion and to thank my hon. friend, the Member for Nairobi South, for the amendment which makes it possible for us to start the thing in principle. I agree that the Minister would not perhaps be able to tell us right away when that is going to happen, but looking at his face when he said those words, I hope it will not be too far in the distant future.

Mr. Speaker, Sir, I beg to move.

The question was put and carried.

MOTION

TRANSFER OF POWERS (MINISTER FOR AFRICAN AFFAIRS) (No. 3) ORDER, 1956

THE MINISTER FOR AFRICAN AFFAIRS (Mr. Windley): Mr. Speaker, Sir, I beg to move that the draft Order cited as the Transfer of Powers (Minister for African Affairs) (No. 3) Order, 1956, be approved.

This, Sir, has a simple objective. As hon. Members will remember, various powers were transferred to the Minister for African Affairs under this Ordinance, under an earlier Motion approved by this Council, and I think that, largely owing to an oversight, these rather simple powers which refer to the fixing of fees for the tapping of palm wine were omitted at that time. I think it is appropriate that these powers should be transferred to the Minister, and I would

[The Minister for African Affairs] recommend to the Council to approve this Motion.

THE MINISTER FOR LEGAL AFFAIRS (Mr. Griffith-Jones) seconded.

Question proposed.

The question was put and carried.

MOTION

TRANSFER OF POWERS (MINISTER FOR WORKS) (NO. 1) ORDER, 1956, AND THE TRANSFER OF POWERS (MINISTER FOR WORKS) (NO. 2) ORDER, 1956

THE MINISTER FOR WORKS (Mr. Nathop): Mr. Speaker, I beg to move that the draft Orders cited as the Transfer of Powers (Minister for Works) (No. 1) Order, 1956, and the Transfer of Powers (Minister for Works) (No. 2) Order, 1956, be approved.

Sir, this is in accordance with the procedure which has been adopted by Government to facilitate administration work and, therefore, Sir, I beg to move.

THE MINISTER FOR LEGAL AFFAIRS (Mr. Griffith-Jones) seconded.

Question proposed.

The question was put and carried.

BILLS

SECOND READINGS

The Interpretation and General Provisions Bill

Order for Second Reading read.

THE MINISTER FOR LEGAL AFFAIRS (Mr. Griffith-Jones): Mr. Speaker, Sir, I beg to move that the Interpretation and General Provisions Bill be now read the Second Time.

Sir, this is an exercise in legislation which has developed largely from the experience of the various officers who have had to undertake the duties of drafting legislation in this Colony, and who have observed certain deficiencies and anomalies and other matters open to improvement in our existing Interpretation and General Clauses Ordinance which, as hon. Members will be aware, is a general charter for the interpretation of our statutes.

Now, Sir, much of this Bill is a re-enactment of provisions already existing in our present law. There are additions; there are slight alterations here and there; and rather than take the Council right

through the Bill, which has no theme which can be developed in a speech on the Second Reading, I propose, with your permission, merely to draw attention to certain provisions in the Bill.

First, I would refer to clause 3 which contains a large number of definitions of terms which are used in various Ordinances, and which may be used more freely in future Ordinances, and which, therefore, by being included in this Bill, will avoid the necessity of *ad hoc* definitions in each Bill as it is prepared and presented to this Council. There are one or two additions to these definitions which I shall move in the Committee stage of the Bill, notably definitions arising from the Exchequer and Audit Ordinance—definitions of "accounting officer", "receiver of revenue" and "the Treasury".

Coming to individual definitions, which I commend to the attention of hon. Members—they are in alphabetical order—first, it will be observed that the definition of "document" is rather more extensive and comprehensive than that which appears in the existing law; and similarly, with the definition of "publication", which is that which we have recently incorporated in our criminal law.

hon. Members will notice, although it is a re-enactment, that, in sub-clause (3) of clause 3, it is provided that in every written law—and that phrase itself is an innovation and is designed to give us the facility of a comprehensive phrase to import all legislative provisions having force in the Colony—in every written law, unless a contrary intention appears, words and expressions importing the masculine gender include females.

The hon. and gracious ladies on the other side of Council, two of whom I see leaving and whom I ask to remain at any rate for another half-minute, will derive comfort from this re-enacted provision, since it, in fact, displaces what one might call the rule in Fardell against Potts, which I heard you, Sir, refer to on another occasion quite recently. Fardell against Potts was that misleading appeal heard by the Master of the Rolls, whose name, if I recollect, was Wool or Sheep, with the associated Judges, Bungay and Blow, L.J.J., in the case in which a woman in a punt had a collision; and you may remember, Sir,

[The Minister for Legal Affairs] that an issue arose in that most interesting appeal from the fact that the normal criterion whereby negligent behaviour is judged, is the criterion of what would be the conduct, in similar circumstances, of the reasonable man. The court came up against this difficulty—that nowhere in the law had there been, throughout the centuries, any mention of a reasonable woman. It was, indeed, suggested that the species of reasonable woman, had it ever existed, was now extinct. However, as I say, my hon. and gracious friends on the other side of the Council will take comfort from the fact that this provision proclaims that where reference is made to a reasonable man, it includes a reasonable woman. Now, should it be thought that that meant only one reasonable woman, we can pass to the next sub-clause of this clause, which says that the singular includes the plural, so we have the added comfort that a reference to a reasonable woman includes a reference to reasonable women, and therefore we have the assurance that it would be entirely consistent with these related provisions to hold, as I am sure we in this Council would hold, that there exist at least three reasonable women. My hon. and gracious friends may now leave.

Sir, passing to clause 5 of the Bill, which is the definition of the word "African"—this is a re-enactment of the existing provision, with the one exception that in paragraph (b) of sub-clause (1), where in the existing provision there is a reference to "an Abyssinian (Amhara, Tigre and Shoa)," we have substituted the word "Ethiopian", with the proviso that that term, "Ethiopian" shall not include a member of any tribe or of any part of any tribe which habitually resides in the Colony, or partly in the Colony and partly elsewhere. This is a reflection of the fact that the word "Ethiopian" is more acceptable to nationals of Ethiopia than the rather discriminatory expression which was used previously.

Clauses 7, 8 and 9 deal with the judicial noticing and the gazetting of Ordinances and with their commencement. I propose in the Committee stage to move slightly amended clauses in place of each of these three clauses in order to get a logical sequence. It will

not affect the substance much but it will mean that, as amended, clause 7 will deal with all Ordinances and will include the provision that they should be published in the *Gazette*; clause 8 will deal with the commencement of Bill assented to by the Governor, and clause 9 with the commencement of Bills reserved for the signification of Her Majesty's pleasure.

Passing to clause 26, I propose in the Committee stage to move a deletion of this clause since it is a matter which is regulated by the Letters Patent and which is so rare, the subject matter of this clause being disallowance, that it is, we consider, neither appropriate nor necessary that we should include this provision in our Bill.

The next provision to which I wish to draw attention is sub-clause (2) of clause 28. This is new and it provides in effect that subsidiary legislation can be made with retrospective effect. This is subject to the very important qualification that a penalty cannot be imposed retroactively. The normal principle of law is that subsidiary legislation cannot, unless the power to make it expressly includes power to cause it to operate retroactively, so operate, and this provision displaces, therefore, that ordinary rule, which can cause very considerable inconvenience.

Passing, then, Mr. Speaker, well-forward to clause 57, which deals with the exercise by the Solicitor-General of the powers of the Attorney-General in certain circumstances, I would merely observe that this provision is founded on the comparable provision in the Law Officers Act of 1944 in the United Kingdom.

Then to clause 61, which displaces a rule ordinarily referred to as the rule in *Lambe's case* in which it was held that where a person commits an offence and between the date of the commission of his offence and the date of his being sentenced for it, the punishment for the offence is increased by way of amendment, he is liable to the increased punishment, the principle being that the jurisdiction of the court to pass punishment—to pass a sentence of punishment—depends on the state of the law at the time the sentence is passed and not at the time the offence was committed. That can, of course, operate very harshly and

[The Minister for Legal Affairs] it is considered that that rule should be displaced and that the effective punishment available in respect of an offence should be that available in law at the date of the commission of the offence.

Now, Sir, passing to clause 68 which refers to the Northern Frontier District, this is new and it reflects the special conditions that obtain in the Northern Frontier District, which *de jure* is a single district and therefore, of course, a very large one. But practically, from the point of view of practical administration, it is essential that there should be more than one district commissioner in that very large district. However, there are few geographical features to facilitate the definition of boundaries, while a precise survey of boundaries presents very considerable practical difficulties and, therefore, to all intents and purposes one may say that a full survey of boundaries of areas within the Northern Frontier District is impracticable. Moreover, by reason again of the very special conditions that obtain in that area, the inhabitants being very largely nomadic, the district boundaries and the sphere of influence of the district commissioners, or their jurisdiction, must, if administration is to be fully effective and develop to the best advantage, be fluid and follow the movement of the various nomadic tribes. Consequently, we need this special provision to meet the special circumstances.

Mr. Speaker, Sir, there are one or two other minor points for amendment which I propose to introduce at the Committee stage, but they are not of sufficient moment to warrant mention at this stage, I think. I would merely add therefore, Sir, that most of the provisions in this Bill are in common form, the form common to interpretation statutes, certainly in Colonial territories, and many of them are in common form with those contained in the Interpretation Act in England. The Bill has been considered by a sub-committee appointed by the General Council of the Law Society which has made one or two comments of a not very specific or precise nature and not such as I can really give very much effect to in the course of the proceedings in this Council.

Basically, I think I can say with some confidence that the Bill is very largely non-controversial in the professional sense.

Mr. Speaker, I beg to move.

THE MINISTER FOR COMMERCE AND INDUSTRY (Mr. Hope-Jones) seconded.

Question proposed.

MR. MANGAT: Mr. Speaker, Sir, I beg to say with respect that this Bill is a great improvement on Chapter 1, Laws of Kenya, which it is going to replace and I stand to comment and not to criticise.

I have only two points to make on this, one is under the definition of "public officer" at page 9. As defined in the Bill, public officer "means any person in the service of or holding office under Crown in light of the Government of the Colony, whether such service or office be permanent or temporary, paid or unpaid". Now, this definition becomes handy when an offence is committed under section 93 or 94 of the Penal Code, that is official corruption. There the defence generally puts up the technical point whether a particular person is in the public service. I think, to make it clear, we might as well include in this—this is merely a suggestion and not an amendment—that in the definition after the word "Colony" we might say "or any corporate body constituted under any written law of the Colony". I think that would include local authorities and perhaps some other organisations which, in fact, do the work where people are involved in performing functions which are, if not entirely official, certainly semi-official. We have defined local authority in this Bill and the definition is very comprehensive, but I wonder if the learned Mover does not think that we should make it very wide as to include any corporate body; then perhaps he could simply say that it should include persons employed under any local authority. That would certainly bring in many corporate bodies in the definition.

The second point I would like to suggest, Sir, is that the word "Indian" should be defined. Now, I realise that the word "Indian" may be material in only two Bills, that is the Legislative Council Ordinance and, very shortly when we bring in certain amendments, in the

[Mr. Mangat] Local Government Ordinance; there probably "Indian" would become material. But the Indian community has been feeling a bit annoyed over the negative description which has been conferred upon them for several years now, that is of non-Muslims. I am told—it is merely hearsay—that the hon. Chief Secretary has in mind a sort of amendment to the Legislative Council Ordinance where he will probably define an Indian as an Indian, but that is merely hearsay, I am not sure whether it is intended. But in any event, I think it is advisable now that Indian should be given a proper place in the definitions or, as my old friend, Col. Grogan, would say, the Indian should be put in his proper place. So these are the two suggestions which may be considered at the Committee stage and I beg to repeat that section 3 of the Bill is indeed an admirable thesaurus of legal terms. I beg to support.

THE SPEAKER (Sir Ferdinand Cavenish-Bentinck): If no hon. Member wishes to speak, I will ask the hon. Mover to reply.

THE MINISTER FOR LEGAL AFFAIRS (Mr. Griffith-Jones): Mr. Speaker, Sir, I am very grateful to my hon. and learned friend for his remarks and, dealing with the two points which he has raised, I think I am right in saying that there is, in fact, no necessity for the addition which he suggests to the definition of "public officer", by reason of the fact that we now have a Prevention of Corruption Ordinance which supersedes the Criminal Procedure Code provisions relating to official corruption and in which we have provided especially and at some length that in the context of corruption officers of local authorities are included. Sir, I would be very happy to discuss it with him if he still wishes, but I think he will find that the point is in fact adequately covered already in regard to corruption.

In regard to his second point, the definition of the word "Indian" does, as he knows, present certain difficulties. Difficulties, particularly, of definition! It is rather like saying, as one has to in this instance, perhaps, in the alternative, that an Indian means an Indian, or that an Indian means a person who is not an

Indian. We are really on the horns of an almost perfect dilemma in this matter. However, this matter is being considered in the particular context to which he refers and in relation to the Legislative Council Ordinance and I think for the time being at any rate, it would be as well to leave it in that field, and if and when we can achieve satisfaction in that field, then we might consider extending our satisfaction to the more general field.

Mr. Speaker, Sir, I beg to move.

The question was put and carried.

The Bill was read the Second Time and committed to a Committee of the whole Council to-morrow.

The Crown Proceedings Bill

Order for Second Reading read.

THE MINISTER FOR LEGAL AFFAIRS (Mr. Griffith-Jones): Mr. Speaker, Sir, I beg to move that the Crown Proceedings Bill be now read the Second Time.

The main purpose of this Bill, Sir, is to make the Crown liable in tort to the same extent as the private citizen is so liable. I have reason to expect, from my experience in this Council in the past, that this Bill will receive an enthusiastic reception from the Council, particularly from the other side of the Council.

That being its main purpose, its secondary purpose is to remove the necessity which exists under the present law for the Governor's fiat to be obtained before the subject can pursue a course of action against the Crown by way of a petition of right under the Petitions of Right Ordinance, which this Bill proposes to repeal.

The courses of action which the subject can—subject to fiat—pursue against the Crown under that Ordinance lie mainly in the field of contract. This Bill, by repealing that Ordinance, does not remove the qualified right of the subject to sue the Crown in contract or on any other cause of action on which a petition of right may under the present laws be founded, but removes the qualification and entitles the subject to sue on such causes of action as of right and without fiat.

[The Minister for Legal Affairs]

The Bill does not affect the liability of the Crown in right of its government of the United Kingdom or in right of its government of any British Possession other than the Colony. It would not be competent for this legislature to legislate in respect of the liabilities of the Crown in right of its government of other parts of the Commonwealth.

Now, Sir, the Bill contains in Part II the real meat of the matter. The remainder is very largely procedural and relates to matters of jurisdiction, etc.—technical matters in which, I think, the Council will not be very interested. I propose, therefore, to confine my remarks to the substantive provisions contained in Part II.

Clause 3, and the repeal by clause 33 of the Petitions of Right Ordinance, combine to abolish the procedure by way of petition of right, and provide that claims which might have been pursued by way of that procedure with the fiat of the Governor, will in future be enforceable as of right without fiat, by way of proceedings under this Bill. This is the clause giving effect to the matter which I dealt with in my opening just now.

Clause 4 is the clause which deals with the liability of the Crown in tort. As is well known, under the existing law, proceedings in tort do not lie against the Crown and the only remedy at law possessed by the subject is to proceed against the individual wrongdoer, if any, and if identifiable. If that remedy is pursued, the practice is that the Crown stands behind its servant who is sued, to the extent necessary to ensure that the subject does not suffer by reason of his inability to sue the Crown or by reason of the incapacity of the individual Crown servant, possibly, to meet, or to meet in full, any award of damages or costs that may be made against him. Alternatively, and in practice more commonly, the Crown deals with claims in tort, claims in respect of injuries suffered, on an *ex gratia* basis and as nearly as may be in the same manner as those claims could be expected to be dealt with if there were no Crown immunity and if they were therefore litigated in the ordinary way. The Crown has a very onerous responsibility in that regard, a responsibility which, I may say,

devolves very largely on its legal advisers, and its legal advisers, being very aware of the necessity that the Crown should be, if anything, over-scrupulous, tend generally in dealing with these matters to err, if they err at all, on the side of generosity.

Now, it is not possible merely to enact that the Crown shall be liable to be sued in tort. The matter is considerably more complicated than that. The immunity of the Crown in tort under the common law was founded on two main principles; the first is that reflected in the maxim "The king can do no wrong" and the second, and in the present context more important, is the principle, which is a principle of fact, that there is not an exact and complete analogy as between the Crown and its servants on the one hand and the private employer and his servants on the other. In the latter case the servant is appointed by the will of his employer and his duties are directed by his employer, whereas in the case of the Crown servant, his appointment may be made by an officer of state and his duties may be controlled by statute. Moreover, certain categories of Crown servants, such as judges, sailors and soldiers, do not have an analogous counterpart in private life. The purpose of this Bill being, therefore, to subject the Crown to the same liabilities in tort as those to which the private citizen is subject, clause 4 provides that the Crown shall be liable in tort in respect of the four main classes of wrongs. There will, in fact be some overlapping in these classes; but in the aggregate they cover the whole field of liability in tort in which there is an analogous liability on the private citizen.

Now, the first category comprises torts committed by the servants or agents of the Crown where the tort is such as to give rise to a course of action against the servant or agent or his estate. The second category—each category, as I might interpolate here, is set out in clause 3 and clause 4 (1)—comprises those torts which consist in a breach of a common law duty which a private employer owes to his servant or agent. The third category comprises torts which consist in a breach of any of the common law duties attaching to the ownership, occupation, possession or control of property. The fourth category, which is in effect defined

[The Minister for Legal Affairs]

in sub-clause (2) of clause 4, comprises torts which consist in a breach of a statutory duty which is binding on the Crown and its servants in common with private persons. Clause 4 goes on to deal with certain corollaries and related matters flowing from the principle of liability which is enshrined in the first two paragraphs of the clause.

Paragraph (3) of clause 4 results from the rule that when the duty to be performed is imposed by law, and not by the will of the party employing an agent, the employer is not liable for the wrong done by the agent in his employment in carrying out that duty, it being a duty imposed on him by law. This paragraph—paragraph (3)—therefore deprives the Crown of that defence, which would otherwise be available to it under that rule.

The next paragraph—paragraph (4)—merely extends to the Crown any special protection which the legislature sees fit to confer on the servants of the Crown carrying out their duties as such. Hon. Members will recollect that in a number of Ordinances there are indemnity provisions in respect not only of servants of the Crown but of members of boards and the like. Well, it is, of course, entirely logical and reasonable that where an indemnity extends to the act of the servant, it should also extend to the normal vicarious liability of the employer.

Paragraph (5) of clause 4 relieves the Crown of liability for judicial acts or omissions for the obvious reason that over such acts or omissions the Crown exercises no executive control.

Paragraph (6) of clause 4 relieves the Crown of vicarious liability for the acts or omissions of persons who are its officers only in a very special or nominal sense, that is to say, in honorary or ceremonial positions which have no analogy in private life.

Clause 5 refers to the liabilities of the Crown in respect of industrial property, that is to say patents, registered designs, registered trade marks and copyright. It provides that where a servant or agent of the Crown, acting within his authority, commits any infringement of a right in such industrial property, proceedings in respect of the infringement shall lie against the Crown. The concurrent

liability of the person by whom the infringement was actually perpetrated is not removed, it remains as a parallel or concurrent liability. There is, however, a saving in that clause in respect of rights of user conferred by law on the Crown in relation to patents and registered design, user for the service of the Crown in special circumstances, for instance in time of war, and where that user authorised expressly and specifically by statute, occurs, then although it might without the authority of the statute be regarded as an infringement, with the authority of the statute it becomes, so to speak, legitimated and no liability arises against the Crown in respect of that infringement.

Clause 6 applies to the Crown, in its liability in tort, the same rights of indemnity and contribution as are enjoyed by private persons in similar circumstances.

Clause 7 deals with the liability of members of the Armed Forces *inter se* and with the liability of the Crown in respect of the acts of members of the Armed Forces. This is a special provision, necessitated again by reason of the fact that in regard to the Armed Forces the analogy between the Crown and its servants and private employers and their servants breaks down. The clause is lengthy and is rather technical, but in essence it exempts from liability in tort both the Crown and any member of the Armed Forces in respect of death or personal injuries suffered by another member of the Armed Forces in certain specified circumstances related, broadly speaking, to the execution by members of the forces of their duties as such.

Clause 8 saves the proper exercise of the Crown's prerogative and statutory powers and in particular anything done under the prerogative or under statute in respect of the defence of the Colony or in respect of the training and maintenance of the Armed Forces of the Crown.

The remaining provisions of the Bill, as I have already said are largely procedural. I shall, at the Committee stage move a couple of minor amendments to the procedural parts of the Bill, merely to ensure in effect that they are properly assimilated to our existing law relating to civil procedure.

[The Minister for Legal Affairs]

The Bill in all its provisions follows closely the provisions of the parent Act, if I may so describe it, the Crown Proceedings Act of 1947, but it does contain certain modifications and certain omissions. The modifications are necessary to adapt it to our colonial circumstances and the omission in order to avoid application here of provisions which are not appropriate to our circumstances and conditions. Where we have made modifications or we have made omissions for these reasons, we have been guided by similar legislation in other colonial territories.

The meat of the Bill, as I have said, is in Part II, the clauses which I have dealt with individually, and in those clauses the provisions of the comparable sections of the 1947 Act are repeated *ipsis verbis*. I would merely add in conclusion that the Bill has been considered by the appropriate standing legislative committee appointed by the General Council of the Law Society and has received its unqualified endorsement.

Sir, I beg to move.

THE CHIEF SECRETARY (Mr. Turnbull) seconded.

Question proposed.

Mr. Mangat rose to speak.

ADJOURNMENT

THE SPEAKER (Sir Ferdinand Cavendish-Bentinck): I think having put the Bill into the possession of the Council we should adjourn and continue the debate to-morrow.

Council will now adjourn until 9.30 a.m. to-morrow, Friday, 23rd November.

Council rose at twenty minutes past Six o'clock.

Friday, 23rd November, 1956

The Council met at thirty minutes past Nine o'clock.

[Mr. Speaker (Sir Ferdinand Cavendish-Bentinck) in the Chair]

PRAYERS

PAPERS LAID

The following Papers were laid on the Table:

Supplementary Estimates of Expenditure of the Colony and Protectorate of Kenya No. 1 of 1956/57.

Development Supplementary Estimates of Expenditure No. 1 of 1956/57.

(BY THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey))

BILLS

SECOND READINGS

The Crown Proceedings Bill

(Debate continued from 22nd November, 1956)

THE SPEAKER (Sir Ferdinand Cavendish-Bentinck): When Council adjourned last night, Mr. Mangat, you were on your feet.

MR. MANGAT: Mr. Speaker, Sir, the Crown Proceedings Act, 1947, which is the parent of this Bill was applied on the 1st January, 1948, so nine years have passed by before we have thought of applying these provisions to this country. But not much harm has been done because I presume that the civil rights of any party which have given rise to any cause of action still can be prosecuted, I believe, if they are not more than six years old. But actions in tort carry a limitation period of two years only, and when you consider these two causes of action from a humanitarian point of view, the latter, that is actions in tort, are much more important than actions arising out of breach of contract.

Under Part II, which the learned Mover described rightly as the most important, one presumes that causes of actions will be governed by the law of limitation, in fact the Bill itself has reserved the right of pleading limitation by the Crown under section 26 in this Bill. Now that is a point which I would

[Mr. Mangat]

like to submit to the learned Mover should not be insisted upon by the Crown, because in actions of tort with the sort of population which we have to deal with in this country, it is likely that in many cases those Asians or Africans who are not quite competent to know their rights under the Limitation Act, might not be able to bring their action within the prescribed period of two years, and I should imagine that it would not be quite consistent with the dignity of the Crown to plead what is many times called an immoral defence, that is of limitation. So I would respectfully suggest that there should be an additional clause, clause number 7 to section 4, which may read something like this: "Notwithstanding anything contained in any law, the Crown shall not be entitled to plead limitation in claims in tort".

Now, I submit, Sir, that that would be a provision which would certainly give great confidence to the public at large, because even if one, due to some reason or another, for instance if a man had gone to India after an injury has been sustained by him, or an African has gone to his reserve, quite forgetting that he has to bring his action in tort within two years, he might still be able to resume it, even though the limitation period has expired, and as we say at the end of every Bill, I do not think that any extra public revenue will be involved, even if actions in tort were allowed to go beyond the limitation period.

I heard the learned Mover say yesterday that it is very seldom that any action in tort really reaches the Court because *ex gratia* payments are generally made. I appreciate the attitude which the Crown law officers adopt in these matters, they are generous, they are sympathetic, but they have to act on the advice of people concerned in the particular department where an injury might occur. They cannot possibly overlook the recommendations made to them by the officers concerned and in my own experience I have come across cases where officers have been very unsympathetic towards their own subordinates in cases of torts. So, it would be, I think, in order that the individual should not entirely depend on the

generosity of the law officers of the Crown, in getting compensation and then, of course, we find quite often that no matter how much is awarded to an injured party, he still feels some sort of grievance that it is not sufficient; so if the man feels like going to Court, he should be allowed to, even though the negotiations on the award of compensation might have taken over two years, which is not uncommon in Government departments. There have been cases where, for instance in Nairobi City Council, they have taken more than six months in correspondence even after the limitation period which applies to local authorities, which is six months only, expires, then one is surprised to find that their defence is that the case was not brought within six months, even though the delay if not wholly was partly due to the officers of the local authority. So I hope that Government will consider that as far as torts are concerned, the limitation should not apply. In civil cases of tort the limitation is six years and that is quite ample for everybody to prosecute his claim if he so wishes.

There is only one other point, Sir, that is under section 2, sub-section (3), the proviso to that sub-section. I will read only the proviso: "Provided that the Crown shall not, for the purposes of part IV or V of this Ordinance, be deemed to be a party to any proceedings by reason only that they are brought by the Attorney-General on the relation of some other persons". Now the words "relation of some other person" are very ambiguous to, not only laymen, but I am sure many advocates, so it should be clarified unless there is something later on in the Ordinance which I overlooked to read.

Under Part V, I had a small point which occurred to me just now. Under Part V, what I have in mind is that, while the Crown is prepared to act upon the relations of some other persons, it seeks to be wholly the plaintiff in those cases. Supposing there is a counter-claim against that other person on whose behalf the Crown acts, then certainly the Crown should accept the counter-claim also as an original claim. It can not put up the plea that because it is acting on somebody else's behalf it will not be answerable to that. I do not

[Mr. Mangal] think I put that point very clearly, but if I have not the hon. Mover can correct it, but it was something which, perhaps, I have not understood quite correctly.

I beg to support, Sir.

Mrs. SHAW: Mr. Speaker, Sir, I feel I enter the lists on this occasion for the very reason, if no other, than to join issue with my hon. and learned friend, the Minister for Legal Affairs, on what he said of this very word as applied to my sex. For in all the law in all its history and its case files can bear no reference to the word "reason" having been applied to woman, yet the poet, to whom I turn to for comfort had a different outlook, for Alexander Pope in his long poem to a lady said, "She speaks acts and behaves just as she ought, so very reasonable, so unmoved". This, to my way of thinking is a much more fair and reasonable comment, although I must admit that I could not agree with all that the poet said, for in the opening lines of the same poem he says, "Nothing so true as what you once let fall, women have no character at all". So I could not agree with everything he says.

As to the Bill passing through the Second Reading, I welcome its introduction, for Sir, it marks the acceptance by Government of the principle which is of great importance, if the rights of the citizen are to be protected.

Indeed, hon. Members on this side of the Council have requested the Government many times since the parent Act was introduced into Britain in 1947 to introduce similar legislation, here. During the Emergency this, of course, was shelved because there was urgent need of much more legislation, which kept our legal draftsman working overtime.

Therefore, it lay forgotten until Thursday, 3rd November, 1955, when, in speaking on the Seeds Bill in this House, I instanced a case where the tea industry had suffered a heavy financial loss through a mistaken action on the part of a Government department under the Plant Protection Act whereby the viability of 16,000 lb. net weight of seed through fumigation with methyl bromide was denied.

Now, because the Crown Proceedings Act did not pertain here at that time, the

tea industry had no redress and in this connection, Mr. Speaker, with your permission, I should like to read what my hon. and learned friend, the Member for Aberdare, said in this connection on that occasion. He said: "...the hon. and gracious Member for Nyanza has raised an issue which I hope Government will accept openly as a matter of principle—of general principle: that is, where special powers are conferred upon officers of Government, and those powers are exercised negligently to the detriment of a member of the public, there should be some responsibility to compensate the members of the public for such negligence. It arises in the case to which she refers, and many others, and I do not see that the principle has been generally accepted yet."

This, Sir, reopens the whole question of the law relating to the civil liberties and the rights of the Crown and of civil proceedings by and against the Crown, so I welcome the introduction of the Act, especially clause 4, which sets out the liability of the Crown in tort which, as the learned Minister says, contains the real meat of the Bill.

Quoting from the Objects and Reasons it says: "Broadly speaking this Bill seeks to make the liability of the Crown in respect of civil wrongs the same as that of a private citizen. It is important to distinguish, in this respect, between the Crown in its capacity as the Government of Kenya, and the Crown in its capacity as a metropolitan Government or the Government of other parts of the Commonwealth. This Bill seeks, and can only seek, to make the Crown liable in respect of acts done in its capacity as the Government of Kenya".

That, Mr. Speaker, is all we require—the right to make the Crown liable in respect of acts done in its capacity as the Government of Kenya. For, where as before, you could only sue a Government servant if you could prove negligence in the execution of his duty—which in most cases was impossible to prove because he was carrying out his duties at the order of his department faithfully—that department could not be sued, although a loss or damage had been directly caused as a result of an order given by that department.

[Mrs. Shaw]

Now, this will be rectified if the Bill is passed as the Crown Proceedings Bill, 1956, provides in clause 4 that the Crown shall be liable and, if it were, the private person in respect of (a) "torts committed by its servants or agents" and (b) "in respect of any breach of those duties which a person owes to his servants or agents at common law by reason of being their employer." So, although it is the principle that in law the Crown can do no wrong, the subject will now have some redress against the Crown when it is alleged that the Crown has caused loss or damage through the actions of its servants.

Mr. Speaker, that is a principle that I say that side of Council has tried to get accepted ever since the parent Act was introduced in 1947 in Britain and I therefore welcome the Bill and give it my support.

MR. COOKE: Mr. Speaker, I rise merely to remind the hon. and gracious lady that an even greater poet than Pope, William Shakespeare, said, "I have no reason but a woman's reason", meaning, of course, that he had no reason at all.

MR. CROSSKILL: Mr. Speaker, I welcome this Bill. It was first asked for, as far as I can remember, in 1949 by the Kenya National Farmers' Union and, therefore, I should like to welcome its arrival on their behalf.

I think there is only one disquieting feature of the Bill and that is that it is not anticipated that there will be any greater expenditure of public money than heretofore or almost *ipso iustis verbis* we are getting nothing out of it. However, we must therefore recognise, Mr. Speaker, that Government has in the past been very equitable and just in their award of *ex gratia* payments.

I beg to support.

MR. NAZARETH: Mr. Speaker, I rise to support the Motion.

The only defect about it is that this Bill has come so late but I do not say that in disparagement of the Attorney-General's department which, notwithstanding the pressure of work on it during the Emergency, has yet been able to give attention to this much-needed legislation.

Now that the Crown has entered so many fields of activity under the shelter of Government departments, this kind of legislation is very much overdue. In regard to the suggestions made by the hon. and learned Member for the Central Area, I hope that the hon. Minister for Legal Affairs will be able to give sympathetic consideration to these but, perhaps, they might be more conveniently dealt with in the Committee stage of this Bill.

I have not been able to give detailed consideration to this Bill, but I am content to accept the judgment of the committee that was appointed by the Council of the Law Society as I have no doubt that those members gave it very earnest and careful consideration and, since it has had their blessing, I am content to accept their judgment.

I would like formally to support the Bill.

LT.-COL. GHERSIE: Mr. Speaker, Sir, with so many eminent members of the legal profession on this side of Council, it is with the utmost temerity that I rise to ask one particular question.

Sir, it arises out of section 4, subsection (5), and it would appear to me, Sir, that no action can be taken against an officer of the Crown in respect of anything done or omitted to be done by a person discharging any responsibilities of a judicial nature.

Now, Sir, to illustrate my case, let us assume that the hon. Mover, in his capacity as the Attorney-General takes action against me, or one of my colleagues, succeeds in a conviction and I am sent behind iron bars for ten years. Subsequently, Sir, I am proved—it may be after a lapse of five years—to be innocent. Are we to understand, Sir, that there is no provision in this Ordinance, and that is how I read it, for the aggrieved parties, whoever they may be, to obtain some redress, or compensation, or sue the Crown for damages?

THE SPEAKER (Sir Ferdinand Cavenish-Bentinck): If no other Member wishes to speak I shall ask the hon. Mover to reply.

THE MINISTER FOR LEGAL AFFAIRS (Mr. Griffith-Jones): Mr. Speaker, Sir, I am very grateful to my friends on the other side of the Council for the reception which this Bill has been accorded by

[The Minister for Legal Affairs] them. I realise their point that it is delayed and I can only say that it would have been at least a little earlier had competing pressures and priorities of the Emergency not ruled out of practical consideration measures which, however desirable, were not at the time essential and could not, therefore, compete with the many calls upon the draftsmen's time, many of those being to produce relatively complicated legislative provisions, by way of Emergency Regulations or otherwise. "by yesterday".

Dealing first, Mr. Speaker, with the hon. and gracious lady for Nyanza—whilst she disagreed with me in reference to a woman's reason, I do remind her that the whole tenor of my remarks on this particular subject was, to employ a very happy summary put to me by my hon. friend, Captain Hamley, the whole theme of my remarks was, that "reasonable man embraces reasonable woman". Sir, I do suggest that my hon. and gracious friends on the other side have no cause to feel out in the cold.

Sir, my hon. and learned friend for the Central Area raised a point regarding what he described, or what he said was sometimes described, as the "immoral defence of limitation".

Now, I do remind him that the basis of this Bill is to place the Crown, in regard to its liability in tort, in the same position in law as is the private person, and I think it is a very considerable extension of that principle to suggest that the Crown should accept an inferior position by depriving itself of the defence of limitation.

The question whether or not limitation is pleaded by way of defence in a particular action is, of course, one which can only be decided on the merits of that particular case, but I think I can give him an assurance that limitation would never be unconscionably pleaded by the Crown.

However, just as in the case of the private person so, in the case of the Crown, we must have finality somewhere. The whole basis of limitation is that person should not be called upon to answer a claim deferred for many years, deferred to such an extent possibly that the person who is sued has lost all means of rebutting the claim. Were we

to exclude any period of limitation, in application to suits against the Crown in tort, we would open the field to possible unscrupulous exploitation of the Crown's liability in that regard. But, as I say, I can assure him that although I am not, with respect, prepared to introduce an amendment excluding the application of the principle of limitation to suits against the Crown, in tort, nevertheless, that defence will never be pleaded unconscionably by the Crown.

He has referred to the question of *ex gratia* payments which have been made by way of compensation, as an alternative and *ex gratia* remedy, to persons who might in ordinary circumstances, and will after the enactment of this Bill be able to, sue. He was kind enough to say that he has every confidence in the objective and impartial approach to such matters by the law officers, but he felt that there had been instances in which departmental superiors had been less than sympathetic and he felt that the law officers could not overlook such views. With great respect to him, that is not so.

In dealing with these matters, the law officers are concerned with facts only and he can take it that it is not putting it too high to say that the law officers' advice in regard to some of these claims has in fact been directly contrary to the wishes sometimes of departmental officers. The views of departments have not, save only in respect of factual matters, been allowed to influence law officers' minds in dealing with these matters, which they have regarded as part of their quasi-judicial functions.

In regard to the clause, the proviso to sub-section (3) of clause 2, which he mentioned, the reference to the participation of the Attorney-General in a suit on the relation of another person is a reference to those instances in which, for want of any available suitable plaintiff or defendant, the Attorney-General is joined, as a nominal plaintiff or defendant, to represent certain interests; not the interests of the Crown, certain private interests. He is, if I may so put it, a sort of convenient dog's body for the title of suits, and it is in respect of those instances that the Crown's liability is excluded, as, I think you will agree, it should be. The Attorney-General, in those cases, Sir, is only a public convenience.

[The Minister for Legal Affairs]

I am sorry to have disappointed the hon. Member for Mau in regard to expenditure, but perhaps I may comfort his magnanimous soul by assuring him that if we should need more money, the first thing we shall do is to come and ask him and his colleagues on that side of the Council to provide it.

Now, Sir, the point raised from Nairobi North which I am sure brought tears to all our eyes—if I may give it just a composite title—"Ghermie goes to jail". Now, Sir, it is—I think—clear, and will be clear even to the hon. Member, that since the Crown exercises no control over judicial acts (and I am sure that the hon. Member would be the last person to suggest that the Crown should exercise excessive control over judicial acts), the Crown cannot accept liability in tort for those acts, and indeed, the judicial officers themselves are expressly immune from liability for acts which they perform in their judicial capacity in good faith. That immunity is incorporated in the Court's Ordinance and is common in respect of all judicial functions. However, if this tragedy should ever be enacted, I can assure the hon. Member that on the happy day when he is released, if he cares to come and see me, I will do my best to ensure, with that impartiality which has been recognised by my friend from the Central Area, that he gets a few shillings to see him over the tough period that will follow his release.

LT.-COL. GHERMIE: It may be due to the prosecution by the Crown.

THE MINISTER FOR LEGAL AFFAIRS (Mr. Griffith-Jones): The hon. gentleman says that it may be due to the prosecution. Well then, Mr. Speaker, there is a remedy in tort known as "malicious prosecution" which he would be entitled to pursue if he has the grounds on which to found a claim for that particular remedy; but if he is looking at me as the Attorney-General with that old-fashioned look of his, I can assure him that it is one of the most difficult claims to substantiate, and that, in his case, it would never succeed against myself, because I cannot conceive that I would ever take any action against him maliciously.

Mr. Speaker, I think I have dealt with all the points that were raised, and I beg to move.

The question was put and carried.

The Bill was read the Second Time and committed to a Committee of the whole Council to-morrow.

The Law Reform (Miscellaneous Provisions) Bill, 1956

Order for Second Reading read.

THE MINISTER FOR LEGAL AFFAIRS (Mr. Griffith-Jones): Mr. Speaker, Sir, I beg to move that the Law Reform (Miscellaneous Provisions) Bill be now read the Second Time.

This Bill, Sir, introduces into the law of the Colony a number of measures of reform which have been introduced in the United Kingdom over the period of the last 20 years or so, as the result of consideration given to the question of law reform by a very high-powered committee in the United Kingdom.

Its provisions lie in the field of civil rights and liabilities, and actions founded thereon, and in the related field of pre-ogative remedies and the procedures for obtaining the same.

Clause 2, which in effect comprises Part II, deals with the survival of causes of actions by and against a person on the death of that person. Its provisions follow those of the Law Reform (Miscellaneous Provisions) Act of 1934 and replace sections 267 and 268 of the Indian Succession Act in its application to the Colony, those sections being therefore repealed.

The causes of action which survive for the benefit or liability of a deceased person's estate under this clause do not include, as Members will observe, causes of action for defamation, seduction or for inducing one spouse to leave or remain apart from the other or to claims for damages on the ground of adultery. There are certain qualifications: in sub-clause (2) on the amount of damages which can be awarded under the Bill, the principle, in general terms, being that the damages should not exceed those which flow to the estate of the deceased person from the act or omission giving rise to the cause of action, and these may, of course, very well differ from those that

[The Minister for Legal Affairs] would have flowed to the deceased person, had he remained alive.

Exemplary damages are, for the same reasoning, excluded. Now, the object of this clause is to put a person who has by his negligence caused damage to someone who has subsequently died, in the same position as regards liability, broadly speaking, as he would have been in if the injured person had sued and recovered judgment while alive. The main feature of its effect in practice, will be to include in the damages which may be awarded in such cases, an element known as damages for the loss of expectation of life. There is already a wealth of learning in English judicial decisions on the 1934 Act, regarding the computation of damages and the extent to which they should be awarded under this head, and we in this country will be able to derive assistance and guidance from that English case law.

The remedies provided by this clause for the benefit of the estate of deceased persons are expressed by sub-section (5) to be additional to remedies under the Fatal Accidents Ordinance. Now, the effect of this upon claims under the latter Ordinance will be that if the damages awarded under this clause go either on an intestacy or under the terms of the deceased's will, to any person who is a dependant for the purposes of the Fatal Accidents Ordinance, those damages will *pro tanto* reduce the amount payable to that dependant under the Fatal Accidents Ordinance, because, of course, in estimating pecuniary loss, regard must be had to any benefit that each dependant derives from the death of the deceased.

It is to be observed, however, that beneficiaries under this clause, and beneficiaries under the Fatal Accidents Ordinance, may not be the same in every case.

Passing, Sir, to Part III of the Bill, which comprises clause 3, this deals with joint tortfeasors and provides in effect that a judgment recovered against one of a number of joint tortfeasors shall not be a bar to an action against any other such tortfeasor; and that where more than one action is brought in respect of the same injury, the aggregate damages awarded shall not exceed the amount awarded in the first action tried, and, in

the subsequent actions, the plaintiff shall not be entitled to his costs unless the court is satisfied that there was adequate ground for bringing the subsequent actions. Further, it provides that one joint tortfeasor held liable in damage may recover a contribution from another joint tortfeasor, subject, of course, to any right of indemnification that may exist in law as between the contributories. I am sure that is perfectly clear.

Part IV relates to contributory negligence and provides in effect that were the parties to an action founded in negligence one found by the Court to have been both negligent the damages recoverable are to be apportioned according to the respective degrees of negligence contributing to the injury.

Thus a plaintiff in an action founded in negligence will not be deprived—in future—of his right to damages by reason only of his contributory negligence, but the damages which he is awarded will be reduced in proportion to his own contributory negligence. It is a very logical principle.

This provision, incidentally, Mr. Speaker, equates the principle affecting the award of damages for negligence with those which apply under what is known as the Admiralty rule for collisions at sea under international convention, and this Part follows the provisions of the Law Reform (Contributory Negligence) Act of 1945.

Part V, that is to say, clause 7, extinguishes the doctrine of common employment which has, hitherto, enabled an employer to escape liability in respect of personal injuries suffered by one of his employees on the ground that the injury was caused by another of his employees in common employment with the person injured. The clause follows the comparable provisions of a United Kingdom Law Reform Act of 1948.

Part VI of the Bill, Sir, in effect, abolishes the procedures by way of the prerogative writs of mandamus, prohibition and certiorari, but it provides, in the same manner as was provided in the United Kingdom by an Act of 1938 that the Supreme Court shall have power and jurisdiction to issue orders in the nature of mandamus, prohibition or certiorari, as the case may be, but that the procedure for obtaining such orders

[The Minister for Legal Affairs] shall be prescribed by Rules of Court; it will be very much simplified and less cumbersome than the somewhat archaic procedure which has hitherto governed the applications for the issue of these particular prerogative writs.

The Bill is expressed in clause 10 to bind the Crown, and it repeals the section of the Criminal Procedure Code which perhaps rather strangely, being a Criminal Procedure Code, contains the provision existing at the moment for the issue of prerogative writs of the nature of mandamus, prohibitions and certiorari; and it also repeals the Employers' Liability Act, 1880, in its application to the Colony and sections 267 and 268 of the Indian Succession Act in their application to the Colony: all these statutory provisions being superseded by the provisions of the Bill.

Mr. Speaker, Sir, I beg to move.

THE MINISTER FOR COMMERCE AND INDUSTRY (Mr. Hope-Jones) seconded.

Question proposed.

MR. MANGAT: Mr. Speaker, Sir, I rise with profound apologies to the learned Mover because in all propriety, what I am going to say should have been whispered to him but, unfortunately, I did not strike this point until he was speaking on clause 2, and it is this: that when we are repealing, under clause 11, sections 267 and 268, of the Succession Act, I think we have also to repeal sections 88 and 89 of the Probate and Administration Act. If those stand, there is likely to be some confusion. This is merely, I think, an oversight on the part of the Legal Department which could occur with anyone, and it occurred with me. I hope the learned Mover will look it up, because according to my recollections, wording of the sections 88 and 89 of the Probate and Administration Act is, I think, identical with the wording of sections 267 and 268 of the Indian Succession Act.

I beg to support.

COL. WILCOCK: Mr. Speaker, Sir, I am particularly happy to see this Bill. I think it is a very excellent one in nearly every respect.

I welcome particularly Part IV, dealing with contributory negligence. The

law, as it stands to-day, is continually working most inequitably: if I can give very briefly one example which unfortunately happens only too often in these enlightened days of motor vehicles travelling at great speed.

If there be an accident between two vehicles and the driver of one is 90 per cent responsible and the driver of the other 10 per cent responsible, there is, in fact, complete stalemate because the man who is only 10 per cent responsible if he sues the man who has incurred 90 per cent of the blame, is defeated entirely by a defence of contributory negligence. This proposed amendment means that the cost—because that is what it ultimately boils down to—the cost of putting right the wrong will be borne in the proportion in which the wrong is caused.

I am interested to see, in Part VIII, that the Employers' Liability Act of 1888 is being repealed as well. Inasmuch as it is being repealed, it has obviously been previously applied to the Colony, and that, I assume, means that it must be a "statute of general application" and that will assist us to some degree in deciding what other Acts are "General of Application".

I am a little doubtful, Sir, though, about Part V of the Bill. I am not going to speak against Part V—I am merely a little doubtful about it. It abolishes the doctrine of common employment, a doctrine which has obtained in England from time immemorial to 1948.

It is considered nowadays to be an unsatisfactory doctrine, and it is gradually being repealed in those parts of the world where English law runs. But although I welcome in every way the programme of law reform, I am not sure whether the time is ripe, in this Colony in the peculiar circumstances obtaining here, to abolish this particular doctrine. I think it was abolished in England for two reasons: partly because the average employee, the average unskilled workman, was becoming more responsible and more skilled; and partly because it was becoming a more normal practice for the employer to insure against claims from his employees.

I am not quite satisfied that in this Colony, the average employee, the unskilled employee, can be placed in the same category as the English employee,

[Col. Wilcock]
and I do not think that the employers here are as interested in insurance as they are in England.

If an African contractor, if I may take an example, sinks his life-savings in the purchase of a rather aged lorry, and sends it out to work on the roads with two unskilled Africans, at present, he, being the employer, has some protection for claims arising out of injuries to one of the employees, caused by the negligence, or stupidity, or whatever it may be, of the other employee, and this Bill is going to abolish that right of protection.

I am not sure that we have reached the time when it should be abolished here. The doctrine never has obtained, I believe, in the Union of South Africa. I think it has been abolished in our sister territories of Tanganyika and Uganda.

I am not going to speak against this particular section, but I do think it right that I should voice my doubts as to whether the time for it is ripe.

I beg to support.

THE MINISTER FOR LEGAL AFFAIRS (Mr. Griffith-Jones): Mr. Speaker, Sir, I am very grateful to my hon. and learned friend from the Central Area for drawing my attention to sections 88 and 89 of the Probate and Administration Act. I will certainly look into that before the Committee stage, and if the position should be as he recollects, then suitable amendments will be introduced at that stage.

I appreciate, Mr. Speaker, the sentiments which the hon. Member for Nairobi, West has expressed about Part V, though I do not entirely share them. I think that the illogic, in effect, that underlies the doctrine of common employment should be replaced by the logic of equality of redress for the employee, notwithstanding that the injury of which he complains has been caused by another employee of the same master. I think that the protection which that doctrine gave to employers cannot really be justified on any grounds of true logic, and there is, as the hon. Member has indicated, the safeguard which the employer can provide himself with in insurance. The lack of skill or responsibility in an employee or in employees

generally is not, I think, a fact which affects peculiarly this particular aspect of liability. It is a fact which affects surely all aspects of employer's liability, for one might say that where, in a country such as our own, labour has not yet achieved the same degree of skill or the same measure of responsibility as elsewhere, an employer's liability being vicarious for the tortious acts of his servants; must necessarily be, at any rate potentially, greater than in a country where, one may say, the standard of intelligence and responsibility and craftsmanship is greater. That is an instance of the general employer-and-employee relationship rather than, I think, a factor which should be applied exclusively and decisively to one particular aspect of that relationship and the liabilities which arise from it. I therefore appreciate his forbearance in not opposing this particular part, and I acknowledge the doubts and the sincerity of the doubts which he holds, but I still commend that part, with the other parts of the Bill, to the Council.

Sir, I beg to move.

The question was put and carried.

The Bill was read the Second Time and committed to a Committee of the whole Council to-morrow.

The Fatal Accidents (Amendment) Bill, 1956

Order for Second Reading read.

THE MINISTER FOR LEGAL AFFAIRS (Mr. Griffith-Jones): Mr. Speaker, Sir, I beg to move that a Bill entitled the Fatal Accidents (Amendment) Bill, 1956, be read the Second Time.

This, Sir, is, mercifully, in view of the fact that it is the fourth or fifth I have had to move successively, a short Bill. It amends the Fatal Accidents Ordinance, which was enacted in this Colony in 1946, and which is founded on similar statutes in the United Kingdom, dating back to Lord Campbell's Act in the last century.

The first amendment is that sub-section (1) of section 4 of the Ordinance, and, in effect, it extends from 12 months to three years the period of limitation in which action can be brought under the Ordinance for the benefit of the family and dependants of a deceased person, whose death has been

[The Minister for Legal Affairs]
caused in circumstances giving rise to a cause of action in negligence.

The second amendment which it proposes to effect is in clause 3, which proposes to add a new section, or rather to insert a new section 4A, into the Ordinance, providing in effect that an individual defendant can pay into Court an aggregate sum which, he considers, represents his aggregate liability, without apportioning or attempting to apportion that sum as between the different defendants who are entitled to claim, and who are entitled to compensation. The apportionment of the compensation is really a matter for the court, and it is wrong, fundamentally, that the defendant should have to assume the function of deciding, or attempting to decide, in what proportions a wife, a daughter and a son, say, should share the total compensation. The defendant is, and should be, concerned only with his total liability, and if he considers that his total liability to all the defendants is properly and adequately met by a sum of say £1,000, then he is entitled, under his proposed new section, to pay £1,000 into court without attempting, as he has had to do in the past, to assess whether the wife should get £600, the daughter £300 and the son £100; or in what other proportions they should share the compensation which he tenders. There is one very small typographical omission from that section which I shall move to repair in the Committee stage, and that is that where the words "wrongful act" appear in the fourth line of the new section 4A, they should be succeeded by the words "neglect or default". It is purely formal, it follows the wording of section 4 to which this new section will, of course, relate.

Clause 4 proposes to amend section 8 of the Ordinance, and to remove a disqualification which occurs in sub-section (2) of clause 8, and which provides as follows: "No proceedings shall be maintainable in respect of a cause of action which, by virtue of the provisions of this section, has survived against the estate of the deceased person unless the cause of action arose not earlier than six months before his death". Well, Sir, it is not considered equitable that there should be that limit of six months between the death and the earlier

cause of action, and it is therefore proposed to lift that restriction altogether.

Clause 5 of the Bill merely provides transitional provisions in respect of proceedings on causes of action which arose before the commencement of these provisions.

Mr. Speaker, Sir, I beg to move.

THE MINISTER FOR EDUCATION, LABOUR AND LANDS (Mr. Coultts) seconded.

Question proposed.

The question was put and carried.

The Bill was read the Second Time and committed to a Committee of the whole Council to-morrow.

The Bankruptcy (Amendment) Bill, 1956
Order for Second Reading read.

THE MINISTER FOR LEGAL AFFAIRS (Mr. Griffith-Jones): Mr. Speaker, Sir, I beg to move that the Bankruptcy (Amendment) Bill now be read the Second Time.

This Bill, Sir, results from representations made originally, early in 1953, by the Board of Commerce and Industry, in association, I think I am right in saying, with the chambers of commerce. Following their consideration and their expression of views on the Bankruptcy Ordinance, and on the desirability of uniformity of bankruptcy legislation within the three main East African territories, there were interterritorial discussions and consultations between the official receivers of the three territories, and they put up a unanimous report containing recommendations for the amendment of the Ordinance, designed to make more effective the administration of the Ordinance in relation to bankrupt estates, to the elimination to such degree as is practicable of fraudulent bankruptcies and frauds in bankruptcy, and, as I have just said, designed also to achieve that degree of interterritorial uniformity of bankruptcy legislation which all are agreed is most desirable. These recommendations were considered by both the Government and by the chambers of commerce, I think by the Board of Commerce and Industry as well, and this Bill, Sir, is the outcome of all these discussions and considerations by the parts of the community which

[The Minister for Legal Affairs]

Clause 20 of the Bill, which is the next provision to which I would draw attention, makes it an offence for a debtor to produce his books and places the onus on him of satisfying the court of the validity of the reasons if he says he cannot do so. Again it is aimed against fraud, since it is very easy, of course, to destroy books or to dispose of them or hide them, so that they are not available for the purposes of the bankruptcy. Well now, in future, if a bankrupt cannot produce his books, he has got to explain, credibly, and to the satisfaction of the court, why he cannot do so, and if they have been lost, he has got to explain, and again credibly and reasonably, how they came to be lost. They will find, I think, that the courts are not as credulous as some of these unscrupulous people in the past have thought the Official Receiver would be; in fact, of course, the Official Receiver has had his hands tied.

Clauses 22 and 23 and 24, all relate to the reciprocal provisions between the three territories, which are designed to introduce what I might describe as a form of co-operative enterprise among the three territories, so that they will maintain a degree of liaison and co-operation and mutual assistance in, again, preserving assets for the benefit of creditors and defeating frauds and attempted offences by bankrupts. It will, I hope, and this is the hope, I know, of the commercial community, conduce to very much more effective control and administration of bankruptcy laws throughout the three territories.

As I said, Sir, the Bill has been considered very carefully by the commercial community, in the chambers of commerce and in the Board of Commerce and Industry and by the Official Receivers of the three territories, and I therefore commend it to the Council as a measure which, I trust, will be of great value to the honest trading community in East Africa.

I beg to move.

MR. MANGAT: Mr. Speaker, Sir, section 4 of the Bill seeks to make an addition to the original section 17, which addition, I seriously contend is not desirable. It says, the advocate of the debtor may attend the public examina-

tion, but shall not question the debtor or address the court. It is not only a curtailment of the privilege of the counsel but it is also taking away the discretion from the court of giving leave to the advocate to address the court, and I can anticipate that the advocate on the other side, and there are generally more than one, because they represent the creditors, would certainly take advantage of this amendment to stop the court from seeking the assistance of the advocate for the debtor. I speak on it from the practitioner's point of view, Sir, theoretically it may be quite all right, that is to shorten the proceedings in a public examination it may be desirable that the advocate for the debtor should not take too much liberty, but from the practitioner's point of view, I think it is a great check on the privileges of the counsel. I have seen it in my own experience that when the debtor comes up for public examinations, the presumptions are against him; one takes him as a man who has fraudulently filed his bankruptcy and he may, all the same, be one of the most honest men going round in Kenya. And the statement of affairs is prepared and filed by the advocate for the debtor, and he is the man who has taken instructions, and when the debtor is under examination he is attacked with all sorts of suggestions, innuendoes, and the man himself may not be able to explain himself, while the advocate for him who has taken instructions might, by just one question, disabuse the court of all the suspicions which have been aroused against the debtor by the counsel for the creditors. And, Sir, in my own experience, I have also found that courts sometimes go wrong. They take up an idea and they follow it, and it is up to the advocate for the debtor really to clear that up. And what is most important in these proceedings is, that he must save the court from the counsel on the other side, that is the counsel for the creditor. Unfortunately, the standard of our Bar, I regret to say, is not that high as to expect the counsel for the creditors to put up everything before the court even though it goes in favour of the debtor. Generally, the counsel, especially junior counsel, are tempted to take advantage of misunderstandings even though those misunderstandings could easily be cleared.

[The Minister for Legal Affairs] are most intimately and familiarly concerned with this branch of the law. It is necessarily a highly technical subject, Mr. Speaker; the amendments in the text of the Bill are quite uninformative in most instances, and necessarily so because they are verbal and very largely partial in the sense that they do not re-enact or introduce a whole fresh provision, and that is why, as Members will have noticed, to the Bill as published there was annexed a very long and explanatory Memorandum of Objects and Reasons which, in fact, considerably exceeded in length the text of the Bill itself; but that was thought necessary and advisable, the subject being so technical and so obscure, and necessarily obscure, from the actual text of the Bill. I do not propose to attempt what I think would be an exceedingly tedious and probably unintelligible exposition of the whole text of this Bill, but I propose to invite the attention of the Council to one or two aspects which I regard as important.

Clause 3 (c) makes it an offence—amends section 16 (3) of the Ordinance to make it an offence for a debtor to fail, without reasonable cause, to comply fully with the requirements concerning his statement of affairs. That, I think, is a very necessary amendment, since there is an anomaly in the Ordinance as it stands at the moment, a later section of the Ordinance making it an offence to omit any material particular from the statement.

Clause 5 (a), in effect, adds an additional ground on which a person can be adjudged bankrupt; namely that the debtor, with the concurrence of the Official Receiver, submits to being so adjudged bankrupt.

Clause 8 of the Bill, a provision to which I would invite attention, has the effect of limiting a bankrupt, in point of time, in applying for his discharge. Hitherto, the existing provisions of the Ordinance have resulted in perfectly fruitless and premature applications for discharge by bankrupts long before they have made any appreciable attempt to meet their obligations.

Clause 9 I personally regard as probably the most important provision in the whole Bill. It relates to those in-

stances in which a person goes bankrupt with probably very considerable liabilities incurred in the way of trade. He goes bankrupt, and the business is then started up again in the name of his uncle, his aunt, his brother, his sister, his wife or her husband, and, in fact, any convenient nominee. The bankrupt is employed in that business as the manager; the business goes on exactly as it has before; he is employed as a manager at a mere pittance and, therefore, there is nothing available, practically nothing available, to assist in meeting his previous obligations to his creditors. In fact, the whole manoeuvre is a racket and a fraud on the previous creditors and, of course, and what is more, a fraud on future creditors. Clause 9, therefore, sets out to restrict that sort of dishonest and fraudulent manoeuvre designed to defeat creditors, and requires, in effect, that no person shall manage or assist or partake in the management of a business when he is bankrupt, where that business is in the name of a relative, unless he first obtains the approval of the court and therefore puts his cards on the table and satisfies the court that the whole scheme is bona fide. As I say, I personally regard that as probably the most important provision in the Bill, since it does introduce for the first time a weapon with which we can counter this type of fraud and fraudulent bankruptcy.

Similarly, clause 11, with the same sort of object in view, postpones claims in bankruptcy by relatives of the bankrupt. There is no necessity, I think, to enlarge on this; the existing section 40 of the Ordinance postpones only those claims by relatives which arise from money lent for the purpose of the business. Well, now, again that leaves an almost limitless field to the ingenuity of the unscrupulous to obtain money from relatives and by purely specious and colourable devices to attempt to give it preference and, therefore, to defeat and prejudice the interests of the legitimate creditors. This clause, however, will postpone advances from relatives whatever the purpose.

Clause 16 relates to a limitation which has been held to apply to the administration in bankruptcy of estates of persons who have died insolvent. It results, in effect, from a recent decision and attempts to rectify what is a resultant inequity.

[The Minister for Legal Affairs]

Clause 20 of the Bill, which is the next provision to which I would draw attention, makes it an offence for a debtor to produce his books and places the onus on him of satisfying the court of the validity of the reasons if he says he cannot do so. Again it is aimed against fraud, since it is very easy, of course, to destroy books or to dispose of them or hide them, so that they are not available for the purposes of the bankruptcy. Well now, in future, if a bankrupt cannot produce his books, he has got to explain, credibly, and to the satisfaction of the court, why he cannot do so, and if they have been lost, he has got to explain, and again credibly and reasonably, how they came to be lost. They will find, I think, that the courts are not as credulous as some of these unscrupulous people in the past have thought the Official Receiver would be; in fact, of course, the Official Receiver has had his hands tied.

Clauses 22 and 23 and 24, all relate to the reciprocal provisions between the three territories, which are designed to introduce what I might describe as a form of co-operative enterprise among the three territories, so that they will maintain a degree of liaison and co-operation and mutual assistance in, again, preserving assets for the benefit of creditors and defeating frauds and attempted offences by bankrupts. It will, I hope, and this is the hope, of the commercial community, conduce to very much more effective control and administration of bankruptcy laws throughout the three territories.

As I said, Sir, the Bill has been considered very carefully by the commercial community, in the chambers of commerce and in the Board of Commerce and Industry and by the Official Receivers of the three territories, and I therefore commend it to the Council as a measure which, I trust, will be of great value to the honest trading community in East Africa.

I beg to move.

MR. MANGAT: Mr. Speaker, Sir, section 4 of the Bill seeks to make an addition to the original section 17, which addition, I seriously contend is not desirable. It says, the advocate of the debtor may attend the public examina-

tion, but shall not question the debtor or address the court. It is not only a curtailment of the privilege of the counsel but it is also taking away the discretion from the court of giving leave to the advocate to address the court, and I can anticipate that the advocate on the other side, and there are generally more than one, because they represent the creditors, would certainly take advantage of this amendment to stop the court from seeking the assistance of the advocate for the debtor. I speak on it from the practitioner's point of view, Sir, theoretically it may be quite all right, that is to shorten the proceedings in a public examination it may be desirable that the advocate for the debtor should not take too much liberty, but from the practitioner's point of view, I think it is a great check on the privileges of the counsel. I have seen it in my own experience that when the debtor comes up for public examinations, the presumptions are against him; one takes him as a man who has fraudulently filed his bankruptcy and he may, all the same, be one of the most honest men going round in Kenya and the statement of affairs is prepared and filed by the advocate for the debtor, and he is the man who has taken instructions, and when the debtor is under examination he is attacked with all sorts of suggestions, innuendoes, and the man himself may not be able to explain himself: while the advocate for him who has taken instructions might, by just one question, disabuse the court of all the suspicions which have been aroused against the debtor by the counsel for the creditors. And, Sir, in my own experience, I have also found that courts sometimes go wrong. They take up an idea and they follow it, and it is up to the advocate for the debtor really to clear that up. And what is most important in these proceedings is, that he must save the court from the counsel on the other side, that is the counsel for the creditor. Unfortunately, the standard of our Bar, I regret to say, is not that high as to expect the counsel for the creditors to put up everything before the court even though it goes in favour of the debtor. Generally, the counsel, especially junior counsel, are tempted to take advantage of misunderstandings even though those misunderstandings could easily be cleared.

[Mr. Mangal]

I would recommend to the hon. Mover that this new addition, clause 12 to section 17, be dropped, because, as he admits himself, in Objects and Reasons—all that has made him bring it up is that he wishes to make it clear that advocates of debtors are not entitled to question the debtor or address the court at the debtor's public examination. This is the existing practice. It may be the existing practice because certain courts may not like to hear advocates and they can certainly stop an advocate from addressing the court, if he says, "Well, I do not want to hear you", that would be sufficient, but it is quite another thing to curb the discretion of the court, even to ask the advocate to assist him when the court feels that he would be of some use, and the court would be curbed in that because the advocate on the other side would take full advantage of this provision. If it is the existing practice, I think it should not really be expressed in way of a special provision. The courts are competent enough to see on what occasions they should be addressed or when a particular question be allowed. Even these days an advocate of the debtor puts his question through court; he can ask the Judge, "If your lordship would allow me to ask the debtor this," and it is generally allowed, but then, if this clause is inserted the counsel on the other side can get up and say even the court has no discretion to allow this, and especially the words "or address the court" I think are injudicious, they should not be put in there at all because occasions arise quite often when the courts are assisted by the counsel, even though they may be for the debtor, and a counsellor merely sitting in court just to show himself is no use to anybody, if he is not allowed to question the debtor or to address the court. It would be, taking conditions nearer home, like stopping the hon. Member for the Coast from replying to the hon. Minister for Native Affairs, even though he calls him a cuckoo. There might be circumstances when provocation may be offered, sufficient to warrant a reply from the counsel for the debtor, and still he is stopped from replying. I hope my hon. friend, the Member for Nairobi West, will agree with me because it is really not so desirable to put these words into legislation.

Now, I do congratulate the hon. Mover on section 9. It was certainly a very desirable thing to do. About two years ago I read a line in the English Press, "Debtor starts business in his son's name after bankruptcy". Now, I said to myself, "Well, at least in one thing Kenya beats England". This is something new in England that has been happening here for many years, what is exceptional in England in bankruptcy is commonplace here, and I am sure that the hon. Mover will give attention to these things which are happening and will try to stop these frauds which have been so common in Kenya.

I beg to support.

MR. TYSON: Mr. Speaker, Sir, the Minister has already mentioned that this Bill has been examined and supported by the commercial community. There is only one point I would like him to make clear to us, and that is whether, in view of the desirability of having uniformity in the legislation in each of the three territories, it has been agreed that identical legislation such as this will be introduced into the other two Legislative Councils?

Subject to that, Sir, I support.

THE SPEAKER (Sir Ferdinand Caven-dish-Bentinck): If no other hon. Member wishes to speak, I will ask the hon. Mover to reply.

THE MINISTER FOR LEGAL AFFAIRS (Mr. Griffith-Jones): Mr. Speaker, Sir, on the first point made by my hon. and learned friend, the Member for Central Area, I shall be very happy to discuss it with him between now and the Committee stage. It may be that a compromise solution would be to qualify the new sub-section (12) of section 17 by reference to the leave of the court, or some such means, but if he will take the matter up with me again, outside the Council, we, I am sure, will be able to come to some agreed arrangement.

As regards the point raised by my hon. friend, the Nominated Member, Mr. Tyson, I give him the assurance which he asks that it is the idea that identical legislation shall be introduced in the other territories. We are, actually, in Kenya, the first to present this amending legislation, which, subject to the form in which it comes out of, if I may use the word without any disrespect, the Kenya

[The Minister for Legal Affairs] legislative sausage machine, will go in the same form into the Tanganyika and Uganda legislative sausage machines!

I beg to move, Sir.

The question was put and carried.

The Bill was read the Second Time and committed to a Committee of the whole Council to-morrow.

MR. SPEAKER (Sir Ferdinand Caven-dish-Bentinck): This might be the right moment to take our customary fifteen minutes' break.

Council suspended business at Eleven o'clock and resumed at fifteen minutes past Eleven o'clock.

The European Cereal Producers Bill Order for Second Reading read.

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): Mr. Speaker, Sir, I beg to move that a Bill entitled the European Cereal Producers Bill, be now read the Second Time.

I am sure that the Council will be glad to move into the fresh and nice pastures of the agricultural field, after the long and rather desiccated legal arguments which we have had most of this morning.

I do not intend, Sir, in moving this Bill, to deal with it in detail. I would suggest to hon. Members that the details of the Bill should be dealt with in the Committee stage, clause by clause. I would like to start by giving hon. Members the background of the Bill. Right through the war years, when the export price for cereals was high, cereals in this country were controlled at a low level in the interests of the consumer generally. It is estimated that the total amount which was lost to the producers during this period of control, amounted to more than £5,000,000, and the producers have always contended that they should have a guaranteed price structure in order to meet them over the losses which they suffered during that period.

During the time of my predecessor, in 1954, an agreement was come to with the producers which affected the disposal of profits accruing from export, which accepted that legislation should be introduced to allow the

levy of a cess on maize; that the producers' prices should be accepted on a formula known as the Troup Formula for 1955/56 and 1956/57 and that in 1957/58 the formula should remain the same, but should be varied at the discretion of the Minister; and lastly, Sir, that a Board should be set up which would enable the producers to present to the Minister, matters affecting their own interests. That last decision, Sir, is the reason why to-day I am moving this Bill. It does not affect, in any way, the end product of the industry, or the consuming side. It is merely a Board set up on the usual pattern of these Boards, by registration, regional representation and the election of a Board which will present to the Minister details affecting the industry, such as negotiations on prices which come now every year under the provisions of the new Agricultural Ordinance, the intimate interests of the industry—the wheat industry for instance—in the plant-breeding programme which they wish to finance by a cess and which, on the setting up of this Board, they will be able to do, consultations on the matter of exports which involves the producers themselves in losses; and other matters generally affecting the industry.

Much of this work in regard to the African areas is done at the present time through the Nyanza Marketing Board, which joins with the producers envisaged in this Bill in joint discussions with myself at the end of each year on matters affecting the industry.

There is nothing more I think I need say on the Bill. I have an apology to make to the Council, however. I shall be moving, between the Second Reading and the Committee stage, with the indulgence of the Council, an instruction to the Committee to accept certain amendments. The history of this Bill is that it was already agreed at the time I accepted my present duties. After the Bill was published, however, a number of Members in this Council suggested to me that the word "European" might well be eliminated, because there will come a time when producers of other races can be embraced within the same organisation as the extension of the Agricultural Ordinance, under the provision of scheduling, takes place. I consulted with the European producers, as this was an agreed Bill—mainly, I think,

[The Minister for Agriculture, Animal Husbandry and Water Resources] In the time of my predecessor—and the result of those discussions is, Sir, that I shall move an amendment later on, which will rename the Bill—and adjust wherever the word "European" appears accordingly—on these lines. The Bill will be the Cereal Producers Bill (Scheduled Areas), and that does remove from the Bill the element of sectional interest which is now shown within it.

I am doing that at the request of hon. Members, but I do apologise to the Council for not, frankly, having thought of it in time before the Bill was published.

Mr. Speaker, Sir, I beg to move

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey) seconded.

Question proposed.

MR. CROSSKILL. Mr. Speaker, I welcome the Bill and I am very grateful to the Minister for bringing forward the proposed amendment, which will be discussed in detail at the next stage. I think it is preferable that we should look ahead in this legislation and foresee the time when the distinction will not be a racial one, but one of a type of farming. That will cover the point to which I made reference in another debate.

I support the Motion.

The question was put and carried.

The Bill was read the Second Time and committed to a Committee of the whole Council to-morrow.

The Wheat Industry (Amendment) Bill
Order for Second Reading read.

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): Mr. Speaker, Sir, I beg to move that a Bill entitled the Wheat Industry (Amendment) Bill be now read the Second Time.

There is not a great deal I need say about these amendments, Mr. Speaker. They are, in certain cases, due to experience of the working of the Bill. For instance, we found that although we could issue a permit for the licensing of a mill and its reconstruction, we had no provision by which we could set a time limit on the permit or enforce it being carried into effect.

Secondly, Sir, with all due respect to my hon. and learned friend, the Minister for Legal Affairs, we have had to redraft a considerable section in order to make it clearer, both to the public and to ourselves, and we have taken this opportunity to introduce it to the legislature in order to get the amendments through.

Lastly, Sir, the main point in this Bill is a provision by which temporary allocations of wheat may be made outside the permit system to meet exceptional circumstances. Now, recently we have had, in the milling industry, a fire which destroyed a considerable part of our milling capacity, and under the Ordinance, as drafted, we were technically unable to shift the allocations of wheat to existing permit holders whose mills had not been destroyed by fire, and this Bill allows us to do that.

One further point, Sir, we have found that persons, in their anxiety to evade the provisions of our licensing system, have been exchanging wheat for other commodities. Whereas the Ordinance does not allow the exchange of wheat for pecuniary interest it made no provision for a situation such as this, where we found a wheat grower passing wheat into a mill in exchange for a motor-car. This was, in effect, a method of evading the Ordinance, and enabled the grower to exchange his wheat for a commodity, to the benefit of a miller, without transgressing the law. We have taken the opportunity, in this Bill, to amend the law so that a grower will only be able to sell wheat to a registered agent.

Mr. Speaker, Sir, I beg to move.

THE CHIEF SECRETARY (Mr. Turnbull) seconded.

Question proposed.

MR. CROSSKILL: Mr. Speaker, Sir, this Bill introduces a most autocratic degree of control but I feel that I must support it, as I feel is necessary. If only I had seen the possibility before, I would not have had to ask the Minister for Finance to amend the income tax laws, for our Settlement Board farmers might have been able to purchase their machinery for bags of wheat.

I fear that that loophole is now closed, and I beg to support.

THE SPEAKER (Sir Ferdinand Cavendish-Bentinck): If no hon. Member wishes to speak, I will ask the hon. Mover to reply.

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): I feel I must just draw the hon. Member for Mau's attention to the fact that this amendment does not introduce any principle of autocratic control which had not already been accepted by this Council before, and in so far as he made that statement he is incorrect, and I would merely like to draw his attention to this for the purposes of the record.

I beg to move.

The question was put and carried.

The Bill was read the Second Time and committed to a Committee of the whole Council to-morrow.

COMMITTEE OF THE WHOLE COUNCIL

Order for Committee read. Mr. Speaker left the Chair.

IN THE COMMITTEE

[Sir Ferdinand Cavendish-Bentinck, K.B.E., C.M.G., M.C., in the Chair]

The Rules and Regulations (Laying) Bill
Clauses 1 to 5 agreed to.

Schedule agreed to.

Title and enacting words agreed to.

The Bill to be reported without amendment.

The Registration of Business Names (Amendment) Bill

Clauses 1 to 3 agreed to.

Title and enacting words agreed to.

The Bill to be reported without amendment.

The Government Contracts Bill

Clause 1 agreed to.

Clause 2

THE MINISTER FOR LEGAL AFFAIRS (Mr. Griffith-Jones): Mr. Chairman, Sir, I beg to move that clause 2 be deleted.

The reason for this, Sir, is that the expression "accounting officer" will be incorporated by way of definition in the

Interpretation and General Provisions Bill, and the definition in that Bill will therefore operate in this Bill as well, and it is therefore superfluous to have a special definition in this Bill.

Question proposed.

The question was put and carried.

The deletion of clause 2 agreed to.

Clause 3

THE MINISTER FOR LEGAL AFFAIRS (Mr. Griffith-Jones): Mr. Chairman, Sir, I beg to move that clause 3 be amended in the following respects. First, by the substitution for the word "Any", with which the clause begins, the words "Subject to the provision of any other written law, any".

Secondly, by inserting the words "or by the receiver of revenue" immediately after the words "accounting officer" in line 4.

Thirdly, by inserting the words "or receiver of revenue" immediately after the words "accounting officer" in line 7.

The reason for the first proposed amendment, Sir, is to save any special provisions that may appear, either now or in the future, in other laws affecting Government contracts, and the reason for the second and third proposed amendments, Sir, arises by reason of the functions of receivers of revenue in addition to accounting officers under the Exchequer and Audit Ordinance, for they will be concerned with entering into Government contracts.

I beg to move.

Question proposed.

The question was put and carried.

Clause 3, as amended, agreed to.

Clauses 4 to 8 agreed to.

Schedule

THE MINISTER FOR LEGAL AFFAIRS (Mr. Griffith-Jones): Mr. Chairman, Sir, I beg to move that the Schedule be amended by substituting for the words "accounting officer" wherever they appear, the expression "accounting officer/receiver of revenue". This, Sir, is an amendment consequential on that with which the Committee has just dealt.

Question proposed.

MR. MANGAT: Mr. Chairman, I would like to say only this, that it is bad in any legislation to have a stroke for anything which can be expressed by words, one might say "and", "or", or something like that, but a mere stroke is not the form for that particular amendment, I think.

THE MINISTER FOR LEGAL AFFAIRS (Mr. Griffith-Jones): I entirely agree with my hon. friend as a general rule, but you see, Sir, in this particular case, the Schedule sets out a form and it is only in respect of the designation of the officer signing the form that this particular amendment is proposed.

THE CHAIRMAN (Sir Ferdinand Cavenish-Bentick): I take it the idea is that he strikes out one or the other?

THE MINISTER FOR LEGAL AFFAIRS (Mr. Griffith-Jones): Yes, he strikes out one or the other.

The question was put and carried.

The Schedule, as amended, agreed to.

Title and enacting words agreed to.

THE CHAIRMAN (Sir Ferdinand Cavenish-Bentick): The Bill, of course, will be renumbered in accordance with the amendments made.

The Bill to be reported with amendment.

The Registration of Documents (Amendment) Bill

Clauses 1 to 7 agreed to.

Title and enacting words agreed to.

The Bill to be reported without amendment.

The Customs Tariff (Amendment) Bill

Clause 1 agreed to.

Clause 2

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): Mr. Chairman, I beg to move that paragraph (c) of clause 2 be amended as follows: by substituting for the number 172 which appears therein number 173 and by substituting for the number 172 (a) which appears therein the number 173 (a).

This paragraph of the Bill deals with the re-entry of goods consigned to the British Red Cross Society. The need to amend the Bill arises from the fact that the Government of Tanganyika has already passed legislation at this time and

has in their Bill designated the items in the tariff schedule as 173. If we were to adhere to the number 172, it would obviously lead to confusion in dealing with what is obviously an interterritorial tariff structure. I therefore beg to move.

Question proposed.

The question was put and carried.

Clause 2, as amended, agreed to.

Title and enacting words agreed to.

The Bill to be reported with amendment.

The Widows' and Orphans' Pension (Amendment) Bill

Clauses 1 and 2 agreed to.

Title and enacting words agreed to.

The Bill to be reported without amendment.

The Special Tax (Temporary Provisions) (Amendment) Bill

Clauses 1 and 2 agreed to.

Title and enacting words agreed to.

The Bill to be reported without amendment.

The Interpretation and General Provisions Bill

Clauses 1 and 2 agreed to.

Clause 3

THE MINISTER FOR LEGAL AFFAIRS (Mr. Griffith-Jones): Mr. Chairman, Sir, I have a number of amendments to move to sub-section (1) of clause 3 and with your permission I think it will be simpler if I move them *seriatim* rather than altogether.

THE CHAIRMAN (Sir Ferdinand Cavenish-Bentick): I would prefer that.

THE MINISTER FOR LEGAL AFFAIRS (Mr. Griffith-Jones): First, Sir, I beg to move that sub-section (1) of clause 3 be amended by inserting in their respective alphabetical positions the following definitions:

"accounting officer" means a person who is appointed to be an accounting officer within the meaning, and for the purposes, of the Exchequer and Audit Ordinance, 1955; the marginal reference to that Ordinance is Number 13 of 1955;

[The Minister for Legal Affairs]

"receiver of revenue" means a person appointed to be a receiver of revenue within the meaning and for the purposes of the Exchequer and Audit Ordinance, 1955; marginal reference number 13, 1955;

"the Treasury" means the Minister for Finance or such other officer or officers of the Ministry of Finance as may be deputed by the said Minister to exercise or perform on his behalf any power or duty for the purposes of any written law.

