

# KENYA NATIONAL ARCHIVES

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Date of Reproduction 12<sup>th</sup> January, 1966.

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

*Nominated Members—Non-Governments:*

THE HON. THE EARL OF PORTSMOUTH.  
THE HON. SIR ALFRED VINCENT.

*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 Nzoia).  
THE HON. MRS. A. R. SHAW (Nyanza).  
THE HON. H. SLADE (Aberdare).  
THE HON. C. G. USHER, M.C. (Mombasa).

*Asian Elected Members:*

THE HON. S. G. HASSAN, M.B.E. (East Electoral Area).  
†THE HON. C. B. MADAN, Q.C. (Central Electoral Area).  
THE HON. N. S. MANGAT, Q.C. (Central Electoral Area).  
†THE HON. I. E. NATHOO (West Electoral Area).  
THE HON. J. C. M. NAZARETH, Q.C. (Western Electoral Area).  
THE HON. A. J. PANDYA (Eastern Electoral Area).

*African Elected Members:*

THE HON. B. MATE (Central Province).  
THE HON. T. J. MBOYA (Nairobi Area).  
THE HON. D. T. ARAP MOI (Rift Valley Province).  
THE HON. J. M. MUMBI (Akamba).  
THE HON. M. MULIRO (Nyanza North).  
THE HON. R. G. NGOALA (Coast Province).  
THE HON. A. OGINGA ODINGA (Nyanza Central).  
THE HON. L. G. OGUDA (Nyanza South).

*Arab Elected Member:*

THE HON. SHEIKH MAHFOOD S. MACKAWI.

*Arab Representative Member:*

†THE HON. SHEIKH MOHAMED ALI SAID EL MANDRY.

*Clerk of the Council:*

A. W. PURVIS.

*Clerk Assistant:*  
H. THOMAS.

*Serjeant-at-Arms:*

Major F. W. Horne, M.S.M.

*Reporters:*

MRS. I. V. HOLMES. MISS S. A. RIDDICK.  
MISS M. M. GARDNER.

*Honorary Editor:* MRS. J. FAYER.

\* Deputy Speaker and Chairman of Committees—also Nominated Member.  
† Included in list of Ministers or list of Parliamentary Secretaries.  
‡ Acting Governor with effect from 11th December, 1957.  
§ Acting Chief Secretary with effect from 11th December, 1957.  
¶ Minister for African Affairs with effect from 4th November, 1957.  
‡ Minister for Legal Affairs with effect from 24th November, 1957. The Hon. A. P. JACK (Acting Solicitor-General), appointed Temporary Nominated Member with effect from 27th November, 1957.  
•• The Hon. W. D. Gregg—Temporary Nominated Member from 5th November, 1957, to 25th November, 1957, during absence of the Hon. W. J. D. Wadley.



COLONY AND PROTECTORATE OF KENYA

LEGISLATIVE COUNCIL DEBATES

ELEVENTH COUNCIL

SECOND SESSION

Wednesday, 23rd October, 1957

The Council met at Three o'clock.  
[Mr. Speaker (Sir Ferdinand Cavendish-Bentick) in the Chair]

PRAYERS

The prayers were read by the Bishop of Mombasa.

PAPERS LAID

The following Papers were laid on the Table:—

The Price Control (Cement) (Amendment) (No. 4) Order, 1957.

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

The Agriculture (Scheduled Crops) Draft Order, 1957.

The Governing Body of Egerton Agricultural College—Balance Sheet as at 31st March, 1957, together with Income and Expenditure Account for the year ended on that date.

The Production of Food Crops Rules, 1957.

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

Report of the Controller and Auditor-General on the Sugar Equalization Fund for the year ended 31st December, 1956.

(BY THE CHIEF SECRETARY (Mr. Turnbull) on behalf of the Minister for Commerce and Industry (Mr. Hope-Jones))

MOTION

SUSPENSION OF PROCEEDINGS

THE CHIEF SECRETARY (Mr. Turnbull): I beg to move that Council do now suspend proceedings to await the arrival of His Excellency the Governor.

THE MINISTER FOR LEGAL AFFAIRS (Mr. Griffith-Jones) seconded.

*Question proposed.*

The question was put and carried.

Council suspended proceedings at five minutes past Three o'clock and resumed at twenty-five minutes past Three o'clock.

COMMUNICATION FROM THE CHAIR BY HIS EXCELLENCY THE GOVERNOR

Mr. Speaker, Hon. Members of the Legislative Council, when I addressed this House last year I concluded my speech by saying that the development of the resources of the country could once again claim its proper share of our attention. At the same time I warned hon. Members that in moving from Emergency conditions to normal life we should have to proceed with deliberation and care, making certain that we had the chance of remedying any mistakes that we might make. I should like to-day in this communication to emphasize the extent to which it is now possible for my Government's plans to be directed towards the extension of the economy of the Colony, and towards advances in all those fields—social, political and economic—where progress has been so grievously hindered by the events of recent years.

[H.E. The Governor]

Recovery, development and expansion can only be fully achieved in an atmosphere of political stability; even if we have this stability the task which lies ahead of us will not be easy, for the world financial background against which the Colony has to operate is less happy than it has been for some years. But without that stability we shall find great difficulty in attracting capital from overseas, whether from public or private sources; and without that capital we shall be unable to bring about the planned development of the human and material resources of the Colony upon which our future so largely depends.

Behind I deal with the schemes we have in mind during the coming year for the expansion of our economy I should like briefly to review the security position and the various Emergency problems which still remain with us. As I forecast in my communication to this Council last year, the police took over control of operations in the Emergency areas of the Colony from the army on 17th November, 1956, and since then, in co-operation with the Administration, have discharged the responsibility for maintaining law and order throughout the whole country. The task ahead is to bring into custody the remaining terrorists; they are believed to number no more than 150. One leader of note remains at large. No effort is being spared, or will be spared, to bring to book these remnants of the armed force of *Mau Mau*. Because of their small numbers, the skill they have gained in concealing themselves, and because of the great extent of the territory in which they are hiding, the task may be a long one. Although the number still at large is relatively small, their presence is a threat to security and a bar to the full return to peacetime conditions.

In some parts of the country, particularly urban areas, there has been some increase in violent crime; this is probably an aftermath of the acute stage of the Emergency. We shall continue to devote all our energies to making certain that the police force is one of quality, properly trained to discharge its responsibilities in the detection of crime and the bringing of offenders to justice, and able by its efficiency and good conduct to earn for itself the respect and co-operation of

all citizens. Members of the public must, for their part, recognize their duty as citizens to co-operate with the force and to give the officers of the law their unstinted support. The Police Training School at Kiganjo is doing excellent work both in the training of recruits and in providing refresher courses. Training courses and methods are constantly under review and will continue to be so. Gradually, but steadily, and as the necessary resources become available, additional forms of training are being introduced. At the same time constant attention is being given to simplifying and speeding up administrative procedure to ensure that the maximum part of the force is engaged on its primary task of preventing and of detecting crime.

The success of the operations against *Mau Mau* terrorists has been such that, save for the small number of forest men I have just mentioned, this evil thing is now contained in the prisons and detention camps. As the process of rehabilitation and release continues the men who remain in custody are inevitably those who are most deeply imbued with the ugly tenets of the movement; the Prisons Department and the Rehabilitation Service are therefore faced with an increasingly intractable problem.

The task of rehabilitating many detainees and the *Mau Mau* convicts has been difficult. Government officers of the Administration, of the Prisons Department and of the Rehabilitation Services have, however, gained remarkable success. Over a period of slightly under three years no less than 50,000 detainees and *Mau Mau* convicts combined have been released. There has up till now been no resulting disorder; nor has it been necessary to detain a second time under Emergency Regulations any of those released. Great credit is due to all concerned, not only to those working in the camps, but also to those in charge of the Central Province districts to which the detainees and convicts have returned. In the districts that credit should, in my view, be shared between Government officers and African residents of those districts, particularly the chiefs and headmen.

When I addressed the hon. Members last year I spoke at some length about the release of detainees and explained

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the way in which individual detainees were moved from the larger camps to smaller ones in their own areas, were assisted by their own neighbours and relatives, and if thought fit, were released. I said that our experience had been that there was great danger in trying to short-circuit the rehabilitation process, but that, if the proved methods were fully and properly followed, those who were released very rarely cause trouble. It is encouraging that this has again been our experience.

From what I have said it will be apparent that it would not be possible to release the men who remain in custody without the same detailed inquiry and the same careful consideration which each individual case has received in the past. Indeed, since we now have to deal with those who were the most profoundly disaffected, it is more than ever important that we should exercise caution. We cannot risk any return to the reign of terror that is still so fresh in all our minds. Nevertheless, I am confident that the patient work of the officers concerned with this task, and the application of new techniques of rehabilitation, designed to suit changing conditions, will enable us to continue to achieve a great measure of success; and I earnestly hope that it will be possible to redeem the majority of those still in custody.

I now turn from the question of releases to the difficult problem of re-absorption. We have to deal with several groups of landless Kikuyu including, in addition to a number of loyalists who were in the Security Forces, many repatriates and many of the detainees who have been freed. Employment has to be found both for those brought up as agricultural workers and for those more accustomed to urban conditions. We cannot allow unemployment to give rise to distress, and distress to cause discontent and subversion.

A year ago we had made a useful start on this problem. During the past 12 months we have made encouraging progress. There has had to be some flexibility in our plans, as some schemes have encountered unexpected difficulties, whilst others have proved more successful than we could originally have hoped. The return of families to farms in the

Rift Valley and Nyanza Provinces has proceeded smoothly, and it has been possible to move increasing numbers into agricultural employment. Some families have also gone to the Coast and to the Southern Province, principally to sugar and sisal estates. The construction of new forest villages and the enlargement of existing acreages has continued; although in some areas security considerations have forced us to be cautious in this matter. On the Mwea Irrigation Scheme more African labour is now being employed, and during the year individual holdings have been allocated to a number of African settlers who now live with their families in villages in the area. And, finally, there has been an increase in the number of Kikuyu in Nairobi, both of those living there and the number of those travelling there daily to work or to sell produce.

The satisfactory position is a matter on which congratulation is deserved by all—the Special Commissioner and the officials concerned, farmers and other employers, and the Kikuyu themselves, who have, with few exceptions, proved reliable and hard-working. I am pleased to be able to tell hon. Members that the total number of landless families now reabsorbed is over 12,000. All the same we are still faced with a serious problem, particularly in southern Kiambu. There is still a great need to find employment for those who at present are on relief works organized by the Government in that area. Important progress has been made and many landless families have been found work, and the number on relief works has fallen. We must, however, continue the most strenuous efforts to deal with unemployment.

The return of these large numbers of Kikuyu to areas outside their own districts shows how far we have moved towards more normal conditions. Further evidence is the extent to which it has been possible to revoke or to relax many Emergency Regulations. Movement within the Central Province is now far freer; markets have been reopened and trade there is expanding rapidly; and buses and lorries are on the roads again. In short, much has happened and is happening that closely touches the daily life of the Kikuyu and that makes it easier. But it is still necessary to move step by step: The process of release of detainees

[H.E. The Governor]

and *Mau Mau* convicts has gone very well, and is continuing in a way that exceeds our expectations. The advance of the Kikuyu districts towards normal conditions is also most satisfactory. We must be able to continue the release month by month of detainees and *Mau Mau* convicts. This process of release has been made possible because we have kept powers to ensure peaceful and stable conditions in the districts to which the detainees return. It follows that the hope of return to their homes for many now in custody depends on the retention of these powers, and on the consequent maintenance of peace and good order in the districts of the Kikuyu land unit.

Before leaving the subject of the Emergency I must refer to one of its most serious by-products—the problem of the juvenile detainee, the juvenile delinquent and the youngsters who are no longer under proper parental control. As far as the detainees are concerned the task of rehabilitating young men has been undertaken in the Wamumu Camp with outstanding success. But the work of this camp will not be completed with the departure of the last detainee. It is the Government's intention that Wamumu should continue. Probably the best contribution it can make will be towards the solution of the next problem I mentioned: that of the child who is not under parental control. Using the experience already gained at Wamumu and in the organization of youth clubs for boys and girls in the Nyeri District, it is hoped to institute further schemes elsewhere in the Central Province. The aim of these schemes will be to build character in an atmosphere of responsibility and discipline. This approach has produced a gratifying response among the boys at Wamumu Camp. At the same time the boys and girls will receive instruction in agriculture and in citizenship.

A parallel problem of equal urgency is that of the juvenile vagrant. Reception centres for these waifs and strays have been set up in the Central Province; but such institutions can only deal with the most urgent cases and my Government is firmly of the view that parents and relations must continue to accept the primary responsibility for the care of the children, and that the local authori-

ties must in their turn make an adequate contribution towards dealing with this problem.

In referring to the question of children and juveniles mention must be made of the important work done by the Probation Services. This Service was extended during the Emergency and has reduced considerably the number who would otherwise have been committed to prison; in fact, the Service looked after no fewer than 2,500 potential prison inmates during the past year. It is the Government's intention to continue to make full use of this Service, particularly where juveniles are concerned; and remand homes are being set up in the main towns.

I turn now from the Emergency and its repercussions to the plans for the future development of our principal industries and for the expansion of the country's economic potential. During the forthcoming session a number of agricultural Bills will be brought before you for consideration. Legislation will be introduced to set up a statutory board for the canning industry and to amend the Pyrethrum Ordinance. It is also intended to present Bills dealing with fencing, and the control of toxic chemicals and to repeal the Coir Fibre Industry Ordinance.

On veterinary matters, legislation will be introduced for the organization of the dairy industry through a statutory board on the lines set out in the White Paper published in the last session; and Council will be asked to amend the Kenya Meat Commission Ordinance so as to carry into effect the policy detailed in Sessional Paper No. 90 of 1956/57, in connexion with water policy, the Government will introduce a Bill to make a number of amendments to the Water Ordinance of 1951.

The encouragement of sound farming in all areas, particularly in areas of high potential, continues to be the basic aim of the Government's agricultural policy. In European areas the livestock population is still rising, and more and more farms are being run on proved systems of crop and animal husbandry. This trend will continue to be encouraged, and the Government's farm planning, soil conservation and dam construction services will be available to assist. In the African areas of good rainfall the

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consolidation of holdings and the expansion of cash crops will be continued, and special attention will be paid to the development of holdings on sound farming principles, including methods of animal husbandry adapted to such holdings.