Sir, I have referred to the new definitions in another context, they result from the structure of the Exchequer and Audit Ordinance and these are expressions which will be used quite frequently in other laws and rather than have piecemeal definitions in each law, it is convenient that we should have the definitions in this interpretation statute so that the definitions will apply, unless displaced expressly, in other laws as well.

Mr. Chairman, I beg to move.

THE CHAIRMAN (Sir Ferdinand Cavenish-Bentick): There is no marginal note to your last one, the Treasury?

THE MINISTER FOR LEGAL AFFAIRS (Mr. Griffith-Jones): No, Sir, there is no marginal note to the last one.

Question proposed.

The question was put and carried.

Clause 3, as amended, agreed to.

THE ASIAN MINISTER WITHOUT PORTFOLIO (Mr. Madan): Mr. Chairman, Sir, only this morning I received a letter from the Secretary of the Law Society enclosing a copy of certain comments made by the sub-committee on legislation appointed by the General Council of the Law Society and I think, Sir, that this would be an appropriate moment to bring those comments to the notice of my hon. and learned friend.

The sub-committee states, after saying that new definitions should not be introduced unless they are generally found in the comparable legislation of other territories, goes on to state that the definition of "export" and "import", "aircraft" and similar expressions should not, at least in the sense of general applicability, diverge from High Commission legislation and that most of the

new definitions appear to be of too specialised application to warrant inclusion in a general enactment.

I merely draw the hon. Mover's attention to these comments, Sir.

At this stage, if I may anticipate a little, so that my hon. and learned friend may have the opportunity to consider the matter in the meantime, the sub-committee also states that if any amendment is required in the interests of modernity, it would seem that section 10, which is an anomaly in the case of a Colonial Ordinance, should be deleted.

I do that at this stage merely in order to give my learned friend time to consider the matter.

THE MINISTER FOR LEGAL AFFAIRS (Mr. Griffith-Jones): I have received copies of these comments earlier but I regret that they are too amorphous and vague to be acceptable at this stage.

THE CHAIRMAN (Sir Ferdinand Cavenish-Bentick): If no other hon. Member wishes to speak, I will put the question.

The question was put and carried.

THE CHAIRMAN (Sir Ferdinand Cavenish-Bentick): Before I put the final amended question we had better take any other further amendments there are.

THE MINISTER FOR LEGAL AFFAIRS (Mr. Griffith-Jones): Yes, The next one, Sir, concerns the definition of "the Governor" which occurs on page 6 of the copy of the Bill, about half-way down the page; it is a purely formal amendment and I beg to move that the words "to the" be inserted between the word "Deputy" and the word "Governor". This is merely to assimilate the phraseology of this definition with the comparable phraseology in the Letters Patent referring to the appointment of Deputies to the Governor.

Sir, I beg to move.

THE CHAIRMAN (Sir Ferdinand Cavenish-Bentick): It appears twice in that sub-section.

THE MINISTER FOR LEGAL AFFAIRS (Mr. Griffith-Jones): Yes, Sir, it appears twice.

THE CHAIRMAN (Sir Ferdinand Cavenish-Bentick): That is almost a formal amendment.

Question proposed.

The question was put and carried.

THE MINISTER FOR LEGAL AFFAIRS (Mr. Griffith-Jones): The next definition, Sir, concerns the definition near the top of page 8 of "medical practitioner", and I beg to move that the words "whose name is" appearing in the first line of that definition, be deleted. This, again, Sir, is a purely formal amendment; the point is that it is the medical practitioner who is registered, not his name.

Question proposed.

The question was put and carried.

THE MINISTER FOR LEGAL AFFAIRS (Mr. Griffith-Jones): The next amendment concerns the definition on page 10 of "statutory declaration", and I beg to move that that definition of "statutory declaration" be amended by inserting the words "commissioner for oaths" immediately after the words "notary public" in paragraph (b). The words "notary public" appear in the third line of paragraph (b) of the definition and my proposed amendment is to insert the words "commissioner for oaths" between the words "notary public" and the words "or other person having authority, etc."

The purpose of this definition, Sir, which arises from a point made to me by my hon. friend the Member for Nairobi West, for which I am very grateful; is to avoid any misunderstanding or ambiguity. A commissioner for oaths is, in fact, included in the residual category of persons having authority to take or receive declarations, but in order to emphasise that a declaration taken by a commissioner for oaths is acceptable and that it is not necessary that the person taking the declaration be a notary public, I move this amendment to avoid any misunderstanding or ambiguity.

Question proposed.

The question was put and carried.

THE MINISTER FOR LEGAL AFFAIRS (Mr. Griffith-Jones): Sir, a final amendment to sub-section (1) of clause 3, which concerns the definition of "written law" appearing half-way down on page 7. I beg to move that that definition be amended by deleting the words "applied Acts" which appear at the end of the definition and by substituting therefor the words "Imperial enactments".

Sir, the phrase "written law" is intended as a compendious phrase comprehending all written laws, that is all

laws having force in the Colony other than the common law—all statutory provisions; applied Acts are included in the word "Ordinance" by reason of the earlier definition on page 8 of that word "Ordinance". As it stands in the Bill at present, "written law" as defined does not include imperial enactments and it should do so.

Question proposed.

The question was put and carried.

THE CHAIRMAN (Sir Ferdinand Caven-dish-Bentick): Are there any more alterations to this rather comprehensive clause?

COL. WILCOCK: On page 6 there is a definition of Her Majesty the Queen, the King and the Crown. Purely as a matter of tidiness I feel that the words "or the Sovereign" should be added, because in section 69 on page 28 there is a reference to the Sovereign and to the Crown. Section 69 reads: "In any written law references to the Sovereign or to the Crown shall, unless a contrary intention appears, be construed as references to the Sovereign for the time being."

Purely as a matter of tidiness, I feel that the words "or the Sovereign" should appear after the words "or the Crown" in the definition of section 3.

This I have only just noticed and before I ask leave to move an amendment I would like to have the Minister's comments as I may be misconstruing it.

THE MINISTER FOR LEGAL AFFAIRS (Mr. Griffith-Jones): I would be quite happy to accept that amendment, if you are prepared to allow the hon. Member to move it, or I will adopt it on behalf of the hon. Member.

THE CHAIRMAN (Sir Ferdinand Caven-dish-Bentick): You are proposing then, that after the words—

THE MINISTER FOR LEGAL AFFAIRS (Mr. Griffith-Jones): I propose, Sir, that the definition towards the bottom of page 6 of "Her Majesty" or "His Majesty", "the Queen" or "the King", or "the Crown", be amended by inserting immediately after the words "the Crown" the words "the Sovereign".

THE CHAIRMAN (Sir Ferdinand Caven-dish-Bentick): By "quote" you mean inverted commas, do you?

THE MINISTER FOR LEGAL AFFAIRS (Mr. Griffith-Jones): "The Sovereign" to be between inverted commas.

Question proposed.

The question was put and carried.

Clause 3 as amended agreed to.

Clause 4.

SIR CHARLES MARKHAM: Clause 4, Mr. Chairman, I just want to cross swords with my hon. friend the Minister; is officially the description "Republic of Ireland" correct? I thought they had dropped the word now and called it Eire, or something, it is spelt E-I-R-E.

THE MINISTER FOR LEGAL AFFAIRS (Mr. Griffith-Jones): I can lay claim here Mr. Chairman, to a certain churchillian sense of the English language and the word "Ireland" is correct, I think, in an English statute. The word "Eire" might be correct in another country's statutes.

SIR CHARLES MARKHAM: A legal quibble I feel, Sir!

Clause 4 agreed to.

Clause 5 agreed to.

Clause 6.

SIR CHARLES MARKHAM: Clause 6, Mr. Chairman, would the Minister tell us what the point of this particular clause is? Somehow it has cropped-up in Kenya in recent years, the word shillings, yet a pound note; you do receive says "Twenty shillings or one pound". If you are going to put it back into shillings should you have the cents as well? I cannot see the point of having that clause at all.

THE MINISTER FOR LEGAL AFFAIRS (Mr. Griffith-Jones): Sir, this is a repetition of a clause in the existing Interpretation Ordinance; we have had it in the Colony for many years. I think it is merely a convenience or recognition of the practice whereby relatively small sums tend to be referred to in terms of shillings, whereas, of course, large sums are referred to in terms of pounds. It is merely—I do not think it makes a halfpennyworth of difference still less a pound's worth.

Question proposed.

Clause 6 agreed to.

Clause 7.

THE MINISTER FOR LEGAL AFFAIRS (Mr. Griffith-Jones): Sir, I have an amendment to move on clauses 7, 8 and 9 which are interrelated and if you will permit me, it might assist the Committee if we were to take the three together.

THE CHAIRMAN (Sir Ferdinand Caven-dish-Bentick): I think it probably would be better to take them together.

THE MINISTER FOR LEGAL AFFAIRS (Mr. Griffith-Jones): Sir, I beg to move first that clause 7 be deleted and be replaced by the following:

Marginal note: Ordinances to be published in the *Gazette* and to be public Ordinances. 7. Every Ordinance shall be published in the *Gazette* and shall be a public Ordinance and shall be judicially noticed as such.

Clause 8—that clause 8 be deleted and replaced by the following clause:

Marginal note: Commencement of Ordinances. 8. Every Ordinance assented to by the Governor shall come into operation on the day on which it is published in the *Gazette* or, if it shall be provided either in the Ordinance or in some other written law that such Ordinance shall come into operation on some other day, on that day.

Clause 9—that clause 9 be deleted and replaced by the following clause:

Marginal note: Commencement of reserved Bills. 9. A Bill which, having been passed by the Legislative Council and reserved by the Governor for the signification of Her Majesty's pleasure, is assented to by Her Majesty, shall come into operation as an Ordinance on the day on which the Proclamation of the Governor signifying Her Majesty's assent thereto, is published in the *Gazette* or, if it shall be provided either in the Ordinance or in such Proclamation or in some other written law that such Ordinance shall come into operation on some other day, on that day.

Sir, the aggregate result of these amendments does not alter the substance of the three existing clauses in the Bill as printed in any material sense. The purpose of this amendment is clarification and to have the matters which these

[The Minister for Legal Affairs] three clauses deal with, set out in more logical sequence. Thus the new clause 7 will apply to all Ordinances and require them all to be published in the *Gazette* and declare that they are public Ordinances and shall be judicially noticed. Clause 8 then deals with that category which comprises Ordinances assented to by the Governor, which of course, are the large majority of Ordinances, and provides for their commencement on publication or on either an appointed day or a specified day. Clause 9, in its amended form, deals with the commencement of Bills which are reserved for Her Majesty's pleasure and only take on the character of Ordinances when Her Majesty's pleasure is signified thereto. I do not think there is really any need for further explanation. This is, perhaps, best described as a refinement and a move in the direction of perfection.

Sir, I beg to move.

Question proposed.

The question was put and carried.

Clauses 7, 8 and 9 as amended, agreed to.

Clauses 10 to 25 agreed to.

Clause 26

THE MINISTER FOR LEGAL AFFAIRS (Mr. Griffith-Jones): Mr. Chairman, Sir, I beg to move that clause 26 be deleted.

As I explained on the Second Reading, this clause relates to disallowance by Her Majesty of a Bill or Ordinance passed by this Council. It relates to a very rare contingency and the matter is regulated by the Letters Patent, and it is better that we should not, in our Ordinance, purport to legislate for such a contingency, since if we were in any degree repugnant in the terms of our legislation, to those of the Letters Patent, the Letters Patent would prevail by reason of the Colonial Laws Validity Act and it is better, therefore, that we should not have this clause in our Bill.

Question proposed.

The question was put and carried.

The deletion of clause 26 agreed to.

Clauses 27 to 68 agreed to.

Clause 69

COL. WILCOCK: I beg to move that clause 69 should be deleted in its entirety, as both the Sovereign and Crown have now been dealt with in clause 3, and it would accordingly appear that the whole of this clause is now redundant.

THE MINISTER FOR LEGAL AFFAIRS (Mr. Griffith-Jones): I will accept that amendment.

Question proposed.

The question was put and carried.

The deletion of clause 69 agreed to.

Clauses 70 to 72 agreed to.

Title and enacting words agreed to.

THE CHIEF SECRETARY (Mr. Turnbull): Mr. Chairman, Sir, I beg to move that this Committee do report to Council that they have considered the following Bills, and have approved the same without amendment—

The Rules and Regulations (Laying) Bill.

The Registration of Business Names (Amendment) Bill;

The Registration of Documents (Amendment) Bill;

The Widows' and Orphans' Pension (Amendment) Bill;

The Special Tax (Temporary Provisions) (Amendment) Bill;

also that the Committee has considered the following Bills and has approved the same, with amendment—

The Government Contracts Bill;

The Customs Tariff (Amendment) Bill;

The Interpretation and General Provisions Bill.

Question proposed.

The question was put and carried.

Council resumed.

[Mr. Speaker (Sir Ferdinand Cavendish-Bentlinck) in the Chair]

REPORT

SIR FERDINAND CAVENDISH-BENTINCK: I beg to report that a Committee of the whole Council has considered, clause by clause, the Rules and Regulations (Laying) Bill and has approved the same without amendment.

BILL

THIRD READING

The Rules and Regulations (Laying) Bill

THE MINISTER FOR LEGAL AFFAIRS (Mr. Griffith-Jones): Mr. Speaker, Sir, with your permission, I would like to move the Third Reading now, I beg to move, Sir, that the Rules and Regulations (Laying) Bill be now read the Third Time.

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey) seconded.

Question proposed.

The question was put and carried.

The Bill was accordingly read the Third Time and passed.

REPORT

SIR FERDINAND CAVENDISH-BENTINCK: I beg to report that a Committee of the whole Council has considered, clause by clause, the Registration of Business Names (Amendment) Bill and has approved the same without amendment.

BILL

THIRD READING

The Registration of Business Names (Amendment) Bill

THE MINISTER FOR LEGAL AFFAIRS (Mr. Griffith-Jones): Mr. Speaker, Sir, again in view of the fact that it has been reported without amendment, with your permission, Sir, I would like to move the Third Reading of the Bill now.

Sir, I beg to move that the registration of Business Names (Amendment) Bill be now read the Third Time.

THE CHIEF SECRETARY (Mr. Turnbull) seconded.

Question proposed.

The question was put and carried.

The Bill was accordingly read the Third Time and passed.

REPORT

SIR FERDINAND CAVENDISH-BENTINCK: I beg to report that a Committee of the whole Council has considered, clause by clause, the Government Contracts Bill and has approved the same, with amendment.

Report ordered to be considered to-morrow.

REPORT

SIR FERDINAND CAVENDISH-BENTINCK: I beg to report that a Committee of the whole Council has considered, clause by clause, the Registration of Documents (Amendment) Bill and has approved the same without amendment.

BILL

THIRD READING

The Registration of Documents (Amendment) Bill

THE MINISTER FOR LEGAL AFFAIRS (Mr. Griffith-Jones): In the absence of my hon. friend who is in charge of this Bill, Sir, I beg to move, with your permission, that the Registration of Documents (Amendment) Bill be now read the Third Time.

THE PARLIAMENTARY SECRETARY TO THE MINISTER FOR EDUCATION, LABOUR AND LANDS (Mr. Wanyutu Waweru) seconded.

Question proposed.

The question was put and carried.

The Bill was accordingly read the Third Time and passed.

REPORT

SIR FERDINAND CAVENDISH-BENTINCK: I beg to report that a Committee of the whole Council has considered, clause by clause, the Customs Tariff (Amendment) Bill and has approved the same with amendment.

Report ordered to be considered to-morrow.

REPORT

SIR FERDINAND CAVENDISH-BENTINCK: I beg to report that a Committee of the whole Council has considered, clause by clause, the Widows' and Orphans' Pension (Amendment) Bill and has approved the same without amendment.

BILL

THIRD READING

The Widows' and Orphans' Pension (Amendment) Bill

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): Mr. Speaker, Sir, with your permission, I beg to move that the Widows' and Orphans' Pension (Amendment) Bill be now read the Third Time.

THE MINISTER FOR LEGAL AFFAIRS (Mr. Griffith-Jones) seconded.

Question proposed.

The question was put and carried.

The Bill was accordingly read the Third Time and passed.

REPORT

SIR FERDINAND CAVENDISH-BENTINCK: I beg to report that a Committee of the whole Council has considered, clause by clause, the Special Tax (Temporary Provisions) (Amendment) Bill and has approved the same without amendment.

BILL

THIRD READING

The Special Tax (Temporary Provisions) (Amendment) Bill

THE MINISTER FOR AFRICAN AFFAIRS (Mr. Windley): Mr. Speaker, Sir, with your permission I beg to move that the Special Tax (Temporary Provisions) (Amendment) Bill be now read the Third Time.

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey) seconded.

Question proposed.

The question was put and carried.

The Bill was accordingly read the Third Time and passed.

REPORT

SIR FERDINAND CAVENDISH-BENTINCK: I beg to report that a Committee of the whole Council has considered, clause by clause, the Interpretation and General Provisions Bill and has approved the same with amendment.

Report ordered to be considered to-morrow.

ADJOURNMENT

THE SPEAKER (Sir Ferdinand Cavendish-Bentinck): That completes the business on the Order Paper. Council will therefore now adjourn until 2.30 p.m. on Tuesday next, the 27th November.

Council rose at thirty-five minutes past Twelve o'clock.

Tuesday, 27th November, 1956

The Council met at thirty minutes past Two o'clock.

[Mr. Speaker (Sir Ferdinand Cavendish-Bentinck) in the Chair]

PRAYERS

PAPERS LAID

The following Papers were laid on the Table:

Sugar Equalisation Fund Statement of Income and Expenditure for the year ended 31st December, 1955, and the Report of the Acting Controller and Auditor-General thereon.

(BY THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey) in accordance with section 24 (3) of the Exchequer and Audit Ordinance, 1955)

Sessional Paper No. 47 of 1956/57: Shimba Hills Land Exchange.

(BY THE MINISTER FOR AFRICAN AFFAIRS (Mr. Windley))

NOTICES OF MOTIONS

SUPPLEMENTARY ESTIMATES

(Governor's consent signified)

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): Mr. Speaker, Sir, I beg to move:

THAT a sum not exceeding £1,296,590 be granted to the Governor, on account, for or towards defraying the charges of Supplementary Estimates of Expenditure No. 1 of 1956/57, Part I.

THAT a sum not exceeding £8,445 be granted to the Governor, on account, for or towards defraying the charges of Supplementary Estimates of Expenditure No. 1 of 1956/57, Part II.

THAT a sum not exceeding £18,918 be granted to the Governor, on account, for or towards defraying the charges of Supplementary Estimates of Expenditure No. 1 of 1956/57, Part III.

THAT a sum not exceeding £22,000 be granted to the Governor, on account, for or towards defraying the charges of Supplementary Estimates of Expenditure No. 1 of 1956/57, Part IV.

DEVELOPMENT SUPPLEMENTARY ESTIMATES

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): Mr. Speaker, Sir, I beg to move:

THAT a sum not exceeding £391,717 be granted to the Governor, on account, for or towards defraying the charges of Development Supplementary Estimates of Expenditure No. 1 of 1956/57, Part I.

THAT a sum not exceeding £46,000 be granted to the Governor, on account, for or towards defraying the charges of Development Supplementary Estimates of Expenditure No. 1 of 1956/57, Part II.

THAT a sum not exceeding £367,464 be granted to the Governor, on account, for or towards defraying the charges of Development Supplementary Estimates of Expenditure No. 1 of 1956/57, Part III.

LIQUOR LICENSING RULES NOS. 6 AND 7

MR. COOKE: Mr. Speaker, I beg to give notice of the following Motion:

THAT this Council resolves that the Second Schedule, Part I, of the Liquor Licensing Rules, 1956, be annulled, in respect of Nos. 6 and 7 of Hotel Liquor Licence and Restaurant Liquor Licence.

SESSIONAL PAPER NO. 47 OF 1956/57

THE MINISTER FOR AFRICAN AFFAIRS (Mr. Windley): Mr. Speaker, I beg to give notice of the following Motion:

THAT this Council accepts the recommendation contained in Sessional Paper No. 47 of 1956/57 that approximately 18,485 acres of Crown land be added to the Coast Native Land Unit in exchange for approximately 17,298 acres to be excluded from the Land Unit.

BILL

SECOND READING

The Kenya Society for the Blind Bill
Order for Second Reading read.

THE MINISTER FOR EDUCATION, LABOUR AND LANDS (Mr. Coutts): Mr. Speaker, Sir, I beg to move that the Kenya Society for the Blind Bill be now read the Second Time.

I am sure that all Members of this Council will support this Bill and as to a large extent it is a formal one, in that it

is transforming the present Kenya branch into a statutory body, I feel that it is not necessary for me to deal with this Bill at any great length.

The history of the Society in this Colony is roughly as follows:

In 1947 a delegation consisting of people from the National Institute of the Blind, together with people from the Colonial Office, visited all the Colonial territories and they reported in 1950. As a result of that the British Empire Society for the Blind was set up, and in 1951 the Kenya committees were formed in order to launch appeals for work with the blind. This was really to pave the way for setting up the statutory body which you will find now proposed in clause 7 of this Bill.

Indeed, Uganda has already set up their autonomous body and did so in 1953 by the Uganda Foundation for the Blind Ordinance and there has been a regional office for the blind functioning in Kampala since the year 1953.

Now, the objects of this Ordinance, as I have already roughly stated, are to transfer the present Kenya branch into a statutory body. There are at the present time a branch which appeals for funds, an *ad hoc* committee which makes recommendations on all aspects of welfare for the blind and also an advisory board for the Thika Blind School.

This statutory body which is proposed in this Ordinance will take over all these functions and, in fact, deal with all matters which concern blind people or blindness within the Colony. That, briefly, Sir, is the object of the Ordinance.

The statutory body will, of course, have powers to raise funds for any of the purposes which they wish to initiate.

I have very few comments on the Bill itself. As far as clause 4 is concerned, this vests the property of the existing Society in the statutory body and, as far as I know, there is no objection on the part of the existing Society to have their property so vested.

Clause 5 states the objects of the Society and clause 7 describe how the statutory body will be set up. Clause 14, I should mention, safeguards officers and the employees of this particular Society and as regards clause 15 hon. Members will probably have noticed that I gave

[The Minister for Education, Labour and Lands] notice that I would move an amendment to clause 15 at the Committee stage. When the Government was considering this matter they felt that the existing clause 15 (1) might be too restrictive in that it might inhibit private charity for the blind and therefore I propose, when the right moment comes, to move the following amendment:

"That sub-section (1) of clause 15 of the Bill be amended by substituting for the word 'seek', which appears therein, the words 'publish appeals to the general public for'."

The object of that, as I have briefly indicated, is that there should be private appeals for the blind with the Society's cognisance, and with the Society's help.

Sir, I feel that that is all I need to say on this Bill and, therefore, I beg to move.

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey) seconded.

Question proposed.

MR. TYSON: Mr. Speaker, Sir, whilst I gladly support the Second Reading of this Bill, I would like the Minister, at some convenient stage, to tell us what will be the effect of this Bill on the activities of the Salvation Army in connection with their blind school at Thika.

MR. WADLEY: I should like to answer the point raised just now by the hon. Member, Mr. Tyson.

The answer is that the blind school at Thika now run by the Salvation Army will continue in precisely the same way as it does now, and will receive a grant-in-aid from Government.

THE SPEAKER (Sir Ferdinand Cavendish-Bentinck): If no other hon. Member wishes to speak, I will ask the hon. Mover to reply.

THE MINISTER FOR EDUCATION, LABOUR AND LANDS (Mr. Coultis): I do not wish to make a reply.

The question was put and carried.

The Bill was read the Second Time and committed to a Committee of the whole Council tomorrow.

The Interpretation and General Provisions Bill

(Consideration of Report)

Order for Consideration of Report read.

THE MINISTER FOR LEGAL AFFAIRS (Mr. Griffith-Jones): Mr. Speaker, Sir, I beg to move that this Bill be recommended to a Committee of the whole Council for reconsideration of clause 3, subsection (1) thereof, in so far as it relates to the definition of the phrase "Her Majesty" and similar phrases, and for consideration of the addition of a new clause in Part VIII of the Bill.

Sir, this Motion arises by reason of the fact that in the first Committee stage of this Bill my hon. friend, the Member for Nairobi West, raised a point regarding the definition in question—the definition of "Her Majesty" or "His Majesty"—and the related clause in the Bill as it then stood, clause 69. Sir, in good faith both he and I agreed upon a means of amendment which we thought would be a good idea and an improvement of the Bill. Since then, however, we have conferred and we believe that the best course is to delete that particular amendment altogether and to have a new clause in the same place as the old clause 69, but in rather different terms, which will merely provide that a reference to "the Crown" or "the Sovereign" will be construed in all laws as a reference to the Sovereign for the time being. We believe that that will be the best and most lucid way of dealing with this particular point and accordingly, Sir, in order that that may be effected, I beg to move that the Bill be recommitted for that purpose.

THE CHIEF SECRETARY (Mr. Turnbull) seconded.

THE SPEAKER (Sir Ferdinand Cavendish-Bentinck): I take it that you do not want to recommit the whole Bill, you merely want to recommit clause 3?

THE MINISTER FOR LEGAL AFFAIRS (Mr. Griffith-Jones): That is so, Sir.

Question proposed.

The question was put and carried.

COMMITTEE OF THE WHOLE COUNCIL

Order for Committee read. Mr. Speaker left the Chair.

IN THE COMMITTEE

[Sir Ferdinand Cavendish-Bentinck, K.B.E., C.M.G., M.C., in the Chair]

The Interpretation and General Provisions Bill

Clause 3

THE MINISTER FOR LEGAL AFFAIRS (Mr. Griffith-Jones): Mr. Speaker, Sir, I beg to move that the definition appearing at the bottom of page 6 of the Bill—as reprinted since the first Committee stage—the definition of "Her Majesty" or "His Majesty", "the Queen", or "the King", "the Crown" or "the Sovereign" be deleted. It will be my purpose, Sir, if this amendment is accepted, to move a new clause in Part VIII to replace this definition and to make the necessary provision in place thereof.

Question proposed.

COL. WILCOCK: Mr. Speaker, Sir, inasmuch as the original amendment was due to an interpolation of mine I would like to support wholeheartedly the proposals put forward by the Minister for Legal Affairs.

The question was put and carried.

Part VIII

THE MINISTER FOR LEGAL AFFAIRS (Mr. Griffith-Jones): Mr. Chairman, Sir, I beg to move that a new clause be inserted at the beginning of Part VIII in the following terms—the marginal note, Sir, is: "References to the Crown" and the text of the clause is as follows:

"In this Ordinance and in every other written law, whether enacted or made before or after the commencement of this Ordinance, references to the Sovereign reigning at the time of the enactment of the written law or to the Crown shall, unless a contrary intention appears be construed as references to the Sovereign for the time being."

Sir, I do not think I need explain this any further. It is, I think, an improvement on the original provision in the Bill.

I beg to move.

THE CHAIRMAN (Sir Ferdinand Cavendish-Bentinck): Do you wish that at the end of Part VIII or the beginning?

THE MINISTER FOR LEGAL AFFAIRS (Mr. Griffith-Jones): At the beginning, Sir.

THE CHAIRMAN (Sir Ferdinand Cavendish-Bentinck): It will come in before clause 69 as printed in this Bill?

THE MINISTER FOR LEGAL AFFAIRS (Mr. Griffith-Jones): That is so, Sir.

Question proposed.

COL. WILCOCK: Mr. Chairman, for the reasons already stated I feel it is only proper that I should voice my support for this proposal.

The question was put and carried.

THE MINISTER FOR LEGAL AFFAIRS (Mr. Griffith-Jones): Mr. Chairman, Sir, I beg to move that the Committee do report to Council its reconsideration of clause 3 of the Bill, and of Part VIII of the Bill, and its approval thereof with amendment.

Question proposed.

The question was put and carried.

Council resumed.

REPORT

THE MINISTER FOR LEGAL AFFAIRS (Mr. Griffith-Jones): Mr. Speaker, Sir, I have to report that a Committee of the whole Council has reconsidered clause 3 and Part VIII of the Interpretation and General Provisions Bill (Bill No. 1), and has approved the same with amendment.

This, of course, Sir, is in addition to the Committee's Report on the whole of the Bill in the first instance.

Question proposed.

The question was put and carried.

BILL

THIRD READING

The Interpretation and General Provisions Bill

THE MINISTER FOR LEGAL AFFAIRS (Mr. Griffith-Jones): Mr. Speaker, Sir, I beg to move that the Interpretation and General Provisions Bill be now read the Third Time.

THE CHIEF SECRETARY (Mr. Turnbull) seconded.

Question proposed.

The question was put and carried.

The Bill was accordingly read the Third Time and passed.

BILL

THIRD READING

The Government Contracts Bill
(Consideration of Report)

Order for Consideration of Report read.

THE MINISTER FOR LEGAL AFFAIRS (Mr. Griffith-Jones): Mr. Speaker, Sir, I beg to move that the Council do agree the Report of the Committee on this Bill.

THE CHIEF SECRETARY (Mr. Turnbull) seconded.

Question proposed.

The question was put and carried.

The Bill was accordingly read the Third Time and passed.

BILL

THIRD READING

The Customs Tariff (Amendment) Bill
(Consideration of Report)

Order for Consideration of Report read.

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): Mr. Speaker, Sir, I beg to move that the Council do agree with the Report of the Committee of the whole Council on the Customs Tariff (Amendment) Bill.

THE MINISTER FOR LEGAL AFFAIRS (Mr. Griffith-Jones) seconded.

Question proposed.

The question was put and carried.

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): Mr. Speaker, Sir, I beg to move that the Customs Tariff (Amendment) Bill be now read the Third Time.

Question proposed.

The question was put and carried.

The Bill was accordingly read the Third Time and passed.

COMMITTEE OF THE WHOLE COUNCIL

Order for Committee read. Mr. Speaker left the Chair.

IN THE COMMITTEE

[Sir Ferdinand Cavendish-Bentinck, K.B.E., C.M.G., M.C., in the Chair]

The Crown Proceedings Bill

Clauses 1 to 3 agreed to.

Clause 4

LT.-COL. GHERSIE: Mr. Chairman, Sir, when this Bill was undergoing its Second Reading, I did raise a point, Sir, on clause 4, sub-section (5), and in the entitlement, Sir, it does state that it is in regard to civil proceedings taken by or against the Crown.

The hon. Mover, when he replied, cited the case "Ghersie goes to gaol", and stated that the Crown exercises no control over judicial acts and that a judicial officer is immune from liability from all acts that he performs in a judicial capacity. That, Sir, is accepted.

My point, Sir, is not where judiciaries are concerned at all. The point which I tried to establish is this: that whereas a private individual could be held liable for malicious prosecution—I am not suggesting that the Crown was prosecuting maliciously—but if it transpires at a later stage that the judiciary, due to the evidence led by the Crown, gave a verdict which resulted in a commitment to prison as far as I am concerned—if I can quote the example again—maintain that if I am subsequently proved innocent there should be some means whereby the aggrieved person can in fact take action against the Crown for unlawful imprisonment or prosecution in the first place.

THE MINISTER FOR LEGAL AFFAIRS (Mr. Griffith-Jones): Mr. Chairman, the principle which the hon. Member has put forward has very much wider implications than, I think, he realises, because it does mean that if the principle which he is proposing should be incorporated in our law, any person who prosecutes another person and obtains a conviction whereby that person suffers some penalty—particularly imprisonment—and that person is subsequently released on appeal, then the prosecutor—if his principle is to be applied—must be liable in damages to the person imprisoned. That, of course, is a principle which could never be accepted and never has been accepted and is not within the concepts of the English system of criminal justice.

There must, in order to incur a liability in tort—and this is not merely peculiar to the Crown or to Crown servants—be an act or omission which is a wrong. Now then, if a prosecutor—it could be the Attorney-General in the

[The Minister for Legal Affairs]

sense that he directs and controls all public prosecutions, or it could be a private prosecutor—initiated a prosecution which was successful, all parties acting bona fide, and the person charged were convicted, everybody has acted perfectly properly and without malice, without bad faith, and no one has, in fact, committed any actionable wrong. If there be an actionable wrong it must be, in those circumstances, malicious prosecution because, of course, imprisonment effected on the warrant of a court is not an actionable wrong: it is a justifiable execution of a judicial order.

Now, in the case of the example which my hon. friend has quoted, what is done—and has been done—by tradition and convention is that if a person, having served an appreciable sentence of imprisonment as a result of a committal by judicial order to prison, is subsequently discovered to have been innocent of the crime for which he was convicted, then he is not only released but he is, in fact, compensated by the Crown as a matter of grace, and not as a matter of law because there is no person, no individual, who is responsible for any actionable wrong which would give that person a cause of action in law for the recovery of damages. That is why that particular form of compensation, which is not legally exigible from anybody, is, has been, and must remain on a basis of grace rather than of right. I hope I have made it clear to my hon. friend.

Question proposed.

The question was put and carried.

Clause 5 agreed to.

Clause 6 agreed to.

Clause 7 agreed to.

Clause 8 agreed to.

Clauses 9 to 13 agreed to.

Clause 14

THE MINISTER FOR LEGAL AFFAIRS (Mr. Griffith-Jones): Mr. Chairman, I beg to move that clause 14, sub-section (1) be deleted and that there be substituted therefore the following subsection:

"(1) In any case in which civil proceedings against the Crown in the Supreme Court are instituted by the issue of a plaint out of a District Registry, the Crown may enter an appearance either in the District

Registry or in the Central Office of the Supreme Court in Nairobi, and, if an appearance is entered in the Central Office, all steps in relation to the proceedings up to the trial shall be taken in Nairobi."

Sir, this is a formal amendment, the purpose of which is to bring the wording of this sub-section into line with the wording of Order XLVI of the Rules of Court and in order to avoid any inconsistency or repugnancy as between the two provisions, which are interrelated.

I beg to move.

THE SPEAKER (Sir Ferdinand Cavendish-Bentinck): The marginal note "Venue and related matters", does that remain?

THE MINISTER FOR LEGAL AFFAIRS (Mr. Griffith-Jones): Yes, the marginal note will remain the same, Mr. Chairman, because it applies to the whole clause.

Question proposed.

The question was put and carried.

Clause 14, as amended, agreed to.

Clauses 15 to 19 agreed to.

Clause 20

THE MINISTER FOR LEGAL AFFAIRS (Mr. Griffith-Jones): Mr. Chairman, I beg to move that sub-section (2) of clause 20 be deleted and that there be substituted therefore the following:

"(2) The provisions of any written law empowering a court to award interest on costs shall apply to orders made in any proceedings by or against the Crown."

The purpose of this amendment, Sir, is to extend the application of the sub-section to proceedings in courts other than the Supreme Court; in other words, to make it general in regard to the award of interest on costs. In order to do that, and for the sake of euphony, we have adopted the same wording as appears in sub-section (3) of the same clause.

I accordingly beg to move.

Question proposed.

The question was put and carried.

Clause 20, as amended, agreed to.

Clauses 21 to 34 agreed to.

First Schedule agreed to.

Second Schedule agreed to.

Title and enacting words agreed to.

The Law Reform (Miscellaneous Provisions) Bill

Clauses 1 to 10 agreed to.

Clause 11

THE MINISTER FOR LEGAL AFFAIRS (Mr. Griffith-Jones): Mr. Chairman, I beg to move that clause 11 be amended by adding, after the expression "the Indian Succession Act, 1865," the expression "and sections 88 and 89 of the Indian Probate and Administration Act, 1881".

This is the repair of an omission to which my hon. and learned friend for the Central Area very kindly drew my attention on the Second Reading.

Question proposed

The question was put and carried.

Clause 11, as amended, agreed to.

Title and enacting words agreed to.

The Fatal Accidents (Amendment) Bill

Clauses 1 and 2 agreed to.

Clause 3

THE MINISTER FOR LEGAL AFFAIRS (Mr. Griffith-Jones). Mr. Chairman, Sir, I beg to move that clause 3 be amended by inserting immediately after the words "wrongful act" which appear in the new section 4A the words "neglect or default".

This is a purely formal amendment, Sir, in order to bring the wording of this section into line with the wording of section 4 to which it refers.

Question proposed

The question was put and carried.

Clause 3, as amended, agreed to.

Clauses 4 and 5 agreed to.

Title and enacting words agreed to.

The Bankruptcy (Amendment) Bill
Clauses 1 to 3 agreed to.

Clause 4

MR. MANGAT: On that clause, Mr. Chairman, I would request the hon. Mover to accept a slight amendment. I think he will accept it.

The advocate of the debtor may attend the examination but shall not question the debtor except with the permission of the court. The words "except with the permission of the court" be added to the new sub-section.

THE CHAIRMAN (Sir Ferdinand Cavendish-Bentinck): I would like to have it in writing.

THE MINISTER FOR LEGAL AFFAIRS (Mr. Griffith-Jones): If I may speak to this.

I am sorry that I have not had an opportunity of speaking more fully about it to my hon. friend since I consulted the Official Receiver, who has suggested to me, Sir, that it would be most inadvisable to incorporate this amendment by reason of the fact that the provision as it stands is founded on a judicial decision of a court, which is, I think, the Court of Appeal, of this country which in turn adopted the *ratio decidendi* of the decision of a Canadian court. Moreover, this provision is in conformity precisely with the law in England, and the basis of the principle which is embodied in this provision, Sir, is that when it comes to the public examination of a debtor, it is the debtor who is under examination, and not his lawyer. That is why, in these countries, and in this country, the lawyer is not permitted to aid the debtor in relation to his examination, the purpose being, of course, that the debtor should be required to disclose all facts material to his financial position, his debts, etc. What does happen, as my hon. and learned friend did explain to us, is that if there is any matter in respect of which the debtor's advocate could assist the court, then he does so either by inviting the court to put a question to the debtor, and the court usually does so; or he may, as he sometimes does, ask the Official Receiver to put a question on his behalf, and the Official Receiver does, but were we to enact in express terms that the advocate for the debtor had a right subject only to the leave of the court to question the debtor, and to address the court, then there would be no guide to the court as to when leave should be granted and when it should not be granted.

By leaving it as it is, no injury is done to the debtor; no injustice is done to the creditor—the court is not deprived of any legitimate assistance which the debtors advocate can give it because the debtor's advocate can either give it through the Official Receiver or invite the court to put a question to the debtor to clear up any particular ambiguity which the debtor's advocate feels should

[The Minister for Legal Affairs] be cleared up for the assistance of the court.

I invite my hon. friend to accept the clause as it stands since it is, as I have explained, in common form and reflects both the law and the practice not only in this country, but in the United Kingdom, and so far as I know, throughout the Commonwealth.

MR. MANGAT: Mr. Chairman, I would formally move that sub-section (12), amended to section 4, be amended by the addition of the following words at the end of the section, that is, after the word "court": "except with the permission of the court".

Now, Sir, without going into any argument, I regret very much that I am not in the least impressed with the reasons for rejecting this amendment advanced by the learned Attorney-General. Our bankruptcies are in a quite different category, and I could not comprehend my learned friend's argument that the court would also be bound in something or other which I could not really understand, because courts have a very wide discretion to do anything. They can refuse permission if they like: simply because they put these words in the court, they are not obliged to grant permission. I have a great respect for the views of the Official Receiver, but I think I have greater experience of these matters, and I think it is that if we close the discretion of the court, and curtail the certificate of the counsel in this respect, some time in the future, we will have to regret it. From the opinions of the debtors expressed, we will be prepared to make this amendment.

THE CHAIRMAN (Sir Ferdinand Cavendish-Bentinck): Can I have the amendment in writing? It is only five words, but it is a matter of principle.

THE MINISTER FOR LEGAL AFFAIRS (Mr. Griffith-Jones): In the meantime, Mr. Chairman, if I may just reply, I very much regret that I am not prepared to accept this amendment. I have attempted to explain, but I might add that although my hon. friend says that the courts can grant or refuse leave, that is entirely true so far as it goes. But as he will, I am sure, concede, a court, in exercising a discretionary power, must do so on some grounds. It cannot do so for purely capri-

cious or arbitrary reasons, and if we merely say that the advocate of the debtor may attend the examination, but shall not question the debtor or address the court save with the leave of the court, we give no indication to the court whatsoever as to when it should grant or when it should withhold leave.

There is the alternative indirect procedure which I have described, and which as I understand it (not, as my hon. friend knows, being an expert in the law of bankruptcy or in any manifestation of bankruptcy as yet) is common practice. If, as he suggests, we may be confronted in due course with expressions of disapproval of this particular provision of law, and of the practice which follows it, from the Judges, then we may have to consider it, but I certainly have had no such expression from the Judiciary as yet. We may then have to consider it, but it is an established principle of law, which, as far as I can see, works no hardship, and does no injustice. On the other hand, it does conduce to the interests of justice and to the interests of the creditors by requiring a debtor to answer for himself for his acts and his finances without having what they call in America "a tame mouthpiece" to do it for him.

So, Sir, that being the position, I do not think we should disturb it, and with the greatest respect and diffidence, I must oppose this amendment.

Question proposed

The question was put and negatived.

Clause 4 agreed to.

Clauses 5 to 27 agreed to.

New Clauses

THE MINISTER FOR LEGAL AFFAIRS (Mr. Griffith-Jones): Mr. Chairman, Sir, I wish to move two new clauses: would you wish to take them separately, or shall I move them together so that they can be read a First and Second Time together?

THE CHAIRMAN (Sir Ferdinand Cavendish-Bentinck): They do not follow one another in the Ordinance, do they?

THE MINISTER FOR LEGAL AFFAIRS (Mr. Griffith-Jones): No, they do not, in fact. They will fit into their appropriate places.

THE CHAIRMAN (Sir Ferdinand Cavendish-Bentinck): Then I think you had better take them singly.

THE MINISTER FOR LEGAL AFFAIRS (Mr. Griffith-Jones): I beg to move that the following new clauses be inserted in the Bill. The marginal note is "Amendment to section 21 of the principal Ordinance", and the terms of the clause are as follows: "Sub-section (4) of section 21 of the principal Ordinance is amended by renumbering the existing sub-section as (4) (a), and by inserting a new paragraph as follows: '(b) Where the Official Receiver is so appointed, the court, if satisfied that his appointment has been duly made, shall certify such appointment accordingly'."

Mr. Chairman, the reason for this amendment is that section 21 of the Ordinance relates to the appointment of trustees in bankruptcy and provides, in its sub-section (3), that such an appointment shall take effect from the date of a certificate of appointment issued by the court. Now, under sub-section (2) of the section, this certificate is issued, in the case of an appointment of a trustee other than the Official Receiver, when that person has given security in the manner prescribed and to the satisfaction of the court. The Official Receiver, though does not have to give security and there is an inference, therefore, that his appointment is not certified—does not require to be certified by the court.

It is, however, important for a variety of reasons, but particularly in relation to the vesting of property and the conveyance of title, that there should be no ambiguity about the date of the Official Receiver's appointment, and accordingly this paragraph is proposed which will provide, in effect, that the appointment of the Official Receiver shall similarly be certified so that the date of appointment will be clear and wholly unambiguous.

Sir, I think that the Motion which I have moved is tantamount to a Motion for the Second Reading.

Question proposed.

The question was put and carried.

New clause agreed and read a Second Time.

New clause agreed to.

New Clause

THE MINISTER FOR LEGAL AFFAIRS (Mr. Griffith-Jones): Mr. Chairman, I beg to move that the following new clause be inserted in the Bill. Marginal note: "Amendment to section 54 of the principal Ordinance". There shall be substituted for sub-section (4) of section 54 of the principal Ordinance a new sub-section as follows: "(4) Every order made under sub-section (1) of this section shall be served upon the bankrupt and upon the head of department, and every order made under sub-section (2) or (3) of this section shall be served upon the bankrupt and may, at any time after the making thereof, be served upon the person by whom such salary or income of the bankrupt is paid or upon the bankrupt's employer, as the case may be; and if any such order as aforesaid is served upon the head of department, the person paying such salary or income or the employer, the amount of pay, salary, income or wages specified in such order shall thereafter be paid to the trustee in conformity with the terms thereof."

Now, Sir, the purpose of the new clause lies in relation to orders that are tantamount to attachments of a bankrupt's salary. At the moment, the order has to be served on the bankrupt's employer. Well now, that very frequently results in the bankrupt losing his job, and that is to nobody's advantage, still less to the advantage of his creditors, so what is proposed, in effect, in this new clause is that the order should be allowed to lie in the registry of the court so long as the bankrupt himself pays over the amount of his salary which is specified in the court's order. If he should fail to do so, then as an ultimate sanction, the order is served on the employer and the salary, or the portion of the salary, referred to in the order of the court is attached at source. But the important effect of this new clause will be to avoid service on the employer until it is necessary, and therefore to avoid the risk of the bankrupt's dismissal by his employer, which, as I say, serves nobody any useful purpose, as he cannot then either pay his creditors or support himself and his family.

I beg to move, Sir.

Question proposed.

The question was put and carried.

New clause read a Second Time.

New clause agreed to.

Title and enacting words agreed to.

The Wheat Industry (Amendment) Bill

Clauses 1 to 5 agreed to.

Clause 6

MR. TYSON: Mr. Chairman, Sir, clause 6, section 13 (2) (a), I wanted to ask the Minister if he would consider amending this sub-section by making provision for all applications for new milling licences to be advertised in the *Official Gazette*, and providing for the hearing of objections by interested parties.

I must, at this stage, declare my interest, as I am a director of Unga, Limited, who are the owners of a number of mills throughout the Colony.

My object in asking for this modification is to provide the opportunity for objections on the grounds of creating uneconomic competition in the milling industry. There is a similar provision in the Transport Licensing Ordinance, and I think some such provision would strengthen and not weaken the hands of the Minister.

THE CHAIRMAN (Sir Ferdinand Cavendish-Bentinck): I think the suggestion is that under sub-clause (2) (a), Mr. Tyson would desire to have something on this line: Every application for a milling licence should be made in a prescribed form, be accompanied by the prescribed fee, and every application be advertised in the *Official Gazette*. Would that cover you—just that?

MR. TYSON: With provision for any objection to be heard by the Minister.

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): I regret I am not prepared to accept the amendment, Mr. Chairman. First of all, I have had no intimation that the hon. Member wished to move this amendment, and on the information available to me, it seems to me to be perfectly unnecessary. The Wheat Board itself is a statutory body laid down, with adequate

representation both from commerce and industry and outside interests—those of the wheat grower—and examines these applications and advises me on the applications. There is therefore plenty of opportunity, through the mechanism of the Wheat Board, for objections to be heard, and I see no real necessity to make life more cumbersome than it is already.

THE CHAIRMAN (Sir Ferdinand Cavendish-Bentinck): Does any other hon. Member wish to speak? Mr. Tyson it is difficult for me to put this amendment, because it is more a desirable principle that you wish to put into the Bill, than a precise amendment.

MR. TYSON: I only wanted the Minister to consider, in the light of what is stated in the Objects and Reasons, whether this would not strengthen his hand in dealing with any new applications and provide an opportunity for hearing any objections which were put forward on the grounds that they would create uneconomic competition. But if the Minister is unwilling to accept it, Sir, I do not press it.

Amendment withdrawn.

Clause 6 agreed to.

Clause 7

LT-COL. GHERSIE: Mr. Chairman, Sir, on a point of information—this deals with the delivery of wheat to a person other than an agency, and presumably it is prohibited otherwise. Sir, would this debar a person from donating a bag of wheat, for instance, to a charity? Apparently it can only be delivered to an agency.

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): I do not think so, Sir. The object of this clause is really to cover attempts to evade this legislation by the illegal movement of wheat under some subterfuge such as the one I gave Council the other day, when the hon. Member may have been absent. We had a case of a gentleman who, in order to increase the allocation of wheat to his mill, exchanged it for a motor-car. That came without the provisions of the Ordinance, and the object of this clause is to avoid that sort of thing. But obviously, if a man wished to donate a bag of wheat to a charity, or wished to

[The Minister for Agriculture, Animal Husbandry and Water Resources] grind his own wheat, we should not interfere in any way.

Clause 7 agreed to.

Clause 8 agreed to.

Title and enacting words agreed to.

THE MINISTER FOR LEGAL AFFAIRS (Mr. Griffith-Jones): Mr. Chairman, I beg to move that the Committee do report to the Council its consideration of—

The Crown Proceedings Bill;

The Law Reform (Miscellaneous Provisions) Bill;

The Fatal Accidents (Amendment) Bill;

The Bankruptcy (Amendment) Bill, and its approval of those Bills with amendment; and its consideration of the Wheat Industry (Amendment) Bill, and its report of that Bill without amendment.

Question proposed.

The question was put and carried.

Council resumed.

[Mr. Speaker (Sir Ferdinand Cavendish-Bentinck) in the Chair]

REPORT

THE MINISTER FOR LEGAL AFFAIRS (Mr. Griffith-Jones): Mr. Speaker, I beg to report that a Committee of the whole Council has gone through the Crown Proceedings Bill and reports the same with amendment.

The Crown Proceedings Bill

Report ordered to be considered to-morrow.

REPORT

THE MINISTER FOR LEGAL AFFAIRS (Mr. Griffith-Jones): Mr. Speaker, I beg to report that a Committee of the whole Council has gone through the Law Reform (Miscellaneous Provisions) Bill and reports the same with amendment.

The Law Reform (Miscellaneous Provisions) Bill

Report ordered to be considered to-morrow.

REPORT

THE MINISTER FOR LEGAL AFFAIRS (Mr. Griffith-Jones): Mr. Speaker, I beg to report that a Committee of the whole Council has gone through the Fatal Accidents (Amendment) Bill and reports the same with amendment.

The Fatal Accidents (Amendment) Bill

Report ordered to be considered to-morrow.

REPORT

THE MINISTER FOR LEGAL AFFAIRS (Mr. Griffith-Jones): Mr. Speaker, I beg to report that a Committee of the whole Council has gone through the Bankruptcy (Amendment) Bill and reports the same with amendment.

The Bankruptcy (Amendment) Bill

Report ordered to be considered to-morrow.

REPORT

THE MINISTER FOR LEGAL AFFAIRS (Mr. Griffith-Jones): Mr. Speaker, I beg to report that a Committee of the whole Council has gone through the Wheat Industry (Amendment) Bill, and reports the same without amendment.

BILL

THIRD READING

The Wheat Industry (Amendment) Bill

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): Mr. Speaker, Sir, I beg to move that the Wheat Industry (Amendment) Bill be now read the Third Time.

THE MINISTER FOR LEGAL AFFAIRS (Mr. Griffith-Jones) seconded.

Question proposed.

The question was put and carried.

The Bill was accordingly read the Third Time and passed.

MOTION

INSTRUCTIONS TO THE COMMITTEE

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): Mr. Speaker, Sir, I beg to move that it be a Special Instruction to the Committee on the European Cereal Producers Bill (Bill No. 10) that they have power to make

[The Minister for Agriculture, Animal Husbandry and Water Resources] provision for the Board to be known as the "Cereal Producers (Scheduled Areas) Board" and to permit any person producing cereals in the Scheduled Areas to become a registered cereal producer.

Mr. Speaker, I will not add to what I said the other day when moving the Bill on the Second Reading. I explained to the Council then, that after the Bill was published, certain Members made representations to me and I therefore, on thinking it over, felt I could meet that point of view by deleting the word "European", together with the consequential amendments, and replacing it by the words "Cereal Producers (Scheduled Areas) Board".

Mr. Speaker, I beg to move.

THE MINISTER FOR LEGAL AFFAIRS (Mr. Griffith-Jones) seconded.

Question proposed.

MR. AWORI: Mr. Speaker, Sir, on a point of information from the Minister, we would like to know, on the question of the Scheduled Areas, whether the African areas will also be scheduled, I want to be clear on this matter. He said: "Scheduled Areas", and I would like an assurance from the Minister whether the African areas would be scheduled.

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): Yes, I did not have any objection from the African Members on this Bill. I had representations from Members of various groups in this Council, and I felt it would be better if I could make the Bill have wider application and merit for European areas. To answer the hon. Member's question specifically, Sir—yes, African areas can be scheduled as and when they reach the stage of development which allows them to be scheduled. It would be my intention—although I do not think I shall be the Minister for Agriculture then, but if I were—to so schedule them.

The question was put and carried.

Mr. Speaker left the Chair.

IN THE COMMITTEE

[Sir Ferdinand Cavendish-Bentinck, K.B.E., C.M.G., M.C., in the Chair]

The European Cereal Producers Bill

Clause 1

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): Mr. Chairman, I beg to move that clause 1 of the Bill be amended by substituting for the words "the European Cereal Producers Ordinance, 1956", which appear therein, the words "the Cereal Producers (Scheduled Areas) Ordinance, 1956".

Question proposed.

The question was put and carried.

Clause 1, as amended, agreed to.

Clause 2

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): Mr. Chairman, I beg to move that clause 2 of the Bill be amended by substituting for the definition of "Board", which appears therein, a new definition as follows: "Board" means the Cereal Producers (Scheduled Areas) Board, established by clause 3 of this Ordinance."

Question proposed.

The question was put and carried.

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): Mr. Chairman, I beg to move that clause 2 of the Bill be further amended by substituting for the definition of "cereal producer", which appears therein, a new definition as follows: "cereal producer" means any person who grows or cultivates any cereal in the Scheduled Areas, or cultivates land in the Scheduled Areas upon which cereal is growing."

Question proposed.

The question was put and carried.

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): Mr. Chairman, I beg to move that clause 2 of the Bill be further amended by deleting the definition of "European person" which appears therein.

Question proposed.

The question was put and carried.

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): Mr. Chairman, I beg to move that clause 2 of the Bill

[The Minister for Agriculture, Animal Husbandry and Water Resources] be further amended as follows: the definition of "production area" to be deleted and the following definition to be inserted after the definition of "cereal producer": "cereal production area" means an area prescribed as a cereal production area, either generally or with reference to any particular cereal or cereals; that the Bill be amended by the substitution of the words "cereal production area" for the words "production area" wherever they occur in it. Sub-clause 2 (r) is that—then I must withdraw—

THE CHAIRMAN (Sir Ferdinand Cavendish-Bentinck): I think we had better go one at a time, or else we will not know what we are passing. I think if we take the "production area" one first.

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): Would hon. Members like that one again? Then I will just move it, Mr. Chairman.

Question proposed

The question was put and carried.

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): Mr. Chairman, I beg to move that clause 2 of the Bill be further amended by substituting for the definition of "registered cereal producer", which appears therein, a new definition as follows "registered cereal producer" means a person for the time being registered as a cereal producer for any particular production area under the provisions of clause 25 of this Ordinance".

Question proposed.

The question was put and carried.

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): Mr. Chairman, I beg to move that clause 2 of the Bill be further amended by inserting immediately after the definition of "registered cereal producer" a new definition as follows: "Scheduled Areas" means that area of land declared by or under Part III of the Agricultural Ordinance, 1955, to be Scheduled Areas".

Question proposed.

THE MINISTER FOR LEGAL AFFAIRS (Mr. Griffith-Jones): On a point of order, Mr. Chairman, my hon. friend has an amendment which covers the whole Bill. I have not been able to check precisely whether the expression occurs elsewhere in clause 2, but as a precaution I would suggest that this omnibus amendment be moved before any of the clauses, other than the formal clause 1, are put.

THE CHAIRMAN (Sir Ferdinand Cavendish-Bentinck): I am afraid I was going to suggest that—I do not like these omnibus amendments because you never quite know—they look all right and suddenly you find a clause that does not work—and I was going to suggest that we might possibly try and take that at every clause where we come against it.

THE MINISTER FOR LEGAL AFFAIRS (Mr. Griffith-Jones): I certainly have not got every clause noted.

THE CHAIRMAN (Sir Ferdinand Cavendish-Bentinck): I believe you will find, if you read the Bill, that towards the end of the Bill there is a complication.

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): Mr. Chairman, I think, in view of that, I would like to withdraw this amendment. I merely advanced it to avoid confusion.

THE CHAIRMAN (Sir Ferdinand Cavendish-Bentinck): Actually, I think we can take them fairly easily. I think you will find in clause 30 it may cause some slight difficulty.

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): I shall need to move an amendment to clause 2 again.

THE CHAIRMAN (Sir Ferdinand Cavendish-Bentinck): If I might make a suggestion, Mr. Blundell, I think we can run through these and get your amendment, that you wish apparently to have, quite happily as we run through the Bill, but the only complication arises, I think you will find, in clause 30.

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): I will just look at that.

THE CHAIRMAN (Sir Ferdinand Cavendish-Bentinck): But we have not got to that yet. We should wait till we get to it.

[The Chairman] In the meantime, we do not want this in clause 2.

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): Yes, Mr. Chairman, we do, under the definition of "production area"—no, I do not think so.

MR. MANGAT: Mr. Chairman, may I suggest to the hon. Minister that he withdraw the whole Bill and brings it up when he is ready.

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): No, Mr. Chairman, I am not prepared to accept that. I had thought of it, but I need to pass this Bill to-day. If the hon. Member persists in that, then I will withdraw all the amendments and I will pass it as the European Cereal Producers Board and move the amendments at a later date. I am merely trying to meet certain wishes of hon. Members of this Council, but I need to pass the Bill now, because the industry is anxious to cease itself in order thereby to set up the necessary mechanism for dealing with rust. If the hon. Member persists in his objection, then he will not have any bread.

THE CHAIRMAN (Sir Ferdinand Cavendish-Bentinck): I do not think there is any need, if I may say so, in clause 2, because you have done what you want there. You have withdrawn "production area" and you have substituted "cereal production area". What you now wish to do is have an omnibus resolution in place of that.

THE MINISTER FOR LEGAL AFFAIRS (Mr. Griffith-Jones): I have not quite followed all the amendments, but if you will look at the definition, as printed, of "registered cereal producer", you will observe that the words "production area" do appear there. That definition has been deleted, has it?

*MR. HARRIS: Might I suggest we take the break now, and let them do their homework on the other side?

THE CHAIRMAN (Sir Ferdinand Cavendish-Bentinck): Well, I think I will not put clause 2 until after break, because "production area" does still appear in one of our amendments.

THE MINISTER FOR COMMERCE AND INDUSTRY (Mr. Hope-Jones): May I support—Mr. Harris's—suggestion, Mr. Speaker?

THE CHAIRMAN (Sir Ferdinand Cavendish-Bentinck): It is not Mr. Speaker, it is Mr. Chairman. I am not oblivious of this proposal, but I just wanted to be quite sure what we wanted to do in clause 2. I think we will have to wait for clause 2 and put clause 2 after the customary break.

I suggest now we take the customary fifteen minutes break and reassemble, if possible about half-past. Meanwhile, we may have elucidated these complications.

Council suspended business at seven minutes past Four o'clock and resumed business at fifty minutes past Four o'clock.

THE CHAIRMAN (Sir Ferdinand Cavendish-Bentinck): We are still discussing clause 2.

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): Mr. Chairman, I beg to move a further amendment to the amendment which has already been accepted by the Council under clause 2 of the Bill, section (b).

The Committee has accepted "registered cereal producer" means a person for the time being registered as a cereal producer for any particular production area" and I wish to move that the word "cereal" be inserted after the word "particular" and before the word "production".

THE CHAIRMAN (Sir Ferdinand Cavendish-Bentinck): This clause has not yet been put to the Committee and therefore is subject to any further amendments which anybody wishes to make.

What is now proposed is this: The "registered cereal producer" interpretation, as it appeared in the printed copy of the Bill, has been annulled, and instead of that we have agreed that we should substitute this definition, "registered cereal producer" means a person for the time being registered as a cereal producer for any particular production area under section 25 of the provisions of the Ordinance".

It is now proposed that that definition should be still further amended by the insertion of the word "cereal" between "particular" and "production" in the

[The Chairman] fourth line thereof. It will then read as follows: "Registered cereal producer means a person for the time being registered as a cereal producer in any particular cereal production area under the provisions of section 25 of this Ordinance."

Question proposed.

The question was put and carried.

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): Sir, I beg to move that the word "cereal" be inserted before the words "production area" under definitions.

THE CHAIRMAN (Sir Ferdinand Cavendish-Bentinck): We have done that. Anything else on clause 2?

Clause 2, as amended, agreed to.

Clause 3

MR. HARRIS: Mr. Chairman, Sir, I am a bit worried about the composition of the Board. If one analyses the composition one finds that there are numbers from production areas who are elected from those areas and there are two directors from the Kenya Farmers' Association. In that Association, Sir, the majority of the directors are also elected by farmer-members, and knowing the way these things work, I would think it highly probable that the two directors most likely to be detailed by the Kenya Farmers' Association or from the Kenya Farmers' Association, would be those who know the cereal-growing areas most. So that, in fact, your composition under this would be your cereal farmers from the production areas, plus two directors of the Kenya Farmers' Association, who also, probably, possibly, come from the cereal-growing areas. In other producer Boards, Sir, notably the Kenya Meat Commission and the Pyrethrum Board, the Pig Industry Board, all those Boards have either consumer or commercial people on the Boards to keep a watch on both the consumer's point of view and also to see that the Board does not do something which is outside normal commercial practice, and I repeat, Sir, that the Minister would probably agree, that the commercial representatives on some of those producer Boards have in the past on many occasions prevented the producer members doing something which would have been against the best

interests of the industry which they are supposed to be governing.

THE CHAIRMAN (Sir Ferdinand Cavendish-Bentinck): I do not wish to interrupt, Mr. Harris, but this is something which should have been brought up at the Second Reading. As yet, I have no amendment given to me.

MR. HARRIS: I am coming to that amendment now, Sir.

THE CHAIRMAN (Sir Ferdinand Cavendish-Bentinck): Well, could I see it?

MR. HARRIS: Yes, Sir. I should like to move, Sir, that a new sub-paragraph be added to 3 (2) (c), reading "and two persons nominated by the Minister to represent consumer interests having knowledge of commercial practice".

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): Mr. Chairman, I do not wish to interrupt the hon. Member, but I have an amendment to move but—

THE CHAIRMAN (Sir Ferdinand Cavendish-Bentinck): I think we might dispose of this first, I will take yours, of course, later, Mr. Harris, at the moment, has the floor.

MR. HARRIS: Sir, on your point that it should have been brought up on the Second Reading, I did feel, subject to your agreement, of course, Sir, that the setting up of the Board is the principle, but that the composition of the Board is a detail for the Committee stage. That is, subject to your ruling, Sir.

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): Mr. Chairman, I regret to say that the amendment moved by the hon. Member is not acceptable. There is no analogy between this Board and the Boards to which the hon. Member made reference. The functions of this Board are that they represent the interests of the producers to the Minister specifically; in particular in dealing with matters under the Agricultural Ordinance. The Boards to which the hon. Member referred are Boards on which there is producer representation which also greatly affects the consumer on the transmission of products to the consumer. It is not so in this case. This

[The Minister for Agriculture, Animal Husbandry and Water Resources] is a Board solely designed to put forward the case of the producer in dealing with the Minister under the provisions of the Agricultural Ordinance and before censing the industry itself for its own betterment in matters such as wheat breeding.

MR. HARRIS: Mr. Chairman, would the Minister agree that the stabilisation of prices and negotiation of cost structures and producer prices affects the consumer? I would have thought that this is exactly the same argument as we have had with other producer Boards and we have been told that it is nothing to do with the consumer. These cereals come to the very root of the economy of this country and I would have thought that the Minister would have been wise to have accepted at any rate commercial representation on this Board, to see that some of the nonsenses which have happened in other Boards do not occur here.

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): Sir, as the hon. Member is a member of the Pig Industry Board, I think he is well qualified to speak on the nonsenses which occur on the Board. All I would say, Sir, is that I consider that the two directors of the Kenya Farmers' Association should provide adequate commercial knowledge for this Board.

THE CHAIRMAN (Sir Ferdinand Cavendish-Bentinck): Does anybody wish to add anything to this?

Question proposed.

The question was put and negatived.

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): Mr. Chairman, I beg to move that clause 3 be amended by substituting for sub-section (1) thereof a new sub-section as follows: "(1) There is hereby established a Board to be known as the 'European Cereal Producers Board'".

Question proposed.

The question was put and carried.

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): Mr. Chairman, I beg to move that clause 3 be further

amended in section 2, sub-section (a) with the addition of the word "cereal" before the word "production" as the sixth word of the first line.

Question proposed.

The question was put and carried.

Clause 3, as amended, agreed to.

Clauses 4 and 5 agreed to.

Clause 6

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): Mr. Chairman, I beg to move that the word "cereal" be inserted after the word "the" and before the word "production" in the penultimate line of section 1.

Question proposed.

The question was put and carried.

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): Mr. Chairman, I beg to move that the word "cereal" be inserted after the word "the" and before the word "production" as the fifth word in the penultimate line of section 2 of clause 6.

Similarly, Mr. Chairman, I beg to move that in sub-clause (3) the word "cereal" again be placed before the word "production", and after the word "the" in the last line but two of sub-clause (3). And again in sub-clause (5) in the third line after the third word, the word "cereal" be inserted before the word "production".

Question proposed.

The question was put and carried.

Clause 6, as amended, agreed to.

Clause 7

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): I beg to move that clause 7 be amended to read in the second line by inserting the word "cereal" after the word "the" and before the word "production".

Question proposed.

The question was put and carried.

Clause 7, as amended, agreed to.

Clause 8

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): I beg to move

[The Minister for Agriculture, Animal Husbandry and Water Resources] that clause 8 be amended in the fourth line by inserting the word "cereal" between the words "same" and "production".

Question proposed.

The question was put and carried.

Clause 8, as amended, agreed to.

Clause 9 agreed to.

Clause 10

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): I beg to move that clause 10 be amended by the insertion of the word "cereal" before the words "production area" wherever they occur to read "cereal production area".

Question proposed.

The question was put and carried.

Clause 10, as amended, agreed to.

Clause 11

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): I beg to move that clause 11 be amended by the insertion of the word "cereal" between the words "and" and "production" in the third line of the first section.

Question proposed.

The question was put and carried.

Clause 11, as amended, agreed to.

Clauses 12 and 13 agreed to.

Clause 14

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): I beg to move that sub-section (2) (c) of clause 14 be amended by the insertion before the word "reinvestigation" of the words "with the approval of the Minister".

Question proposed.

The question was put and carried.

Clause 14, as amended, agreed to.

Clause 15

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): I beg to move that clause 15 be amended by the deletion of sub-section (1) thereof and the substitution thereof of a new sub-section (1), which will read as follows: "(1) On

the recommendation of the Board the Minister may, from time to time, by notice in the *Gazette*, impose a cess on any cereals grown or cultivated in scheduled areas by a cereal producer".

Question proposed.

The question was put and carried.

Clause 14, as amended, agreed to.

Clauses 16 to 21 agreed to.

Clause 22

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): I beg to move that clause 22 be amended in the penultimate line by the insertion of the word "cereal" between the words "the" and "production".

Question proposed.

The question was put and carried.

Clause 22, as amended, agreed to.

Clause 23

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): I beg to move that clause 23 be amended in sub-section (1) thereof by the deletion of the word "European" which appears between "every" and "person" in the first line of the sub-section.

Question proposed.

The question was put and carried.

Clause 23, as amended, agreed to.

Clause 24

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): I beg to move that clause 24, sub-section (4), be amended to read in the fifth line "Board or to vote at any cereal production area meeting; such vote . . ." by inserting the word "cereal" between "any" and "production".

Question proposed.

The question was put and carried.

Clause 24, as amended, agreed to.

Clause 25

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): Mr. Chairman, I beg to move that clause 25 of the Bill be amended by substitution of the words

[The Minister for Agriculture, Animal Husbandry and Water Resources] "cereal grower" appearing instead of the words "cereal producer".

Question proposed.

The question was put and carried.

Clause 25, as amended, agreed to.

Clause 26

Clause 26 agreed to.

Clause 27

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): Mr. Chairman, I beg to move that clause 27 of the Bill be amended by substituting for the words "cereal grower" wherever they appear in sub-sections (1) and (2) thereof the words "cereal producer".

Question proposed.

The question was put and carried.

Clause 27, as amended, agreed to.

Clause 28

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): Mr. Chairman, I beg to move that the word "cereal" be inserted after the word "at" and before the word "production" as the second word in the third line of section (1).

Question proposed.

The question was put and carried.

Clause 28, as amended, agreed to.

Clause 29

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): Mr. Chairman, there are four insertions required here of the word "cereal" before the word "production area or areas". With your permission, Sir, I would like to move that the word "cereal" be inserted before the word "production" wherever it occurs in clause 29.

THE CHAIRMAN (Sir Ferdinand Cavenish-Bentinck): In some cases in this clause the word "production" has nothing to do with "cereal production". I think we had better take your amendments one by one. I think we had better deal with "production areas" first.

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): Mr. Chairman,

I beg to move that the word "cereal" be inserted before the word "production" in the first line of sub-section (1), subparagraph (a) of clause 29.

Question proposed.

The question was put and carried.

Clause 29, sub-section (1), subparagraph (a), as amended, agreed to.

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): I beg to move the word "cereal" be inserted before the word "production" as the third word in sub-section (2) of clause 29, first line.

Question proposed.

The question was put and carried.

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): Mr. Chairman, I beg to move that the word "cereal" be inserted before the word "production" and after the word "such" in clause 29, sub-section (1), the last sentence on page 12.

Question proposed.

The question was put and carried.

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): Mr. Chairman, I beg to move the word "cereal" be inserted before the word "production" as the penultimate word in the first line of sub-section (2), subparagraph (ii), of clause 29.

Question proposed.

The question was put and carried.

Clause 29, as amended, agreed to.

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): Mr. Chairman, I beg to move that sub-section (1) of clause 30 of the Bill be amended by deleting the word "European" which appears therein, and by inserting the words "in the Scheduled Areas" after the words "who grow and cultivate cereals".

Question proposed.

The question was put and carried.

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): Mr. Chairman, I beg to move that the word

[The Minister for Agriculture, Animal Husbandry and Water Resources] "cereal" be inserted before the word "production" in the third line of sub-section (2) of clause 30, and in the penultimate line of sub-section (2).

Question proposed.

The question was put and carried.
Clause 30, as amended, agreed to.

Title and Enacting Words

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): Mr. Chairman, I beg to move that the Bill be amended by substituting a longer title thereto, a new title as follows: "A Bill entitled an Ordinance to make better provisions for the organisation of cereal producers in the Scheduled Areas and provide the matters incidental thereto and connected therewith".

With that amendment, Sir, I would like to thank the Council for the interest which they have paid to all these amendments throughout.

Question proposed.

The question was put and carried.
Title, as amended, and enacting words agreed to.

The Bill, as amended, agreed to.

THE MINISTER FOR LEGAL AFFAIRS (Mr. Griffith-Jones): Mr. Chairman, I beg to move that the Committee do report back to Council its consideration of the European Cereal Producers Bill and its approval thereof with amendments, effected in accordance with the special instruction, and that the Bill do therefore be reported under the amended short title of the Cereal Producers (Scheduled Areas) Bill.

Question proposed.

The question was put and carried.

Council resumed.

[Mr. Speaker (Sir Ferdinand Cavendish-Bentinck) in the Chair]

REPORT

THE MINISTER FOR LEGAL AFFAIRS (Mr. Griffith-Jones): Mr. Speaker, I beg to report that a Committee of the whole Council has gone through the Cereal Producers (Scheduled Areas) Bill in

accordance with the special instructions passed by this Council and reports the same under that amended title and with other amendments made in pursuance of the special instruction.

The Cereal Producers (Scheduled Areas) Bill

Report ordered to be considered to-morrow.

ADJOURNMENT

THE SPEAKER (Sir Ferdinand Cavendish-Bentinck): That completes the business on the Order Paper, the Council will stand adjourned until 2.30 p.m. to-morrow, Wednesday, 28th November.

Council rose at thirty minutes past Five o'clock p.m.

Wednesday, 28th November, 1956

The Council met at thirty minutes past Two o'clock.

[Mr. Speaker (Sir Ferdinand Cavendish-Bentinck) in the Chair]

PRAYERS

PAPER LAID

The following Paper was laid on the Table:

Report of the Kenya, Uganda and Tanganyika Savings Banks for the year 1955.

(By THE CHIEF SECRETARY (Mr. Turnbull))

NOTICE OF MOTION

MR. HARRIS: Mr. Speaker, Sir, I beg to give notice of the following Motion:

THAT this Council asks that if it be available, the Government presses the High Commission for the publication of the Report of the Royal Commission on Taxation, presided over by Sir Eric Coates, before the introduction of the 1957/58 Budget by the Minister for Finance and Development.

ORAL ANSWER TO QUESTION

QUESTION No. 2

MR. USHER asked the Minister for Commerce and Industry to state what action is being taken to implement the resolution of Legislative Council passed on 1st March, 1956, asking for Government to consider steps to be taken to improve the quality and quantity of hotel accommodation.

THE MINISTER FOR COMMERCE AND INDUSTRY (Mr. Hope-Jones): The Government is preparing legislation which will give increased powers to the Central Hotel Authority thus enabling it to exercise a greater control over quality standards. The Government is also considering the possibility of allocating money from limited development funds available to it for the development of a major hotel project in Nairobi, in collaboration with the Colonial Development Corporation and private enterprise. It is also taking steps to make sites available which it can offer on attractive terms for the purpose of hotel development, and is doing every

thing reasonable to attract investment in the hotel industry in its negotiations with interested parties.

MR. USHER: Arising out of the first part of that reply, could the Minister inform the Council when the legislation is likely to be ready for debate in Council?

THE MINISTER FOR COMMERCE AND INDUSTRY (Mr. Hope-Jones): As soon as possible.

SIR CHARLES MARKHAM: Two years' time!

MOTION

SHIMBA HILLS LAND EXCHANGE
Sessional Paper No. 47 of 1956/57.

THE MINISTER FOR AFRICAN AFFAIRS (Mr. Windley): Mr. Speaker, Sir, I beg to move that this Council accepts the recommendation contained in Sessional Paper No. 47 of 1956/1957 that approximately 18,485 acres of Crown land be added to the Coast Native Land Unit in exchange for approximately 17,298 acres to be excluded from the land unit.

In moving this Motion, Sir, I would like to express my sympathy with any hon. Member opposite who was seeking enlightenment in the appendices to the White Paper, which I must confess, Sir, if you are really trying to understand the details of this transaction, do look rather like algebra. Nevertheless, Sir, although their intelligibility may be doubtful, their accuracy is strictly correct.

The White Paper, Sir, I think, does cover in outline the intention behind these proposals, which have been given a great deal of thought and consideration and which, as hon. Members will have noticed, have been approved and studied by the Native Land Trust Board and also by the Coast Land Advisory Board, of which my hon. friend the Member for the Coast is a member.

If I may elaborate in some slight detail, Sir, the proposals are largely connected with the development of the Shimba Hills Settlement Scheme which was started in 1951 on a block of land some 42,000 acres in extent and which was unoccupied by the local inhabitants of the coast, largely owing to the prevalence of tsetse fly, poor soil and lack of water supplies. The African Land Development Board studied this area and

[The Minister for African Affairs] came to the conclusion that with expenditure of funds on water supplies and on bush clearing to eliminate tsetse, a suitable scheme for settlement could be developed. This has been proceeding apace, Sir, and it was hoped originally that the local Teita from the coast might be persuaded to settle there. But in the event they could not be persuaded to settle there. It was decided after a good deal of consideration to open the settlement scheme to the landless Wakamba, and there are now about 100 families of landless Wakamba settled successfully in the area.

Further settlement will be developed, but it is being taken cautiously, Sir, and rather awaiting the conclusions to be drawn from certain crop trials at present being carried out by the Agricultural Department.

As explained in the Sessional Paper, Sir, part of the settlement area lies within the Coast Native Land Unit and in order to compensate the land unit for the loss of this area, one of a similar size is to be added to it, most of the area to be added forms part of the land bought by Government from the East African Sisal Estates, Limited, in 1948 for African land development. The remainder is a small block of Crown land which is unsuitable for inclusion in the settlement scheme or for other use. I am sure, Sir, my hon. friend, the Member for the Coast, is fully *au fait* with these proposals, having studied them on the Coast Land Advisory Board, and if any other hon. Member wishes for further information I will endeavour to supply it, although, as will be appreciated, it is not easy to describe a transaction of this sort without a full scale map.

In view of the strong recommendations, both from the Coast Land Advisory Board and from the Native Lands Trust Board, Sir, I would strongly recommend hon. Members to approve these proposals.

I beg to move.

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey) seconded.

Question proposed.

MR. COOKE: Mr. Speaker, I should like very heartily to support this Motion and as the Minister said, it was first hoped, a

rather fond hope, I think, that the Teita would be persuaded to settle in this particular area, but the Teita, as you know, Sir, are hill-dwelling people and they really have no love for this particular type of land. I think it really is much more satisfactory, as has happened, that the Wakamba have come down there because they had always had their eyes on that land. I remember when I was District Commissioner at Kwale—more years ago than I like to think now—we used to, on policy, turn Wakamba back and being a bit outrageous as I always have been, I used to protest against that, because I always thought, "Well, if a tribe shows a liking for a particular part of the country, and if that part of the country is uninhabited, we should encourage them to come there". But it was the policy then, 30 years ago, that we should turn the Wakamba back, but now we have thrown our bread upon the waters and I am very glad to say that the Wakamba are settling down and I believe are making good settlers.

Sir, I beg to support.

THE SPEAKER (Sir Ferdinand Cavendish-Bentinck): If no other hon. Member wishes to speak, I will ask the hon. Member to reply.

THE MINISTER FOR AFRICAN AFFAIRS (Mr. Windley): I have no further comments.

The question was put and carried.

BILL

SECOND READING

The Landlord and Tenant (Shops) Bill
Order for Second Reading read.

THE ASIAN MINISTER WITHOUT PORTFOLIO (Mr. Madan): Mr. Speaker, Sir, I beg to move the Landlord and Tenant (Shops) Bill be now read the Second Time.

In asking hon. Members to consider the provisions of this Bill, I would request them, Sir, to take their minds back a few years in time and try to recall to their minds the Increase of Rent (Restrictions) Ordinance, 1949, which applied both to residential as well as business premises in regard to control of rent and eviction of tenants. This particular Ordinance, Sir, as hon. Members will remember, ceased to apply to business

[The Asian Minister without Portfolio] premises on 25th December, 1954, by a resolution passed in this Council during 1953. As the Memorandum of Objects and Reasons states, this was a direct step in the pursuance of a policy to decontrol business premises, but in doing so it had also to be borne in mind that no serious dislocation of business or commerce should take place; therefore in trying to implement a policy whereby rents would be allowed to acquire a free economy, and in order to ensure that no hardship would result in consequence of such policy, the Landlords and Tenants (Shops and Hotels) (Temporary Provisions Ordinance), 1954, was enacted.

This, Sir, was yet another step in a policy of the steady decontrol of business premises and inasmuch as the provisions of this Ordinance, which is due to expire on 24th December this year, apply only to hotels and shops and in the case of shops to those wherein only retail trade was wholly or mainly carried on. In other words, Sir, it was not all business premises that came within the provisions of this temporary legislation, but only a restricted number of premises.

Sir, ever since the Landlord and Tenant (Shops and Hotels) (Temporary Provisions) Ordinance of 1954 was enacted, as was to be expected, the Board of Commerce and Industry kept a very careful watch on the availability of shop premises in Nairobi and other areas in the Colony. They tried to keep a watch on the availability of shop premises in relation to demand and during the course of the year the Board of Commerce and Industry reviewed the position again. They went into the matter thoroughly and as a result of that and, further, as a result of certain representations made to them a sub-committee was appointed to investigate and to conduct an enquiry whether any measure of protection should be provided for tenants. By their terms of reference, the sub-committee's enquiry was restricted to Nairobi.

The sub-committee, Sir, was directed in conducting their enquiry, to bear in mind that the rents should be permitted to adjust themselves freely to a true market value based on supply and demand, that landlords should not be denied an opportunity to obtain vacant possession of premises for the purpose

of rebuilding and other legitimate objects, that those who intended to rebuild, or build shop premises, should not be discouraged, and finally; those who had acted on the strength of envisaging freedom from control of business premises in pursuance of the then existing Government policy should not find themselves treated unfairly.

Sir, this particular sub-committee of the Board of Commerce and Industry went into the matter thoroughly and it had before it evidence from interested individuals as well as organisations, and after considering that evidence, and other matters that were produced before it, it made certain unanimous recommendations to the Board of Commerce and Industry which were accepted by the Board.

With your permission, Sir, and that of the Council, I should like to read out two brief extracts from the report of the sub-committee. It said: "In our opinion there is in existence now a transitional stage which has come into being as a result of gradual restoration of conditions to a normal state after the abnormal atmosphere created by the state of war, which necessitated the introduction of rent control, the effect of which has rightly been reduced progressively by legislation. Shop premises became further in short supply owing to an increase in the number of traders who set themselves up in business attracted by an exceptionally rapid development of the city coupled with insufficient land being available for the expansion of trading areas. On the evidence adduced before us, we are also of the opinion that although there is a relaxation in the situation, the stage has not yet been reached when it can be said to be unnecessary to adopt further legislative measures for the prevention of malpractices on the part of the landlords. Such legislative measures are, in our opinion, necessary because of the actions of certain landlords themselves. We have come to this conclusion, keeping in mind there is in existence now the Landlord and Tenants (Shops and Hotels) (Temporary Provisions) Ordinance. We are satisfied that the attitude of some landlords in certain areas of Nairobi is such that note must be taken of the possible repercussions and dislocation of business towards the end of the current year when this Ordinance is due to expire. The

[The Asian Minister without Portfolio] situation as it exists cannot be conducive to the establishment of progressive trade and, in our opinion, it must also make it impossible to plan ahead."

Again, Sir, with your permission, and also with that of the Council, if I may quote another brief extract from the report, the sub-committee said: "We are of the opinion that there should be no re-imposition of rent control as this would hinder development; we also recognise that we are not yet a fully developed country, for example like England, and in our opinion it is imperative to bear in mind that no change in policy should react in such a way as to retard development or curtail building programmes. We also recognise that under the existing conditions it would be undesirable in principle to have permanent legislation providing for restriction on tenancies, but our minds are seriously exercised by the evidence adduced that some landlords of shop premises in certain areas in Nairobi have refused, in spite of offers of payment of reasonable rent by the sitting tenants, to grant leases or to afford security of tenure beyond December of 1956, when the present temporary legislation is due to expire and when they will be entirely free to do as they may wish with their tenants unless, in the meantime, there is intervention by Government."

As I have already said, Sir, the sub-committee made their recommendations unanimously and recommended that a measure of security against eviction should be provided for tenants in Nairobi in respect of shop premises only. This recommendation of the sub-committee was accepted by the Board of Commerce and Industry, Sir, and as a result of which the present Bill is before this Council.

I should like to say, Sir, that this Bill tries to ensure that when the Landlord and Tenant (Shops and Hotels) (Temporary Provisions) Ordinance of 1954 expires towards the end of the current year, there will be no serious dislocation of business or commerce. I think it will be appreciated that, unless there is in force legislation of the type such as is comprised in this Bill, serious hardship may result to tenants and they may become involved also in serious financial difficulties as a result of the uncertainty of the position in regard to the tenancy

of their shop premises. It follows, Sir, that that could easily result in instability in the commercial world, and, therefore, it is not possible to say that the restraints which the provisions of this Bill seek to impose upon landlords are not necessary. I would even go further, Sir, and say that the restraints that the provisions of this Bill seek to impose upon landlords could only be removed when the supply of shop premises becomes reasonably—I do not say exactly—equal to the demand. This Bill, Sir, further tries to ensure that it will enable the commercial community to conduct their businesses and to plan ahead with a feeling of security.

While all these privileges are being provided for the tenants it is only fair that the landlords should receive a reasonable rent for their premises and the intention, Sir, is that landlords should be able to obtain from tenants economic rents for their property and that these economic rents should be calculated upon a free adjustment to a true market value which is related to the factors of supply and demand. I will later, Sir, refer to the clause in the Bill which, in my opinion, and in my submission to this Council, makes it possible for rents to find such readjustment. It is also hoped, Sir, that none of those people who intend to rebuild their premises will be hindered in any way, because—I will refer to it particularly later—that under a certain clause of the Bill, which is clause 9, it is intended that a landlord should be able to obtain possession of premises for the purposes of rebuilding his property.

Hon. Members must have noticed, Sir, that the Bill in itself is a further measure of decontrol as compared to the existing temporary legislation in as much as hotels have been dropped out of this Bill and it only seeks to affect shop premises. The nature of the provision in the clauses of the Bill to which now I would like to refer, Sir, also tries to—I would like to say is designed—to achieve gradual decontrol of business premises.

I would, Sir, refer hon. Members to clause 1 of the Bill, which lays down that it shall come into operation when the Landlord and Tenant (Shops and Hotels) (Temporary Provisions) Ordinance, 1954, expires, and that it will

[The Asian Minister without Portfolio] apply to premises to which that Ordinance applied immediately before its expiration and it will cease to apply to premises or properties which come into the possession of a landlord lawfully. In the provisions of clause 1, hon. Members will also note that this Ordinance will only apply to tenancies where the property is situated in a scheduled area.

Now, under the First Schedule to the Ordinance, the only area which is at present scheduled is the area within the jurisdiction of the Nairobi City Council to which the provisions of the Landlord and Tenant (Shops and Hotels) (Temporary Provisions) Ordinance applied before its expiration. In other words, Sir, after the present temporary legislation has come to an end, by effluxion of time, it is not all areas in the Colony in so far as shop premises are concerned, which will be protected by the provisions of this Bill if it is enacted into law, it will be only premises which are situated in a scheduled area in the First Schedule to the Ordinance, such premises being those to which the temporary legislation applied immediately before its expiration. On that head I would submit, Sir, this also is a further step to achieve a gradual decontrol of business premises.

In so far as the First Schedule is concerned, I would draw the attention of hon. Members to clause 3 of the Bill, which states that the Minister may from time to time, by order published in the *Gazette*, amend the First Schedule to this Ordinance. The intention there is, Sir, that if the Minister, who in this instance is my hon. friend the Minister for Commerce and Industry, is satisfied that there is need owing to shortage or owing to any other reason such as unreasonable conduct on the part of the landlord, for the application of the provisions of this Ordinance to another area or township in the Colony, the Minister may by an order published in the *Gazette* include such an area in the First Schedule.

Of course, under sub-clause (2) of clause 3, this Council will have the right, if it so desired, to say by Resolution that the addition of any further area should be disallowed.

I have already drawn the attention of hon. Members, Sir, to the important pro-

visions contained in clause 1, that the provisions of this Bill will cease to apply to premises which come into the possession of a landlord lawfully, the intention being that it is only the sitting tenants who should be able to enjoy the protection—such as it is—which is intended to be afforded by the provisions of this Bill; those who come new into premises should be free to negotiate with the landlords, who should be equally free, the terms of their tenancy or lease.

Clause 2, Sir, is the definition clause and I would draw the attention of hon. Members to the definition of the expression "shop", which means premises occupied wholly or mainly for the purpose of retail trade or business. It follows that it is not to all shop premises that the provisions of this Bill will apply but only to those which are occupied wholly or mainly for the purpose of retail trade or business, and which also qualify under the provisions of clause 1.

I have already dealt with clause 3 of the Bill. Clause 4 is an important clause which lays down that a tenancy to which the provisions of this Bill apply will not come to an end unless it is terminated in accordance with the provisions of the Bill. This clause also enables a tenant to make an application to the court for the grant of a new tenancy, but under sub-clause (2) of this clause the tenant may himself terminate his own tenancy by a notice to quit, served upon the landlord or by surrender or forfeiture of his tenancy or lease.

Sub-clause (3) of this clause, Sir, this particular sub-clause is intended to provide for cases where the provisions of the Ordinance are applied to areas which are not at present included in the First Schedule to the Ordinance.

Sub-clause (4) of clause 4, Sir, provides that where the tenancy of a tenant is terminated—and if the tenant has a sub-tenant—such termination of the tenant's tenancy shall not of itself terminate the sub-tenant's tenancy, but his superior landlord would be placed in the position of the tenant. In order, Sir, to remove all ambiguity—I hope hon. Members followed that—I shall try to explain again. Under sub-clause (4) of clause 4, Sir, it is easy to visualise cases where shop premises were let to a tenant who in turn has sublet those premises and

[The Asian Minister without Portfolio] in determining the tenancy of the immediate tenant of the landlord the intention is that the sub-tenant's tenancy should not—because of that reason—automatically come to an end. Where the tenant's tenancy is terminated the landlord of the premises should stand in the shoes of the tenant who has sublet the premises to another person.

MR. HARRIS: Serves him right!

ASIAN MINISTER WITHOUT PORTFOLIO (Mr. Madan): I hope hon. Members follow now.

I was saying, Sir, that it may happen that cases may arise where a landlord, in terminating the tenancy of his tenant, would also like to terminate the tenancy of his tenant's sub-tenant and, as sub-clause (4) of clause 4 now stands, it seems that he would be unable to do so until after the expiry of the notice served upon the tenant. In other words, Sir, he would have to go through the process all over again after that, and he would require another period of six to twelve months. As that does not seem to be fair, at the appropriate stage it is proposed to amend sub-clause (4) by renumbering it as (4) (a), and by adding thereafter two new paragraphs. I should like to read those two new paragraphs now, Sir, so that hon. Members will have in mind what is the nature of the amendments proposed to be made to this sub-clause. I shall be grateful for your guidance, Sir, that that is adequate notice in so far as the introduction of the amendments to this clause is concerned.

The amendment, Sir, which I propose to make to sub-clause (4) of clause 4 is that the following two sub-paragraphs be added as (b) and (c):

"(b) Where a landlord serves a notice under section 6 of this Ordinance on a tenant, he may also at the same time serve a similar notice on any other person to whom the tenant has sublet the whole or part of the holding concerned, herein referred to as the 'sub-tenant', and in any such event the provisions of this Ordinance shall apply to the sub-tenant as if he were the tenant of the landlord.

(c) Where a landlord, in accordance with the provisions of paragraph (b)

of this sub-section, serves notices on both the tenant and sub-tenant the court may consolidate any application for new tenancies made by the tenant and sub-tenant and may hear them simultaneously and thereafter the court may make an order for the grant of a new tenancy to the tenant or to the sub-tenant, and may make such other orders as may be necessary."

LT.-COL. GHERSIE: What about the sub-tenant?

THE ASIAN MINISTER WITHOUT PORTFOLIO (Mr. Madan): Sir, the hon. Member for Nairobi North said, "What about the sub-sub-tenant?" Well, in this instance, I would ask him to assume that the greater will include the less.

As I was trying to explain, Sir, it is hoped that by amending sub-clause (4) in this manner the court will be able to deal with applications that are made for grant of new tenancies simultaneously by consolidating applications relating to one shop—or one set of premises—which will, if nothing else, avoid multiplicity of litigation and enable time to be saved by not having to determine the applications in respect of one shop by a series of actions.

THE SPEAKER (Sir Ferdinand Cavendish Bentinck): I think if you bring those amendments up at the Committee stage—we can take the Second Readings of new sections or sub-sections at the Committee stage.

THE ASIAN MINISTER WITHOUT PORTFOLIO (Mr. Madan): Thank you, Sir.

I now pass on to clause 5 which enables landlords and tenants freely to come to agreements between themselves, and to enter into leases in respect of their tenancies and to register such tenancies where such agreement has been arrived at. Those are the provisions of sub-clause (1) of clause 5. Sir, but should the landlord and tenant be unable to agree upon the terms of a lease, it is provided under sub-clause (2) that the court shall have the same powers on an application being made, to determine the rent and the terms of the lease as in the case of an application made to a court for the grant of a new tenancy.

I would like to explain, Sir, that sub-clause (5) (1) is intended to provide for cases where although there are agree-

[The Asian Minister without Portfolio] ments for leases, there are no written leases and it is not possible for the parties themselves to come to an agreement. In cases where they cannot do so they may invoke the provisions of sub-clause (2) of this clause.

The next clause, Sir, clause 6, is another important clause and one which provides that the landlord of a tenancy may terminate it by giving a notice to the tenant, but the notice must be in the form provided in the Second Schedule to the Ordinance. Those of us who had to deal with the construction of notices and whether the notice to terminate for a tenancy is a valid notice or not, and the innumerable decisions which are to be found on this point, will appreciate that in providing the form of the notice to terminate a tenancy in the Second Schedule we have tried to avoid the taking of technical objections to the validity of a notice to terminate a tenancy. Sub-clause (2) of clause 6, Sir, sets out the duration of the notice to terminate a tenancy, which is six months to twelve months.

It is just possible, Sir, that some hon. Members may consider that this period is unnecessarily long, but to them I would submit for their consideration that in cases where a notice to terminate tenancy is served upon a tenant the intention is, that where the tenant does not wish to continue in occupation at, possibly, a higher rent, he should have reasonable opportunity of finding for himself alternative accommodation. It should not become necessary for him to have to vacate the premises so quickly or in a manner which would either jeopardise the conduct of his business or affect his reputation as a tradesman or merchant.

I hope that the period or duration of the notice to terminate a tenancy will be looked at from that point of view and when that is done it will be found to be reasonable.

Under sub-clause (5) of clause 6, Sir, a notice to terminate a tenancy will not become effective unless it requires a tenant to notify the landlord within a period of two months after the giving of the notice, to state whether the tenant will be willing to give up possession of the property comprised in the tenancy at the date of termination. Under sub-clause (6), the

notice to terminate the tenancy will also not take effect if the landlord does not state whether he will oppose an application under any of the provisions set out in clause 9 of the Bill.

I should like to dispose of clause 9 at this stage, Sir. It is a clause which lays down the grounds—any of which a landlord may invoke—to oppose an application by the tenant for the grant of a new tenancy to him.

I will now, Sir, move on to clause 8 of the Bill. This clause makes it obligatory for the court that the court shall make an order for the grant of a tenancy where an application is made under the provisions of clause 4 of the Bill. Closely connected with this clause, Sir, is clause 10 of the Bill which lays down that where a landlord has successfully invoked any of the grounds laid down under clause 9 of the Bill to oppose an application for the grant of a new tenancy, the court shall not make an order for the grant of a new tenancy. In other words, Sir, just as in the case of a tenant who is able to satisfy the court that he is entitled to the grant of a new tenancy on an application made under the provisions of clause 4, so also a landlord who is able to satisfy the court that he is entitled to invoke any of the provisions of clause 9 of the Bill, he would be entitled to say to the court that no order shall be made for the grant of a new tenancy.

I have already, Sir, mentioned clause 9, and I hope hon. Members will consider that the grounds which are provided thereunder will enable, while granting a measure of security to tenants of shop premises, these provisions will also enable landlords, in suitable cases, to obtain possession of their shop premises for development and other necessary purposes as set out.

The next clause to which I would like to draw the attention of hon. Members is clause 12 of the Bill. This is the clause which defines the term of duration of the new tenancy to the effect that it shall not be less than two years and not exceed four years. Now, Sir, as there is some ambiguity about this clause also, at the appropriate stage, I propose to introduce certain amendments to it.

At the moment, Sir, it is not clear whether the new tenancy would come into operation from the date of expiry

[The Asian Minister without Portfolio] of the old tenancy, so first of all, in order to remove that ambiguity, it is proposed, Sir, to delete all words beginning with "and shall begin", in the fourth line from the bottom of that clause, to the end of that clause, and by renumbering clause 12 as it exists as clause 12 (1), and by adding two new sub-sections, which would read, Sir, as follows: (2) (a) Except as provided for in paragraph (b) of this sub-section where the court makes an order to the grant of a new tenancy, the tenancy shall begin or be deemed to have begun on the day after the date of termination specified in the notice given to the tenant under clause 6 of this Ordinance, and the rent determined in accordance with the provisions of this Ordinance shall be payable as from such day and notwithstanding the provisions of section 18 of this Ordinance, the current tenancy shall terminate from the date of the termination so specified.

Hon. Members will note, Sir, that the first important point in this amendment is that the new tenancy shall commence as from the date of termination specified in the notice given to the tenant under the provisions of clause 6. Secondly, the new rent shall come into operation and be payable as from the date of the commencement of the new tenancy, which will be immediately after the termination of old tenancy. The intention here, Sir, is that it is just possible in some cases that tenants, by prolonged litigation, may take undue advantage, and they may not become liable to pay the rent until the matter has been determined by a court which could take a considerable period of time. It is considered, Sir, that it would be only fair that however long it may take the court to decide the issue, the order for the grant of a new tenancy, if it is made, should come into operation immediately after the date of termination of the old tenancy; and the new rent, as well as the new terms, should also likewise come into operation from that date.

The next part of the sub-section (2) to clause 12 that I propose to introduce is (b) where a notice is given to a sub-tenant by a landlord in accordance with the provisions of paragraph (b) sub-section (4) of clause 4 of this Ordinance, the court, upon application made by the sub-tenant, makes an order for the

grant of a new tenancy, such new tenancy shall commence from the termination of the tenant's tenancy."

I have already explained the purport of this amendment, Sir, and sub-section (3) which I propose to add to clause 12 reads: "(3) The expiration of the term of the new tenancy granted by an order of the court made under the provisions of this Ordinance, this Ordinance shall cease to apply in respect thereof."

Even at the risk of repetition, Sir, I would say the object of this sub-clause i.e., sub-clause (3) of clause 12 is first to ensure that no tenant will be able to re-apply for the grant of a new tenancy by virtue of the provisions of this Bill, and, secondly, that once the term of the new tenancy has run out, the premises will become decontrolled.

Now, Sir, when speaking about the date as from which the new rent and the new terms should come into operation, I would like in this connection to refer to clauses 13 and 14 of the Bill, which provides as to how the new rent is to be determined, and how the new terms of the new tenancy are to be determined, and the hon. Members will take note of the provision under clause 13 of the Bill, which states that the criterion of the measure of the new rent shall be such as at which the holding might reasonably be expected to be let in the open market by a willing lessor, disregarding, Sir, certain factors which are mentioned in sub-paragraphs (a), (b) and (c) of sub-section (1) of clause 13.

I will, now pass on, Sir, to clause 15 of the Bill which makes it obligatory, unless the landlord and the tenant agree between themselves not to act upon a court order, that there shall be a written lease given by a landlord to a tenant which shall be registerable, but the expenses of such a lease and its counterpart shall be payable by the tenant. There is nothing new about that, Sir—even now, it is so under the ordinary law the expenses of a lease and its counterpart are payable by a lessee or a tenant.

Clauses 16 and 17 are clear in their meaning, and I am confident, Sir, that the provisions contained in these two clauses will be welcomed by hon. Members just as the provisions contained in the other clauses.

[The Asian Minister without Portfolio] There will be a consequential amendment necessary to clause 18 of the Bill, Sir, as a result of the amendment to clause 12, which will be made to sub-section (1) of this clause, by substituting for the words "the effect of the notice shall be", which appear therein, the words "except as otherwise provided by clause 12 of this Ordinance the effect of the notice shall be".

I will bring that up at the appropriate moment, Sir; but what is important about the provisions of clause 18 is that they do provide a moratorium of three months for cases which go up to court and which are not heard by the time the notice to terminate a tenancy expires. When the decision of the court is delivered, the period stated in the notice terminating the tenancy may have already run out, and in cases where the grant of a new tenancy is refused, when, inasmuch as a tenant would have no protection, he would be required under the ordinary law to give up possession straight away.

The intention here is that subject to the provisions of clause 12, a tenant, where an application for the grant of a new tenancy is refused, shall have a period of three months in which to find himself alternative accommodation, or to make other such adjustments as he may think necessary and to shift his business.

The provisions of clause 19 make it possible for the parties to appeal to the Supreme Court on matters of law, but not on matters of fact, and it also provided that the decision of the Supreme Court shall be final and no further appeals shall lie.

After clause 20, Sir, I intend to introduce a new clause which will read as follows: "21. Notwithstanding the provisions of any written law, for the purposes of this Ordinance, evidence shall be receivable by the court of the tenancy whether it be written or registered".

Hon. Members may be aware that under the provisions of the Crown Lands Ordinance (Cap. 155) it is laid down that in cases of a lease which exceeds 12 months, unless the lease is in writing and it is registered, no evidence in respect thereof shall be adduced in court, and perhaps section 40 of the Registration of Titles Ordinance (Cap. 160) also has a similar effect. It is therefore intended,

Sir, that that difficulty which would preclude the court from hearing evidence as to the existence of verbal agreement for leases extending over periods of 12 months should not prevent the parties or the court from adducing evidence which they would be stopped from doing under the ordinary law. Such cases may arise, for example, under the provisions of clause 5 of this Bill. It is therefore proposed, Sir, to add this new clause 21 at the end of the Bill to remove this disability.

In conclusion, Sir, I would like to say that there is a rational theme which runs through the provisions of this Bill. It provides for the payment of reasonable and economic rents by tenants of the type to whom the provisions of this Bill will apply. It restricts the measure of protection which is intended to be provided in respect of business premises. It restricts the area of operation of the Bill by virtue of the limitation proposed in the First Schedule to the Bill, and at the same time, it makes it possible for landlords to enjoy economic returns from their property. It is hoped, Sir, that the high sense of business and economic dexterity which both landlords and tenants display in the conduct of their ordinary business operations will enable them to come to amicable arrangements without having to seek and to take recourse to court by way of applications for the grant of new tenancies.

I have, Sir, tried to explain the provisions of this Bill. I hope hon. Members understand it better now.

I beg to move, Sir.

THE MINISTER FOR COMMUNITY DEVELOPMENT (Mr. Ohanga) seconded.

TIM SPEAKER (Sir Ferdinand Cavendish-Bentley): Order, order!

I listened to the hon. Mover introducing his Bill. He has introduced, so many new clauses and so many new amendments that I question very much whether it is fair on the hon. Members of this Council to try to have a Second Reading of a Bill to which we now know there are going to be so many amendments that it is going to become rather a different Bill from the one that was printed. I suggest that we continue with the Second Reading, but I do not propose to put the Second Reading to-day because I do not think it is fair to hon. Members to try to base discussion on a

[The Speaker]

Bill with so many amendments in it of which no notice has been given.

Mr. HARRIS: Mr. Speaker, Sir, on a point of order, may I ask for your reply? If a Member speaks to-day, when we have seen the amendments, will he be precluded from speaking again?

THE SPEAKER (Sir Ferdinand Cavendish-Bentinck): If we proceed with the suggestion I made, that would be so. Unfortunately, my Legal Adviser is not here. I am told that most of these amendments come within the four corners of this proposed legislation. Nevertheless, there is a limit to the number of amendments we now know are going to be incorporated in a Bill that is being introduced for Second Reading by Government to-day.

I would suggest that the hon. Member withdraws his Bill, and brings it back again for Second Reading when we can see what these amendments are.

THE MINISTER FOR COMMERCE AND INDUSTRY (Mr. Hope-Jones): With the greatest respect, Mr. Speaker, and continuing the point of order, I do submit that every one of those amendments suggested to-day are not only within the four corners of the Ordinance, but are also development on the clauses that have been dealt with to-day, and I would submit that they were clearly explained.

I have, of course, the greatest pleasure in bowing to your ruling about the way the Second Reading should proceed. But is it your ruling that the Second Reading should be taken again and the Bill proposed again, or that the debate should proceed at the present time?

THE ASIAN MINISTER WITHOUT PORTFOLIO (Mr. Madan): Mr. Speaker, in support of what the hon. Minister for Commerce and Industry has said, these amendments, of which I have given notice, come under clauses 4, 12 and 18 of the Bill, and I have also proposed to add a new clause 21 to the Bill.

I also bow to your ruling in regard to how the Second Reading of the Bill should proceed, but if you would permit me, I would submit for your consideration that the amendments to clause 4 are merely intended to remove ambiguities to the provisions which already exist there, and make clear the intention in sub-clause (4) of clause 4, and I would

also submit that no new provision is being introduced in that clause.

In so far as clause 12 is concerned, the amendment that is sought is also of a similar nature to that of clause 4, and therefore, I will not repeat my argument. The amendment to clause 18 is of a consequential nature and is a result of the amendment sought to be made to clause 12.

The new clause 21 which I seek to add to the Bill is clearly designed to remove a technical difficulty which prevents evidence to be adduced in respect of leases of certain duration, if they are not written or registered. I should have thought, Sir, that hon. Members opposite would have had no difficulty in understanding such simple matters.

THE SPEAKER (Sir Ferdinand Cavendish-Bentinck): I will let the debate proceed, but if any hon. Member of Council objects to continuing the debate, I will have to ask the hon. Member to withdraw his Bill and bring it back complete; and may I say this much—that I think it is wrong, if I may say so, for hon. Members in introducing a Bill to try to introduce the addition of a large number of new clauses of which no notice has been given even though they may think that many are only consequential amendments, as I think these should have been thought of before the Bill is introduced. It is not fair on hon. Members to be expected to discuss a Bill part of which is not before them in printed form.

Question proposed.

MR. NAZARETH: Mr. Speaker, I rise to support the Bill, but on the principle that half a cake is better than none.

This Bill, in my opinion, suffers from serious inadequacies. I feel that a country-wide approach should have been brought to this Bill, and that, in the first instance, it should not have been restricted to Nairobi.

The hon. and learned Mover in his Motion introducing the Bill has not indicated what the policy of the Government is in regard to adding to the Schedule. Now, I think the Government is aware that there is great concern throughout the country as to whether or not the Bill will be applied to other areas, or whether it is for other areas to satisfy the Minister for Commerce and Industry that there is

[Mr. Nazareth] need to apply the Bill to those areas and then it would be extended.

Now, I hope that there will be no lack of sympathy on the part of the Government to requests made by various centres that the Bill should be applied to those centres. I feel that the Government has had sufficient time during the last two or three months. I do not know when the report of the sub-committee that was appointed by the Board of Commerce and Industry was presented, but I feel the Government has had sufficient time to consider whether other areas should not have been added to the Bill in the First Schedule.

Now, I feel that a unified approach is necessary. We are recovering from a period of Emergency, of difficulties and dislocation, and these difficulties have been recently intensified by a credit squeeze, and the recent blocking of the Suez Canal has added to these difficulties. In various ways, it can be rightly said that we are nowhere in sight of supply catching up with demand.

In recent years, Government has allotted plots for building purposes, but we know that in many cases these plots have not yet been built upon, due to these difficulties that I have referred to, at least, the building difficulties, and to a great extent the credit squeeze, and in view of that it does become necessary to consider whether this Bill should not be applied to all townships.

When you have a control, and you remove the control, in my view the removal of the control should be a gradual one, and the position would be, if the Government were unsympathetic to the requests of other centres, that the removal of the control would not be gradual in the case of centres other than Nairobi.

Now, I think the Government has proceeded on the basis that the 1954 Ordinance, that is, the Landlord and Tenant (Shops and Hotels) (Temporary Provisions) Ordinance, has worked well. I think that has been said somewhere by the Government.

Now, that is not borne out by my own experience and, I think, the experience of the chambers of commerce, all of whom desire that this Bill should have a much wider application than appears to

be at present contemplated. I know that when that Ordinance of 1954 came into operation, rents of business premises shot up, in many cases by 300 per cent and 400 per cent. Now, I had occasion to compare the rents that were fixed by the courts or rents that were arrived at between tenants and landlords by agreement, and I found in both cases, at least so far as Nairobi was concerned, that cases increasing rent by 300 per cent and 400 per cent were by no means infrequent, in fact, they were the rule rather than the exception.

In England, on the other hand, I compared the increases that occurred and I found that the increase was very rarely more than 100 per cent. It is difficult, of course, to speak strictly in terms of averages, but I thought the increase was somewhere in the neighbourhood of 50 per cent or 60 per cent, something of that order. I felt that, when the court fixed the rent, they did not have sufficient regard to the fact that what was in operation at that time, and what will be in operation now, will not be what is called a free market, but a market based on scarcity or monopoly, and in those circumstances the rents that are arrived at can reach to almost any figure, and they did reach, as I have said, in the case of Nairobi, at the beginning of 1955, or in the first half of 1955, to increases of 300 per cent and 400 per cent. That may have been partly due to the fact that the Ordinance of 1954 provided for assessors sitting with the court, and I think this present Bill also provides similarly for assessors sitting with the court.

Now, these agreements therefore are not really the result of consent. The tenant is under a pressure from the landlord. He fears that he may not succeed in getting a tenancy, and therefore, quite often under that pressure, agrees to a rent far in excess of what he would have otherwise agreed to. As regards the protection given by the Court of Appeal that again operates within a circumscribed area limited to points of law. Courts of appeal very rarely will upset conclusions of fact, and, in fact, in the present case, they are debarred from considering findings of fact.

Neither under the present legislation nor under the 1954 Ordinance was there any single tribunal that dealt with these

(Mr. Nazareth) rents by way of appeal, a tribunal that could bring about something in the nature of a uniform rent, of course, having regard to varying circumstances in different areas, but establishing something in the nature of a standard. Nothing of that sort obtains in the present Ordinance.

Now I feel that a wider approach was necessary, not only because the same factors that affect Nairobi affect other areas, but having regard to the course of legislation in England in dealing with the kinds of premises that are involved, or with which the present Bill is concerned. Now in England since 1927, and possibly earlier, the Landlord and Tenant Act provided that if, in the case of business premises, any goodwill attached to premises and the landlord would obtain the benefit of that goodwill, then compensation had to be paid to the tenant for that goodwill or, alternatively, the tenant could obtain a new tenancy. There were also provisions for obtaining compensation for improvements. Now the right of a court to give compensation for improvement—improvements are not involved in the present debate but I would suggest that the right of the court to give compensation for goodwill, operated both as a protection for tenants and as a restraint on landlords. Now, nothing of that kind is contemplated in the present Bill, and I feel that provision should be made, either in this Bill or possibly the Government might consider introducing legislation, for the purpose of protecting tenants, so that they do not lose the benefit of the goodwill that they have built up in premises that they occupied for a long period of time. If it is not possible for the Government to introduce such provisions, then the burden should lie on the Ministry of Commerce and Industry, or on the landlords, to show that in areas outside Nairobi, protection is no longer necessary. Otherwise, in centres other than Nairobi, if this protection is not extended to them, the tenants in those areas would lose the benefit of the goodwill that they have built up over long periods of time.

I hope it is the intention of Government, in regard to this Bill, to extend it straight away—and not after representations are hereinafter made to the Ministry of Commerce—to all townships. I

may say that I have received requests from quite a number of centres—from Kisumu, from Nakuru, from Eldoret, from Kericho and from Kitale, which are the five main towns of the constituency from which I have been elected, and in only one case has there been any division of opinion; that was in the case of Kitale, where a certain number of landlords signed a letter opposing the view of the Indian Association of that area and of the Chamber of Commerce of that area. Likewise the Federation of the Chambers of Commerce and Industry desires that this Bill should be extended to centres which I have not mentioned, such as Solik, Nyeri, Nanyuki and Thika.

THE MINISTER FOR COMMERCE AND INDUSTRY (Mr. Hope-Jones): Any other large centres?

MR. NAZARETH: These centres, I suggest to the hon. Minister for Commerce and Industry, are sufficiently large to claim the protection of the Bill. There are shops in those centres, quite a number of them, and certainly the more important ones—Nakuru, Kisumu, Eldoret—deserve, I think, sympathetic consideration from the Government; and if it is extended to these centres, I am unable to see what adverse effects it would have on the landlords. If premises are in free supply, then in that case a free market would operate, but if they are not in free supply, then it follows that the tenants in those areas need protection. In other words, there would be a monopoly or a scarcity value placed on the premises, and tenants would be subjected to unfair pressure, and it follows then, I suggest, that they need the protection of this Bill. Therefore the Schedule to the Ordinance ought to be extended.

I do not know whether, in the state in which the Bill now is, it is possible to introduce provisions requiring that in those cases where a tenancy is refused to a tenant on grounds when he is not to blame—for instance, when he has not committed any breaches of covenant, or such grounds as are set out in the first three sub-clauses of clause 9—if a tenancy is refused on grounds where the tenant is not to blame, whether provision could not be made for payment of compensation for the goodwill which the tenant will have lost by reason of not being able to continue in the premises in

(Mr. Nazareth) which he has built up a business for many years.

There are one or two other important limitations in the Bill, which I think I ought to deal with at this stage. One is in the definition of "shop". That is limited in the same way as the 1954 Ordinance limited it—that is, it is limited to retail trades or businesses. I can see no reason why wholesale business should not likewise be protected. No reason in principle has been set out why this protection is limited to retail shops, and the only reason I can think of is, perhaps, that the 1954 Ordinance limited the application of that Ordinance only to retail shops. Now the 1927 Act applied to premises which were used wholly or partly for carrying on any trade or business, and if it is right that tenants should be protected in their business, and that landlords should not be entitled to subject them to unfair pressure or obtain the benefit of the goodwill that they have built up, then I would submit that that principle applies equally to wholesale and retail businesses, and I would submit that there is no reason why a wholesaler should not be protected in the same way as retailers.

In clause 3, sub-section (1), it is provided that the Minister may from time to time by order published in the *Gazette*, amend the First Schedule to this Ordinance. Now, in so far as additions are concerned, I welcome that provision because it provides an easy means by which the Bill or the provisions of the Ordinance can be extended to a wider field than is at present set out in the Schedule to the Ordinance; but in regard to a general power of amendment, I would suggest that there ought to be a stronger brake on the power at any time to delete from the Schedule any areas which are set out there, or to amend it. I would suggest that, in regard to that, that power should be given to the Governor-in-Council, so that amendments to the Schedule are not easily made. Also, that if there is to be any deletion of any part of the Schedule or any amendment to the Schedule, that there should be adequate notice before that amendment takes effect.

In regard to clause 8 of the Bill—that gives power to the court to fix the terms

and the rent of the new tenancy. Now, as I have already said, early in 1955 rents in the case of many business premises shot up by 300 per cent and 400 per cent. I have been told that in the case of Nakuru, in one case at least, it went up as much as nine times. Now if that is happening in a good number of cases, and if a monopoly or a scarcity market or scarcity values are to operate, then I would submit it is undesirable and it would be wrong to allow rents to rise any further; and that in the case of those tenancies where rents have been fixed after 1953, or where they have been increased after 1953, there should be a limit placed on the power of the court to increase the rent above the 1953 level, or the level at which it was fixed after 1953, and that that limit should be in the order of 20 per cent. What I would suggest is that there should be a limitation on the power of the court to fix the rents, where it has been fixed after 1953, so that it does not increase by anything above 20 per cent. The rents are already high and in many cases tenants do agree to figures well above what the premises are worth, just because they wish to preserve the goodwill and do not wish to incur the risk of a tenancy being refused by the court on one ground or other.

Clause 13, sub-section (1), of the Ordinance provides that rent payable under a tenancy in clause 4 of the Ordinance shall be such as may be agreed in writing between the landlord and the tenant or as, in default of such agreement, may be determined by the court to be, et cetera. Now that contemplates an arrangement being agreed between the landlord and the tenant. As I have said, that can be an agreement arrived at under pressure and therefore I would submit that even in those cases where the rent has been arrived at by agreement, if the rent fixed is more than 20 per cent above the 1953 level, then in that case such an agreement should not be operative, in the same way in which agreements made as to rent-restricted premises do not operate.

I hope that the attitude of the Government towards these suggestions will be sympathetic, and that the Bill will not be limited to Nairobi, but that the Schedule will be extended to all important townships, or possibly to all townships, and that the burden should

[Mr. Nazareth]

be on the Government or on the Ministry of Commerce to show that these townships are, in fact, in a position in which a free market obtains.

Mr. Speaker, I beg to support.

Mr. HARRIS: Mr. Speaker, Sir, I have really declined your suggestion that we might postpone the Second Reading of this Bill because I believe that to postpone it would, in fact, create hardship, because the existing legislation expires on the 24th December. The last time similar legislation was renewed there was a certain amount of hardship because landlords and tenants came to agreements mutually, without knowing what the law would be in a matter of a few days. Therefore, Sir, although I would think it desirable that we might have had a greater opportunity to discuss the amendments that the hon. Mover told us about, I still feel, Sir, that it is in the public interest that we should proceed with the Second Reading.

Having said that, Sir, I must say that I was very surprised that the Minister, in whose Portfolio this matter falls, did not himself move the Second Reading, but having heard the Minister without Portfolio, who did move the Second Reading, I can understand exactly why my friend the Minister for Commerce and Industry did not. As a matter of fact, Sir, I could not help thinking that had I given the hon. Mover two years' notice in accordance with clause 12, the notice would probably have expired by the time he finished—at least, that is how it seemed.

Now, Sir, I support this measure because I believe it is the only possible compromise between complete decontrol and between giving a certain measure of protection to a particular class of tenant. This matter was discussed, as has been mentioned, in the Board of Commerce and Industry, and I think it was generally agreed in the Board that we would have preferred complete decontrol at the end of the present legislation, that is, from the 24th December this year onwards. But, Sir, there was a section of what I can only describe as rapacious landlords who seemed to have developed rather the ethics of the East than of the West, and who were holding tenants in certain areas in Nairobi to

ransom, and there were several malpractices growing up, or liable to grow up: as soon as the existing legislation became dead, in consequence, Sir, the Board decided that some measure of protection must be given to this particular class of tenant, but at the same time to try to continue with the policy of both the Government and this Council generally, that rent control should slowly be taken away, I believe, in this measure, we have the only possible compromise there is to give protection to that particular class of tenant. That is why, Sir, I join issue with the hon. Member for the Western Area, who has just spoken, who suggests that this legislation should be enlarged in scope to include towns other than Nairobi, because, Sir, the position in Nairobi is peculiar. It was the intention, I believe, of Government, and certainly of the Board of Commerce and Industry, to bring to an end restrictive rent legislation at the end of this year, in the belief that a considerable area of City Square and other commercial areas in the town would have been developed by this time. In fact, the Emergency and the lack of investment capital from overseas has not made that possible and therefore there is still a case, because of the withdrawal of what were known to be firm plans three years ago for building commercial premises, because of that withdrawal the position has changed from the position that was envisaged, and that is why the racketeering started as soon as it was thought that the present legislation would die in December of this year.

I cannot agree, Sir, with the hon. Member for the Western Area, because he was making a plea that we have heard so often in this Council, that the tenant should be a sort of particularly protected class. I know in these days of democracy, Sir, there are more votes among tenants than there are among landlords, but in this Council we are supposed to think of justice as well as votes, and I do believe that the time has come when we should try and see that rents are governed by the law of supply and demand rather than law of counting heads in order to win elections.

There is no doubt, Sir, that in all this controlled legislation, whenever there is an attempt to reduce a control, ever since the war and presumably since the

[Mr. Harris]

1914-18 war—although I would not know—there have been classes who have grown up to believe that it is their right to be protected by Government against the ordinary laws of economics, and I feel that this plea for the extension of this legislation to Eldoret and Kisumu and Nakuru and Nyeri and a few other towns, is merely a perpetuation of that belief that tenants are poor people who have got to be protected by a benevolent Government. Now, Sir, I feel that in many cases since the war, where rent control has been in operation, there are quite a number of landlords who have been feeling the pinch, and I think now is the time when the laws of economics should start to operate without the interference of Government.

My only other comment, Sir, is that when we come to the Committee stage I would like to give notice that I shall move an amendment to clause 12, where the court has power, in the event of disagreement, to order a lease for a minimum period of two years and a maximum period of four years. I believe, Sir, that there should be an extension to this period, because I have already heard of these same rapacious landlords that I mentioned earlier already scheming and plotting and having consultations with their legal advisers—not, of course, Sir, Members of this hon. Council, but their legal advisers—as to how they can derive the maximum amount of graft as soon as the two years' or the four years' lease expires, and I think, Sir, those are the people that we should try and defeat because they are doing this country and its commercial community no good whatsoever, and it is for that reason that I support this legislation.

Mr. PANDYA: Mr. Speaker, Sir, I support the Bill but I should like to make some general observations first.

The purpose of this Bill, Sir, is to protect the possession of the tenant at an open-market rent, and with this in view, Sir, it is desirable that the Bill should be drafted in a very simple and straightforward manner, particularly as it is to be understood by the commercial community to which it particularly applies. I would suggest, Sir, that in its present form it is rather cumbersome, clumsy and confusing. It is very confusing as to the various periods of notices that are

mentioned in different clauses of the Bill, and it seems to me that it would not only create ill-will between the parties, but it might in fact increase litigation, while I am sure the purpose of the Bill is to reduce this to a minimum. There are, I see, a lot of cross references to clauses, and I would suggest some duplication. I am sure that it is the intention of the hon. Mover that the Bill should operate in the interests of both parties equitably.

It is envisaged that there should be gradual decontrol but no mention has been made in the Ordinance as to the period up to which the Bill is intended to apply. Surely the intention should be to protect parties only for a limited number of years. There is a general opinion, particularly of the Indian Merchants' Chamber, Mombasa, that there is still a shortage of shop premises in some of the older-established areas of the Mombasa Township, and that there are traders there who require protection for some while after the expiration of the existing legislation. Now, this Chamber is composed of both the landlords and the tenants, and I feel that in view of the necessity that this Chamber has found for protection, and in supporting the comments made by my hon. friend, the Member for the Western Electoral Area, I will request the Minister to include Mombasa in the scheduled area. It will only operate in those cases and in those areas of the Mombasa Township where there is a real shortage of premises; where the premises are in plentiful supply this particular Bill will just not operate, and the rents will adjust themselves by agreement between the parties concerned.

I should like to make a few observations, Sir, on some of the clauses of this Bill. I would like to refer to clause 5 of the Bill. I think this clause is rather limited and I feel it is redundant in view of the fact that there are in clauses 4, 8 and 15 enough available provisions of the Ordinance which enable the parties to go to court in case they cannot agree, and the court is given the power to grant a tenancy at such rent and on such other terms as it thinks fit. It is unnecessary expense for the tenant to have a lease, when his requirements will be adequately covered by the court's order.

In clause 6 (2), on the question of notice, it says there "not more than

[Mr. Pandya] twelve nor less than six months". I feel, Sir, that there should be the usual one month's notice or of such other duration as would normally be required by law for this particular type of tenancy. I think there would be little justification for this long notice of six or twelve months at this stage, when the shortage of shop premises is not quite so serious as it was two years ago, and as one month's notice was considered sufficient at that time I do not see why the extra period is required at this stage.

The argument expounded by the hon. Mover that the long notice is desirable to give time to the tenant to find other premises is, in my opinion, not so very sound, because the Ordinance is being brought up because of shortage of premises, so that it can be reasonably assumed that no tenant is going to give up the premises merely because he is asked to do so by the landlord.

I am glad the hon. Mover has expressed his intention to move amendments to clauses 12, 13 and 18 of the Ordinance to bring it more in line with the practice as it should be, and that the new rent and the new agreement should come into force at the termination of the old tenancy.

With regard to clause 15, I personally feel that it is an unnecessary expense on the tenant having a lease merely embodying the terms and conditions that are already determined by the court, but I feel that if this clause has to be retained, it should be so redrafted as to make it clear that both the lease, and its counterpart, should be prepared and registered by the landlord's advocates and that these should be executed by the parties concerned, and that all costs relating to the preparation and registration of the lease, as usual, should be borne and paid by the tenant at the time of its execution by the parties, and that failure to do so should cancel the court's order for granting the new tenancy.

With these few observations, Mr. Speaker, I beg to support.

THE CHAIRMAN (Sir Ferdinand Cavendish-Bentley): This might be an opportunity to take the customary fifteen minutes break.

Council suspended business at fifteen minutes past Four o'clock and resumed at thirty minutes past Four o'clock.

MR. SAGOO: Mr. Speaker, Sir, in supporting this Bill I feel confident that it will be welcomed by the trading community of Nairobi, since that is the area which is contained in the First Schedule. It will be welcome for the simple reason that the Bill is designed to protect possession, which is the nearest and dearest thing to the heart of a retail trader. I am rather surprised at the attitude taken by the hon. Member for the Eastern Area, when he describes this Bill as "cumbersome, clumsy, and confusing". I am surprised because he happens to be a leading advocate while I, a mere layman, found no difficulty at all in following it.

And it is as a layman, Sir, that I would like to make a few observations and perhaps a few suggestions to the hon. Mover. Firstly, Sir, as I see it, there is no necessity for anybody to make an application under the provisions of this Bill. There is no compulsion on the tenant or the landlord to apply under it. But the fact that people could apply would, I am sure, tend towards mutual agreements and thereby help in furthering the objects of the law.

The hon. Member for the Western Area put forward the argument that this Bill should be extended to include the areas in the Western Province, and the same cry was heard from the hon. Member for Eastern Area for his Province. Frankly, Sir, if you ask me, I am afraid the area which is included in the First Schedule is already too large. The shortage of shop premises, if you go round the town you will find exists only in the main thoroughfares of the city—Delamere Avenue, part of Government Road, the Bazaar, River Road and, perhaps, the main thoroughfares of African locations. But, Sir, in other roads such as Grogan Road, Canal Road, in fact, I should also quote the station end of Government Road where a number of shops are lying vacant. I would also quote Kilindini Road in Mombasa and Donald Avenue in Nakuru, which have a few premises to offer.

Another argument which the hon. Member for the Western Area put forward was that he wanted to include the wholesale businesses in it. Now, Sir, those were exempted from control two years ago, and serious consideration was given to it by commerce and industry throughout

[Mr. Sagoo] in view of the fact, Sir, that the joint family system still prevails amongst a large section of the Asian community in this country, and we find that a landlord who has been deprived of his shop premises for the last 17 years has grown old during that period, while his children have come of age, and he feels that he should set up his children in business just to ensure the future of those children and to provide security for his own old age. I do hope that the hon. Mover will see the force of that argument.

As regards clause 16, Sir, I would like to say that no tenant is willingly going to give up possession just because a notice to quit has been served upon him. And if he gets a long lease at a low rent or any other valuable consideration, then I should like to ask—what is the harm in permitting him to do so?

I will quote the glaring example of the local authority, who, in order to make way for a car park, has had to pay consideration to the tenants of the properties situated in that area. Perhaps it will be one occasion, Sir, where the tenant will get something out of the landlord.

Under clause (1), Sir, the court may order compensation to be paid to the tenant, if the landlord has obtained possession by misrepresentation. But, Sir, I do not find any section in this whole Ordinance which provides for compensation to be paid to the landlord if the tenant obtains a new lease by misrepresentation, and thereby retains the possession of the premises.

Clause 5, to my mind, Sir, envisages an unnecessary expense for the tenant to have a lease, when his requirements will have been covered by a court order. Charges for leases nowadays can be very high. Hardships to a tenant should be avoided. That is the underlying factor and object of the Ordinance.

As regards sub-section (2) of Clause 6, Sir, I would like to concur here with the hon. Member for Eastern Area for a change, that the length of time given under this section, and also under Clause 8, might lead to an abuse by the tenant, inasmuch as he might play out for time and thereby prolong litigation.

Clause 9, Sir, sets out in detail the grounds on which the landlord may oppose a new tenancy. But I would ask the hon. Mover if, when this Bill goes to the Committee stage in addition to his other amendments, he would add the words "or his children" to Clause 9 (1) (c) between the words "him" and "therein". This clause will then read, "subject as hereinafter provided, that on the termination of the current tenancy the landlord intends to occupy the holding for the purposes, or partly for the purposes, of a business to be carried on by him, or his children, therein, or as his residence". This is desirable,

in view of the fact, Sir, that the joint family system still prevails amongst a large section of the Asian community in this country, and we find that a landlord who has been deprived of his shop premises for the last 17 years has grown old during that period, while his children have come of age, and he feels that he should set up his children in business just to ensure the future of those children and to provide security for his own old age. I do hope that the hon. Mover will see the force of that argument.

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Finally, Sir, I would like to take this opportunity of placing on record the wonderful work done by the Central and Coast Control Boards, as well as the Landlord and Tenant Court, towards achieving a gradual de-control of shop premises. I would particularly like to pay a very warm tribute to those public-spirited men and women who serve of these bodies, giving the benefit of their advice at the expense of their valuable time.

Sir, I beg to support.

MR. TYSON: Mr. Speaker, Sir, this measure is primarily a commercial one and for that reason it has been dealt with originally by the Board of Commerce and Industry, who have in turn set up a

[Mr. Tyson]

special committee which calls for evidence from all interested parties—landlords, tenants, shopkeepers, and so on, and the evidence which that committee had has merely been repeated to-day, to a very large extent, by the hon. Member for the Western Electoral Area. It was after considering all that evidence that the committee put forward, in draft form, the measure which you have before you. But one would imagine that the only people who needed the protection in this matter were the tenants, but I submit, Sir, the landlords are equally entitled to protection. The hon. Member opposite talked about tenants having had their rents raised by 300 per cent, 400 per cent and 500 per cent. On what was the increase levied of 300 per cent, 400 per cent and 500 per cent? On a quite un-economic, unfair and unjust rental to the landlords and to that extent the landlords have been subsidising the tenants—I am referring particularly to Nairobi—the landlords have been subsidising the tenants, in many cases for a long period of years. And the measure which we have in front of us is an attempt to remedy that injustice, which has gone on for too long.

I do think, Sir, that the provisions which are set out in the Ordinance give ample protection to any aggrieved parties, and are a step in the direction of getting our rentals on to a fair and equitable basis to all parties.

We have heard a lot about goodwill, but in many cases this goodwill has been built up by tenants at the expense of the landlords. It is time that came to an end and this measure, I submit, is a step in that direction of meting out justice to both sides.

I support the Bill, Sir.

THE MINISTER FOR COMMERCE AND INDUSTRY (Mr. Hope-Jones): Mr. Speaker, I do not wish to detain the Council long, but I would like to refer to the reason why my hon. friend, the Asian Minister without Portfolio, moved the Second Reading of this Bill. And I think in doing so, Sir, I should pay a tribute to him, because he was the very able and conscientious chairman, when he was Parliamentary Secretary to the Ministry of Commerce and Industry, of the special investigation committee.

set up by the Board of Commerce and Industry, which produced a unanimous report; and when reporting to the Board of Commerce and Industry, obtained the unanimous support of that body.

Now, Mr. Speaker, the Board of Commerce and Industry is representative of the Federation of Indian Chambers of Commerce and Industry and of the Association of Chambers of Commerce and Industry and of the Chamber of Mines and of the body of Unofficial Elected Members; and, Sir, is a body that examined the advisability (a) as regards general policy, the gradual elimination of all forms of rent control; and (b) how far was it desirable to ease the shoe where it pinched most, in that process.

Now, Sir, in arriving at the conclusions that are contained in the Bill which is before the Council to-day, we bore in mind three principal points—first, at a time when, generally speaking, the economy is moving towards greater freedom as greater supplies and greater facilities become available, it was undesirable to seek to divert and stultify the ordinary operations of demand and supply by legislation on a permanent basis to prevent prices and supplies finding their economic level. When that principle is applied to shops and the provision of premises, then, Sir, I think it becomes fairly clear why the Government felt that the right course on the advice of the Board of Commerce and Industry was the course represented by the Bill.

The second point we bore in mind was that there should be a Schedule. The Board of Commerce and Industry came to the conclusion that Nairobi was the place where the shoe pinched most. Nevertheless, because circumstances can change, because over a period as long as that envisaged in the Bill it is difficult to make firm forecasts, it was felt that provision should be made for any necessary additions or alterations. It was felt that the proper way to achieve that was to vest that power, that responsibility, in the Minister, always subject to the endorsement, or otherwise, of the Legislative Council.

The third point is not perhaps as important as the first two, but it is important in view of certain remarks

[The Minister for Commerce and Industry] made by hon. Members. It is not the function of rent control, as we see it, to interfere with the ordinary processes of urban change. In other words, we do not envisage that it is the function of rent control to prevent the ordinary movement of commerce, shall we say, from the older part of a particular town to a new and developing part.

Primarily, Sir, there was the economic argument, which is that if rents are placed in a strait-jacket and an economic return cannot be earned on new buildings, then, Sir, the problem will be with us indefinitely; because we cannot expect new investment, and the ultimate end to all shortages is an increase in supplies.

Having made those general points, Sir, I notice that there are honourable and learned Members, Members of this Council, who are members of the legal profession, who have not yet spoken. No doubt some of them may be sharpening their quills, but in that case my hon. friend is well qualified to deal with them.

However, I do wish to touch on one point—two points in fact—raised by the hon. Member for the Western Electoral Area. He made the remark that all chambers of commerce, were opposed to the Bill and wanted a more complete form of control. Now, Sir, I do not want to contradict my hon. and learned friend, in any unfriendly way, but I think he would be the first to wish, on reflection, to withdraw that remark and say that in his experience a large proportion, or a proportion, of the chambers of commerce in his constituency—

MR. NAZARETH: May I there amend the remark, Sir, to say that all the chambers who have communicated with me have asked for this extension of the provisions of the Bill.

THE MINISTER FOR COMMERCE AND INDUSTRY (Mr. Hope-Jones): Thank you. That, of course, makes the point made by the hon. Member a rather different one.

The hon. Member made a further point, which I feel I should reply to now. He asked that the discretion should be placed, not in the Minister, but in the Governor-in-Council. Well, Sir, I feel somewhat diffident in replying to my hon. friend on this point, but I feel that he

will appreciate it when I make it. Investing the power in a Minister, is almost exactly the same thing in constitutional practice as vesting it in the Council, as there is collective and several responsibility on the part of the Council of Ministers for the acts of one of their colleagues. I think that disposes of the point. I do not think I need labour it.

He then, however, made a further point, that there should not be that discretion envisaged in the Bill to allow a Minister—or shall we say, authority—to vary the Schedule by taking away areas that have been placed in it. Well, Sir, I feel that that discretion must operate both ways, unless the whole purpose of the Bill is to be vitiated.

Now, Sir, in commenting on my hon. friend's able speech I would make this point, that what he really wants, and what those chambers of commerce that have communicated with him, those Indian merchants' chambers, want, is in fact, a retention of rent control in a way that this Council decided to abolish as long ago as 1954. What the hon. gentleman is asking for, to use his words, is a "20 per cent limitation on the increase of rents" compared with those obtaining before 1954, in spite of the fact that other prices and the cost of investment, and that is the crux of the matter, the cost of investment in new premises has risen far beyond that. The end result of my hon. friend's policy would be, not the protection of those traders for whom every Member of this Council has sympathy, but a continuing shortage of shops, a continuing black market in key money, a continuing state of affairs that he would be the first to condemn, I believe, Sir, that on reflection he would wish to modify some of the remarks he has made in the interests of his own constituents that he so ably represents, because, Sir, I believe their true interest is along the lines I have described, rather than along the lines they represented to the hon. Member.

Now, Sir, I have nothing further to say, except that I thought the point raised by the hon. Nominated Member, Mr. Kirpal Singh Sagoo, in his most lucid speech, that the question of transferring privileges to children is while I have every sympathy with him—a very difficult question to deal with at this stage.

[The Minister for Commerce and Industry] I doubt myself whether it is practical and whether there would not be more abuses arising from that position than there would be advantages.

Finally, Mr. Speaker, I would ask you if, in your wisdom, and in your kindness, you would bear in mind the point made by my hon. friend the Member for Nairobi South, when he pointed out that there is some urgency in this Bill, in that there will suffer unless what are likely to be the views of this Council can be made known, at least in principle, on the Second Reading. I think, Sir, if I may make this submission with the deepest respect, that the course of this debate has shown that hon. Members on both sides of the Council are very fully aware of the implications of the Bill, they very fully understand its purpose; and I believe, Sir, that the additional points made by my hon. friend the Asian Minister without Portfolio are well within their understanding.

With those words, Mr. Speaker, I beg to support.

THE ASIAN MINISTER WITHOUT PORTFOLIO (Mr. Madan): Mr. Speaker, Sir, I also should like to add my plea to the request made to you by the hon. Member for Nairobi South, as well as my hon. friend the Minister for Commerce and Industry, to permit the Second Reading of this Bill to take place, if possibly to-day. I could only repeat, Sir, that both landlords and tenants would like to know with a reasonable degree of certainty, which they will only find out if the Second Reading of this Bill is permitted to take place, what their position is going to be in this matter. In giving your ruling, Sir, I would ask you to bear in mind that far from opposing the Second Reading of the Bill, my hon. friend opposite, the Member for Eastern Area and my friend the Nominated Member, Mr. Kirpal Singh, have welcomed some of the amendments.

Now, Sir, I come to deal with the point made by hon. Members. The first speech—from the Opposition—was by the hon. Member for the Western Area who, with a great deal of emotion, gave his comments and entreated that the Schedule should be extended and that the areas therein should be enlarged. The hon. Minister for Commerce and Industry has

already dealt with and answered that point so effectively that I feel I need not add to it, but I would just like to reply to the hon. Member for the Western Area when he said that the power to amend or vary the Schedule should be vested in the Governor in Council of Ministers. He seemed to have some anxiety about that, but he also seems to have overlooked the provisions of sub-clause (2) of clause 3, which lays down that every order made by the Minister shall be laid before this Council and the Council may, before the conclusion of a certain number of days, resolve that such order shall cease to have effect. In other words, Sir, that he need not feel worried about any order that the Minister might make because this Council will have full cognisance of the areas that may be added to or deleted from the Schedule and if desired action can be taken under sub-clause (2) of clause 3 in this Council.

He went on to say that the removal of controls should be gradual and in the same breath added, as I have already said, that the areas in the Schedule should be increased—like my hon. friend, the Member for the Eastern Area, who said that Mombasa should be added to the Schedule, although the shortage of shops there was not so great as two years ago. Well, Sir, I say to these hon. Members that you cannot have it both ways.

You cannot have it both ways. If you wish the decontrol of business premises—which are the subject-matter of control under the present legislation—to be gradual, then you need legislation of the type that is proposed in this Bill, and I strongly suggest to the hon. Members that it is designed to achieve the object which they have to-day urged so forcefully themselves.

My hon. friend, the Member for the Western Area, also said that the courts might fix the rents arbitrarily under clause 8, although it is not clause 8 under which a court may fix rent—it is clause 13—as I tried to point out in the Second Reading. In clause 13 the method is laid down by which rent is to be fixed. Again, I would just like to point out to him that he appears to have overlooked the provisions of clause 20, sub-clause (b), which empower the Chief Justice to appoint assessors of special

[The Asian Minister without Portfolio] skill and knowledge in relation to premises, including the rental values thereof. It is for that very purpose that assessors will be appointed by the Chief Justice to ensure that the courts, with the assistance of their advice and experience in such matters, will come to a reasonable valuation of the premises.

I fear, Sir, I could not accept the point that although the legislation is for the protection of tenants they might lose under it the benefit of the goodwill built up by them. Part of the answer to that is the one given by my hon. friend, Mr. Tyson. The other part of the answer is that if the premises have acquired any goodwill, part of that goodwill belongs to the landlord just as much as to the tenant because of the very situation of the premises in a particular area.

My hon. friend wanted the definition of the word "shop" to be widened so as to include wholesale trade also. Well, we cannot go back to where we started from more than two years ago. It has already been pointed out that wholesale premises were decontrolled in 1954. To my hon. friend, the Member for the Western Area, I would also say that he is well aware that new business premises have been decontrolled since the 1st January, 1949, be they wholesale or retail. We could not really go back to reimposition of rent control, which would be the case if we were to adopt my hon. friend's suggestion.

The point made by him as to the level of rent has been already dealt with by the Minister for Commerce and Industry, but I would like to reply to the objection made by him under section 13 (1) that an agreement may be made under pressure between the landlord and tenant. Let us assume that that is so; let us assume that a tenant is talked into making an agreement under pressure by his landlord. There is nothing to prevent him, in spite of that agreement, from making an application to the court under sub-clause (2) of clause 13 for a review of that agreement on account of the change in circumstances, and the court, Sir, has the power to determine the rent afresh in the manner specified as stated in that sub-clause.

I was grateful, Sir, for the support given by the hon. Member for Nairobi

South to this Bill, and also for the various answers which he made in the debate. He did make one very important point, which was that in the Committee stage he would seek an extension of the duration of the new tenancy from two years to four years. I understand him to mean that he would want it to be more than four years. Well, we shall have to consider that very carefully because while we have sympathy with the type of tenant for whom we are trying to provide a measure of protection, and while we also have no sympathy whatsoever with the type of landlord that he mentioned, we want to ensure that we will not defeat our object of decontrolling business premises gradually, which I know is also his wish.

MR. HARRIS: I did not specify more than four years, I was thinking much more of the two-year minimum, Sir.

THE ASIAN MINISTER WITHOUT PORTFOLIO (Mr. Madan): Well, as I said, Sir, whatever he has to say more specifically later, we shall consider it carefully.

My hon. friend, the hon. Member for the Eastern Area, found the Bill confusing, cumbersome and clumsy. I feel sorry for him; there is no accounting for the standards of intelligence. He wanted to know the period up to which the Ordinance will remain in force. Well, he has got to remember that the maximum period for which an order may be made by a court in respect of a new tenancy is four years, and that, in itself, puts a limit to the operation of the Ordinance. I cannot, of course, tell him when the last four years under an order made by the court in any particular case will expire because it is very difficult at this stage to say that. He also suggested, Sir, that clause 5 was redundant. I will respectfully suggest to him that it is not redundant since it is supposed to be for cases where the landlord and tenant come to an arrangement without going to court, or where such an arrangement already exists. Because the arrangement is made between the parties themselves outside the court, there would not be a court order and the protection which a tenant would thereby have.

This clause, as I said, is intended to cover cases where no application is made to the court and, of course, as I also pointed out earlier there is provision in

[The Asian Minister without Portfolio] sub-clause (2) to go to court in cases of dispute as to rent or other terms of the tenancy.

Quite frankly, Sir, I fail to see why clause 8 of the Bill is not necessary as I understood the hon. Member to say, together with clause 15; clause 8 is one of the most important clauses in the Bill which empowers the court to make an order for the grant of a new tenancy—but for that clause the court would have no power to grant any tenancy to a tenant at all in respect of an application made under clause 4.

He referred, Sir, to the duration of the notice under clause 6 and stated the period was too long. I tried to explain the reasons for that during the course of the Second Reading of the Bill, and I am not satisfied that anything he said this afternoon has produced a good enough reason for changing or amending the period which appears in sub-clause (2) of clause 6. I still consider, Sir, that if a tenant had ample time and opportunity to find alternative accommodation for himself it may lead to less disputes between landlords and tenants, less number of applications to the court, and more amicable settlements.

He went on to suggest that under clause 5 the lease should be prepared by the lessor's advocate and the expenses should be paid by the tenant. As I understand it, that is the law, Sir, and I do not consider his argument of such import as to merit any further attention.

My hon. friend, the Nominated Member, Mr. Sagoo, also referred to the question of expense. Well, what we want to ensure by having these leases is that there will be no dispute as to the terms of the leases so that neither side will be able to question as to what really is the arrangement between the parties.

Mr. Sagoo also made a point about the duration of the notice under clause 6 (2) and stated that it might lead to abuse by prolonging litigation and that a tenant might be able to take advantage of the situation. Well, it is for that very reason that we propose to amend clause 12 in order to ensure that however long it may take to obtain a decision in a court case as a result of an application made under clause 4, the new tenancy shall come into operation immediately after

the termination of the old tenancy and the new rent and new terms shall also come into operation from the same date. Therefore, I cannot see that a tenant would have any very great advantage in prolonging litigation.

He wanted the words "or his children" to be included in clause 9 (1) (c) of the Bill. The hon. Minister for Commerce and Industry has already dealt with it. It is not an easy matter to decide on the spot, Sir, because if my memory serves me right we had a similar provision in the Increase of Rent (Restriction) Ordinance, and in that case I think it led to a considerable amount of trouble. I will not refuse to include it at this stage but I will consider it seriously and if it is possible, and if it will be in the interests of this legislation and also the objects that we are trying to achieve by its enactment, I will not hesitate to incorporate the amendment.

I think my hon. friend, Mr. Sagoo, has misread—if I may say so—the effect of section 16. The effect of this is, not to prevent a tenant from entering into an agreement to obtain a sum of money to vacate his premises or anything like that. The object of this clause is that an agreement which precludes a tenant from making an application under this Bill or provides for the termination or surrender of the tenancy in the event of his making such an application shall be void. What we want to ensure, Sir, is that no tenant shall be prevented either by intimidation or other reasons from making an application, but if he does make an application and if he does enter into an agreement with the landlord then we may go back, Sir, to the provisions of clause 2 of sub-clause (4), which provides for the ending of a tenancy of a shop by notice to quit, given by the tenant or by surrender or by forfeiture.

My hon. friend need not have any worries on clause 16. I was very glad, Sir, for the tribute which he has paid to the Landlord and Tenant's Court, and also to members of the Central and Coast Rent Boards. I would like to add my tribute to the members of the other Boards in the Colony also, and to Mr. Sagoo himself because I think he also has been a member of one of these Boards and has given considerable time to it.

[The Asian Minister without Portfolio]

In conclusion, Sir, I would like to adopt the words of my hon. friend, the Nominated Member, Mr. Tyson, and say that "this Bill is an attempt to mete out justice both to landlords and tenants".

Sir, I beg to move.

The question was put and carried.

The Bill was read the Second Time and committed to a Committee of the whole Council to-morrow.

THE SPEAKER (Sir Ferdinand Cavenish-Bentinck): I have put the question as I said I would, provided there was no objection from any Member of Council to this Bill's Second Reading, but I would plead with Ministers especially, that they must remember the procedure of introducing a Bill.

The conception of a Bill takes place outside here, probably as the result of discussion in the Council of Ministers after which the proposed Bill is carefully drafted, and is then printed and has to be published for twenty-one days before it can be debated in this Council. Members of this Council do expect that when a Bill is in due course introduced they know what is going to be discussed because they have had time to read a printed Bill, and it is therefore not in accord with the procedure to produce a lot of new amendments at the time of introducing the published Bill.

Proposals for Amendments, naturally, arise during the course of the Second Reading and then come up for discussion at the Committee stage. This has been a tendency to try to alter the published version of a Bill on its introduction in this country before and this was taken great exception to by my predecessor. Therefore, I would make this appeal to hon. Members that before a Bill is introduced it be carefully considered, carefully drafted and we know on what we are to base our discussions during the Second Reading.

CONSIDERATION OF REPORT

The Crown Proceedings Bill

(Order for Consideration of Report read)

THE MINISTER FOR LEGAL AFFAIRS (Mr. Griffith-Jones): Mr. Speaker, Sir, I beg to move that the Council do agree the Report of the Committee on the Crown Proceedings Bill.

Question proposed.

The question was put and carried.

THE MINISTER FOR LEGAL AFFAIRS (Mr. Griffith-Jones): Mr. Speaker, Sir, I beg to move that the Crown Proceedings Bill be now read the Third Time.

THE PARLIAMENTARY SECRETARY TO THE MINISTER FOR LOCAL GOVERNMENT, HEALTH AND HOUSING (Mr. Jeremiah) seconded.

Question proposed.

The question was put and carried.

The Bill was accordingly read the Third Time and passed.

CONSIDERATION OF REPORT

The Law Reform (Miscellaneous Provisions) Bill

(Order for Consideration of Report read)

THE MINISTER FOR LEGAL AFFAIRS (Mr. Griffith-Jones): Mr. Speaker, Sir, I beg to move that this Bill be recommended as to clause 9 thereof and the purpose of this, Sir, is to incorporate in it a very formal amendment relating to clause 9 which provides for the making of rules of court. The position is, Sir, that the general corpus of rules of court are made by the Rules Committee, established under the Civil Procedure Ordinance, and it would be, I think, of greater practical convenience to all concerned that the rules of court made under this Ordinance should be incorporated in the general corpus of rules of court, which will involve a slight amendment in relation to the rule-making authority provided by clause 9 of the Bill.

I beg to move.

MR. CONROY seconded.

Question proposed.

THE SPEAKER (Sir Ferdinand Cavenish-Bentinck): Does any Member wish to speak?

Question proposed.

The question was put and carried.

THE MINISTER FOR LEGAL AFFAIRS (Mr. Griffith-Jones): Mr. Speaker, Sir, with your permission—and I think for the greater convenience of the Council—could we take in Committee Order No. 11 as well in order to save going into Committee and coming out and then going in again and coming out?

COMMITTEE OF THE WHOLE COUNCIL

Order for Committee read. Mr. Speaker left the Chair.

IN THE COMMITTEE

[Mr. D. W. Conroy, O.B.E., T.D., Q.C. in the Chair]

The Law Reform (Miscellaneous Provisions) Bill

Clause 9

THE MINISTER FOR LEGAL AFFAIRS (Mr. Griffith-Jones): Mr. Chairman, I beg to move that clause 9 be amended by substituting for the words "The Chief Justice may make rules of court" appearing at the beginning of that clause, the words "Any power to make rules of court to provide for any matters relating to the procedure of civil courts shall include power to make rules of court".

I have explained the purpose of this amendment, Sir. It is entirely formal and I accordingly beg to move.

Question proposed.

The question of the amendment was put and carried.

Clause 9, as amended, agreed to.

The Kenya Society for the Blind Bill, 1956

Clauses 1 to 14 agreed to.

Clause 15

THE MINISTER FOR EDUCATION, LABOUR AND LANDS (Mr. Coutts): Mr. Chairman, Sir, I beg to move that clause 15 be amended in the following way; that sub-section (1) of clause 15 be amended by substituting for the word "seek" which appears therein the words "publish appeals to the general public for".

I think in moving the Second Reading yesterday I gave an adequate explanation of the reason for this amendment; it is because we felt at one stage that the original wording was a little restrictive and we wished to widen it so that it would be possible to allow for private charity for the blind.

Mr. Chairman, I beg to move.

Question proposed.

The question was put and carried.

Clause 15, as amended, agreed to.

Title and enacting words agreed to.

THE MINISTER FOR LEGAL AFFAIRS (Mr. Griffith-Jones): Mr. Chairman, I beg to move that the Committee do report back to the Council its consideration of clause 9 of the Law Reform (Miscellaneous Provisions) Bill and its approval thereof with amendment, and its consideration of the Kenya Society for the Blind Bill and its approval thereof, also with amendment.

Question proposed.

The question was put and carried.

Council resumed.

[Mr. Speaker (Sir Ferdinand Cavendish-Bentinck) in the Chair]

REPORT

MR. CONROY: Mr. Speaker, Sir, I beg to report that a Committee of the whole Council has gone through the Law Reform (Miscellaneous Provisions) Bill and made amendments thereto and on that recommittal, the Committee of the whole Council has reconsidered clause 9 and made amendments thereto.

THE MINISTER FOR LEGAL AFFAIRS (Mr. Griffith-Jones): Mr. Speaker, Sir, I beg to move that the Council do agree the Reports of the Committee on the said Bill.

Question proposed.

The question was put and carried.

The Law Reform (Miscellaneous Provisions) Bill

THE MINISTER FOR LEGAL AFFAIRS (Mr. Griffith-Jones): I beg to move that the Law Reform (Miscellaneous Provisions) Bill be now read the Third Time.

THE CHIEF SECRETARY (Mr. Turnbull) seconded.

Question proposed.

The question was put and carried.

The Bill was accordingly read the Third Time and passed.

REPORT

MR. CONROY: Mr. Speaker, Sir, I beg to report that a Committee of the whole Council has gone through the Kenya Society for the Blind Bill, 1956, and directed me to report the same with amendment.

THE CHIEF SECRETARY (Mr. Turnbull) seconded.

Report ordered to be considered tomorrow.

The Fatal Accidents (Amendment) Bill

THE MINISTER FOR LEGAL AFFAIRS (Mr. Griffith-Jones): Mr. Speaker, Sir, I beg to move that the Council do agree the Report of the Committee of the whole Council on the Fatal Accidents (Amendment) Bill.

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey) seconded.

Question proposed.

The question was put and carried.

THE MINISTER FOR LEGAL AFFAIRS (Mr. Griffith-Jones): Mr. Speaker, Sir, I beg to move that the Fatal Accidents (Amendment) Bill be now read the Third Time.

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey) seconded.

Question proposed.

The question was put and carried.

The Bill was accordingly read the Third Time and passed.

REPORT

THE MINISTER FOR LEGAL AFFAIRS (Mr. Griffith-Jones): Mr. Speaker, Sir, I beg to move that Council do agree the Report of the Committee on the Bankruptcy (Amendment) Bill.

THE MINISTER FOR LOCAL GOVERNMENT, HEALTH AND HOUSING, (Mr. Havelock) seconded.

Question proposed.

The question was put and carried.

The Bankruptcy (Amendment) Bill

THE MINISTER FOR LEGAL AFFAIRS (Mr. Griffith-Jones): Mr. Speaker, Sir, I beg to move that the Bankruptcy (Amendment) Bill be now read the Third Time.

MR. CONROY seconded.

Question proposed.

The question was put and carried.

The Bill was accordingly read the Third Time and passed.

COMMITTEE OF SUPPLY

Order for Committee read. Mr. Speaker left the Chair.

IN THE COMMITTEE

[Mr. D. W. Conroy, O.B.E., T.D., Q.C. in the Chair]

MOTION

SUPPLEMENTARY ESTIMATES No. 1 OF 1956/57

(Governor's Consent Signified)

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): Mr. Chairman, before moving to the Resolution and the consideration of the items in detail, I would wish, Sir, as has been customary on occasion, to make a general statement on this Supplementary Estimate and upon the procedure involved.

Sir, the Colony Supplementary Estimate No. 1, 1956/57, provides for a total additional net expenditure of £1,345,951. There will also be additional expenditure of £123,486 which will, however, be met by appropriations-in-aid.

Now, Sir, hon. Members who were in the Council at that time will remember that last year when introducing Supplementary Estimate No. 3 of 1955/56, I said that we, the Government, were anxious to reduce supplementary estimates to a minimum, since we believed in meeting the bulk of the Colony's requirements in the Annual Estimates and that, of course, remains, Sir, the policy of the Government. This year, however, because of circumstances it has been found necessary to depart from this rule mainly because it has become urgently necessary to finance a number of important new services, the details of which were only worked out and in many cases it was only possible to work out after the Annual Estimates had been placed. It has also been necessary to provide money for one or two heavy commitments in respect of which the original provision proved to have been underestimated. There are also, Sir, a considerable number of token provisions which will be financed, either from appropriations-in-aid, or from savings, which are included in the Estimates in order to bring them to the notice of the Council.

Hon. Members who were present in the last Council will also remember, Sir, that it was agreed in June that where the Treasury was satisfied that a new post was necessary or that some other new item of expenditure had to be provided during the interval between the sittings of the Council, they should be authorised to take the necessary action, provided that this caused no excess of

[The Minister for Finance and Development] expenditure in the Vote and that it would be reported to the Legislative Council by means of provision, token or otherwise in the first Supplementary Estimate to be taken thereafter. That, Sir, has been carried out in the present Supplementary Estimates and action on these lines has been taken in respect of some of the items in the Supplementary Estimates which are now before the Council.

In all these cases, however, the expenditure involved is of a minor character when compared with the total provision in any of the particular Votes and in every case is covered by the ambit of the Vote as approved by the Legislative Council. On this occasion all new posts involving a permanent charge on the public purse have been reported in these Supplementary Estimates.

Sir, hon. Members of this Council will remember that for some years past we have been moving steadily towards a flexibility in so far as detail is concerned and a concentration on the broader Votes on the policy and effect of policy on expenditure. This, Sir, has been a policy steadily followed in our financial development and I believe, Sir, that the time has now come when in the interests of flexibility within departments and in order to reduce the mass of detail with which the Council is at present confronted whenever Supplementary Estimates are introduced, we should consider moving right over to the system which obtains in the House of Commons whenever Supplementary Estimates are presented. They are only presented if either the total provision in the Vote is exceeded, or it is desired to introduce a new service, that is a new activity of a department and not merely a new item or post, which is not covered by the existing ambit of the Vote and for which there is therefore no proper legal authority. Or if additional expenditure is involved, which, while it will not cause an excess on the Vote as a whole, will so change the pattern of expenditure by sub-heads covered by the Annual Estimates as to bring about what is in effect a change of policy. Within these limits, Sir, it is the practice of the House of Commons to leave adjustment to the discretion of the Government and Minister

and to rely on the Treasury to exercise the necessary degree of control. It is, of course, always open to any Member, as it always must be open to any Member, to raise the matter if he thinks this discretion has been abused by the Executive, and there is a further safeguard in the scrutiny of expenditure by the Controller and Auditor-General and subsequently by the Public Accounts Committee. The procedure—I emphasise that this is the objective to which this Council has been moving ever since the clash of, I think, 1951, towards the saving of consideration of a mass of petty detail brought before it and bringing, therefore, with it an ability to concentrate more effectively on the departures from the approved programme of expenditure which really matter.