The progress of land consolidation in the Kikuyu areas continues to be most encouraging and the newly established land registries are operating smoothly. Whilst we are still in the interim period when all this work is being carried out under the Native Land Tenure Rules, I hope it will not be long before substantive legislation is presented to hon. Members for their consideration. Preliminary drafts of Bills covering the process of adjudication and registration and providing the machinery for land transactions after registration have been prepared by a Working Party which I appointed earlier this year and are now being examined by Government. I must, however, emphasize that these are matters of great complexity requiring the most careful study.

In the Central Nyanza District, where agricultural improvement is very necessary, small pilot schemes are making some progress, albeit slowly. My Government has no intention here, or elsewhere, of imposing land consolidation. We hope, however, that as the people come to know more of its nature and of its benefits, they themselves will demand increasingly active measures. We are confident that with greater knowledge, doubts and misconceptions which are now current will be removed.

From the agricultural point of view land consolidation is, I need hardly say, no more than a means to an end—good husbandry and a rise in the standard of living. Our fundamental aim is to develop each holding on sound lines so that it can bring the maximum return to the owner while maintaining soil fertility. In pursuance of this objective greater attention will be paid to suitable rotations and to the best methods for the development of cash crops, particularly in Nyanza. Work on farm planning and farm lay-outs for which there is an increasing demand, will be expanded. A steady growth in the acreage under coffee can be expected, and the development

of tea-growing in the Central Province will continue. In Nyanza Province the growing of tea in the Kericho District and the Kisii Hills is being developed with the co-operation of a number of established tea estates, the managements of which have undertaken in the initial stages of development to purchase the green leaf. These areas are so planned that at a later stage they will be able to establish their own factories. Similar development is beginning in Nandi.

The Government believes that, if full advantage is to be taken of current agricultural developments, farmers in the African areas will require to have a fuller knowledge of modern agricultural practice and to be able to exercise a higher standard of supervision than in the past. A number of farm institutes are accordingly being established at which farmers can be trained in improved methods of crop and animal husbandry. Great importance is attached to the development of these training centres.

In connexion with animal husbandry, I should like to record my appreciation of the generosity of the Wellcome Trust in providing the greater part of the money required for an institute for research into foot-and-mouth disease. The institute will be built during the coming year on the outskirts of Nairobi and will be of immense benefit to the cattle industry in Kenya. A new factory for the processing of pig products is being erected at Uplands and should be completed in April next year. This factory will be one of the finest of its kind in Africa and will allow for a substantial increase in pig production. The Veterinary Department is also applying itself to the construction of improved stock routes, designed to ensure the freer movement of slaughter-stock to the factories from the African areas without danger to the cattle industry in the European areas.

Large-scale irrigation is a recent development in Kenya and there is no doubt that we shall have to solve many new problems and face many setbacks. Much preliminary work will be necessary if we are to make the best possible use of the land and water available to us and are to ensure that the crop is suited to the soil. To this end an experimental station is being developed at Mwea, and land

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on the Kano plains is being acquired, with the co-operation of the local people, for the establishment of an irrigation investigation station in Nyanza Province.

At this point it will be convenient for me to place before hon. Members the future plans for the development of forests, game and fisheries. This Council has recently adopted the Government's White Paper on "A Forest Policy for Kenya" in which was emphasized the dual need of maintaining and improving the protective forests of the Colony, and at the same time of producing a sustained yield of all classes of timber and other forest products. Side by side with this declaration of intentions, the Government has drawn up a revised forestry programme based on the recommendations of Dr. Craib, who visited the Kenya forests in 1956. He was formerly in the South African Forestry Service and is the outstanding authority on the growing of soft-woods in Africa.

On the productive side the Government's revised programme aims at establishing, within the next 25 years, plantations of exotic soft-wood species totalling some 300,000 acres, designed to produce 60,000,000 cu. ft. of logs a year. If the capital is available we hope to establish the majority of these plantations—some 237,000 acres, giving an annual yield of 50,000,000 cu. ft. of logs—within the next ten years. It is estimated that in less than 25 years the income from royalties will approach £2,000,000 a year.

In addition to its long-term economic value this afforestation programme will play a most important part in our plan for the resettlement of the Kikuyu. During the course of 1956 and up to date, we have already established 11 new Forest Stations which have absorbed nearly 1,600 Kikuyu resident labourers and their families. We shall press on with this work and during the next 12 months we plan to open nine more Forest Stations and, under proper conditions of security and supervision, to absorb a further 1,500 Kikuyu families.

Protective forestry is an essential part of our programme, and bearing in mind the vital importance of maintaining and repairing water catchment areas, the

Government will continue its efforts to bring new areas under Forest Department control and management. This aspect of forest policy resolves itself mainly into assistance to African district councils in preparing long-term forest-management plans, in financial aid to carry them out, and in the gazettement of the areas which, by mutual agreement between the Central Government and the Africa district councils are to be set aside for forestry.

Turning now to game preservation, I mentioned last year the action which was being taken to deal with organized poaching. The pressure against poachers has been steadily maintained, and considerable success has attended the activities of the special combined Government and National Parks forces which started full-scale operations in and around the Tsavo National Park and in coastal areas last April. While the measures already taken to combat poaching have been in a large measure effective, we must see to it that the pressure against this powerful and highly organized form of illicit trading is not relaxed; special Game Department and National Parks forces, assisted by the regular police and administrative organizations, will continue operations throughout the coming year.

I now turn to industrial matters. During the coming year the search for economic mineral deposits will be intensified. With the improvement in the staff position, the basic geological survey, approximately 40 per cent of which has so far been completed, will be accelerated and will advance further into the Northern Frontier Province and other comparatively inaccessible areas. In collaboration with the United Kingdom Atomic Energy Authority, which is making available specialized equipment for this purpose, there will be a widening of the search for radio-active minerals.

The creation of industrial estates in the African Land Units is an important development, and next year will see the establishment of such an estate at Karatina. Its administration will be the responsibility of the African Industrial Estates Development Committee and will open up opportunities for the development in that area of industries suitable to local conditions. Such industries will provide employment and training for local

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people near their homes and will, at the same time, lessen the social and housing difficulties encountered in urban industrial communities.

I would now like to turn to a brief review of the developments which are planned for social services. Let me emphasize at the outset that the expansion of facilities for all races must depend upon our financial and economic progress; services have to be paid for and the standard of education and public health that we can provide must depend primarily on our ability to maintain and increase production and so to earn the money to keep them going. Turning first to education; the Government will continue to do its utmost to expand educational facilities for all races. To this end it will spend in the three-year period ending in 1960 two and one-third million pounds on capital works, of which nearly £1,000,000 will be spent in the current financial year. In Asian education the construction of new Government primary schools will be started at Kisumu, Nakuru, Nairobi and Mombasa. Extensions will be made to existing primary schools at Nairobi and Machakos, and to secondary schools at Eldoret, Mombasa, Kisumu and Nakuru. A new secondary school will be started at Thika and additional domestic science and workshop facilities will be provided in Nairobi and Mombasa, thus enabling a greater number of Asian children to benefit from secondary courses, either academic or modern. A new hostel at the Duke of Gloucester School will permit the attendance of a number of up-country pupils. Extensions to both men's and women's teacher-training colleges in Nairobi will provide extra tuition and boarding accommodation. At Mombasa more boarding accommodation will be provided for the Arab Boys' Secondary School, and the tuition facilities at the Arab Girls' School will be increased. An intermediate boarding school for Somalis, the first in the Colony, will be opened within a few months at Naivasha.

In African education, development funds will be spent largely on the expansion of secondary education and teacher training. But special attention is also being paid to the problem of primary education in the city; the eight new

double-stream primary schools and the one intermediate school which have been constructed will do much to enable us to meet our aim of providing universal primary education in Nairobi. The Fort Hall Secondary School, delayed by the Emergency, will open in 1958, and the Meru Secondary School will move from temporary buildings to new accommodation. The building of the Machakos Women's Teacher Training College is proceeding rapidly, and 50 students will be enrolled in 1958.

New European primary schools were opened this term at Nanyuki and Thika, and one at Karen is due to be opened in 1958. The Education Department has acquired the remaining buildings of the old Nairobi European Hospital and is in process of adapting them so as to convert the Delamere High School into a girls' secondary school; the transformation should be completed by 1959. The final phase of the building of the Highlands School, Eldoret, is being put in hand.

It is recognized that increased emphasis on technical education is required. Next year the Education Department will take over the Rural Training Centre, Machakos, and develop it as a technical and trade school. At the same time the Nyanza-Technical and Trades School will be extended and will provide 200 extra places. Part of the technical and trades school at Kabete will be converted to provide more suitable accommodation for secondary technical students, 120 of whom will be enrolled next January.

Turning now to labour questions, during the present session it is proposed to bring before the Council an Industrial Training Bill and an Accidents and Occupational Diseases (Notification) Bill, Resident Labour and Essential Services legislation is to be reviewed in consultation with interested organizations. Rural wages will continue to receive Government attention. During this session Government will also indicate its intentions regarding the recommendations of the select committee on the registration of domestic servants.

One of the most important tasks before us is to promote and accelerate all forms of occupational training, in particular the training of Kenya's youth in skilled

[H.E. The Governor] industrial trades. I have already made mention of what is being done in the education field; in the wider sphere of the workshop and the factory the problem is also being resolutely tackled.

Last year was free of serious industrial unrest. The Government will continue to encourage the formation of consultative and negotiating machinery. With increasing support from employers and employees, there are already some sixty joint consultative and negotiating bodies in operation over the territory, covering more than a third of our total labour force of 600,000 persons, and it is expected that further expansion will occur.

In dealing with local government matters, may I once again sound a warning note. It is the established policy of the Government to foster and promote local government; but the scale both of capital and of recurrent financial assistance to local authorities by the Central Government must be related to the availability of finance for the needs of the Colony as a whole.

A White Paper will shortly be laid before the Council containing proposals for the reorganization of the financial relationships between the Government and the African district councils, with the object of bringing the financial procedure of African district councils more into line with that of other local authorities in the country. It is also proposed to introduce further amendments to the Municipalities Ordinance to bring into effect the proposals concerning the duties and functions of local authorities, which were set out in White Paper No. 118 of 1956, and expanded in a statement made to this Council by the Minister for Local Government on 12th April this year.

All concerned with the development of health services have received great encouragement from the recent decision of the General Nursing Council of England and Wales to accord provisional recognition to the King George VI Hospital as an approved training school for State Registered nurses. It will, however, be necessary to improve still further the facilities at this hospital to bring the standard of training and treatment into line with the requirements of the General Nursing Council.

In Nairobi new dispensaries, for which, in view of the special circumstances, a capital grant has been made by the Government, will very shortly be in operation under the management of the City Council. They will be more conveniently situated for the public than is the old Government Dispensary, and working experience of the new organization will be valuable when plans are considered for expanding the dispensary services in other large towns. In order to increase the effectiveness of health services in rural areas mobile health units and mobile dispensaries are being more widely used and are proving to be extremely valuable.

The control and treatment of tuberculosis is still one of our most pressing problems, and the Government is facing an ever-increasing demand for field health staff, drugs and transport to deal with the number of patients requiring care. The survey of the prevalence of this disease, utilizing a mobile X-ray set which is projected for the Nairobi area, has been made possible as a result of financial contributions from Government, the Nairobi City Council, the World Health Organization and the United Nations International Children's Emergency Fund.

Turning to housing, hon. Members are, I think, aware that the Government, with the agreement of the Nairobi City Council, has entered into a contract for the construction of the first 1,400 houses of the Nairobi African housing project. The houses will, on completion, be taken over by the City Council. The first houses should be ready for occupation early in 1958. It is recognized that many more are needed, and every effort is being made to find the necessary capital through Government and City Council channels.

Plans are well advanced for a joint scheme between the Central Housing Board and the City Council for the erection of approximately 50 high class tenant-purchase houses intended to cater for the Africans who wish to own their own houses. These houses should be completed by the latter part of 1958. Six hundred and twenty-two houses have been completed during the past year with moneys advanced to local authorities by the Central Housing Board. Construction is proceeding and approved

[H.E. The Governor] plans exist for the provision of 1,437 houses during 1957/58.

In speaking of the administration of the law last year, I mentioned that it was proposed to establish a Statute Law Revision Committee; this Committee, now named the Law Reform Committee, has started to function and I am sure that its deliberations and recommendations will be of the utmost assistance to Government. A matter to which it is now giving consideration is the whole law of intestacy and testamentary succession in Kenya. Another matter which the Committee has in hand is the consideration of a new code of rules of civil procedure in the courts; it is also proposed to introduce comprehensive new legislation dealing with the composition and jurisdiction of all the Courts of the Colony.

A Bill has been published, and will shortly be introduced into this Council, to make a substantial reform in the administration of criminal justice in this country; the Bill is relatively short, but none the less important; among other things, it will abolish the distinction between imprisonment with hard labour and imprisonment without hard labour.

The legal profession has been reviewing the legislation by which that profession is regulated, and a new Advocates Bill will be introduced in due course to make further and better provision in this regard.

I mentioned last year that a new Companies Bill was in course of preparation; during the past year the work of consulting all interested persons and bodies and of settling the terms of this long and technically complex measure has continued and it is hoped to publish the Bill in the near future. It is obviously in the interests of East Africa as a whole that this legislation should be similar in all the territories; and steps have been taken to achieve this objective as far as is practicable. Before leaving the legal field, I would like to say that it is a source of considerable satisfaction to me that there are now three qualified African members of the professional staff of the Ministry of Legal Affairs.

May I close this review of the Government's programme for the coming year, but first I wish to make a brief reference

to the proposals for a Kenya Broadcasting Service, which were set out in the Development Programme for 1957/60. A final study of the somewhat specialized problems involved has been made by a senior engineer of the B.B.C. and a comprehensive technical report has been submitted to the Government. The recommendations in that report concerning the type and power of the transmitter system which will meet our requirements and at the same time be within our means have been accepted by the Government; and orders have been placed for the basic transmitter equipment. In addition, the Broadcasting Engineer, for whom provision was made in this year's Estimates, has been appointed. It is my Government's intention to lay a White Paper before this Council during the present session setting out in detail its proposals for the development, control and administration of broadcasting services in the Colony.