As I have said, Sir, I think that the time has now come for us in Kenya to consider moving over to this basis in our control of expenditure and if the Council agrees, I propose that we should do so. I will, of course, give an assurance that this will not lead to any relaxation in the scrutiny which is given to any proposals for the creation of new posts or of any new other charges and I believe the Council will find that by agreeing to this more flexible procedure, real control, which is what really matters, will be strengthened and we will concentrate more on that matter which really affects expenditure, the decision of policy.

Sir, I beg to move:

THAT a sum not exceeding £1,296,590 be granted to the Governor, on account, for or towards defraying the charges of Supplementary Estimates of Expenditure No. 1 of 1956/57, Part I.

MR. HARRIS: Mr. Chairman, will you put us right on a point of procedure? As the Minister has made a statement of financial policy, what opportunity do we have to debate it? Can we debate now on this Motion, or do we go straight into the detail of the Supplementary Estimates?

THE CHAIRMAN (Mr. Conroy): I have given some consideration to this problem and it seemed to me that there are two courses open to the Committee. On the one hand, we could have a general debate now on the policy to be adopted

[The Chairman] and that seemed to have certain disadvantages to me; on the other hand, in the debate on the specific items in the Supplementary Estimates, it would clearly be open to any Member to raise the question of policy involved in the Minister for Finance's Motion. I am in the hands of the Committee in regard to this, but it did seem to me that the second course was the more practicable and the one which would lead to a clearer decision.

MR. HARRIS: On this point, what worries me is this, Sir, that the Minister in the statement he has just made, quoted a similar statement which he made a year ago, which in fact was not debated. We were just told that this is what the Minister intended and we did not have an opportunity of expressing an opinion upon it at that time, and it does seem to me that in default of a debate, the Minister will now have the right to say that he told us what his policy is going to be and we shall have no opportunity of debating that policy.

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): I respectfully submit that the hon. Member for Nairobi South has, shall I say, slightly misrepresented the position that occurred last year. If he will read my speech he will see that I did not in fact, with all due respect to the hon. Member, "tell" the Council. I invited the Council then to express an opinion and exactly the same procedure, Sir, was open at that stage and was, indeed, discussed with the Chairman of the Committee of that day. At that particular time, Sir, either the hon. Member for Nairobi South was not present, or he has now realised he wants to say something on this particular matter and will not accept it without a debate, but the same procedure was open at that time and I suggest, Sir, with you, that we should follow the second basis of discussion.

MR. COOKE: I do not often support my hon. friend, the Minister for Finance, but I think we set by implication last year at any rate the policy, which is repeated again to-day. I personally think we should go down to detail now, straightaway.

LT.-COL. GHERSIE: It is not often that I disagree with my hon. friend, the Mem-

ber for the Coast, on matters of this nature, but in this instance the Minister has anyhow suggested a complete change of policy involving a principle. Well, Sir, as I understood it—the Minister shakes his head, if I am wrong, I will withdraw—but if it is suggested that the Minister may, within his Ministry alter the actual allocation of funds to any specific Vote, at the discretion of the Minister, then I submit, Sir, it is wrong. I would just like to mention—he made a reference to the House of Commons' procedure, it should be remembered, and it will be borne out when we examine the Development Estimates, there is so much approved expenditure in this Colony, Sir, which is unexpended at the end of a given year and then revoted. It is always possible in most Ministries to find large sums of money which have not, in fact, been expended at the end of any given year.

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): Why?

LT.-COL. GHERSIE: Well, we have it in the Development Estimates. But I suggest it would be quite wrong for a Minister to take advantage of the position and utilise that money for some other purpose, because we know how often one Vote may be over-expended and another under-expended and an adjustment takes place which is described in ordinary parlance as a "wangle".

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): Mr. Chairman, I am surprised to find that the hon. Member for Nairobi North also slightly misunderstands the procedure. If he will look at what I have said, I have not proposed any change of principle and policy and procedure. What I have said is that we should now develop in the Supplementary Estimates exactly the same procedure that the Council has agreed to with regard to the Annual Estimates. That is really all I have said. My reference has been to the Supplementary Estimates. As for the policy which the hon. Member has been talking about, it has been indeed followed with regard to the Annual Estimates. I would take the hon. Member's mind back to that clash of some years ago when it was decided and welcomed from the other

[The Minister for Finance and Development]

side of the Council that the broad Vote should be accepted as one which could be challenged, rather than we should get into the horrible mess that we did through the niggling detail of having to remove one officer rather than remove a sum from the total Vote. So I cannot agree with the hon. Member that there is any question of "wangle".

I will deal with the development point, Sir, when it comes to the Development Estimates. If he will study the procedure, I think the hon. Member, who is Chairman of the Public Accounts Committee, will agree that the development of financial control and financial procedure which has taken place, with regard to the Estimates in general, has proved most effective and, indeed, Sir, I could almost quote from his own Public Accounts Committee Report to show how they have supported it. If the Council does not want to move that way with regard to the Supplementary Estimates, I have said, if the Council disagrees, I will not push it. I would find it rather difficult, Sir, to find that the Committee would take an attitude against a policy and procedure with regard to Supplementary Estimates which it has found of benefit in so far as the Annual Estimates are concerned.

MR. HARRIS: Whilst I agree with your suggestion, Sir, if what the Minister said in his statement meant that we are going to continue as we have done hitherto, or continue with the same policy with no change, then, Sir, he took an awfully long time in saying it!

THE CHAIRMAN (Mr. Conroy): Order, order—I think it would be convenient if I reminded the Committee what we are dealing with at the moment. We are dealing with the point of order raised by the hon. Member for Nairobi South as to the manner in which these Estimates which are before us should be debated. He put forward two proposals, one was that we should debate the general issue first, the second was that we should go through the items, item by item, and debate any general issue that so arises. I must rule that the question before the Committee (which I must remind you has not been proposed), is that a sum not exceeding £1,296,590 be granted to

the Governor in accordance with the Notice of Motion set out in the Order Paper. That is the only thing before the Committee and we shall have to go through that Motion item by item in accordance with the Supplementary Estimates before us; any questions of policy or general matters which arise on each item will have to be dealt with as we reach them.

Question proposed.

Serial numbers 1, 2, 2 (a) and 3 agreed to.

Serial No. 4

SIR CHARLES MARKHAM: Mr. Chairman, it is very hard to know where to raise this item under H—Information, Sir. Miscellaneous, Expenses of the Royal Visit. It does appear with monotonous regularity throughout these Supplementary Estimates, with each Government Department spending a little more money as it goes through. Sir, could I have the right to reserve some general remarks on that when we come to the final one of the Government departments, expenditure on the Royal Visit.

THE CHAIRMAN (Mr. Conroy): Provided the remarks are relevant to the matter before the Committee you have no need to reserve the right to speak, Sir Charles.

SIR CHARLES MARKHAM: Thank you, Sir. Now could I raise again another matter, Sir. Oh, it is No. 5, I beg your pardon, Sir.

Serial No. 4 agreed to.

Serial No. 5

SIR CHARLES MARKHAM: Sir, Serial No. 5, could I ask, Sir, what this *ex gratia* payment was. It says in the note: "The contribution towards the legal expenses of the defence of an officer in the Department of Information". What was he charged with and why did the Government have to pay for his defence?

THE CHIEF SECRETARY (Mr. Turnbull): Sir, I would emphasise that it is an *ex gratia* payment, it is not compensation. As my hon. and learned friend, the Minister for Legal Affairs pointed out the other day, compensation is not paid unless there has been a miscarriage of justice which has not been corrected by the ordinary processes of law. In this case, the officer concerned was not fined

[The Chief Secretary]

or sent to prison, and there is no question of his being compensated. But owing to the case in which he was involved and his acquittal, he was compelled to pay a good deal more than he could afford out of his own pocket. He was charged with misappropriating Government property and the case was really rather an unusual one. He handled Government stores in such a way as to give the impression that he was misappropriating them. In fact he was not. Although his methods were rather unorthodox and he was acting contrary to the instructions which govern matters of this sort and although he made a serious error from the disciplinary point of view, he was found not to have committed any offence under criminal law. What in fact happened was this. This officer was a very zealous fellow and being at Embu, where there was a very great demand for batteries, and he having plenty in his store, he sold these Government batteries to members of the public and to other Government servants at Embu who were in dire need of batteries. He then carefully put the money away and purchased new batteries when he had the opportunity. From the ordinary, rational point of view that is very laudible service, but it is not part of the duties of a Government officer to sell Government stores and then replace them.

This matter came to the notice of his superior officer, who at once brought it to the attention of the head of his department. On the face of things, it looked rather serious and, therefore, the head of his department brought the matter to the police. The police started an investigation. The matter was then referred to the Crown law officers, who recommended that a prosecution should be instituted. This was done and the officer was acquitted. The magistrate expressed some surprise that the case had ever been brought to court.

As hon. Members will recognise, the officer concerned felt extremely apprehensive about this matter and he decided that he should be defended by an advocate. This is an extremely costly business, and the more skilled the advocate in matters of this sort, the more he is going to charge. The unfortunate officer was finally compelled to pay a sum of £286 for his defence; he was

put to the expenditure of a further £275, I think, for incidental expenses resulting from his having to move from his station to Nairobi; and various other matters.

On consideration the Government, that is to say, myself, my hon. and learned friend the Minister for Legal Affairs and my hon. friend the Minister for Finance, decided that it was proper that he should be compensated to the extent of the cost of an average, or should I say "Mark II", lawyer. Instead of the cost of a "Mark I" lawyer, he received the equivalent of the cost of a "Mark II" lawyer, which worked out at £175.

MR. COOKE: It sounds to me, Sir, that I should have thought the Government should have paid the whole amount, or not at all. To pay just a proportion of the amount that this officer will have to pay himself does not seem to me to be really pure justice. I am wondering whether the Crown counsel has had any disciplinary action taken against him for having initiated proceedings, or having advised the proceedings being taken.

THE CHIEF SECRETARY (Mr. Turnbull): It is arguable that an investigation should have been ordered by the Department of Information, it is also arguable that the Criminal Investigation Department were over-zealous, and I suppose it is arguable that the Crown counsel could have studied the papers and referred them back. As it was, none of these things happened. These occurrences are very rare, and in accordance with Government practice of bolting the stable after the horse has been stolen we have put out a circular to cover such a contingency if it ever arises again.

Serial Nos. 5 and 6 agreed to.

Serial Nos. 7 and 8

MR. HARRIS: Sir, this is a case, I think, which is not covered by the remarks of the Minister for Finance in proposing this Motion. We have always agreed, I think, that the Supplementary Estimates should be those matters for which the department concerned or the Treasury could not reasonably anticipate the expenditure during the financial year.

But surely, Sir, under Serial No. 7, if there are going to be so many members

(Mr. Harris) of the Registrar-General's Department on leave in one year, or I think two years, as to require a relief, and as it is necessary for a civil servant to work for four years before earning any leave, surely, Sir, this leave should have been anticipated at the time of the Annual Estimates last year.

In the case of the Societies Officers under Serial No. 8, I should have thought the same remarks would have applied. That "there are now over 1,200 registered societies and it is expected that a further 200 to 300 applications will be made in the near future" is probably correct, but I would have thought that that increase could have been anticipated at the time when the Estimates were compiled last year, and I would have thought, Sir, that it was an improper use of the Supplementary Estimate system to have included these two items.

Mrs. SHAW: Mr. Chairman, I should like to speak on Serial No. 8. If it is an actual fact, as it says in the Memorandum, that societies have increased so much and are expected to increase so much more, I would have thought possibly the new post could have been covered by an increase in fees.

THE MINISTER FOR LEGAL AFFAIRS (Mr. Griffith-Jones): To deal with that last point—of course, fees to a certain extent are appropriated-in-aid in respect of the expenditure of this department, but dealing with the general question of the creation of these additional posts, hon. Members will realise that the Registrar-General's Department is one in which every time an additional function of registration is created by legislation passed in this Council, that function is placed on the shoulders of the Registrar-General. Now, for instance, in regard to societies he has had a constantly expanding task. Not only has he to deal with new registrations and new applications for registrations or for exemption, but as the number of societies has increased, so has his task also increased in regard to the control and supervision of societies, and that is one of the functions of the Registrar-General's Department in regard to societies, which I personally

believe—and I think the Council will agree with me—is extremely important—that there should be adequate control and supervision. That is the purpose of the legislation and it is a purpose which must be fulfilled.

Well, now, it is not always possible to foresee very much in advance the extent of increase of work, and ordinarily one hopes that the slack can be taken up by the existing staff. But in regard to societies, as hon. Members will appreciate, the last year—and it is about a year since the Estimates for the present year were drawn up—in the last year there has been a considerable increase, and I confess a greater one than was foreseen, in the activities of the Societies Section of the Registrar-General's Department, and that, in a sense, applies to both these posts. As I say, it is a constantly expanding department. One cannot always foresee and measure the pace of expansion, because it depends so much on the extent of the records, the registration, the supervision and the control which is required of that department, and that is why these two posts are presented for the approval of the Committee by way of Supplementary Estimate and were not in the Annual Estimate for the current year.

Mr. HARRIS: I think the hon. Minister will agree that the leave mentioned in the Memorandum attached to Serial No. 7 at least should have been anticipated, quite apart from any additional work.

THE MINISTER FOR LEGAL AFFAIRS (Mr. Griffith-Jones): The hon. gentleman has completely missed the point of my very lucid remarks. Where the task of the department increases, then the cadre of staff left after casualties for leave is the less able to cope with the task which remains on the shoulders of the department. It is not a question—with the greatest respect to him—of not foreseeing the incidence of leave in the department. It is a question of the increase in the work and responsibilities of the department to a point at which, taking into account the normal casualties for leave, the staff is taxed beyond its capacity. Leave is a factor, but it is a factor which is governed by the amount of work which remains for the officers still on duty to cope with.

Mr. HARRIS: I would like to thank the Minister for that very lucid explanation. I hope, Sir, that he will second one of his drafting officers to the Treasury to help them draw up their Memoranda in future for Supplementary Estimates.

Serial Nos. 6, 7, 8, 9 and 10 agreed to.

Serial No. 11

Mr. COOKE: No. 11, Sir. I think these barracks referred to are the King's African Rifles' Barracks at Nanyuki. I notice you ask for £200,000, but according to the other Schedule, if I can refer to that at the moment, there is only £80,000 required during this financial year. Why, then, did you ask for £200,000?

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): Mr. Chairman, my hon. friend for the Coast must have noticed that it was a race between himself and myself as to who got up first. The reason for this is that the £80,000 which is referred to is all that will actually be spent in the Development Estimates for this year, but to complete this particular portion of the Lugard Barracks at Nanyuki will need, at this stage, some £200,000. The Government felt that it was most urgent that it should provide this accommodation for our King's African Rifles, who have all served us so extremely well during the present Emergency. For that reason, this special contribution of £200,000 is being made from the Colony Estimates. As I have said, only £80,000 will be spent this year, but it is essential to put the whole lot into the Development Fund for this reason. I had to discuss with Her Majesty's Government and obtain agreement to moving this £200,000 from last year's surplus. They gave me their agreement that it should be moved across for this particular and specific purpose and, therefore, we have moved it across in one sum, which will remove any question of argument during the financial discussions of next year.

Mr. COOKE: Mr. Chairman, in view of the applause which I have heard, I want to make it clear that I am not querying the erection of these barracks, but these things are very liable to get misreported in papers and so on, and I want to make it perfectly clear that I am not in any way querying it. As an

ex-member of the King's African Rifles, I have a great admiration for them.

There is just one point, I must be very stupid, but I do not understand where this money is coming from. You say it is coming from current revenue, but as current revenue has been hypothecated in the Budget, and, indeed, we are working on a deficit Budget, where do you hope to get the money from—the actual sum?

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): Mr. Chairman, first of all I will say we all recognise that my hon. friend, the Member for the Coast, is not criticising the use of the money. That, I think, is perfectly clear to both sides of the Council, Sir. What I did try to make clear, Sir, was that in the financial year ending the 30th of June, 1956, we had reckoned upon drawing a certain amount of money as a grant from Her Majesty's Government. Because of the improvement in our own revenue above the Estimates, we were left with an unexpected surplus. Now, that would normally have gone to reduce the amount of money which Her Majesty's Government would contribute towards the Colony this financial year, 1956/57, but, as a result of discussion and putting forward the case for the expenditure of this £200,000, I obtained the agreement of Her Majesty's Government that this £200,000 from our surplus should be devoted to this purpose.

The same remark must apply to the transfer to the Development Fund for Nyanza Province.

In other words, Sir, it came from the unexpectedly large surplus which we had, and agreement from Her Majesty's Government that this surplus, to this extent, should not be reckoned in connection with any aid that we might receive this year.

Mr. COOKE: I was merely asking a general question, because it occurs throughout these Estimates, that you propose to take the current revenue to pay for Development Funds. I will come to it later on in another item. I do not see where the money is forthcoming.

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): Well, Sir, I thought I had tried to make it clear in

[The Minister for Finance and Development] regard to this point, and I shall be prepared to deal, I hope, with the hon. Member on any point that arises.

Serial No. 11 agreed to.

Serial No. 12.

SIR CHARLES MARKHAM: Mr. Chairman, is it perhaps a misprint at the bottom of the Memorandum, where it says "£4,336 relates to regrading in the Customs, etc." Should that not be £14,626? That is the first point.

The second point—I see once again, Sir, the annual increase for the East Africa Office in London. This occurred last year in the Supplementary Estimates—another increase. The point made by the hon. Member for Nairobi South about this not being made at the time of the Estimates debate is, surely, very valid in this particular instance. Would he have details as to what this extra amount of money is required for? It says "Personal emoluments of the staff of the East Africa Office in London and resultant increases in common services". Can we have a little more detail on that one, Sir?

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): First of all, I would say on the question of the £4,336, which he seemed—I just could not make out how he made it any other figure—but Head 28, Customs and Excise Services—the regrading amounted to £4,336, which is, I think, the amount mentioned in the Memorandum note. I do not quite know what he is talking about when he says this should be 40.

SIR CHARLES MARKHAM: "14, 28 does say £14,626.

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): Well, Sir, I think we go through, do we not, quite a number of these, but the question related specifically to the Customs and Excise Department only. If the hon. Member will look at the notes, he will see that they cover a period of years. He must not take this particular sentence to relate to that particular item alone. I think that the point, Sir, on that one—there has been a question of consolidation and there are other items which are contained in that particular Vote. I am not quite certain what the hon. Member said later—I think he was

raising the question of the East Africa Office in London.

THE CHAIRMAN (Mr. Conroy): Order, order. The time has now come for the termination of business, and in accordance with Standing Order No. 10, I will leave the Chair, report progress and ask leave to sit again.

Council resumed.

[Mr. Speaker (Sir Ferdinand Cavendish-Bentinck) in the Chair]

REPORT

MR. CONROY: Mr. Speaker, I beg to report that the Committee of Supply is considering the Motions on the Order Paper, reports progress and asks leave to sit again.

Question proposed.

The question was put and carried.

ADJOURNMENT

THE SPEAKER (Sir Ferdinand Cavendish-Bentinck): That completes the business on the Order Paper. Council will stand adjourned until 2.30 p.m. to-morrow, Thursday, 29th November.

Council rose at six minutes past six o'clock.

Thursday, 29th November, 1956

The Council met at thirty minutes past two o'clock.

[Mr. Speaker (Sir Ferdinand Cavendish-Bentinck) in the Chair]

PRAYERS

MOTION

ACTION OF H.M. GOVERNMENT IN MIDDLE EAST

SIR CHARLES MARKHAM: Mr. Speaker, Sir, I beg to move:

THAT having regard for the strategic and economic importance of the Suez Canal to this Colony, this Council notes with satisfaction the recent action in the Middle East by Her Majesty's Government.

I should explain, Sir, to the Council, that there is no intention behind the wording of this Motion for any ulterior motive or any embarrassment to any section of this country. I would like to stress, Sir, that this is so, particularly in view of what has been stated elsewhere. It was suggested to me, Sir, that foreign affairs were outside the scope of this Council and that the foreign policy of Her Majesty's Government was also outside the scope of this Council's business. But, Sir, in view of the remarks made by the Colonial Secretary—the Secretary of State for the Colonies, Mr. Lennox-Boyd—in the House of Commons on November 13th, which was a Tuesday, when he said, "Kenya, on the edge of the Middle East whirlpool was deeply involved in all that went on in the Suez Canal and elsewhere". I believe, Sir, that Kenya, as a part of the Commonwealth, is and was deeply involved.

Sir, I have no wish to make a long speech this afternoon. I believe and I hope that this Motion is purely formal, but I must stress again, Sir, that we are part of the Commonwealth and if the actions of Her Majesty's Government in the Middle East have averted a world war, then all of us, Sir, should be grateful, and with those simple words, Sir, I beg to move the Motion.

MR. HARRIS seconded.

Question proposed.

THE CHIEF SECRETARY (Mr. Turnbull): Mr. Speaker, Sir, the Government accepts this Motion.

Kenya is a Crown Colony, and as has been observed by the hon. Member, and as I think most hon. Members know, a colonial dependency has no competence in the field of external policy. That is solely a matter for Her Majesty's Government in the United Kingdom. Constitutionally the United Kingdom and the Colonies are in many respects one body and the Government welcomes this opportunity of expressing its pride in that unity and of confirming its complete faith in its parent Government.

THE SPEAKER (Sir Ferdinand Cavendish-Bentinck): If no other hon. Member wishes to speak—

MR. NAZARETH: Mr. Speaker, Sir, I regret that I am compelled to oppose the Motion.

AN HON. MEMBER: Speak up.

MR. NAZARETH: I regret that I am compelled to oppose the Motion.

AN HON. MEMBER: Shame.

MR. NAZARETH: It is not, I feel, purely a formal Motion. It expresses an opinion in regard to the recent action taken in the Middle East. I should have much preferred that the hon. Member had not brought this Motion before the Council at all.

AN HON. MEMBER: Why?

MR. NAZARETH: Because there is no necessity for this Council to express any opinion in regard to the action taken by Her Majesty's Government. But if the Council chooses to embark on the subject then, necessarily, the Members of the Council who do not view the action with satisfaction are compelled, however, much they might desire to avoid embarrassing Her Majesty's Government, to express their opinion.

We know perfectly well that that action has not had either unanimous support or even the support of, one might say, the great bulk of the British people. It has had the support of the majority, according to recent Gallup Poll figures, but there is a very large proportion of the British people who are opposed to the action that was taken.

I do not want to enter upon a large field, but I might mention that such papers as the *Manchester Guardian*;

[Mr. Nazareth] which is by no means tied to the Opposition, have called the action, or rather the ultimatum which was delivered, "An act of folly without justification, in any terms except brief expediency". The *News Chronicle*, again a paper not tied to the Opposition, has said that, "It has resulted in a situation, a cauldron, from which it will take us many years to extricate ourselves". From that large point of view the action is not viewed with satisfaction in many responsible quarters in Britain. And from our narrow point of view—

MRS. SHAW: Mr. Speaker, I cannot hear anything the hon. Member says, if he is going to speak he had better speak up, please.

MR. NAZARETH: And from our narrow point of view, namely that of the strategic and economic importance of the Suez Canal, I cannot view this action with satisfaction because I feel that the consequences of that action are bound to be prejudicial to Kenya. It has resulted in the closing of the Suez Canal and that is bound to create great economic difficulties for us, also political difficulties for us, with which we will not be concerned on this Motion.

I should have been anxious that this Motion should have aroused as little controversy as possible, but entertaining the opinion that I do, which I share with a great number of the British people, although it may not be the majority, but entertaining the opinion that I do, I very much regret that I am compelled to oppose the Motion.

LT.-COL. GIERSE: Mr. Speaker, Sir, I had no intention of intervening in this debate at all but apropos of what the last speaker has said, we realise that there are a lot of ill-informed people in this world and that some people in the Commonwealth are no exception, and I suggest, Sir, this is merely a Motion setting out our complete satisfaction in the action taken by, and our loyalty to, the British Imperial Parliament, Sir, I have very much pleasure in supporting this Motion.

DR. HASSAN: Sir, let me make it perfectly clear that we consider ourselves as a Crown Colony. We have complete faith in the British Government and the Crown that we are under. The present action of

the British Government did not receive the blessing of the British people.

SIR CHARLES MARKHAM: Question.

DR. HASSAN: It never received the blessings of our allies and it never received the blessings of the Commonwealth, therefore I will not vote in favour of it.

MR. MANGAT: Mr. Speaker, Sir, this is a Motion which, in my opinion, should be accepted by the Council with acclamation and approval from all quarters should be spontaneous. I am glad that the Government has accepted the Motion, but I am sorry the hon. Mover started the Motion with an apology. I do not see any reason why the hon. Member for Nairobi North should join in that apology. There is no apology for it. It is a straightforward Motion expressing the sentiments which we entertain, and if we have any reservations on those sentiments, then they would turn them to mere hypocrisy. There is no proviso to our approval of this Motion. The hon. Mover started by saying that he had no intention of hurting the feelings of any community in this country. I say, Sir, that neither the Government nor the population of this country should try to humour the whims of any section of the public of this country, or of the neighbouring territories, simply because they have religious ties with a power which is involved in this conflict. The Government should make it quite plain that nobody is allowed to have either religious or sentimental attachments with any power which is opposing Great Britain, and it should also make it plain that it expects loyalty towards itself and towards the Government of Great Britain, in concept and in deed from every British subject. If the Government does not do that, I am sorry, the interpretation put on this omission of the Government would certainly not be happy for those who entertain loyal sentiments towards the British Crown.

I am not competent, nor am I trying to go into the merits of the action of the Government of Great Britain in this Suez area, although, if I were to give an independent judgment, I would hold that the action was wholly justifiable.

We have to approach this question from another angle, and perhaps the only angle which is morally permissible to us.

[Mr. Mangat]

I think it was in last April when the Minister for Legal Affairs in another context said this, I quote: "As a Colony of the United Kingdom, we look to the United Kingdom as our parent country and we are entitled to do so, and we propose to continue to do so". In those circumstances, we have no alternative, and I say, Sir, that even if we had an alternative we should not avail ourselves of that alternative, except to endorse the decision of the Government of Great Britain and to give our moral support to those who have taken that decision. The crisis in the Suez area is still acute. The fire smoulders, responsive to the slightest fanning, to the merest zephyr of air and we, Sir cannot simply sit here like rabbits fondling our harmless faces. There must be something happening in the secret and the sacred conclave of Ministers, but, of course, mere members are not supposed to know that. At the moment there might be a consolation in the words of Lord Byron, in his *Don Juan*, when he says, "So thank your stars that matters are no worse. And read your Bible, Sir, and mend your purse."

I think, Sir, the hon. Mover deserves the thanks of the Council for his putting up this Motion and I wholeheartedly support it, and when I say that, I am confident that I am representing the views of a greater number of voters than all my three colleagues on this side of the Council from my community, combined, command.

MR. CROSSKILL: Mr. Speaker, two of my colleagues on this side of the Council have said in opposing this Motion that they believe the action taken by Great Britain was without justification that it was a question of expediency. They have said that the action did not receive the blessing of the majority of people in Great Britain.

Mr. Speaker, Sir, I am unimpressed by those statements; I am unimpressed by those statements, Mr. Speaker, because this is a question of international agreements which were not kept, not kept honestly. International treaties, if we are to have peace, must be observed and observed honestly and in a civilised manner. There must be integrity in international commerce.

Now, Sir, if a nation disagrees with the terms of any treaty and feels that they are outmoded, that they are not suitable for present conditions, there are manners in which these treaties may be amended and altered. This should be by proper negotiations and not by unilateral abrogation in the manner in which these treaties have been abrogated recently. If these treaties are abrogated in an uncivilised manner then steps must be taken which are not in accordance with the civilised steps which we should prefer to take.

Now, Sir, in this case private property was seized and the ships of one nation were refused passage through the Suez Canal. There was no question of an attack on any sovereignty, there was no question of any attack in the nature of a crusade. But, Sir, there was no alternative, and I would ask my hon. friend on this side of Council to consider that point; what alternative was there before the United Kingdom Government? The United Nations Organisation, Sir, has been a broken reed. For instance, the problem of Palestine has been discussed 200 times before the Security Council. It has proved itself, Sir, ineffective and I believe that the action that the United Kingdom Government have now taken may be the means of making that Organisation more effective than it ever has been before. I repeat, Sir, that there was no attack on any sovereignty, there was no other intent but to see that international obligations were observed and observed honestly.

Mr. Speaker, I beg to support.

THE SPEAKER: (Sir Ferdinand Cavenish-Bentlick): If no other hon. Member wishes to speak, I will ask the hon. Mover to reply.

SIR CHARLES MARKHAM: Mr. Speaker, I must admit that to-day's rather short debate has proved to me that you should not waste time before Council meets trying to avoid any acrimonious debate in this Council, Sir, I could have spoken for half an hour on the subject of this Motion, but I deliberately discussed the matter with the hon. Member for the Western Area and also the hon. Member for the Eastern Area, and to avoid them any embarrassment, Sir, I refrained from raising any controversial subject in my speech.

THE SPEAKER (Sir Ferdinand Cavendish-Bentinck): I do not think you should refer to private conversations which took place outside this Chamber.

SIR CHARLES MARKHAM: I am sorry, Sir, nevertheless I was surprised that the hon. Member for the Western Area should have opposed the Motion in the words that he did.

Sir, if I may finish by quoting the words used at a time of crisis in 1940, paraphrased to make it more apt for Kenya. These were the words which were thrown across the floor of the House of Commons: "Speak for England". Today, Sir, I suggest we make them "Speak for Kenya".

Sir, I beg to move.

The question was put and carried.

AN HON. MEMBER: Divide!

THE SPEAKER (Sir Ferdinand Cavendish-Bentinck): I do not think it is necessary to divide. If anyone wishes to question my decision that the ayes have it, they must stand up.

As no one stands up, the ayes have it, and so they have.

COMMITTEE OF SUPPLY

Order for Committee read. Mr. Speaker left the Chair.

IN THE COMMITTEE

(D. W. Conroy, Esq., O.B.E., T.D., Q.C., in the Chair)

MOTION

SUPPLEMENTARY ESTIMATES No. 1 OF 1956/1957 IN PART

(Resumption of Consideration adjourned on 28th November, 1956)

Head 13—(Continued)

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): Mr. Chairman, before proceeding, Sir, with the matter with which we were dealing when the Council adjourned I would say, Sir, that in accordance with Standing Order No. 128 I signify the consent of His Excellency the Governor to the introduction of the financial Motions on the Order Paper.

When the Committee adjourned last night, Sir, my hon. friend, the Member for Ukamba, had raised with me the

question of the East Africa Office in London. The figure of £1,016 which he queried is Kenya's share of the increase in salaries of staff for 1956/57, including a period from the 1st April to 30th June, 1956, but not, of course, including the salaries of the East Africa High Commission. I think, Sir, that I answered the other part of his question and I trust we can now proceed. I understand that the hon. Member wishes to deal with a further part of the Estimates.

LT.-COL. GHERSIE: Arising out of what the Minister for Finance has just said, Sir, he referred to the proportion of Kenya's liability in this connection. Would he give us the actual cost of these increases—those of the East Africa Office. Is it a third we are paying? This is in order to see to what extent the Office is increasing its expenditure.

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): I am afraid that off-hand I could not give the hon. Member the information he asks for and I would not like to guess at it. I take it he is applying to Serial 12.

LT.-COL. GHERSIE: It is in respect of the Personal Emoluments to the staff of the East Africa Office—the sum of £1,016.

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): I could not say to him that it is split in every regard one third, one third, one third. I would say that that is the general principle, but there are some differences. If the hon. Member will give me time I will produce the information for him.

SIR CHARLES MARKHAM: I must apologise, Mr. Chairman, to the Minister for Finance for rather playing out time last night to avoid this item coming up until to-day.

Sir, the note on the memorandum concerning this item again surely proves, Sir, that when we debated the Estimates this year this item could well have been known, and for another increase of £130,000 allows the opportunity to-day, Mr. Chairman, of debating the principle of expense of these overseas passages.

Sir, for a Colony of this size to spend the sum of £490,000 a year on passages seems to me quite fantastic, and I wonder, Sir, whether we can afford it—

[Sir Charles Markham] especially in view of the fact that we are being told continually from various people on the other side of this Council that we must cut our cloth according to our means.

Could I ask the Minister for Finance—or whoever handles this particular item—I am not sure whether or not it is the Chief Secretary—how many passages, or the proportion of make-up of these extra passages which are concerned with air travel and how many are sea passages. Perhaps he might like to tell the Council as well at the same time, what allowances for passages a Government servant gets because I do not believe a lot of people know; and, again, Sir, a third question is why we do not make use of some of the cheaper airlines which run to England rather than these extravagant passages back to England where the leave only starts when they reach England?

If necessary, I shall have to move an amendment on this but, I believe, we should get a lucid reply to give us the details before we pass this extra vote, this £130,000.

MR. MACKENZIE: Mr. Chairman, I am afraid it is not possible to give off-hand the details of the split between air and sea passages for which my hon. friend has just asked. They could be obtained, in respect. We could obtain a split in respect of last year and for as much of this year as is covered by requisitions or cash payments, but it would involve a good deal of research and although I am prepared to obtain that information for my hon. friend, I would like to ask his indulgence, in view of the considerable amount of work that it would involve, not to have an immediate answer.

As regards the question of allowing passages to be taken by some of the less expensive airlines, I think I should explain—for the benefit of the Council—that the East African Governments have a very advantageous contract with B.O.A.C. and that the cost to the Government of the passages which are taken by civil servants is considerably below the normal published price. I do not think it would be of any financial advantage to move away from our present arrangements.

With regard to the entitlement, the position is that all civil servants are

entitled to three free passages during each tour for themselves and their families. The grading of these passages depends, of course, on the grading of the persons concerned. That is in accordance with the practice that used to obtain when sea passages were the normal way of travelling.

As regards the general position, I agree that it would have been very much better if we had had the full estimate at the time when the Annual Estimates were placed before the Council. I have said before that I believe that we should do our best to avoid Supplementary Estimates as far as possible—and that certainly is the Government's view—but, unfortunately, in this particular case the information which showed by how much last year's provision was going to be overspent did not come forward until well after the Estimates were already before the Council. The reason for that is that the peak period for passages is during the first six months of the year and, in particular, the second quarter when there are lots of people going on leave and there is a great increase in expenditure on passages at that time.

All I can say is that we do hope that this very fast expansion in the Service, which has been taking place during the last three or four years, is coming to an end and times are more normal, that it will be possible to estimate the cost of these passages (which are essential, I should say, if we are going to get the civil servants we need). We hope then that it will be possible to make a very much more accurate estimate.

SIR CHARLES MARKHAM: I would like to thank the Secretary to the Treasury for that explanation. I shall spare him the extra work required on my first request about the breakdown.

Sir, could I perhaps ask him a further two questions. Are the civil servants entitled to opt whether they go by air or by sea, or is it that the choice is entirely with the Government? Secondly, if he takes last year's expenditure in which the actual Estimates come to £430,000 there is another increase even this year of £60,000 for passages. I did not realise they had increased so much the establishments in the Estimates this year, too.

THE CHIEF SECRETARY (Mr. Turnbull): The answer is that a civil servant would normally travel by sea unless it was in the public interest that he should travel by air. He would apply to be permitted to travel by air if he wished to do so and it would be for Government to decide whether it was in the public interest.

In regard to the hon. Member's second question, I completely failed to hear it.

SIR CHARLES MARKHAM: I am very glad that my voice has softened greatly. Usually I am told that I roar like a bull.

I asked the Secretary to the Treasury to answer the question to which the Chief Secretary has got up to reply that last year the actual expenditure was £430,000 and this year with the Supplementary Estimates it is an increase of £60,000. That is the reason I am querying it.

THE CHIEF SECRETARY (Mr. Turnbull): Let me assure the hon. Member that he roars as gently as any sucking dove.

As to the present size of the figures I will ask my hon. friend, the Minister for Finance, to give the hon. Member the information for which he asks.

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): Mr. Chairman, if I understood the hon. Member's question, it was, why was it necessary to bring in the request for the extra £60,000 this year? I thought my hon. friend, the Secretary to the Treasury, pointed out that the Estimates for 1956/57, to which this is supplementary, were drawn up in February—January and February—when we had to go to the United Kingdom to discuss financial assistance. That meant that the Estimates for 1956/57 were based upon what appeared to be the figure required during 1955/56. When the figure for 1955/56 proved to be inadequate, for the reasons stated by my hon. friend, the Secretary to the Treasury, it became necessary to make additional provision for this year and this, of course, is the first chance that we have had to do that.

There were another one or two points, Sir, which have led to this. For

instance, it may be regarded that we are "anticipating the event", but in view for instance of the position in the Suez Canal, we have had to face the fact that if officers go to England by sea via the Cape we shall be faced with additional expenditure. We have had the situation in respect of a number of our officers going to Goa where we have, indeed, had to meet the difficult situation created by their having to wait in Karachi for some time. Then there is, of course, the fact that there has been during this present financial year which has just ended an increase in B.O.A.C. air rates, so I think my hon. friend will see that there have been a number of factors quite apart from the original mistake in the 1955/56 figures which have led to this being put forward at this particular time.

SIR CHARLES MARKHAM: Mr. Chairman, can I have my final thrust on this one. In view of the remarks made by the Minister for Finance about the difficulties since the Suez crisis, would not a collective discussion be possible between the Ministries to recommend that all passages to England be air passages—which are not so difficult and do not cause the extra time taken round the Cape of Good Hope?

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): I think there must be some misunderstanding with regard to the officers we have on contract—and by contract I do not only mean contract officers but those on the general level of contract and permanent services. They have under their agreements certain rights, and I am sure the hon. Member would not suggest that we should abrogate those rights by, as it were, the stroke of a pen. A Government must honour the terms of its agreements.

MR. HARRIS: In view of the fact that the Minister for Finance has suggested that the increase in B.O.A.C. fares might be a contributory cause to the increase in the supplementary Vote, would the hon. Minister for Commerce and Industry tell us what the position is with regard to the Argonauts, since we understood that East African Airways were going to purchase some with a view to assisting with Civil Service "troop movements".

THE MINISTER FOR COMMERCE AND INDUSTRY (Mr. Hope-Jones): As so often the hon. Member for Nairobi South has managed to bring in a tenuously related subject with I may say, Sir, the greatest aptitude. He is as well aware as I am that the delivery of the Argonaut is dependent upon the success that we confidently anticipate from the Britannias when they are put into service.

Again, as far as I am aware, and I think the hon. Member for Nairobi South, too, is well aware of this, there has never been any suggestion that anybody should be forced to fly on any particular type of aircraft.

LT.-COL. GHERSIE: One final point, Mr. Chairman, on the assumption that as I understand it from the Minister for Finance these Estimates were drafted since the Suez crisis and that accounts for a certain proportion of the discrepancy. I would suggest, Sir, that we have the right to expect a little more accuracy in the Estimates and accounting in the Department of the Treasury. You see, Sir, when we realise that the actual expenditure in 1955/1956 was £430,000—and the Secretary to the Treasury has tried to explain that the information came to him rather late in the day when he was drafting these Estimates—then—I would suggest, Sir, that having then made an estimate for 1956/1957 amounting to £360,000 one would have thought, Sir, that even the Treasury could have got much nearer than within a third of the required amount.

MR. MACKENZIE: One question I would like to correct my hon. friend, the Member for Nairobi North about and that is the estimate for passages is not compiled in the Treasury. It is compiled by the Government Coast Agent on the information supplied to him from all the departments in Government and that information is necessarily supplied very much earlier in the year than the final estimate which appears in the Estimates. The result of that is that he is working on information in respect of the estimate for this current year which has been supplied as much as about nine months before the date when the events to which it refers are going to take place.

LT.-COL. GHERSIE: What about the Suez crisis!

MR. MACKENZIE: I am talking about the original Estimates, not this particular estimate.

As far as these particular estimates are concerned when the estimate was printed, we knew about the Suez crisis and it was possible to take some consideration of that. It has been taken into account, but whether the amount that has been put in for that purpose will prove to be enough only experience will show us.

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): Mr. Chairman, my hon. friend, the Member for Nairobi North, has once again risen in a somewhat confused state of mind. If the hon. Member had listened to what I said, Sir, he would have heard me say that the Supplementary Estimates now being taken into account had regard to those increased costs of sea passages for proceeding via the Cape.

My hon. friend may, of course, have an eye for assessment or a spirit of prophecy which is beyond that of the Government, but how my hon. friend can say that this figure which we have now put forward, which deals with what we think is likely to happen in the next seven months, is two-thirds short of the estimate or the actual expenditure, we are going to undertake, I really do not know. My hon. friend has confused himself completely by mistaking the issue about what Mr. Mackenzie and myself said about the Estimates for 1955/1956 and the Supplementary Estimates we are now putting forward. Had he listened to what we said he would have heard us say—and I repeat it—that the Estimates for 1956/1957 were dealt with in January and February when we went to the United Kingdom for financial assistance, that actual experience of 1955/1956 proved that that estimate was wrong, and that therefore at the earliest possible moment, we adjusted the Estimates for 1956/1957 by bringing forward this Supplementary Estimate on the first possible opportunity.

LT.-COL. GHERSIE: Mr. Chairman, I listened with the greatest of care, and the Minister, of course, has talked rather a long time, in an attempt to explain the position and trying to put me off my

[Lt.-Col. Gheris]

I think, but unless my eyes deceive me, it is proposed that an additional provision of £130,000 should now be made. Is that related to the provision made for 1956/1957? As this sum is £360,000, I suggest that it is more than a third of the estimate already asked for.

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): Mr. Chairman, I deeply regret that I have to go on with this argument. May I now read Serial No. 13: "It is already clear that the provision made in the 1956/57 Estimates for passages of £360,000 will be inadequate. Actual expenditure in 1955/56 was over £430,000, and present information shows that the provision required this year will exceed the 1955/56 expenditure figure. It is therefore proposed that additional provision of £130,000 should now be made".

Now, Sir, my hon. friend said that if we knew the Suez position, why could we not make a more accurate estimate? That fact is, Sir, that we have now said three times in this debate that we found that towards the end of the 1955/56 year the actual expenditure was well over the estimate, and that therefore on the first possible occasion, we have come forward with requests for this additional money, due to the reasons—and I do not want to repeat them again—that my hon. friend, the Secretary for the Treasury, my hon. friend, the Chief Secretary, and myself have already placed on record.

LT.-COL. GHERIS: I am sorry. It is again a complete red herring. The Minister reads out the whole of this paragraph which we can all read. I was not responsible for the reference to the Suez Canal at all. It came from the Minister in the first instance and I merely said on the assumption that these Estimates were drafted as a result. All I am trying to state is that this £130,000 is more than a third greater than the original estimate, and I suggest that having regard to the efficiency of the Treasury they ought to be able to estimate a little better than that.

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): Sir, with all due respect to my hon. friend, again I would point out to him that he misquoted

my reference to the Suez Canal. I applied it not to the original Estimates, but to the Supplementary Estimate, and, Sir, if it is a question of mathematics, I can also tell him that this is more than a third. But we have explained the reasons why, that these were reasons beyond, to a large extent, the control of the Government.

MR. TYSON: Mr. Chairman, Sir, there is one point I would like to ask the Minister, and that is whether we are moving to any extent towards the abolition of this item altogether. I realise that contractual obligations have to be fulfilled, but in various directions, in the commercial life of the community here, arrangements are being made by which these overseas passages have been consolidated into annual salary and the overseas leave has been done away with—the cost of the passages saved, but with some compensation to the officers concerned.

I would like to know, Sir, whether, realising the contractual obligations of Government to officials, negotiations have been, or are being contemplated, by which staff would be given the option of giving up their overseas leave, including passages, in exchange for something in the way of a consolidated salary which, I believe—and experience in the commercial life of the Colony shows that it can be done—would involve quite a substantial saving in this item of passages.

THE CHIEF SECRETARY (Mr. Turnbull): The answer, Sir, is no. The Government has no intention whatsoever of doing away with what the hon. Member calls "this overseas leave business"; nor does it intend to introduce a commutation system whereby a man is paid a little more and is not permitted or encouraged to go on overseas leave.

Serial No. 13 agreed to.

Serial Nos. 14 and 15

MR. HARRIS: I would like to move that Serial No. 15 be deleted *in toto*. Now, Sir, in accordance with the ruling you gave yesterday afternoon, when I raised a matter or order on what I called a policy statement made by the Minister for Finance, I think, Sir, it was agreed that we should select one small detail,

[Mr. Harris]

and use that for debating the policy. This is the detail that I have chosen.

For fear that there should be a Chief Technical Officer, I would like to make it quite clear that I am not taking it out on him. But you will see, Sir, that in the Memorandum, it states that, "The cost of this appointment will be covered in the current year by savings from within the departmental Vote".

As I understand it, Sir, this is the sort of thing that if the suggested policy of the Minister for Finance is followed, this kind of thing will not come to this Council, unless it initiates a new policy of the Government. I believe, Sir, having read, I hope, the uncorrected version of HANSARD—because on one page of the Minister's speech yesterday, there was not a single full stop—having read that, if I understand, the unedited edition properly, the suggestion is that the control of detailed finance should be moved further and further away from the control of this Council, and completely into the hands of the Treasury.

I think, Sir, that we should try to see that the determination of even detailed financial policy is if it remains with the legislature, that after the legislature, it should be responsibility of the Minister in whose Portfolio that particular Vote stands; and lastly, there should be financial control by the Treasury, but, Sir, if it means as I understand it does mean, that this Council can approve expenditure, we will say, for two doctors and 12 sanitary inspectors, and the Treasury, without bringing it to this Council, can decide that we will have one doctor and 18 sanitary inspectors, or no doctor at all and 24 sanitary inspectors. I would like the Minister to tell me where detail ends, and where policy starts.

The Minister for Health reminds me that we have not got any sanitary inspectors—that is precisely why I chose sanitary inspectors, because I did not want to suggest that it was any particular Minister that might adopt this particular financing.

But, seriously, Sir, I do think that in a young Parliament, such as this, we should see that even detailed finance is kept within the control of the Council rather than delegate the power to interchange items within Votes to the arbitrary

discretion of the Minister—of the Treasury, I should say. I appreciate the point the Minister made, that we would be eternally worried with small details which were relatively unimportant, but, after all, Sir, we do enjoy Supplementary Estimates—I think the Minister will agree, from the last 24 hours.

It is quite a good parliamentary exercise, and I believe it is right, at this stage in our development, that we should have the right to question Government; even where the money is still available within a particular Vote if it means a change in the emphasis upon which that money is spent.

The Minister yesterday, Sir, reminded us that he was proposing the procedure adopted in the House of Commons. I feel, Sir, that the House of Commons has had rather longer to learn from experience than has this Council, and that not only is it useful in parliamentary procedure to have the Supplementary Estimates brought before us with all their detail, but it is, I think, relevant, Sir, that in His Excellency's Speech from the Chair a little while ago, we were warned of coming financial stresses and strains—I cannot remember the exact words, but I do not think the Minister would argue that there were warnings that we might have to tighten our belts in the future. That, Sir, is another reason why I believe that this is the wrong moment in which to adopt a policy which, as I say, takes the detailed control of finance away from this Council, away from Ministers, and eventually entirely rests it in the hands of the Treasury.

Therefore, I beg to move the deletion of Serial No. 15.

Question proposed.

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): Mr. Chairman, of course I rise to oppose this particular amendment, and I have no doubt, when the debate is finished, that my hon. friend, the Member for Nairobi South, will be withdrawing it.

Sir, I must correct my hon. friend on one very fundamental point. I think that he said that he had read my uncorrected HANSARD. He said, in fact, Sir, that there were no full stops in it. I do not know whether the hon. Member would like me to go through my speech saying

[The Minister for Finance and Development]
 "comma", "full stop". He did say that I had said that this should be—that the details should rest—within the control of the Treasury. Now, Sir, I have not got my uncorrected copy of HANSARD with me, but I am, like the hon. Member for Nairobi South, prepared to have a small bet from time to time, and I am almost, Sir, prepared to bet, if you would allow such a thing to happen across the Floor of the Committee—(Cries of "Order, order.")

Well, I am prepared to say, Sir, without, I think, fear of contradiction, when the facts are known, that I said that it should be at the discretion of Government and the Minister, and the Treasury should come in only at the second stage. I think the hon. Member must know that the whole of the operations of recent years have been to lead to more flexibility within departments and Ministries, and indeed to decentralise and take away the direct and central control of the Treasury on detail.

Now, Sir, you will perhaps remember that I did say that as I thought this was an important statement of policy, I would ask permission to read that particular part of my statement, and I would like now to read from the actual document that I used: "I believe, however, that the time has now come when in the interests of flexibility within departments, and in order to reduce the mass of detail with which the Council is at present confronted, we should do"—so-and-so and so-and-so.

Again, at a later stage, Sir, I referred to "his more flexible procedure; this more real control, which is what really matters, will be strengthened". I think, Sir, my hon. friend and I am very glad that we have had this opportunity of discussing this—my hon. friend has, I think, forgotten that in the Annual Estimates, this Council no longer deals with detail, that it has presented to it the ambit of the Vote, and it has presented to it certain broad heads and sub-heads. That it is on those that it moves a reduction, leaving the Minister free to choose the method in which that deduction will be made, and not imposing upon him that absurd position where they might take from him a key officer. We have, Sir, to go back, and it will be within the

memory of many hon. Members of this Council, to the arguments in 1951 and 1952, just before, Sir, I took over the position of Minister for Finance.

When hon. Members opposite wanted to reduce Government expenditure, and they were at that time in a majority, they found themselves in the rather absurd position, because of the manner in which the Estimates were presented in detail, where they had to pick out certain officers, absurd as it was, and absurd as they realised it was, and reduce those officers, because the presentation of the Estimates did not give them the right to move a broad reduction, which was what they wanted. Had this position been available to them at that time, they could indeed have moved the reduction in the broad sum and placed upon the shoulders of the Minister the proper responsibility to cut according to the best interests of the department or Ministry.

Now, Sir, I do not think there was any hon. Member who was in the Council at that time who would want us to go back to that particular type of procedure. What I did say, Sir, was that I thought the same procedure should now be applied to the Supplementary Estimates. If there is a feeling of opposition, I am not wishing to carry the Council further, or at a faster pace to what I consider the proper procedure—that is, the consideration of policy that they desire.

I would also say, Sir, that this Council—and I quoted an article the other day, Sir, from the *Banker*—that this Council has now the reputation of leading the Colonial Empire in the development of financial procedure. I think, Sir, that this is a very good and wise step. Further, I would say, Sir, that if there is a general feeling on the other side that they do not want this taken further forward at this stage, then I am perfectly prepared, I am sure the Government is perfectly prepared, to discuss it with hon. Members but I do believe that the step that I have proposed will be shown, in the long run, to have been in the interests of the efficiency of the Ministries. It places greater power in the hands of the Minister, but still allows them to place the financial responsibility in the final issue—where

[The Minister for Finance and Development]
 presumably judging by the constant references, they want it placed, and that is in the hands of the Treasury, which is responsible to this Council for the proper direction and administration of financial matters.

MR. HARRIS: Mr. Chairman, I wonder, in view of the very generous suggestion the Minister made at the end of his speech just now, whether he would agree, particularly as we have an entirely new representation of non-Muslims on this side of the Council, we have—

MR. MANGAT: Not non-Muslim—Indian. There is nothing like a non-Muslim anyway.

MR. HARRIS: I was trying to be polite, Sir, Indian. As we have three or four new European and new African Members, I wonder whether the Minister would consider continuing with the present procedure, give the rest of the Colonial Empire another year to catch us up anyway, and let us continue with this for a year at any rate, so Members who are new to the Council could give a better judgment.

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): I would not like to commit myself so broadly as is suggested by the hon. Member for Nairobi South.

What I would suggest is that I hope that there will not be another Supplementary Estimate for three or four months; that before the next Supplementary Estimate is drawn up we would discuss it with hon. Members on the other side of the Council. I would not like to confine myself to saying that it would not be done for a year because in discussion, they may well find that they agree with me before then.

LT.-COL. GHERSIE: Only one point: it arises from what the Minister for Finance said in what he regarded as a rather unfortunate occasion in 1951 when Members on this side of Council had to deal with actual detail so far as cutting the Estimates were concerned—I would not have mentioned that unless the hon. Minister had referred to it, but in defence of those hon. Mem-

bers, that position was forced upon them because of the Members of the Government being so flat-footed and refusing to agree to an overall percentage cut of the Estimates which resulted in Members of the Opposition Benches being forced into that position.

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): Mr. Chairman, if the hon. Member for Nairobi North will read my words, he will see that I laid no blame on anyone, but what I said was that this method of cutting was forced upon the Council by the manner in which the Estimates were presented at that time. That is why I believe the alteration of the Annual Estimates to the present method of presentation met with the approval, if I remember rightly, with the unanimous approval, of the hon. Members opposite.

MR. HARRIS: Mr. Chairman, in view of the suggestion made by the Minister for Finance, and in view of the fact that I have a slight hankering for this Chief Technical Officer, with your permission, Sir, and that of the Committee, I would like to withdraw my amendment.

Amendment, by leave, withdrawn.

LT.-COL. GHERSIE: Could I make a reference to it, Sir? Following on what the hon. Member for Nairobi South said, I would like to go a little further: he points out the cost would be covered in the current year's saving within the departmental Vote. What was the position in the past? Was not a technical officer employed, perhaps by the police, and therefore you could effect a saving elsewhere. Surely a technical officer of this nature was employed somewhere else in Government?

MR. MACKENZIE: No, Sir, this officer did not exist before. This officer is going to exist when and if this post is created. He will then be appointed to join the Department of Supply and Transport. His duties will be to advise on planning for the purchase and installation of machinery for the vehicle repair workshop and for the maintenance of vehicles in Nairobi. He will be responsible for technical advice to departments, that is, all departments, but

[Mr. Mackenzie]

more particularly, the security departments on transport matters including standardisation and vehicles and spare parts establishments. He will advise on the organisation of vehicle maintenance in centres outside Nairobi on behalf, again, of all departments, and he will advise on the standardisation of arms and wireless equipment.

I should remind the Council that the Government vehicle fleet is approximately 3,250 vehicles of all types and descriptions, and it is very necessary to have someone like this to do the job. At the moment there are people doing work of this kind on behalf of single departments, such as the police. They have people doing it, but they also have many other jobs to do as well. The whole idea of this department is to concentrate the technical work and advice as much as possible into one place where it can be dealt with on an efficient basis with modern machinery and it is hoped that this will make it possible to effect considerable overall savings.

I would like to add one point: as my hon. friend, the Minister for Finance, has just pointed out to me, when I said all departments, I meant all departments excluding the Public Works Department, who, for various technical reasons, already have their own technical officer, and continue to look after their own requirements. There are very good reasons for that, in that the Public Works Department plant is of a different type and in many cases of a very much heavier type than that which will be used by the rest of Government departments or is used by them.

MR. ARAP MOI: Mr. Chairman, does this mean that each department will have its own officer?

It says here, Mr. Chairman, that the officer concerned will advise the Government with the construction of department's workshop and technical matters.

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): Mr. Chairman, I would point out to the hon. Member that between "department" and the "s", there is an apostrophe. It means the department will own several workshops.

MR. ARAP MOI: Thank you.

Serial Nos. 15 and 16 agreed to.

Serial No. 17

MRS. SHAW: In view of the lack of response of Africans to register, and the comparatively small number of Africans that have registered, it seems to me an unduly large sum, the sum of £50,000, has been allowed for the elections. If there can be a saving effected, can I have the Minister's assurance that that saving will be recorded. I do see that £9,000 of the £50,000 is in non-recurrent (vehicles, camp equipment and temporary accommodation) which will go back into the pool to replenish vehicles in other departments that have been worn out.

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): Mr. Chairman, I can give the hon. Member for Nyanza that assurance gladly. I would also like to quote that sentence which is written across the hearts of all the Chancellors and Treasuries—the fact that the money is voted does not mean that it has got to be spent.

MR. MATHU: May I seek information as to the number of supervisors and registration officers already in the field and how they are distributed?

Another speaker, Sir, on this side of the Council said there had been a lack of response. Is it because there is not sufficient supervisors or not sufficient registration officers to reach all the places that are necessary to be reached. In that case, should it be necessary to give extra money for this?

THE MINISTER FOR AFRICAN AFFAIRS (Mr. Windley): Mr. Chairman, Sir, I am not able to give the detailed information of the Government that the hon. Member has asked for as to numbers, but I can certainly supply it to him in due course. I certainly do not think at this stage that one can possibly claim that there were too few of these. I would not agree with that for the reasons he suggested.

MR. HARRIS: May I revert to the thing that is presumably chiselled on the stony hearts of all Chancellors of the Exchequer—that money that is voted need not necessarily be spent. That, Sir, is the very matter of policy which I have been criticising this afternoon. I have a funny idea, under this new system, that we can have £50,000 for African elections. We

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can spend £40,000 of it. The Minister for African Affairs can then find a very nice purpose which has not been in the Estimates at all for that £10,000 and, if he can get the agreement of the Treasury, this Council will never know of the misappropriation of £10,000 that should have been spent on African elections. (Cries of "Order, order".)

It is a perfectly good English word.

MR. MACKENZIE: On the point, Sir, that my hon. friend, the Member for Nairobi South, has just made, I think that if he reflects, he will realise that the adoption of the proposal put forward by my hon. friend, the Minister for Finance, would have exactly the reverse effect to that which he suggests. If that procedure were adopted, we might find during the year that it was necessary to make provision for something, such as "Personal Emoluments" for persons concerned with African elections.

Under the proposal, what the Government would expect the Ministry or the Ministries concerned to do first of all would be to scrape around in their Votes and try to find some savings, and there would be no question under that system of coming to the Council to ask for additional provision unless the Government were satisfied that it could not be found in any way from savings within the Vote. In fact, there would certainly be no question of coming to the Council until the end of the year when that was known. Since it is necessary to spend some money on African elections, the Ministry concerned would be told that they should find the money to pay for the people who had to be employed, from their Vote as it stood, and to try to make savings during the rest of the year so as not to overspend, but if that was quite impossible, then at the end of the year Government would come along to the Council and would ask for additional provision to cover any excess on the Head or on the sub-head involved. I think in that way, Sir, we should actually find that money was saved, because it would put every department on their mettle to save as much money as possible so as to avoid having to take Supplementary Estimates, and there certainly would be no question of doing as we have to under the present system—of coming along and

asking for quite a large additional sum of money at this time in the year, when really it is difficult to know whether there will be savings or not. But because of this existing procedure we have no other means of getting authority to go ahead with this very necessary expenditure without asking for what we think will be the cost of this particular service.

MRS. SHAW: Mr. Chairman, the hon. Secretary to the Treasury gave us such a very long reply that I am rather confused, and I did not really understand if he was suggesting that £50,000 was not sufficient for the African elections and that extra provision would be necessary for personal emoluments. He did say something about personal emoluments.

MR. MACKENZIE: No, Sir, if I may explain what I said—what I intended to say—and I will try to say it as simply as I can now—was that under the existing system, if there is any necessity to provide for a new service such as supervising the African elections, there is no other way that the Government can get the authority of the Council to expend money on that, than to come along and ask for £50,000 in (his particular case, or whatever the amount may be in other cases. If the new system were adopted, it would be possible, in the first instance, to ask the departments concerned to meet the expenditure from money already allocated to them in their annual Vote and it would only be necessary to take a Supplementary Estimate if, in the last month or two of the year, it was found that by taking that action there was likely to be excess expenditure.

MR. HARRIS: Apparently Secretaries to the Treasury also have things engraven on their hearts.

The Secretary to the Treasury has completely missed the point. I, as an ordinary layman, of course, envisaged that no more than £50,000 would be spent. My suggestion was that if only £40,000 were spent on the African elections, and the Minister for African Affairs found a very good use for £10,000, which was not expenditure on African elections but, was within his Vote and policy, then he need not come to us for a change in the use of this £10,000. But, Sir, the Secretary to the Treasury, in his rather long reply, also did make another point. He said that if more than £50,000 were spent on the African elections, the Treasury would

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tell the Minister, first of all, to find savings for the additional expenditure from within his own Vote.

Now, Sir, I maintained earlier this afternoon that the discretion for that should rest in this Council, and not with the Treasury, to tell Ministers where they should make savings, because we believe that the Treasury, in scratching round for its few odd coppers—I believe “scraping the barrel” was the expression used just now—may give instructions to a Minister to economise on a thing which Members on this side might believe was a false economy. I could quote, Sir, certain cuts in police travelling allowances a little while ago; that never came to this Council and, in fact, except for several announcements given in the papers we never heard very much about it, and I think it might have been a subject of debate in this Council. However, that is irrelevant now. But the point is there, that in fact it is the Treasury who is going to control the detailed finance, and not the gentlemen sitting on the Front Bench opposite—except for the one sitting in the middle.

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): Mr. Chairman, with all due respect, my hon. friend has completely missed the point and misquoted my hon. friend, the Secretary to the Treasury. Let me first of all say that the hon. Member for Nairobi South, in a sweeping gesture, referred to the “instructions” to gentlemen sitting on the Front Bench. I suggest, Sir, that my hon. friend, the Member for Nairobi South, has not the faintest idea of how the Council of Ministers works. I should like to see anybody try to give “instructions” to my hon. friend, the Minister for Agriculture.

What my hon. friend, the Secretary to the Treasury, said—and I thought really he made it quite clear—was that if we tackle it this way, we have, in fact, to come to this Council and say African elections are necessary, African elections have been agreed to by this Council in a Bill, and that being a statutory duty, the Government has got to undertake the expenditure in connection with what was laid down. Now, Sir, if we follow this procedure, we have, in fact, to say that £50,000 will be the expenses of the

African elections and £50,000 is therefore added to the overall expenditure in the year on the African Affairs Vote.

If we had followed the procedure suggested, what would be the position then? The Minister for African Affairs would say: “I have a statutory obligation to carry through African elections, and the overall figure which Legislative Council has authorised is £x,” and he would be compelled, because of the size of that Vote, to endeavour to find all those expenses from inside that Vote, from the overall sum which had been voted at the time of the Annual Estimates. If he could not do so, then, and only then, would it be necessary to come to this Council and ask for excess or additional provision.

That, Sir, is the situation, and I think that my hon. friend, the Member for Nairobi South, when he thinks again, will agree with that.

There is one thing that I do resent, and that is it is very easy indeed for people like the hon. Member for Nairobi South to refer to the operations of the Treasury, as they do, and talk about stony hearts and things like that. One gets used to it; but, Sir, the Treasury did not cut, and does not cut, things like the travelling allowance of the police. The Vote for the police was the sum agreed to by this Council, and the Treasury does not reduce the authorisations of this Council by one penny. It is a matter for the Minister to see that he keeps within the amount which this Council has voted and if, indeed, he finds that that amount is not sufficient, it is then within his competence to come and ask for virement of other amounts, and justify it either to this Council in time or to the Public Accounts Committee. I suggest, Sir, that the hon. Member should now withdraw that particular implication.

MR. HARRIS: If there was an implication, I unreservedly withdraw it.

I am learning slowly, Sir, and what I want to know is this, Sir. With the rather involved, punctuationless speech which I read this morning, could the Minister tell me, taking a very easy example, if the Minister for African Affairs—and I do apologise to that Minister for taking him as the example

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—finds that on Serial No. 16 he, in fact, wants to spend another £100 and that he has a saving of £100 on Serial No. 17—can he then use the saving on the one to offset the other? I am taking the examples because they are both in the same Ministry, that is the only point I am making. I may be putting this badly, but the Minister himself confused me a bit just now. If the African elections, which we are supposed to be discussing, cost, in fact, £52,000, can the Minister for African Affairs find savings for £2,000 anywhere within his total Vote and use it for that additional £2,000 required towards African elections, or does he come to this Council and tell us that the African elections unfortunately have cost £2,000 more and can he have another supplementary?

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): The answer is that under the existing procedure he can do that. Under the procedure suggested he would not be able to do that.

MR. HARRIS: Full-stop.

MR. MATHU: Mr. Chairman, there is one point I would like to bring up in regard to Serial No. 17. The Minister for Finance, in reply to, I think, me or someone else who commented on Serial No. 17, did say, in reply to another Member, that to vote a sum of £x does not mean the money will be expended. That was in reference to Serial No. 17, the one under discussion now with the Committee. If I got him right, is it not possible for accusations to be made later—not now—that the money was voted in excess of what the Government knew was required for the elections and the expenditure on the elections may not be to the extent of the amount voted? That is one question I should like to ask the hon. Minister. I should like to follow up that with a question to the hon. Minister for African Affairs. I accept his offer to give me details later, but I should like to ask him—he said the numbers of officers that I wanted to know—supervisors and registering officers—are not few and therefore there could not be any suggestion that the work is not being carried out with expedition because of lack of personnel.

Now how do the two tally? One Minister says the money may be voted

and not expended. The other Minister says that the staff is available. And another Member points out on this side of the Council that there has not been sufficient response. I cannot get the things to tally.

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): Mr. Chairman, I can, of course, only deal with my own particular point. The other point will be dealt with by the Minister responsible. If the hon. African Representative Member is saying that we are now asking for £50,000, the whole of which may not be expended, that is correct. The whole of this may not be expended and what I did say was engraved on the hearts of all Chancellors was that if money is voted, it does not mean that it must, of necessity, be spent, because that is the manner in which the Ministries are asked to regard the spirit of economy. The fact that we have to come to this Council with estimates and say this is what we believe will be spent, does not absolve any Ministry from endeavouring to carry out the operation at the lowest possible cost. That is very important to remember. So that it may well be that the whole of this may not be spent. That raises the point that my hon. friend, the Member for Nairobi South, made, and on that, under this existing procedure, it would indeed be possible, and what the hon. Member suggested could be done. The Treasury would, of course, try to make certain in its representations to the Ministry, that if any balance was spent or was transferred for a proper purpose, there was complete justification for it.

MRS. SHAW: It would not be necessary, then, to show that saving to this Council? That is what I wanted to know. It would not be necessary for this Council to have knowledge of that?

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): Mr. Chairman, when the final accounts came out, what would appear in the account would be: African elections £x, and the sum would actually appear. As to what had been spent, if it had not been used for any other purpose, it would appear as under-expenditure in general in the final accounts submitted to the Council.

MRS. SHAW: I understand.

MR. MACKENZIE: In continuation of what my hon. friend, the Minister for Finance, has just said, the existing procedure, as approved in this Council six or seven years ago, is that a Minister may, with the authority of the Treasury, exercise the power of what is known as virement within his Votes. That is, if he finds that he has not quite enough money to spend on one sub-head or item, and can find savings from others, he is authorised—with the agreement of this Council as expressed in, I think, 1948 or 1949—he is authorised, with the Treasury's consent, to make a transfer from the part of his Vote that is not going to be fully spent to the part that is likely to be overspent. If the Vote, as passed in the Annual Estimates, is increased by Supplementary Estimates—for example by the £50,000 provided under Serial No. 17 and by a further amount provided under Serial No. 18—both those additional sums will be added to the total provision of the Vote; and under the procedure approved for exercise of virement by the Council in 1949, he will be able to reallocate any savings on the £50,000 to the £9,000 or on the £9,000 to the £50,000, or even from some existing sub-head to either of these sub-heads. That is what can at the moment be done, and the proposal for a change would mean that in the first instance there would be no question of voting this £50,000. There would be merely the original provision that had been made, and the statutory obligations would be met from that as far as possible, and only towards the end of the year, if it were shown to be necessary to increase the Vote, would supplementary provision be asked for. In that way it would be found, I think, that there would be greater economy, because there would be far less money out in the hands of departments.

THE MINISTER FOR AFRICAN AFFAIRS (Mr. Windley): Mr. Chairman, perhaps I should explain to the hon. Mr. Mathu that what I meant to convey was that I do not think this extra staff employed are too few to achieve the objective. There is a good deal of dovetailing within the existing staff.

MR. MANGAT: Although the hon. Minister for African Affairs has not given us the details of how the £50,000 is to be spent, I am sure he would agree

that it should not be used to provide a bonus to tempt the voters to come on the register.

Serial Nos. 17, 18 and 19 agreed to.

Serial No. 20

LT.-COL. GHERSIE: Could the Minister for African Affairs give us further details of the item Provincial Headquarters and what it represents—the £5,400?

THE MINISTER FOR AFRICAN AFFAIRS (Mr. Windley): I think I am right in saying this covers a variety of things that come under Other Charges and a good deal of it is travelling expenses.

Serial Nos. 20, 21, 22, 23 and 24 agreed to.

Serial No. 25

MR. COOKE: No. 25, Sir. Is it not inconsistent with the promise the Minister gave us last year—not to include creating of new posts in the Supplementary Estimates?

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): Is my hon. friend, the Member for the Coast, referring to myself or is he addressing his question to the Minister responsible, who is the Minister for Agriculture?

MR. COOKE: I was under the impression that you gave an assurance that you would discontinue creating new posts, at any rate on a large scale, in the Supplementary Estimates. Perhaps I am wrong about that.

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): I think the hon. Member is wrong. If I may quote from the speech which began a lot of the discussion, Sir, I would again quote: "Hon. Members will also remember that it was agreed in June, that was the last session of the old Council, that where the Treasury was satisfied that a new post was necessary or that some other new item of expenditure had to be provided during the interval between sittings of Council, they should be authorised to take the necessary action, provided that this caused no excess of expenditure and that it would be reported to Legislative Council by means of provision, token or otherwise, in the first Supplementary Estimates to be taken thereafter". That, Sir, was what

[The Minister for Finance and Development] has been done in this particular case and, of course, the hon. Member for the Coast will, like a lot of hon. Members opposite, be well aware that there was, in fact, no Council to which we could refer until now.

MR. COOKE: Is this excess of expenditure?

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): No.

Serial Nos. 25 and 26 agreed to.

Serial No. 27

MR. HARRIS: Serial No. 27, Sir, I cannot understand why, when this Council passed a Resolution on the 24th of February, 1952, and I imagine that in the terms of that Resolution—

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): Mr. Chairman, I am not quite aware on what lines the hon. Member is going to develop his argument, but I was just about to spring up and draw the attention of the Council to the fact that there is a misprint in the Memorandum. The word 1952 should read 1955. Whether that affects the hon. Member's argument or not, I do not know.

MR. HARRIS: It makes my argument slightly weaker, Sir, but not very much. At the end of the Colony's financial year, Sir, I would have thought that the Ministry of Agriculture would have been aware that there was £12,500 due to the Colonial Development Corporation as a guaranteed Government loan. I should have thought, Sir, that the Minister for Agriculture is very stupid to have these repayments put in Supplementary Estimates, and at the same time he is very lucky in that this would have given us an opportunity—and if he does it this way every time he makes another repayment there will be a further opportunity—of debating the Kenya Meat Commission.

MR. COOKE: No. 25 was rather rapidly passed over, but I see it says in the Memorandum "will be partly offset by savings, etc.". The Minister said, when he stood up, that it was offset. Is he going against the undertaking he gave to this Council?

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): I am sorry, but I cannot agree I am going against the undertaking I have to the Council. I do not want to read it again. It is on the record and hon. Members did agree. It is a question, Sir, I think, of whether you regard this as excessive expenditure, and I do not think it is excessive expenditure in regard to the agricultural Ministry which has, and my hon. friend will probably follow me and quote, many millions to deal with.

MR. COOKE: Partly offset—

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): On a point of order. Are we in order in debating two items at once?

MR. COOKE: I had asked the Chairman's permission to do so.

(Cries of "Question, question!")

THE CHAIRMAN (Mr. Conroy): Serial No. 25 was dealt with, and the hon. Member for the Coast had an opportunity to raise his issue then. We are now dealing with Serial No. 27.

MR. COOKE: If the hon. gentleman makes a false statement which was, in fact, a lie, I should have thought even though that particular serial was passed, it was my duty to draw attention to it.

THE CHAIRMAN (Mr. Conroy): We are now dealing with Serial No. 27.

SIR CHARLES MARIKATI: Mr. Chairman, on 27, Sir, could we have an assurance from the Minister that he will not move the Resolution which is mentioned in the Memorandum until the whole subject of the Meat Commission has been debated in this Council?

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): Mr. Chairman, to deal with the point raised by the hon. Member for Nairobi South first, the reason that this amount of £25,000 this year and the date, is because there was an oversight in my Ministry which caused us to overlook this amount. When the matter came to our attention, we immediately hurried to put it in order by bringing it before hon. Members.

[The Minister for Agriculture, Animal Husbandry and Water Resources]

In regard to the point which was raised by the hon. Member for Nairobi South, I can give him this assurance. This is part of an undertaking which the Government came to in regard to the financing of the Meat Commission, which must proceed whether the hon. Member wants to debate the Meat Commission or not.

MR. COOKE: Could the hon. Minister tell us why Government is taking over this loan? This loan is a loan of the Meat Commission. I know it is guaranteed by Government, but unless the Meat Commission defaults, why should Government take the responsibility of taking it over?

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): Mr. Chairman, it was agreed at the time the Kenya Meat Commission was set up that £250,000 would be provided by the Colonial Development Corporation and that an annual repayment should be made by the Kenya Government. The Kenya Meat Commission pays interest on those moneys. It pays it on the original amount to the Colonial Development Corporation, and as the amount changes from the Colonial Development Corporation to Kenya Government so the interest itself changes in its balance. It is part of an agreement which was made with the Kenya Meat Commission, and has not been altered.

MR. HARRIS: Mr. Chairman, would the hon. Minister say whether the oversight which we are now correcting was in his Ministry, or in the organisation of the Kenya Meat Commission?

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): To the best of my belief, I believe it was in my Ministry, but I could not tell the hon. Member whether it was definitely.

MR. COOKE: Could the hon. Minister tell us whether this £12,500 is paid from the Meat Commission funds or from the Government?

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): The amount is

a payment from Government funds to liquidate the loan which the Colonial Development Corporation made originally to the Kenya Meat Commission. The net effect of this transaction, Sir, is that over the course of years the installations of the Kenya Meat Commission will pass into the hands of the State.

MR. COOKE: Over a number of years?

MR. HARRIS: Mr. Chairman, I hope that is not so. Sir, the hon. Minister's predecessor has given me three assurances in Council and in Committee that the whole purpose of the Kenya Meat Commission was eventually that it should become the property of the meat producers, and certainly not of the Government of Kenya, because I once accused him—would the hon. Minister sit down—I once suggested that the Kenya Meat Commission was the beginning of the nationalisation of the meat industry of Kenya. It sounds rather, Sir, as though the Minister has got that idea in the back of his head.

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): Mr. Chairman, I have no such idea in my head at all. The hon. Member for the Coast asked me what, in effect, was the result of this transaction. The result of this transaction is that the £250,000 advanced by the Colonial Development Corporation is taken over by the Kenya Government. I am now having discussions with the Kenya Meat Commission on what part they should play in these transactions in the future.

SIR CHARLES MARKHAM: In view of the Minister's remarks, he just said then about having discussions. Would he please not move that Resolution until he has had those discussions?

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): I made it clear I shall move the Resolution. When I move the Resolution the hon. Member will be at liberty to say what he wishes about it.

MR. MATHU: Surely the Kenya Meat Commission, if they trade for profit, they should meet the whole bill.

Cries of "Answer, answer".

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): There are no profits arising in the activities of the Kenya Meat Commission. The hon. Member is under a misapprehension. There are delayed payments which are made to producers in respect of hides, skins and offals, which are sold at a later date than the meat.

THE CHAIRMAN (Mr. Conroy): I think it might be a convenient moment now to take the customary break and consider Serial Nos. 28 and 29 in fifteen minutes' time.

The Committee suspended business at twenty minutes past Four o'clock and resumed business at thirty-five minutes past Five o'clock.

LT.-COL. GHERSIE: Is the hon. Minister wasting his time in discussing matters with the Meat Commission? How can they participate if there is no profit and no money?

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): It can be done perfectly easily.

Serial Nos. 28 and 29.

MR. COOKE: Serial No. 29. I do not quite see in equity why these farmers should be recompensed. They seem to me only to be doing their duty in controlling these army worms, just as a man who swats locusts if they are eating his maize on his *shamba* or a farmer who injects for foot-and-mouth disease, or something of that sort, would not be paid back for these expenses he has gone to. The man's duty was to get rid of the army worms and I think it is a very dangerous precedent to award a man for doing what he obviously should do.

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): Mr. Chairman, this is an unusual case of Government being sensible in this matter. It is not a new principle at all as the hon. Member suggests. It is a principle already agreed by this Council in the case of the spraying of wheat against green fly in 1952.

The facts are, Sir, that if these farmers' crops were destroyed by the army worm they would be a contingent liability falling upon the Government through the

guaranteed minimum return. It seems to the Government sensible to try to help farmers over the cost of spraying as they were really partners in the result. If the farmers did not spray, they could claim upon us the guaranteed minimum return. If they did spray, then it saves us producing that money as a Government.

Again, Sir, in many cases farmers could spray, save a claim on us for the guaranteed minimum return, but would not entirely recover the expense of the crop, and I think the whole issue was that it was a wise provision for Government to meet some of the cost of the spraying.

MR. COOKE: Mr. Chairman, the hon. Minister has admitted what I wanted him to confess. Does he really mean to say that a farmer will get a guaranteed minimum return if he does not do his duty in keeping his wheat in order. Does he mean to say that if a man loses his wheat or whatever it might be from army worm, makes no effort to control that army worm, gets no crop of wheat and then comes along for a guaranteed minimum return? It seems to be a misuse of that money and of that order for the guaranteed minimum return.

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): That is not the case at all. These farmers sprayed the wheat of their own volition in a reasonable attempt to try to save the crop. Having sprayed it, at a considerable expense to themselves, they did not envisage—and I would remind the hon. Member that the farmers work under a very tight cost schedule which is set by us, largely on the wishes of Members of this Council—this additional burden which is more than the amount which Government has helped them pay, came to us and asked whether we thought, in view of the fact that we had an interest in the crop, we could help them with some of the cost of spraying. Government felt that such a request was reasonable.

MR. COOKE: I do not think the Minister has really answered my question, which was this. If the farmer had not sprayed his wheat, would he have got a guaranteed minimum return? Why did you promise the guaranteed minimum return to the farmer for not doing his duty and keeping his wheat in good order.

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): Sir, the answer is that the farmer, when he plants his wheat cannot say whether army worms will descend upon it. If the hon. Member wants to introduce that sort of contingency into the situation, I should undoubtedly have to adjust the price structure. This is an act of God which fell upon the farmer. He sprayed in order to remove that act of God and having so done, he came to the Ministry of Agriculture and asked whether we would agree to meet part of the cost. The Government agreed to meet him.

MR. COOKE: But the hon. gentleman said that he saved paying the guaranteed minimum return. I said he should not get any guaranteed minimum return, he should not have been entitled to it, if he had not taken precautions to save his wheat.

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): Mr. Chairman, the fact remains that we have an arrangement with the farmers, we order them to plant the wheat in order to feed the hon. Member opposite.

THE MINISTER FOR COMMERCE AND INDUSTRY (Mr. Hope-Jones): *Inter alia!*

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): *Inter alia.* As we ordered the farmer to grow the wheat, I think it is reasonable for the farmer to say to us, "Will you meet some of the additional cost when an act of God falls upon me?"

MR. COOKE: I am reminded of an old saying that "It is no use arguing with a madman, you only refuse to believe him".

MR. HARRIS: Is it not a very bad principle, Sir, that Government pay out money in order to try to defeat an act of God?

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): No, Sir, it is a very useful principle.

Serial Nos. 30, 31 and 32 agreed to.

Serial No. 33

MRS. SHAW: Mr. Chairman, No. 33. It says in the Memorandum that sufficient savings were available from the

Coronation Celebrations Vote in 1953 to meet this charge, had it been raised at that time. Why was it not raised at that time and where have the savings gone?

MR. MACKENZIE: Mr. Chairman, the reason why the charge was not raised at that time was that the expenses were in the first instance paid for by the War Department and they had to go all the way through the War Department books and the auditors and everything else, and eventually a bill arrived in this Colony in respect of this expenditure. The bill actually only arrived this year and therefore could only be paid this year and so it was quite impossible to use the money which had been available in 1953, because the books for the year 1953 had been closed at the end of that year.

MRS. SHAW: Mr. Chairman, it still does not tell me where the savings have gone.

MR. MACKENZIE: The savings, Sir, went into the consolidated fund at the end of the year. The savings at the end of any year return to the Exchequer and are there to be used for the service of the following year. The savings actually exist, and they have been carried through as part of the Colony's consolidated revenue fund.

MRS. SHAW: In that case, Mr. Chairman, we do not need the Supplementary Estimates, do we?

MR. MACKENZIE: Yes, Sir, we do need the Supplementary Estimates because, although the Council has given authority for this expenditure to be met in 1953, there is no authority in the Estimates for 1956/57 for meeting this expenditure and what is now happening is that we are asking the Council for this authority.

LT.-COL. GHERSIE: We are dealing with 32 and 33, are we not? This sum of nearly £200,000. It is extra cost not covered by the War Department contribution for sending a military force to the Southern Sudan.

THE MINISTER FOR INTERNAL SECURITY AND DEFENCE (Mr. Cusack): And or.

LT.-COL. GHERSIE: Right, Well, Sir, I should have thought that if this were a colonial commitment at all, it might have been a commitment to the Uganda

[LT.-COL. GHERSIE] Protectorate and not the Kenya Government.

THE MINISTER FOR INTERNAL SECURITY AND DEFENCE (Mr. Cusack): The Uganda Government, also bore a considerable share of the expenditure, they looked after their part of the frontier and we looked after ours.

MR. COOKE: This is really the situation, why should we have to pay? The situation was created by the Home Government by handing over the Southern Sudan to a tyrannous government and the southern people rushed out of the Sudan because of the way they were being treated. Therefore, it was the Imperial Government which created the situation, why then should the Kenya or Tanganyika Government pay the bill?

THE MINISTER FOR INTERNAL SECURITY AND DEFENCE (Mr. Cusack): Sir, I am afraid I cannot accept the assumption on which the hon. Member has based his argument.

Serial No. 34 agreed.

Serial No. 35

LT.-COL. GHERSIE: Are we to understand, from the Minister, that the whole of this cost now will be borne from Emergency funds?

MR. MACKENZIE: Yes, Sir. The cost of these works will be met from appropriations made from the Emergency funds.

LT.-COL. GHERSIE: Thank you, Mr. Chairman, I only wanted to congratulate the Minister on accepting this principle at last.

SIR CHARLES MARKHAM: On a point of order, Mr. Chairman, we seem to be suffering from a disease of whispering baritones, can we ask them to speak up, Sir. We cannot hear anything that is being said.

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): Could I, after that remark, ask the hon. Member for Nairobi North to be good enough to repeat his last remark?

LT.-COL. GHERSIE: I was congratulating the Minister on having accepted the principle at last that these expenses are now being derived from Emergency funds.

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): I thought I could not have heard the hon. Member aright, but I did hear him aright and, as usual, Sir, I think he is wrong.

Serial No. 36 agreed to.

Serial No. 37

SIR CHARLES MARKHAM: No. 37, Mr. Chairman. You need not worry about my voice. When we had the Budget debate, Mr. Chairman, the Minister did say the establishment for the police was being worked on and would be ready in the near future. In view of those remarks, Sir, while not disputing the necessity for these Supplementary Estimates, I am surprised to see that every single person is down as a pensionable post. Under the circumstances, would it not have been wiser to put them on contract terms pending the publication of the establishment of the police?

THE MINISTER FOR INTERNAL SECURITY AND DEFENCE (Mr. Cusack): Sir, the published establishment will necessarily take account of this entirely essential force in the Northern Frontier District. Discussions relate rather at the moment to the relationship between the police and the tribal police.

MR. CROSSKILL: Mr. Chairman, *Serial No. 37.* It seems to me that the force is a most unsuitable one for the task of protecting the Kenya tribes in the Northern Frontier District. It is not stated how this force will be mobilised and if they are on foot or in cars, I think they will not be able to deal with the task. I would ask the Minister whether he would consider having cavalry, and whether he uses aircraft.

THE MINISTER FOR INTERNAL SECURITY AND DEFENCE (Mr. Cusack): Cavalry? Not Camelry?

MR. CROSSKILL: Cavalry.

THE MINISTER FOR INTERNAL SECURITY AND DEFENCE (Mr. Cusack): Yes, Sir, we already make considerable use of camel sections and the following item does in fact relate to the air wing which, of course, will be used, and is.

MR. CROSSKILL: Would the Minister consider camelry with a "v"?

THE MINISTER FOR INTERNAL SECURITY AND DEFENCE (Mr. Cusack): I thought you did say camels. We do make use of camels and the great part of that country is quite unsuited to equines.

Serial No. 37 agreed to.

Serial No. 38

MR. HARRIS: I think the Minister for Finance will mishear me again, Sir, because I would like to congratulate Government on having made the Kenya Police Air Wing a permanent institution and in accepting the Supplementary Estimate, Sir, I think that this Council might like to pay a tribute to the work which the men of the Air Wing have done during the Emergency. They have been rather a neglected force in some ways in that they have received very little publicity and I think, Sir, that the gratitude of this Council and the country should go to the men who compose that force.

THE MINISTER FOR INTERNAL SECURITY AND DEFENCE (Mr. Cusack): I am very grateful to the hon. Member.

LT.-COL. GHERSIE: Mr. Chairman, a little clarification. The estimated cost is £40,000, of which £16,000 represents the cost of personal emoluments and £24,000 is the cost of maintaining and operating the aircraft. Sir, are we to understand that the eight aircraft referred to are in existence, or will that be an additional cost?

THE MINISTER FOR INTERNAL SECURITY AND DEFENCE (Mr. Cusack): There are at the moment 14 aircraft in existence. It is proposed with the run down of the Emergency, to diminish the number to eight, but to have rather more two-engined aircraft than we have at present.

Serial Nos. 38, 39, 40, 41 agreed to.

Serial No. 42

MR. COOKE: I may have misunderstood this explanation, but has the hon. Member tried to get these funds from the Nyanza Provincial Council where they have a very large surplus balance, or did have a year or two ago? Would it not be expedient to borrow sums like this from the accumulated balances of the district councils of Nyanza?

THE MINISTER FOR LOCAL GOVERNMENT, HEALTH AND HOUSING (Mr. Have-

lock): Would the hon. Member tell me where the accumulated balances are?

MR. COOKE: When I asked that question, I was assured that a good deal of it had been lent in corporation loans in England, wrapped up there. Does the hon. Member say now that they do not exist?

THE MINISTER FOR LOCAL GOVERNMENT, HEALTH AND HOUSING (Mr. Have-lock): I think the hon. Member is getting mixed up with his idea of provincial autonomy. The African district councils have certain funds and they are invested, and if you look at the note to Serial No. 42, it does explain that there is at least £50,000 already invested for the Elgon Nyanza African District Council, which will be passed over to them from the North Nyanza African District Council. If they now, in order to provide the cash they require, liquidated those investments, they would do so with great loss, so in order to help them the Government has made a loan to them of £50,000 to be repaid when the actual Government stock is realisable in 1961 and that will, of course, be repaid at par at that time.

MR. TYSON: Mr. Chairman, do I understand that in the meantime the scrip covering this investment will be lodged with Government with a blank transfer as some protection against its being disposed of?

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): Mr. Chairman, as the Elgon Nyanza African District Council is, I hope, a reputable local government authority, who have invested their funds in Government stock, and as my hon. friend the Minister is, in the final issue, in complete control thereof, we would not propose such a step to the Elgon Nyanza African District Council.

Serial Nos. 43, 44, 45 agreed to.

Serial Nos. 46 and 47

SIR CHARLES MARKHAM: Mr. Chairman, would the Minister condescend explain the function of these resident labour inspectors who are employed on Emergency duties? I have a supplementary question to come after that, but I would like a reply to that first question.

THE MINISTER FOR EDUCATION, LABOUR AND LANDS (Mr. Coultis): I will ask my hon. friend, the Labour Commissioner, to reply.

MR. LUYT (Nominated Member): Some of the resident labour inspectors are paid out of the Emergency funds and belong to the Emergency establishment because in some of the areas where the Emergency has hit hardest, it has been deemed necessary to intensify the inspectorate to an extent not deemed normal or necessary to maintain during more peaceful times. In addition to that, with the growing return of Kikuyu labour into certain farming districts, it is also deemed necessary to have a strong inspectorate on the ground at this time.

SIR CHARLES MARKHAM: Mr. Chairman, I thank the Commissioner for that statement, but is he also aware of the crying need for these resident inspectors in areas other than Emergency areas? The biggest complaint of local authorities throughout the country has been on the enforcement of the Resident Labourers Ordinance concerning squatters and as his department is the only department which can enforce that, surely one would have thought there might be another Supplementary Estimate for additional staff as was stressed in the Budget debate?

MR. LUYT: No, Sir, I am aware of the need for a strong inspectorate and it is hoped that with the permanent inspectorate plus these five resident labour inspectors paid for from the Emergency votes, that a strong inspectorate will be provided. We have had considerable difficulty in recruiting resident labour inspectors on purely month-to-month terms, which, in fact, is the very reason for the inclusion of this item here. In order to get the officers, we have had to offer them contracts which necessitates the appearance of this item. Since we have been able to offer them contracts, we have been able to increase the strength and as soon as those who are at present under training have completed their period of training, we will be able to distribute inspectorate staff very much more effectively and extensively than has been the case for the last three years.

MRS. SHAW: Arising out of the hon. Member's remarks, did I understand him to say that the Kikuyu, Embu and Meru

had been reintroduced into the Nandi Hills?

MR. LUYT: You did not understand that.

MRS. SHAW: Well, of course, that was being discussed, too, that was why I wondered.

LT.-COL. GHERSIE: Arising out of what the Labour Commissioner said a moment ago, Sir, are we to understand that these posts have actually been filled?

MR. LUYT: All bar one, Sir, have been filled. These posts have been available under the Emergency funds since early in the year and the only change in connection with them is that whereas officers were previously offered month-to-month terms, we have had to change to contract terms in order to get them.

SIR CHARLES MARKHAM: Sir, I do not quite understand, in view of the remarks made by the Labour Commissioner, in Memorandum, because we are discussing Nos. 46 and 47, Sir, and under No. 47 of the Memorandum it talks about the labour officer for the tea industry. I cannot quite see what that has got to do with it.

THE MINISTER FOR EDUCATION, LABOUR AND LANDS (Mr. Coultis): Mr. Chairman, I think I should explain that 15 (a) and 34 (a) under Nos. 46 and 47 refer to item 48, and do not refer to resident labour inspectors.

SIR CHARLES MARKHAM: But it does particularly say here, Sir, with great respect to the Minister, "Business requires the appointment of one labour officer". Under 15 (a) it says one labour officer, a token Vote from the Emergency. Perhaps the Emergency has reached the tea areas!

THE MINISTER FOR EDUCATION, LABOUR AND LANDS (Mr. Coultis): It is proposed, Sir, to have the labour officer, we expect, permanently in the Nandi Hills together with two clerks and his transport and travelling with a motor vehicle under item 48. Under items 46 and 47, 18 (a) refers to five resident labour inspectors only. Nos. 46 and 47 referring to personal emoluments, that is the personnel required, and No. 48 refers to other charges in respect of the personal emoluments of two-thirds of Nos. 46 and 47.

Serial Nos. 48 and 49 agreed.

Serial No. 50

LT.-COL. GHERSIE: It says here in the Memorandum that two clerks are also required to supervise the stamping machines in the Land Office at Nairobi and Mombasa. Is it really considered that two clerks will really meet the case, when one considers the amount of money involved? Two clerks—will these appointments be sufficient to properly supervise these stamping machines?

THE MINISTER FOR EDUCATION, LABOUR AND LANDS (Mr. Coutts): That is my belief, Sir.

MR. CROSSKILL: Mr. Chairman, in the Public Accounts Committee we did ask for the scheme to be operated by a European. I should like to know whether that, in fact, has been done. A very serious loss to the country was disclosed at that time, which I think will not be remedied by clerks being put in charge of the machines. There were, I think, too many clerks using the machines to their own advantage.

THE MINISTER FOR EDUCATION, LABOUR AND LANDS (Mr. Coutts): Well, Sir, I am not sure what the previous speaker was referring to about two clerks, because my information is that we require £630 for one person, and I assume this will be a European.

Serial No. 51

MR. COOK: I suppose these sums will be repaid as survey fees later, by the landowners.

THE MINISTER FOR EDUCATION, LABOUR AND LANDS (Mr. Coutts): It will be recovered, a certain amount of it will be recovered.

Serial Nos. 52, 52A and 53 agreed to.

Serial No. 54

SIR CHARLES MARKHAM: No. 54. Mr. Chairman, I did give notice the last time. Another question of the Royal Visit comes under this Ministry, and this opportunity was also taken by my hon. friend, the Member for Nairobi South.

Sir, when you tot up the various amounts the different Ministries claim to have spent, it comes to £46,100; and I do believe, Sir, that some of the expenses shown are quite exorbitant, especially

in view of the Colony's financial position. One example, Sir, was £7,000 for the Press, Press expenses over the Royal Visit. I wonder, Sir, whether perhaps the Minister for Finance, with his usual zeal in protecting the Colony's interests, protested at the time at that exorbitant sum of money.

Sir, the last item in No. 54, Sir, decoration of public buildings and expenses on other sundry works—£12,000. Then, under the local government one, Sir, we have another contribution for the Minister for the Local Government; and another one under the Ministry for African Affairs; and so on, until we get a grand total of £46,100. I am sure that figure is accurate, Sir, I have added it up myself. And if the Minister likes, I will give him them one by one.

But I do suggest that we might have some detail of where this money has gone under item 54—£12,000. The £100, by the way, was for contributions to the High Commission. That seems quite logical. But £12,000 seems to be out of all proportion to what actually was done, considering the length and duration of the stay.

THE MINISTER FOR LOCAL GOVERNMENT, HEALTH AND HOUSING (Mr. Havelock): I can give the hon. Member all the details now.

SIR CHARLES MARKHAM: Sir, I particularly asked that point when we came to the first details yesterday, and I would like to raise the whole lot under the last heading.

THE CHAIRMAN (Mr. Conroy): Sir Charles Markham, you will remember that I informed you that, if it were relevant to the heading, you could raise it then.

SIR CHARLES MARKHAM: Is it not relevant, Sir?

THE CHAIRMAN (Mr. Conroy): We are now dealing with Serial No. 54. Local government ones are not relevant to Serial No. 54. They are relevant to Public Works.

SIR CHARLES MARKHAM: Very well, I beg to move that Serial No. 54 be deleted.

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): Mr. Chairman, I would only intervene on behalf of my hon. friend the Member for Ukamba. I think, Sir, with all due respect he should submit this, and I think he has let the other items go by in the belief that he would have full freedom of debate on this particular item and I think he will feel aggrieved if he were now excluded from discussing all those Heads, Sir.

THE CHAIRMAN (Mr. Conroy): I think the Member for Ukamba has adopted the appropriate course in moving the substantive Motion of delating this item to allow the principle to be debated which will enable him to introduce, by way of illustration, the other matters to which he wishes to refer. He will, however, recall that when he raised the matter yesterday, I said that he could debate things under each Head which were relevant to that Head.

SIR CHARLES MARKHAM: Yes, Sir. But to avoid the monotonous regularity we have read on those particular points. If I may, Sir, taking Serial No. 43 as being virtually the same as Serial No. 54. It is all part and parcel of the same thing—the decorations. Naturally, Sir, I bow to your ruling and I think the only thing I can do is to move the amendment.

THE CHAIRMAN (Mr. Conroy): Do you wish to speak to the amendment?

SIR CHARLES MARKHAM: No, Sir.

THE CHAIRMAN (Mr. Conroy): Well, I will propose the question. The question is that Serial No. 54 be deleted.

THE MINISTER FOR LOCAL GOVERNMENT, HEALTH AND HOUSING (Mr. Havelock): May I have your permission to refer to the previous item?

THE CHAIRMAN (Mr. Conroy): Yes. We are now debating the principle involved in Serial No. 54, and you can use by way of example matters arising from other serials.

THE MINISTER FOR LOCAL GOVERNMENT, HEALTH AND HOUSING (Mr. Havelock): Yes, Sir. I can only deal, of course, with a subject of which I have some knowledge and that, briefly, is this. The ratepayers of four different towns in this country have made considerable contributions towards the decorations that have beautified the town, some of the beautifying has been, of course, permanent.

THE CHAIRMAN (Mr. Conroy): Mr. Havelock, would you come forward, because the palatypists cannot hear you.

THE MINISTER FOR LOCAL GOVERNMENT, HEALTH AND HOUSING (Mr. Havelock): I would submit that with regard to the visit of Her Royal Highness the money that has been expended is certainly worth while. I certainly take up the hon. Member for the Coast, I know of this proportion of the money expended—£4,000—has certainly not been wasted. And if anyone has looked really with open eyes and a warm heart—which, of course, one does not expect from the hon. Member for the Coast—at the really generous welcome that the City of Nairobi gave to Her Royal Highness I do not think that she could have got such a welcome in any other place in the world. It was not only the expenditure on bunting and so on, but also the natural glory of the efforts of Mr. Green-smith.

Well, Sir, going into far more details, it will be very interesting to some of the Members to know that Mombasa will probably have spent something in the region of £2,000 on decorations for Her Royal Highness, of which £1,000 comes from Government as contributions towards expenses. And I want to underline that. That the ratepayers themselves, and their representatives, have voted at least 50 per cent of the expenses, and I think it is quite right that Central Government should help them out. £2,000 will be the Government's help, towards the City of Nairobi, which is a small proportion of the total expenditure in the City; £600 to Kisumu; and £400 to Nakuru. And I submit, Sir, that this expenditure is very well justified and fully what should be expected of the Colony of Kenya in welcoming a member of the Royal Family.

THE CHIEF SECRETARY (Mr. Turnbull): I would echo my hon. colleague's words in respect of what has been done by the Public Works Department for public buildings. Some of them required a good deal of titivation generally, and the Director of Public Works made an extremely favourable showing. His task covered Mombasa, Nairobi, Machakos, Kisumu and certain other towns.

If you have an occasion of public rejoicing such as we were very fortunate to have in October, you really cannot

[The Chief Secretary] expect to do it for a few pence. There are occasions when it is desirable and generally dignified to put your hand fairly deeply into your pocket, and this was one of them.

MR. HARRIS: Mr. Chairman, I am sure no Member of this Council, and particularly on this side of the Council, would begrudge any money at all in order to give a member of the Royal Family a proper welcome to the Colony. I think, Sir, that the criticism here is not of the money that was spent, but whether the Minister for Finance particularly, and the Treasury, are satisfied that the money was well spent. I think that is the hub of the whole problem, and I would not like it to be distorted in the Press outside East Africa, that this Committee is arguing about whether or not we should have spent as much as we did on the welcome to Her Royal Highness.

I think the whole essence of this is whether the Treasury are satisfied that this £12,000 is well spent.

And also, Sir, it is a pity, that I have to raise this every time we have Supplementary Estimates, where is the Minister for Works, Sir? We are discussing Supplementary Estimates, where is he?

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): Sir, my hon. colleague, the Minister for Works, is at the present moment in hospital.

MR. HARRIS: I apologise. He was here this afternoon.

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): Well, Sir, he may have been. But I am merely stating what I believe is the actual fact at this moment.

The hon. Member for Nairobi South has asked a question which the Minister for Finance has the pleasure of satisfying

It would remind him once again, Sir, that this a matter of collective responsibility. The Minister for Finance accepts exactly the same responsibility for this expenditure as any other Minister.

I would also remind him, Sir, that this is another case of the decentralisation of responsibility. The Treasury does not

interfere with the expenditure in detail and the responsibility, therefore, for the expenditure in detail rests upon the head of the Minister responsible, with whom, in his turn, the Minister for Finance accepts collective responsibility.

SIR CHARLES MARKHAM: Mr. Chairman, I did not wish to give the impression that we were begrudging the money. All I felt was that a lot of money had been spent, and had it been spent properly? I made a simple query about £7,000 for the Press. Perhaps the Chief Secretary would like to answer one point.

THE CHIEF SECRETARY (Mr. Turnbull): Mr. Chairman, I will be happy to answer the hon. Member's question about the £7,000. First of all it covered certain publicity undertaken before the tour, amounting to £1,060. That included a 40 per cent share of the expenditure of the Press Liaison Officer, who hon. Members will remember was in charge of the Press arrangements for the tour with the Royal suite. Meals for the Press and contingent liability for accommodation reserved for them and not occupied came to £250. We reserved hotel accommodation for visiting Pressmen. As we could not foresee the number with complete accuracy, a number of rooms were not taken up. Transport of Pressmen by car and aircraft cost £2,050. It is common form in tours of this sort to extend hospitality to the Press in so far as transport is concerned. It was the practice followed in Nigeria, and it was followed here, quite properly.

Communication charges, £655.

Rent and equipping of Press rooms, £175.

Rent and equipping of darkrooms, £135.

Entertainment of Pressmen, £400.

Printing of passes and booklets, £520.

Film-making stock and copies, £500.

Extra photographic materials, travelling and subsistence, postal and telegraph expenses, £550.

Provision of public-address system, £705.

The total of all that comes to £7,000.

SIR CHARLES MARKHAM: I would like to thank the Chief Secretary, but I hope he will deduct the expense of the public-address system at Machakos, which failed.

So, under the circumstances, I would like leave to withdraw my amendment, Sir.

Amendment, by leave, withdrawn.

Serial No. 54 agreed to.

Serial Nos. 55 to 57 agreed to.

The question was put and carried.

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): Mr. Chairman, I beg to move that a sum not exceeding £8,445 be granted to the Governor, on account, for or towards defraying the charges of Supplementary Estimates of Expenditure No. 1 of 1956/57, Part I. This, Sir, is the section which deals with the reimbursement of the Civil Contingencies Fund. For the information of those hon. Members whose first Supplementary Estimate this is, Sir, the Civil Contingencies Fund is a fund which is placed at the disposal of the Minister for Finance by the Council, to meet special and urgent payments on the understanding that it is reimbursed at the earliest possible moment and that matters for which it is used are brought before the Council again at the earliest possible moment.

THE CHIEF SECRETARY (Mr. Turnbull) seconded.

Serial No. 58 agreed to.

The question was put and carried.

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): Mr. Chairman, I beg to move that a sum not exceeding £18,916 be granted to the Governor, on account, for or towards defraying the charges of Supplementary Estimates of Expenditure No. 1 of 1956/57, Part III.

This, Sir, is the revote.

Question proposed.

Serial Nos. 59 to 64 agreed to.

The question was put and carried.

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): Mr. Chairman, I beg to move that a sum not exceeding £22,000 be granted to the Governor, on account, for or towards

defraying the charges of Supplementary Estimates of Expenditure No. 1 of 1956/57, Part IV.

This, Sir, is the excess Vote.

Question proposed.

Serial No. 65 agreed to.

The question was put and carried.

MOTION

DEVELOPMENT SUPPLEMENTARY ESTIMATES No. 1 of 1956/57, IN PARTS

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): Mr. Chairman, I beg to move that a sum not exceeding £391,717 be granted to the Governor, on account, for or towards defraying the charges of Development Supplementary Estimates of Expenditure No. 1 of 1956/57, Part I.

Question proposed.

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): Mr. Chairman, in accordance with Standing Order No. 128 I beg to signify that the consent of the Governor has been received for the introduction of these financial Motions.

Serial No. 1

MR. COOKE: Mr. Chairman, would the Minister responsible tell us where this money is coming from? If say it will be found from the Colony's revenue. Does that mean that the surplus balance at the end of June, 1956, was a good deal greater than is shown in the Annual Estimates—that is roughly £400,000—because that £395,000, to be precise, has been used to cover the deficit for the current year. Where does he expect to get the money from when he says he is getting it from the Colony's revenue? What, indeed, was the surplus balance at the end of June, 1956, in the light of future events.

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): Mr. Chairman, I think, Sir, I did explain this in regard to another item which was in regard to the Lugard Barracks at Nanyuki. When the hon. Member raised a question with me on that point, I said to him that there had been an excess of revenue over the Estimates last year of some £2,500,000 which had enabled us not to draw so much money as had been

[The Minister for Finance and Development]

anticipated from Her Majesty's Government, but that I had sought agreement from Her Majesty's Government to make these special contributions—one for Lugard Barracks at Nanyuki and the other for the special expenditure in Nyanza. Both of these, Sir, were referred to in the ordinary Supplementary Estimates, the consideration of which we have just concluded, and I gave the explanation there. That is, Sir, that any surplus which we have or appear to have at the present moment has to be used in the reduction of the amount of the assistance we can take from Her Majesty's Government. However, in these particular cases, I secured the agreement of Her Majesty's Government to spending some of this surplus, which would have otherwise have returned to Her Majesty's Government on these much needed measures.

Serial Nos. 1, 2 and 3 agreed to.

Serial No. 4

MR. CROSSKILL: It seems rather similar to the spraying for army worms. It seems to me that £10,000 should come under the sale price received for the cattle when they are slaughtered.

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): There is no imaginable comparison between this Vote and the army worm. The hon. Member is speaking—I cannot remember the phrase, but there is something in the Bible about the "waters of profundity".

MR. HARRIS: This is vaccine!

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): Sir, this is an item which is caused by having to build up stocks of foot-and-mouth vaccine for issue to farmers and, in particular, to African stock moving from African areas. Now, the hon. Member, on a number of occasions in this Council has urged me to accelerate the movement of cattle from the African areas, and I have pointed out to him that I cannot do this unless I can control the disease element that they bring with them.

This money is to be used to purchase the vaccine in order to inoculate the animals as they are moved from the reserve.

MR. CROSSKILL: The Minister is skirting round the question, which is the question of the cost. I do not think anybody is disapproving the process of vaccination—it is necessary—but it should be paid for out of the money received from the sale of stock.

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): Wherever possible the money is recovered.

MR. CROSSKILL: Then why did the hon. Minister not say so.

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): I thought I would like to lead the hon. Member on for a bit.

MR. HARRIS: Can I take it that the money is recoverable and, if so, how much of this £10,000?

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): I could not give the hon. Member a figure because I imagine that some of the vaccine is probably still in stock. Wherever appropriate we do recover the charges.

MR. HARRIS: Why is it that agriculture has always got to be "spoon-fed" to this extent? In other walks of life it is normal for people to have to take their own precautions against possible loss, either by insurance or by other evasive means. However, it always seems to me, Sir, that the farmer is always being given by the Minister the best of both worlds. It is always "Tails I win, heads you lose".

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): Mr. Chairman, nothing could be further from the truth in this case. This is an amount of money which has been expended in order to build up stocks of foot-and-mouth vaccine which are then injected into the animals so that they may pass safely from one area or another. Wherever possible the charges are recovered.

Serial Nos. 4, 5 and 6 agreed to.

Serial No. 7

MR. COOKE: The sum of £520 seems a very large sum to pay for furnishings in one house?

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): The hon. Member must give me a moment. Mr. Chairman, you have gone so speedily that I have not caught up with the item yet. I was still engrossed with the hon. Member for Nairobi South. I can give the hon. Member an adequate explanation, but I must just have time to refresh my memory. Would the hon. Member like it later.

Serial Nos. 7, 8, 9, 10, 11, 12 and 13 agreed to.

Serial No. 14

MR. COOKE: Mr. Chairman, Sir, could we not have an approximate sum rather than this token Vote of £1? Will it be £1,000 or £10,000, or what sum is it likely to come to?

THE MINISTER FOR LOCAL GOVERNMENT, HEALTH AND HOUSING (Mr. Have-lock): Mr. Chairman, I shall be only too pleased to give the hon. Member the information. The total cost is going to be approximately £25,000, of which Government will contribute £8,000, the City Council £8,000, the War Memorial Fund £5,000, the African Trust Fund £2,000 and certain African district councils £2,000.

MR. COOKE: It would have saved a lot of trouble if it had been put in the Schedule.

THE MINISTER FOR LOCAL GOVERNMENT, HEALTH AND HOUSING (Mr. Have-lock): Knowing the interest of hon. Members on the other side, I had the figures prepared.

Serial Nos. 14, 15, 16 and 17 agreed to.

Serial No. 18

MRS. SUAW: I would like to hear an assurance from the Minister of Works—who, unfortunately, is not here—that an improvement to existing yards—I see the sum is £2,495—does not mean improvement of the existing Public Works Department yards in Kisumu because I had the hon. Minister's assurance equally last year that that yard was going

to be moved within the first half of this financial year.

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): Sir, in the absence of my colleague, I can merely say that if my hon. colleague gave that assurance to the hon. and gracious Member for Nyanza, then I am sure it will be carried out.

Serial Nos. 18, 19 and 20 agreed to.

Serial No. 21

MR. MATHU: Speaking on Serial No. 21, can the Minister tell this Council where the bulking of improved stock will take place?

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): Yes, Sir, I cannot give him all the details but, certainly, one of the bulking areas is Kibigori. Others will be adjoining the Northern Frontier.

Serial Nos. 21, 22, 23, 24 and 25 agreed to.

The question was put and carried.

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): Mr. Chairman, Sir, I beg to move that a sum not exceeding £46,000 be granted to the Governor, on account, for or towards defraying the charges of Development Supplementary Estimates of Expenditure No. 1 of 1956/57, Part II.

Question proposed.

Serial Nos. 26 and 27 agreed to.

The question was put and carried.

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): Mr. Chairman, Sir, I beg to move that a sum not exceeding £357,464 be granted to the Governor, on account, for or towards defraying the charges of Development Supplementary Estimates of Expenditure No. 1 of 1956/1957, Part III.

This, Sir, is the revote section.

Question proposed.

Serial Nos. 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56 and 57 agreed to.

The question was put and carried.

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): Mr. Chairman, I beg to move that the Committee do report to the Council its consideration and approval of the financial Resolutions on the Order Paper without amendment.

Question proposed.

The question was put and carried.

Council resumed.

[Mr. Speaker (Sir Ferdinand Cavendish-Bentinck) in the Chair]

REPORT

MR. CONROY: I beg to report that the Committee of Supply has considered the Supplementary Estimates of Expenditure for the Colony and Protectorate of Kenya for 1956/1957 and has approved the Resolutions in respect thereof.

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): Mr. Speaker, I beg to move that the Council do agree with the Committee in the said Resolutions.

Question proposed.

The question was put and carried.

REPORT

MR. CONROY: Mr. Speaker, Sir, I beg to report that the Committee of Supply has considered the Development Supplementary Estimates No. 1 of 1956/1957 and approved the Resolutions in respect thereof.

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): Mr. Speaker, Sir, I beg to move that the Council do agree with the Committee in the said Resolutions.

Question proposed.

The question was put and carried.

CONSIDERATION OF REPORT

The Kenya Society for the Blind Bill
(Order for the Consideration of Report read)

THE MINISTER FOR EDUCATION, LABOUR AND LANDS (Mr. Coutts): Mr. Speaker, Sir, I beg to move that this Council do adopt the Report of the Committee of the whole Council on the Kenya Society for the Blind Bill.

MR. CONROY seconded.

Question proposed.

The question was put and carried.

BILL

THIRD READING

The Kenya Society for the Blind Bill
THE MINISTER FOR EDUCATION, LABOUR AND LANDS (Mr. Coutts): Mr. Speaker, Sir, I beg to move that the Kenya Society for the Blind Bill be now read the Third Time.

MR. CONROY seconded.

Question proposed.

The question was put and carried.

The Bill was accordingly read the Third Time and passed.

ADJOURNMENT

THE CHIEF SECRETARY (Mr. Turnbull): Mr. Speaker, Sir, I beg to move that the Council at its rising to-day do adjourn until 2.30 p.m. on Tuesday, 4th December, 1956, and at its rising on that day, do further adjourn until 2.30 p.m. on Tuesday, 11th December, 1956.

The intention is, Sir, that on the 4th December the Council should deal with formal matters only. There are six or seven First Readings ready for that day and business will be limited entirely to those First Readings. If this procedure is adopted the Council can go straight into matters of substance when it meets on 11th December.

MR. HARRIS seconded.

Question proposed.

The question was put and carried.

THE SPEAKER (Sir Ferdinand Cavendish-Bentinck): That being the case, and having completed the business on the Order Paper, I adjourn Council until 2.30 p.m. on Tuesday, 4th December.

Council rose at forty minutes past Five o'clock.

Tuesday, 4th December, 1956

The Council met at thirty-five minutes past Two o'clock.

[Mr. Speaker (Sir Ferdinand Cavendish-Bentinck) in the Chair]

PRAYERS

BILLS

FIRST READINGS

The King's African Rifles (Amendment) Bill—(the Minister for Internal Security and Defence (Mr. Cusack))—Order for First Reading read—Read the First Time—Ordered to be read the Second Time to-morrow.

The Guarantee (High Commission Railways and Harbours Loan) Bill—(the Minister for Finance and Development (Mr. Vasey))—Order for First Reading read—Read the First Time—Ordered to be read the Second Time to-morrow.

The Banking Bill—(the Minister for Finance and Development (Mr. Vasey))—Order for First Reading read—Read the First Time—Ordered to be read the Second Time to-morrow.

The Agriculture (Amendment) Bill—(the Minister for Agriculture, Animal Husbandry and Water Resources (Mr. Blundell))—Order for First Reading read—Read the First Time—Ordered to be read the Second Time to-morrow.

The Land and Agricultural Bank (Amendment) Bill—(the Minister for Finance and Development (Mr. Vasey))—Order for First Reading read—Read the First Time—Ordered to be read the Second Time to-morrow.

The Royal National Parks of Kenya (Amendment) Bill—(the Minister for Forest Development, Game and Fisheries (Mr. Blunt))—Order for First Reading read—Read the First Time—Ordered to be read the Second Time to-morrow.

The Legislative Council (African Representation) (Amendment) Bill—(the Chief Secretary (Mr. Turnbull))—Order for First Reading read—Read the First Time—Ordered to be read the Second Time to-morrow.

ADJOURNMENT

THE SPEAKER (Sir Ferdinand Cavendish-Bentinck): That completes the business on the Order Paper, Council will now stand adjourned until Tuesday, 11th December, 1956, at 2.30 p.m.

Council rose at thirty-seven minutes past Two o'clock.

Tuesday, 11th December, 1956

The Council met at thirty minutes past Two o'clock.

[Mr. Speaker (Sir Ferdinand Cavendish-Bentinck) in the Chair]

PRAYERS

ADMINISTRATION OF OATH

The Oath of Allegiance was administered to the following Member:—

Mr. Humphrey Slade.

PAPERS LAID

The following Papers were laid on the Table:—

The East Africa High Commission East African Income Tax Department: Report for period 1st July, 1955, to 30th June, 1956.

(By THE CHIEF SECRETARY (Mr. Turnbull))

The Annual Report Registrar-General's Department, 1955.

(By THE MINISTER FOR LEGAL AFFAIRS (Mr. Griffith-Jones))

The Public Accounts Committee of the Legislative Council of Kenya: Epitome of Reports from 1947 to 1954 and of the Treasury Memoranda thereon with Appendices and an Index.

Report, Balance Sheet and Accounts, 30th June, 1956, of the 'Cereals Finance Corporation, Nairobi.

The Export Duty (Hides and Skins) (Variation of Duty) Order, 1956.

(By THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey))

The Agriculture (Scheduled Crops) (No. 2) Order, 1956.

(By THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell))

The Electric Power (Amendment) Rules, 1956.

(By THE MINISTER FOR COMMERCE AND INDUSTRY (Mr. Hope-Jones))

NOTICES OF MOTIONS

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): Mr. Speaker, I beg to give notice of the following Motions:—

Export Duty (Hides and Skins) (Variation of Duty) Order, 1956

BE IT RESOLVED that WHEREAS—

- (1) sub-section (1) of section 4 of the Export Duty Ordinance, 1951, empowers the Governor in Council of Ministers by order to increase or decrease the duty payable on any commodity specified in the Schedule to the Ordinance or to abolish the duty thereon;
- (2) sub-section (2) of the aforesaid section requires any such order to be laid on the Table of the Legislative Council and provides that it shall cease to have effect unless approved by Resolution of the said Council passed within seven days of its being so laid;
- (3) the Governor in Council of Ministers has made the Order entitled the Export Duty (Hides and Skins) (Variation of Duty) Order, 1956, set out in the Schedule hereto, varying the duty payable on goat skins.

NOW, THEREFORE, BE IT RESOLVED that this Council approves the terms of the aforesaid Order.

Another Notice of Motion, Sir:—

LOAN GUARANTEE OF £100,000 FOR STAFF HOUSING

BE IT RESOLVED that this Council authorizes the Kenya Government to guarantee a loan of £100,000 to be made by the National Bank of India Finance Development Corporation to the East Africa High Commission for staff housing in Kenya.

The third Motion, Sir:—

Agriculture (Scheduled Crops) No. 2) Order, 1956

BE IT RESOLVED that this Council approves that the allowances paid to Members of this Council by virtue of the provisions of the Members of the Legislative Council Salaries and Allowances Bill, 1956, when enacted, shall be exempt from income tax.

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): Mr. Speaker, Sir, I beg to give notice of the following Motion:—

MEMBERS' SALARIES: EXEMPTION FROM TAX

BE IT RESOLVED that the Order entitled the Agriculture (Scheduled Crops) (No. 2) Order, 1956, which has been laid on the Table of Council be approved.

Mr. Speaker, Sir, another Motion I beg to give notice of the following Motion:—

MEAT COMMISSION LOAN

WHEREAS on 24th February, 1955, a Resolution was passed by the Legislative Council which provided, *inter alia*, "that the Minister for Finance shall proceed with negotiations for the proposed long-term loan not exceeding £250,000 and that the Government shall guarantee repayment thereof and the interest thereon to the lender in such manner and over such period not exceeding 21 years as shall be approved by the Minister for Finance"; and

WHEREAS the Minister for Finance has made arrangements for the Kenya Meat Commission to obtain from the Colonial Development Corporation a loan of £250,000 repayable in annual instalments of £12,500 over a period of 20 years; and

WHEREAS it is at present considered desirable that the Government should finance this capital contribution;

NOW THEREFORE BE IT RESOLVED that the Government shall pay in each year to the Kenya Meat Commission the amount of principal repaid in that year by the Commission to the Colonial Development Corporation subject to a maximum payment in any one year of £12,500 and subject to the Kenya Meat Commission paying interest to the Government at such rates as may be fixed by the Minister for Finance and Development on all sums so paid by the Government to the Commission, such sums not to exceed in the aggregate £250,000 and the repayment of such sums to the Government by the Commission with interest as aforesaid to be secured by

a debenture charging with such repayment all and sundry the assets of the Commission from time to time during the period of the said debenture.

ORAL ANSWERS TO QUESTIONS
QUESTION No. 4

SIR CHARLES MARKHAM asked the Chief Secretary to state whether the speech made by the Minister for Finance to the East Africa Indian National Congress at Nakuru earlier this year, in which the introduction of a common roll was advocated, represents the policy of the Government.

THE CHIEF SECRETARY (Mr. Turnbull): No, Sir. The Minister was speaking in his personal capacity.

SIR CHARLES MARKHAM: Mr. Speaker, arising from that reply, would the Chief Secretary tell us whether it is Government's policy for the introduction of a common roll in the immediate future?

THE CHIEF SECRETARY (Mr. Turnbull): Mr. Speaker, Sir, the Government has undertaken not to initiate any changes in the communal basis of the franchise to become effective before 1960.

SIR CHARLES MARKHAM: Mr. Speaker, under the circumstances, do I therefore understand that the Minister was not speaking on behalf of the Government? Should not Ministers be precluded from expressing controversial personal opinions which conflict with Government policy and which are against the spirit of the Lyttelton Plan?

THE CHIEF SECRETARY (Mr. Turnbull): I think it is an inaccuracy to say that it conflicts with Government policy. No decision has yet been reached by the Government as to the policy which should be followed by the Government in relation to any possible changes in the present franchise arrangements.

As to Ministers making speeches of this sort, the Government would not attempt to debar any Minister from making a political speech provided what he said was not contrary to the policy of the Government and did not conflict with the principle of collective responsibility for decisions on Government policy.

LT.-COL. GHERSIE: Mr. Speaker, Sir, arising out of the first reply, and having

[Lt.-Col. Gheris]

regard to the fact, Sir, that the Minister for Finance owes his present privileged position due to the confidence once shown in him by the electorate of Nairobi North, is he prepared, if called upon, to resign and contest a by-election in order to ascertain whether or not he still enjoys that confidence in the light of the views he holds to-day?

THE CHIEF SECRETARY (Mr. Turnbull): I cannot see that that arises.

THE SPEAKER (Sir Ferdinand Cavendish-Bentick): It does not arise.

MR. HARRIS: Arising out of the reference of the Chief Secretary to collective responsibility, do we take it that the whole of the Front Government Bench accepts responsibility for the Minister's statement?

THE CHIEF SECRETARY (Mr. Turnbull): If the hon. Member had listened he would have heard that I said "collective responsibility for decisions on Government policy".

MR. COOKE: Seeing that according to the Chief Secretary the Government has not a policy, is it not wrong for the Government's future policy to be influenced, perhaps, by a speech by the Minister for Finance? Is it not prejudicing the Government policy?

THE CHIEF SECRETARY (Mr. Turnbull): I do not know what gives the hon. Member the idea that Government policy has been influenced.

SIR CHARLES MARKHAM: Arising out of the reply, I give notice that I will raise this matter again in a Motion.

QUESTION No. 6

LT.-COL. GHERISIE asked the Minister for Commerce and Industry to state when it is proposed to introduce legislation to make provision for the control and regulation of dealings in scrap metal.

THE MINISTER FOR COMMERCE AND INDUSTRY (Mr. Hope-Jones): The necessity for legislation to make provision for the control and regulation of dealings in scrap metal has been under review recently, and proposals previously suggested are now to be reviewed by the Board of Commerce and Industry. It will then be possible for the Government to reach a decision about the desirability of new legislation.

LT.-COL. GHERISIE: Mr. Speaker, arising out of that reply, is the Minister aware that a committee set for the purpose of drafting legislation on this subject over three years ago and is he also aware of the considerable losses which are now being suffered by the High Commission services and commerce in regard to the thefts of ferrous and non-ferrous metals?

THE MINISTER FOR COMMERCE AND INDUSTRY (Mr. Hope-Jones): If the hon. gentleman had listened to my reply, he would have noticed I referred to the committee that he referred to, which was a committee of the Board of Commerce and Industry of which the hon. gentleman was a member.

In regard to the second part of his question, I am, of course, aware of the very serious thefts which have taken place, not only in regard to the Posts and Telecommunications Administration, and also in regard to the Railway and the East African Power and Lighting Company and many other users of these non-ferrous metals. That is the reason why the Board of Commerce and Industry is reviewing the matter as a matter of the highest urgency.

LT.-COL. GHERISIE: Arising out of the original reply, is the Minister aware, Sir, that legislation is now before the Government of Tanganyika on this very subject and that legislation, even if enacted, would be practically abortive or the object would be defeated, unless we introduce similar legislation in this Colony?

THE MINISTER FOR COMMERCE AND INDUSTRY (Mr. Hope-Jones): I thank the hon. Member for the very valuable information he has given. That point is being borne in mind by the Board of Commerce and Industry.

MOTION

SUSPENSION OF STANDING ORDERS

THE CHIEF SECRETARY (Mr. Turnbull): Mr. Speaker, I beg to move that under Standing Order No. 168 the Standing Orders be suspended to the extent necessary to take the Consolidated Fund (No. 2) Bill (Bill No. 26) through all its stages to-day.

Sir, this is one of the few occasions which in the opinion of the Government justifies a suspension of the Standing Orders.

[The Chief Secretary]

The purpose of the Bill is to give statutory sanction for the expenditure of the public funds which were recently agreed by this Council by way of Supplementary Estimates. It is obviously desirable that this agreement should be passed into law without delay.

Sir, I beg to move.

THE MINISTER FOR LEGAL AFFAIRS (Mr. Griffith-Jones) seconded.

Question proposed.

The question was put and carried.

BILL

FIRST READING

The Members of Legislative Council (Salaries and Allowances) Bill—(The Minister for Finance and Development (Mr. Vasey))—Order for First Reading read—Read the First Time—Ordered to be read the Second Time to-morrow.

CONSIDERATION OF REPORT

The Cereal Producers (Scheduled Areas) Bill (Previously Known as the *European Cereal Producers Bill*)

Order for Consideration of Report read.

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): Mr. Speaker, I beg to move that the Report of the Committee of the whole Council on the Cereal Producers (Scheduled Areas) Bill be considered and agreed by the Council.

THE MINISTER FOR LEGAL AFFAIRS (Mr. Griffith-Jones) seconded.

Question proposed.

The question was put and carried.

BILL

THIRD READING

The Cereal Producers (Scheduled Areas) Bill

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): Mr. Speaker, I beg to move that the Cereal Producers (Scheduled Areas) Bill be now read the Third Time.

THE MINISTER FOR LEGAL AFFAIRS (Mr. Griffith-Jones) seconded.

Question proposed.

The question was put and carried.

The Bill was accordingly read the Third Time and passed.

BILL

FIRST READING

The Consolidated Fund (No. 2) Bill—(The Minister for Finance and Development (Mr. Vasey))—Order for First Reading read—Read the First Time—Ordered to be read the Second Time.

BILL

SECOND READING

The Consolidated Fund (No. 2) Bill
Order for Second Reading read.

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): Mr. Speaker, Sir, I beg to move that a Bill entitled the Consolidated Fund (No. 2) Bill be now read the Second Time.

Sir, this is usually regarded as a formal Motion. The Ordinance covers the promise made in accordance with the recommendations of the Public Accounts Committee that as soon as possible after the passing of the Supplementary Estimates the payments would be authorized by the passing of a suitable appropriation Consolidated Fund Bill. This sum, therefore, gives statutory sanction for the public expenditure during the year 30th June, 1956, to 30th June, 1957, on the basis of the Supplementary Estimates of Expenditure No. 1 of 1956/1957 which this Council passed recently and No. 1 of 1956/1957 Development which was passed by this Council on the same day.

Hon. Members will notice that this rectifies an omission made in the Appropriation Ordinance of 1956, of appropriations amounting to £212,000 which should have been shown at the time of the passing of the 1956 Appropriation Ordinance.

I beg to move.

THE MINISTER FOR EDUCATION, LABOUR AND LANDS (Mr. Couits) seconded.

Question proposed.

The question was put and carried.

COMMITTEE OF THE WHOLE COUNCIL

Order for Committee read—Mr. Speaker left the Chair.

IN THE COMMITTEE

[Sir Ferdinand Cavendish-Bentick, K.B.E., C.M.G., M.C., in the Chair]

The Consolidated Fund (No. 2) Bill
Clauses 1 to 5 agreed to.

The First Schedule agreed to.

The Second Schedule agreed to.

Title and enacting words agreed to.

The Landlord and Tenant (Shops) Bill
Clauses 1 to 3 agreed to.

Clause 4

THE ASIAN MINISTER WITHOUT PORTFOLIO (Mr. Madan): Mr. Chairman, I beg to move that clause 4 of the Bill be amended by renumbering sub-section (4) thereof as (4) (a) and by adding thereafter two new paragraphs reading as follows:—

(b) Where a landlord serves a notice under section 6 of this Ordinance upon a tenant he may also at the same time serve a similar notice upon any other person to whom the tenant has sublet the whole or part of the holding concerned (herein referred to as the sub-tenant) and in any such event the provisions of this Ordinance shall apply to the subtenant as if he were the tenant of the landlord.

(c) Where a landlord, in accordance with the provisions of paragraph (b) of this sub-section, serves notices on both the tenant and subtenant the court may consolidate any applications for new tenancies made by the tenant and subtenant and may hear them simultaneously and, thereafter, the court may make an order for the grant of a new tenancy to the tenant or to the subtenant and may make such other orders as may be necessary.

This amendment, which has been circulated, Sir, was explained by me fully during the Second Reading of the Bill and I do not propose to dwell upon it now.

I beg to move, Sir.

Question proposed.

The question was put and carried.

Clause 4, as amended, agreed to.

Clauses 5 to 11 agreed to.

Clause 12

THE ASIAN MINISTER WITHOUT PORTFOLIO (Mr. Madan): I have several amendments to this clause, Sir. May I move them all together at once or one by one?

THE CHAIRMAN (Sir Ferdinand Cavendish Bentick): As far as clause 12 is concerned, read them out all at once. Could you please speak up as much as you can because it is rather difficult to hear you.

THE ASIAN MINISTER WITHOUT PORTFOLIO (Mr. Madan): Mr. Chairman, I would like to move that clause 12 be amended:—

(a) by deleting the words "and shall begin on the coming to an end of the current tenancy, and at the expiration of the term of a new tenancy this Ordinance shall cease to apply thereto";

(b) by renumbering the clause as "12. (1)"; and

(c) by adding thereto two new sub-sections as follows:—

(2) (a) Except as provided for in paragraph (b) of this sub-section, where the court makes an order for the grant of a new tenancy, the tenancy shall begin or be deemed to have begun on the day after the date of termination specified in the notice given to the tenant under section 6 of this Ordinance and the rent determined in accordance with the provisions of this Ordinance shall be payable as from such day, and notwithstanding the provisions of section 18 of this Ordinance, the current tenancy shall terminate or be deemed to have terminated on the date of termination so specified.

(b) Where a notice is given to a subtenant by a landlord in accordance with the provisions of paragraph (b) of sub-section (4) of section 4 of this Ordinance and the court upon an application made by the subtenant makes an order for the grant of a new tenancy, such new tenancy shall commence on the termination of the tenant's tenancy.

[The Asian Minister without Portfolio]

(3) At the expiration of the term of a new tenancy granted by an order of the court made under the provisions of this Ordinance, this Ordinance shall cease to apply in respect thereof.

As in the case of the previous amendments, Sir, this one also was explained by me fully during the Second Reading of the Bill and I beg to move.

Question proposed.

The question was put and carried.

Clause 12, as amended, agreed to.

Clauses 13 to 17 agreed to.

Clause 18

THE ASIAN MINISTER WITHOUT PORTFOLIO (Mr. Madan): I beg to move, Sir, that subsection (1) of clause 18 of the Bill be amended by substituting for the words "the effect of the notice shall be", which appear therein, the words "except as otherwise provided by section 12 of this Ordinance, the effect of the notice shall be"

This is a consequential amendment necessitated by the amendment of clause 12 which has just been approved by the Committee and I beg to move

Question proposed.

The question was put and carried.

Clause 18, as amended, agreed to.

Clause 19 agreed to.

Clause 20

THE ASIAN MINISTER WITHOUT PORTFOLIO (Mr. Madan): I beg to move that clause 20 of the Bill be amended by substituting for the words "Chief Justice", which appear therein, the words "Rules Committee established by the Civil Procedure Ordinance" and marginal note: Cap. 5.

It is more appropriate, Sir, that it should be so, because this is the present procedure that is followed in such matters.

I beg to move.

Question proposed.

The question was put and carried.

Clause 20, as amended, agreed to.

THE ASIAN MINISTER WITHOUT PORTFOLIO (Mr. Madan): Mr. Chairman, Sir, I beg to move that the Bill be amended by inserting after clause 20 thereof, one new clause as follows:—

Evidence. 21. Notwithstanding the provision of any written law, for the purposes of this Ordinance evidence shall be receivable by the court of a tenancy whether or not it be written or registered.

THE CHAIRMAN (Sir Ferdinand Cavendish-Bentick): That is the First Reading; we shall have the Second Reading later. Perhaps you would move it now?

THE ASIAN MINISTER WITHOUT PORTFOLIO (Mr. Madan): The reason for wanting to add this new clause to the Bill is, Sir, that under the Crown Lands Ordinance and, I believe, also under the Registration of Titles Ordinance if the period of a lease exceeds 12 months unless the agreement in respect thereof is in writing and it is registered no evidence is receivable in Court. Since the purport of this Bill is to facilitate landlords and tenants entering into tenancies. It is intended that legal difficulty should not stand in the way of both landlords and tenants in producing evidence in court to establish their rights to a lease.

For that reason, Sir, I beg to move.

Do I move now, Sir, that this be read a First Time?

THE CHAIRMAN (Sir Ferdinand Cavendish-Bentick): No, you have done that. We shall treat this as a Second Reading of a new clause. If nobody wishes to speak, I shall put the Second Reading of the new clause and then we can take the detailed Committee stage.

Question proposed.

The question was put and carried.

THE ASIAN MINISTER WITHOUT PORTFOLIO (Mr. Madan): Mr. Chairman, Sir, there is a clerical slip in this clause as it appears on the Order Paper. The singular "provision" should be "provisions"—"notwithstanding the provisions".

THE CHAIRMAN (Sir Ferdinand Cavendish-Bentick): Well, I have taken that principle at the Second Reading. We can now take your point at the Committee stage. Will you move that the clause as I read it out should be altered by making the word "provision" read "provisions"?

THE ASIAN MINISTER WITHOUT PORTFOLIO (Mr. Madan): Yes.

Question proposed.

The question was put and carried.

New clause 21 agreed to.

First Schedule agreed to.

Second Schedule agreed to.

Title and enacting words agreed to.

THE CHAIRMAN (Sir Ferdinand Cavendish Bentinck): Now the third one on the original Order Paper by the issue of a Supplementary Order Paper has been postponed—that is the Eviction of Tenants (Control) (Mombasa) Bill (Bill No. 16).

THE CHIEF SECRETARY (Mr. Turnbull): Mr. Chairman, I beg to move that this Committee do report to Council that it has considered the Consolidated Fund Bill and has approved the same without amendments and has considered the Landlord and Tenant (Shops) Bill and has approved the same with amendment.

Question proposed.

The question was put and carried.

Council resumed.

[Mr. Speaker in the Chair]

REPORT

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): Mr. Speaker, Sir, I beg to report that the Committee of the whole Council has considered the Consolidated Fund (No. 2) Bill and has approved the same without amendment.

BILL

THIRD READING

The Consolidated Fund (No. 2) Bill

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): Mr. Speaker, Sir, I beg to move that the Consolidated Fund (No. 2) Bill be now read the Third Time.

Question proposed.

The question was put and carried.

The Bill was accordingly read the Third Time and passed.

REPORT

THE ASIAN MINISTER WITHOUT PORTFOLIO (Mr. Madan): Mr. Speaker, Sir, I beg to report that a Committee of the whole Council has considered the Landlord and Tenant (Shops) Bill and has approved the same with amendment.

The Bill was ordered to be read the Third Time to-morrow.

BILLS

SECOND READINGS

The King's African Rifles (Amendment) Bill

Order for Second Reading read.

THE MINISTER FOR INTERNAL SECURITY AND DEFENCE (Mr. Cusack): Mr. Speaker, Sir, I beg to move that the King's African Rifles (Amendment) Bill, 1956, be now read the Second Time.

This Bill, Sir, seeks to give authority for the payment of pensions to the King's African Rifles *askaris*, and I do not doubt that all hon. Members of this Council will wish this to be done for men to whom we owe so much. If the Council approves this Bill the consequential pensions' regulations will, of course, be laid before it. I do not imagine that hon. Members will wish me to go into the intended detail of those regulations now, but I should perhaps say in general terms that the intention is that pensions should be payable at the same proportionate rate as they are for the Colonial Service in the East African territories. That is to say, one 600th of the amount of a man's pay on retirement, the rate of pay which he is receiving on retirement, for each month of service.

It is intended also that these pensions shall normally be payable at the conclusion of a period of 21 years' service with the Colours, and it is for that reason that the second clause in the Bill provides for the Colour engagement of that period.

Mr. Speaker, Sir, I beg to move.

THE MINISTER FOR COMMUNITY DEVELOPMENT (Mr. Ohanga): seconded.

Question proposed.

The question was put and carried.

The Bill was read the Second Time and committed to a Committee of the whole Council to-morrow.

The Guarantee (High Commission Railways and Harbours Loan) Bill

Order for Second Reading read.

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): Mr. Speaker, Sir, I beg to move that the Guarantee (High Commission Railways and Harbours Loan) Bill be now read the Second Time.

In the High Commission Act entitled the Loans Railways and Harbours Act, 1955, the High Commission was authorized to raise either at one time or by instalments the sum of some £5,000,000 which would be devoted to certain purposes of the East African Railways and Harbours Administration. It becomes necessary, to enable the money to be raised on favourable terms, and to provide the final security for the investor, for loans of this kind to be guaranteed jointly and severally by the three territories mainly concerned. The territorial legislatures of Tanganyika and Uganda have already passed the necessary legislation, and if and when this Bill is adopted, then the three territories will enter into the usual agreement to share the guarantee equally.

The Guarantee Bill is in the standard form for bills of this kind, and provides for the sum of £5,250,000 in order to cover the possibility of having to issue a discount. The loan moneys, when raised, will be used for the following purposes: railways and harbours general improvement, about £1,400,000; the deep-water berths, £3,500,000, and it is expected that £100,000 will represent expenses of issue.

I think, Sir, that that is all that remains to be said about this Bill which is, as I say, the usual standard form of guarantee of purposes such as this.

I beg to move.

THE MINISTER FOR COMMUNITY DEVELOPMENT (Mr. Ohanga): seconded.

Question proposed.

MR. HARRIS: Mr. Speaker, Sir, in supporting this Bill, I would like the elucidation from the Minister for Finance in that in this Council we have considerable difficulty, to put it at its lightest, in debating matters concerning self-contained services of the High Commission, but here, Sir, we are, in fact, guaranteeing a loan of £5,250,000, and it seems, Sir, that under clause— I think I am right in saying 62—I have lost it for

the moment—but under the terms of the Bill, should the guarantee be called in, the Treasury is empowered to pay from funds in hand appropriation besides this Ordinance, and it does seem to me that it would be an appropriate time to get into the territorial legislature an idea that in the event of Kenya's having to meet some payment under the guarantee we are now giving, then the legislature should have an opportunity of debating the reasons why it is necessary for us to meet our commitments under the guarantee.

I am not quite sure, Sir, what sort of amendment is necessary, because the relationship between this legislature and the Commission is always rather involved, but I know that my hon. friend, the Minister for Finance, is an expert on this sort of business, and I am wondering, Sir, if he can either reassure me that we have an opportunity of debating in this Council, in the event of a guarantee being met by the Colony, or, alternatively, whether he would consider some suitable amendment that makes it quite clear that we have got an opportunity of discussing this commitment in the event of the High Commission being unable to do so.

I beg to support.

MR. SLADE (Aberdare): Mr. Speaker, Sir, a further point that occurs to me on this Bill: I understand that it is intended that this obligation should be guaranteed equally by the three territories.

Under the Bill as it stands, I suppose, rightly enough, we find only provision for guarantee by this Colony for the whole liability. What I would like to know is how we are covered in the matter of remedies available to this Colony if we are called upon to stand the guarantee. In particular, by way of recourse against our—presumably—co-guarantors, to what extent can we be reassured that we shall have refunded to us at least a proper contribution from the other territories apart from recourse against the High Commission itself?

Apart from that, I beg to support, Sir.

THE SPEAKER (Sir Ferdinand Cavendish-Bentinck): If no other Member wishes to speak, I will ask the hon. Member to reply.

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): Mr. Speaker, I would like first of all to deal with the point raised by my hon. friend, the Member for Aberdare, on which he says that the Bill itself provides only for the guarantee by the Kenya Government of the £5,250,000 involved. That is perfectly right, Sir; I am not certain whether my hon. friend was a Member of Legislative Council when this particular matter was raised. At that particular time, I was on the other side of the Council, when we did raise this particular point, and it was agreed in the Council that it should be covered by an agreement between the three territories so that there should be a joint and a several responsibility, and a guarantee by agreement between the three Governments. We do, therefore, as a matter of procedure, follow any Bill of this kind by an agreement between the three East African Governments accepting liability of one-third, one-third, one-third.

I think that covers the point made by the hon. Member and I can assure him that on this, as on previous occasions, that procedure will be followed.

Now, Sir, dealing with my hon. friend, the Member for Nairobi South, I cannot, of course, Sir, accept that he finds any difficulty in debating High Commission matters in this Legislative Council. I thought the hon. Member had shown considerable ingenuity from time to time, as indeed was pointed out recently in a debate by my hon. friend, the Minister for Commerce and Industry. There are opportunities when the Budget debate is on, and there is the High Commission Vote in detail, so that I think that there is ample opportunity for debating High Commission matters.

MR. HARRIS: The point that I tried to make, Sir, was that under the Budget debate, we have no opportunity of debating the self-contained services because we make no contribution.

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): I agree with that point, but the matter could always be met by a Motion in this Council, or alternatively, Sir, what I have advocated many times from this side of the Council and from that side of the Council—the point of view with which my hon. friend, the Member for the Coast, has

agreed on a number of occasions—and that is that having set up the High Commission, and the Central Legislative Assembly, and having a number of Members who represent this Legislative Council and this territory on that Assembly, it is always competent for them to raise questions and debate matters on behalf of the Council.

Now I come to the other part of the question, Sir, which seemed to worry my hon. friend. He is referring, I think, to 63, which says that "if the sum remitted is insufficient for the payment"—and then I would go on—"any balance required to meet such deficit shall be charged upon, and paid out of the general revenues and funds of the Colony and the Governor shall forthwith appropriate out of such general revenues and funds". That obviously has the intention of assuring the investor that the payment of these funds will not be subject to political manœuvres. That is highly important from the point of view of the investor and his security. But although the Governor would appropriate out of such general revenues or funds, and thereby establish security for the investor, the matter would have to come back to this Council for confirmation, either by means of repayment from the Civil Contingencies Fund which would be automatically used for a matter of that kind, or by Supplementary Estimate, and at that point, I can give him the assurance that the hon. Members of this Council would have full opportunity to debate the reason for a default, which I must say I cannot imagine will ever occur.

Sir, I beg to move.

The question was put and carried.

The Bill was read the Second Time, and committed to a Committee of the whole Council to-morrow.

The Banking Bill

Order for Second Reading read.

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): Mr. Speaker, I beg to move that the Banking Bill, 1956, be now read the Second Time.

The purpose of this Bill in the main is to replace the Banks Ordinance (Cap. 282) of our laws which was enacted in 1910 at a time when the development of

[The Minister for Finance and Development]: The Minister for Finance and Development, particularly on the financial side, was, of course, a great deal less than it is to-day.

It has become necessary, and wise, I think, with the growth of the Colony and the passing of time, that there should be legislation which will do two things: make certain that the standards of banking are up to the high level with which the British banking is normally associated and, secondly, that there shall be adequate protection for the interests of the depositor. Some hon. Members will remember, I think, in this country that we had, not so very long ago, a failure of a certain bank, which could only have operated for so long, in such a manner, by the weakness of our banking legislation, and it is, I think, therefore right and wise that we should move to see that such a thing shall not occur again.

The Government of Uganda has already passed their Bank Ordinance in 1955, and I am given to understand that the Tanganyika Government is also considering legislation of this kind. We ourselves, believe that the time has come when legislation of this purpose should be brought into being. I would say, Sir, that copies have been sent to most of the leading banks in the territories. Discussions have taken place with the senior officials of those banks, in order that the Bill might meet, in general, with working conditions under which banks would operate.

I believe, Sir, that most of the other points are points which are better raised under the Committee stage, clause by clause, and I would, therefore, Sir, move that the Bill be read a Second Time on the grounds that it is important that the principles of sound banking and safeguards for the depositors of a bank should operate under the legislation of the territory.

Sir, I beg to move.

THE MINISTER FOR COMMUNITY DEVELOPMENT (Mr. Ohanga) seconded.

Question proposed.

LT.-COL. GHERSIE: Mr. Speaker, Sir, I welcome the introduction of this Bill, perhaps more particularly because of my experience when I was one of those inspectors who, on behalf of this Govern-

ment, investigated the failure of the bank that the Minister referred to—namely, the Exchange Bank of India and Africa.

The Minister has pointed out that probably most of the matters can be dealt with during the Committee stage. There is one point, however, on which I should like a little clarification, and that is on the interpretation in clause 2, which states that "banking business means the business or any part of the business of receiving money on deposit otherwise". Now, Sir, there are many commercial concerns in this country who accept deposits and they are not necessarily engaged in banking. I have in mind, Sir, and I am sure all hon. Members would appreciate it, a company such as the East African Power and Lighting Company, which accepts a deposit when entering into an agreement with their consumers. Is it suggested that the fact that they receive a deposit—that it will be necessary for them to take out a banking business licence?

COL. WILCOCK: Mr. Speaker, Sir, I would support this Bill in every respect, except, possibly, certain of the phraseology which has been used. I agree entirely with everything that has been said by the hon. Member for Nairobi North. I think, Sir, it is possible that the section of the interpretation clause to which he refers is a little dangerous. I have not checked with any of the Ordinances of our sister territories, but I can find no trace in any of the English statutes of a definition of "banking business". There is a definition that is constantly given of the word "bank", but not of "banking business". I think I am correct in saying that litigation went as far as the House of Lords in the middle of the last century, but the subject matter of this litigation was the definition of the word "bank" as opposed to "banking business".

I hesitate to suggest that the Minister is walking "where angels fear to tread", because that imports an innuendo which would be improper and unjustifiable, and certainly unintended; but I do think that he is risking unnecessary trouble by defining—I believe for the first time in a statute—"banking business".

I agree entirely with what the last speaker has said concerning the Power Company, and I am sure there must be

[Col. Wilcock]

many other businesses of a similar nature which may well be affected. There comes to mind the Savings and Loan Society Limited, which I think I am correct in saying, is not registered under the Building Societies Ordinance, and which will possibly—I have no detailed knowledge of its affairs—will possibly seek exemption from the provisions of this Ordinance. If there are going to be various bodies which are going to seek exemption, I think provision should be made in the Bill for His Excellency, by notice in the *Gazette* or in some other manner, to grant such exemption.

I am a little doubtful, Mr. Speaker, Sir, about clause 3 (b)—the complete prohibition of the word "bank" or any of its derivatives. There comes to my mind immediately one organization which is contemplating being incorporated as a limited company, which was going to use the name "River Bank Flats Limited". If this clause is to be taken literally, it means that that company would have to attempt to register as a bank, which is clearly absurd, and in view of the penalties imposed by section 17, I view with some trepidation the possibility of the hon. Member, the Director for Medical Services, or any of the officials of the Red Cross Organization, being incarcerated in a place of detention for three years for running a blood bank.

Sir, I beg to support.

SIR CHARLES MARKHAM: Mr. Speaker, whilst not wishing to start an argument on legal expressions, perhaps the hon. Minister for Finance could help me on two sections of this Bill, which I do welcome.

The first section, Sir, is the question of clause 4 of the Bill. I wonder, Sir, in view of the discretionary powers given to the Registrar—discretionary powers are always very difficult, especially if they are refused—whether, in order to avoid dangers of failures of banks, whether 4 (b) is strong enough. I will tell you why I say that, Sir. There is a bank at the moment—registered in 1920, I think it was, or the time of the failure of gold in Germany—which had a paid-up capital of one hundred thousand billion Reichsmarks, yet that company was not worth one shilling. I am wondering, Sir, whether that 4 (b)—it does not

say "paid-up capital in this country"—it might be registered abroad and operating in this country without the necessary safeguards. Under 5, it does give discretion to the Registrar to refuse, but it is extremely difficult—providing they can get assurances, these banks from abroad—to refuse if they can produce the paper.

There is one other final point on which perhaps the Minister for Finance can help me. If, under 5 (2), the Minister revokes the licence of a banking business—a banking house—and it goes on to give details—"provided that before any licence is revoked the Registrar shall give to the bank notice, et cetera"—I am wondering what happens to the wretched people who have got their money in that bank, if he gives that notice. Once the word gets out that notice has been given to revoke the licence, there will be a run on that bank, and very few banks keep enough liquid reserves—although they may have reserves—to meet that demand. I was reading a book on one or two banking houses in America in the old days, where such word getting around caused failures of banks which really need not have failed. Perhaps there is an explanation; if so, I should welcome it.

Finally, on No. 9—the question of the reserve fund. Sir, it is a little ambiguous what reserve funds are. Are they reserve funds as per a balance sheet, or are they—because they are often not exactly liquid—reserve funds in securities approved by the Registrar? I think that is very important again, because of the dangers of certain businesses from abroad coming here, opening an agency office, carrying out ordinary banking business, then failing, and the money in reserve being in Peking or somewhere and not available to be paid out to the creditors or shareholders of that particular bank who deposited money.

With those words, I beg to support.

MR. HARRIS: Mr. Speaker, Sir, in supporting this Bill, I would like to reinforce the remarks made by the hon. Member for Nairobi North and the hon. Member for Nairobi West on this definition in clause 2. Not only the East African Power and Lighting Company which has been mentioned, but there are other companies which have recently extended the idea of accepting deposits, paying interest and allowing drawings to be made

[Mr. Harris] against those deposits. Of course the best known is the present method of trading of most of the petrol companies, who accept deposits and pay interest.

There is another activity which is known to you, Sir, in another capacity, and also to the hon. Minister for Finance and the Member for Ukamba—and that is the credit totalisator on the racecourse, which also accepts deposits. I have never yet had any interest on them, but I believe they might pay, if I were lucky.

I would like elucidation on this, and would ask the Minister responsible whether he might not cover it—instead of amending the Bill—by an addition to the Schedule to cover such interests as the Power and Lighting Company and the oil companies.

Sir, I beg to support.

MR. COOKE: Mr. Speaker, I am not quite certain whether I am in order in raising this particular point. I have been wondering about bank advances in this country—overdrafts. I read a statement the other day that the banks in Kenya are lending money to the extent of 60 or 70 per cent of their deposits, and that seems to me to be a very large sum of money, and a very dangerous practice to prevail in this country.

I am not certain what powers my hon. friend, the Minister for Finance, has *vis-à-vis* the banks. I know that the Treasury in England, of course, has very strong powers. I wonder if I am in order—if he can give some assurance that he will keep an eye on these bank advances and overdrafts. I raise this particularly in view of the interest which some Members have taken on this side of Council to try and combat inflation and the cost of living.

Sir, I beg to support.

MR. PANDYA: Mr. Speaker, Sir, I welcome and support the Bill, but I should like to make one point. I feel that the Bill should exclude those firms who have been carrying on the business of exchange bankers for a considerable period. It seems that with the coming into force of the Ordinance, it may be that they may be debarred from carrying on the business which they have been carrying on for the last 30 or 40 years, and they might be precluded from the use of the

word "bankers" which they have been displaying on their premises for the convenience of their customers.

With regard to the other point, I should like strongly to support the hon. Member for Nairobi North; that is one point that has rather been agitating the mind of the commercial community.

With these observations, Mr. Speaker, I should like to support the Bill.

MR. SLADE: Mr. Speaker, Sir, several hon. Members have pointed out that there are various concerns operating in this Colony which, although they do fall within the definition of "bank"—"banking business"—given in this Bill, are not really banks in the true sense and probably are not really intended to become so by this Bill. I would therefore like to support the suggestion made by the hon. Member for Nairobi West, which is that we could protect ourselves against undue extension of the application of this Ordinance by adding to clause 19 of the Bill. Clause 19 already provides for the exemption from the operation of this Bill of certain established concerns to which it was obviously never intended to apply. If we added to that provision for the Governor in Council to exempt other concerns in his discretion, we would then be protecting ourselves against operation of the Bill where it is not intended to apply.

Sir, I beg to support.

THE MINISTER FOR LEGAL AFFAIRS (Mr. Griffith-Jones): Mr. Speaker, Sir, the various points which have been made regarding this definition will be borne in mind and very carefully examined before the Committee stage. We are, I think, all on the same exercise; we do not want to extend the operation of this Bill unfairly to concerns which are not really within its mischief. At the same time, we do want to ensure that the provisions of this Bill, and the safeguards and measures of control which it provides, do operate in relation to those concerns which carry on business which, using the phrase in its colloquial sense, is banking business.

May I just, having said that, explain fairly briefly that this definition of "banking business" is not, in fact, the first statutory definition. There is a definition in the Uganda Ordinance. It is

[The Minister for Legal Affairs]

not quite the same as the definition in the Bill and it is, perhaps, we feel, rather too restrictive for our purpose. It may well be that, as has been suggested, we should retain a fairly wide definition, with a power of exclusion or exemption, but the definition as it appears in the Bill is, in fact, an adaptation from three or four sources. The term "banking business" has been considered judiciously in two cases at least. One—I hope I can read my brief—was in the Bottomgate Industrial Co-operative Society's case of 1891, and another case—an Irish case—was the Commercial Banking Company against Hartigan. We have also drawn assistance from a 1941 Ordinance of Palestine whilst it was still under the mandate and from the judicial interpretation, in the Bottomgate case, of the term "banking business" as it was used in the Industrial and Provident Societies Act of 1862. One of the difficulties is that whereas concerns which are not banks and not involved in banking business, may take money on deposit, it is a fact, I think, that a bank, in order to carry on banking business, must take money on deposit. It is, in fact, the first essential step in carrying on banking business, because if a bank does not take money on deposit, it gets nowhere!

AN HON. MEMBER: Well done!

THE MINISTER FOR LEGAL AFFAIRS (Mr. Griffith-Jones): That is, perhaps, rather a profound conclusion, and it does indicate the difficulties of defining "banking business" because, of course, the part is a part of the whole in the case of the banking business, but may be the whole in the case of another business. I trust I make my meaning very clear.

I do not think there is anything more I can say at this stage, Sir, except to repeat that we will give very careful consideration to the suggestions that have been made from the other side, with a view to achieving what I believe to be the object of both sides of Council.

I beg to support.

THE SPEAKER (Sir Ferdinand Cavendish-Bentinck): If no other Member wishes to speak, I will call on the hon. Mover to reply.

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): Mr. Speaker, Sir, my hon. friend the Minister for Legal Affairs has dealt with the point of the definition and I would only like to add on that, Sir, that we certainly have been advised that the Kenya definition would not apply to a company such as the East African Power and Lighting Company, to the Jockey Club totalisator or, indeed, to any of the examples which have so far been quoted in this discussion. I do feel, however, Sir, that, subject to the agreement of my hon. friend, the Minister for Legal Affairs, we would, in the Committee stage, like to think about accepting the suggestion made by my hon. friend, the Member for Aberdare, about the addition to clause 19, which would enable us to remedy any omission or commission that the Ordinance might have set up.

My hon. friend, the Member for the Coast, Sir, raised the question of advances which is, I think, somewhat outside this Bill. He was, I think, dealing with the question of the liquidity ratios of the banks—the amount of deposits they have received and the amount of advances they have made. Of course, Sir, it could be argued that they have perhaps, in some cases, in so far as this country is concerned, and in the liquidity of ratio of deposits and advances, gone a little too far in their anxiety and their desire to assist the development of this country; but, of course, they are branches of a very big world-wide banking system and they are, indeed, able to carry that margin without any real danger to their fundamental soundness.

I think, Sir, that on a previous occasion, I have expressed my thanks to the banks for the manner in which they have so acted and indeed, Sir, we see the results straight away if they are not prepared to take that type of action, in the withdrawal of credit advances to farmers, to traders, and, too, in the immediate process of tightening up which goes on, which, if carried beyond a certain stage, could do damage to the country's economy in general. I would say, Sir, that I have no powers of any kind, except of persuasion. Those are the only powers that I possess. There is a mistake, quite commonly made—not,

[The Minister for Finance and Development]

I am sure, by hon. Members of this Council, Sir—of thinking that we stand in exactly the same position as a country such as, for instance, the Rhodesias, which have a central bank of their own, or the United Kingdom. We, of course, cannot print additional currency. Our currency is governed by statute which says that our currency must be backed 100 per cent in sterling. Therefore, any comparisons that are made on that ground between ourselves and countries who have a central banking system of their own are completely fallacious.

My hon. friend, the Member for Ukamba, raised two or three points. In the first place he raised the point about the 2,000,000 shillings, which is in clause 4. I would say, I think, Sir, that the 2,000,000 shillings—I think I am right in saying that in the Interpretation Ordinance "shillings" is defined—I think that 2,000,000 shillings is a reasonable amount to demand, and the Registrar will want satisfying that that is available as paid-up capital. Indeed, the other clause that the hon. Member referred to, about the reserve fund, is one of the means by which the Registrar will be able to demand that there shall be a reserve fund out of the net profits of each year before any dividend is declared—transfer a sum equivalent to not less than 20 per cent of such profit to the reserve fund until the amount of such fund is equal to the paid-up capital. That is answering both points at once, but that is the reason for the reserve fund and that is the type of reserve fund to which it should be directed.