No survey of Government's policy would be complete without some reference to the principal instrument upon which the Government relies for the execution of its policy. The policy of the Government is to build up a public service drawn from the people of the country, and at the same time to maintain those standards which have served it so well in the past. The speed with which this policy can be fulfilled is largely governed by the extent of the facilities available in East Africa for higher education and training. These facilities are not yet such as to enable us to fill more than a part of our administrative and professional posts locally. Nevertheless, the Government is determined to apply itself to the fullest extent possible to the policy of local recruitment; and with that end in view, is turning its attention increasingly to training within the Service. Schemes are now in operation in most Ministries and departments for the training of candidates for executive and administrative posts. Local recruitment is primarily the responsibility of the Civil Service Commission; and in the course of the session Council will be asked to consider legislation designed to amend the structure of the Commission and to simplify certain aspects of its operation.

Estimates for the public service will be laid before you in due course. Early

[H.E. The Governor]

in the session you will be asked to consider a Personal Tax Bill designed to give effect to the proposals contained in the Budget for the introduction of a non-racial Graduated Personal Tax in place of the existing African Poll Tax and Non-African Personal Tax.

A Bill will also be introduced to replace the Stamp Ordinance, 1923. This Ordinance has been amended from time to time but is now out of date and does not cover many modern commercial transactions. The new Bill, based on the current English law, will seek to remedy these difficulties.

The tendency in the last year for the revenue to expand less rapidly than in previous years is still apparent, and we remain dependent on the generosity of H.M. Government in the United Kingdom for financial assistance. Hon. Members will be aware of the present difficult financial position of the United Kingdom Government. While this state of affairs continues we are more than ever bound to exercise the greatest care and economy in all matters of public expenditure.

All who have eyes to see realize that before Kenya lies the prospect of steady economic progress. In the future, the standard of living of all people in the country—the worker in the field and the worker in the factory—must depend on the extent of that progress, and on the country's ability to produce. A prosperous economy and a high level of production depend in turn on political stability. The Government had hoped that recent talks on constitutional changes would have led to a satisfactory result. As is generally known, it was not possible to reach agreement. It would be a mistake to conclude from this result that agreement is not possible in the future. The Government hopes that with good will on all sides it will be possible, not only to resume talks, but also to reach conclusions which will help all in Kenya and assist in developing beyond our borders a growing sense of confidence in our country's future. The Members of this Council have a very great part to play in that work.

At two minutes past four o'clock His Excellency the Governor left and Mr. Speaker resumed the Chair.

BILLS

FIRST READINGS

*The Water (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 Liquor Licensing Bill*

(The Asian Minister without Portfolio (Mr. Madani))—Order for First Reading read—Read the First Time—Ordered to be read the Second Time to-morrow.

*The Coir Fibre Industry (Repeal) 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 Criminal Justice 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 Northern Province Livestock Improvement 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 Use of Poisonous Substances 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.

ADJOURNMENT

THE SPEAKER (Sir Ferdinand Cavendish-Bentinck): That concludes the business on the Order Paper. Council will now adjourn until two-thirty p.m. to-morrow, Thursday, 24th October, 1957.

*Council rose at ten minutes past four o'clock.*

Thursday, 24th October, 1957

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

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

PRAYERS

ORAL NOTICES OF MOTION

NOMINATION OF MEMBERS TO SESSIONAL COMMITTEE

THE CHIEF SECRETARY (Mr. Turnbull): Mr. Speaker, Sir, I beg to give notice of the following Motion:—

THAT, in accordance with Standing Order No. 118, the following Members be nominated as members of the Sessional Committee for the current Session:

Chief Secretary (Chairman).

The Minister for Legal Affairs:

The Minister for Finance and Development.

Group Capt. the Hon. L. R. Briggs.

Lt.-Col. the Hon. S. G. Gheris, O.B.E.

The Hon. N. F. Harris.

The Hon. S. G. Hassan, M.B.E.

The Hon. C. B. Madan, Q.C.

The Hon. T. J. Mboya.

The Hon. D. T. arap Moi.

The Hon. J. C. M. Nazareth, Q.C.

APPROVAL OF AGRICULTURE (SCHEDULED CROPS) DRAFT ORDER, 1957

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): Mr. Speaker, Sir I beg to give notice of the following Motion:—

THAT the order entitled the Agriculture (Scheduled Crops) Draft Order, 1957, which has been laid on the Table of Council, be approved.

HOSPITAL FEES—DISCONTINUATION OF PAYMENTS FOR AFRICANS

MR. ARAP MOI (Rift Valley Province): Mr. Speaker, Sir, I beg to give notice of the following Motion:—

THAT this Council, being conscious of the inevitable hardships confronting Africans unable to pay hospital fees, ambulance fees, etc., do recommend the discontinuation of payment of such fees in future.

ABOLITION OF MINISTRY OF AFRICAN AFFAIRS

MR. MULIRO (Nyanza North): Mr. Speaker, Sir, I beg to move the following Motion:—

THAT this Council being of the opinion that the Ministry of African Affairs has outlived its purpose and usefulness recommends its immediate abolition.

THANKS OF COUNCIL FOR HIS EXCELLENCY'S COMMUNICATION

Lt.-COL. MCKENZIE (Nominated Member): Mr. Speaker, I beg to give notice of the following Motion:—

THAT the thanks of this Council be recorded for the exposition of public policy contained in His Excellency's Communication from the Chair on 23rd October, 1957.

ADOPTION OF REPORT OF THE PUBLIC ACCOUNTS COMMITTEE

Lt.-COL. GHERIS (Nairobi North): Mr. Speaker, Sir, I beg to give notice of the following Motion:—

THAT the Report of the Public Accounts Committee on the Colony's Accounts for the year ended 30th June, 1956, which was laid on the Table of this Council on 8th October, 1957, be adopted.

REQUEST TO LAW REFORM COMMITTEE

MR. SLADE (Aberdare): Mr. Speaker, I beg to give notice of the following Motion:—

THAT the Law Reform Committee be requested to consider and report to this Council upon the desirability of widening the range of investments now authorized by the Trustee Ordinance for investment of Trust Funds.

ORAL ANSWERS TO QUESTIONS

QUESTION No. 1

MR. MBOYA (Nairobi Area) asked the Minister for Local Government, Health and Housing to state whether he is aware that the City Council intends to spend £4,000 on building a beer hall in Ziwani Estate?

THE MINISTER FOR LOCAL GOVERNMENT, HEALTH AND HOUSING (Mr. Havelock): I am aware that discussions have taken place on a proposal to build

[The Minister for Local Government, Health and Housing].  
a beer hall in the Ziwani Estate. The project is, however, still under consideration.

MR. MBOYA: Arising from the Ministers reply, Mr. Speaker, would the Minister state whether he has received any decision from the City Council in the last few days?

THE MINISTER FOR LOCAL GOVERNMENT, HEALTH AND HOUSING (Mr. Have-lock): Mr. Speaker, I have not received any decision from the City Council as a whole during the last few days, but I am aware that the African Affairs Committee of the City Council have recommended that this project shall not be continued.

MR. HARRIS: (Nairobi South): Mr. Speaker, Sir, arising out of the original reply, would the Minister state whether it is a fact that all profits from beer halls in Nairobi go to the African Trust funds; and can he tell us how much contribution to African welfare services the profits from beer halls have made during the last ten years?

THE MINISTER FOR LOCAL GOVERNMENT, HEALTH AND HOUSING (Mr. Have-lock): That does not arise from this question.

## QUESTION No. 2

MR. MBOYA asked the Minister for African Affairs to state if, in the event of the resettlement of Kikuyu, Embu and Meru tribesmen, compensation is paid for property left behind or assistance given with building new homes where permanent or semi-permanent buildings have been vacated?

THE MINISTER FOR AFRICAN AFFAIRS (Mr. Windley): I presume that the hon. Member for Nairobi is referring to those Kikuyu, Embu and Meru tribesmen who go to settlement schemes such as that on the Mwea. These people have all gone voluntarily and property they may have left behind remains their own to dispose of as they wish. No question of compensation has, therefore, arisen. The Government has nevertheless often assisted them with housing: for example those going to the Mwea have been given free houses when they have settled there.

MR. MBOYA: Arising out of the reply, would the Minister state what happens in those cases, not in settlement schemes like Mwea, but where movement is necessitated as a result of rehabilitation.

THE MINISTER FOR AFRICAN AFFAIRS (Mr. Windley): I am not quite sure, Sir, whether that arises out of this question, but I am also not quite clear what the hon. Member is getting at. Movement, as a result of villagization, was done, as he is aware, under Emergency regulations, and early in the Emergency; and at the present moment, I think there is very little such movement going on because in fact all the villages have been created.

## QUESTION No. 4

MR. MBOYA asked the Minister for Local Government, Health and Housing to state when he expects to start on preparations for elections of African councillors to the Nairobi City Council?

THE MINISTER FOR LOCAL GOVERNMENT, HEALTH AND HOUSING (Mr. Have-lock): The election of African councillors to the Nairobi City Council cannot take place until election rules have been made under the Municipalities Ordinance. The draft of these rules is being examined by my Ministry at the present time, and I can assure the hon. Member that there will be no unreasonable delay in the making of the rules.

MR. ALEXANDER (Nairobi West): Arising out of that reply, is the Minister entirely satisfied that there are sufficient persons of ability with the time and with the financial independence to stand for these elections in view of the fact that this is purely voluntary work?

THE MINISTER FOR LOCAL GOVERNMENT, HEALTH AND HOUSING (Mr. Have-lock): I am satisfied, Sir, that there are sufficient people of that quality.

MR. ALEXANDER: Mr. Speaker, Sir, arising out of that reply, and the first reply, is the Minister aware that in respect of only three Nominated Members that have to be found at the moment, there is considerable difficulty in finding men of the right type, and having the time and financial independ-

THE MINISTER FOR LOCAL GOVERNMENT, HEALTH AND HOUSING (Mr. Have-lock): I do not accept the fact, Sir, that there is considerable difficulty.

## QUESTION No. 7

MR. MBOYA asked the Minister for African Affairs to state if it is true that in some areas tribal police previously not issued with firearms are now issued with same?

THE MINISTER FOR AFRICAN AFFAIRS (Mr. Windley): It is presumed (that by "previously" the hon. Member for the Nairobi Area means "prior to the Emergency").

If this is so, the answer to his question is in the negative, except in the case of Nairobi, where the pre-Emergency establishment of tribal police was only three men; for whom no firearms were issued.

MR. MBOYA: Arising out of this reply, Sir, would the Minister state whether there have been any cases of reissue of arms since the period of the height of the Emergency?

THE MINISTER FOR AFRICAN AFFAIRS (Mr. Windley): I am sorry, Sir, if I misunderstood the hon. Member's question, but I can assure him that no firearms have been issued since the period that he suggests.

## QUESTION No. 11

MR. MULIRO asked the Minister for African Affairs to state—

- How many African district officers there are; and
- How many of these officers are in charge of divisions?

THE MINISTER FOR AFRICAN AFFAIRS (Mr. Windley): (a) There is one African district officer. (b) The officer concerned is at present on leave, but he was previously in charge of an administrative division.

MR. MULIRO: Arising out of the reply would the Minister tell us how many Africans were recruited along with the present district officer?

THE MINISTER FOR AFRICAN AFFAIRS (Mr. Windley): I am not quite certain what the hon. Member is aiming at, but I have said that there is only one

African district officer at the moment; therefore, Sir, there is only one and has been only one for some time.

MR. ALEXANDER: Mr. Speaker, Sir, being non-racial, I would like the Minister to state how many of these district officers are true Kenyans.

THE MINISTER FOR AFRICAN AFFAIRS (Mr. Windley): They all have the interests of Kenya at heart.

## QUESTION No. 12

MR. MULIRO asked the Minister for African Affairs to state how many district assistants have been promoted to the rank of district officers?

THE MINISTER FOR AFRICAN AFFAIRS (Mr. Windley): No district assistants have yet been promoted to the post of district officer. The grade of district assistant was established on 1st July, 1956. Appointments of district officers are only made by the Secretary of State's Board, which meets in Kenya approximately once a year. The Board last met in July, 1956, and since applications closed before 1st July, it was not possible for any of the applicants to be district assistants. The Board will, however, be meeting in Nairobi later this month and a number of district assistants are amongst the candidates who will be interviewed.

## QUESTION No. 13

MR. MULIRO asked the Chief Secretary to state does the Civil Service Commission Selection Board consider seniority in cases of promotion?

THE CHIEF SECRETARY (Mr. Turnbull): Yes, sir.

## QUESTION No. 14

MR. MULIRO asked the Chief Secretary to state what arrangements are made by the Government for promotion courses in Britain for Africans in the Civil Service?

THE CHIEF SECRETARY (Mr. Turnbull): There are no promotion courses in Britain for any officers in the service of the Kenya Government, including African officers. Officers, including African officers, may be required to undertake compulsory courses of instruction, either in Kenya or overseas, or may be permitted to undertake voluntary courses either in Kenya or overseas.



**[The Chief Secretary]**

Attendance and performance at such overseas courses would naturally, when appropriate, be taken into account in assessing an officer's suitability for promotion.

**MR. MULIRO:** Mr. Speaker, Sir, arising out of the reply given by the Chief Secretary, is it not unfair to the Africans in the Civil Service who have not got a chance to go to Great Britain when others have the chance of taking these promotion courses in Britain?

**THE CHIEF SECRETARY (Mr. Turnbull):** I think questions are required to be genuinely interrogative.

**QUESTION NO. 18**

**MR. MUMI (Akamba)** asked the Minister for African Affairs to state:—

(a) If he is aware of the hardship caused to people by chiefs, veterinary officers and agricultural officers in enforcing the compulsory communal by-law in the African Reserves?

(b) If the answer to (a) is in the affirmative what steps is he considering taking to remedy this situation?