The point, I think, made by the hon. Member for Ukamba as well, was—would this be a security which was satisfactory to the Registrar. I think the answer would be "Yes". They would have to be so placed because, again on the point which my hon. friend raised with regard to 5—the question of revocation, it is important, particularly in the case of what I would call the "mushroom" bank—and it is to the "mushroom" bank that this would, in particular apply. If it becomes obvious that the bank, so-called, is operating contrary to sound banking principles and therefore is risking the money of the

depositors wrongly. Although the power of revocation may seem drastic, it is nevertheless, I think, a very important third weapon in the protection of the depositors and, of course, also of the good name of the banking system inside the Colony.

I think, Sir, I have covered all the points except that made by my hon. friend, the Member for the Eastern Electoral Area, when he dealt with the question of exchange bankers. Now, Sir, I can, of course, give no assurance on this. I can only say that we will give certainly great sympathy to their case, and if the amendment which my hon. friend, the Member for Aberdare, has suggested to clause 19 is added, it will, of course, be possible for them to put up a case for exemption. I am, perhaps a little old-fashioned in this, Sir, but I believe that the word "bank" in its proper meaning—and not, of course, as suggested by the hon. Member for Nairobi West—that the word "bank" is a very sacred word to be used in the world of finance. It has a very definite connotation and inside our own British system has become synonymous with soundness, integrity, honesty and trust, and we must make perfectly certain that that word cannot be wrongly used in a developing territory of this kind. Thus, provided that people comply with the Ordinance, and provided that the purpose of their business is a proper provision of money, the acceptance of deposits and those things which come normally under the definition of "banking business", there will be no difficulty in their registering, but without knowing in full the details of the type of business that they conduct, I would not like to give any assurance. I can only say that the purpose of the Bill is to make sure that people who present themselves to the country as bankers, shall operate on sound principles, and on sound business principles only.

Sir, I beg to move.

The question was put and carried.

The Bill was read the Second Time and committed to a Committee of the whole Council to-morrow.

THE AGRICULTURE (AMENDMENT) BILL
Order for Second Reading read.

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): Mr. Speaker, I

[The Minister for Agriculture, Animal Husbandry and Water Resources] beg to move that the Agriculture (Amendment) Bill be now read the Second Time.

Mr. Speaker, in moving these amendments, I should like to assure the Council that there are no new principles involved in them. They are amendments which the working of the Ordinance has made necessary or has proved to be necessary and which I am now putting before the Council. I shall, therefore, not deal with them in detail but will, when deal in the Committee stage, draw the attention of hon. Members to any clauses to which I think their attention should be drawn and which might interest them.

Secondly, Sir, I have an apology to make to the Council and I shall be moving to amendments later which are not in the printed section. I apologize to the Council because I think, in general, we should not from this side of Council move amendments which are not in the printed paper, but since the drafting of the printed paper which is before the Council showing the amendments clearly, the law officers have ruled that we cannot take the definition as a definition—"persons for companies"—under the provisions of the Ordinance.

Where we advance money we have always assumed that we do so on a chattels mortgage to persons who are operating under a limited liability company. However, Sir, there is some doubt whether we can do that and as it is an urgent matter I intend to move the amendment at this time so that they can be incorporated generally in the amendments before the Council.

I beg to move.

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey) seconded.

Question proposed.

The question was put and carried.

The Bill was read the Second Time and committed to a Committee of the whole Council to-morrow.

The Land and Agricultural Bank (Amendment) Bill

Order for Second Reading read.

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): Mr. Speaker,

I beg to move that the Land and Agricultural Bank (Amendment) Bill be now read the Second Time.

Sir, the principle of the Land and Agricultural Bank has, of course, been long accepted in this Colony and I do not propose, therefore, to discuss the main principle. The amendments that are now put forward are amendments in detail and which, following the example of my hon. colleague, the Minister for Agriculture, I would deal with at the Committee stage.

There is, however, perhaps need to mention just two principles briefly. The first principle is, of course, that with the Bank developing and growing up, it has been thought fit to remove the old principle by which officers and clerks in receipt of a salary not exceeding £200 could not be suspended from duty or removed from office, except by the Governor. As the Board has been operating for some 25 years it is felt that the Board has grown up and is perhaps competent now to handle some of the minor officials on its own. That, I think, is the first principle.

The second principle in the Bill which I need perhaps mention is that the Bank, if this Bill is agreed to, will be able to make advances out of its own funds to members of its staff for the purchase of housing accommodation. Having been chairman of the Bank now, Sir, for some 4½ years—on 10th January, if I am still Minister for Finance, I shall have been there for five years—I can say that I think this is a very necessary measure to enable the staff to have continuity in housing and to enable the Bank to attract staff who will be prepared to stay and serve the Bank a long time. Any other details, Sir, I should be only too pleased to deal with at the Committee stage.

I beg to move.

THE MINISTER FOR EDUCATION, LABOUR AND LANDS (Mr. Coultis) seconded.

Question proposed.

The question was put and carried.

The Bill was read the Second Time and committed to a Committee of the whole Council to-morrow.

The Royal National Parks of Kenya (Amendment) Bill

Order for Second Reading read.

THE MINISTER FOR FOREST DEVELOPMENT, GAME AND FISHERIES (Mr. Blunt): Mr. Speaker, Sir, I beg to move that the Royal National Parks of Kenya (Amendment) Bill be now read the Second Time.

This, Sir, is a very short Bill consisting as it does only of three clauses and a Schedule. However, there are two important points in it, the first being in connexion with clause 4 of the original National Parks Ordinance. It is not clear from that clause how exactly any alterations in the boundaries of the National Parks are to be dealt with. In the first place, it says that they shall only be dealt with by Ordinance, but it then goes on in a proviso to say that the Governor, with the assent of the Legislative Council, may alter the boundaries. In order, therefore, to make it quite clear that no boundaries or areas of any National Park can be altered except by means of an Ordinance coming before this Council, the present amendment is being made.

The second point in this Bill is certain excisions from the Nairobi National Park for railway purposes which it is proposed to make. It is proposed that we should hand over from the Nairobi National Park a total of 707 acres; this consists really of three portions. There is a small portion of 267 acres to the south-west of the main line abutting on Embakasi township which is required by the Railway for a marshalling yard; that has very little effect on the National Park—it is merely a slice along the railway and in the angle between the railway and the existing township.

The second area is an area of 83 acres which runs through a corner of the park and which is required by the East African Railways and Harbours to build a by-pass line from a point west of Embakasi Station towards Kibera. It is a small area that the Railway will take, but that by-pass line will cut off a further area of about 350 acres lying to the north of that new line and lying to the east of the present Nairobi West Arcodrome. It is a triangle of land which will become useless to the Parks when the railway cuts across the base of it and it will not actually go to the Railway but

will revert to the Government as unalienated Crown land.

Naturally, Sir, we do not like having to give up any park land for any purpose whatever, but I think this is a clear case where we have to agree to it. It does little harm to the park because these areas are right on the boundary and are not, for practical purposes, inhabited by game. I believe, also, that both these areas are necessary for the proper development of the railway.

These excisions have been agreed by the Highlands Board and agreed by the Trustees of the Royal National Parks and the East African Railways and Harbours Administration have undertaken to fence the areas; they have undertaken to pipe water from a dam in one of these areas into the park; they are undertaking to construct a suitable access route across the railway and they have undertaken to compensate the Parks for disturbance. I think it is a very fair arrangement and I beg to move.

THE MINISTER FOR COMMUNITY DEVELOPMENT (Mr. Ohanga) seconded.

Question proposed.

The question was put and carried.

The Bill was read the Second Time and committed to a Committee of the whole Council to-morrow.

The Legislative Council (African Representation) (Amendment) Bill

Order for Second Reading read.

THE CHIEF SECRETARY (Mr. Turnbull): Mr. Speaker, Sir, I beg to move that the Legislative Council (African Representation) (Amendment) Bill be now read the Second Time.

The chief purposes of this Bill are, first, to increase the number of African Members from six to eight and, secondly, to bring about an amendment of the Schedule to the main Ordinance whereby the higher education qualifications contained in the Schedule will be widened and thereby made rather easier to get.

One of the constitutional changes recently agreed upon between the Government and hon. Members opposite was that the African Members should be increased in number from six to eight. Their present status is that of Nominated

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Representative Members, but when this Bill becomes law—and when the elections have been completed—they will then become African Elected Members. Of them I speak generically because owing to the vicissitudes of an election I cannot, alas, be quite certain that I can properly refer to them, individually.

I should explain, Sir, that the composition of the Council is governed by Royal Instructions and that these Royal Instructions will require to be altered in rather the same way. Her Majesty has agreed to the necessary amendments. They will be brought into force on the same day as the main Bill comes into operation.

Once this step has been taken, the constitutional position will require that all hon. African Members are Elected Members, so no African Member will be able to sit in the Council as a Nominated Representative Member; for that particular appointment will have ceased to exist and there will no longer be any such animal.

The second amendment, Sir, is designed to widen the higher education qualifications which are contained in the Schedule to the Ordinance. In practice, this will have an effect both upon the elector and upon the candidate. As far as electors are concerned, it will mean that the extra vote provided by this higher education qualification—that is qualification No. 5 in the men's Schedule and No. 4 in the women's Schedule—can be afforded to an increased number of persons. The extension of the qualification is worded in the amending Bill as follows:—

“Or awarded a scholarship approved for the purposes of this Ordinance by the Director of Education at an institution for post-secondary education and successfully completed the course of studies in respect of which the scholarship was awarded.”

A variety of these post-secondary scholarship courses are now available; they include British Council bursaries courses in public administration, African district bursaries for similar studies, Kenya Development scholarships, United States Information Service scholarships, and many others. It is the view of the Government that successful completion

of such a scholarship course is evidence of a gain in experience, responsibility and knowledge which justifies the person concerned having a bigger say in the affairs of his constituency.

As far as candidates are concerned, the amendment will affect the kind of person who is regarded as being of sufficient consequence in his community to be afforded a scholarship of this sort, who successfully completes the course and who, in addition, has the basic qualifications required of a candidate: that is to say, he must be of 25 years of age or more, have an income of so much, have a suitable knowledge of English and have the necessary residential qualifications. Such a person would not be debarred from standing as a candidate solely on the grounds that he had not got a professional qualification or that he had not completed the requisite number of years in Government service or that he had not attained the age of 25, or that he had not got a medal—I think that is the final item in the Schedule. This amendment, therefore, will widen the field from which candidates can be drawn. There is a third amendment, Sir. It is of a purely formal nature and is intended to correct a printer's error in the original Ordinance.

There is one further matter which I would mention. It has always been the intention of the Government that any voter living outside his native land unit and registered in his native land unit should be enabled, if he so wishes, to vote for a candidate in his home constituency rather than for the candidate in the constituency in which he lives—or in which he is living at that time. We refer to them in the Sessional Paper as “expatriate voters”. The actual wording of the paragraph in the Sessional Paper is as follows—if I may, Sir, I will read it:—

“Electors who for the six months immediately preceding registration have been continually resident in an electoral area outside their native land unit should be given the opportunity of registering either in the native land unit or in the area where they are resident. In order to enable such electors to vote for a candidate in their land unit if they so wish and if they have registered there, special

[The Chief Secretary]

“expatriate voting facilities should be provided in the constituency in which they are residing at the time of the elections.”

Now, Sir, as at present worded, subsection (2) of section 4 of the main Ordinance does not enable this to be done and I propose at the Committee stage to move that a new clause should be inserted in the amended Bill to remedy this deficiency. Hon. Members will, I am sure, agree that there is no new matter of principle involved and this can properly be done.

Sir, I beg to move.

THE MINISTER FOR COMMUNITY DEVELOPMENT (Mr. Obanga) seconded.

Question proposed.

MR. CROSSKILL: Mr. Speaker, I think clause 4 recommends rather a dangerous departure from the original Ordinance. Everybody in this Council will recognize that the maintenance of the highest possible standard of education and standards of character are necessary. The hon. Chief Secretary in advocating this amendment has said that it widens the scope which will be available for the candidates. Well, Sir, I agree most wholeheartedly with that. I think it opens the field completely wide open, but I dislike intensely the rather *ad hoc* arrangement by which the standard of the education here is described. If I may, Sir, I will quote from the original Ordinance in which is given the educational qualifications which are necessary, that is: “That he has completed the full educational course at an intermediate school or has attained such other standard of education as may be prescribed”. Now in the amendment before us, Mr. Speaker, is given the prescribed addition. I quite agree that it is possibly too high that a man shall have achieved professional qualification, but I deplore, Sir, the addition of the words which put into the hands of the Director of Education for any ability to award the scholarship for any subject, and so long as the candidate stays the course, is not sent down, he is then eligible, without any other educational qualification whatever, to stand as a candidate for Legislative Council.

I would ask, Sir, that this be examined between this stage and the Committee

stage, to see whether we cannot describe more specifically some standard of education which is necessary. It will be seen from what I have said, Mr. Speaker, that a man need not have completed his intermediate school course. He need only have been awarded a scholarship for some specific subject, and he will merely have to stay there for the necessary months in order to qualify as a candidate for Legislative Council. I do feel, Sir, that in an important matter such as this, the standards must be described specifically, accurately, and be sufficiently high to enable a man to carry out his work efficiently in this Council, and yet not too high to deprive people who are able, in every way, from standing as such candidates.

Mr. Speaker, I beg to support.

MR. MATHU: Mr. Speaker, Sir, I should like first of all to take up one or two points that were raised by my hon. friend, the Mover of this Motion. The first was that in dealing with what would be the status of the eight African Unofficial Members on this side of the Council. He said that—used the words “African Elected Member” and then “ironical Members”, because he cannot describe these people as individuals.

THE CHIEF SECRETARY (Mr. Turnbull): May I explain, Sir, I did not use the word “ironically”, that would have been most insulting. I used the word “generically”. I could not refer to each Member individually as each has to face the hazards of an election; and the eight hon. African Members that we shall see opposite after the election may not—*absit omen*—be the same as those six who sit there to-day. I hope you will excuse the arithmetic.

MR. MATHU: I am very glad to hear the explanation my hon. friend has given which, of course, I accept.

The next point I want to raise is that again it is the question of transformation from Nominated Representative Members to Elected Members. He used the word “animal”; and I would like to correct him and say that he should have used the words “political animal” which was, I think, more accurate.

THE CHIEF SECRETARY (Mr. Turnbull): Sir, I regret if what I said has upset the hon. Member. It is a quotation from a

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well known American humorist who said, "There ain't no such animal".

MR. MATHU: In fact, Sir it never upset me at all. I only wanted to make it more clear, and add to the wealth of these humorists that "political animal" is more accurate.

The point taken up by the hon. Member for Mau, I personally welcome the amendment proposed here in clause 4, because, as hon. Members know, our complaint has been that during the discussion of the legislation regarding African elections, we have been too tight in our field of selecting both the electors and the candidates, and this, Sir, meets some of our criticism, and I welcome this move, Sir, which the Government has taken, if I may say so, entirely off their own bats. We take no credit on this one. I welcome it very much indeed, Sir.

My hon. friend, the Member for Mau, argues that he wants specific qualifications, that a fellow should be said having part, which is laid down in the Schedule which my hon. friend is amending, should now get a scholarship awarded by the Director of Education, and during that course he should have a specific qualification. I do not think, Sir, that is necessary. What is necessary is, Sir, that that course which the Director of Education has provided money for a student to take up will definitely have improved the standard of education of the particular individual.

THE CHIEF SECRETARY (Mr. Turnbull): I thank the hon. Member for giving way. I think I am being misquoted. The Director of Education does not award the scholarship. That may be awarded by the British Council or by some other body. There are very many other bodies who offer such scholarships. The Director of Education approves it; he decides whether or not it is a suitable scholarship.

MR. MATHU: Mr. Speaker, I am going on from there. I entirely agree with my hon. friend that the Director approves of the award of the scholarship. What I was pointing out to the hon. Member for Mau is that I have seen a larger number of scholarships awarded by various bodies, this Government included, and

other bodies as well, to the British institutions, and although a student may only get a testimonial that he has completed the course, when he comes back to us his standard of education is much higher than when he left us, and I do think it is a point that we should recognize, firstly because we have spent money on it, or an organization has spent money on this individual, and secondly the individual has improved his standard of education to such an extent that it should be recognized as being given an additional vote either as a candidate for the election or as an elector, and I would like, Sir, before I leave this point, to ask my hon. friend, the Member for Mau, not to press this point too far because I know he is very sympathetic in these matters, but I do not think we should be too precise because he knows our target is not these qualifications, our target is one person, one vote, and in which case we would have no opportunity of arguing about qualifications. That will come, and I am sure he knows it will come, if it is to come.

I would like, Sir, also to mention to my hon. friend, the Member for Mau, that many are kind, Sir, in dealing with the public service and we talk about qualifications, hon. Members on my right and hon. Members opposite say "Qualification is not the only thing. Other things have to be taken into consideration". I think we should take the same argument. The approving of a scholarship by the Director of Education without specific qualification should not be excluded, even the remuneration of the votes of the candidate or of the elector, and I certainly suggest that the Council should approve this amendment because I think it is a move in the right direction.

As regards the final point I should like to make, Sir, it is that as I have said before, the African Members, and I think the African public generally, are very thankful to Government and to the Unofficial Members on this side of the Council, for having accepted these constitutional changes to increase the African Members of this Council from six to eight, because the burden has been almost unbearable of the Council, work of the Committee, work divided among only six in the Council, and I should like again to place on record appreciation of what this Council, on both sides of

[Mr. Mathu]

the Council, has taken to improve the situation which was becoming almost unbearable.

Mr. Speaker, I beg to support.

THE CHAIRMAN (Sir Ferdinand Cavendish-Bentick): If no other hon. Member wishes to speak I will ask the hon. Member to reply.

THE CHIEF SECRETARY (Mr. Turnbull): All I need do in reply is to reassure the hon. Member for Mau. As I have explained in what I fear was a rather rude interruption of the hon. Mr. Mathu, the Director of Education does not award the scholarship; he approves it as being suitable for the purposes of the Ordinance.

As for the second point, Sir, the hon. Member need have no fears that the potential candidate will, as a result of these changes, no longer be required to have completed his intermediate school course. The basic qualifications of the candidate are that he should have attained the age of 25 years, should have completed the full educational course as laid down in section 16 of the Ordinance, should have a basic income and should have one other qualification.

MR. CROSSKILL: Mr. Speaker, I thank the hon. Member for giving way. I would like him to tell me if I am wrong in interpreting the original Ordinance which he has just quoted, "or has attained such other standards of education" to exclude the passing of the intermediate stage.

THE CHIEF SECRETARY (Mr. Turnbull): By "such other standards of education" is meant a standard which might be reached at a school or some educational institute where the K.A.P.E. was not awarded. It might be, for instance, the Junior Cambridge—if there is such a thing and if the comparison is adequate.

In addition to having these basic qualifications, the candidate must also have a knowledge of English which is regarded as sufficient for him to be able to play an active part in the deliberations of the Council, so I think the hon. Member's fears, in this respect, are really without grounds.

Sir, I beg to move.

The question was put and carried.

The Bill was read the Second Time and committed to a Committee of the whole Council to-morrow.

ADJOURNMENT

THE SPEAKER (Sir Ferdinand Cavendish-Bentick): That completes the business on the Order Paper. Council will stand adjourned until 2.30 p.m. to-morrow, Wednesday, 12th December, 1956.

Council rose at thirty-five minutes past Four o'clock p.m.

Wednesday, 12th December, 1956
The Council met at thirty minutes past Two o'clock.

[Mr. Speaker (Sir Ferdinand Cavendish-Bentinck) in the Chair]

PRAYERS

COMMUNICATION FROM THE CHAIR

SPEAKER'S COMMITTEE

THE SPEAKER (Sir Ferdinand Cavendish-Bentinck): Hon. Members, I have to announce that I have nominated the following Members to constitute with Mr. Speaker, the Speaker's Committee:—

Mr. Turnbull.
Mr. Conroy.
Mr. Cooke.
Dr. Anderson.
Mr. Wadley.
Mr. Usher.
Mr. Harris.
Sir Charles Markham.
Sir Eboo Pirbhai.
Mr. Mathu.

ORAL NOTICES OF MOTIONS

LAND AND AGRICULTURAL BANK OF KENYA GUARANTEE OF OVERDRAFT

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): Mr. Speaker, I beg to give notice of the following Motions:—

BE IT RESOLVED that this Council authorizes the Government to guarantee an overdraft of up to £1,000,000 to the Land and Agricultural Bank of Kenya.

AGRICULTURAL LAND REHABILITATION FUND

That this Council agrees that—

(a) with effect from 1st July, 1956, the Agricultural Land Rehabilitation Fund which, pursuant to the Resolution of this Council made on 9th May, 1951, is administered in accordance with the memorandum dated 2nd May, 1951, entitled "Provisions for the Administration of the Agricultural Land Rehabilitation Fund", previously laid on the Table of this Council, shall be converted into a revolving fund;

(b) amounts paid on, or after, 1st July, 1956, in respect of:

(i) interest on the Agricultural Land Rehabilitation Fund; and

(ii) interest on, or amortization of, loans granted from the Agricultural Land Rehabilitation Fund (including such loans granted before 1st July, 1956),

shall accrue to the said Fund and shall not be remitted to the Exchequer in accordance with the directions contained in the said Memorandum dated 2nd May, 1951, entitled "Provisions for the Administration of the Agricultural Land Rehabilitation Fund";

(c) the uncommitted balance of the Agricultural Land Rehabilitation Fund as at 1st July, 1956, and such moneys as accrue to the Fund in accordance with paragraph (b) of this Motion shall be used, in accordance with the provisions of the Agriculture Ordinance, 1955, (Ordinance No. 8 of 1955) to finance Land Preservation Loans or Land Development Loans as defined therein, subject to the proviso that amounts paid in respect of interest on, or amortization of, such loans financed from the said Fund shall accrue to the Fund and shall not be dealt with in accordance with the provisions in sub-section 100(3) of the said Ordinance;

(d) the future costs of administering the said fund shall be charged thereto;

(e) any losses arising in the course of the operation of the said Fund shall not be made good from public funds;

(f) the conditions governing loans granted from the Agricultural Land Rehabilitation Fund prior to 1st July, 1956, or approved but not issued before that date, so far as such conditions relate to the obligations and rights of the borrowers concerned, shall be those set out in the aforesaid Memorandum dated 2nd May, 1951, entitled "Provisions for the Administration of the Agricultural Land Rehabilitation Fund"; and,

[The Minister for Finance and Development]

(g) the rules set out in the aforesaid Memorandum dated 2nd May, 1951, entitled "Provisions for the Administration of the Agricultural Land Rehabilitation Fund" shall be replaced by rules consistent with this Motion which shall be made by the Minister for Agriculture.

AFRICAN TEACHERS' ASSOCIATIONS

MR. ARAP MOI: Mr. Speaker, Sir, I beg to give notice of the following Motion:

BE IT RESOLVED that in the opinion of this Council, Government should implement recommendations 139 and 140 of the Beecher Committee on African Education in Kenya as agreed in Sessional Paper No. 1 of 1950.

BILL

SECOND READING

The Members of Legislative Council
(Salaries and Allowances) Bill

Order for Second Reading read.

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): Mr. Speaker, I beg to move that the Members of Legislative Council (Salaries and Allowances) Bill be now read the Second Time.

Mr. Speaker, the history of this Bill is that the Select Committee which was appointed in October, 1954, by this Council with the terms of reference "To consider and recommend to this Council any changes that may be thought desirable in the system or the amounts of emoluments to be made payable to Members of Legislative Council with recommendations, if accepted, to be effect from the commencement of the sitting of the Eleventh Council".

The Report was laid, Sir, and debated and adopted by this Council by the last Council—unanimously on the 24th July, 1956. I should, perhaps, point out that in the report, the Select Committee dealt with what it then called "the present position." It pointed out that the payment of Members of Legislative Council was introduced in 1948 and that "£300, the rate, which remained un-

changed, was then considered to be a reasonable contribution towards the indirect lack of earning capacity which Members might be expected to incur by reason of their preoccupation with public business arising out of the membership of Council".

In the speech on the Motion to adopt this on the 24th July of this year, I pointed out, Sir, the principle of payment is one that had been accepted and that I thought needed no stressing. I pointed out, Sir, that, certainly during the time when I was on the other side of the Council, on two occasions at least, had we come up to this hurdle of trying to recompense Members for the loss of time which they incurred in public business and each time the hurdle had been refused because of the fact that Members of that Council did not wish to vote themselves increased emoluments. It was thus decided in October, 1954, that the task should be tackled before the elections, due to take place in 1956, so that at any rate any benefits that were to accrue to Members as a result of the recommendations of the Committee should take effect with the new Council and after there had been an election in which the country would be well aware of the proposals that had been put forward. To that effect the Select Committee directed itself.

The Committee covered a great deal of ground in its study of other Legislative Councils and other Parliaments and sought information from the whole of the Colonial Empire and Commonwealth Parliamentary structure. It recognised, Sir, and adopted as its principle, that principle laid down by Earl Lloyd George in 1911, "Salaries which are the remuneration of Members should be sufficient to enable the Member to maintain himself comfortably and honourably but not luxuriously. A Member should be allowed his expenses wholly, necessarily and exclusively incurred in the performance of his duties". The Committee commented on that when it said, "We are of the opinion that Legislative Council should ensure that the emoluments of its Members are based on this principle".

Now, Sir, since 1948, we are all well aware that there has been a decrease in the value of money, but no amendment

[The Minister for Finance and Development]

or no adjustment had been made in so far as the salaries of the Members of the Council have been concerned. Since 1948, Sir, this Council has moved towards a greater Membership, its debates and the business with which it deals now cover a larger field and in consequence take a much longer time, and indeed the Select Committee commented on the fact in paragraph 11 (c) of its report when it was dealing with the question of subsistence allowance and it said "We have already noted that with the growth of the work of Members, there has been a serious encroachment upon their earning capacity. Legislative and political duties, by their very nature, make the regular pursuit of a profession, commercial or other remunerative occupation difficult, if not impossible. We believe that the duties and responsibilities of Members will increase rather than otherwise in the future. It is equally true that this growth in the work of Members has involved them in additional expenditure of a kind which if incurred in any other employment would probably be reimbursed by the employer. That, Sir, is the basis of this Bill.

~~I do not propose to go through the details of the remuneration because they are in direct line with the Select Committee Report which was adopted, as I have said already, by the last Council unanimously, including the recommendation that these increased salaries and increased allowances should operate from the commencement—I quote the words—"The commencement of the Sitting of the Eleventh Council".~~

I think, Sir, that covers most of the points of principle raised in the Bill. I think, Sir, we have to face the fact that in a country like ours, there is a growing burden of responsibility upon those members of the community who, by one means or another, are chosen to sit in this Council and deliberate and decide upon the policy and the future of the country. That it is essential that we should, as in the words I have quoted of Mr. Lloyd George, say that we will provide them with sufficient to enable them to maintain themselves, comfortably and honourably but not luxuriously. I think, Sir, that if you look at the scale which

is offered in this Bill, it will be agreed that the Select Committee kept that in mind all the way through, that the Members should be able to maintain themselves comfortably and honourably but not, I suggest, luxuriously.

Sir, I beg to move.

THE CHIEF SECRETARY (Mr. Turnbull): seconded.

Question proposed.

SIR CHARLES MARKHAM: Mr. Speaker, whilst I listened with the greatest care to the speech of my hon. friend the Minister for Finance, and whilst, also, I am in the deepest sympathy with the feeling expressed in his speech about hon. Members being underpaid, nevertheless, Sir, I fear that a note of caution is necessary, particularly in view of our financial position.

Mr. Speaker, over the past three months, we have heard on many occasions in this Council of the necessity for financial caution. We have also been told on numerous occasions that we must look to ourselves to help ourselves. Sir, we are now helping ourselves very literally. Though I am in full sympathy, as I said, Sir, and indeed I would appreciate the extra emoluments, I feel, Sir, that we are in the dark as to what is the financial position of this Colony today. In under six months' time—in fact in five and a half months—we will be receiving in this Council the Budget statement or the financial statement from the Minister for Finance. And in that time, Sir, we will also know what the position of the Colony is. We will also know as well whether the Minister for Finance proposes to introduce higher taxation in this Colony, and yet, Sir, in that interim period, we are proposing—rather crudely—to increase our own salaries. I suggest, Sir, that this is an unwise move at this present stage.

When the Report of the Select Committee was laid before this Council, or the previous Council, I did not oppose, in fact, Mr. Speaker, I think it was received with unanimous support as the Minister stated. But since that time, Sir, events have moved in the world which do alter the position. For one thing, Great Britain, who has given us such valuable financial assistance, is herself drawing in the horns in order to save money. Since that date, Sir, we have

[Sir Charles Markham]

had the Suez Canal crisis and who knows what will happen in two or three months' time, which may not even more aggravate the financial position of this Colony?

As, Sir, we have not heard from the Minister for Finance a picture of how the Colony's finances stand at the moment, I am afraid, Sir, that I do believe it would be unwise for hon. Members of this Council to vote themselves more money.

Now, Sir, in the Memorandum of Objects and Reasons of this particular Bill, it does say in the final paragraph that approximately £20,000 will be the cost to the country. I believe, Sir, that is a very modest figure for the amount of work we do. Nevertheless, I still believe the taxpayers of this country have a right to question whether the country can afford it at this stage. I remember particularly, Sir, the speeches of some of the hon. Members opposite during the Budget Debate, when they explained how the Estimates had been cut because of the financial position of the Colony. Yet, Sir, how we are voting ourselves more money.

Sir, I am not opposed to that principle in any way at all, in fact I rather enjoy it, but I wish to face the realities of the moment and, therefore, Sir, I beg to move an amendment as follows:

THAT the word "now" be deleted in the Motion and the words "This day six months" be added to the question.

Mr. Speaker, I beg to move.

Mrs. HUGHES: Mr. Speaker, Sir, I beg to second this amendment from the hon. Member for Ukamba.

There is very little that I can add to it. I think it is possibly a wise move, but we do not know what will happen within the next few months and it might be necessary for us to make these sacrifices.

I therefore beg to second.

Question proposed.

MR. COOKE: Mr. Speaker, I beg to oppose the amendment. I think, Sir, it is very unfortunate that this amendment should have been brought and especially as no notice has been given to any Members on this side of the Council, certainly not to me.

I do not believe the amendment has got the slightest chance of being passed or being accepted, but, of course, the proposer and the seconder will now appear to have been playing to the gallery.

THE SPEAKER (Sir Ferdinand Cavenish-Beantick): Order, order. You cannot impute an unworthy motive to any Member who makes a speech in this Council.

MR. COOKE: Sir, I withdraw that, but it is not the first time that motives have been attributed in this Council. But I would say that they would appear now to the outside world that they have been trying to, as it were, impress the public outside.

Now the *East African Standard* in a sanctimonious leading article the other day, took upon itself to oppose the increased salaries to Members. Well, they had every opportunity while the Election was on, in fact we purposely gave them that opportunity, to warn the country in advance of what would be the result of legislation which was likely to take place during the incoming Parliament. So they had every opportunity then of leading the protest on behalf, as they apparently spoke, of the taxpayers of this country.

Now, Sir, when you and I first joined this Parliament, I think we got the magnificent amount of Sh. 30 a day when the Council sat, without any salary, and we certainly for those ten years that I was then a Member worked at a very considerable loss. I, myself, would have been very much better off to-day if instead of building I had taken on the remunerative jobs, many of which I may say were offered to me during the war. Nor have I from start to finish ever accepted—and a great many others—any kind of directorship in this country. So that we have—great many of us—made complete sacrifices in order to be Members of this Council and I have no hesitation whatever in opposing the amendment and supporting the Motion. I believe one good argument in its favour is this, that it will encourage the younger people to come on who could not at the present—before the salaries were amended—as they were ten years ago, and being in they were ten years now we hope, a lot of the increased again now we hope, a lot of the younger people could not afford to be Members of this Council. Not only that,

[Mr. Cooke] but a number of people of the other races whom it is our privilege to welcome into this Council, could not afford either to be Members, and I think that from every point of view that we are perfectly justified, especially as we gave notice six months ago that it was our intention to move this legislation, we have every justification to oppose the amendment and support the Motion. Sir, I oppose the amendment.

MR. HARRIS: Mr. Speaker, Sir, in opposing this Motion, I feel I should give the Council a little history as to how this Select Committee Report ever came before the Council. In 1954, Sir, there was an unofficial Members' Organisation of which I was chairman, and it was the unanimous wish of all Members of the Unofficial Members' Organisation at that time that this matter should come under review and I can assure you, Sir, that it was not the intention that there should be a reduction, the idea of the review was that we should bring emoluments more into line with present factors.

In addition, Sir, there was a considerable agitation in my constituency for an increase in emoluments in 1955. The person who led the agitation, Sir, undoubtedly had aspirations; he stood at the last election but I regret to say is not with us. Although he is not with us, Sir, I, unlike the Mover of this Amendment have fought an election in the last three or four months, having been the person who originally proposed that this select committee should have sat, having subscribed to the Report of the Select Committee, I fought an election, my constituents knew that proposals had been agreed by the last Parliament, and, Sir, I have no compunction whatever in opposing this Motion.

MR. MATHU: Mr. Speaker, Sir, I rise to oppose this amendment.

One main reason, as I think my hon. friend, the previous speaker, has mentioned, is that I also signed the Select Committee's Report which made recommendations to the Government to review the emoluments of hon. Members, and I was also a party to the original suggestion in 1954 that the time had come when the situation should be reviewed. I would like to say, Sir, that

the amendment has come to many of us as a great surprise. The hon. Mover was represented on the select committee on which some hon. Members on my right served and, in fact, I think they were in the majority, and then to come late in the day now and move an amendment is, as I say, a surprise.

My hon. friend, the Member for the Coast has outlined his services to the Council before any emoluments were granted to hon. Members on this side of the Council. I had that experience too, Sir, because when I joined the Council in 1944 there were no emoluments, and I can still feel the pinch of those years following me up to the present moment. I do suggest, Sir, that if we attract not only the rich—and in many cases riches and intellect do not go together—we might get young intellectual people who can serve this country who are not rich, and who cannot make any more sacrifices in order to serve this country. That argument, I know, has already been used, but I do not think we should keep those out just because we would like to fill this Council with people who are so rich that they do not give any sacrifices.

I, personally, think that it is a wise move that Government has introduced this Bill and I, therefore, on behalf of my African Members, oppose the amendment and support the substantive Motion.

THE SPEAKER (Sir Ferdinand Cayendish Bentinck): May I point out that the question before Council is that of delaying the Bill and not of negating or annulling it.

MR. MANGAT: Mr. Speaker, I am obliged to you for the ruling which you gave in the case of the hon. Member for the Coast because but for that I would have desisted from getting up although, Sir, it surprises me that one actor should complain of another actor playing to the gallery, especially one who has been playing that role for longer years than many of us here.

Now, Sir, I rise to support the amendment. I am not committed to anything—I was not a Member of the last Council and I did not approve the Report of the Select Committee. If I were, I would still have opposed it. Most of those hon. Members who get

[Mr. Mangat] now to support have, of course, committed themselves already. It would not look wise on their part now to go against their previous decisions, even though, as the hon. Mover of this amendment has said, there is a drastic change in the circumstances. I am afraid, Sir, that in spite of the cautious and seemingly convincing exactitude with which the hon. Mover has promoted this Bill, he cannot influence me in giving it my support.

The Bill, as is explained by the hon. Mover, is based on the Report of the Select Committee. Now, this select committee says itself in its report that it had three meetings culminating in a Bill of 300 words and about to cost the country nearer £30,000 than £20,000 as it reads here. The recommendations of these increased emoluments, in the case of the Members, are contained in paragraphs 9 and 10 of the Select Committee's Report, under the caption "Basic Principles".

Now, it is admitted by the committee that the Elected Members must be prepared to make some financial sacrifices when entering upon a political career, and it is also admitted by the committee in its report that Members are not expected to be compensated completely for the loss of time or earning capacity when they are engaged in Legislative Council work.

The only reason why the committee recommends the enhancement of these emoluments is that such emoluments should be sufficient not to dissuade persons of good calibre from seeking election or from accepting nomination. Now, with respect to the committee, I cannot refrain from saying that the contents of paragraphs 9 and 10 of the report are replete with prevarication. The reasoning adopted presupposes that the prospective Member of Legislative Council is to be a man of good calibre. Now, to follow that up, I would submit that the Member who seeks election has to command the votes of the majority of the constituents. Surely, he cannot be a rogue and vagabond—he must be a man of good calibre already—and in the case of Nominated Members, I am sure the Governor would never consider anyone unless he was assured that the man had attained, at least, self-suffici-

ency. I cannot imagine how any Member standing for election or accepting nomination could possibly complain that he has been dragged into the Council while he has not got sufficient means.

In any event, Sir, the committee has called it "profession of politics" more or less; the income in any profession is not the first question—that one should manage to exist is a matter for one's own consideration, but if he comes forward to serve he has to observe certain principles of public morality with which he should be acquainted before he embarks upon such a career. As it is, the Elected or Nominated Members are not badly off—for about 100 sittings, mostly of less than half a day, they earn about £700 a year, and for the rest of the period they certainly follow their own vocations and one expects that they must have made a success of their career in the profession of their choosing—that is besides the Legislative Council.

Also, the travelling allowances, if not liberal, are adequate and as far as the devotion to duty is concerned, on account of many electoral areas having only a few hundred voters if one has to devote all his time to the Legislative Council work then, with respect, Sir, I say he must be a very inefficient person. It is not like England, by any means, where one has to deal with tens of thousands of voters in humble circumstances and who approach the Member for their constituency on many things.

In my view, therefore, Sir, there is not enough justification for enhancing the emoluments of Members. The hon. Mover has not touched the second and more serious point in the Bill. I say that there is even less justification for any increase in the emoluments of Ministers. Now, paragraph 13 of the Select Committee's Report says:—

"Constitutionally Ministers are responsible to the Government. All Ministers, however, are now subject to the hazards of political life."

The hazards of political life forsooth, Sir! I would like the hon. Mover to tell me one or two hazards of that political life which inflict the Ministers so that I am on my guard if I am called upon to take the Ministership without Portfolio,

AN HON. MEMBER: Why "without"?

MR. MANGAT: They are more accessible and easier.

Paragraph 13 of the Select Committee's Report has laid down certain arguments which are contradictory to each other, and it seems to me that it is these political hazards which probably keep the Ministers sticking to each other and which has promoted the formula of collective responsibility as a response to the instincts of self-preservation.

However, the committee goes on to say that those hazards are epidemic—they are so universal that they affect every sort of Minister whether he is a Colonial servant or Nominated or Elected—but it concludes "we do not consider it proper at this stage of the Colony's political development for your committee to recommend any change in the emoluments to be paid to Ministers". Now, that is as categorical a statement as could be expected from people who are facing the hazards of political life, but after one punctuation mark they relent and they recommend that the Government should revise the emoluments of the Ministers. What is Government? We are reminded often in this Council that it is the Council of Ministers which is the Government of the Colony, and the committee shirks the task of giving the quantum of the increased emoluments and shifts this embarrassing burden on to the Council of Ministers and they come forward and try to add £350 each as allowances.

What are "allowances"? I cannot imagine the word allowance befitting to a Minister of the Government. And allowance is a reimbursement for something. Or is it a bounty? But to call it an allowance and add it to the salary is, I think, absolutely unfair.

I am prepared to grant, Sir, that there are Ministers in this Council who are worth their weight in gold; in fact, it might be cheaper if we concluded a contract of sale with them and bought them over for their weight in gold.

AN HON. MEMBER: Not Agriculture!

MR. MANGAT: However, I am afraid, Sir, that that is beside the point. We have accomplished our present programme of adding two more Ministers—one with and one without Portfolio—and probably another Minister without Port-

folio—an Arab gentleman—and we should be reducing the average intelligence of the Ministers to a point of mediocrity. When our Ministers' Bench comes to 17 very shortly there will probably be four without Portfolio, and there will be certainly one, two or three who could be spared the hazards of political life to the advantage of this country.

As far as Members are concerned, I forgot to mention that there is always a good prospect for every Member—Elected Member—to become a Minister without Portfolio in this Council at a salary bigger than that of a Judge of the Supreme Court. It is quite easy, especially when the Governor in his discretion to make Ministerial appointments is not hampered by any constitutional or conventional limitations. Even if we accept that there is some case for the reviewing of the emoluments of Ministers with Portfolios, is there any justification for thinking that there should be an increase in the emoluments of the Ministers without Portfolio? I do not know about the other groups, but as far as my community is concerned I can say that during the 30 months of office for which the first Asian Minister without Portfolio was in this Council he did only one thing—at least publicly—and that was to promote the Liquor Bill. He had to retire to a monastery to live it down, and from what I have seen in this Session, I have come to believe that Tom the Second will reign like Tom the First.

Now, with two additional African Members, with two additional members who are called corporate members, with two Ministers and one Arab Minister without Portfolio in the offing, I think I have the right in saying, Sir, that the extra expense would be more like £30,000 than £20,000, and I beg to say this, Sir, that to raise a Bill of this nature on the recommendations of one of the committees appointed by ourselves is very much like passing a judgment on the strength of accomplice evidence which is always tainted evidence, and I would request the hon. Mover to withdraw the Bill so that the country be spared the burden for which it is certainly ill-equipped.

Finally, Sir, I would like to enquire from the hon. Mover whether, at the time of the Lidbury Report, there was

[Mr. Mangat]—My understanding, as among the East African territories, about the similarity of emoluments, and whether that understanding, if there was one, applied to ministerial emoluments, either expressly or by implication; and if the answer is in the affirmative, then could he inform the Council whether the neighbouring territories were consulted before the Governor in Council gave sanction to the introduction of this Bill into this Legislative Council?

Sir, I beg to support the amendment.

MR. SLADE: Mr. Speaker, Sir, you have pointed out to us that the amendment now before this Council is merely a Motion in effect for delay. Therefore, it would, I think, be out of order for me to answer the interesting remarks made by the hon. Member who has just spoken.

I will only deal with the question of delay. It is always very attractive, Sir, to delay an embarrassing decision. Indeed, if this matter was now before this Council for the first time, as a new subject, I might be inclined to agree with the hon. Member for Ukamba that it was better put off for another day.

But, Sir, the position is, as has been pointed out by other hon. Members, that we are now being asked to give effect to a report laid by a select committee, and adopted by the whole of the last Council, and therefore, Sir, it is very different. In the first place—this may perhaps be a less important point, but it is a point—persons standing for election in the recent general election stood with the knowledge that these emoluments had been proposed and approved in principle by Council, and were therefore entitled to assume that if they were elected, that would be their reward, and that may have mattered very much to some who stood. To some extent, if we postpone this, we may be committing a breach of faith. But the other point, Sir—I think, it is the more important—is to deal with the reason given by the hon. Member for Ukamba for his amendment. He said, as I understand him, that we are in dark financial days. We do not quite know where we stand. We do not know whether we can afford to pay these salaries and allowances to Members of this Council.

Mr. Speaker, that, I believe, is a very mistaken argument. It may be that in the near future, we have to economise very drastically in the light of our financial position as it becomes more clear, but even so, I am quite certain that whether it is a question of salary of Members of this Council or salaries of anyone else employed by Government, to economise by reducing payment for work is always a false economy. I cannot, under any circumstances, support the idea that if we are up against hard times, our economic difficulties will be remedied by cutting in remuneration where remuneration is deserved. We may cut in quantity, but to cut in payment for quality is a false economy.

Mr. Speaker, I do believe that we need in this Council the very best men that we can get on both sides. It is not only a matter of inducement, of making it worth while, it is also an even more important matter of making it possible—possible for the best men to stand forward and serve in this Council, and that is a matter which we have got to face to-day. If these increases are right at all, they are right to-day, regardless of economic difficulties that we are going to face to-morrow. So, Sir, I say, attractive as it may be to postpone this decision, I put forward the view that we have got to face it to-day, so I oppose the amendment.

THE ASIAN MINISTER WITHOUT PORTFOLIO (Mr. Madan): There are just two points I want to make in this debate, and before I say what I am going to say, I should like to assure hon. Members, particularly the hon. Member for the Central Area, that there is no bitterness in my heart. I think, Sir, that his remarks about my predecessor in office are most uncharitable inasmuch as that gentleman has not now the opportunity to defend himself, and all the more so, Sir, because—

MR. MANGAT: On a point of order, I would like to know what were the remarks that were so disparaging to anybody.

THE ASIAN MINISTER WITHOUT PORTFOLIO (Mr. Madan): Well, Sir, I do not know if I am expected to answer that. I could, if I am expected to, but the remarks are all the more uncharitable, in my opinion, because I think that

[The Asian Minister without Portfolio] the hon. Mr. A. R. Patel rendered sterling service, not only to his own community, but to the Colony as a whole.

The second thing that I would like to say is that in so far as Tom the Nosed is concerned, whether he will resign like Tom the First or not, I do feel the hon. Member for the Central Area was compelled to make his remarks, because he has had to decide that the grapes are sour.

MR. CHARLES MUKHIA: Mr. Speaker, on a point of order. You ruled a Motion a month ago when the hon. Member for the Coast was speaking that no Member may impute against another Member. Were not the words of the hon. speaker, the Asian Minister without Portfolio, also out of order?

THE ASIAN MINISTER WITHOUT PORTFOLIO (Mr. Mathu): On a point of order, Sir, I merely drew the inference from it.

THE SPEAKER (Sir Ferdinand Cavendish-Bentley): I think hon. Members can either have any question as to whether Members are imputing or not, or move to the Speaker.

MR. MATHU: On a point of order, I would ask you to give the ruling asked for by the hon. Member for the Coast. "Grapes are sour" can only be interpreted to mean one thing, that is that I did not get the Ministry. If that is the implication, I think, Sir, you should ask the Minister without Portfolio to withdraw because I never applied for the Ministry and I would not have taken it even if it had been offered to me.

THE SPEAKER (Sir Ferdinand Cavendish-Bentley): In the course of the debate a number of things were said which are not in the hon. Member's words. I am not going to say anything about that.

THE SPEAKER (Sir Ferdinand Cavendish-Bentley): I would like to know whether the hon. Member for the Coast is speaking in good faith with your ruling. I will give you the answer in a moment and will then return to the question.

THE SPEAKER (Sir Ferdinand Cavendish-Bentley): I will now put the question, that the words proposed to be left out stand part of the Motion.

able: it is unacceptable for two or three reasons.

The position, I think—so well outlined by my hon. friend, the Member for Aberdare—is that if you have decisions to take, you must take them, however unpleasant they may be, and they grow no better by putting them off to the day after to-morrow.

The second thing is the question of being in the dark as regards our financial position.

Now, Sir, in the issue of the Official Gazette this week, I think I am right in saying that there was a return on the Exchequer position which showed exactly I think, what our present financial position is. If we are talking about the future, then it becomes all the more important to make a decision now, about what the future will be. We have the task, as a Government, of sending representatives to the United Kingdom next month to discuss the question of the amount of financial assistance which we shall get, and it is important that those representatives shall know what they are asking for. The process, therefore, of the preparation of the Estimates is already well in being.

If we were to postpone this for six months, it would in fact not be dealt with until after the Budget and the Budget could contain no provision for these items at all.

It would mean that we would have to have a Supplementary Estimate, and then present the case again.

I am sorry, Sir—the hon. Member is taking his head—perhaps I am wrong. Perhaps there is more than six months between now and April. Sir, I do not know. But according to my reckoning, it is January, February, March, April—I take a few months.

The hon. Member is thinking of the financial year. The Government has to present the Budget in April, and the Estimates have to be completed very early in their next session before the Minister for Finance goes to England in January. So that it is important that we should know as a Government whether the Council wishes to go forward with what is regular what was the minimum part of the Bill. I am sure the Council will do so. I am sure, Sir, why I

[The Minister for Finance and Development]

do not think we should postpone it. There is another very important reason, in my opinion, and that is that we shall be, within the next two or three months, facing the question of African Elections, and African candidates. Now, Sir, we are apt at times to think of this position from our own particular community angle. Those of us who have other means of earning a living, to those of us perhaps £600 or £700 a year, which was about the total that you got if you worked extremely hard, and served—as, I think, the hon. Member for Nairobi South has served—on many, many committees (which was how, indeed, you really got your remuneration), it was between £300 and £600-£700 was possible.

Now, Sir, we are facing a position of having a number of African Members to be elected, and if we expect African Members, most of whom have no other source of livelihood or many of whom have no other source of livelihood, to be Members of this Council, to maintain themselves honourably, and I repeat, honourably and comfortably, but not luxuriously, and live at the standard we expect them to live at, as Members of this Council, on a total income of £700 per annum, then I think we have another thing coming.

It is time we got down to the economics of other people and I believe that it is important that this decision should be taken before the African elections as my hon. friend Mr. Mathu has said, where do you get young men of intellect and young men of courage ready to come into the Council and gain that experience amongst other things, which is so vital and important to them, they should know that they will be able to do it on a basis which does mean, and I repeat—that they can live comfortably and honourably, but not luxuriously.

THE SPEAKER (Sir Ferdinand Cavendish-Bentley): I would remind hon. Members that if they are against the amendment, they will say "Aye". If they are in favour of the amendment, they will say "No".

I will now put the question, that the words proposed to be left out stand part of the Motion.

The question was put and carried.

THE SPEAKER (Sir Ferdinand Cavendish-Bentley): The debate can proceed on the original Motion.

If no other Member wishes to speak, I will call on the Mayor to reply.

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): Mr. Speaker, I really see no purpose served, Sir, in continuing the debate at any length. My hon. friend, the Member for the Central Electoral Area has, I think, in a very clever way, quoted bits of the report, and particularly in regard to paragraph 13. I think however, Sir, the committee was very definite and I would point out that it was a committee which had not a Government majority; nevertheless we do believe that their political responsibilities may not have been sufficiently taken into account when their present salaries were fixed and we recommend the Government should reconsider the salary and allowances at present payable to all Ministers at an early date.

Sir, I think the hon. Member must know well enough what are the political hazards of ministerial life. He was, after all, present in the Council Chamber yesterday. He will, I think, probably be present in the Council Chamber on many other occasions when he will see quite clearly underlined what is meant by the political hazards of a Minister's life, which is otherwise spent in administrative "hard grind".

I think, Sir, I will not deal with his points about my hon. friend, Mr. Patel. I accept his assurance, Sir, and I am glad to hear it, that he meant no reflection upon the work undertaken by a very great man on behalf of his community in this country, and I do not propose, Sir, to touch that point any more.

Now, Sir, he raised the point of the Libby Report, and the implications as to whether there should be consultations between Governments in East Africa and whether those consultations have taken place. I cannot imagine what is the course of the hon. Member's information about what would normally be regarded as confidential Government information. I just cannot imagine where the hon. Member has got it from. What I can say is this, Sir. The Libby Report dealt

[The Minister for Finance and Development].
with the Civil Service side of the position. This report has been open since last July, for anybody to see, and Governments were perfectly prepared and able, if they wished, to raise points of view on this. We would regard very definitely that there would be a great need for consultation on any alteration in the Civil Service structure, and we should undertake that consultation, but I do not believe that the question of payment of Members of Legislative Council—or, indeed, on such things as entertainment allowances and that sort of thing to Ministers—are inside the purview of the Civil Service consultations. As a matter of courtesy we usually do consult, but I do not think that it was by any means an implication inside the Libbury Report.

I think, Sir, I have covered in that most of the points that need answering, because the other points that the hon. Member raised remain a matter of opinion on which I think not only I but, if I understand it aright, the majority of the Members of this Council disagree with him.

MR. MANGAT: On a point of personal explanation, I would like to tell the hon. Member that it is sheer common sense that I can deduce from the Libbury Report that there must be some sort of understanding between the Territories about emoluments. It might have sounded strange to the hon. Member but it should be a commonplace to any Member.

The question was put and carried.

The Bill was read the Second Time and committed to a Committee of the whole Council to-morrow.

THE SPEAKER (Sir Ferdinand Cavendish-Bentley): Order, order. I would like to make an appeal to hon. Members. This is a new Council and a very young one, if I may say so, and it is rather easy sometimes, in the heat of debate for Members to try to see how near they can get to scoring off each other with some questionable epithet and then appealing to the Speaker for a ruling. We do adopt here the customs of our forefathers; we try to use the phraseology that has been handed down to us for centuries, and

the object of it is, however much we disagree with each other—and we are bound to do that—that is why we have been sent here—we must ensure that every individual Member is entitled to and receives courtesy.

CONSIDERATION OF REPORT

The Landlord and Tenant (Shops) Bill
(Consideration of Report of the Committee of the whole Council)

Order for Consideration of Report read.

THE ASIAN MINISTER WITHOUT PORTFOLIO (Mr. Madan): Mr. Speaker, Sir, I beg to move that Council do agree the Report of the Committee on the Landlord and Tenant (Shops) Bill.

Question proposed.

The question was put and carried.

BILL

THIRD READING

THE ASIAN MINISTER WITHOUT PORTFOLIO (Mr. Madan): Mr. Speaker, Sir, I beg to move that the Landlord and Tenant (Shops) Bill be now read the Third Time.

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey) seconded.

Question proposed.

The question was put and carried.

The Bill was accordingly read the Third Time and passed.

COMMITTEE OF THE WHOLE COUNCIL

Order for Committee read—Mr. Speaker left the Chair.

IN THE COMMITTEE

(Sir Ferdinand Cavendish-Bentley, K.B.E., C.M.G., M.C., in the Chair)

The Eviction of Tenants (Control) (Mombasa) Bill

Clauses 1 and 2 agreed to.

Clause 3

MR. USHER: Mr. Chairman, Sir, I find difficulty in clause 3, and the difficulty is that the Board which will deal with the eviction cases does not appear to me to have a name, and I do not know, therefore, how it would be possible for the Board to issue processes. The Coast

(Mr. Usher)
Board, as I understand the matter, and as others whom I have consulted understand the matter, too, means the Rent Control Board that operates on the Coast, not this Board at all.

I therefore beg to move, Sir, the following amendment. Between the words "Board" and "which" in clause 3 (1), to insert the words "to be known as the Eviction of Tenants (Control) (Mombasa) Board."

Question proposed.

THE ASIAN MINISTER WITHOUT PORTFOLIO (Mr. Madan): Mr. Chairman, Sir, I am prepared to accept this amendment, though I should like to point out that inasmuch as the designation of the Board will now be "Eviction of Tenants (Control) (Mombasa) Board", there should be no misunderstanding about the position, because the Board proposed to be constituted under this Bill will be performing two main functions. The first will be to give consent to the taking of actions for eviction of tenants, and secondly, for the purpose of giving consent to increase the rent. In so far as the making of orders for actual eviction is concerned, that matter will not fall within the province of the Board proposed to be constituted under this Bill.

The question was put and carried.

Clause 3, as amended, agreed to.

Clause 4

THE ASIAN MINISTER WITHOUT PORTFOLIO (Mr. Madan): Mr. Chairman, Sir, I beg to move that clause 4 of the Bill be amended—

(a) by inserting immediately after the words "any house is situated shall", which appear in subsection (2) thereof, the words "except as provided for in subsection (4) of this section";

(b) by adding immediately after subsection (3) thereof a new subsection as follows:—

(4) (a) A landlord of land may, without the consent of the Board, by notice in writing, raise the rent of land by an amount equivalent to the municipal rates payable by him which have either become payable or been increased

since the land was let to the owner of the house, and, where the provisions of this paragraph the rent is raised, the owner of the house may similarly raise any rent payable by a tenant or occupier; and any such increase of rent shall become payable one week after service of the written notice to that effect.

(b) Where any rent is raised under the provisions of this sub-section and where two or more persons become liable to pay such increase and are unable to agree to the apportionment of the increase, the Board may, upon application being made to it by one or more of those persons, by order apportion the increase of rent between the persons concerned.

The intention, Sir, is that if this amendment is accepted, it will become unnecessary for landlords who have let land to owners of houses to go before the Board for consent to increase the rent by an amount which is equivalent to the amount of the increase in the rates payable to the Municipal Board of Mombasa. As it is feared, Sir, that that may lead to litigation on a large scale, I propose to introduce this amendment in the hope that when the landlords are able to increase the rent only by the amount of the increase in rates payable to the Municipal Board, it will avoid litigation, although as a measure of safety under paragraph (b) of subsection (4) it is provided that where there is dissatisfaction, any one of the persons concerned may apply to the Board for an apportionment of the increase.

Another point that arises, Sir, is that in the event of the increase being passed on to the owner of the house, he also, in turn, will be able to collect the increase from his occupiers or tenants, to ensure that all those who are in occupation of the premises will share the burden equally and fairly.

Sir I beg to move.

Question proposed.

THE CHAIRMAN (Sir Ferdinand Cavendish-Bentley): I am going to treat the remarks made by the Minister just now

[The Chairman] as a Second Reading in principle—the justification for this new sub-section. If anybody has got anything to say about that, will they please speak on the principle of this new sub-section. If not, has anyone anything to say in detail on the wording? Then I will put it to the Committee.

The question was put and carried.

THE CHAIRMAN (Sir Ferdinand Cavendish-Bentley): I believe there is a further amendment.

MR. USHER: A further matter on this clause. I must apologize here to the Minister, for introducing new matter. I have been recently instructed and, indeed, I have not, upon this particular point, an amendment that is suitable, so that the best I could do, if the principle were accepted, would be to ask for an adjournment while a suitable amendment could be devised. It is far beyond my capacity to devise it.

It has been pointed out to me, that the Board should also have the power to agree to an increase of rent on account of the improvements—that is, capital improvements—in a house. I do not wish to say anything more about that, except that it does appeal to me as a reasonable proposal, and a right function of a Board of this nature.

THE CHAIRMAN (Sir Ferdinand Cavendish-Bentley): In other words, you are really asking for a new principle to be included?

MR. USHER: Yes, Sir.

THE CHAIRMAN (Sir Ferdinand Cavendish-Bentley): Mr. Usher has asked whether it would be possible to include some matter which is not entirely relevant to the clause, and if you think it of material value we will treat this as a Second Reading, and I will give you an opportunity of putting the wording in.

THE ASIAN MINISTER WITHOUT PORTFOLIO (Mr. Madan): I feel, Sir, this is a difficult one. I am prepared to consider the hon. Member's suggestion, but I wonder if he realizes that improvements to the house, normally undertaken, would be effected by the owner of the house and not by the landlord of the land. You see, it is the intention that the owner of

the house should be enabled to recover something on account of the improvements effected to the house, and that the landlord of the land should not come into the picture at all. I think, Sir, the hon. Member might find on reflection, it might lead to confusion.

THE MINISTER FOR LOCAL GOVERNMENT, HEALTH AND HOUSING (Mr. Havelock): Does he really consider that this is a proper amendment for this Ordinance? Is that not a proper amendment for another Ordinance? This, after all, in principle has to do with the protection of tenants against eviction.

MR. USHER: I agree with both the Ministers and do not wish to press this matter.

During the Second Reading, Sir, I did raise the question of compensation, and I think the Government was then not at all inclined to accept it, though I do not think the Minister—who, by the way, has my deep sympathy in having this Bill foisted upon him—I do not think he liked it, but I do not think he altogether shut the door. Since then I have been fortified in my original view that it is right and proper to provide for compensation for the one man that does not seem to have any protection at all in the case where there is large-scale clearance, for instance. I have, therefore, Sir, drafted—possibly inadequately—an additional sub-clause to clause 4, which reads as follows: "When consent in writing has been given in accordance with sub-section (1), and the Board is satisfied, having regard to the circumstances of any owner who is liable for eviction by reason of such consent, that compensation should be afforded to such owner, it may in its absolute discretion order the landlord of the land to pay such owner a sum of money not exceeding two years' rent at the rate currently payable to him by the tenant or any other occupier of a house or part of a house situated on such land, such sum to be paid by the landowner at a time and in a manner to be prescribed in such order".

Sir, this is a very difficult amendment to understand, but the reason, I do suggest, is that the Government was disinclined to accept my simple nomenclature describing the three people concerned in

[Mr. Usher] this as the landlord, the houseowner and the tenant. If that had been possible—if they had accepted so simple a suggestion put forward by me—it would have been clearer.

As it is, Sir, I beg to move my amendment.

Question proposed.

MR. TYSON: May I ask, Sir, on what basis the hon. Member for Mombasa arrives at the two years' rent? It seems to me a very arbitrary method. Surely the obvious way, if there is any dispute on compensation, is for it to be referred to arbitration. Two years may not be correct. It may be quite inadequate.

MR. USHER: Sir, I had to draw a line somewhere, and I drew it there.

THE CHAIRMAN (Sir Ferdinand Cavendish-Bentley): We might take this, again, as the Second Reading, in principle.

THE ASIAN MINISTER WITHOUT PORTFOLIO (Mr. Madan): Mr. Chairman, Sir, as you are aware, the hon. Member for Mombasa raised this point during the Second Reading of the Bill, and at that stage, in my reply, I said I was against it being introduced in the Bill. But after that, I should like to assure the hon. Member that the most careful consideration has been given to the matter. I have discussed it with people who are interested and the conclusion we have come to is the same as the answer I gave on the Second Reading of the Bill. It is felt, Sir, that if we are to achieve slum clearance in Mombasa, then the element of payment of compensation should not come into this Bill at all. I know there is the argument against that—that if landlords of land are enabled to pay compensation and get rid of owners of houses, tenants and occupiers, it would become easier and would reduce litigation, but we feel, Sir, it would not work out quite that way, and there may be cases also where the landlord of the land is quite unable to meet the bill on account of the amount of compensation that would become payable. I should like to say to the hon. Member, that I have respect for his views, and therefore I have considered it very carefully, but I must even now say "No".

The question was put and negatived.

THE CHAIRMAN (Sir Ferdinand Cavendish-Bentley): We will now go back to the new clause 4, as amended, and put it to the Committee that clause 4, as amended, do stand part of the Bill.

Question proposed.

The question was put and carried. Clause 4, as amended, agreed to.

Clause 5.

THE ASIAN MINISTER WITHOUT PORTFOLIO (Mr. Madan): Mr. Chairman, I beg to move that sub-section (1) of clause 5 of the Bill be amended—

(a) by substituting for the words "four weeks", which appear in paragraph (b) thereof, the words "one week";

(b) by deleting the word "or" which appears at the end of paragraph (c) thereof;

(c) by deleting paragraph (d) thereof.

Sir, the amendment in paragraph (a) is being made at the request of the Municipal Board of Mombasa, whose point of view has been accepted, that the period of four weeks is too long.

The deletion of paragraph (d) of this clause is a consequential amendment, as a result of amendments made to Clause 4 which have just now been approved by the Council.

I beg to move.

Question proposed.

The question was put and carried. Clause 5, as amended, agreed to.

Clause 6.

THE MINISTER FOR LEGAL AFFAIRS (Mr. Griffith-Jones): Mr. Chairman, Sir, in anticipation really of an amendment which my hon. friend, the Member for Mombasa, has given notice of in regard to clause 9—I beg to move, Sir, that clause 6 be amended by adding the following words at the end thereof: "and shall, in the exercise of its discretion aforesaid, have due regard to any representations that may at any time or from time to time be made to the Board by the Minister in reference to the public interest."

Sir, the hon. Member has given notice that he will move the deletion of clause 9, and I shall suggest to him when he reaches that clause, Sir, that

[The Minister for Legal Affairs]

He moves the deletion of the proviso to clause 9, leaving the substantive part of the clause intact, and the purpose of my now proposed amendment to clause 6, Sir, is to avoid the principle which he finds objectionable—and on grounds with which I confess I have some sympathy—the principle that it is undesirable that an executive authority should be empowered to intervene to suspend the sittings of a judicial or quasi-judicial authority. I understand that is his objection to the proviso to clause 9.

On the other hand, as I think he will acknowledge, the administration of this Bill as an Ordinance may have very considerable potential repercussions on the public interest in Mombasa, particularly, perhaps, at some future time when there may be a greater danger of unrest and in view—I am rather distracted by this tie-tac which is going on, Mr. Chairman—in view, also, Mr. Chairman of the absence possibly of alternative accommodation for tenants who may be evicted, particularly in some numbers.

I therefore invite him to consider whether, by adding these particular words to clause 6, and therefore leaving it still a matter for the discretion of the Board to postpone its granting of consent, but requiring it in the exercise of its discretion to receive and pay due regard to representations from the Minister in reference to the public interest, his point and the matter of principle will both be adequately met.

Question proposed.

MR. USHER: Sir, I am very much obliged to the hon. and learned Attorney-General for his ingenious way of meeting my difficulty. I think it will be almost entirely satisfactory. I say "almost" because I have a note here—had I moved the deletion of clause 9, and my amendment had been unsuccessful—to say that at least the Minister should be named. We are still in this difficulty—I am perfectly well aware of what happens under what used to be the Interpretation and General Clauses Ordinance. Nevertheless, I think that it is important here that we should know who the Minister is whose advice is to be listened to.

MR. SLADE: Mr. Chairman, I only wanted to congratulate the hon. Attorney-General on a particularly masterly example of the kind of clause that I describe as a "tinkling cymbal"—which sounds as if it is worth a great deal but is worth, in fact, nil.

THE MINISTER FOR LOCAL GOVERNMENT, HEALTH AND HOUSING (Mr. Have-lock): The remarks of the hon. Member for Aberdare have put me into great confusion, because I personally, as the Minister concerned—if I may say so to the hon. Member for Mombasa—being the Minister in whose portfolio the responsibility for housing rests, naturally did not want to give up my power which, of course, is something hon. Members opposite always want to make us do. In consultation with the hon. Attorney-General, we have agreed that my representations to the Board in this matter being statutory—having to listen to such representations—it is probably as far as we could go without upsetting any principle of justice which I understand the hon. Member for Aberdare intends to uphold.

THE MINISTER FOR LEGAL AFFAIRS (Mr. Griffith-Jones): Mr. Chairman, Sir, just in reference to the remarks of the hon. and learned Member for Aberdare, I would point out to him that the effect of this amendment, ingenious though he has been kind enough to describe it, may not, in fact, be nil, because it may well be that he would agree with me that were it not for some express reference in this clause to representations by the Minister in relation to the exercise of the discretion by the Board, the Minister would have no *locus standi* in the matter at all. I invite him to consider whether, therefore, possibly the addition of these words may serve a purpose.

MR. SLADE: If I understand this, the addition is requiring the Minister to have regard to something he should have regard to anyway.

THE MINISTER FOR LEGAL AFFAIRS (Mr. Griffith-Jones): No, with all respect to the hon. Member, it is to require the Board, in the exercise of its discretion under clause 6 to postpone giving its consent to eviction, to have regard to representations which the Minister may

[The Minister for Legal Affairs]

make to the Board in reference to the public interest.

MR. SLADE: Mr. Chairman, I worded my remark wrongly—I intended to say that presumably the Board would have regard, anyhow, to representations made by the Minister.

THE MINISTER FOR LEGAL AFFAIRS (Mr. Griffith-Jones): I think the Board might have regard to them, in fact, but if anyone were to take a rather abstruse and technical point that the Board had no right to hear the Minister, or possibly no right to entertain the representations of the Minister, in the exercise of this discretion given to it, then at any rate these words added will relieve the Board of any embarrassment.

MR. USHER: I do believe that the *amour propre* of this Board is saved by the amendment now proposed, but I still wish to persist that the Minister be named. Is it not possible to do that?

THE CHAIRMAN (Sir Ferdinand Cavendish-Bentlinec): The Minister is named in the Objects and Reasons, but not in the Bill, and the Bill does refer to land as well as housing.

MR. USHER: Might I just add one thing about that? It is that it might be supposed that it would be the function of the Minister for Defence to make such representations. I think we want to be clear who it is.

THE CHAIRMAN (Sir Ferdinand Cavendish-Bentlinec): On page 7 of the Bill.

THE MINISTER FOR LEGAL AFFAIRS (Mr. Griffith-Jones): I appreciate that in the Objects and Reasons we do refer to a particular Minister. We have, as a matter of practice, Mr. Chairman, tried to move away from the precise designation of Ministers in our legislation, because there are from time to time changes of designation which lead to a certain amount of confusion, and that is why, as the hon. gentleman knows, in the Interpretation and General Clauses Ordinance, and in the new Interpretation and General Provisions Ordinance, there is provision for reference in a clause to "the Minister" and for such reference to mean the Minister responsible for the matter in question. I would be prepared, if he feels very strongly about it, to insert in my amendment, with your per-

mission, Sir, "the Minister for the time being responsible for housing", rather than "the Minister for Housing"; because there may, in the years to come, not be a Minister for Housing; housing may not be one of the subjects appearing in the designation of any particular portfolio. If he wishes, I would offer him that crumb—I am not referring to my hon. colleague—that crumb of comfort in the possibility of more specifically designating him as "the Minister for the time being responsible for housing".

MR. USHER: I am a little embarrassed by this. I do accept that I am merely embarrassed because I thought it would be the Minister for Defence, but I do think it is perhaps better if the hon. and learned Attorney-General would do that. It would certainly make some people happier.

THE MINISTER FOR LEGAL AFFAIRS (Mr. Griffith-Jones): If you would agree then, Mr. Chairman I would amend my proposed amendment by inserting, after the word "Minister" the words "for the time being responsible for housing".

THE MINISTER FOR LOCAL GOVERNMENT, HEALTH AND HOUSING (Mr. Have-lock): On the point which the hon. Member for Mombasa has just raised, I think he should remember the whole matter is a matter of accommodation and availability of it—that is the basis of whether anyone should be evicted.

COL. WILCOCK: Mr. Chairman, Sir, I am not really happy about this crumb that the Minister has so generously cast towards the last speaker. I think he is in danger of creating an unfortunate precedent. Normally it is the practice, in Bills of this nature, to use alone the expression "the Minister", and in a Bill that we shall be considering very soon—that we shall be considering very soon—the Banking Bill—there is reference to "the Minister" therein. If, in this particular Bill, we qualify the Minister by describing him, then surely it is only logical we should describe the Minister in every other Bill, and, in view of the phraseology in the Interpretation and General Clauses Ordinance, I think it is unnecessary and undesirable.

THE MINISTER FOR LEGAL AFFAIRS (Mr. Griffith-Jones): If the hon. gentleman on the other side of Council will make up their minds what they want, I will do my best to include it.

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THE CHAIRMAN (Sir Ferdinand Cavendish-Bentinck): I think we might clarify this issue if I first of all put this clarification of the "Minister" to the "Minister" to the "Minister", having heard the argument in clause 6, should have the further description of the following words "Minister for the time being responsible for housing"—those who feel it is wise for put in that qualification, would they please signify by saying "Aye".

Question proposed.

THE CHAIRMAN (Sir Ferdinand Cavendish-Bentinck): I am not sure how you have it.

THE MINISTER FOR LEGAL AFFAIRS (Mr. Griffith-Jones): I think the second "Ayes" have it.

THE CHAIRMAN (Sir Ferdinand Cavendish-Bentinck): Those who want the Minister qualified, please say "Aye".

The question was put and negatived.

THE CHAIRMAN (Sir Ferdinand Cavendish-Bentinck): The Minister shall be without qualification. Then I will put the clause, as amended.

The question was put and carried.

Clause 6, as amended, agreed to.

Clauses 7 and 8 agreed to.

Clause 9

MR. USHER: I beg to move—I had it in mind to move the deletion of the whole clause because I was not able to understand why it had been necessary to give the Board specific rights to sit and hear and consider applications for consent at such times as it might deem fit. Surely any court or tribunal does that in any case and I do not see any particular reason for retaining those two lines. I therefore beg to move that clause 9 be deleted.

THE ASIAN MINISTER WITHOUT PORTFOLIO (Mr. Madan): This amendment is accepted.

THE MINISTER FOR LEGAL AFFAIRS (Mr. Griffith-Jones): The magnanimity of this side of the Council knows no bounds to-day!

Question proposed.

The question was put and carried.

The deletion of clause 9 agreed to.

Clauses 10 and 11 agreed to.

Schedule

THE ASIAN MINISTER WITHOUT PORTFOLIO (Mr. Madan): Mr. Chairman, Sir, I beg to move that the Schedule to the Bill be amended—

(a) by substituting for the words "Creek Road", where they appear twice in paragraph 3 thereof, the words "Riyami Road";

(b) by substituting for the words "Nazerali Road", which appear in paragraph 3 thereof, the words "Nazerali Street";

(c) by substituting for the words "Mvumoni Road", which appear in paragraph 3 thereof, the words "Seyyid Said Street".

These are, I understand, the latest names which have been assigned to these streets and this amendment is being made on the advice of the Municipal Board of Mombasa.

I beg to move.

THE CHAIRMAN (Sir Ferdinand Cavendish-Bentinck): I would like to take these one by one so we know exactly where we are. Creek Road appears in the paragraph 3 in the fifth subparagraph—the last two words. Then they appear in the next small subparagraph, are those the two referred to?

THE ASIAN MINISTER WITHOUT PORTFOLIO (Mr. Madan): Yes, Sir.

THE CHAIRMAN (Sir Ferdinand Cavendish-Bentinck): Sorry to be so particular, but one does get very easily into trouble. It appears as far as I can see twice.

THE ASIAN MINISTER WITHOUT PORTFOLIO (Mr. Madan): For the first time in the fifth paragraph, then again in the sixth paragraph.

Question proposed.

The question was put and carried.

THE CHAIRMAN (Sir Ferdinand Cavendish-Bentinck): Nazerali Road.

THE ASIAN MINISTER WITHOUT PORTFOLIO (Mr. Madan): Paragraph 7, Sir.

THE CHAIRMAN (Sir Ferdinand Cavendish-Bentinck): It only appears in one place. The substitution for that should be Nazerali Street.

Question proposed.

The question was put and carried.

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THE CHAIRMAN (Sir Ferdinand Cavendish-Bentinck): The third proposal is that of substituting for the words "Mvumoni Road, the words Seyyid Said Street" which appears once after "then southwards along the eastern boundary of Jubilee Square to its junction with Mvumoni Road". That will be deleted and it will be Seyyid Said Street.

Question proposed.

The question was put and carried.

The Schedule, as amended, agreed to.

THE CHAIRMAN (Sir Ferdinand Cavendish-Bentinck): I suggest this might be a suitable opportunity for having our customary 15 minutes' break. The Committee will suspend business for 15 minutes.

Council suspended business at twenty-five minutes past Four o'clock and resumed at forty minutes past Four o'clock.

The King's African Rifles (Amendment) Bill

Clause 1 to 3 agreed to.

Title and Enacting Words

MR. CROSSKILL: May I, Sir, at this juncture, ask the Minister if he would tell me whether similar legislation is being instituted in Tanganyika and Uganda. If it is not, has he by any chance brought it to their notice. We do welcome this and I apologize to him for not saying this at the Second Reading yesterday when I was not in Council. We do welcome this because, I think, it is for a very modest expenditure doing justice to the *askaris* who have served so well. I would like to know that it is being introduced into the other territories because other territories' battalions of the King's African Rifles have served us equally with our own, and I beg to support.

THE MINISTER FOR INTERNAL SECURITY AND DEFENCE (Mr. Cusack): Mr. Chairman, Sir, the pensions will be applicable throughout the East African Command and I am very grateful to the hon. Member for his remarks in welcoming this Bill.

Title and enacting words agreed to.

The Guarantee (High Commission Railways and Harbours Loan) Bill

Clause 1 to 7 agreed to.

Preamble agreed to.

Title and enacting words agreed to.

The Banking Bill

Clause 1 agreed to.

Clause 2

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): Mr. Chairman, I beg to move the following amendment:—

THAT clause 2 of the Bill be amended by substituting for the definition "banking business" which appears therein, a new definition, as follows:—
"banking business" means any business which consists wholly or substantially of any one or more of the following activities—

(a) receiving moneys from the public on deposit or on current or other similar account, otherwise than by way of payment or advance for or to account of goods or services supplied or rendered or to be supplied or rendered;

(b) allowing any moneys received as aforesaid to be withdrawn or drawn against by cheque or otherwise;

(c) paying interest on moneys received as aforesaid;

(d) lending or investing moneys received as aforesaid.

This, Sir, is an attempt to meet the points made during the debate on the Second Reading by hon. Members opposite, particularly, I think, Sir, the hon. Member for Nairobi West.

I beg to move.

Question proposed.

MR. TYSON: Mr. Chairman, could I ask the Minister if, under his revised definition, it will include for example moneylenders or people engaged in the hire-purchase business? I am a little afraid that the attempt to define banking business will break down. In the last issue of the *Midland Bank Quarterly Review*, they say, "That powers vested in the Treasury and the Bank of England in relation to 'bankers' are of doubtful extent, since for this purpose a 'banker'

[Mr. Tyson] is defined no more explicitly than as a person (including a company) whom the Treasury recognizes as such".

What I am wondering is whether the Minister would consider making the definition a much wider one, rather on the lines that he should have the final say as to whether a person is engaged in banking business.

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): Mr. Chairman, I think, Sir, the hon. Nominated Member, Mr. Tyson, is aware that there was a great amount of discussion over the fact that the definition as originally in clause 2 was, indeed, too wide. Whilst, Sir, I appreciate the idea behind his remarks, I do not think, Sir, that it would be a good thing to give any Minister quite such a wide and restrictive power as that which he suggests, which would indeed leave him a very great choice of what he could prohibit and what he could allow. I think, therefore, Sir, the amendment which has been drawn up by my hon. friend the Minister for Legal Affairs and his officers covers the situation adequately. If experience shows us that there are wide gaps and breaches in it, then I have no doubt that we shall come back to this Council for further powers.

MR. NAZARETH: Mr. Chairman, I am rather inclined to support the old definition rather than the amended one. The old definition was conjunctive rather than disjunctive. It defined the business of banking as the business of receiving money on deposit or otherwise allowing the same, et cetera, all these requirements had to be satisfied before you became a banker or carried on the business of banking. But the new one is that if you satisfy one of these requirements, (a), (b) or (c), you are a banker. I thought the old definition was much more difficult to satisfy than the new one; the new one is more likely to enlarge the category of persons who come within it than the old one was. However, I have not studied this in great detail and I do not want to express very strong opinions, but my preference is for the old one rather than the new one.

THE CHAIRMAN (Sir Ferdinand Cavendish-Bentinck): I think, if I may say so as Chairman, that this is a subject on which there has been a good deal of dis-

cussion and we only received these proposed amendments at 2 o'clock and I do not think hon. Members have had a chance of seeing them.

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): In so far as my hon. friend, the Member for Nairobi West, who has put forward these points is concerned, he was consulted and the amendments were indeed discussed with him, I thought.

THE CHAIRMAN (Sir Ferdinand Cavendish-Bentinck): Yes, but he is not the only Member!

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): I know, but I am only dealing with it from that point of view, Sir.

MR. HARRIS: Mr. Chairman, I would like to thank the Government for trying to meet representations that were made from this side. I personally, though I would hate to argue with my learned friend, I would accept the attempt to solve this problem which has been worked out jointly with the Minister for Legal Affairs and the hon. Member for Nairobi West. I think, possibly, that the Minister's undertaking that if it is found that there are loopholes, Government will come back for further powers is most satisfactory.

MR. SLADE: Mr. Chairman, it is a fact that the hon. Minister of Legal Affairs did discuss these amendments, or the substance of them, with those of us on this side who talked on this subject most yesterday. I think that we are satisfied—those with whom he discussed this—we are satisfied with this amendment of the definition, provided that it is going to be accompanied by another amendment to clause 19, providing a general power for the Governor to exclude particular concerns from operation under the Ordinance where they are cases to which the Ordinance was obviously intended not to apply.

THE CHAIRMAN (Sir Ferdinand Cavendish-Bentinck): I am only trying to pin hon. Members down to the principle, because I do not like Members being asked to pass a thing if they have not got it in writing before them.

I appreciate the position on this occasion.

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): I would say in answer to my hon. friend, the Member for Nairobi West, and to my hon. friend, the Member for the Western Electoral Area, that there will be an amendment suggested to clause 19, which will, I think, meet the point made by the hon. Member for Aberdare and will at the same time, I think, leave the way open for exemption for any concern which might be hit by what my hon. friend, the Member for the Western Electoral Area, considered a narrow definition.

The question was put and carried.
Clause 2 as amended agreed to.

Clause 3

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): Clause 3, Sir. This again is an attempt to meet the horrific fears expressed by the hon. Member for Nairobi West in the Second Reading, that a definition as used in 3 (b) might prevent us even having a blood bank. I therefore propose, Sir, that sub-section (1) of clause 3 of the Bill be amended—

(a) by deleting paragraph (b) thereof; and

(b) by renumbering paragraph (c) as paragraph (b) thereof.

Question proposed.

The question was put and carried.
Clause 3, as amended, agreed to.

Clause 4

SIR CHARLES MARKHAM: I apologize to my hon. Nominated friend, Sir.

Could I ask, Sir—I did raise this yesterday under 4 (b). I know my hon. friend, the Member for Trans Nzola, is going to suggest an amendment, but it is purely a legal question, Sir. It says here that the Minister may grant a licence to carry on a banking business to a company which—

(a) . . . and

(b) has a paid-up capital of not less than 2,000,000 shillings.

Now, Sir, in the general interpretation rules which we passed the other day, shillings were described as the equivalent of £ sterling. Would this exclude, Sir, an American bank, for example, coming to Kenya who certainly has

not got a capital in shillings or in £ sterling, but only in dollars? Perhaps the Minister could answer that question, Sir.

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): No, Sir, it would not prevent an American bank operating in this country any more than, if my hon. friend will look at the Schedule, and see that the Netherlands Trading Society—the Dutch bank—operate here. It is a matter of the Registrar using his discretion, and saying that 2,000,000 shillings, in his opinion, could be equalled by x dollars, particularly if they were in the country.

SIR CHARLES MARKHAM: Sir, with the greatest of respect for the Minister for Finance, I do not think it says that at all. It says "which gives conditions". There is no discretion to the power of the Registrar to start converting shillings into dollars, or any other sort of currency. It gives two conditions: one, which the Registrar may grant a licence, but surely if the bank does not conform with conditions it cannot be given a licence?

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): I am sorry to disagree with my hon. friend, Sir. The Registrar may grant a licence to carry on a banking business to a company which—

(a) has as one of its objects the carrying on of a banking business; and

(b) has a paid-up capital of not less than 2,000,000 shillings.

And, I suggest, Sir, that provided the equivalent value was there it would be recognized.

SIR CHARLES MARKHAM: Should the words, Mr. Chairman, "or equivalent value" go in to make it quite certain, because once you start litigation—well, the merry-go-round starts all over the country.

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): I do not think, Sir, that it is necessary to put it in—that was my point. I think that this is sufficient to cover the circumstances described by the hon. gentleman.

CAPTAIN HAMELEY: Mr. Chairman, Sir, I hope I have not got hold of a loose

(Captain Hamley)

end, but there seems to me to be a discrepancy—that clause 4 (b) of the Bill reads “has a paid-up capital of not less than 2,000,000 shillings”—and the Memorandum of the Objects and Reasons says “unless it has a paid-up capital of 1,000,000 shillings”. I presume the Bill is correct.

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): Yes, that is right. The 1,000,000 shillings in the Objects and Reasons was a printer's error.

MR. MAXWELL: Mr. Chairman, in my opinion a capital of Sh. 2,000,000 for a bank, such as known banks operating already in this country, or elsewhere—banks of repute—is far too small an amount.

I would like to see that figure be increased to at least £500,000 or Sh. 10,000,000. £100,000, Sir, is too small a capital for any bank.

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): I am sorry, Sir, but I do not know whether the hon. Member is moving an amendment? I certainly, Sir, could not accept the amendment. This has been discussed with the main and leading banks and they themselves have agreed that this figure is a satisfactory one.

There are certain other companies operating which, we think, might well be embarrassed if we put in a need for a paid-up capital of a high sum, and we would not want to start using our power of exemption in regard to the amount of the paid-up capital if we could possibly help it.

MR. MAXWELL: Sir, might I ask one other small question, and that is this. A bank, as Sir Charles Markham mentioned, say an American bank, would they invest sufficiently in this country to cover their liabilities?

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): Well, I think the point is this, Sir, that they need not have to, but if my hon. friend will look at clause 5:—

“The Registrar may grant a licence to any bank subject to such conditions as to the bank having at all times available for its use, funds sufficient

to meet its liabilities within the Colony as the Registrar may deem desirable.”

I think, Sir, that where we have well-established banks which have served extremely well, and they are reputable banks, we do not want to impose a large number of onerous conditions. We, therefore, have tried to frame this Bill as in the other territory concerned, on a basis where we shall have enough restrictive power to use but, at the same time, have reasonable latitude in our attitude towards the reputable and established banks.

MR. SLADE: While agreeing with the hon. Minister on that point, that clause 5 (1) (b) seems to meet the case in its intention, it has just struck me that it is ambiguous in its wording.

It says “at all times available for its use funds sufficient to meet its liabilities within the Colony”. That could mean funds within the Colony, or funds sufficient to meet its liabilities within the Colony. If it only means liabilities within the Colony, it is not quite good enough in itself. It is very important that the funds should be in the Colony.

Sir, I hope that when we come to clause 5 we can consider that one.

THE CHAIRMAN (Sir Ferdinand Caven-dish-Bentick): Should we deal with that point when we come to the next clause?

Clause 4 agreed to.

Clause 5

THE CHAIRMAN (Sir Ferdinand Caven-dish-Bentick): We can now deal with your point.

MR. SLADE: Mr. Chairman, I am very sorry to say that I have not prepared an amendment in writing. I have only just appreciated this point, but the amendment I will propose is very simple and that is that in paragraph (b) of sub-clause (1) we substitute for the words “for its use” the words “in the Colony”, so that the paragraph would then read:—

“... grant a licence to any bank subject to such conditions as to the bank having at all times available in the Colony, funds sufficient to meet its liabilities within the Colony as the Registrar may deem desirable.”

THE MINISTER FOR LEGAL AFFAIRS (Mr. Griffith-Jones): Mr. Chairman, I appreciate the motives behind this amendment. However, I doubt, with respect, whether it is necessary because, as the paragraph is at present drafted, the requirement is that funds be available for its use and sufficient to meet its liabilities within the Colony. Now, funds which are not in the Colony and on which the Registrar does not receive an adequate assurance that they will be available to meet liabilities in the Colony, would not be funds of a sufficiency and of an availability to satisfy the Registrar under the paragraph—or so it seems to me.

I am a little bit dubious about the amendment in that it might involve a requisition on a bank that it should invest permanently some funds in the Colony which might prejudice its business and which, in any event, would be available to it to meet its liabilities in the Colony if the need should arise. Therefore, I wonder if the hon. Member thinks it would be wise to import that implication to the possible prejudice of a bona fide bank in the conduct of its business in the Colony.

I am not a financier—far less a banker—but I can see that there are potential dangers in importing this sort of requirement on a banking business in the Colony, and I would suggest to the hon. Member that it might be wiser to leave it to the discretion of the Registrar under the paragraph to be satisfied that the principle at which the paragraph is directed is met, namely that the bank is not going to default on its liabilities in the Colony. How it satisfies the Registrar on that point will be a matter for consideration, no doubt, on the circumstances of each case, but to import a constant requirement that every bank to whom this paragraph applies shall maintain constantly, in this Colony, liquid funds—or liquidable funds—sufficient to meet the aggregate of its potential and contingent liabilities in the Colony would, I think, possibly impinge somewhat seriously on the operations of a bank. I speak without precise or expert knowledge, but I do see a red light in this and I think perhaps it would be unwise—and I invite the hon. Member to consider that view.

MR. SLADE: Mr. Chairman, my difficulty is this; that indeed this paragraph only relates to a discretion of the Registrar, and he must be allowed to exercise his discretion as he thinks fit, but, Sir, as it stands it appears to me that it does not give him a wide enough discretion, and that even if he is most stringent in his demand as to the funds available to meet liabilities in the Colony, if those funds can be anywhere in the world they may not, in fact, be available to creditors when the need arises and the Registrar cannot make it that they should be so.

In reality funds in other parts of the world which are immediately available to other creditors in other parts of the world, and very difficult of access from this Colony in a case of liquidation, are of very little avail if the bank gets into trouble.

I am very sorry to have raised this so much at the last moment, Mr. Chairman.

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): Mr. Chair, my hon. friend, the Member for Aberdare, says, quite rightly, that it is a discretionary power. Nevertheless, Sir, I think we must remember the effect upon banks such, for instance, as that described by my hon. friend, the Member for Ukamba, an American bank.

If, for instance, it felt that in its operations here it might find itself at any time liable to the Registrar saying “You must maintain funds sufficient to maintain your complete liabilities within the Colony” it might well lead to that bank choosing not to operate in this Colony, or, if it does, to have regard, Sir, to the fact that One has to have regard, Sir, to the fact that there would not be—if you were to apply this to the ordinary bank's deposits in this country—sufficient short-term investments on many occasions for them to be able to use their funds. They must on many occasions invest their funds overseas because there is not the wide range of cover of investment in these territories; there is not the money as these things have to be taken into account and, I suggest, therefore, Sir, that the Registrar's discretion is quite wide enough to hang over, as it were, almost a threat to a bank operating on a bad basis

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without some of the banks which we do hope to see operating in this country from time to time having to look somewhat askance at a very arbitrary power.

I do hope, therefore, Sir, that whilst I understand the motive behind the hon. Member for Aberdare's thought, that he would on this occasion leave this and, I think, we may say that the Registrar will indeed have regard to the point he has raised. However, I think it would be rather dangerous and going too far in its reaction, and I do not believe that it would, for one moment, be an acceptable type of clause to the banks at present operating in the country.

LT. COL. GHERSIE: Mr. Chairman, Sir, in support of what the hon. Member for Aberdare has said, surely the object of this Bill is to protect the depositor? It has already been pointed out in the Objects and Reasons the possible dangers that may arise in the light of the experience we had, unfortunately, some years ago in regard to another bank, which, I think, was probably mainly due to certain causes, but it was found that the liquid resources of that bank were non-existent here and had, in fact, left the Colony. Well, I think that is what the hon. Member for Aberdare has in mind, that we must—and that presumably is the object of this Bill—endeavour to protect the depositors in this Colony.

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): The hon. Member for Nairobi North is quite right, but there is also another danger. There is the danger of making your restrictive powers so harsh that indeed you drive investors and banking houses away from you—and that is just as grave a danger. The whole Bill, therefore, is designed to strike a balance. The protection of the investor has been placed first.

The Registrar in this particular clause is given very wide powers, without assigning any reasons at all, to refuse to grant a licence to any bank, other than those which are scheduled, and, secondly, to deal with it on the fact that the bank must "have at all times available"—they can be available by securities in Trustee stocks, in gilt edged or blue chips in the U.K.—and they could be taken as being securi-

ties available. That is something, I think, on which the Registrar must have the discretionary powers.

I do suggest that to move to what indeed could be well construed as a threat by large and reputable banks operating, that the Registrar could, in fact, say that the whole of the deposits which have been made in this country—by the people of this country—must be kept available because those are the liabilities. I think, Sir, we must keep within reason in this whilst, at the same time, we have gone as far as possible to protect the investor.

THE CHAIRMAN (Sir Ferdinand Cavenish-Bentinck): Do you wish to press your amendment?

MR. SLADE: Yes, Mr. Chairman. I am afraid I am not satisfied on this. I need not talk much more about it, but I understand that the purpose of this clause is that there should be assets there to meet liabilities. It is not asking very much of any bank that, so far as they take deposits from the people in this Colony, they reinvest that money in this Colony, in that way they will have funds here sufficient to meet their liabilities in this Colony, provided the investments are good. I do press this one, Sir.

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): Mr. Chairman, my hon. friend, Mr. Slade, has now raised another key-point in this, and that is that they shall invest all the money of the depositors in this country. Let me say straight away, Sir, that if you were to operate in that way the existing banks would cease to operate for the simple fact that they could not invest in this country. There is not the scope for investment in this country for the tremendous deposits that they have received over the past years. There is also a very restrictive market here.

Now, what you would indeed be asking them to do would be to plant all their money in local stocks—local Government stocks. Where would be the realizable factor? What would happen if they had to throw it into realization on this market? Where would be the purchase? This, Sir, is a type of finance that the hon. Member is talking about, which was many years ago referred to as "incestuous finance". It inevitably brings a very heavy penalty. When you invest

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you must be able to realize, and you must be able to realize at something like the price at which you invested. In the case of a big sale with a limited market, you force the price down of your stock and you run into very heavy losses.

The advantage of the investment of banks' assets overseas, the same as the advantage of investment of a large proportion of the Post Office Savings Banks overseas, is that there is a market which is a channel for realization of an asset quickly and at not too great a loss because there is the power in the market which is so big to absorb the sale without too great and disastrous bad effect upon the stock quotations as a whole.

I do suggest to my hon. friend, the Member for Aberdare, that he would indeed be doing a very grave disservice if he pushed this particular argument much further.

SIR CHARLES MARKHAM: Mr. Chairman, I listened with interest to the Minister for Finance, but I do not think my hon. friend was referring to the well-known names that we see appearing in the Schedule. He was referring particularly to branches of banks which might live in Mombasa or somewhere. That is the point of the danger.

After all, names are known in this country and the word "bank" will always attract a certain amount of customers, and if somebody banked with a branch of a reputable bank and if that branch fails—or the main bank fails, say anywhere in the world—if it is a reputable bank—the impact will be felt locally on the branch.

What my hon. friend wants, and I support him 100 per cent, is that those people who put their money in that bank locally should get that money back. We do not want all those reserves transferred—or the reserves not being available—because the head office somewhere in the world has failed. That is all we are trying to think of, Sir.

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): Sir, I think I know perfectly well what the hon. Member is driving at, but I still keep talking about the fact that if you are going to encourage banks to operate in this country and they are going to be

liable because they are not in the Schedule for this type of operation, they will just not come here because they will regard it as too heavy a hand of restriction liable to fall upon them at any time.

SIR CHARLES MARKHAM: Well, Sir, if the Minister or the Kenya Government will after all act as a safeguard for the wretched investor I am sure that people would never mind. However, I cannot see much of a safeguard to the investor by being told "It is just bad luck, we want to attract banks here and you do not get your money and we are awfully sorry." I think that most of them would turn round and say "well, this fellow is giving us no safeguards at all".

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): I am sorry, Sir, but I cannot agree to that. We are now back to discussing the principle. I believe, Sir.

The whole of the Bill is designed to bring in safeguards which have never existed before, and inside this Bill, in my opinion, the Registrar will have sufficient power to safeguard the investor; I find myself in the very strange position of trying to prevent absurd restrictions of trying to prevent private enterprise which being put upon private enterprise which might well wish to enter this country and, provided it can satisfy the general and, provided it can satisfy the general clauses and general ideas of the Bill, I do not think we should go any further to discourage it.

MR. NAZARETH: Mr. Chairman, I would support the hon. Minister on this matter. I would suggest that this amendment is undesirable since not only would it discourage banks coming into the Colony but it would also operate as a fetter on their loan activities. What we are really concerned with—I am not an expert on banking—is overall solvency.

I may be mistaken on the point, but I think a few years ago there was a run on a perfectly reputable bank here—it is still operating and it is a bank that is fully trusted—and I think it was compelled to draw on other banks in order to meet this run, and it successfully met the run. However, if banks had not to consider the question of overall solvency but had to have assets available all the time to meet the liabilities within the Colony, it would, I suggest, act as a fetter—and a wholly unnecessary fetter because if the bank is overall solvent,

[Mr. Nazareth] then the other banks would come to its assistance if it got into temporary difficulties.

The real question is not solvency within the Colony but such solvency as enables them to meet their liabilities, having regard to the fact that they can get the assistance of other banks. I would suggest that this amendment is undesirable and would operate to the Colony's disadvantage.

MR. MAXWELL: Mr. Chairman, Sir, would the Minister be prepared to accept the words after "the use of funds" in the third line of (b) the words "in the British Commonwealth"?

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): No, Sir, I am afraid not. I go back to the speech made by the hon. Member for Ukamba. We would very much like, indeed, in this country, Sir, to see American capital operating; it would be a great stimulus to us and we need capital so badly. Therefore, I think it would be entirely wrong to start specifying and limiting the sources from which we can draw the capital which private industry, as well as Government, needs so badly in this country.

THE CHAIRMAN (Sir Ferdinand Cavendish-Bentley): I think we have had a fairly wide discussion and I think I will now put the first amendment—not the one just produced by Mr. Maxwell.

Question proposed.

The question was put and negatived.

THE CHAIRMAN (Sir Ferdinand Cavendish-Bentley): Do you wish your amendment to be put?

MR. MAXWELL: No, thank you, Mr. Chairman.

Clause 5 agreed to.

Clause 9

SIR CHARLES MARKHAM: Mr. Chairman, when we had the Second Reading of the Bill yesterday, I did mention this particular point: I do not know whether the Minister for Finance has any amendment he is willing to move on it, but the point that I did make yesterday, Sir, was the question of this reserve fund. I

can see no point at all in this clause unless that reserve fund is retained within the Colony, or East Africa, anyway. Otherwise, Sir, it seems that clause 9 is completely superfluous, particularly under sub-clause (2), because almost all the banks are incorporated outside this Colony. And I think it does give a very unfortunate responsibility to the Registrar if he has got to go through the accounts of some of these banks registered all over the world, and see, whether, in his opinion, their reserves are satisfactory, Sir, I do not know whether perhaps under clause 9 (1) the Minister would accept the amendment—we try to come back to No. 5 again—"within the Colony" being inserted there. If he will, I will move it formally.

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): I am afraid I could not agree to such an amendment, largely for the reasons that we have outlined in the discussion so far. This, Sir, would be even more disastrous because this is "every bank incorporated in and operating within the Colony shall maintain a reserve fund", etc., "until the amount of such fund is equal to the paid-up capital", and "The provisions of sub-section (1) of this section shall also apply to banks incorporated outside the Colony unless, in the opinion of the Registrar, the aggregate reserves of any such bank are adequate reserves".

I come back to banks incorporated outside the Colony and the fact which I think hon. Members have been inclined to forget when they are contrasting this with other areas. We have no central bank. Banks have to have liquid moneys which have to be found very quickly, there must be assets which can be realized without loss, and therefore, Sir, to place upon them a restriction that they should invest this inside the Colony would, I think—the hon. Member shakes his head—he says that he did not—

SIR CHARLES MARKHAM: I did say "retained in the Colony" which is very different altogether from invest—retained in the Colony.

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): Well, Sir, if we think that there is going to be a safeguard by ensuring that the stock of

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an investment overseas is actually retained in the Colony; really, Sir, I do think we are getting down to absurd and ridiculous extremes. These banks will have passed a very severe test before they operate at all. We have placed upon them in this Ordinance a restriction, so that if they are incorporated in the Colony, and they are operating within the Colony, they must maintain a reserve fund. They cannot pay any dividend until they have paid 20 per cent of their profits into the reserve fund, and that means that for five years, until they have equalled the paid-up capital, they cannot pay any dividend without that type of restriction. I suggest, Sir, that really we have gone quite far enough in the power that we require, and I cannot believe that we should go further in the direction proposed by the hon. Member.

SIR CHARLES MARKHAM: Could I ask the Minister, Sir: is there a single bank incorporated in Kenya under clause (1), Sir?

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): I do not think that there is at the moment, Sir.

SIR CHARLES MARKHAM: Therefore, is not my suggestion that this clause is entirely superfluous operative?

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): No, Sir, because we have got indications that there are certain firms who do call themselves banks who will probably be moving into this Colony and they will be quite prepared to incorporate themselves in Kenya and in East Africa, and it is wise therefore that we should have the clause ready to meet the eventuality.

Clause 9 agreed to.

Clauses 10 to 18 agreed to.

Clause 19

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): I beg to move that clause 19 of the Bill be amended as follows:—

(a) amend marginal note to read "Savings and exemptions";

(b) renumber the existing clause as clause 19 (1);

(c) add a new sub-section as follows:—

(2) The Governor in Council of Ministers may, in his absolute discretion, by notice in the Gazette, exempt, subject to such conditions, if any, as he may think fit, any bank from all or any of the provisions of this Ordinance, and at any time cancel any such exemption or amend any such condition.

This, Sir, is to meet the points made yesterday by hon. Members and to cover fear such as those expressed by the hon. Member for Nairobi West and the hon. Member for Eastern Electoral Area.

Question proposed.

The question was put and carried.

Clause 19, as amended, agreed to.

Clause 20 agreed to.

Schedule

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): Mr. Chairman, I have to move an amendment here that the Schedule to the Bill be amended by substituting for the words "Neither by substituting for the words 'Netherlands Trading Company' which appears in item 6 thereof the words 'Netherlands Trading Society'." I understand that that is the correct nomenclature.

Question proposed.

The question was put and carried.

Schedule, as amended, agreed to.

Title and enacting words agreed to.

The Land and Agricultural Bank (Amendment) Bill

Clauses 1 to 4 agreed to.

Clause 5

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): Mr. Chairman, when moving the Second Reading of this Bill, I did say that I would not waste the time of the Council by dealing with things which were really matters of detail. I feel, however, that perhaps some explanation of this particular clause would be wise for the purposes of record. In the original section, section 24 of the principle Ordinance, Sir, the Bank Board may raise further funds by obtaining an overdraft from another bank or issuing Land Bank bills. We have, Sir, run, as many hon. Members will know,

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into enough difficulties with regard to the availability of capital, and indeed I shall be moving a Resolution dealing with this point with regard to the Land Bank very shortly. We have therefore tried to open a channel for the use of short-term money to assist the bank in its operation, and we have been able to obtain quite a considerable amount of assistance by taking shorter term money at a lower rate of interest and thereby, over a long period, enabling the bank to maintain a lower operating rate of interest charged to its borrowers than would otherwise have been the case.

It has been felt desirable that this power should be legally recognized and that is the reason for the amendment and the addition of (c), accepting moneys on deposit. I merely state this in elucidation.

Clause 5 agreed to.

Clauses 6 and 7 agreed to.

Title and enacting words agreed to.

The Royal National Parks of Kenya (Amendment) Bill

Clauses 1 and 2 agreed to.

Clause 3, including the Schedule

SIR CHARLES MARKHAM: Mr. Chairman, when this Bill was given a Second Reading yesterday, it was very hard to follow from the Minister concerned and also from the Schedule what was involved. I was unfortunately absent yesterday, Sir, but I have made inquiries as to what is involved on this particular excision from the National Parks, and I am wondering, Sir, on the Schedule, whether before this is taken through the Committee stage to-day, Sir, Members could not see it on a map, Sir. The reason I say this is that a great deal of land—700 acres of that park—is disappearing into the oblivion of the Railway workshops and sidings. I would suggest, Sir, that we might delay this until Members have had a chance to see in the library exactly what is involved.

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): Why did not the hon. Member look before?

SIR CHARLES MARKHAM: I do not know whether the Minister for Agricul-

ture is capable of reading these details, but there is no map available anywhere in this particular Council showing them.

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): Mr. Chairman, I am not as illiterate as the hon. Member!

SIR CHARLES MARKHAM: I am very grateful to see the hon. Minister knows so much about reading beacons. Perhaps he might take us out in the grounds and show us where it is.

But, seriously, Sir, I do suggest that on an issue like this, a map should be shown in the library, because, after all, this is a matter of trust, a heritage of this Colony, our National Parks, and to lose several hundred acres just like that, without details being known, is, I think, disgraceful.

THE MINISTER FOR FOREST DEVELOPMENT, GAME AND FISHERIES (Mr. Blunt): Mr. Chairman, I went into this matter at considerable length yesterday afternoon, indicating exactly where these particular areas were in relation to the railway and Nairobi West aerodrome, etc. More than that, I could not do in a verbal explanation, but if any Member had asked for a map to be placed in the library yesterday, I would have been very happy to do so. I suggest that we cannot defer it at this stage.

SIR CHARLES MARKHAM: Could I ask the Minister what the hurry is on this—why we cannot delay it until April?

MR. HASSAN: May I speak on this point, Sir. This question was thoroughly discussed by the trustees of the Game Park at length, and the area was thoroughly inspected. After they were thoroughly satisfied, the trustees agreed to this excision, and the Railways undertook to pay compensations and the trustees of the Game Park were satisfied with it.

THE CHAIRMAN (Sir Ferdinand Cavenish-Bentlinc): I think actually this is not a matter to come up at the Committee stage. It is a matter which should have been dealt with yesterday. I like to give as much liberty as possibly in the Committee stage, and I think that this should have been raised yesterday.

Clause 3 agreed to.

Title and enacting words agreed to.

The Legislative Council (African Representation) Bill

Clauses 1 to 3 agreed to.

Clause 4

MR. CROSSKILL: Mr. Chairman, I beg to move the deletion of clause 4. I do so for reasons which I gave yesterday on the Second Reading of the Bill. Those are that I feel that the qualifications—educational qualifications—are being too watered down by the inclusion of this amendment.

Whilst I agree with the hon. Chief Secretary that it is a good thing to widen the avenue, I believe that this amendment, Sir, widens it too greatly. Having examined the original Ordinance, Sir, I feel really that the fault lies there in sub-section 2 (b) of section 16, which, with your permission, I will quote. That states that "the candidate should have attained such a standard of education as may be prescribed". There, I think, Mr. Chairman, lies the fault in that it is insufficiently definite and insufficiently described what that standard of education should be. As I have said, I feel that it is of very great importance that those standards of education should be as high as can be maintained. Now, the situation, Sir, in my opinion, could be set aright if that section of the original Ordinance could be amended to read "or has attained such other equivalent standard of education". The reference there, Sir, is to intermediate educational standards. That would be more definite and would be, to my mind, a great deal more satisfactory in this Bill. Now, I know, Sir, that Government wishes to have this Bill operative at the earliest possible moment, and I would, therefore, ask whether the Chief Secretary would give an undertaking that the word "equivalent" would be inserted at some future date. If, Sir, I could have that undertaking from the hon. Chief Secretary I would be prepared to withdraw my proposed amendment.

THE CHAIRMAN (Sir Ferdinand Cavenish-Bentlinc): I am not quite sure what your proposed amendment is.

MR. CROSSKILL: My proposal was to delete clause 4.

THE CHIEF SECRETARY (Mr. Turnbull): Sir, I shall be very happy to give

the hon. Member the assurance he wishes. I should like to repeat that this extension of the qualifications does not replace qualification 1, that is, the Kenya African Preliminary Examination; it extends qualification 5. The intention of section 16 (2) (b), which was quoted by the hon. Member, is that the standard of education which should be prescribed as an alternative to the Preliminary Examination should be equivalent, similar, or comparable, and I would like to repeat the undertaking that I gave first of all that that is the case. I hope that covers the point the hon. Member made.

MR. CROSSKILL: Thank you, Sir. I thank the Chief Secretary. I am not quite certain whether he at some future time agrees to put in the word "equivalent"—possibly during this next year, when it is more convenient that that could be done.

THE CHIEF SECRETARY (Mr. Turnbull): Yes, Sir, when an occasion does arise, for further amendment of the Ordinance, section 16 (2) (b) can be amended; consequential amendments would also appear in qualification 1 of both the men's and the women's qualifications. I undertake to do that when a suitable occasion arises.

MR. CROSSKILL: Thank you.

Clause 4, as amended, agreed to.

New Clause

THE CHIEF SECRETARY (Mr. Turnbull): Mr. Chairman, Sir, I beg to move that a new clause be added to the Bill as follows:—

Marginal note—"Amendment of section 4 (2) of the principal Ordinance".
The clause to read: Sub-section (2) of section 4 of the principal Ordinance is amended by substituting the words "except in an electoral area" which appear therein, the words "except in respect of an electoral area".

In the course of the Second Reading of the Bill, Sir, I explained what this amendment sought to bring out.

Question proposed.

The question was put and carried.

New clause 5 agreed to.

Title and enacting words agreed to.

THE CHIEF SECRETARY (Mr. Turnbull): Mr. Chairman, Sir, I beg to move that the Committee do report to Council that it has considered the following Bills, and has approved the same without amendment:—

The King's African Rifles (Amendment) Bill.

The Guarantee (High Commission Railways and Harbours Loan) Bill.

The Agriculture (Amendment) Bill.

The Land and Agricultural Bank (Amendment) Bill.

The Royal National Parks of Kenya (Amendment) Bill.

Further, that this Committee has considered the following Bills and has approved the same with amendment:—

The Eviction of Tenants (Control) (Mombasa) Bill.

The Banking Bill.

The Legislative Council (African Representation) (Amendment) Bill.

Question proposed.

The question was put and carried.

Council resumed.

(Mr. Speaker (Sir Ferdinand Cavendish-Bentley) in the Chair)

REPORT

THE ASIAN MINISTER WITHOUT PORTFOLIO (Mr. Madan): Mr. Speaker, Sir, I beg to report that a Committee of the whole Council has considered the Eviction of Tenants (Control) (Mombasa) Bill and has approved the same with amendment.

Report ordered to be considered to-morrow.

REPORT

THE MINISTER FOR INTERNAL SECURITY AND DEFENCE (Mr. Cusack): Mr. Speaker, Sir, I beg to report that a Committee of the whole Council has considered the King's African Rifles (Amendment) Bill, and has approved the same without amendment.

BILL

THIRD READING

The King's African Rifles (Amendment) Bill

THE MINISTER FOR INTERNAL SECURITY AND DEFENCE (Mr. Cusack): Mr.

Speaker, Sir, I beg to move that the King's African Rifles (Amendment) Bill be now read the Third Time.

THE MINISTER FOR LEGAL AFFAIRS (Mr. Griffith-Jones) seconded.

Question proposed.

The question was put and carried.

The Bill was accordingly read the Third Time and passed.

REPORT

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): Mr. Speaker, Sir, I beg to report that a Committee of the Whole Council has considered the Guarantee (High Commission Railways and Harbours Loan) Bill and has approved the same without amendment.

BILL

THIRD READING

The Guarantee (High Commission Railways and Harbours Loan) Bill

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): Mr. Speaker, Sir, I beg to move that the Guarantee (High Commission Railways and Harbours Loan) Bill be now read the Third Time.

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell) seconded.

Question proposed.

The question was put and carried.

The Bill was accordingly read the Third Time and passed.

REPORT

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): Mr. Speaker, I beg to report that a Committee of the whole Council has gone through the Banking Bill and has approved the same with amendment.

The Banking Bill

Report ordered to be considered to-morrow.

REPORT

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): Mr. Speaker, I beg to report that a Committee of the whole Council has gone through the Agricultural (Amendment) Bill and has approved the same without amendment.

BILL

THIRD READING

The Agriculture (Amendment) Bill

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): I beg to move that the Agriculture (Amendment) Bill be now read the Third Time.

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey) seconded.

Question proposed.

The question was put and carried.

The Bill was accordingly read the Third Time and passed.

REPORT

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): Mr. Speaker, I beg to report that a Committee of the whole Council has gone through the Land and Agricultural Bank (Amendment) Bill and has approved the same without amendment.

BILL

THIRD READING

The Land and Agricultural Bank (Amendment) Bill

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): I beg to move that the Land and Agricultural Bank (Amendment) Bill be now read the Third Time.

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell) seconded.

Question proposed.

The question was put and carried.

The Bill was accordingly read the Third Time and passed.

REPORT

THE MINISTER FOR FOREST DEVELOPMENT, GAME AND FISHERIES (Mr. Blunt): Mr. Speaker, I beg to report that a Committee of the whole Council has gone through the Royal National Parks of Kenya (Amendment) Bill and has approved the same without amendment.

BILL

THIRD READING

The Royal National Parks of Kenya (Amendment) Bill

THE MINISTER FOR FOREST DEVELOPMENT, GAME AND FISHERIES (Mr. Blunt): I beg to move that the Royal National Parks of Kenya (Amendment) Bill be now read the Third Time.

THE CHIEF SECRETARY (Mr. Turnbull) seconded.

Question proposed.

The question was put and carried.

The Bill was accordingly read the Third Time and passed.

REPORT

THE CHIEF SECRETARY (Mr. Turnbull): Mr. Speaker, I beg to report that a Committee of the whole Council has gone through the Legislative Council (African Representation) (Amendment) Bill and has approved the same with amendment.

The Legislative Council (African Representation) (Amendment) Bill
Report ordered to be considered to-morrow.

COMMITTEE OF WAYS AND MEANS

Order for Committee read: Mr. Speaker left the Chair.

IN THE COMMITTEE

(Sir Ferdinand Cavendish-Bentley, K.B.E., C.M.G., M.C., in the Chair)

MOTION

EXPORT DUTY (HIDES AND SKINS) (VARIATION OF DUTY) ORDER, 1956
(Governor's consent signified)

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): Mr. Speaker, I beg to move:—

THAT WHEREAS—

(1) sub-section (1) of section 4 of the Export Duty Ordinance, 1951, empowers the Governor in Council of Ministers by order to increase or decrease the duty payable on any commodity specified in the Schedule to the Ordinance or to abolish the duty thereon;

[The Minister for Finance and Development]

(2) sub-section (2) of the aforesaid section requires any such order to be laid on the Table of the Legislative Council and provides that it shall cease to have effect unless approved by Resolution of the said Council passed within seven days of its being so laid;

(3) the Governor in Council of Ministers has made the Order entitled the Export Duty (Hides and Skins) (Variation of Duty) Order, 1956, set out in the Schedule hereto, varying the duty payable on goat skins.

NOW, THEREFORE, BE IT RESOLVED that this Council approves the terms of the aforesaid Order.

Sir, since the last Order was made in January, 1954, reducing the impost on goat skins, there has been a weakening of the market and the indications are, therefore, that it will be necessary to reduce the total impost by a further five shillings in January. The relevant sections of the Export Duty Amendment Ordinance provide that the average free on board value on hides and skins for the purpose of levying export duty shall be calculated from time to time at the discretion of the Minister. The calculation made recently shows the overall impost had to be reduced in November to 25 shillings per cent. As the cess element is some seven shillings per cent, it follows naturally that the export duty has to be reduced from 25 shillings to 18 shillings. The result of the deduction will be to reduce the estimated revenue from goat skins by some £2,400 during the current financial year.

Sir, I beg to move.

Question proposed.

The question was put and carried.

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): I beg to move that the Committee do report back to Council its consideration of the Motion on the Order Paper and its approval thereof without amendment.

Question proposed.

The question was put and carried.

Council resumed.

[Mr. Speaker (Sir Ferdinand Cavendish-Bentinck) in the Chair]

REPORT

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): Mr. Speaker, I beg to report that a Committee of Ways and Means has considered the Resolution on the Order Paper and has approved the same without amendment.

Mr. Speaker, I beg to move that the Council do agree with the Committee in the said Resolution.

Question proposed.

The question was put and carried.

MOTION

£100,000 LOAN GUARANTEE FOR STAFF HOUSING

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): Mr. Speaker I beg to move that this Council authorizes the Kenya Government to guarantee a loan of £100,000 to be made by the National Bank of India Finance Development Corporation to the East Africa High Commission for staff housing in Kenya.

Sir the East Africa High Commission were advised by the National Bank of India Finance Development Corporation that they would be prepared to assist in the provision of housing up to a maximum of £100,000, provided that the loan would be guaranteed by the Government of Kenya, or by the Government of any territory in which those houses would be built.

We, Sir, are in very urgent need of housing, particularly for our customs and excise officers and the East Africa Customs and Excise Department at Mombasa and we were very pleased indeed to find that there was a possibility of providing the housing in this manner. It was, therefore, felt that this was a very good opportunity to get housing in Kenya built for the High Commission officers to the amount of £100,000. The obvious thing is that it will relieve the pressure upon our own housing, which would otherwise have had to bear the burden of accommodation.

Sir, I beg to move.

At the same time, Sir, I have to signify the consent of the Governor to the introduction of this financial Motion.

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell) seconded.

Question proposed.

MR. TYSON: May I ask the Minister (a) whether he could tell us the rate of interest which is applicable to this loan and (b) what are the terms of repayment?

LT.-COL. GHERSIE: Mr. Speaker, Sir, purely on a question of principle—I am not opposing the Motion at all—but are we to understand we are departing on this occasion from the normal practice whereby any loan raised by the East Africa High Commission is guaranteed by the three territories and not just the one? I appreciate, Sir, the fact that this money will be expended in Kenya for housing in this Colony, but I am merely dealing now with the principle that arises in relation to the practice we have always followed in the past.

THE SPEAKER (Sir Ferdinand Cavendish-Bentinck): If no other Member wishes to speak, I will ask the Mover to reply.

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): The point in answer to the hon. Nominated Member, Mr. Tyson, is that the rate of interest as I understand it has been agreed as the Bank of England rate of interest with the minimum rate of 4½ per cent. I cannot give him the exact details of repayment, but I know the general loan arrangements are subject to revision or reconsideration after 10 years. That covers that.

Then the matter raised by my hon. friend, the Member for Nairobi North. Sir, I think I am right in saying that this procedure has been followed once before on one special occasion—I am speaking from memory and I would speak more like to check that—but the very much like to check that—but the point, however, is that on the question of the general principle which is of joint and several guarantees, this is indeed a departure from them. That is because, as I stated in the beginning, the terms of the National Bank of India were that it should be guaranteed by the Government in whose territory the housing was being erected. We agreed to that because, of course, the erection of this housing will be of particular benefit to

us. It is in our territory and it remains therefore as security directly to ourselves.

I hope that covers the hon. Member's point.

LT.-COL. GHERSIE: I am sure the Bank would prefer the guarantee of more than one Colony.

The question was put and carried.

MOTION

THE AGRICULTURAL (SCHEDULED CROPS) (No. 2) ORDER, 1956

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): Mr. Speaker, I beg to move:—

BE IT RESOLVED that the Order entitled the Agriculture (Scheduled Crops) (No. 2) Order, 1956, which has been laid on the Table of the Council be approved.

Mr. Speaker, the object of this Motion is to add the crop linseed to the Schedule under the Agricultural Ordinance.

We need the crop, Sir, partly as a set-off against monoculture in wheat and the instance of rust in wheat and partly because the product of the crop is suitable and essential to us for the feeding of stock.

I beg to move.

THE ASIAN MINISTER WITHOUT PORTFOLIO (Mr. Madan) seconded.

Question proposed.

MR. CROSSKILL: Mr. Speaker, I should be grateful if the Minister when replying would state whether he would be prepared to consider the introduction into the Schedule of other oil crops such as groundnuts. I believe this is a very important step. Fodder crops of equal nature must be considered of equal importance to the country as cereals. I think it would be a great improvement if other crops which provide cattle food could be placed on the Schedule in a similar manner and I instance groundnuts.

I beg to support.

THE SPEAKER (Sir Ferdinand Cavendish-Bentinck): If no other hon. Member wishes to speak, I will call on the hon. Mover to reply.

Thursday, 13th December, 1956

The Council met at thirty-minutes past Two o'clock.

(Mr. Speaker (Sir Ferdinand Cavendish-Bentinck) in the Chair)

PRAYERS

ORAL ANSWER TO QUESTION

QUESTION No. 5

MR. USHER asked the Minister for Internal Security and Defence to state the cause of the delay in the building of the Remand Prison at Mombasa.

THE MINISTER FOR INTERNAL SECURITY AND DEFENCE (Mr. Cusack): Mr. Speaker, Sir, I beg to reply. The causes have been the difficulty in finding a site and uncertainty whether financial provision for building would be included in the 1957/60 Development Plan, which is at present under consideration in the Council of Ministers.

MR. USHER: Arising out of that reply, Sir, could the Minister say whether any alteration in the plans for the building has been necessitated by the decisions now come to?

THE MINISTER FOR INTERNAL SECURITY AND DEFENCE (Mr. Cusack): I am afraid I do not follow the question. My reply referred to difficulty in finding a site and uncertainty about the financial provision. I am not being disobliging, I just do not see what you are getting at.

MR. USHER: Sir, my question really amounts to this. A certain site was originally supposed to have been allocated for this purpose; presumably plans for the prison were made to relate to that particular site. What I wish to know now is whether the existing plans still stand? It is possible that the Minister for Works could answer that question.

THE MINISTER FOR INTERNAL SECURITY AND DEFENCE (Mr. Cusack): No, Sir, I can answer that. The original plans do not stand. The site to which the hon. Member referred proved unsuitable and was a very peculiar shape and the plans for it will not suit anywhere else.

MR. COOKE: I think the hon. Minister referred to the difficulty, not the impossibility of finding a site. But does he think the difficulty of finding a site is a

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): Mr. Speaker, I am prepared to consider the introduction of any other crop under the Schedule, with certain provisos. There is nothing to prevent any farmer growing any crop that is not scheduled and I should only feel justified in scheduling where it was in the national interest or essential to the agricultural industry. If I felt that a crop that the hon. Member mentioned or a similar crop was essential to the national good or the agricultural industry, then I should make recommendations for scheduling it. If I felt that it was merely a matter that a farmer should do for himself as a matter of reasonable husbandry, I should not do so.

The question was put and carried.

ADJOURNMENT

THE SPEAKER (Sir Ferdinand Cavendish-Bentinck): It is time for the suspension of business. I therefore adjourn Council until 2.30 p.m. to-morrow, Thursday, the 13th December, 1956.

Council rose at fifteen minutes past Six o'clock p.m.

(Mr. Cooke) proper excuse for not fulfilling a definite promise made two or three years ago?

THE MINISTER FOR INTERNAL SECURITY AND DEFENCE (Mr. Cusack): I am happy to tell the hon. Member that the difficulty has now been resolved. A site has been found.

MR. HARRIS: Would the Minister say whether the old plans will fit the new site?

THE MINISTER FOR INTERNAL SECURITY AND DEFENCE (Mr. Cusack): No, Sir, they will not.

MR. COOKE: Difficulties are made to be overcome I understand!

MOTION

ROYAL COMMISSION ON TAXATION
(SIR ERIC COATES)

MR. HARRIS: Mr. Speaker, Sir, I beg to move:—

BE IT RESOLVED that this Council asks, that, if it be available, the Government presses the High Commission for the publication of the Report of the Royal Commission on Taxation presided over by Sir Eric Coates before the introduction of the 1957/58 Budget by the Minister for Finance and Development.

Sir, when I gave notice of this Motion, no statement had been made as to the probable date of the publication of this report. It has now been announced by an officer of the High Commission, or an officer of the Central Legislative Assembly that it is anticipated that this report should be published before the end of February, 1957. But, Sir, we have had in the past, delays over the publication of reports that affect fiscal taxation policy and in view of the necessity to set up this Commission, I do feel, Sir, that it is absolutely essential that we should have an opportunity of seeing this report and giving consideration to any recommendations it may make before we debate the 1957/58 Budget. Therefore, Sir, as another answer has already been given, I intend only to move this Motion formally in order to give the Minister for Finance an opportunity of confirming that he anticipates publication in February.

I beg to move.

Mr. Usher seconded.

Question proposed.

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): Mr. Speaker, in- of course, accepting this Motion, I would like to place on record the question and answer which were given in the East African Central Legislative Assembly. The question was No. 3 of 1956 and was asked by Major the hon. A. G. Keyser. The question was:—

"Would the hon. the Finance Member please state when he anticipated that the Report of the East Africa Commission of Inquiry on Income Tax would be published?"

The Finance Member replied:—

"The Commission is now meeting regularly in London with the object of completing its report by the end of this year. If it is able to do so, and this may not prove to be possible, several weeks will still be required for printing, so that I think it would not unreasonable to anticipate publication of the report before the end of February, 1957."

As this is an East African Commission of Inquiry, Sir, I have nothing to add to that reply.

The question was put and carried.

MOTION

LIQUOR LICENSING RULES, 1956

MR. COOKE: Mr. Speaker, I beg to move that in accordance with the provisions of section 50(2) of the Liquor Licensing Ordinance (Cap. 37 of 1956) this Council be resolved that rule 14 of the Liquor Licensing Rules, 1956, be annulled.

Mr. Speaker, those who were Members of the last Council, will recollect that we passed a Liquor Licensing Ordinance just before we dissolved, in July last and that Liquor Licensing Ordinance in, I think, section 50, sub-sections (1) and (2), laid it down that the Governor in Council of Ministers could make rules governing the issuing of licences and in sub-section (2) it said that such rules should be laid on the Table and that this Council should have 20 continuous days, in which time they could move a Motion in which time they could move a Motion asking for an annulment of the Rules. If the Council in its goodness saw fit to

677 Motion—

[Mr. Cooke] and the rules, they shall be null and void and that is the reason, Sir, that I am moving this Motion to-day.

It will be recollected, Sir, that when the Ordinance—the Bill—was passed, we were told that it was going to put mainly the issuing of licences on a better footing and also one of its main principles was to enable the Africans to purchase spirituous liquors which, in the past, they had not been allowed to purchase and consume on the premises. At the same time there was interpolated as well into this Bill, this rule-making section, to which a good many people on this side of the Council have in the past taken exception, but we thought that everything was covered by the fact that these Rules would be laid on the Table and, indeed, it has been covered because now we have the opportunity of expressing our views about the justice or injustice of these Rules. They purported to increase most of the liquor licences by double and one or two by as much as two and a half times, which was a tremendous amount—a tremendous increase at one fell swoop if I may say so. It was a great shock to the smaller owners—the smaller people who took out licences, especially hotel licences, because their margin of profit at any time is not very great. I refer particularly to the small hotels at the coast which happen to come into my province, and some of them probably only take out these licences because they can attract customers, because, as you know, Sir, or perhaps you do not, but on the coast people get terribly thirsty at times and they like to frequent bars which have alcoholic liquor for sale! I believe these small hotels felt unless they had these licences, they would not attract as many customers as they otherwise would. I believe the proof of the pudding is in the eating, and loss has actually happened already in one or two of the small inns who cannot afford to pay these increased licences and they will probably have to shut down.

Now, Sir, in my opinion and probably the opinion of most intelligent people in this Council, the reason for the system of licensing for the sale of alcoholic liquor is not to obtain revenue, that is already obtained by excise duty and by customs duty, but it is to cover the incidental expenses

of running the licensing court and so on and, therefore, we feel that any fees charged should be nominal and that is the reason I am moving the annulment of the Schedule rule 14 to-day. By rather an ironical coincidence the Mover of the Motion originally was a man—God bless him—between whose two lips alcoholic liquor had never passed, I am referring, of course, to Mr. A. B. Patel. I think the multiracial gentlemen on the other side of the Council have a view that (possibly if they had ever read John Stuart Mill, probably only Mr. Mangat and myself are the only two in this Council who have read him)—well in any case we are the only two who can quote from John Stuart Mill—John Stuart Mill said that the best form of government was when the interests of a functionary coincided with his duty. I am sure that the interests of Mr. Patel coincided with his duty in this matter which is, of course, another leg-up for the multiracial gentlemen on the other side of the Council because obviously they have obtained the best form of government as advocated by John Stuart Mill. However, I give them that one.

Well, Sir, not only were these fees increased, but—I am dealing with them at random now, but it has to a certain extent got to do with the Bill—the hours of opening in which liquor could be consumed were also reduced, that is that the bars had to close down at 3 p.m. until 6 p.m., and, of course, those three hours meant that they were not selling liquor in those three hours, so they were doubly penalized, these unfortunate people, because their hours for the sale of liquor were reduced and also the liquor licensing fees were greatly increased.

We, in this country, and in this Council are always saying that we are very much in favour of promoting tourism because it indirectly brings more money into this country. I am not going further than that because I think my hon. friend, the Member for Mombasa, will deal with that aspect of it, possibly, but it does mean, Sir, that less and less people—there may not be a great many but every mickle makes a muckle—a certain number of people will be dissuaded from visiting the coast or coming to this country at all if too many restrictions are going to be put on their liberty.

701 Motion—

[Mr. Cooke]

Now the Hotel-keepers' Association are intensely interested in this matter and sent a deputation to meet the Elected Members yesterday, and it is very largely on their behalf that we are bringing this Motion—that I am bringing this Motion—and the Elected Members, I think, as a whole are backing this Motion to-day, at any rate the European Elected Members. I will not keep the Council any longer, but formally propose, Sir, the annulment of rule 14.

MR. USHER: Mr. Speaker, Sir, the first point I wish to make in seconding the Motion is that there has been inordinate delay between the publication of the Rules and the Tabling of them, so that we have not had an opportunity of challenging these Rules, partly due to the sitting of Council. But however that may be, this delay has been most prejudicial to the whole issue. I should like to say I feel that what my hon. friend said in regard to the closing hours in this afternoon, is extremely relevant to this particular Motion, because not only is there, in a sense, a breach of contract with the licensees inasmuch as they had already paid their licences for this year and, therefore, might expect to be allowed to enjoy the conditions of their old licence, but it had had a very serious effect in the town which I happen to represent.

It is quite well known, indeed my hon. friend has mentioned it already, that we have a large number of visitors, particularly visitors from ships. Those visitors like to stretch their legs up and down the Kilindini Road and in doing so they get a righteous and a holy thirst, and it is right that they should be allowed to assuage it. If they do not do so—yes, Sir, between three and six!—and particularly between three and six; this is the time when sailors are allowed a little shore leave, and if they do not get their drink in an inn, they will get it in some other place and that is what they do!

AN HON. MEMBER: They do, do they!

MR. USHER: In fact, Sir, these Rules seem to me to be a very serious attack on tourism and the hotel industry, although my arguments might not apply to a place like Nairobi, or indeed anywhere else in the country, it is nevertheless a serious thing for us, and opens, to my mind, the question whether we

should not, in this legislation, have local option.

My hon. friend referred to the small turnover in some of these hotels which are frequented by visitors, hotels which are technically within the Municipality of Mombasa, but which in fact may be on the mainland. My advice, Sir, is that the turnover at some of these small hotels is as little as Sh. 150 a day, which means, I imagine, something in the nature of Sh. 50 profit.

These is one question that I should like to pose for the consideration of the Council and that is whether this is, in fact a revenue measure. The question has already been asked by my hon. friend. If it is, let us consider what the effect will be. The revenue, I think, from liquor licences according to the present estimates is in the region of £40,000 for the year. If this is doubled, then all I can say is that the money would have been better put into the improvement of the hotels and the restaurants concerned.

Of course, this may not be a revenue measure—we shall no doubt learn from the other side of the Council whether it is or whether it is not. But if it is not, it seems to me that the only reason could be to exclude a certain class of applicants for licences. I do not like to go so far as to say that that would be a dishonest thing to do but it is a very dubious piece of tactics, to say the least of it, and, Sir, I believe that it will not be effective. I believe that people who lack the £150 for a general retail licence, if they cannot produce it out of their own pockets, they will become financed for the purpose and in a most undesirable way, too.

All of this, Sir, convinces me that there should not have been a departure from the previous legislation where under the licence fees were written into the Ordinance, for the obvious reason, Sir, that if they had been so written in, they could have been challenged in this Council in time. Now they cannot be.

I can only conclude by hoping, Sir, that the reflection of these high licence fees upon the public, will be rather in respect of soft drinks, which my hon. friend the Minister for Finance seems so reluctant to tax.

Sir, I beg to second.
Question proposed.

MR. MAXWELL: Mr. Speaker, Sir, in rising to support what has been said by the hon. Members for the Coast and Mombasa, it is no doubt necessary that I should declare that I do have a small interest—financial—in an hotel and for the benefit of those hon. Members opposite who imagine that all hoteliers and people connected with that industry are making fortunes, I was paid the magnificent dividend of 2½ per cent for last year and this year 4 per cent.

But, Sir, to get down to the subject, I do feel that it is quite wrong in principle for Government to govern the issue of liquor licences by fee.

Sir, in my opinion, it is a question for the licensing court to use every discretion and to carefully consider the needs and the requirements of the population of an area and a licence should only be issued after very deep consideration of its necessity. A licence, Sir, should be known as a thing of value and should not be issued indiscriminately.

One other point, Sir, and that is I feel this, that Government has lost a golden opportunity in this respect. Africans are now entitled to buy spirituous liquors and I feel, Sir, that it would have been a good gesture on the part of the Government to have considered the issuing of these new licences to possibly, selected Africans; Africans such as those who had served loyally and long in the army, in Government and in commerce and I wish it could have been so devised. Sir, again I emphasize the question of fees, and as the hon. Member for Mombasa has mentioned, it will probably lead to other races financing the African and the African although the licence is in his name, is not, in fact, in control of that particular business.

SIR CHARLES MARKHAM: Mr. Speaker, I rise to support this Motion but I should also declare an interest in that I have a hotel, but unlike the hon. Member for Trans Nzoia, it has not yet paid a dividend.

I hope, Sir, that my hon. friend, the Member for the Coast, will not accuse me of playing to the gallery if I support this Motion, nor to the bar-parlour. Nevertheless, Sir, I am supporting the Motion on very different grounds to

those expressed by my hon. friend, the Member for the Coast, and my hon. friend, the Member for Mombasa. Sir, I was a member of the select committee of the previous Council which was concerned with this Ordinance, and at the time a great deal of debate took place as to the desirability of framing these Rules most carefully.

Now, Sir, we were assured in the select committee that the resultant bringing into effect of this new Ordinance would be a severe reduction in the number of licences granted. In fact, the word of the law itself is very clear that real necessity has got to be proved before the licence can be granted.

On those grounds I was not opposed to these new Rules, but having seen the workings in some of the licensing courts of the new Ordinance; now, of course, a completely contrary principle has been started in that licences have been granted virtually without any sort of consideration of the new Ordinance and, of course, the fees have in some cases, not as my hon. friend, the Member for the Coast, said, gone up by two and a half times, but sometimes by over three and a half times which, I think is a very great difference.

The result has been, Mr. Speaker, that the Colony's revenue will be considerably increased without any of the material benefits which we had expected from the implementation of the new Ordinance. Now, Sir, I would support what my hon. friend, the Member for Mombasa, said about local option. I think that was very much the intention at the time, but, Sir, unfortunately there were found some considerable legal snags to bringing these Rules in after due consideration, and that was the fact that we were told, anyhow, that unless these Rules are published very quickly (that was in October), the licensing courts could not operate on the new Ordinance for this coming year.

Sir, I believe after due consideration that was probably a very bad method of bringing in rules, because it would have been very much better to have delayed this one year, and have kept the old fees for 1957 whilst perhaps the Attorney-General and the Minister concerned could have gone through the rules most carefully for 1958. As it is, Sir, I do

[Sir Charles Markham]—believe we have created a great deal of hardship by accepting these Rules, and I believe it is only right that this Council should try and remedy what is an obvious error, and support and accept the Motion proposed by my hon. friend, the Member for the Coast.

Sir, I beg to support.

LT.-COL. GHERSIE: Mr. Speaker, Sir, in speaking to this Motion, I must also declare an interest. I happen to be a director of a certain local brewery.

What I am concerned about, Sir, is the clarification and interpretation of these Rules, because I do submit, Sir, that they have created tremendous confusion amongst those interested in this particular industry. In fact, I would like to ask the Minister responsible for these Rules whether or not they really apply to the manufacture and bottling of beer, because, Sir, if we refer to licences items 1 and 2, they refer to a wholesale liquor licence, and a bottler's liquor licence. It appears, therefore, that these Rules are restricted to liquor licences. Now, Sir, in fact, it would appear that under the present Ordinance, there is no provision made for the licensing of a local brewery at all.

A brewer's licence which was issued under the old Ordinance not only provided for the manufacture of beer, but also to dispose of it in a wholesale manner, and that licence was issued, Sir, in pursuance of the East African Excise and Management Act, but this particular bottling licence would merely permit a brewery to bottle beer, and I suppose it would logically follow that they must take out a further licence, a wholesale liquor licence, or it would be necessary to do so in order to dispose of the product.

Now, I fail to see where the provision exist in these Rules, Sir, and I am sure actually that it was never intended that these Rules should, in fact, apply to a brewery. They are rules obviously intended for the person who imports liquor in bulk. Now, Sir, there is another point: I do not quite know where they got this particular idea from, but it also suggests that as far as the packing of these commodities is concerned, they should be in sealed unbroken cases, containing 12, 24, 48 and 96 bottles.

Now, Sir, all breweries operating in this country have operated, with a packing, or a case of 25 bottles, not necessarily sealed, and I have no doubt all Members opposite are perfectly aware of that fact, but why introduce this new condition, and finally, Sir, in order to emphasize this point, a licence under the old Ordinance amounted to Sh. 600. To-day, if, by some means, we have got to interpret these Rules to mean that wholesale liquor licence and bottler's liquor licence are to be taken out, it means in the one instance a fee of Sh. 1,000, and in the other instance it is Sh. 2,000. In other words it means Sh. 3,000 in order to manufacture and dispose of the product as opposed to Sh. 600 under the old Ordinance.

AN HON. MEMBER: What dividend does your brewery pay?

LT.-COL. GHERSIE: Are you not a shareholder? One other point, Sir, I would contend that a wholesale licence taken out by an individual brewery should be applicable throughout the territory where they have bona fide depots where they may be in turn wholesaling. It is suggested, again, that wherever there is a wholesaling depot, a licence must be taken out in those particular depots apart from the headquarters where manufacture and wholesaling takes place. I am reserving judgment on this Motion until I hear the reply from the other side.

MR. PANDYA: Mr. Speaker, I support the Motion moved by my hon. friend, the Member for the Coast, and like some of the other hon. Members, I have no interest to declare in this particular line.

Since these Rules have been published, Sir, there has been a great hue and cry amongst all sections to whom these Rules are applicable. Some hon. Members have spoken on other aspects of these Rules. I would like to confine my remarks to one aspect of the Second Schedule of Part I which refers to the wine merchants' and the grocers' liquor licences. Now, the proposed raising of these fees has come as a shock and a great blow to this particular trade. Before 1953 their trade included the sale of both the spirituous and the non-spirituous liquors, but with the introduction of the system of non-spirituous

[Mr. Pandya] in respect of beer and liquor licences, in respect of beer and wine to all and sundry retailers, their trade in these two commodities has deteriorated considerably in the last three years, and, in view of this, it would be most unreasonable to apply increased licensing fees to this particular trade.

Another point to be remembered is that as far as Mombasa is concerned, this trade is restricted to an area comprised in the Municipality of Mombasa: there is no hinterland to serve and it is not right that the merchants of Mombasa should be subjected to these exorbitant licensing fees. I think we must remember, at this particular juncture, that the trade position is so precarious that unless these merchants are spared this infliction of increased licensing fees, some of them, particularly the small ones, will be squeezed out of business, or will be forced to carry on business at a loss, hoping that things will improve in the future.

I would therefore support that rule 14 of the Liquor Licence Rules, 1956, be annulled.

I support the Motion.

MR. SLADE: I have to declare a number of interests—director for one company owning an hotel, director of a brewery—(Cries of "Oh!")—a very regular consumer.

Well, Sir; I assure hon. Members that none of these interests has given rise to what I have to say to-day which is based entirely on a matter of principle, that is, legislative principle. It is quite clear, Mr. Speaker, from the scale of fees imposed by this rule that the purpose of the rule is to raise revenue. It is even clearer in the light of some of the figures that were previously considered before the final rule saw light.

Mr. Speaker, that being so, that is an abuse of a rule-making power. We have always tried to guard fairly jealously the responsibilities of this Council, and consequently, to limit the delegation of legislation by rule-making power. We may have lost control of that to some extent, but still, Sir, I am sure we hold to this, that when we give power to a rule-making authority we intend that power to be exercised only so far as necessary to

provide fees to cover the cost of the undertaking concerned, as indeed, I believe the former licensing fees for liquor licences were designed, to cover the cost of the licensing courts and so on. At the moment, Government wants to go beyond that and to raise revenue from any project, then surely, Mr. Speaker, that must come before this Council expressly as a Motion, I think in a Bill or in some other way, and it is on that footing in particular that I support this Motion.

Mr. Speaker, I would just like to add that by the nature of the section of the Ordinance which enables us to move the annulment of this rule, we have no power to propose an alternative. We can only move the annulment, but, of course, I am sure I speak for all those who support this Motion in saying that we expect Government, if this annulment is accepted, immediately to introduce another rule which prescribed other fees, and the other fees we expect to be prescribed are those which were in existence before, or fees of such scale as will be sufficient and no more than sufficient to cover the cost involved.

I beg to support.

MR. MATHU: I feel —

AN HON. MEMBER: — interested in alcohol?

MR. MATHU: Mr. Speaker, Sir, the only interest I can declare is that I represent in the Legislative Council the interests of those who deal in the liquor business, otherwise, I have none, except a few shares in one of the breweries in Nairobi.

I feel, Mr. Speaker, very happy to support the Motion moved by my hon. friend, the Member for the Coast. I was a member of the select committee and in fact I saw these Rules in draft and discussed them, but those Members who were on that committee will recollect that I all along endeavoured to impress upon those who proposed these fees that we were going too far. My argument in the committee was whether those who sponsored the scales of these fees of this height were intending that the Liquor Ordinance should be a revenue-raising matter, and I was told not. I feel, Sir, that these fees are too high,

[Mr. Mathu] and they could not link up in any other way except that they were intended to raise revenue and as hon. Members previously to me have already pointed out, that should not be the intention. The intention is that we should raise fees, and as a result of these Rules to meet with the expenses of running the machinery of the licensing of liquor. I feel that persons, particularly those who are to apply for licences, especially in conjunction with items 3, 4 and 5 of the Second Schedule, Part I, would find it extremely difficult to relate these fees to the old fees, which were much more reasonable than the present ones. In fact, I would say, Sir, that the African participation in this trade is ruled out by these fees: Three thousand shillings in respect of general retail licence in the two major municipalities, scaling down to Sh. 1,500 in respect of other areas, hardly very few, if any, Africans can raise Sh. 3,000.

That applies also, of course, to the wine merchants liquor licence which my friend, the Member for the East Electoral Area, has mentioned.

I also support the views, Sir, that the hotels and restaurants liquor licences are too high and if we have, as hon. Members of this Council have said many times, to attract tourists to this country, I do think, Sir, that this is not one of the ways of encouraging the tourists to come and stay in our hotels in the Colony.

There are a few points I should like to mention which were raised by previous speakers, and in particular, I should like to say this, that I disagree with and hon. Member whose suggestion that because the ban for selling spirituous liquor to Africans has been lifted and, therefore, the gesture should be that those who have been serving the Government for a long time—be it in the army or in the military—should be selected to have these licences. On what principle does that hon. Member base that? It is a question of business—it is not charity. To be in the army or to be loyal to the Government does not give a person any better business instinct at all. He may be very good to fire a gun but, another thing, some of these Africans who have been in these services usually have no savings—they have no money to

pay the licence fee and cannot even put up a building.

I would suggest, Sir, that we should come to the ground and see that the people who should come forward to apply for these licences are businessmen—whatever they are—and these businessmen if they have not been in the Government service or in the army should not be penalized because they did not do that. If they are businessmen they are contributing to the economy of the country, and as such there should be no discrimination whatsoever. Those who are in business, whether they are in the Government or not, or whatever you will, should have the right to apply for these licences. I do think, Sir, that there is no common sense in a suggestion of that kind.

Now, Sir, there has been also this question of the criticism that in some licensing courts licences have been issued indiscriminately. I think my hon. friend, the Member for Ukamba, hit the nail on the head when he said that there is definite provision in these Rules to make sure that licences were not issued unless there was approved need in an area where the applicant for these licences comes from, and I think that there is no necessity to make any further provision since the provision is there—it is a question of administering that provision. That is a point I support because I do not think that there should be uneconomic competition in this business at all.

A final point, Sir, I would like to comment on is in regard to the point that was underlined by my hon. friend, the Member for Aberdare, that if Government accepts this Motion—I hope they do—what we are suggesting is that the old rules, the rules that existed under the old Ordinance which were replaced by the Ordinance under discussion now, should be reintroduced, and then we can be sure that those who come into this trade get a fair chance of succeeding in their business.

Mr. Speaker, I beg to support.

THE ASIAN MINISTER WITHOUT PORTFOLIO (Mr. Madan): Mr. Speaker—

AN HON. MEMBER: Declare your interest.

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THE ASIAN MINISTER WITHOUT PORTFOLIO (Mr. Madan): Mr. Speaker, Sir, I have no interest to declare, but with the concentration of interest that we have heard of from the other side, no wonder, Sir, there has been a spirited attack this afternoon.

AN HON. MEMBER: Spirituous!

THE ASIAN MINISTER WITHOUT PORTFOLIO (Mr. Madan): I should like to say, Sir, that Government is unable to accept this Motion.

SIR CHARLES MARKHAM: Shame!

THE ASIAN MINISTER WITHOUT PORTFOLIO (Mr. Madan): The first point that I would like to deal with is the one made by my hon. friend, the Member for Aberdare. I thought, Sir, he used rather strong language when he said the rule-making power had been abused by the introduction of the Liquor Licensing Rules. The hon. Member will recall, Sir, the entire principle was discussed at the Second Reading of this Bill, and at that time section 50, sub-section (1), was in the Ordinance, and during the course of the Second Reading of the Bill hon. Members accepted that Government could make rules under this Ordinance.

I am sure, Sir, the hon. Member will appreciate that it is not all matters of legislation that can be included in an Ordinance, that there are so many matters which have to be left to be dealt with by way of Rules and Regulations. Just because some hon. Member's point of view differs from that of the Government is hardly a reason for saying, Sir, that the power of rule making has been abused.

MR. SLADE: I thank the Minister, Mr. Speaker, but he has obviously misunderstood what I said. I was not saying that every rule on which we disagree is an abuse of the rule-making power. I was saying that the rule-making power when used to raise revenue is abuse of the rule-making power.

THE ASIAN MINISTER WITHOUT PORTFOLIO (Mr. Madan): I am grateful for that clarification, Sir, and in connexion with the remark just made by the hon. Member for Aberdare, I would like the hon. Members to divorce from their minds completely the idea that the fees have been fixed merely with the object of earning increased revenue. This is not,

Sir, a revenue-earning measure. Had it been so, it would have been brought before this Council in the ordinary way by my hon. friend the Minister for Finance, and it would have been brought forward for consideration by this Council by way of Motion to be considered by the Committee of Ways and Means. I would like to assure hon. Members, Sir, that this is not intended as a revenue-raising measure.

Now, apparently, there is a difference of opinion between what Government thinks should be the fees for the various licences that appear in the Second Schedule to the Rules and hon. Members opposite. However, I should also like to assure hon. Members that before the fees for the various licences were decided, the most careful consideration was given to the various aspects of the administration of the liquor laws as well as the interests of the public.

One of the factors that was taken into consideration, and I think the hon. Member for the Coast might agree with me, it is an important factor, was that the fees should be more in keeping with the present circumstances, and also that the scale of fees should be such as would restrict the tendency on the part of some people of unnecessarily making a large number of applications for the grant of licences.

While Government does not want to prevent people from making applications for the grant of licences to them, it is considered prudent, Sir, as well as advisable, that their numbers should be such that licences should be granted on the basis of necessity so as adequately to meet the public demand for the supply of liquor. In this respect, Sir, hon. Members are aware that the discretion whether to grant or refuse a licence is vested in the liquor licensing courts. Here, Sir, I should like to answer the point made by the hon. Member for Ukamba—and I think also the hon. Member for Mombasa—that licences were granted by a certain licensing court indiscriminately.

SIR CHARLES MARKHAM: No! it was I.

THE ASIAN MINISTER WITHOUT PORTFOLIO (Mr. Madan): I thought you seemed to say that. However, if you did not I will withdraw it.

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SIR CHARLES MARKHAM: I did say it.

THE ASIAN MINISTER WITHOUT PORTFOLIO (Mr. Madan): Well, Sir, I have already explained one part of the object of these fees, but I would ask the hon. Member for Ukamba to remember that the liquor licensing courts appointed under this Ordinance are quasi-judicial bodies and it would be wrong for the Government or any part of the Administration to interfere in the exercise of discretion by these courts. I think, Sir, we also have to bear in mind that the people who serve on these courts are people who have spent a lifetime in the service of the public, and they are the kind of people who know what they are required to do—people who are well versed and well acquainted with the circumstances that prevail in their own particular areas in respect of the courts on which they serve—and, therefore, they are able to determine the necessity for the grant or refusal of licences.

Sir, the hon. Member for the Coast said that the Hotel-keepers' Association has made representations to the European Elected Members, and I would like to tell him that it is not only the European Elected Members to whom the Hotel-keepers' Association has made representations. They have also seen certain Members of the Government and made certain suggestions; they have also had a long interview with me, personally, lasting for over two hours and we went into all the suggestions they had to make, and I promised to look into such of them as it was possible to do.

Now, the hon. Member for the Coast, Sir, said that while the fees have been increased the hours of drinking have been reduced, I fail to see the connection between the two, Sir, but I might tell him that on the position being explained to the representatives of the Hotel-keepers' Association, they seemed to accept that, possibly, it was advisable that during certain periods of the day pubs—bars, I mean, Sir—should remain closed. I think, Sir, that it is also agreed, if I am not mistaken, that it is also the case in London where it is not possible to obtain a drink in a bar between certain hours of the afternoon up to 6 p.m. However, it may be that some hon. Members opposite know where to go in London also for a drink!

On the question of closing hours, Sir, I would like to say that there is not the amount of dissatisfaction there has been made out to be, but it has been suggested too that Government might consider as a compromise that bars should be closed only from 3 p.m. to 5 p.m., instead of from 3 p.m. to 6 p.m. That will provide greater opportunity for people to get their drinks after leaving their offices and I hope also the tourists, about whom the hon. Member for Mombasa seemed so worried.

I cannot, Sir, accept that the closing hours are a restriction on liberty. I do not know what John Stuart Mill would have said in this connexion but a modern American poet has said that "humour is only a point of view, it's a question of what's happening to who."

The hon. Member for Mombasa said there had been inordinate delay in framing the Rules after the Ordinance was passed, and that the whole issue had become prejudiced because of that, Sir, the hon. Member for the Coast and the other European Elected Members bear this in mind that it is the Hotel-keepers' Association who themselves suggested that this Ordinance should be brought into force as speedily as possible in order that the courts could deal with the applications for the ensuing year under the new provisions, under the new law. It was for that reason, Sir, that after the Ordinance had been passed and the Rules were drafted after being fully discussed with certain people who were interested and also after being fully considered by the Government, they were laid on the Table of this Council.

Sir, the hon. Member for Mombasa seemed to suggest that by increasing the amount of fees for the various licences, possibly the object was to exclude a certain type of applicant and that, if that was so, it was dishonest to do that. That was so, it was dishonest if Government has no such dishonest object in view. It is not intended, as I object in view, that any applicant have already said, that any applicant should be debarred from making an application for the grant of a licence to him—whether the court will grant the application or not is another matter. The mere fact of making the application for the grant of a licence does not necessarily mean that an application will be approved, but it is hoped, Sir—and I

[The Asian Minister without Portfolio] must admit this—that the scale of fees that one finds in the Second Schedule now will succeed in discouraging those who had the habit of appearing before the liquor licensing court, or making unnecessary application—unnecessary in so far as their businesses were concerned because often there used to be certain applicants who did not need a liquor licence for the proper conduct of their business. It is hoped, Sir, that that type of applicant will be discouraged.

I could not accept the suggestion, Sir, made by the hon. Member, my hon. friend Mr. Mathu, that Africans' participation in the liquor business is ruled out. It does not mean that at all. On the contrary, Sir, I believe that the field of operation will be widened now because of the large number of Africans who will come into the picture, and in the initial stages people should not feel unduly alarmed by the large number of applications that will be made to the licensing courts. That is bound to be the case because, as you know, Sir, there are certain areas in the Colony where for the first time the Africans will be permitted to apply for the grant of a liquor licence for the sale of spirituous liquor and also, for the first time, they will be able to drink it legally. Because of the large numbers of their population, it is inevitable that the number of applications to the court should be large, but I have no doubts, Sir, that the licensing courts will deal with each application on its merits and there will be no indiscriminate approval of licences.

I entirely agree, Sir, with the hon. Member for Trans Nzoia that a licence should be granted after the deepest consideration because it is something of value. One of the objects of this Ordinance is that liquor licences should be real asset to their holders, but I could not agree with him, Sir, that we should create a class of drinkers among the Africans by permitting certain types of Africans only to be able to drink—that, in my opinion, Sir, would be most undesirable and Government could not agree to such a proposition.

MR. MAXWELL: Sir, might I say that I did not suggest that certain types, only, should be permitted to drink. What I did say, was that the character of the

African should be taken into consideration.

THE ASIAN MINISTER WITHOUT PORTFOLIO (Mr. Madan): I will apologize to the hon. Member, Sir, if I misunderstood him.

Sir, the hon. Member for Nairobi North wanted to know if the brewers are required to take out also liquor licences and bottlers' licences, and then he also stated that there was no provision to deal with the local breweries. He further wanted to know if a brewery had a depot or a branch office outside the main field of its operation, whether it would be required to take out a further licence. Well, Sir, all these matters are, in my opinion, for the legal advisers of the breweries and I do not propose to advise my hon. friend.

LT.-COL. GHERSIE: Can you not interpret your own Bill?

THE ASIAN MINISTER WITHOUT PORTFOLIO (Mr. Madan): I do not think, Sir, that it is my job to give free legal advice here.

SIR CHARLES MARKHAM: Question.

THE ASIAN MINISTER WITHOUT PORTFOLIO (Mr. Madan): He did raise another difficulty, Sir, in connexion with the packing of cases. I have discussed this matter also with the people who are concerned, and it is being considered whether the Ordinance and, if necessary, the Rules also, should be amended to deal in particular with the case of the breweries who pack their bottles in the odd number of 25 per case. That is a point, Sir, on which I can assure the hon. Member that we will try to meet the local breweries as much as possible.

The hon. Member for the Eastern Area; Mr. Pandya, suggested that the fees for the wine merchants' and grocers' licences were also very high, and he regretted the abolition of the difference between the spirituous and non-spirituous licences. I am not sure, Sir, that he is entirely correct on that one. I am not prepared to accept that trade in Mombasa is so precarious that if a grocer has to pay a fee of Sh. 3,000 for a wine merchants' and grocers' licence he will go broke and he will have to pack up.

MR. USHER: No, we shall have to pay.

THE ASIAN MINISTER WITHOUT PORTFOLIO (Mr. Madan): Well, sometimes it is necessary to pay for the pleasures of life.

SIR CHARLES MARKHAM: Medicine!

THE ASIAN MINISTER WITHOUT PORTFOLIO (Mr. Madan): I would like to say, finally, to the hon. Member for the Coast, Sir, that while at this stage I must refuse to accept this Motion, I can give him an assurance that during the next year I will, in consultation with those who are concerned in this matter, examine the position with a view to determining if any alteration or reduction is called for in the amount of the fees.

AN HON. MEMBER: Or an increase!

THE ASIAN MINISTER WITHOUT PORTFOLIO (Mr. Madan): I think Sir, it would be better to re-examine the position in the light of the experience that we will have gained during the course of next year, and I hope, Sir, that the hon. Member for the Coast will find it satisfactory to accept that assurance and we also consider it more advisable that we should deal with the entire problem after the Ordinance and the Rules have had a period to run, and we have had some experience as to their working.

Sir, I beg to oppose.

MR. MANGAT: Mr. Speaker, Sir, Rome has spoken and judgment has been given it seems! I had hoped that Government would be more merciful to the present Asian Minister without Portfolio than it had been to his predecessor in office. I do not know what makes the Government think that Asian Ministers without Portfolio are experts in liquor Bills.

It should really for the future, disabuse their minds of that suspicion, if they had it, from the very quality of the reply which was given to such a good argument put up by this side of the Council. It was almost impertinent on the part of the last speaker to say that he could not give free advice in this Council, free legal advice. It should not be permitted at all. It is the interpretation of the Bill which he pretends to put up, and he is liable to explain it if an explanation is wanted.

Now, Sir, the arguments put up by this side of the Council are unanswered—an attempt has been made by, if I

may call him, a substitute to make an answer but he has miserably failed. I have not heard one sensible word in his reply to the hon. Member for Aberdare as to why the liberty has been taken by the Government at this stage of the Bill to put up something which should have been put up in the Second Reading of the Bill.

I am impressed by the arguments, as I have said already, of my colleagues, and I do not know why the Government has shut what it is pleased to call, its mind, as we say, to such cogent reasons. If the Government cannot even grant this Motion, I wonder what it will ever grant. If they come in this Council they should have at least some portion of their minds open to entertain a sensible argument, but it seems that they are incapable of doing it, and I should say, Sir, that apart from any other reasons, it may result in another rise in the cost of living because the licences are being granted on the same scale as before, and certain liquor holders might put up the prices when they see they are to pay higher fees.

The last speaker has protested that the Government has no dishonest intention. Intention need not be declared—the intention is there to be seen by everybody and I cannot put any other interpretation on this except that it is so.

I beg to support the Motion.

MR. HARRIS: Mr. Speaker, Sir, as has been said before in this Council "I did not intend to intervene in this debate", but I was so disappointed with the reaction of the Minister who has spoken to the Motion that I felt it was necessary that I should add my "twentieth" to the debate.