**THE MINISTER FOR AFRICAN AFFAIRS (Mr. Windley):** No, sir, I am not aware of any hardship and do not consider that there is any.

**QUESTION NO. 19**

**MR. MUMI** asked the Minister for Forest Development, Game and Fisheries to state—

(a) What compensation is payable, if any, to crop owners for damage by wild game, viz. elephant and rhino?

(b) What compensation is payable by his Ministry to the families of deceased persons in the event of a being killed by straying wild game?

**THE MINISTER FOR FOREST DEVELOPMENT, GAME AND FISHERIES (Mr. Blunt):** (a) There is no legal liability, and the Government does not recognize any liability to pay compensation to crop owners for damage by wild game, viz. elephant and rhino.

(b) This Ministry has no legal liability and does not recognize liability to pay compensation to the families of deceased persons in the event of one being killed by straying wild game.

**MR. MUMI:** Mr. Speaker, Sir, arising out of that reply, will the Minister for African Affairs state what he is doing to protect African interests in that respect?

**THE MINISTER FOR FOREST DEVELOPMENT, GAME AND FISHERIES (Mr. Blunt):** Mr. Speaker, Sir, the Government maintains a Game Department, and an important function of that Department is the control of game and animals. Within the financial resources provided for that Department by this hon. Council, it endeavours, so far as possible, to prevent game and animals from doing damage to crops and cattle and to humans.

**QUESTION NO. 20**

**MR. SLADE** asked the Minister for Local Government, Health and Housing to state—

(1) Has Miss Scorer, Chief Inspector of Children in the United Kingdom, yet made a report on her visit to this Colony in April of this year?

(2) If so, will that report be published to Members of this Council?

(3) If so, when?

**THE CHIEF SECRETARY (Mr. Turnbull):**

(1) Yes, Sir.

(2) Since the report is concerned mainly with questions of internal organization, it is not the Government's intention to publish it. The third part of the Hon. Member's question does not, therefore, arise.

**QUESTION NO. 26**

**MR. ALEXANDER** asked the Minister for African Affairs to state if he is aware that certain provisions of the Personal Tax Ordinance relating to non-residents having income arising in the Colony subject such non-residents, on entering the Colony in any year for any period, however short, for the purpose of reviewing their capital investments or for any other purpose, to the payment of personal tax at the normal rates, which

**[Mr. Alexander]**

causes them inconvenience and irritation, and if so, does the Government intend to introduce legislation to remove these unfortunate provisions?

**THE MINISTER FOR AFRICAN AFFAIRS (Mr. Windley):** The answer to the first part of the question is in the affirmative, and to the second part in the negative, but Government does not accept that there is any injustice in requiring non-residents who derive income from investments or property in the Colony from being called on to pay tax on such income received in the Colony. *Bona fide* visitors who have no pecuniary interests in the Colony are not required to pay any tax provided the duration of their visit does not exceed six months.

**SIR CHARLES MARKHAM (Ukamba):** Mr. Speaker, arising out of that reply would the Minister not tell the Council whether he does not think the present system is a pin-prick to somebody who is investing a large amount of money in the Colony.

**THE MINISTER FOR AFRICAN AFFAIRS (Mr. Windley):** I would suggest to the hon. Member that as we have a Bill coming up before this Council in this connexion very shortly, he might raise such matters at that time.

**SIR CHARLES MARKHAM:** He will

**BILL****SECOND READING**

*The Liquor Licensing Bill (Bill No. 1)*  
Order for Second Reading read.

2.50 p.m.

**THE ASIAN MINISTER WITHOUT PORTFOLIO (Mr. Madan):** Mr. Speaker, Sir, I beg to move that the Liquor Licensing Bill (Bill No. 1) be now read the Second Time.

Sir, as hon. Members are aware, there is in existence now Ordinance No. 37 of 1956, the Liquor Licensing Ordinance, and this Bill, if approved by this Council, will repeal that Ordinance and in itself also replace it. The reason for following this procedure is stated in the first paragraph of the Memorandum of Objects and Reasons and to that I would like to add that I think when this Bill, after its approval by this Council, will come into being as an Ordinance in the form of a compact

piece of legislation, it will greatly facilitate matters for those who administer and also for the legal profession.

Now, Sir, I would like to inform the Council that before coming to a decision whether any amendments should be made to the 1956 Ordinance, Government provided full opportunity to the hotel industry, the East African Brewers' Association, the trade and all others who were interested in the matter to make such representations as they might wish and their views have received careful consideration. Many valuable suggestions were made with a view to improving the legislation, and to making it more easily workable, and we have adopted such suggestions—and there were quite a few, Sir—as were possible of admission in the light of the provisions of the Bill as a whole.

As is stated in the second paragraph of the Memorandum of Objects and Reasons, this Bill is basically a repetition of the 1956 Ordinance. I will, Sir, therefore only refer to the more important changes which are to be found in the Bill.

Hon. Members must have noted with a feeling of gratification that under clause 2 (h) of the Bill the provisions of this Bill will not apply to the sale of liquor at Parliament Buildings, provided it is sold with your permission, Sir. This will legalize hon. Members' excursions into the bar of the Council, and in future they may indulge in the gratification of their habit with still greater immunity.

A canteen or a mess run for the tribal police has also been exempted from the provisions of the Bill, Sir.

Clause 3 of the Bill is the definition clause, and hon. Members will, no doubt, have noted the two definitions of "off-" and "on-" licences which appear therein. These definitions appear for the first time and in this connexion I would like to draw the attention of hon. Members to paragraph 1 of the First Schedule of the Bill, under which, also for the first time, the various liquor licences are set out in their several descriptions under different headings.

Hon. Members will note the introduction of a new licence described in the Schedule—paragraph 4 of the First Schedule—as a "Botler's depot licence". When I come to deal with the First

[The Asian Minister without Portfolio] Schedule, Sir, it is proposed to amend it and to call it a "Brewer's depot licence".

Hon. Members must also have noted the division of the malt and non-spirituous liquor licence into malt and non-spirituous liquor "off" and "on" licences.

Coming to clause 4, Sir, an interesting feature of this clause is the power now expressly sought to be given to licensing courts for cancellation of licences. This may be seen in sub-clause (1) of clause 4. In the 1956 Ordinance, this power was, one might say, stated incidentally in section 16 (1). Sub-clause (1) of clause 4 confers upon the licensing courts the power of cancellation of licences, and, Sir, that brings me to the provisions of clauses 37, 38 and 39 of the Bill, which hon. Members will find on pages 19 and 20, and which set out the circumstances and the procedure to be followed if a licence is proposed to be cancelled. The licensee whose licence it is proposed to cancel will be given an opportunity to be heard in answer and if an order for cancellation is made he will have the opportunity, the right, to lodge an appeal to the Supreme Court under the provisions of sub-clause (5) of 39.

It has been represented, Sir, that the time given for filing an appeal under this sub-clause is somewhat short, as also in clause 18 (1) which permits an applicant to lodge an appeal if renewal or transfer of a licence has been refused. Government is prepared to agree to an enlargement of this time to 21 days instead of ten days, and at the appropriate stage, Sir, I will move the necessary amendment.

In so far as sub-clause (5) of clause 39 is concerned, it is also proposed to state as in the case of clause 18 (1) that the decision of the Supreme Court on an appeal from the decision of the liquor licensing court shall be final.

The fee for holding a special meeting of the licensing court is proposed to be increased to Sh. 500. Hon. Members will find that reflected in sub-clause (2) of clause 6. At present the amount of the fee is Sh. 300; the increased amount will, it is hoped, discourage the class of frivolous applicants, in addition to meeting the substantial cost of convening a

special meeting of the licensing court and the other expenses which are necessarily attached thereto.

Under Part III of the Bill, the provisions of clause 8, Sir, I feel need to be explained at some length. Under sub-clause (1) of clause 8, dates are fixed by which applications must be made for consideration at the two statutory meetings which are mentioned in clause 6 of the Bill, but the proviso empowers the presidents of liquor licensing courts to accept a late application, provided he thinks fit to do so, on payment of a special fee of Sh. 150, and under the circumstances mentioned in the proviso.

Hon. Members will note that applications for consideration at the November meeting of the licensing court are required to be made before the 25th day of September, which is already past. In this connexion I would draw the attention of hon. Members to the transitional powers and saving provisions which appear in the Second Schedule to the Bill. Hon. Members will find these on page 32. These transitional and saving provisions will have statutory effect by virtue of the provisions of clause 54, sub-clause (2), of the Bill. Inasmuch as the question of the making of applications to licensing courts and these transitional and saving provisions are intimately correlated, I consider it would be convenient, Sir, now to explain these transitional powers. Their effect will be to produce, without application being made therefor, an automatic renewal up to 30th June, 1958, of all existing licences on payment of the appropriate fee. The various fees are shown in the table of fees at the end of the Second Schedule. Such automatic renewal will come into being only if the licence has not been cancelled or been forfeited.

Members of the licensing court, under the existing law, and the licensing areas appointed and declared respectively, will receive a further lease of life up to 30th April, 1958. The object of these provisions is to keep alive machinery to enable people to make applications for the grant of new licences or the consideration of applications for transfers and special meetings which will operate under the existing law.

The validity of all applications determined under this procedure will come to

[The Asian Minister without Portfolio] an end on 30th June, 1958, after which the provisions of this Bill—of course, if approved by this Council—will begin to operate as from 1st July, 1958, in so far as the licences are concerned. In other respects, certain provisions of this Bill will come into life before that date. In order to obtain renewals of existing licences for the second half of 1958 and consideration of any other application, it will be necessary to make applications under the provisions of this Bill. Hon. Members will see this is laid down in paragraph 5 of the Second Schedule.

The fees payable for licences beginning as from 1st January, 1958, will be as they are set out in the table of fees and the same fee will be payable for each period of six months. Normally if a licensee takes out a half-yearly licence, he pays a little more than the half fee. During the year 1958 licensees will be taking out their licences in two half-yearly periods, but they will not be required to pay more than the total of one year's fee. The advantage of obtaining half-yearly licences and the benefit of paying no more than the normal yearly fee will be given to licensees but this will be only during the year 1958.

An important new provision which appears in sub-clause (2) of clause 8 is that in future an applicant will be required to disclose in his form of application—a previous conviction which resulted in a sentence of imprisonment without the option of a fine, whether in the Colony or elsewhere. Hon. Members will note the wide scope of this clause: whether the conviction took place in the Colony or elsewhere. He will also be required to disclose particulars of a conviction for an offence against the provisions of this Bill or any other law regulating the sale or supply of liquor. Hon. Members will also note that failure to disclose this information is made an offence under clause 45 of the Bill.

Now, Sir, I would like hon. Members also to note that in future notice of applications received by a licensing court will not be required to be published in a newspaper as is the practice at present. This requirement has been left out of the provisions of sub-clause (4) (a) which is limited to publication in the *Kenya Gazette* only. It is considered, Sir, that

publication in a newspaper and the expense incurred thereby is unnecessary because the profession, the applicants and others who are interested are able to get the necessary information from the *Kenya Gazette*. In addition, a list of all applications will also be conspicuously displayed at or near the premises of every licensing court.

Under the provisions of sub-clause (4) (c) of clause 8 a copy of every notice prepared under this clause is also required to be sent to the Health Officer of the district in which the premises are situated. This requirement is new; and I have already explained the provisions relating to the disclosure of a conviction. It is hoped that these provisions, together with the other safeguards which are mentioned in the Bill—for example in clause 14—will ensure that no undesirable applicant will be able to obtain a liquor licence.

Under the 1956 Ordinance an applicant can apply for the grant of a provisional licence in respect of premises which are in the course of construction. It was considered illogical that a provisional licence which did not come into being and which did not begin to operate and which remained provisional and in abeyance until the completion of the premises should be granted. It is therefore proposed that instead of provisional licences, in future applicants will be able to obtain an assurance that on completion of the premises a licence of the type specified will be granted provided, of course, the licensing court feels disposed to give that assurance. Hon. Members will find this reflected in clause 9 of the Bill which also sets out the procedure to be followed which will be applicable in this respect and which is a more satisfactory procedure than that obtainable hitherto.

An important change is sought to be introduced by clause 10, Sir, which requires an objector to serve notice of objection on the applicant. The procedure now is that notice of objection need not be served unless it relates to the renewal or transfer of a licence, with the result that an applicant often finds himself faced with an objection for the first time when he appears in the court. He is under the present law, however, entitled to ask for an adjournment in

[The Asian Minister without Portfolio] order to prepare himself to meet the objection and the court is bound to grant the adjournment. This procedure, which was designed to ensure that applicants would have full opportunity of presenting their case to a licensing court and that they are not prejudiced in any manner. But it did result in loss of time, inconvenience and unnecessary expense which unavoidably arises from having to convene a second meeting of the court. The requirement in clause 10 now is that notice of every objection shall be served upon the applicant either personally or by post and this will, I hope, remove these procedural difficulties to which I have referred. In this connexion hon. Members, no doubt, must have noted the provisions of clause 12 which are relevant and which are also related to the making of objections.

Under clause 12 a licensing court may of its own motion take note of any objection, and under sub-clause (2) the court shall inform the applicant of the nature of the objection and, if required to do so by the applicant, adjourn the hearing of the application in order to enable the applicant to meet the objection. Hon. Members will see that care has been taken to ensure that applicants will not be prejudiced in any manner when they appear before the courts.

Now, Sir, if I may deal with clause 13, which seeks to introduce an important change. It lays down that a licensing court shall not grant a new licence for the sale of liquor for consumption on the premises unless the court is satisfied that it would be in the public interest for provision to be made for the sale of liquor for consumption on the premises. Hon. Members will note the restricted application of the provisions of this clause which is different from the present requirements which applies the test of "real necessity". The discretion in this matter, as in the case of other types of licences, is left to the licensing courts which, instead of being bound by the rigid test of "real necessity", will be guided by factors like the need for developing new areas whether as additions to existing centres or otherwise, the desirability of encouraging new development, the need to give impetus to economic development in trade and the

possibility of attracting new and reputable firms by facilitating their trade activities. I would like to assure hon. Members that this aspect of the matter has received careful consideration and it was decided to leave the discretion with the licensing courts whose members are usually experienced senior administrative officers and private citizens of repute and standing, all anxious to promote the economic prosperity of the country.