Now, Sir, on this side so far, I think I am the ninth speaker, and every single one of those nine has supported this Motion and given, as the last speaker has said, reasonable reasons for supporting the Motion. It is the duty, Sir, of the Government to take cognizance of a minority in opposition, and the smaller that opposition the greater is the responsibility of Government for taking cognizance of its views.

Very seldom, Sir, is it that we get unanimity on this side of the Council. So far there has been unanimity and Members of all racial groups have spoken, with the exception, I think, Sir,

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[Mr. Harris] of an hon. Arab Member who is not here this afternoon. But as this Motion was proposed and seconded by those two friends of the Arabs, the hon. Member for the Coast and the hon. Member for Mombasa, I feel, Sir, that we can almost say that all racial groups are in agreement on this Motion.

Now, Sir, the hon. Minister for Legal Affairs asked for reasonable arguments. I can think of one.

THE MINISTER FOR LEGAL AFFAIRS (Mr. Griffith-Jones): If I may explain, I was not asking for one I was describing what the hon. gentleman had suggested somewhat ironically as a "reasonable" argument.

MR. HARRIS: I will now give him a reasonable argument, Sir. The Asian Minister without Portfolio, Sir, made a great point that these Rules were not being used for revenue-raising purposes. He explained, or, at any rate, he implied in his speech, that hitherto licences had not been revenue-raising, and they were not to be in the future. Might I ask, Sir, whether the liquor licensing courts ran at a loss last year, or whether the fees from licensing paid the expenses of those courts? If they did, then anything in addition to that expenditure must be revenue raising and it must be increased revenue.

I cannot believe, Sir, that the liquor licensing courts cost this country last year the difference between what were the old licences in sum total, and what they will be under these Rules, and I would submit, Sir, that any difference there is must be revenue raising.

The Minister said, Sir, rather naively that because so many people differed from Government it was no reason why Government should change its mind. Those were not his exact words, Sir, but he said something very like it.

Now, Sir, I have already covered what I believe is the responsibility of Government in this matter, and I would appeal to the Leader of the House as this is the first occasion on which we have adopted the procedure of moving the annulment of rules, and I would ask him to consider asking for an adjournment so that he might withdraw his whip and allow at least a free vote on

this Motion, if not a change of heart and get Government to accept it.

THE MINISTER FOR LEGAL AFFAIRS (Mr. Griffith-Jones): Mr. Speaker, I, too, had not intended to intervene in this debate, but I feel impelled to reply to the imputations which have been directed from the other side of the Council at the Government.

Sir, it is a fact that the purpose of these Rules and of the fees which have been fixed is not revenue raising. That is a fact and it is an assurance given by the Government, and I suggest that it is for this Council to accept that assurance.

Sir, the purpose of licensing is not merely to set up a system of administration which has got to be paid for out of licence fees; that would be a fatuous exercise. The purpose of licensing is to exercise a degree of control. Now, it may very well be that a feature of that control includes fees of a standard designed to achieve the purposes of that control. As has been explained in this particular instance, these fees have that element in them. It may be that hon. Members on the other side of the Council disagree with that; they may think that there is no need for control or that there is no need for control by the levels of fees of the type of applicants that should be granted liquor licences.

They are at liberty to differ, but they are not at liberty, I submit, Mr. Speaker, to suggest that the Government's view is a dishonest one. It is a view which is by no means novel; it is a view which has been put into practice for many years, not only in this country but in other countries as well, and that is, as has been explained, one of the purposes of this system of licensing and the level of the fees.

A number of points have been raised, Sir, in this debate which have been described as reasonable arguments. I find it very difficult to detect very much relevance in some of them to the subject matter of this Motion. The question of hours, for instance, the Ordinance, Sir. The Ordinance went to a select committee of this Council; that select committee heard evidence and on that select committee were representatives of the Unofficial Side of this Council. By what token,

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[The Minister for Legal Affairs] therefore, do they now seek to attack the decisions of that select committee, followed by the decisions of the Council, in which they all participated?

The hon. Member for Mombasa is seriously suggesting that one should measure the fees by the licensing hours. Does he also suggest that if the licensing hours were, as they were, reduced by the Ordinance, the previous fees should have been reduced? If that is his argument, then I must beg leave to differ from those gentlemen on the opposite side of the Council who suggested that all the arguments from that side have been sensible.

I do not propose, I think, to go any further in this debate because I think it has gone quite far enough. I should like to say, however, that we are very conscious in the Government of the desirability that the spirit of the provisions which we have introduced—very largely, if I may say so, at my own instance—into our recent legislation for the greater and more effective control of subsidiary legislation by this Council, we are very conscious of the desirability that the sensible views of the other side of the Council in respect of such matters should be given full account, and I think I speak with the authority of the Leader of the House when I say that the views which have been put forward will be very carefully considered at as early an opportunity as possible, and that the extent, if any, to which those views on this re-examination are found to be acceptable they will be reflected in amending rules.

I do not entirely share the views of my hon. colleague that he is not compellable to exercise his legal talents for the benefit of the lay Members of this Council, even without fee, but when the hon. gentleman for Nairobi North challenges me—as he did just now—on a point which was so wholly irrelevant to the subject matter of this Motion that I cannot possibly be expected to have anticipated it by even the most extraordinary feat of imagination. I will merely say to him that on this occasion, advisedly, I do not propose to advise him.

MR. CROSSKILL: Mr. Speaker, never, I think, have I heard less effective replies

to the numerous pertinent points raised by my numerous publican friends on this side of the Council by Government.

We have put forward most telling points, and at last are getting some clarity on the situation. The first reply by Government though, Sir, was a very woolly blanket of verbiage, which went on for a very long time, but it failed to clarify the points or reply to the points which have been made from this side of Council.

We suggest, Sir, first of all, that the reason behind these increased fees was to increase revenue. We have been told that that is not so; but Government, Sir, has not had the grace to substantiate that or to reply to the point which was put forward by my hon. friend, the Member for Nairobi South, and to explain whether or not the fees last year covered the expenses of administration or not, or whether it is anticipated that the cost of administration has so increased that it is necessary to increase the fees by more than 100 per cent. I feel, Sir, that on this side of Council we are entitled to a substantiation of that point.

We have been told now, in further clarification by the hon. Attorney-General, that the real reason is to restrict and limit the numbers of licences which will be issued. Now, Sir, if that is the point and that is the main ground on which Government is standing in support of these amended Rules, I feel that their position is extremely weak.

First of all, Sir, I think it is quite wrong that Government should seek to restrict and limit by fees; there are other measures of so controlling the industry as there are discretionary powers held by the licensing courts, and I suggest that those should be used and not the increase in the cost of the fees. In any case, Sir, that means has been proved completely ineffective. I am told that there are 60 new licences being sought in the Municipality of Mombasa. If that is so that it proves my point completely and that it is quite ineffective in controlling the number of licences which are to be issued.

I, therefore, think, Sir, that we have proved our point that it is ineffective for the one reason which Government has stated they have increased these fees. I

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[Mr. Crosskill]—Therefore, Sir, support the Motion that these Rules should be annulled.

MR. NAZARETH: Mr. Speaker, I, too, should like to support the Motion. If I had any doubt about it my doubts were resolved after I heard the hon. Minister who first opposed the Motion.

It was suggested from the other side of the Council that the arguments that have been advanced on this side of the Council are entirely without merit—that most of them are without merit. However, if they are examined it will be seen that none of them have been really answered. The first main argument was that this would have an effect on the hotel industry and on the traders and, surely, it stands to reason that such a large increase in fees is bound to have an effect on them, and it is particularly undesirable when we wish to encourage the tourist industry.

I should like to support the Motion on the ground that was first put forward by my hon. friend the Member for Aberdare and that is that the fees are being used as a means of raising revenue. I would like to associate myself with the answer given by the last speaker, that is that if the Government answers that revenue is not going to be increased, they ought to have come forward with facts and figures to show that the liquor licensing courts—the machinery of administering the legislation in the last year, was run at a loss and at such a heavy loss that it had to be covered by such a large increase. Nothing of that sort has been done, and until it is done—although we do not question the Government's good faith in making the assertion—one feels it ought to be proved.

It has also been suggested that the object of this increase in fees is to keep out unmeritorious applicants. Well, these increased fees will apply not only to new applicants but to the persons who have been carrying on this business for many years, and they too would have to pay the fees. Now, if it was the intention to keep out unmeritorious applicants there is a very simple way of doing it. That would be to make a large fee payable at the time when the application for a licence is made, and to make it refundable if the application is successful—

that would be a simple way of doing it. It was suggested that there is no merit in the argument as to hours.

Now if the hours stood alone, it might have been suggested that there has been no imposition on the part of Government in raising the fees to such a large extent, but when a reduction in hours coincides with a large increase in fees, it must follow that the reduced hours would result in decreased takings. Obviously, these persons who carry on business during those hours, which are now cut out, act with a view to profits—either to preserve goodwill or increase takings—and those takings will be decreased owing to the reduction in those hours. It may not be in the same proportion, but there will be decreased takings, and when the two coincide—increased fees and decreased hours—then do I suggest that the increase is even greater than it appears on paper.

For all these reasons I would suggest that this being the first case, as the hon. Member for Nairobi South has said, where this side of the Council has been unanimous in supporting the Motion, Government might have second thoughts and as I see that the Leader of the House has not yet spoken, might accept it.

Sir, I beg to support the Motion.

MR. HASSAN: Sir, I had no intention to speak on this Motion, for the simple reason that I am not interested in the business, nor am I interested with those friends of mine who are in the habit of drinking—"Oh!"—but I speak to some extent for those friends of mine who are carrying on the business of selling liquor.

Sir, if the Government were to bring a Bill to prohibit the consumption of liquor altogether in this country, they would have my wholehearted support—(Cries of "Shame!")—because this I consider is a quite unnecessary and poisonous luxury. But, Sir, as the Government is not going to give any consideration to the views of those who do not like to consume liquor and they insist that it is a matter of business and that it is a necessity for some of the people—I say that those people who have been encouraged to carry on this business must not be penalized with the colossal fees.

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[Dr. Hassan]—I was informed by one of the merchants—I do not know how far he was right—because I did not have time to check his statistics—he said a bottle of liquor which cost originally Sh. 40, sold in Mombasa, by the time it is sold for consumption its price is increased to Sh. 200, by the excise duties, customs duties, fees and some other charges he said.

If that is the system by which this sale of liquor is controlled, I think it is certainly very prejudicial to the business. There is no doubt that we all agree that our African friends were very anxious to be given the liberty and freedom to consume this liquor. My advice to them to keep away from it was not accepted, but it was never thought, at that time, that the by-laws that will follow for the control of this liquor would create fees which it will be impossible for the smaller people to pay. They are stressing particularly today that the consumer prices will have to be increased to an extent that it will increase the cost of living in this country. I heard my hon. friend, the non-Muslim Member for the Central Area, criticising the Minister without Portfolio on the other side.

MR. MANGAT: I am not the non-Muslim Member for the Central Area. I am the Indian Member for Central Electoral Area.

MR. HASSAN: I am afraid I have to say the non-Muslim Member.

MR. MANGAT: I resent this description and it is not permissible by any Order.

MR. HASSAN: Sir, he is always in the habit of trying to get an opportunity—

MR. MANGAT: Mr. Speaker, Sir, I would ask you to correct the hon. Member if it is necessary.

THE SPEAKER (Sir Ferdinand Cavenish-Bentinck): Order, order.

MR. HASSAN:—to attack his opponent well knowing that he has not an opportunity to reply. It is very unfortunate in this Council, and I strongly protest against it, Mr. Speaker, Sir. If the hon. Member has something to say to a Member who he does not like, he should say so at a time when he could expect a reply from him.

However, Sir, with these few points, I support the Motion.

THE CHIEF SECRETARY (Mr. Turnbull): Mr. Speaker, Sir, may I endorse the observation of my hon. and learned friend, the Minister for Legal Affairs. The Government does not propose to agree to the withdrawal of this regulation. It will examine the operation of these licence fees. If it considers that hardship is being created and that the objections raised by the hon. Members opposite are of substance, it will consider an amendment later in the year.

THE SPEAKER (Sir Ferdinand Cavenish-Bentinck): If no other Member wishes to speak, I will ask the hon. Member to reply.

MR. COOKE: Mr. Speaker, in regard to the remark of my hon. friend, the Minister for Legal Affairs, in which he said he did not hear any reason from this side of Council, I just wondered why, because we are under the impression that we gave a good many reasons.

THE MINISTER FOR LEGAL AFFAIRS (Mr. Griffith-Jones): On a point of order, I do not think I went as far as that.

MR. COOKE: Would the hon. gentleman tell me what he did say?

THE MINISTER FOR LEGAL AFFAIRS (Mr. Griffith-Jones): I am not at all sure that I can remember now. I have a strong suspicion that I did concede there was some reason in what had been said on the other side.

MR. COOKE: The hon. gentleman said that there was only some reason in what the hon. Members on this side said. It has reminded me of what Dr. Johnson once said, when the gentleman whom he was speaking to said he did not see any reason, or only saw very small reason, and Dr. Johnson replied: "Well", he said, "I can give the hon. gentleman the reason, but I cannot give him an understanding". And that is, an understanding of that reason, Sir, and I feel exactly the same thing. I can give many reasons to the hon. gentlemen on the other side, but it is only the Almighty who can give them the understanding to appreciate those reasons!

I was also reminded—I am sorry to quote so much of the hon. and gracious lady, of whom I quoted the

(Mr. Cooke) other day "She has no reason but a woman's reason". I am inclined to apply the same quotation to the gentlemen on the other side of Council. They "have no reason but a woman's reason". Now we have demanded reasons for the increasing of these fees, but we have had no reason—at least I have heard no reason from the other side of Council. We have had the negative assurance, very negative assurance, that the Treasury has not done this for fiscal purposes. For what reason was it done if not fiscal? Can the hon. gentlemen on the other side of the Council, even at this late date, give us any reason why these fees have gone up?

Now, if they cannot give any reasons, they cannot blame this Council and they cannot blame the people of this country—and especially the African people of this country—if we impute unworthy motives to the Government in this matter; because if it is not done for revenue purposes it must have been done for other purposes, and I think my hon. legal friend, the Minister for Legal Affairs, did give us the reason. He gave this particular excuse that these measures are not always fiscal measures, but they must be done as—I do not think he used the word "deterrent", but something to that effect.

THE MINISTER FOR LEGAL AFFAIRS (Mr. Griffith-Jones): Control.

MR. COOKE: Yes, control. But whom are you wishing to control? Where is the necessity for this control? It is very extraordinary that this control is only considered necessary at the time the Africans were allowed to buy spirituous liquor, so it does look—

AN HON. MEMBER: Shame!

MR. COOKE: No shame at all. Let us face the facts. It does look very much as though—and, as I said before, we cannot be blamed for imputing motives—the real reason for putting up these fees is to prevent certain people from taking out licences. Now, no one but Government is to blame if that is the imputation this country puts on this particular measure.

Now, we have asked Government to annul these measures, because we believe them to be unjust, we believe them to be untimely and we believe them to be

measures which will cause enmity in the country, and we asked them, for that reason, to annul them right away, and to substitute for them—well, it is not really for us to say, but we would be pleased if they would go back to the old fees.

Many Members on this side of the Council have dealt, I am glad to say, with the various questions, which does not leave me with very much to deal with now. It was suggested to me that—and I might give this reason to Government and they can deny it if necessary—that perhaps the reason for putting up these fees was because the value of money had fallen over the years.

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): No.

MR. COOKE: No? Well, I am glad the hon. gentleman has said "No" so emphatically, because if he had said "Yes" I should have had some remarks to make about income tax allowances. So now we have got a lot of negatives but no positives. We have a negative from the Minister for Finance and from the other gentlemen on the other side of the Council, and we are just as wise as we were before, and the only reason we have been given is just "a woman's reason", and that is no reason whatever.

I am afraid this is not really strictly apropos the comment made by my hon. friend, the Minister for Legal Affairs, but he said he could not see anything relevant in our protesting against the hours being shortened. Well, the reason for that is this, that we say that these unfortunate people—licensees—have been doubly taxed, for (1) their licence fees have gone up and (2) they have less time now in which to make money to pay these licence fees, because three hours at least have been taken off the afternoon openings which they had in the old days.

I did pay a compliment to the multi-racial Government—I think it was a left-handed one—when I spoke earlier, I am not so complimentary now, because these are the very gentlemen who press for multiracial affairs and multiracial equality and so on, and yet when this particular affair occurs which puts them to the test they turn down this very reasonable request from this side.

(Mr. Cooke) Mr. Speaker, I am afraid we will have to call for a Division on this matter, because we are so upset by the Government's unreasonable attitude towards the members' unanimous opinion on this side of Council, that we will have to, I am afraid—much as I dislike delaying the proceedings of the Council—call for a Division to see who is on our side and who is not.

DIVISION

The question was put and Council divided.

The question was negated by 22 votes to 20. (NOES: Dr. Anderson, Messrs. Blundell, Blunt, Coutts, Cusack, Griffith-Jones, Captain Hamley, Messrs. Havelock, Hope-Jones, Luyt, Mackenzie, Madan, Sheikh Mohamed A. S. El Mandry, Messrs. Nathoo, Ohanga, Robinson, Sagoo, Turnbull, Tyson, Vasey, Wadley, Wanyutu Waweru, 22. AYES: Messrs. Awori, Chumah, Cooke, Crosskill, Lt.-Col. Gherrie, Messrs. Gikonyo, Harris, Hassan, Sheikh Mahood Mackawi, Mr. Mangat, Sir Mahood Markham, Messrs. Mathu, Charles Maxwell, Arap Moi, Nazareth, Nzau, Pandya, Slade, Usher, Col. Wilcock, 20.)

PROCEDURE

MODE OF ADDRESSING MEMBERS

THE SPEAKER (Sir Ferdinand Cavendish-Bentinck): Hon. Members, before I suspend business for the customary break, I would like to remind you that my attention was drawn to the method of addressing one Member by another Member. Now although in the Legislative Council Ordinance, section 3, which refers to "representation of electorates" reads as follows:—

"There shall be elected to Legislative Council in accordance with the provisions of this Ordinance, 14 European Members, four Indian Members, not being Muslims, two Indian Muslim Members and one Arab Member."

It has been the custom in this Council—and I particularly wish it followed, if possible—that Members should refer to hon. Members who have come here by election, by their electoral areas. In other words, the hon. Mr. Mangat should be referred to as the hon. Member for

Central Electoral Area, in the same way that other hon. Members should be addressed as the hon. Member for Nairobi North, or for the Coast, or for Mombasa as the case may be. I would therefore ask hon. Members to refer to each other, as is the custom in the House of Commons, as the hon. Member for their electorates or constituencies. It is only the Speaker who refers to them by name.

I suggest we now adjourn for the customary fifteen minutes' break.

Council suspended business at thirty minutes past Four o'clock and resumed at fifty minutes past Four o'clock.

MOTION

AFRICAN TEACHERS' ASSOCIATION

MR. ARAP MOI (African Representative Member): Mr. Speaker, Sir, I beg to move that in the opinion of this Council Government should implement recommendations 139 and 140 of the Beecher Committee on African Education in Kenya as agreed in Sessional Paper No. 1 of 1950.

Mr. Speaker, Sir, if I may quote the recommendation 139: "That the Director of Education facilitate the meeting of an existing teachers' organizations, with a view to the formation of a Kenya African Teachers' Association; to which every teacher in approved schools may belong, if he or she satisfied the professional requirements of the Association, and this Association, when formed to the satisfaction of the Director of Education, be accorded recognition".

Recommendation 140: "That the Director of Education take steps to provide expert professional advice on the formation of such a Teachers' Association in consultation with the Commissioner for Labour".

And if I may quote from Government Sessional Paper No. 1, of 1950: "The Government agrees with these recommendations".

Mr. Speaker, close co-operation is, I think, an absolutely essential element for efficiency, and it is my firm belief there must be the closest possible contact between the Ministry and the teachers. In the past, teachers have been trying to air their grievances through the newspapers, which is not a proper way of

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[Mr. arap Moi] doing it, and I think there is a lack of co-ordination between the Ministry and the teachers. I am glad that the education set-up is being strengthened, and to make it better it is my wish that the Education Department should bring its staff—by whatever management they are employed—into closer contact with the Ministry.

Mr. Speaker, not long ago, the conference under the chairmanship of Sir Phillip Morris, held in London, which was attended by my hon. friend, the Director of Education, recorded the following: "A good association will run libraries, set up professional committees, gather and give expression to its members' opinions, and will seek all ways of assisting its members to become better teachers. Only in such ways can its members' claim to better material conditions be justified to the outside world". Furthermore, Sir, in the same conference, the conference stressed the following points, too: "We think it is most important that governments, churches, local authorities and all other employers of teachers should give their teachers every encouragement to join professional associations and take part in their work". It also went on: "It is important in our view that all teachers should belong to an association which covers the whole territory".

Mr. Speaker, I think I need not put more facts—to stress more—because the conferences which were held previously—the committee under the chairmanship of the Right Rev. Beecher—the report was adopted and I think the Ministry has overlooked this matter. I do not blame the Ministry, but I think it overlooked this thing, which is very important.

If Government accepts this Motion, it would assist in removing the misunderstanding and misrepresentations which now amount to suspicion among the teachers. It is time for the Government now to direct the teaching profession. In fact, it is a profession which will bring up the future leaders of this country, the children of whom are brought up under perhaps western culture, and they need to be brought up properly, and in my view, Mr. Speaker, the Beecher Committee recommended the following: "That the concern of the Teachers' Association be the maintenance of pro-

fessional standards, discipline, terms and conditions of service, general furtherance of agreed plans for education, and the presentation of agreed teachers' opinions in the unified service, and that it be the officially recognized representative of teachers in all matters concerned with the teaching profession".

As this Council is aware, the professional teachers' union in England is consulted in every matter which concerns the teachers as well as the teaching profession as a whole, and as I quoted before, the Ministry should consult the Commissioner for Labour to bring in somebody or send someone from here, even from among the teachers or masters in schools, send him to the United Kingdom to see how these associations are run, then bring him back to start to establish such an association in this country, which will help to make a stronger team of better teachers. I do not mean that teachers should only air their grievances such as salaries and conditions of service, etc., but better their professional standing.

I think, Mr. Speaker, I need not put more facts; I think I have put what I conceive, or what to my conviction to be the difficulties which confront the teachers to-day in this country. It is unpleasant that teachers, as I said before, shall pass their complaints to the newspapers as if they had no other means of airing their views.

As far as the unified terms of service passed by the previous Council are concerned, I do not think that the teachers were consulted—except perhaps that the individuals might have been consulted—but if Government supported a Kenya African Teachers' Association, it could be consulted, and then it would as a body put in the views which have the support of all the teachers in the Colony. It is not right, to my view, that teachers should initiate or organize such an Association by themselves. It is time that the Government should initiate it in the initial stages and then the responsibility will rest upon the teachers.

Mr. Speaker, I beg to move.

MR. MATHU: Mr. Speaker, I beg to second this Motion, and in doing so I should like just to underline a few matters that have been raised by the hon.

[Mr. Mathu] over, and to say that what we would like to bring before the Council is our anxiety about the request that we have got among African teachers—that they feel that they have not got a forum in which they can discuss educational matters and which they have to deal with, in any case, as teachers in schools; also to discuss matters relating to their terms and conditions of service, and bringing them before Government through the Minister for Education.

Now since the beginning of this year there has hardly been a week when there has not been a letter in the correspondence columns of the local paper in Nairobi, and we do feel very strongly, Sir, that the time has come for the Government to make a determined effort to implement the two recommendations which are embodied in the Motion. The report was made by the Beecher Committee and accepted by the Government in 1950.

There is nothing new. I do not think there will be any difference of opinion between us and the Government as far as the principle of the Association of Teachers is concerned. All we are endeavouring to do is to underline the importance of the introduction of a Teachers' Association to deal with the objects contained in recommendation 141 of the Beecher Committee Report. Other professions have got their organizations. We have, for instance, in the High Commission Services, the Posts and Telecommunications African staff, with their own organization. We have also in the Railways a staff association. These people meet—have a conference—once a year and they discuss matters relating to their own professions. Only recently an announcement has been made that the employers of labour will have a conference under the chairmanship of my hon. friend, the Minister for Labour, next year to deal with the question of training within industry. Now I do not see, therefore, why the teachers, who I think, if I may say so, are a very important body of men and women in the development of this country, should lag behind in this matter; and therefore, Sir, we should like to ask the Minister to accept this Motion and to do what he can as soon as possible to put the position right.

In reference to recommendation 140, where it was recommended that the Director of Education should take steps to get expert professional advice—there are two interpretations of that recommendation. One is, of course, that they might get an officer from the National Union of Teachers of Great Britain to come and advise how to form an association such as the one which is the subject of this Motion to-day. The other interpretation is that we might send a selected senior African education officer—send him over to the United Kingdom for a period of time to study under the tutelage of an officer of the National Union of Teachers of Great Britain, with a view to his coming back to help organize and form the Kenya African Teachers' Association.

Now those two interpretations can be of use—both of them—but my own feeling is whatever the decision of the Government is finally going to be, that we should have an intelligent arrangement by which the Minister for Education will detach one senior African education officer already in the service to do the necessary ground work of bringing in the already existing teachers' organizations together, and giving them guidance as to how they could have a central body to bring in all the other branches together. My one main reason for suggesting that, is that there might be some difficulty in ensuring that we have funds available right away to spend in sending one officer to England to study this, or in paying perhaps past-dues for an officer from the National Union of Teachers to come out here. My one suggestion of an interim arrangement would cost us, perhaps, very little, except perhaps in the form of additional travelling and subsistence allowances for an officer to do this work, because he would have to tour throughout the Colony and meet teachers and give them guidance and really see that a start was made initially to form this organization and that there will be very close liaison, I suggest, between these teachers and the Education Department from the very start. After it has been found that these people can—and I am sure they can—organize themselves, when that has been known in six months or a year—there is no

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[Mr. Mathu] reason why we should then consider getting the necessary funds from Government to take the story a step further. I feel, Sir, that it is very important that we should not have any further delay in this matter. I should like to mention here, Sir, before I close, two matters which I think are very closely connected with this.

My hon. friend, the Mover, did mention about the employers of teachers. Teachers are employed by the Central Government; others are employed by local authorities throughout the country; still others are under voluntary agencies who manage certain types of schools which may be under the Central Government, if they are above the intermediate level, or under the local authorities. I would like to appeal, if I may, Sir, to these men and women in the field—the European officers who are working under the Education Department and European managers of schools to encourage the African teachers to come together in this matter, because it is all very well for the Ministry in headquarters to agree to the policy, but what I think is most important is the man on the ground who is going to put that policy into practice. If we have the men who are sympathetic and who really mean to raise the *esprit de corps* of the teaching profession, which I think is absolutely vital, it is, I am sure, certain that success will come in this matter. On the other hand, if we have an indifferent attitude among those who are on the ground in this matter, I can only say, Sir, that it is very possible that the progress will be slow. I do not think that there is any reason why these officers in the field should not do as they have done in the past and co-operate in these matters to make sure that we raise the professional standards of these teachers, by giving them a forum—a platform—on which they can bring their matters to Government, both on the question of their terms of service and also on the question of furtherance of the agreed programme of education for our people.

I should like also to mention, Sir, that if you have such an organization—I suppose the Minister would consult them or make nominations, if not appointments, for representatives on the

Teachers Advisory Board. Also I think they should have a great say in the policy of the Advisory Council on African Education, where I think in due course we may be having an African majority on that Board, and I think that the teachers on this professional scale would be extremely useful in giving their views to that Board.

I feel, Sir, that there is, for instance, one matter which I think is quite heart-burning from the papers, and that is in regard to an anomaly existing in regard to the K.T.1 scale of salaries, and if you had an association such as this—that is the place where they can give their views and then the Government can take action on the advice that they would give.

Now, finally, Sir, I should like to make a further suggestion as to how best to bring our resources in getting these teachers together, and having their co-operation in this matter. I suggest, Sir, that, for instance, the Parliamentary Secretary to the Minister for Education can do a lot in helping the teachers in this way, moving about as he does and telling the teachers what is the policy of the Government, and that the Government means definitely to encourage them to form a teachers' association. He himself has been a teacher, Sir, and if on occasions when there is nothing very much to do in the office, he might be able to help quite a lot in this matter.

Mr. Speaker, I beg to second.

Question proposed.

MR. NZAU: Mr. Speaker, Sir, I should like to support the Motion very strongly indeed. The Mover of the Motion mentioned something about teachers airing their views through the papers. I am not quite sure how far the fact that the teachers air their grievances through the papers, is true, because we have got to look at the different teachers in the country. There are what we call Government teachers, who can air their views through the African Civil Service Association, because they are entitled to become members of that Association; but if we take teachers like the teachers employed by local authorities and the teachers employed by missionaries' managing bodies—they have nowhere whatsoever where they can bring their

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[Mr. Nzau] (Mr. Nzau) grievances, if they have any, because there is nothing of any sort where teachers in the last two bodies I have just mentioned can meet together to express their views.

The reason why I would like to support this Motion very strongly, is that we have been talking very much in the Council here about the difficulties of obtaining teachers in the country, and many other things in connexion with teachers and teacher training. Well I should think that if we had something as suggested, where all the teachers in the Colony could meet and discuss the difficulties of teachers and teacher training and all matters in connexion with teachers, I believe that we could solve many of the problems now facing us about teachers in the country here. Again, it has been said that teachers were represented in such bodies as the one that recently discussed the unified terms of the teaching service. Well, I must say, as one who has been in the country after the implementation of the teaching service terms, that most teachers do not quite understand exactly what the terms are; they do not quite understand what the terms of teachers are because they say they are just laid in front of them—they were asked to say they were the teachers' terms of service; but if they had people they had themselves delegated to represent them on the Board, I am sure they would have been more contented and that is the reason why I feel an association of this nature would very much help to put the position of the teacher in the right way.

Well, we have a saying in Ukamba—we say it is very gratifying for the herd boy to tend a contented herd, and you can tell that a herd is contented if the herd boy can put it together. That is a saying in Ukamba showing that the herd is contented.

They also say that the lion takes advantage of this because it is easy for the lion to single one paw after the other and feel the whole heart, as it were. By that I mean that if teachers are made to meet together and to express their views together, I am sure they will be more contented, rather than if they were left as they are without any news from meeting together and bringing their discontents and all their

requirements before the Government and before the local government. For that reason, Sir, I would like very much to support the idea of having these sort of teachers' associations as soon as possible because I think the teachers are the only people—if I may say so—who have no way at all of expressing their views to the Government and, therefore, Sir, I beg to support.

THE MINISTER FOR EDUCATION, LABOUR AND LANDS (Mr. Courts): I do not think it necessary, really, for this Council to spend a great deal of time on this Motion this afternoon, in view of the fact that this principle has already been accepted by the Government in Sessional Paper No. 11 of 1950, which is published with the Beecher Report.

In fairness, however, I think, Sir, to the Education Department I do feel that I ought to say and to explain to this Council what we have tried to do in order to implement these two recommendations which the hon. Member has suggested that we should now implement. Indeed, an attempt was made by Government as early as 1948—two years before the production of the Beecher Report—to try to get one of these teachers' associations formed, but they were unable to do so, largely due to the fact that existing teachers' unions, apparently, were not able to co-operate at that time.

In 1951, immediately after the production of the Beecher recommendations, the provincial education officers tried again to get teachers to co-operate on this matter, and failed. In 1952 a suggestion was made that the matter might be modified and that there might be associations at a regional level, and be associations at a regional level, and that was tried and failed. Again in 1952 when a further attempt was made there was a suspicion that, in fact, the Government was trying to set up this association and most of the teachers were suspicious that Government was trying to dominate the association and, as a result, it failed on that occasion.

In that connexion, Sir, I would just like to mention that in so far as the labour angle is concerned, it has never been Government's policy actively to sponsor trade unions. What they have tried to do always is to facilitate—as is stated, in the actual words which are

The Minister for Education, Labour and Lands) used in this recommendation—to facilitate the meeting of existing teachers' organizations with a view to formation, and again to provide expert professional advice. That is the proper function of the Government in this matter, and as I have tried to show Government has, indeed, done its very best to try to provide these facilities, because in 1954 the provincial education officers again recommended that the present organizations should amalgamate and they again failed, and in 1955 a still further attempt was made and little activity was reported.

The result of all that is that you can see, Sir, that I feel that the Department itself has done a very great deal to try to implement these two recommendations, and perhaps the teachers might say that "the fault, dear Brutus, lies not in our stars but in ourselves". That, Sir, is not a quotation from Mr. John Stewart Mill. However, if we substituted "Wadley" for "Brutus" and "Education Department" for "stars", I think it might be very apposite, Sir.

The hon. Member, Representative Member, Mr. Mathu, said that progress may be slow if Government does not help. Well he can see that progress has, indeed, been extremely slow despite all efforts on the part of Government to help to provide an association of this nature.

Now, Sir, let me be a little more constructive. Let me say this, that I sympathize entirely with the aims of the hon. Member in trying to get these recommendations implemented because I believe that in our dealings with the teachers—and there are always difficulties arising out of matters such as salaries, as has been mentioned, and the misunderstandings—as there are always difficulties—it would be much easier for the Government to deal with one association rather than a large number of scattered associations all over the country.

I think, Sir, that I am quite prepared to say that I will look into the suggestion that we should second a person in order to try and get this to work. I should also mention that in regard to

recommendation 140, where the Director of Education is to take steps to provide expert professional assistance, the Education Department in 1955 wrote to the National Union of Teachers and asked them if they would be good enough to train somebody in order to do this job. The National Union of Teachers replied that they would be very willing to do so, but, of course, when we examined our Budget and looked for the requisite money to be able to send someone for training, as usual these things must be regarded as a priority along with all other priorities, and on that occasion it was felt that the money just could not be spared in order to send someone for this training.

Sir, hon. Members will see that, in fact, we have done our best in this matter, and what I will tell them now is that I will certainly look into the possibility of seconding someone as has been suggested and seeing also if we can get enough money to send that person for proper training so that he can give advice when he is appointed.

Sir, I beg to support.

THE SPEAKER (Sir Ferdinand Cavendish-Bentinck): If no other hon. Member wishes to speak, I will call upon the hon. Mover to reply.

MR. ARAP MOI: Mr. Speaker, it is gratifying to hear from the Government side that they have accepted the Motion. I should also like to thank my hon. friend the Second, who so ably seconded this Motion, and I am very grateful to the Minister for his reply.

As far as the hon. Member, Mr. James Nzau, I think that all teachers everywhere under different managements should have no difficulty. Government gives grants. After all, I therefore think there will be no difficulty among those teachers who work under missions management to join such an association.

Mr. Speaker, I need not add anything except to say that the Minister should put high in the list of priorities. Particularly in getting this officer as soon as possible so that this association can be formed.

Mr. Speaker, I beg to move.

The question was put and carried

COMMITTEE OF THE WHOLE COUNCIL

Order for Committee read. Mr. Speaker left the Chair.

IN THE COMMITTEE

[Sir Ferdinand Cavendish-Bentinck, K.B.E., C.M.G., M.C., in the Chair]

The Members of Legislative Council (Salaries and Allowances) Bill

Clauses 1 and 2 agreed to.

Clause 3

MR. MANGAT: Mr. Chairman, I would like to move the following amendment:—

THAT the full stop at the end of sub-section (2) of section 3 be substituted by a semi-colon and the following words be added thereafter: "provided, however, that the said allowance of three hundred and fifty pounds per annum shall not be payable to Ministers without Portfolio."

I contend, Sir, that I am entitled to know the value which the country is getting in exchange for the money it is expending on Ministers without Portfolio, and in the absence of that intelligence I submit that as these "white elephants" are getting super-abundance of "bran and mash" already, there is no reason why that "bran and mash" should be sugared as well.

If the Minister for Finance is pleased to say something on it, I would like him to tell us what exactly are those arduous duties which justify this enhancement in this already big salary. I hope he has recovered from the shock which I gave him yesterday, quite unwittingly, by asking him a very sober question. He might also to-day answer my question with a question again by saying how did I discover this top secret of the fact that Ministers without Portfolio do little except indulge in leisure.

However, I may answer him by saying "I have a good eye, uncle, and I can see a church by daylight". He has also the opportunity of completing his answer, which he left incomplete yesterday, to the question which I, at the time, did not realize was so important as to ruffle even his composure.

Sir, I beg to move.

THE CHIEF SECRETARY (Mr. Turnbull): Sir, I would prefer, if I may, to answer this particular point.

The Government clearly cannot accept that the position of the Minister without Portfolio differs in any way from that of the other Ministers. It certainly cannot draw up a balance sheet stating the assets to the Government and the liabilities to the Government presented by the Ministers without Portfolio.

A Minister without Portfolio, as with other Elected Ministers, is compelled to divest himself of his local directorships; he is compelled to cease to practise if he is a professional man and, in the words of my friend, the hon. Minister for Finance, he submits himself to the "hazards of political life". And when I see that tigerish smile across the face of the hon. Member opposite I think "hazards" is the proper word.

AN HON. MEMBER: Well don't!

THE CHIEF SECRETARY (Mr. Turnbull): However, to put it as briefly as possible, the policy of the Government is this, that all Ministers are equal and no Minister is more equal than the Minister without Portfolio.

MR. COOKE: I should like to know a little more about the Minister without Portfolio. I am not satisfied either that he is earning his salary; is his a full-time job, or is it not? When the present Minister without Portfolio was Parliamentary Secretary, I think we were then told he could carry on a certain amount, at any rate, of legal business. Is he still doing that?

AN HON. MEMBER: No, no.

MR. COOKE: Well, we will have elicited something at any rate to-day. Personally, perhaps, my prejudices being against Ministers of the other side, who are not Government Civil Service Ministers, I would like to see them all in the same position as my hon. friend, the Minister for Education, and perhaps I am a little bit prejudiced for that reason, but I do think my hon. friend has done a good job in getting that reply that he has now got, because I think a lot of people in this country are very much alarmed about the expenditure on the other side of the Council, and we are not quite satisfied that the

(Mr. Cooke) Ministers without Portfolio are really justifying their existence.

Question proposed.

MR. HASSAN: Sir, I oppose this amendment. I am really surprised that some of my friends: this side of the Council are at the moment not giving the reasons as to why they should attack this allowance for the Ministers without Portfolio. If the appointment is considered to be essential by this side of the Council, I do not see any reason why that position which the Government intends giving to that Minister without Portfolio is being attacked. There have been three Ministers without Portfolio being treated like all other Ministers of this Council, and yet there does not seem to be any reason for suggesting that their treatment should in any way be less remunerative than the others. I would have liked to hear from this side, if some members or groups do not want appointments of Ministers without Portfolio, rather than put up the suggestion of this sort, that their position should be lowered.

THE CHAIRMAN (Sir Ferdinand Cavendish-Bentinck): Let me just interrupt. That is a matter for a Second Reading. We are now merely discussing an amendment to a clause.

MR. HASSAN: And I oppose this amendment.

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): Just to make one reference to a point made by my hon. friend, the Member for the East Electoral Area. I do not propose to again cover the ground, Sir, in answering this question, but if he will read the HANSARD of the previous Second Reading debate, I think he will find that, contrary to his belief, I answered his question in full.

MR. MATIU: I just want to place on record my opposition to this amendment, and to say, Sir, that we are not the first to have Ministers without Portfolio. They are all over the world, and you cannot say that Mr. Krishna Menon, as the Minister without Portfolio is not worth as much as any other Minister as the representative for India in the United Nations. Do you mean to tell me that he should be paid less than

other Ministers in New Delhi. It does not make sense to me, and so, Sir, I record my opposition to this amendment as out of place altogether.

MR. NZAU: I wish to oppose this. I cannot quite see the sense of it, because, it is like a mother with so many children saying—all these are my children, providing this one is not my child because the other two will be sure to grow up to be taller than the rest.

Well, we want the Ministers, and whose Ministers are they? They are the Ministers of the Council, and if we wanted the Ministers, we should have the Ministers as Ministers equal.

THE CHAIRMAN (Sir Ferdinand Cavendish-Bentinck): Now, I am afraid we are getting on to points of principle—you are getting on to a matter of principle. We are now dealing with a proposed amendment in the matter of rate of salary in one section.

MR. NZAU: My apology, Sir—

THE CHAIRMAN (Sir Ferdinand Cavendish-Bentinck): —which you oppose?

MR. NZAU: Yes, I strongly oppose it. The question was put and negated. Clause 3 agreed to.

Schedule

SIR CHARLES MARKHAM: I am sorry, Sir, just a very brief point: on No. 4, constituency allowance, I am sorry to raise this now, Sir; do I understand from that, on No. 4, that Parliamentary Secretaries receive this allowance? It does say any Elected Member, or Representative Member other than the Minister. I think the Parliamentary Secretary should not receive it.

THE CHAIRMAN (Sir Ferdinand Cavendish-Bentinck): In fact, you are dealing with the Schedule now, section 4 thereof, on the second page of the Schedule.

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): The answer is that if they are elected, or from the ranks of the Representative Members, they do receive the constituency allowance.

SIR CHARLES MARKHAM: That is very disturbing information—that is very new to us. I thought it was only to be Representative or Elected Members who

(Sir Charles Markham) received this allowance, for constituency work and not Parliamentary Secretaries who already receive a salary £1,560 for part-time work.

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): Mr. Chairman, I must say, this is in accord with the select committee and the thing is taken from that. The point is, Sir, that although a man may be a Parliamentary Secretary it was held that if he was an elected Parliamentary Secretary or representative constituency, he still has to bear the burden of travel and work in that constituency, and therefore he is entitled to it. It was felt, however, that a Minister was not.

Schedule agreed to.

Title and enacting words agreed to.

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): Mr. Chairman, I beg to move that the Committee do report to Council its consideration of the Members of Legislative Council Salaries and Allowances Bill, and its approval thereof without amendment.

Question proposed.

The question was put and carried.

Council resumed.

(Mr. Speaker (Sir Ferdinand Cavendish-Bentinck) in the Chair)

REPORT

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): Mr. Speaker, I beg to report that a Committee of the whole Council has considered the Members of Legislative Council (Salaries and Allowances) Bill, 1956, and has approved the same without amendment.

BILL

THIRD READING

The Members of Legislative Council (Salaries and Allowances) Bill

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): I beg to move that the Members of Legislative Council (Salaries and Allowances) Bill be now read the Third Time.

Question proposed.

The question was put and carried.

The Bill was accordingly read the Third Time and passed.

REPORT

THE ASIAN MINISTER WITHOUT PORTFOLIO (Mr. Madan): Mr. Speaker, I beg to report that a Committee of the whole Council has considered the Eviction of Tenants (Control) (Mombasa) Bill and has approved the same without amendment.

BILL

THIRD READING

The Eviction of Tenants (Control) (Mombasa) Bill

THE ASIAN MINISTER WITHOUT PORTFOLIO (Mr. Madan): I beg to move that the Eviction of Tenants (Control) (Mombasa) Bill be now read the Third Time.

Question proposed.

The question was put and carried.

The Bill was accordingly read the Third Time and passed.

REPORT

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): Mr. Speaker, I beg to report that a Committee of the whole Council has considered the Banking Bill and has approved the same without amendment.

BILL

THIRD READING

The Banking Bill

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): I beg to move that the Banking Bill be now read the Third Time.

Question proposed.

The question was put and carried.

The Bill was accordingly read the Third Time and passed.

REPORT

THE CHIEF SECRETARY (Mr. Turnbull): I beg to move that the report of the Committee of the whole Council on the Legislative Council (African Representation) (Amendment) (No. 2) Bill be approved.

BILL

THIRD READING

The Legislative Council (African Representation) (Amendment) (No. 2) Bill

THE CHIEF SECRETARY (Mr. Turnbull): I beg to move that the Legislative Council (African Representation) (Amendment) (No. 2) Bill be now read the Third Time.

Question proposed.

The question was put and carried.

The Bill was accordingly read the Third Time and passed.

MOTION

MEMBERS' ALLOWANCES: EXEMPTION FROM INCOME TAX

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): Mr. Speaker, I beg to move:—

BE IT RESOLVED that this Council approves that the allowances paid to Members of Council by virtue of the provisions of the Members of the Legislative Council (Salaries and Allowances) Bill, 1956, (when enacted) shall be exempt from income tax.

I also beg to signify, Sir, that under Standing Order No. 128 the consent of the Governor has been received to this Motion. Sir, I believe now the Bill has passed the Third Reading, this is the form of the Motion.

Question proposed.

The question was put and carried.

MOTION

LAND AND AGRICULTURAL BANK OVERDRAFT GUARANTEE

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): Mr. Speaker, Sir, I beg to move that:—

BE IT RESOLVED that this Council authorizes the Kenya Government to guarantee an overdraft of up to £1,000,000 to the Land and Agricultural Bank of Kenya.

Sir, in accordance with Standing Order No. 128, I beg to notify that the consent of the Governor has been received to the introduction of this Motion.

Sir, the history of the Land and Agricultural Bank is, I think, fairly well

known. The first overdraft was granted in the sum of £100,000 in July, 1949, the operations of the Bank expanded so rapidly that it was extended to £200,000 in November of that year and to £250,000 in December, to £350,000 in April, 1950, and again to £600,000 in February of 1953.

The position now, Sir, is that it is proposed to extend the limit of that overdraft from £600,000 to £1,000,000. The Bank has been operating at an increased level as a result of general agricultural development, particularly over the past two years and we have now arrived at the stage where the Bank must have more money if it is to continue to operate. It had been hoped that, just as we were able under our last local loan to give them £750,000 on a fairly long-term basis, we would by now have been in the position to assist them by providing them from another local loan with a fair amount of additional capital. However, the market conditions have moved against us and for the time being it is obvious that we shall not attempt to raise a local loan again until market conditions have settled down and moved more in our favour. It becomes necessary, therefore, to find for a Bank such as this some short-term facilities in order to keep them in operation and see that they have not to restrict their lending to too great a degree. That is the reason for this Motion, it provides them with short-term additional finance and will enable them to operate and we shall, as and when conditions permit, endeavour to replace the additional amount we are now asking for by long-term and more permanent finance.

Sir, I beg to move.

THE MINISTER FOR COMMUNITY DEVELOPMENT (Mr. Ohanga) seconded.

The question was put and carried.

MOTION

AGRICULTURAL LAND REHABILITATION FUND

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): Mr. Speaker, before I move the Motion I might, in this case, signify the consent of His Excellency the Governor, under Standing Order No. 128, to the introduction of the Motion.

(The Minister for Finance and Development)

Sir, I beg to move:—

BE IT RESOLVED that this Council agrees that—

(a) with effect from 1st July, 1956, the Agricultural Land Rehabilitation Fund which pursuant to the Resolution of this Council made on 9th May, 1951, is administered in accordance with the Memorandum dated 2nd May, 1951, entitled "Provisions for the Administration of the Agricultural Land Rehabilitation Fund", previously laid on the Table of this Council, shall be converted into a revolving fund;

(b) amounts paid on, or after, 1st July, 1956, in respect of—

(i) interest on the Agricultural Land Rehabilitation Fund; and

(ii) interest on, or amortization of, loans granted from the Agricultural Land Rehabilitation Fund (including such loans granted before 1st July, 1956),

shall accrue to the said fund and shall not be remitted to the Exchequer in accordance with the directions contained in the said Memorandum dated 2nd May, 1951, entitled "Provisions for the Administration of the Agricultural Land Rehabilitation Fund";

(c) the uncommitted balance of the Agricultural Land Rehabilitation Fund as at 1st July, 1956, and such moneys as accrue to the fund in accordance with paragraph (b) of this Motion shall be used, in accordance with the provisions of the Agricultural Ordinance, 1955 (Ordinance No. 8 of 1955), to finance land preservation loans or land development loans as defined therein, subject to the proviso that amounts paid in respect of interest on, or amortization of, such loans financed from the said fund shall accrue to the fund and shall not be dealt with

in accordance with the provisions in sub-section 100 (3) of the said Ordinance;—

(d) the future costs of administering the said fund shall be charged thereto;

(e) any losses arising in the course of the operation of the said fund shall not be made good from public funds;

(f) the conditions governing loans granted from the Agricultural Land Rehabilitation Fund prior to 1st July, 1956, or approved but not issued before that date, so far as such conditions relate to the obligations and rights of the borrowers concerned, shall be those set out in the aforesaid Memorandum dated 2nd May, 1951, entitled "Provisions for the Administration of the Agricultural Land Rehabilitation Fund"; and

(g) the rules set out in the aforesaid Memorandum dated 2nd May, 1951, entitled "Provisions for the Administration of the Agricultural Land Rehabilitation Fund" shall be replaced by rules consistent with this Motion which shall be made by the Minister for Agriculture.

Sir, I feel, indeed, that that Resolution practically makes the speech for me but perhaps I had better explain just a little of the background. The fund to which we are referring, Sir, was the amount of £1,000,000 which was promised by the Financial Secretary to be transferred from the general revenue of the country and placed as loans available to the Minister for Agriculture for assisting the rehabilitation of farming and assisting in the removal of and change in those marginal areas which were such a trouble to us at that particular time.

It was intended and indeed, the Memorandum and the Resolution to which I have referred several times in this Motion, made it perfectly clear that this money should be lent on a rate of interest with a proviso that there should be a moratorium over a certain period of years in the loans. It was intended in those days that the repayment of capital should return to the general revenue of

(The Minister for Finance and Development)

the Colony, year by year, that the interest should return to the general revenue of the Colony year by year, that obviously, therefore the charges of administration of the fund should be met from general expenditure votes and that, indeed, the losses, if any, which that fund might bear should also be borne from the general Exchequer Account.

Now, Sir, we have, since those days, passed through an Emergency and despite that Emergency we have persisted with honouring our obligation, as we regarded it, under this original statement by the Financial Secretary and indeed, in all discussion in London, Her Majesty's Treasury agreed that this amount should be transferred to this particular fund. We are faced with a very difficult capital position during the next few years, and in accordance with the consistent and persistent policy of the Government to do everything that it can to push forward the agricultural development on which so much of our economy depends, we have had to reconsider this particular matter. It was a matter for argument, I think, at the very start of this, as to whether as the contribution to the fund was made from the general revenue at source and not from a loan source, as to whether indeed we should charge interest on this fund unless it was for the specific purpose of assisting agriculture as a whole again. After a lot of discussion, Sir, and in an endeavour to assist the agricultural community and our agricultural economy, it has been decided that it is with perfect justification that we can take a decision that as the grant came from general revenue in the first place and not from a loan fund source, we can treat this as a revolving fund.

What, in fact, does that mean, Sir? It means that there will be a disappearance from the general revenue account of any repayment of interest which we should normally receive in the repayment of these accounts. And, indeed, it is estimated that involuntary capital repayments so far, the total amount has been of the order of about £31,000. But it is estimated, for instance, that in the next three years in a combination of capital and interest payments by 1st

January, 1960, we should be likely to have over £100,000. This is a bold step that the Government is taking at a time when our revenues may indeed be hard pressed, and it could only be taken in the full knowledge that there is equal pressure upon our capital funds and that this is a good step to take towards the assistance of our agricultural industry.

It is, I think, quite right, however, that at the same time, as general revenue will not be benefiting at all from the interest and capital repayment, that general expenditure should not bear the charges of the administration of the fund, and equally that as general revenue is not going to benefit from any of the capital repayments, it should not be called upon to bear any losses which might be involved in non-repayment of the loan.

I have no doubt, Sir, in my mind that this step will be welcomed by the majority of hon. Members opposite because it does show, I think, once again, the intention and the desire of the Government to push forward with the agricultural development of our country, with a policy of general economic development so that more and more wealth is created and more and more money emerges from which more and more services can eventually be created.

Sir, I beg to move.

THE CHIEF SECRETARY (Mr. Turnbull) seconded.

Question proposed.

MR. CROSSKILL: Mr. Speaker, the agricultural community will certainly welcome this conversion; indeed I welcome it now on their behalf. I feel that it gives permanency to the very necessary provision of finance for the development, rehabilitation and preservation of the land. I would emphasise, however, Mr. Speaker that although this gives permanency it does not give sufficiency. The very nature of these loans is that they are long term and the revolutions are slow. A revolving loan, as a revolving stone, far from gathering most, gradually decreases in size. So I feel will this, through the costs of administration and possible losses, and I would ask the Minister in his reply if he would give recognition to the fact that this loan

[Mr. Crosskill]

will require reinforcing from time to time.

I would also like him, if he will, Sir, to state when he is replying by whom this fund will be administered. Also, how it will be entitled. I would suggest that it could, perhaps be called a development fund. I presume, Sir, that this matter will be dealt with in that respect in the rules which I note are to be made by the Minister for Agriculture.

Mr. Speaker, I beg to support.

THE SPEAKER (Sir Ferdinand Cavendish-Bentinck): If no other Member wishes to speak I will ask the hon. Mover to reply.

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): Mr. Speaker, in replying to the hon. Member for Mau, I think if he goes back to the original Memorandum dated the 2nd May, 1951, he will see how the fund will be administered and it certainly is intended, of course, that this should be dealt with by rules which will be made by the Minister for Agriculture. Therefore, the Minister for Agriculture will have the final responsibility, control and direction of the fund. He, of course, I have no doubt from time to time, if there is any question of financial difficulty, will take his colleagues into consultation as is the common habit in the Government.

Now, Sir, I am not quite sure what the hon. Member for Mau meant when he said would I recognise that this fund would require reinforcing from time to time. He said that this would be a "decreasing thing". Well, Sir, as the fund will have been granted £1,000,000 and will be receiving interest upon that £1,000,000, that will be building up over the years. I cannot imagine that the losses will ever outstrip the interest that it is receiving, and if it follows the example of the grant which I had the pleasure of undertaking with regard to the Local Government Loans Authority, it would seem to increase at a terrific pace. In the figures that I gave the hon. Member, there were over £100,000 up to the 1st January, 1950, of those figures only £30,500 was capital, £71,000 would be interest, so that it can be seen the rate at which this revolving fund will be

increasing as that money which is received in interest will then be available for relending on a basis on which loan interest also will be charged. The fund will get impetus from itself. If, as I imagine, the hon. Member was trying to say to me that the Government should not regard this as the only source of assistance, then I would say that is right, the Government is taking the needs of development loans for agriculture into consideration in its development plan which we trust will be placed before this Council the end of the present Session, but I could not.

MR. CROSSKILL: I thank the hon. Minister for giving way. Mr. Speaker, I based my remarks on the fact that Government has been providing something like £200,000 a year for a development fund, which of course exceeds the amount which would accrue in interest. I wondered whether that would continue.

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): That was the point I was coming to, that we are taking that into consideration in our development plan, and the figures which it is proposed to grant for development will appear in that plan when it is placed before this Council. But it will no longer come from recurrent. It will in future come from loan fund and will have to be charged loan interest and will not be in the nature of a revolving fund; I could not undertake that there could be any agreement to the transfer of more money from the recurrent budget whilst I can assure the hon. Member that both myself and the hon. Minister for Agriculture are well aware of the position and the need for there to be as much money as possible made available for agricultural development loan under the Development Plan, 1957/60, which the hon. Member will have the pleasure of seeing in due course.

Sir, I beg to move.

The question was put and carried.

SIR CHARLES MARKHAM: On a point of order, Mr. Speaker—

THE SPEAKER (Sir Ferdinand Cavendish-Bentinck): I think you want to make a point of personal explanation, not a point of order. Please proceed.

SIR CHARLES MARKHAM: Regarding the previous order concerning the last

[Sir Charles Markham] Bill on Emoluments, Sir, the Minister for Finance, in reply to my query about the report of the select committee, Sir, did refer to the report of the select committee as having recommended that Parliamentary Secretaries should get this constituency allowance. I have that report in front of me now, Sir, and I would like your guidance as to what I should do, Sir, because I find my contention appears to be correct, apropos that select committee's report which particularly excluded, Sir, Parliamentary Secretaries and Ministers and Nominated Members in the public service from receiving that allowance.

THE SPEAKER (Sir Ferdinand Cavendish-Bentley): I think under the circumstances, the Minister for Finance may wish to give an answer which no doubt he might like time to consider, and I suggest that since you have made your point we regard the matter as closed in so far as to-day's proceedings are concerned. I have allowed you to make your point and we will have to deal with the matter later if necessary.

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): No, Sir, I think that I could deal with the point. There is another paragraph which I think deals with this particular aspect, which I would like to talk over with my hon. friend.

THE SPEAKER (Sir Ferdinand Cavendish-Bentley): I suggest you consider the matter and discuss your point with the hon. Member later. We can deal with the matter again if it should prove necessary.

MOTION

KENYA MEAT COMMISSION £250,000 LOAN

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): Mr. Speaker, this is a purely formal Motion and need only take three minutes.

With your permission, Mr. Speaker, and that of the Council, I do not propose to read the Motion, unless hon. Members wish me to do so, it is a very lengthy Motion.

The Motion appeared on the Order Paper as follows:—

WHEREAS on the 24th February, 1955, a Resolution was passed by the Legislative Council which provided, *inter alia*, "that the Minister for Finance shall proceed with negotiations for the proposed long-term loan not exceeding £250,000 and that the Government shall guarantee repayment thereof and the interest thereon to the lender in such manner and over such period not exceeding 21 years as shall be approved by the Minister for Finance"; and

WHEREAS the Minister for Finance has made arrangements for the Kenya Meat Commission to obtain from the Colonial Development Corporation a loan of £250,000 repayable in annual instalments of £12,500 over a period of 20 years;

WHEREAS it is at present considered desirable that the Government should finance this capital contribution;

NOW THEREFORE BE IT RESOLVED that the Government shall pay in each year to the Kenya Meat Commission the amount of principal repaid in that year by the Commission to the Colonial Development Corporation subject to a maximum payment in any one year of £12,500 and subject to the Kenya Meat Commission paying interest to the Government at such rate as may be fixed by the Minister for Finance and Development on all sums so paid by the Government to the Commission, such sums not to exceed in the aggregate £250,000 and the repayment of such sums to the Government by the Commission with interest as aforesaid to be secured by a debenture charging with such repayment all and sundry the assets of the Commission from time to time during the period of the said debenture.

Sir, the Motion stems directly from one passed in the Council on the 24th February, 1955, when the Minister for Finance was instructed to make negotiations for the provision of £250,000 for the Kenya Meat Commission. As a result of those negotiations, it is necessary to repay the amount of £250,000 which was loaned by the Colonial Development Corporation to the Kenya Meat Commission over 20 years at £12,500 a year. This Motion seeks the approval of Council to the repayment

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES [The Minister for Agriculture, Animal Husbandry and Water Resources] of the money to the Kenya Meat Commission, which they have already paid to the Colonial Development Corporation, and is part of the undertaking and agreement made at the time and on the instructions of this Council in regard to the negotiations.

The amount of money has already been provided by hon. Members in the Supplementary Estimates which were passed the other day, and all that it is now necessary to do, Sir, is to seek the approval of this Council. I beg to move.

THE MINISTER FOR COMMERCE AND INDUSTRY (Mr. Hope-Jones) seconded.

Question proposed.

MR. HARRIS: Mr. Speaker, may I have your guidance? I wish to deal in this Motion with the whole question of the capital structure of the Meat Commission which does arise from this. I cannot do that in two minutes, but as the Government have in fact paid the £12,500 which is necessary this year, or it has been granted anyway under the Supplementary Estimates, I am wondering, Sir, as this Council costs the country £150 a day to sit at least, whether we could defer this debate until we next sit, as it would seem hardly worth while, either asking the Council to sit later to-night or having a special sitting for merely this one question to-morrow, Sir.

THE SPEAKER (Sir Ferdinand Cavendish-Bentley): There seem to be some doubts as to whether the whole structure of the Meat Commission really does arise!

MR. HARRIS: Financial structure, Sir.

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): Mr. Speaker, I am speaking from memory in this regard, but I think I am right in saying £12,500 for this item, but there was a footnote that it was subject to the approval of this Resolution in the Legislative Council. In other words, although the money has been granted, it has been granted conditionally and cannot be issued and will not be issued by the Treasury until the Resolution is approved. I think that is the position.

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): Mr. Speaker, would it assist the hon. Member for Nairobi South if I were to say this, if the Council feels that they could pass this Resolution now, which is merely to put the approval of the Council on money which they have already granted, I shall be laying before the Council a White Paper on the Report by Mr. Neville on the meat industry. In the course of that, Sir, I shall have the necessity to discuss the Kenya Meat Commission and the capital structure. If I were to give the hon. Member an assurance that I would welcome anything that he wishes to say on the capital structure during a debate which might stem from the White Paper, would he agree that that would be a suitable time to do it? The proposal that he has put before Council, Sir, means in effect that we cannot debate it before April and if that is so, then the hon. Member might just as well do it on the White Paper which will circulate on the recommendations in the Neville Report.

MR. HARRIS: I would be perfectly happy, Sir, providing the Minister could say that that White Paper will be issued well before April in order to allow it to be studied.

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): Sir, there are always difficulties in these matters, but I have reason to believe that I shall be able to issue the White Paper in the month of January.

MR. HARRIS: I am perfectly happy, Sir.

THE SPEAKER (Sir Ferdinand Cavendish-Bentley): The time has come for the customary suspension of business and I am compelled, unless suspension is asked for of Standing Orders, to suspend business.

THE CHIEF SECRETARY (Mr. Turnbull): I beg to move that the question be now put.

MR. HARRIS seconded.

Question, "That the question be now put" put and carried.

Question put accordingly and carried.

Mr. HERRIS: On a point of order, Sir, would you rule that as we have waived debate on this item, the six months' rule will not apply as a result of this Motion? In other words that we will be able to debate within six months without being out of order.

THE SPEAKER (Sir Ferdinand Cavendish-Bentick): I rule that you cannot debate this Motion again, but in the debate this Motion, when the White Paper circumstances, when the White Paper appears, the White Paper may contain some part of the gist of this Motion. Now I understand Sir Charles Markham has a Motion for the Adjournment.

Mr. COOKE: On a point of order, has five minutes been taken off this Motion for the Adjournment? Should we not get five minutes extra?

THE SPEAKER (Sir Ferdinand Cavendish-Bentick): I was coming to that. For the Motion on the Adjournment, the half-hour will end at ten minutes to seven o'clock.

ADJOURNMENT MOTION

MINISTERS—COLLECTIVE RESPONSIBILITY

SIR CHARLES MARKHAM: Mr. Speaker, I beg to move that this Council do now adjourn.

It is for the purpose, Sir, of raising an issue arising out of the answer to a question I tabled on Tuesday. I would like to make it very clear, Sir, that my comments to-night are directed on a principle only and not as a matter of detail and also, Sir, I would like to make it very clear to the Council that I intend to avoid any clash of personalities which might embarrass Members on both sides of the Council.

If, Sir, this Council had been sitting next week I would have given notice of a Motion which I think would have probably clarified the whole position. But, unfortunately, with the time factor, especially as we are all going away until April after to-night, I find, Sir, I am forced to use this method of the Adjournment in order to raise this issue.

In the past from this side of the Council there has been considerable criticism as to whether Ministers should make controversial speeches and to my recollection in the last six months, we have had a Motion on the Adjournment on this very subject of Ministerial responsi-

bility on which I am moving this Motion this evening.

Sir, I am afraid that I do not think that once a person has crossed the Floor, or has been appointed to the rank of a Minister, he can ever make a speech in a personal capacity because he is always taken—his words are taken as representing the portfolio he represents. In other words, Sir, and I hope my hon. friends opposite will not take offence if I use them as examples, if the Minister for Agriculture in a private capacity made a speech to the Kenya Native Farmers' Union in which he advocated the abolition of the Kenya Meat Commission, those views, Sir, would be taken to represent the views of the Government. If they were not the views of the Government, then, Sir, the Member for the Rift Valley would return to this side of the Council.

Therefore, Sir, I think it is a very dangerous precedent to start to allow the practice of Ministers making speeches which are controversial in a personal or private capacity. I would give many other examples, Sir, but perhaps, to avoid embarrassment to the other side of the Council, I can take another example of England, where, perhaps, you might find that a Conservative Minister in the Government to-day, advocating at a speech, say, in Torquay, the Liberal Party plank of proportional representation. Then when he is asked to give an explanation he says, "I am very sorry, I was not speaking as a Conservative Minister, I was speaking in a personal capacity." Nevertheless, Sir, as far as the world is concerned, he is speaking in his official capacity as a Minister. I think that is really the whole point I am trying to bring out this evening.

The second point, Sir, concerns a principle of Government policy. We have always understood that the Government Ministers have collective responsibility. Therefore, Sir, if we are to make this present system of Government a success, it is essential that only agreed policy should be expounded by the Ministers opposite, otherwise we may find the position where each individual Ministers representing a race will expound his view and the coalition will break up.

[Sir Charles Markham]

I know very well that many Ministers opposite have very strong views on many subjects and, of course, naturally they have the right of discussing with their electorate, or whatever the case may be, many controversial problems; it is only right they should do so. But it is only right, Sir, of public expressions of policy which can result in the idea being spread abroad that that is the Government policy. Because of those dangers I would suggest, Sir, that perhaps Government might reconsider the problem and debar Ministers from speaking except on their portfolios or on agreed Government policy. I realize that I will probably be accused now of being contrary to the spirit of freedom of speech, but nevertheless—

AN HON. MEMBER: No.

SIR CHARLES MARKHAM: I am very glad to hear the word "No" coming from the other side of the Council, but nevertheless, Sir, I believe it is a very dangerous practice to allow.

And finally, Sir, before I sit down, I would like to make it quite clear again that purely coincidentally the question I asked affecting a Minister opposite has brought this matter up, but I would have brought it up anyhow as a substantive Motion had there been more time; but I had to use that method, Sir, because we are adjourning until April.

Mr. Speaker, I beg to move.

MR. SLADE: Mr. Speaker, Sir, in supporting what has just been said by the hon. Member for Ukamba, I also should like to emphasize that we are not concerned here with personalities or with the subject matter of any speech which has given rise to this Motion. Indeed, there have been several occasions of late where different persons have spoken on different subjects in a way which has raised this question.

The question is simply "When is a Minister not a Minister?" And the answer that I hope to hear from the hon. the Chief Secretary is that pronounced by my hon. friend, the Member for Ukamba. A man with all the sincerity and honesty of purpose that any man can have, can say to himself "I am now speaking in my personal capacity" and he can do all he likes to try to explain that to those who listen to

him, but still there will be many who will not understand the distinction; they will say that he is a member of the Government, he thinks like that, therefore, Government is likely to act like that. Therefore a confusion arises which cannot be cured thereafter. So, Mr. Speaker, I do hope that we can now be assured, in fact, that in the matter of public speaking on political issues a Minister is always a Minister and therefore necessarily restricted in a matter suggested by the last speaker.

I beg to support, Sir.

THE CHIEF SECRETARY (Mr. Turnbull): Mr. Speaker, the question of when a Minister is not a Minister is indeed a most complicated one, and I am most grateful to the hon. Member and the hon. Member for their clear expositions of the problem as they see it. I am glad, too, to have the opportunity of dispelling some of the apprehensions which beset them and of restating some of the principles which underlie the present Government based on the Lyttelton Agreement.

The essence of the Lyttelton Agreement, Sir, is that certain Members, who at present number six and will shortly number eight, selected from groups on the other side of the Council, are appointed by the Governor, in pursuance of the Royal Instructions, to be Ministers. These Ministers, in common with the Nominated Ministers, are on their appointment, expected to accept certain conditions. First of all they must adhere to the principle of collective responsibility for Government policy. Secondly, they must undertake to support the Government, both in public and in private. And, thirdly, until the elections are held in 1960, they must agree to refrain from proposing or supporting any legislation concerning the special land rights of the various communities. Government, for its part, has agreed that Her Majesty's Government will not initiate any changes in the communal basis of the franchise to become effective before the elections of 1960. (Any changes in the communal basis of the franchise has to become effective before the elections of 1960.) That is to say, that unless there is a prior general agreement between Government and between the representatives of the various groups opposite,

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[The Chief Secretary] the present franchise arrangements will apply to the elections which are to be conducted in 1960. I apologize for bringing in the subject of policies, but those are the four basic points of the Lyttelton Agreement. That, very briefly, is the constitutional background.

There are, of course, a considerable number of working considerations—the practical considerations of the day-to-day conduct of the Government's business.

Now, political Ministers represent the different racial groups in the Colony, and it is to be expected that there should be some difference of outlook between them concerning many of their particular political aspirations of their particular groups. Nevertheless, under the terms upon which they have taken office, they must subordinate these particular variations of view which exist amongst them, and are bound to accept the collective decisions of the Government as binding upon them, until 1960. These collective decisions of policy are based on the common ground which exists between the Elected Members, the Nominated Members and the Civil Service Members and, of course, the Secretary of State. As hon. Members who have made themselves aware of the programme of legislation for this year and who have studied the legislation of last year, will recognize that common ground is extremely wide in scope.

However, outside that common ground lies an undefined country which, until 1960, will remain a kind of Tom Tiddler's ground; and one of the greatest problems which faces the Government in its internal administration has been to decide to what extent, and in what circumstances, a Minister may undertake an excursion into these marginal areas, for very often they are sown with landmines.

The hon. Members must recognize that such excursions must be: there is no alternative but from time to time to allow a Minister to make this kind of foray—the problem is to what extent and in what circumstances? Although Elected Ministers are expected to subordinate the long-term political aims of their political associates to the immediate requirement of

day-to-day Government policy, they are, nevertheless, answerable to an electorate; and this being so the Government would not attempt to place a ban on individual excursions, nor would it attempt to impose any kind of uniformity upon the public statements made by the various Ministers. I think I should qualify that by saying that no Minister in a public statement may speak against the Government, nor may he say anything which would constitute a breach of the generally accepted principles of collective responsibility for decisions on Government policy.

To return to this question of the extent to which Elected and Nominated Ministers may move outside the common ground, I think hon. Members will remember that in April this year the Government, in reply to a question in this Council, made it clear that it is in no way inconsistent with the coalition principle of the Lyttelton Agreement that communal representatives, participating in the coalition, should represent the long-term aims of their respective communities to be pursued in due course. The Government added that it did not follow that such aims commended themselves to Government immediately, nor that they would necessarily commend themselves to the Government at any particular time in the future. I must qualify this dictum with a proviso that having accepted the idea of the coalition Government and the whole principle of the joint approach to the problems of the Colony, no Minister in representing the long-term views of his community may say anything which would deny the validity of the joint approach, nor may he suggest that the multiracial concept is a temporary expedient only.

Generally, Sir, there can be no hard and fast rule as to the subjects concerning which Elected and Nominated Members may or may not express conflicting views; it is for each Minister to ask himself whether what he proposes to say would in any way prejudice the basic principles of the common approach, and in this way bring embarrassment to the Government.

Circumstances are bound to arise in which any Minister must be granted a greater latitude in his excursions into this marginal land that would normally

[The Chief Secretary] be allowable. As an example of such a circumstance, Sir, we have the recent elections. During the months when candidates were preparing themselves for the polls, it was quite inevitable that they should wish to identify themselves more closely, and more specifically, with the aims of the political communities with which they were associated than they would in pre-election days. As is usual in exercises of this sort at the hustings, the restraints which would normally apply were considerably relaxed, but only during election time.

The reason for the lessening of the political discipline was to enable those Ministers—those Elected Ministers and Nominated Ministers—to make known their personal convictions and the long-term views of their political associations. This wider freedom of expression which was granted during the pre-election period applies equally to Elected Ministers and to Nominated Ministers since both were in the position of public men who have relinquished office and who are presenting themselves for re-election, or for reappointment.

Well, Sir, so much for the special concessions of the election period and the latitude which was allowed to the Ministers who are offering themselves, as I have said, for reappointment. Now that the new Council has been elected and the Government, based on the Lyttelton Agreement, has settled itself, I hope, for a considerable additional period, we have reverted to the conditions which obtained before the need to satisfy the whims and the idiosyncrasies of the electors became a factor of overriding importance.

(Interpolation by an hon. Member.)

I am grateful to my hon. friend, because a concession of that sort will naturally have to be made in the course of the African elections. I trust that my hon. friend will use it with the moderation for which he has always so distinguished himself.

(Interpolation by an hon. Member.)

The hon. Member opposite should verify his quotations.

Sir, I hasten to add that there was no hesitation on the side of the Government over this return to the controls which

we exercised during the pre-election period; there has never been any suggestion amongst the Ministers that those jolly rambles into Tom Tiddler's land which so enlivened those stormy autumnal days of the election were anything more than a seasonal outing.

In conclusion, Sir, I would like to say that the restraints and the disciplines which Ministers have imposed upon themselves—Civil Service Ministers no less than Elected and Nominated Ministers—are designed not to stifle the expressions and aspirations of the various racial groups, but to ensure that the duties of Government can be undertaken with efficiency and dispatch, and on the solid basis of the accepted common approach.

MR. CROSSKILL: Mr. Speaker, the hon. the Chief Secretary has dealt with this question with his usual charm and lightness, but I feel that it requires more serious attention, Mr. Speaker. We, on this side of Council—

THE CHIEF SECRETARY: Sir, I apologize if I appear to be light, I have given a lot of thought to this and I considered what I said with the greatest of care. I included a couple of witticisms in order to keep the hon. Member awake.

MR. CROSSKILL: Again, Mr. Speaker, a very charming, a very light and very humorous touch, but I think not down to the bed-rock where we should be.

We, Mr. Speaker, on this side of Council, feel very seriously that no Minister should advocate major political changes in accepted and declared Government policy. We feel that it is extremely dangerous that they should do so. We get down to the question of when is a Minister not a Minister—that may be, Mr. Speaker, when one of the Ministers treads on a landmine, to which the hon. Chief Secretary has referred. However, apart from landmines, I feel that a Minister is a Minister all the time during the length of his appointment, and his responsibilities as such are very great.

During the hon. Chief Secretary's speech, he said that naturally Ministers make take excursions into Tom Tiddler's land on long-term personal aspirations, but, Sir, the incident which gave rise to this debate was not long term. It is quite possible that hon. Members opposite may consider that "as soon as possible" is long term, but we, Sir, on this side of

[The Chief Secretary] Council do not consider that is so. The specific incident was "as soon as possible".

Now, Sir, the Chief Secretary referred also to the elections which I do not think are germane to this particular issue. During the elections, I hold that no Elected Ministers stood for election—they were not at that time Ministers—and, indeed, the hon. the Minister for Agriculture did not offer us the moon. Possibly, the only reason why he did not was that it would require too much land rehabilitation. He did not give us excessive and grandiose promises. The point is, Sir, that we feel that in a country at this stage of social and Governmental development, a Lekyll and Hyde role is not understood and it is a dangerous one to take. What we require in the country at this stage of development is consistency, and we must have a consistent policy. Comments made off the record are apt to give rise to extravagant hopes by certain sections of our community which are dangerous.

Mr. Speaker, I beg to support.

MRS. HUGHES: Mr. Speaker, I would like to join issue with Members on this side and support this very strongly for the same reason, that what a Minister says is taken by the majority of this country as being Government policy.

I think these excursions into "marginal areas" should be banned at public meetings of a multiracial character because they do tremendous and untold harm, and I do understand what the hon. the Chief Secretary said about the hustings and the pre-election speeches, but I, too, consider with my hon. friend, the Member for Mau, that when the actual election period came, Council was resolved and, therefore, in actual fact, those Elected Ministers were no longer Elected Ministers. After 31st July then it was fair enough for that period up to nomination day for them to say things which would not be taken as Government policy.

However, before that period, before 31st July, when Council was still sitting—or not sitting but was still in being—then I do think that statements made by Ministers, and responsible Ministers, forecasting British policy would be taken by the biggest majority of people in this Colony as being pronouncements of

Government policy, and I know the instance to which I am referring, and to which the hon. Chief Secretary made vague reference, did do untold harm in aggravating very sore feelings in a certain town in this Colony where racial relations are extremely good, and I do take the view that once a Minister always a Minister—and collective responsibility should apply to everything said on public platforms and certainly at meetings of a multiracial character.

THE MINISTER FOR LEGAL AFFAIRS (Mr. Griffith-Jones): Mr. Speaker, Sir, I feel that there is some misunderstanding on the other side despite the most careful and lucid exposition of a very difficult and delicate situation by my hon. friend, the Chief Secretary.

Now the first misconception that has been disclosed in the speeches of the last two speakers, is that during the elections Ministers were not Ministers—or rather that the Elected Members were not Ministers. That, Sir, is not so.

I think it would perhaps assist the hon. Members opposite if I explained that at the dissolution of this Council the Elected Ministers and the Nominated Ministers, that is to say all Ministers other than the Civil Service Ministers, who derive their Ministerial rank and office *ex officio* from other, administrative, offices which they hold, all other Ministers by convention and, indeed, by the terms of their appointment, place their resignation in the hands of His Excellency the Governor.

Nevertheless, the business of Government had to go on and those Ministers, therefore, were asked—and agreed—to continue in their respective Ministerial offices in a caretaker capacity until the new Government could be formed after the elections. Now that meant, Mr. Speaker, necessarily, that the Elected Members who had been Ministers remained Ministers despite the fact, and throughout the period, that they were fighting an election, and concurrently, in that same period, the Nominated Ministers were in a caretaker capacity and were awaiting reappointment to their respective Ministerial offices, if such should be the desire of His Excellency the Governor, when he was constituting the new Government after the elections.

ADJOURNMENT

[The Minister for Legal Affairs]

I think it is important, Mr. Speaker, that that twilight period of caretaker-ship should be clearly understood by the other side, and it does lead point and, in fact, is the main plank in the explanation which my hon. friend the Chief Secretary gave; and the example which he gave to the Council of these excursions, as he so happily and felicitously put it, into Tom Tiddler's ground at the particular season of the year and of the political climate of this country.

THE SPEAKER (Sir Ferdinand Cavendish-Bentick): That completes the half-hour allowed for the Motion for the Adjournment. It also completes the business before us and I therefore now adjourn Council *sine die* and in doing so may I, in view of the approach of Christmas and the New Year, take the opportunity of conveying to all hon. Members my personal seasonal good wishes.

Council rose at fifty minutes past six o'clock, *sine die*.

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OFFICIAL REPORT

11th Council—First Session—First Meeting

VOLUME LXXI

15th October, 1956, to 13th December, 1956

Explanation of Abbreviations

Notice of Motion=NoM; Bills: Read First, Second or Third Time=1R, 2R, 3R; In Committee=IC; Report=R; Consideration of Report=Cons.R; Referred to Select Committee=SC; Select Committee Report=SCR; Recommended to Council=Re.Cl.; Withdrawn=Wdn.

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