Clause 14 states that all applicants shall be presumed to be of good character unless called upon to satisfy the court accordingly. This is stated in sub-clause (1) of clause 14. Those advocates who practice in liquor licensing courts will find it very convenient that they will no longer be required to prove the good character of their clients. Another change introduced in the provisions of clause 14 is that to the list of persons who will be disqualified from obtaining a new licence or transfer of a licence: an undischarged bankrupt has been added under sub-clause (f). The scope of sub-clause (c) has also been expanded as compared with its counterpart which is sub-section (c) of section 14 of the present Ordinance. The provisions of clause 15, which is also new, forbid the grant of a malt and non-spirituous liquor "on" licence in respect of the same premises which also hold a wine merchant's and grocer's licence. This has been done, Sir, to remove the possibility of people buying spirituous liquor from a wine merchant and grocer with which to lace the non-spirituous liquor, which would also be sold in the same premises, and also to remove the possibility of grocers running beer gardens in front of their shops. Hon. Members will note that no such prohibition will apply to the holding of on- and off-malt and non-spirituous liquor licences which is permitted under paragraph 6, sub-paragraph 2, of the First Schedule.

This is a provision which is designed in particular to enable the small African trader to hold both these licences together in the same premises in order to encourage him to expand his business activities.

Clause 16 of the Bill, Sir, corresponds to section 15 of the 1956 Ordinance, but the requirement in the existing law

[The Asian Minister without Portfolio] has been left out and if I may read sub-section (2) of section 15 of the 1956 Ordinance, it says:—

"Every applicant for the renewal of a wine merchant's and grocer's licence, where the applicant carries on in the premises any trade in addition to the sale of liquor or sells in the premises goods other than liquor shall prove to the licensing court's satisfaction that there is a real necessity for provision to continue to be made for the sale of liquor in the particular locality in respect of which the application is made and if the applicant fails so to satisfy the licensing court, the licensing court shall refuse to renew the existing licence."

This requirement has been left out of clause 16, Sir, as I have already said, and the position is this. There are in the Colony at the present time only a comparatively few shops owned by wine and spirit merchants where nothing but liquor is sold. These, like grocers' shops where liquor as well as other goods are sold for consumption off the premises, operate under a wine merchant's and grocer's liquor licence. In my opinion, Sir, this licence is so named to accord with the realities of the situation. Hon. Members are aware that it has long been customary for most people in the Colony to buy their liquor from their grocer. It may be, Sir, that at some distant date in the future this Colony will have proper wine shops which will sell nothing else but liquor, together with the necessary beverages. However, the position now is that grocers in this country deal in liquor only as part of their normal business. The licence itself is a wine merchant's and grocer's licence and the sale of other goods than liquor is necessarily imported by implication in the description of the licence itself. I believe, Sir, that I can say that I have travelled widely, even into the remotest parts, in this Colony, and I believe that in so far as this aspect of the trade is concerned the position is as I have described it. I now carry on to deal with clauses 17, 18, 19 and 20 which I consider do not require any comment.

Under clause 21 the period for which an unsuccessful applicant may not renew his application for a licence of the same type has been reduced from 11

to six months as it appears in section 20 of the 1956 Ordinance. The duration of this period is the same as a similar provision in the Transport Licensing Ordinance. It is considered that disability not to be able to renew one's application for a similar licence for six months is sufficiently long to meet the case.

Under clause 22, Sir, in addition to describing the several types of licences which may be granted as shown in the First Schedule, is laid down that a licence may not be granted so as to be applicable to more premises than one. Hon. Members will see that stated in sub-clause 2. There is one exception to this and that is the wholesale liquor licence which under the provisions of sub-paragraph 2 of paragraph 3 of the First Schedule may apply to more premises than one. The reason for this is that doubt was felt whether a wholesaler, while agreeing to sell in his shop or office and affecting delivery from his godown, did not really make the sale from his godown.

In this connexion, because it is relevant, reference may also be made to the provisions of clause 28, the proviso to which states that a wholesale liquor licence which is applicable to more premises than one need be displayed only in the premises first named therein.

Sub-clause (3) of clause 22 is a new provision and I would ask hon. Members to read this clause together with the provisions of clause 46 of the Bill. Hon. Members will see in clause 46 of the Bill that restriction is placed upon drinking in certain manner and it is hoped that these two combined—that is the provisions of sub-clause (3) and clause 46—will succeed in eliminating the drinking by people in streets, in the backyards of shops and on the pavements, and also make the task of the police easier in this respect.

I pass on to Part IV of the Bill, Sir, which has the heading "Transfer and Renewal of Licence". There is a misprint as the word "Renewal" should read "Removal", and with your permission, Sir, I will introduce the necessary amendment at the appropriate stage.

Under this part transfers and renewals of licences are dealt with separately. Hon. Members will see the relevant provisions under clauses 23 and 24 of the

[The Asian Minister without Portfolio] Bill. Hon. Members will also note the three courses open to the president of a licensing court where an application for a removal of a licence is made.

I do not think, Sir, that clauses 25 and 26 call for comment and, therefore, I pass on to clause 27 of the Bill. If the renewal of a licence is refused, the licensee is entitled to a licence for three months in order to dispose of his stock and apparatus. Hon. Members may like to compare this with the present provision in section 15 (3) and section 25 of the 1956 Ordinance, which in the first case entitles the holder of a wine merchants' and grocers' licence to a licence for nine months for a similar purpose, that is for the purpose of disposing of his stock, and in the case of section 25 to a licence for not less than one month. It was considered that a period of three months to cover all cases was sufficiently long for any trader or applicant to dispose of his stock in the event of the renewal of his licence being refused.

I need not say anything about clauses 28, 29, 30, 31 and 32, but clause 33 embodies in its provisions an important departure from the present law, although its provisions are by no means new. At present, Sir, under the provisions of section 21 of the 1956 Ordinance, it is an offence to sell or supply liquor to be consumed on the premises or for any person to consume liquor on the premises unless it is paid for before or at the time when it is sold or supplied or it is sold or supplied for consumption with a meal also supplied at the same time. Under the provisions of clause 33 of the Bill it will no longer be an offence to sell liquor on credit and hon. Members may in future freely and lawfully indulge in the signing of "chits" for their drinks, but the supplier will not be able to recover the price thereof by civil action in case of non-payment.

The object of this provision lies in the hope, Sir, that people will avoid excessive drinking because they do not have to pay for it on the spot in cash. The credit system contributes in many ways to a higher cost of living in this Colony. The sale on credit of liquor for consumption on the premises is, therefore, sought to be discouraged. The supplier will sell

liquor at his own peril unless the liquor is sold for consumption with a meal supplied at the same time, or unless the customer is a lodger on the premises at the time of the sale or supply of the liquor.

The provisions of this clause, Sir, which embody a part of the present section 31, are really a revival of section 69 of Chapter 266, that is the original Liquor Ordinance in the Laws of Kenya.

I come to deal now, Sir, with clause 35. This is a straightforward clause but I would like to say this, that those who are addicted to it and those who indulge in the habit of practising the art of stimulating a feeling of exhilaration in their minds, like my hon. friend the Minister for Finance, will be pleased to note that snuff has been added to the list of articles which a licensee may keep for sale in addition to liquor.

Clause 36, I feel, Sir, is plain in its meaning. I dealt with the provisions of clauses 37, 38 and 39 when I was dealing with the provisions of clause 8 of the Bill.

The next clause to which I would like to pass on is clause 42, Sir. It is proposed to increase the penalty to Sh. 500 or imprisonment for three months or both. Instead of the penalty at present of Sh. 300 or one month's imprisonment or both. Again it is hoped, Sir, that this increase in penalty will act as a deterrent to excessive drinking and result in more dignified conduct on the part of our citizens.

Hon. Members will note the important change that has been made to the provisions of clause 44 which corresponds to the provisions of section 38 of the 1956 Ordinance. Under the existing law any person who "knowingly" supplies liquor to a police officer or below the rank of Inspector, Grade J, "during any time appointed for such police officer to be on duty" is guilty of an offence.

Representations were made, Sir, that it was difficult for a licensee to know if, first, a police officer was of a certain grade and, secondly, that at any particular time when the liquor was sold or supplied to him he was on duty. Government has decided to accept this, Sir, and therefore you will find the words "in uniform" introduced into this clause. These two difficulties to which I have

[The Asian Minister without Portfolio] referred will be removed inasmuch as the rank of the police officer will be indicated by his uniform and I am advised, Sir, that this is the procedure followed in the United Kingdom also and it has worked satisfactorily there.

I pass on, Sir, to clause 47 of the Bill. The penalty for selling adulterated and diluted liquor is proposed to be increased to Sh. 10,000 or to imprisonment not exceeding two years or both. Further, if the liquor is adulterated with substance or substances unfit for human consumption, the Court may in addition to any other penalty which it may impose, order forfeiture of the licence and the licensee will not be able to obtain another licence thereafter unless he is able to satisfy the court that he took reasonable precautions to prevent adulteration or that it took place without his knowledge or consent.

It may be that some people will regard these provisions as being drastic, but I do not think so. I also think that one cannot be drastic enough with a person who adulterates liquor. It is unforgivable. Apart from the strong moral issue which is involved, adulterated liquor could produce serious repercussions on health.

From there, Sir, I go on to deal with the provisions of clause 49. An interesting new feature has been introduced in sub-clause (3) of this clause which states that the liquor in a bottle which is unopened and labelled and stoppered shall be presumed to be as described in the label on the bottle. The accused person in any proceedings will have the right to challenge this presumption. The intention is to save the time of the Court and also the Government analyst, because at present the contents have to be proved even though often it is not necessary to do so. In addition, an accused person often suffers loss because bottles have to be opened for the purposes of analysis. It is felt, Sir, that this new provision will simplify the position. It preserves the rights of an accused person and it should prove more satisfactory, even more expeditious.

I did deal, Sir, with the provisions of clause 54 of the Bill when I was dealing with the Second Schedule and I would like to say here that it is proposed to make the existing clause 54 as clause 55 and to introduce a new clause 54 read-

ing as follows: "The Second and Third Schedules to the Shop Hours Ordinance are amended by adding after the words 'the sale by retail of intoxicating liquor' where those words appear in both Schedules the words 'in premises other than those in respect of which a current wine merchant's and grocer's liquor licence has been granted under the Liquor Licensing Ordinance, 1957'." This is merely to tidy up the position of this Bill in relation to the Shop Hours Ordinance and the present clause 54 will be renumbered as clause 55.

Now, Sir, I have already referred to the classification of the various licences into separate categories which appear in the First Schedule. The provisions of some licences have been changed considerably in an effort to facilitate matters for all types of traders who engage themselves in the liquor business. Although I have already dealt with some aspects of the wholesale liquor licence which is mentioned in paragraph 3 of the First Schedule, I would like to draw the attention of hon. Members to the wholesale quantity which has been fixed at not less than one gallon whether such liquor be in cask or sealed bottles. At present it has to be sold in quantities of not less than two gallons, if in casks or in sealed unbroken cases of certain numbers of bottles. A similar change has been introduced in regard to the non-spirituous liquor, which is reflected in sub-paragraph (b) of paragraph 3.

It is proposed, Sir, to delete the entire paragraph 4 as it stands and to introduce at the appropriate stage in its place the following, if I may read it out with your permission, Sir: "(1) A bottler's liquor licence shall authorize the licensee at premises, the address of which shall be specified therein, to bottle liquor subject to such conditions as may be prescribed. (2) Where the holder of a bottler's liquor licence is a brewer, such licence shall, subject to the provisions of sub-paragraph (3) of this paragraph, authorize the licensee to sell the products of his brewery by wholesale, in accordance with the provisions of sub-paragraph (1) of paragraph 3 of this Schedule, at the premises specified in his licence or by delivery therefrom throughout the Colony. (3) Where any such licensee as is referred to in sub-paragraph (2) of this paragraph occupies any depot,

[The Asian Minister without Portfolio] he shall produce his licence to the president of the licensing court within whose area such depot is situate, and the president may, at any time and on payment of the prescribed fee issue to such licensee a brewer's depot licence, which licensee shall authorize the licensee to sell by wholesale in accordance with the provisions of the sub-paragraph (1) of paragraph 3 of this Schedule, the products of his brewery at or by delivery from such depot, the address of which shall be specified in such licence.

I might mention, Sir, the marginal note to sub-paragraph (3) will be brewer's depot licence and not a bottler's depot licence as at present stated in the marginal note at page 28 of the Bill.

"Sub-paragraph (4). For the purposes of this paragraph 'depot' means premises of whatever description which are occupied by a brewer for the purposes of his trade, not being premises specified in any bottler's liquor licence held by such brewer."

It is proposed to substitute this new paragraph for the present paragraph 4 and hon. Members will note that a bottler who is a brewer will be entitled to sell his products by wholesale, thus making it unnecessary for him to take out a wholesaler's licence also. Representations were made to Government that inasmuch as a brewer must dispose of his products after he has bottled them, he should not be required to take out another licence—that is a wholesaler's licence—for this purpose. Government has agreed to grant this concession to brewers.

Under sub-paragraph 3, as I have read it out, hon. Members will see as I mentioned earlier also when referring to the introduction of this new licence, that is the brewer's depot licence, that this licence will be available to brewers only; for reasons of practical requirements they have to dispose of their products from various centres in the Colony. I believe depots are necessary for brewers for the distribution of their products and having obtained a bottler's licence it is felt they should be enabled to operate from depots, but in order to legalize sales from such depots and also in order to maintain the control over such depots,

it is proposed to license them. The holders of the brewer's licence will be able to obtain a depot licence on production of the original licence on payment of a nominal fee only.

I have, Sir, already drawn the attention of hon. Members to the Malt and Spirituous Liquor "On" and "Off" Licences which are mentioned in paragraphs 5 and 6 of the First Schedule. These two licences may be considered in relation to non-spirituous liquor as corresponding to a general retail liquor licence and the wine merchant's and grocer's licence in regard to spirituous liquor.

In so far as the wine merchant's and grocer's licence mentioned in paragraph 7 is concerned, at present a licensee may not sell in quantities of less than one repented quarter-pint bottle. This requirement has been deleted and instead hon. Members will see the words "Liquor in quantities of not less than one bottle of whatever size." The purpose of this is to bring in miniatures which are commonly sold in the town, but which are outside the scope of the law. Nevertheless the requirement is still there that the bottle must be securely stoppered and sealed and also that the sale must be for consumption elsewhere than on the premises where the sale takes place.

An important innovation has been introduced in paragraph 8 of the Schedule, Sir, which deals with hotel liquor licences. In future no hotel liquor licence will be granted unless the applicant is in possession of a hotelkeeper's licence issued under the Control of Hotels Ordinance. The liquor licence will be dependent upon the hotelkeeper's licence being kept alive. I think hon. Members will agree, Sir, that this is a very desirable provision which will enable certain standards to be maintained.

Paragraph 9 of the Schedule provides for the issue of restaurant liquor licences but a new requirement has been added in paragraph 10 of the Bill which states that if there is a change in the proprietor, secretary or manager of a proprietary club, that change must be notified to the president of the licensing court and the Commissioner of Police within 15 days of the change. By this measure it is hoped to ensure that a

[The Asian Minister without Portfolio] proprietary club liquor licence will not fall into the hands of an undesirable person.

The list of those who may apply for a canteen liquor licence has been enlarged, Hon. Members will see this in paragraph 11. In addition to including the tribal police in this list, the scope of this licence has been widened to include organizations approved by the Minister. Such organizations if approved, as I have already said, will be able to obtain a canteen liquor licence. Here primarily private organizations are envisaged and it is considered that this facility should be made available, for example, to large trading concerns and agricultural estates who may wish to institute canteen facilities for their employees. The Minister is empowered to impose conditions and the intention is that these conditions should ensure, for example, the maintenance of certain health standards and disposal of profits for welfare purposes.

Under the next paragraph—paragraph 12—the time during which a theatre liquor licence may remain operative has been enlarged, from 12 noon to 12 midnight instead of 2 p.m. as at present. This is intended in the main to meet the needs of those who are engaged in bona fide rehearsals.

I do not think, Sir, I need mention in detail the provisions of the other licences except to draw the attention of hon. Members to the inclusion of a malt and spirituous on-licence in respect of which a temporary extension may be granted which is mentioned in paragraph 18 (1) of the Schedule.

I have already dealt with the Second Schedule when I was explaining the provisions of clause 8 and the table of fees at the end of the Second Schedule gives—and I am confident hon. Members must have already realized this—an indication of the fees which will be payable on the various licences under the new rules to this Bill after its approval here. It is hoped that the new scale of fees which show reductions in many cases on the present scale will be found to be satisfactory.

There are, however, two licences in respect of which the fees are proposed to be increased. The first is the steam-

ship liquor licence, the fee for which is proposed to be increased from Sh. 200 to Sh. 300 per annum. The reason for this is that information supplied indicated that a steamship does a larger volume of trade than a railway restaurant car, the fee for which is higher. The fee for these two licences has been equalized.

The second increase is the new malt and non-spirituous liquor on-licence and the details of which—I mention that in passing now—hon. Members will find under the new Rules when they are published.

I think I have nothing more to say on the provisions of the Bill itself, except to say this in conclusion generally. In its issue of 7th July of this year, the *Sunday Post* described me as "a teetotaler Minister". I do not propose to say anything about the accuracy or otherwise of that statement, but I do want to say this, the difference between a drinking minister and a non-drinking minister is one of inclination. It is not related in any way either to capacity or calibre. It is due to inhibitions which are connected with environment and culture. It is neither a qualification nor a disqualification to be a teetotaler. The pace of present-day life is fast, the provisions of this liquor Bill are designed to meet the rapidly changing social and economic conditions. It endeavours to give expression to public opinion in this matter. Effort has been made to ensure that consumption of liquor will be indulged in a reasonable manner. But I would like to add, Sir, that the liberty to drink will not be regarded as a licence for over-indulgence, misbehaviour, drunkenness and unbalanced family budgets.

Mr. Speaker, I beg to move.

THE MINISTER FOR LEGAL AFFAIRS  
(Mr. Griffiths-Jones) seconded.

Question proposed.

3.50 p.m.

SIR CHARLES MARKHAM: Mr. Speaker, in rising to support this Bill, I remember the last time the subject came up for discussion in this Council, because everybody who spoke from this side of the Chamber declared their interest in either the consumption of liquor with the exception of one Member from the front Bench who is not here at the moment.

[Sir Charles Markham] Having just heard the Minister's final remarks, he, of course, Sir, is rather non-committal either way, although, when I saw him consuming the other day what I thought was something applicable in this Ordinance, I now realize that it was probably Pepsi-Cola—but perhaps it was not—we will leave it like that.

Sir, I would like to thank the Minister for the obvious great amount of work that has been done in trying to iron out some of the anomalies that existed under the 1956 Ordinance. It is quite obvious from the detail we have heard this afternoon lasting nearly an hour that many of the clauses which we rushed last year have now been put into a better form so they can be enforced.

I was a member of the select committee which sat for many an hour under the chairmanship of Mr. Patel, the then Asian Minister without Portfolio and we did come to certain decisions which have been completely reversed in this new Bill. I realize, Sir, having heard the Minister, that some of the clauses or the suggestions we made which then became law could not be enforced by the courts.

Now, Sir, I have got quite a lot of detail which I will raise when we come to Committee stage with this Bill; but I want to go to one very major item on which—and I think the Solicitor-General will remember this only too well—I was fairly dogmatic during the select committee. That concerns the habit in Kenya of every grocer's shop being also sellers of liquor.

Now, I know, Sir, it is all very well, but we have found it is a habit in Kenya where the grocer also supplies your needs for liquor; but at the time when we had the debate in 1956, October, I think it was, a view was expressed that there were far too many of the licensees. I used, at that time, the words "licensed premises" and all I got was a snigger from the Government front Bench. Sir, I use it again and, luckily, the people who laughed last time are not now in the Chamber. But, Sir, Government Road, I believe, has more licensed premises for a short distance than any other street anywhere in the British Empire, and what we felt we wanted—perhaps I am wrong. I have not been everywhere, so perhaps what is left of the British

Empire would be more correct—but, Sir, I wonder whether this new Bill will have any effect at all to try to diminish the number of these licence holders. It seems grossly unfair that a person who has his main business in selling liquor, such as a wine merchant, should also have competition from next door from somebody who is trying to flog cheese or bacon or jam. So I did hope, Sir, that the clause we had in originally in the old Ordinance would have been strengthened and enforced rather than be deleted in this particular new Bill.

Clause 13 mentions the question of need only for an on-licence. I would hope, Sir, that that clause could also be amended to include both the on- and off-licences as far as the wine merchant's and grocer's licence is concerned. I cannot see why it is difficult to enforce it in this country when other parts of the world, equally civilized or equally uncivilized, as the case may be, can enforce it. I am thinking particularly of Rhodesia, I am thinking of South Africa where you do not see the number of grocers selling liquor that you do in Kenya. Is it suggested that they cannot enforce it?

Sir, I do not see why—though perhaps the Solicitor-General or the Minister would tell the Council—really what the difficulty is. Is it not very often weakness, I wonder, in the particular licensing courts that has created the difficulty?

Sir, I had a word with the Minister before we came into the Council this afternoon, and I was worried under this particular Bill whether any new application for a wine merchant or grocer's licence could very well be refused if the particular individual was not either a bankrupt or had been convicted of an offence and such like. I was assured that clause 11, sub-section (1) does cover it; but again, if the difficulty in the previous Ordinance was the question of discretion, here again, I would have said we are going to have exactly the same difficulty under clause 11, sub-section (1), especially as there is an appeal to the Supreme Court. I would have said, Sir, that there should be a definite laid-down policy which can be known, and not give a rather ambiguous discretion to a court which might be unenforceable, as has been proved in the previous Ordinance.

[Sir Charles Markham]

Perhaps, Sir, this is unimportant, but I do not think anybody who has, for their sins, to be in or around Nairobi on a Sunday or a Saturday wants to see an increase in the amount of liquor being carried away from these very small grocers' shops up the road. Carried just as far as you might call it out of the precincts of the shop, then consumed as quite a good mixture of sometimes beer, sherry or brandy depending on the financial ability of the person to pay, all of which come from these little grocers' shops, who are only interested in making money. Now, they are not breaking the law; they have an off-licence to sell liquor. But I would have thought in these days, when drunkenness in Nairobi particularly, is becoming more and more apparent, it would have been better to tighten up on the number of applications, and to have withdrawn many of them rather than now remove the particular clause which we had in on the old Ordinance.

Now, Sir, I have one other item which I would like the Minister to help me with before we get to the Schedules. Under clause 47, concerning the dilution of liquor, as I read it, anybody who offers for sale or sells any liquor which has been in any way adulterated or diluted shall be guilty of an offence. Now there is quite a common practice at the moment of the reputable wine merchants who are bringing in spirits, proof liquor into Kenya; breaking it down with distilled water, and selling it on the market. Now, as I read that, they are going to break the law if they do that, because they are definitely diluting it from the proof strength down to the normal proof, which I think in Kenya is 17 under proof as normally sold.

But, Sir, even if I am satisfied by either the Minister or the Attorney-General telling me that this clause is all right, I wonder, Sir, as the title of this previous Ordinance—it says here: "An Ordinance to repeal and replace the Liquor Licensing Ordinance, 1956, and to make further and better provision for regulating the sale and supply of liquor; and for matters incidental thereto and connected therewith". Now, Sir, in the select committee dealing with the same problem, I was reminded on numerous

occasions by the Solicitor-General that the Bill we were discussing was for the supply and consumption of liquor; but this particular Bill has changed, I think, its title.

When we had the Second Reading of that 1956 Bill, I expressed concern and alarm at the amount of cheap unpleasant alcohol which is being imported into Kenya in view of the fact that there is no racial discrimination in the sale to Africans. I said I thought it would be the duty of this Council to protect those people from being sold what—and there is no other way of describing it—is wood alcohol. It is not made, Sir, in Kibera; it is made, some of it, in France; and in England it is a crime—well, it is not a crime, it is prohibited by law—to import anything, any brandy into England unless it is pure grape brandy, and no such law exists in Kenya. There is quite a lot of stuff being sold at the moment under very dubious labels which can only be described as dangerous hooch.

Now, Mr. Speaker, I am wondering what the Government (for they have promised to bring in this other Bill—they have promised now to bring it in for two and a half years now—the control and distillation of alcohol, or words something to that effect), I am wondering what they are going to do about this problem. For at the moment, there is nothing to stop anybody from buying a barrel of brandy from France. It does not matter what sort of brandy it is, anybody can buy it for himself; having got that in here, provided they have then got a liquor licence of sorts, they can dilute that brandy with water, they can put it in a bottle, and call it pure French brandy; there is no rule to say what strength of alcohol has got to be on the bottle; there is no rule to say where it has been bottled; in fact, they can do anything they like virtually to sell this stuff. Now, at the moment, I know of at least half a dozen places in Nairobi who are bottling liquor and wine and some of whom—I will not mention them by name, naturally—some of whom are deliberately watering down their product to make it cheaper for sale in order to attract the market.

Now, I wonder whether those people are going to be breaking the law under this particular clause 47. If they are.

[Sir Charles Markham]

breaking the law, then the genuine person who is doing it should be protected in some way or other. I would also like to stress once again that we must get these particular bottlers under some control so that the contents of these bottles are fit for human consumption even if they come from abroad, because I can assure the Council that there are one or two French brandies here which certainly would not qualify to be imported into England.

Under clause 53, Mr. Speaker, the question of Rules—General, and Governor in Council of Ministers—the previous Ordinance laid down that the Rules had to be laid before Legislative Council. Now, we do not know, we have no indication what the fees are going to be for the whole year once this Bill becomes law. I do not see—perhaps again the Minister could help me—whether the Council has the chance, if we believe once again that the fees to be charged are iniquitous—we have the chance of debating them in this Council by moving a Motion such as was moved by my hon. friend, the Member for the Coast last year, or was it this year—I cannot remember, we seem to have been here such a long time, Sir. Perhaps, then, somebody could tell me that later on.

I have two very brief details to mention on the Schedule, Sir, before I sit down. Under the Schedule, No. 17 of the First Schedule, there is the mention of the temporary liquor licence. Under the previous Ordinance, it was laid down that the only person who could apply for a temporary liquor licence was the holder of a general liquor licence, which of course did preclude any club from applying for it—they used to have to get somebody else to do it for them. This one just says: "... the holder of a liquor licence". Can I presume from that, Mr. Speaker, that this is an amendment to the other Schedule where the holder of any liquor licence can now apply for a temporary one? I think it is a big change; it certainly would help a club, of which I am a member, which every year at the Royal Show comes along to me and says can I please help them with my general liquor licence, from my hotel for their club at Mitchell Park. It is, of course, ridiculous.

Now, Sir, finally the only other point before I sit down is this question of the extension. It says here, Sir: "The district commissioner issuing such a licence may impose therein such reasonable conditions as to him may seem fit"—"as to him may seem fit"—that is not very good English, I would not have thought; for a start it does not seem very good to me. I wonder, Sir, whether it is unfair, if a person is paying a fee, and it is a very hefty fee, too, and what the conditions would be. He either gets an extension for so many hours that he pays for, up to two hours, or up to three hours, and I am wondering what the point again of that discretionary clause is which again might not be enforceable or might raise difficulties. It is perfectly all right, I suppose, but what are the implications of it?

Sir, I have some other amendments or suggestions when we come to committee stage but once again I would like to thank the Minister for this Bill. It is a very great improvement on its predecessor.

MR. HARRIS: Mr. Speaker, Sir, there is an old saying that it is the third time lucky, and I think, Sir, that this production, the production of this Bill to-day is, I hope, the final chapter in rather a sorry story. Government decided last year that it was necessary completely to amend the Liquor Licensing Ordinance. They introduced a Bill into this Council and if one studies the debate on that Bill, Sir, one finds it studded with requests from this side not to go so fast, that there were serious defects in the Bill; amendments were necessary to a great number of clauses, but because of political pressure, and the desire to get the amending Bill through at that stage, Government took very little regard of the representations made from this side of the Council and pushed through the Bill.

THE MINISTER FOR LEGAL AFFAIRS (Mr. Griffith-Jones): On a point of order, is the hon. Member correct—did not the Bill go to a select committee composed of Members from both sides of this Council?

MR. HARRIS: Sir, the second reading was studded with requests from this side not to go so fast, but to listen to amendments, and, Sir, even this year.

[Mr. Harris]

the Liquor Amendment Bill was produced because of defects that were so urgently necessary in the Bill.

THE MINISTER FOR LEGAL AFFAIRS (Mr. Griffith-Jones): After the select committee had recommended them.

MR. HARRIS: As the Attorney-General so rightly says, Sir, after the select committee had recommended, on recommendations that had been made in the second reading; and I would have thought, Sir, that in view of the obvious desire from this side of the Council to get an effective Bill, Government might have taken rather more notice.

But, Sir, that is ancient history, and I do congratulate the Asian Minister without Portfolio for the great amount of work that I know he has put in since the original Bill was passed. The only reason I mention ancient history, Sir, is to ask him whether if during this debate there are suggestions for amendments to the present Bill he would take very careful note of them and see whether at the Committee stage he might not consider listening to the representations made from here, because we cannot possibly, Sir, have a fourth Liquor Bill in 18 months.

THE MINISTER FOR LEGAL AFFAIRS (Mr. Griffith-Jones): We will not have a second select committee, anyway!

MR. HARRIS: Actually, Sir, I would have thought whether we had a select committee or not would be at the discretion of the Council rather than of the Minister on the other side.

THE MINISTER FOR LEGAL AFFAIRS (Mr. Griffith-Jones): Of the Government; we have a majority!

MR. HARRIS: Now, Sir, there are two points I would like to ask the Minister to cover in his reply. He has, I know, listened to representations and there is the consequential change in the brewer's licence. There is a custom now in the up-country areas where brewers from depots send out lorry-loads of beer for sale to the African *dukas* in the reserves, and I would just like to know whether that point is covered.

The second thing is, Sir, that the Minister has a great number of duties to perform under the provisions of this Bill; might we know—because I have

looked and cannot find it—might I know who the Minister is who is responsible for the administration of this Bill.

Apart from those few things, Sir, I beg to support.

MR. CONROY (Nominated Member Government): Mr. Speaker, when I came down here this afternoon I had no intention of intervening in this debate, but the hon. Member for Ukamba has successfully dragged me into it, and I am afraid I have to speak on a couple of points.

Sir, the first point raised by the hon. Member for Ukamba was that he considered the arguments to be very strong for the reduction of the number of grocers' licences in Kenya, and he elaborated those arguments this afternoon. Mr. Speaker, I can assure him that Government has given very careful consideration to all the points which he has made, but there are points against his arguments too. The pattern of trade in Kenya, the ordinary domestic trade of the housewife going out to buy her groceries, is that she expects to buy her ordinary household requirements for alcohol in the grocer's shop. That may be undesirable, or it may not; but it is a fact that that is what the ordinary housewife expects to do when she goes shopping.

Now, Mr. Speaker, if you are going to say that only one grocer in a street is going to be entitled to sell liquor, then you give him an extraordinarily unfair advantage over the other grocers in the street because all the other housewives will be drawn, as to a magnet, to his grocer's shop. I think it was Chesterton, was it not, who talked about, "The wicked grocer grocing in spirits and in wine"; and I can see that the hon. Member for Ukamba is a supporter of Chesterton's views on that subject. But I am afraid that although the Government has considered it, the arguments he now puts forward, nevertheless, thought it would be very unfair to say that only a restricted number of grocers should have grocers' licences to the detriment of the other bona fide grocers.

Mr. Speaker, the second point raised by the hon. Member for Ukamba was the question of the laying of rules. That was contained in the 1956 Ordinance and is not contained in this Bill because

[Mr. Contoy] since the 1956 Ordinance was enacted, this Council has enacted another Ordinance entitled the Rules and Regulations (Laying) Ordinance, 1956, which requires all rules to be laid unless the Ordinance which gives the power for the making of the rules provides otherwise. Therefore the effect of the Rules and Regulations (Laying) Ordinance on this Bill is that any rules made under this Bill will have to be laid before this Council. This Council then has 20 sitting days in which to annul those rules by Motion.

Mr. Speaker, the hon. Member for Nairobi South rather suggested that the things that are wrong with the present legislation arose because the Government did not listen to suggestions from the other side of this Council. I would suggest, Sir, that the hon. Member goes back and looks not only at the debate but at the report of the select committee. For in the select committee, on which both sides of this Council were represented, various suggestions were put forward by non-Government Members which were accepted and which we are to-day trying to put right. Mr. Speaker, I do not think I will say any more on that point; I hope I have made it sufficiently clear.

Mr. Speaker, I beg to support.

MR. KIRPAL SINGH SAGOO (Nominated Member, Government): Mr. Speaker, Sir, whilst smoking is taboo in my community, there is no hard and fast rule about drinking. The result is, Sir, that the loss of smoking is made up by drinking. Putting it the other way round, Sir, the money that is saved by not smoking goes into drinking. It is therefore not hard to believe, Sir, that at times my community is labelled as the No. 1 drinker among the Asian communities. The leaders of my community, Sir, are very worried about that state of affairs and it is certainly not meant to be a compliment from my point of view. The priests in their temples every day preach that the habit of drinking be curtailed; but then I think the fault does not entirely lie with the community itself. I think, Sir, in the past it has been the generosity of the licensing courts to provide too much temptation in the nature of their generous licences. I think, Sir, this generosity is truly killing my community.

I am reminded of that particular phrase in France when an appeal was being made through posters to cut down the drinking habits of that country, one of the posters read "Drinking kills slowly" and some bright-brain wrote underneath it "We are in no hurry". Well, Sir, that may be so, but I do feel that the defect could be remedied when the new constitution of the Board is considered and I would like to appeal to the Minister that under clause 4, sub-clause (2)(c), he will see to it that a member of my community is appointed on that Board. It is for this simple reason, Sir, that I feel members of communities who do not drink are not in a position, truly speaking, to regulate the drinking habits of a drinking community. I also feel, Sir, that if a member of my community were appointed, then the onus of regulating the licences as far as my community is concerned will fall upon him.

I do hope, Sir, that the Minister will pay particular attention when the time comes for those new appointments.

The one small teaser I find in the Bill, Sir, is clause 47, sub-clause (1). I will read only the relevant part which has put me into a quandary: "Any person who offers . . . any liquor which has been in any way adulterated or diluted shall be guilty of an offence"; that means, Sir, any bar tender would be committing an outright offence if he were to serve a whisky and soda, a gin and tonic, or a Pimms Cup No. 1. I hope, Sir, that the wording will receive a little more clarification.

Sir, I beg to support.

LT.-COL. GHERSIE: There is just one small point I would like clarification on, Sir: I was very exercised in my mind on the First Schedule, but the Minister by suggesting the amendments he proposes bringing in on clause 3 (3) and paragraph 4 will, I think, solve the difficulty; and that is, Sir, the position of the brewer, for instance, whose premises and brewery is situated in Nairobi and who wishes to undertake the sale, wholesale, in other parts of the Colony. Presumably, the bottling licence will make provision for that, and he will only have to take out one licence. He also went on to say, Sir, when he suggested he would have to introduce an amendment, that the brewer would be compelled to take out a depot

[LT.-COL. GHERSIE:] licence in the various areas outside; and he would obtain this depot licence, so I understood the Minister to say, provided that he could produce the original bottling licence issued in the area in which his brewery operates.

Now, Sir, I think I am correct in saying that there is provision in this Ordinance for the licence to be actually exhibited on the premises of the brewery or depot as the case may be—I am referring to the mechanics of the cure—how can he remove the licence from the premises in order to go up-country to, shall we say, Eldoret or Kitale and produce it for the licensing officer up there in order to obtain a depot licence. It might be governed by some rules, but I do not quite know how that is going to work. Perhaps the Minister could explain in his reply.

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

THE ASIAN MINISTER WITHOUT PORTFOLIO (Mr. Madan): Mr. Speaker, Sir, I am grateful to hon. Members for the kind words they have said about me in this debate. If it is not out of order, and if it is permitted, Sir, if there are any tributes to be paid, I should like to include in that my learned friend, the legal draftsman, Mr. D. C. Kennedy, who took an infinite amount of trouble to produce this Bill. I should like to say to him here "thank you very much" for all the trouble he has taken.

Now, Sir, my hon. friend the Member for Ukamba, raised certain points: the first one was that he felt concerned at the large number of grocers who are licensed, and it is a point that has already been answered by my hon. friend, the Solicitor-General. I would like to draw the attention of the hon. Member for Ukamba to clauses 11 (1), to which he himself referred, and to 17 (1) of the Bill.

First, I will refer to clause 11 (1) which reads: "Every person making an application shall, save as otherwise provided, appear in person or by an advocate before the licensing court and shall satisfy the licensing court that there is need for the grant of a licence of the type applied for in the particular locality in respect of which the application is

made". Hon. Members will see that an applicant has to satisfy three requirements before he can get a new licence. There is first the need for the grant of a licence, secondly of the type in respect of which the application is made and thirdly also in the locality in respect of which the application is made.

Under clause 17 (1) it is laid down: "Save as otherwise provided in this Ordinance, a licensing court may, subject to the provisions of sections 13, 14, 15, 16, 23 and 24, grant, renew, transfer or remove a licence and may embody therein such conditions as it may deem appropriate, or it may refuse to grant, renew, transfer or remove a licence". I feel, Sir, that those two provisions, or the provisions in these two clauses, are adequate to cover the type of situation that my hon. friend feels concerned about. I think it must be realized, Sir, that we are a developing country. There may be occasions when we feel that in, say, one particular locality the number of licences is bigger than it should be. Those are the type of things which could easily happen in any country situated as we are. But it is better to encourage trade and enterprise rather than to restrict it, it is better that we should keep on expanding rather than restrict opportunities for the commercial section of our community.

It is a little difficult for me to visualize the trader coming to a licensing court and applying for the grant of a licence if it is not going to pay him to do that, and if under the provisions of clauses 11 and 17 we are not satisfied that the members of our licensing court will be able to exercise their discretion—and it is not ambiguous or difficult in any way, as the hon. Member for Ukamba would say—if we are not satisfied that the members of our licensing courts will be able to exercise their discretion in the light of circumstances as related to the applicant, the requirements of the locality and the type of the licence applied for, then surely, Sir, we are wasting time as far as the whole machinery is concerned.

However, I do not think anything of the kind. I think our licensing courts are competent enough to come to proper, sound and wise decisions on the applications that are made to them. It is true, Sir, that one sees the sight of *kikapu*



[The Asian Minister without Portfolio] being carried away by housewives at weekends which often contain liquor. I will put it no higher than that. I should like to think that they contain only necessities of life. But that again, I believe, is related to this credit system which does not require a housewife to pay for the groceries and other stuff which she buys at the time she makes her purchases. It is so easy to purchase articles, not of strict necessity, things which are luxuries, because one is able to obtain credit. I do not think the grocers are to blame for this, or anybody else; there is a need for self-discipline in this matter and we can only leave it to the good judgment of the citizens themselves.

My hon. friend has made a point about clause 47 and so has also my hon. friend, the Nominated Member, Mr. Sagoo. I do not think that it is intended to include the barman, if I may call him so, who provides soda to be added to the whisky. It is not intended to cover that type of case, but to cover the barman who adds water to the whisky before it comes out of the bottle for sale to a customer. It is that type of man we are trying to get at, the man who dilutes and adulterates liquor.

My hon. friend, the Member for Ukamba, has made a point in regard to those who import liquor, and at the moment I feel that he need feel no concern over such people. However, I will discuss the matter with our legal advisers and give it further consideration. If it is necessary, we will certainly amend the clause. If only to prove to and satisfy the hon. Member for Nairobi South that we are prepared to listen to suggestions that Government always listens to suggestions. If suggestions made by the Opposition are not accepted, there is only one reason for it, it is because they cannot be accepted. They are not acceptable.

In so far, Sir, as the question of putting imported liquor into bottles is concerned—this was mentioned by the hon. Member for Ukamba—like him, I also feel concerned at the type of stuff which it is possible to sell in this country. My impression is—I repeat, my impression and I put it no higher than that—that there are certain customs regulations which require quality and proof to be

indicated and satisfied before importation of liquor is allowed. It may be that French brandy becomes pure only when water is added to it—I would not know. But I do know this, that perhaps it is a matter for health rules and I can inform the hon. Member that the drafting of health rules is being considered and if it is so I will convey it to those who are concerned with that to ensure that no undesirable or unhealthy food or liquor can be imported into the Colony which might be injurious to health and undesirable from other points of view to which the hon. Member referred.

The next point that he made was in relation to paragraph 17 of the First Schedule. It means what it says: that a temporary liquor licence may be granted to the holder of a liquor licence, and provided he qualifies under the provisions of paragraph 18 the holder of the liquor licence will be able to obtain a temporary liquor licence. I agree with him, Sir, that the scope of this temporary liquor licence has been widened. I agree with him.

The next point he made was in relation to sub-paragraph (3) of paragraph 18 when he referred to the power given to a district commissioner issuing a licence to impose reasonable conditions as to him may seem fit. That is perfectly good English, as far as I know, and one can easily visualize the necessity for imposing conditions in licences of this type. For example, I might mention one straight away, that the licensee shall not operate beyond a certain area. There may be a fête or a special occasion organized and it is intended that the benefit of the extension should be restricted only to that purpose. That is one condition which might be imposed. There may be others which a district commissioner may, think it necessary to impose.

I think that those are the points which were made by the hon. Member for Ukamba, apart from those which were answered by my hon. friend the Solicitor-General.

Now I come to my hon. friend, the Member for Nairobi South. I am not prepared to accept that the 1956 Ordinance was approved by this Council because of political pressure. I am also not prepared to accept, Sir, that Government paid little regard to representations

[The Asian Minister without Portfolio] made from the other side. It has already been stated, there was a select committee appointed to consider the 1956 Bill and many of the suggestions that were incorporated in the 1956 Bill came from the select committee itself. I think perhaps the real trouble, Sir, was that Government allowed itself to be talked by the Opposition into making the amendments that were made, and if Government had not done so we would not have had half the trouble that we have.

I would like to assure the hon. Member for Nairobi South—who has just walked in—and I think he can confirm it in relation to my attitude over the provisions of the present Bill, when it was being considered—that I am always prepared to listen to suggestions. In fact, I listen to them gratefully; I have never claimed that all wisdom is concentrated in my head alone. And in future also I would be prepared to listen to suggestions. I am a very amenable person. When there is a point made which is of value, I would acknowledge it gratefully and publicly.

The hon. Member for Nairobi South wanted to know who would be the Minister responsible for the administration of this Bill. What does it matter to him, Sir? I do not know. I would have thought that all Ministers were equal and none is less. They are all responsible; any one of the Ministers would administer the Bill efficiently and properly. But as far as I know—if you would like to have a specific answer—my hon. friend, the Minister for Internal Security and Defence is the Minister responsible. Mind you, I would like to qualify that by saying "for the time being"; responsible for the time being for the administration of this legislation.

There was another point made by my hon. friend, the Member for Nairobi South, and that was in relation to the breweries being entitled to operate from depots by effecting delivery. I think he said, from lorries. I would like to assure him that the amendment I read out to clause 4 is designed to meet that object.

I can only admire the community of my hon. Nominated friend, Mr. Sagoo, who are "No. 1 drinkers", as he says, but I cannot accept his suggestion that

his community come out on top as drinkers because the licensing courts are generous in the granting of licences. There is no connexion between the two; it is an illogical statement. I think many deeds of valour, courage, and enterprise are inborn in the Sikh community but drinking is not one of them. I cannot, Sir, give him an assurance that a Sikh would be nominated to any liquor licensing court; the members of such courts are nominated because of their experience, their merit and ability and their usefulness, and I am confident, Sir, I say this with complete confidence, that I know of several Sikh gentlemen personally who would qualify for nomination to a licensing court. But I cannot go further than that at this stage.

My hon. friend, the Member for Nairobi North, asked how the holder of a bottler's licence could produce it to the president of a licensing court in order to obtain a brewer's depot licence in view of the requirement in the Bill that every licence shall be prominently displayed in the premises in respect of which it is issued. Perhaps there is a practical difficulty there. I will go into it and discuss it with those who have been advising me and if it is necessary I will introduce a provision for secondary evidence to be made available to the holder of a bottler's licence and which might be produced to the president of a liquor licensing court.

I think, Sir, those are the points made by the hon. Members opposite 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.

#### BILL

#### SECOND READING

*The Cair Fibre Industry (Repeal) Bill*, Order for Second Reading read.

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): Mr. Speaker, I beg to move that the Cair Fibre Industry (Repeal) Bill, 1957, be read a Second Time.

Mr. Speaker, in moving this Motion I have nothing to add to the Memorandum of Object and Reasons. I beg to move.

MR. CONROY 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.

### BILL

#### SECOND READING

*The Criminal Justice Bill*

Order for Second Reading read.

4.39 p.m.

THE MINISTER FOR LEGAL AFFAIRS (Mr. Griffith-Jones): Mr. Speaker, Sir, I beg to move that the Criminal Justice Bill be now read a Second Time.

Sir, this Bill has three main purposes. The first is to provide, in effect, that when a person is sentenced to imprisonment on conviction for a criminal offence he shall not in future be sentenced to imprisonment with or without hard labour, as the case may be, but merely to imprisonment, thereby leaving with the prison authorities the determination of the most suitable form of labour to which he should be put. This is a matter to which modern penologists attach some importance in that they consider that it is a function better performed by the prison authorities charged with the detention and, in so far as it is possible, the reformation, of the convict than by the court which convicts the person. In fact, there are a number of considerations to be taken into account in determining the form of labour to which a convict should be put.

There are such things as the nature of work available in the prison itself and in the surrounding locality. In some localities there are facilities for outside labour such as quarry work; in other localities and prisons there are no such local facilities and the form of labour to which convicts in such prisons are put is, for the most part, intramural labour such as the sewing of mailbags and the like. It does mean, Sir, that the true function of imprisonment will stand under this new arrangement a better chance of achieving its main object, its object of applying a measure of punishment and also of applying at the same time—and equally importantly—such reformatory influences, such assurance against recidivism, as the prison authorities can achieve.

The second purpose of this Bill is to repeal in its application to this Colony the Forfeiture Act of 1870 of the United Kingdom. As hon. Members will know, under the constitution of this Colony the statutes of general application in force in England on 12th August, 1897 apply in this Colony, subject to our local Ordinances. Now, the Forfeiture Act is a very old Act, not only since it is 90 years old in terms of time since its enactment, but also in its concepts and in its terms and provisions it is considerably older than that. Many of its provisions are thoroughly archaic and a good many of them have been repealed in England, although those repeals do not in all instances apply in this Colony, since amendments and repeals effected subsequently to the date which I have mentioned—12th August, 1897—do not apply in the Colony.

I do not, I think, need to elaborate on the terms of the Forfeiture Act. Suffice it to say that a number of its provisions are undesirable in our present circumstances and others of its provisions are wholly inapplicable.

The third purpose of this Bill, Sir, is to repeal in its application to the Colony the Indian Whipping Act of 1864. Now, that Act, Sir, relates almost exclusively to offences under the Indian Penal Code and provides in effect that for certain of those offences, the punishment of whipping can be imposed, whether or not the particular statutory provision prescribing that offence authorizes corporal punishment as a punishment for the offence. Since 1930, the Indian Penal Code, which up to that date applied to this Colony, has not applied, because in that year we enacted our own Penal Code which, subject to periodic amendments since then, has been and still is the law of this country. The Indian Whipping Act, therefore, if it was not implicitly repealed by our own Penal Code, as is possible, certainly has had no application, no practical application, in the Colony since then and is virtually spent for our purposes. Being a dead letter, therefore, it is as well that we should remove it from our Statute Book.

Those are the three purposes of this Bill, Sir, and there is in clauses 3 and 4 provision for certain consequential repeals and amendments of two of our

[The Minister for Legal Affairs] own Ordinances, namely our own Penal Code and our Prisons Ordinance.

I think there is no necessity, Sir, to dilate further on the purposes and objects of this Bill and I accordingly beg to move.

MR. CONROY seconded.

*Question proposed.*

MR. SLADE: Mr. Speaker, Sir, I fully support this Bill for the reasons given by the hon. Mover. I would like to elaborate a little on the factors he outlined as being most important in the question of putting prisoners to labour and the factors bearing on choice of labour. He said, quite rightly, Sir, that one of the main purposes of labour in the enlightened prison life of these days is the corrective, reformatory element and that another factor is the training, I think, for being a citizen afterwards.

There is a third factor, Sir, which I think is not quite so important as those two, but which is still very important, and that is to make it possible for the prisoner to contribute towards the cost of his own maintenance. All those three things come into account together.

There also comes the question of what labour you are going to put the particular prisoner to. As the hon. Mover pointed out, you are limited in your choice by the circumstances of the prison, but where you have a certain choice then you do have to consider in respect of each prisoner both his health and his mental aptitude for the work available. That all strengthens, Mr. Speaker, the case for giving the prison authority the widest possible discretion, which is the object of this Bill.

That being so, I would like to be sure that we are achieving that by clause 4 of the Bill as it stands. That clause is going to insert a new sub-section, in section 62, of the Prisons Ordinance, saying that every prisoner sentenced or treated as having been sentenced to imprisonment may be kept to labour in any employment which may be prescribed. I take it, Sir, that that means that the kind of employment to which a prisoner can be put will be limited by rules or proclamation.

However, I would like to be sure that the choice of what labour you are going to put a particular prisoner to is entirely in the discretion of the prison authorities and will not be prescribed in any way at all.

There is only one other point, Sir, with regard to the repeal of the applications of the Forfeiture Act. I see that section 1 of the Forfeiture Act provided that conviction for treason or felony was not to cause any attainder or corruption of blood. I think we ought to be sure, Sir, that if we repeal that Act we are not going to be in a position that a conviction for treason or felony does cause attainder or corruption of blood; which would depend, of course, on whether there is any other law of general application to this Colony which created that uncomfortable situation for the unfortunate convict.

I beg to support, Sir.

THE MINISTER FOR LEGAL AFFAIRS (Mr. Griffith-Jones): I think I can give the hon. Member for the Aberdears the assurance that he seeks—namely, that the selection of labour to which an individual prisoner shall be put will be at the discretion of the prison authorities. The purpose of the proposed amendment to section 62 of the Prisons Ordinance is merely to set broad limits of labour within which that individual selection, or that selection for individual reasons, must be confined. It will not inhibit the prison authorities from putting a man to whichever form of permitted labour is most suitable to his circumstances, his aptitude, his physical capacity and such other factors as are material, as the hon. Member realizes.

On the second point which he raised I can only say that I, too, with him, trust that there is no other statute of general application which will have the most alarming results which he mentioned. I am not prepared to give him an assurance of that nature because I confess, Sir, that wide as my knowledge is I am far from knowing the full range of statutes of general application! In fact, I find considerable difficulty on occasions to decide which are statutes of general application!

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 Northern Province Livestock

##### Improvement Bill

Order for Second Reading read.

THE MINISTER FOR AFRICAN AFFAIRS (Mr. Windley): Mr. Speaker, Sir, I beg to move that the Northern Province Livestock Improvement Bill—Bill No. 4—be now read a Second Time.

Sir, I think that the Memorandum of Objects and Reasons quite clearly gives the background to this Bill and indicates also that particular background of the Northern Province which is in many ways very different from other parts of Kenya, or at least I should say very different from other parts of Kenya; and against this economic and geographical background, although there have been the difficulties of developing the ordinary processes of local government, such as the African district councils which exist in the areas elsewhere in Kenya, and through which it is normal to collect revenue by imposing cesses on agricultural produce for use on services in the areas concerned which the people want. This Bill, Sir, provides for the imposition of cesses on livestock and certain livestock produce, as these are the principal products of this province. It will therefore be exactly similar in principle to the by-laws made by the African district councils in other more advanced areas. The Bill provides for the payment of the revenue received into the African Trust Fund and it will in fact be credited to the Northern Province Sub-account of this Trust Fund and it will be used to pay for services in the district in which the cesses are imposed. These cesses will be largely concerned with the provision of water supplies and the rest, and the cost of collecting the cess will also have to be met from this sub-account of the Trust Fund.

I think there is very little else I can say on this, but if any hon. Members have any questions they would like me to enlarge upon I will be happy to do so.

THE MINISTER FOR LEGAL AFFAIRS (Mr. Griffith-Jones) 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 Use of Poisonous Substances 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 the Use of Poisonous Substances Bill—Bill No. 5—be now read a second time.

The origin of this Bill is from a committee set up in 1952 under the chairmanship of the senior entomologist of the Scott Laboratories to investigate problems arising from the use of toxic chemicals in agriculture. As a result of that examination and the increasing amount of dangerous substances which were coming forward for use in agriculture the present Bill was recommended to be brought before the legislature. It follows similar legislation in the United Kingdom but has been very much simplified in view of the fact that we are not nearly so technically advanced or so highly developed as that country. The Bill has also been deliberately widened by the Government to include control of the use of poisonous substances in other fields, for example in the extermination of locusts and the fumigation of factories and stores. These provisions do not encroach on those embodied in the Factories Ordinance, nor, as far as I know, in the Pharmacy and Poisons Ordinance.

I propose, Sir, to move from the general sections of the Bill to mention those clauses to which I think the attention of hon. Members should be drawn.

In clause 2, Sir, the poisonous substances to which the Ordinance will be applicable are declared to be such under section 9. Clause 3 contains really the meat of the Bill and provides the regulations to be made for the protection of persons against the risk of poisoning and the restrictions on the importation, handling and storage, and also the sale, etc., of the poisonous substances.

I personally believe, and I will attempt to carry this out during the time that I am Minister for Agriculture, that elaborate regulations on the lines of

[The Minister for Agriculture, Animal Husbandry and Water Resources] those in the United Kingdom are not practicable in countries of this sort and that we will have to take care when drafting the regulations for the control and handling of these substances to see that the regulations can be enforced and can be properly maintained within the limitations of this country. Before any such regulations are made it is incumbent upon the Minister to consult with such organizations as appear to him to represent the interests concerned. The Minister has already given a number of assurances to consult people such as the Minister for Education, Labour and Lands, the Minister for Local Government, Health and Housing, the Minister for Commerce and Industry, the High Commission, farming interests such as the Kenya National Farmers' Union, the Kenya Farmers' Association and producers' boards, together with the East African Railways and Harbours before introducing regulations. I mentioned that to show that I think that before regulations are introduced we want the widest possible scrutiny on the possibility and the advisability of their application.

Clause 5, Sir, deals with the appointment of inspectors and the Department of Agriculture will undertake to carry out inspections required by the Ordinance as part of the ordinary routine duties of their officers so far as the agricultural industry is concerned. Special arrangements may be found necessary at the ports in consultation with the Chief Ports Manager and also in factories where inspection is necessary. It is possible there that we may be able to use labour inspectors. The powers of entry given to inspectors are fairly extensive but we do not consider them excessive in view of the possible dangers of the misuse of these poisonous substances. Those powers of entry are in clause 5.

Clause 6 deals with penalties and I have no comment.

Clause 7 deals with defence for persons who are alleged to have abused the use of these poisons but who can prove that the abuse was not by themselves but by other persons working with them or for them.

Clause 8 merely sets down the method and manner of taking samples and clause 9 puts forward those substances which may be deemed to be poisonous.

Clause 10, Mr. Speaker, ensures that the Ordinance will bind the Crown as well as the ordinary people of this country. This is important as we may have a situation where other Government departments use these poisonous substances and the same rules and regulations must apply to them as to ordinary private enterprise using the same substances. That is the reason why in the Memorandum of Objects and Reasons the clause dealing with financial expenditure implies that there may be some arising from this Bill—that is, which will happen if agents of the Crown are affected in any way by the Bill.

Clause 11, Sir, deals with the protection of inspectors during the exercise of their duty.

Mr. Speaker, I do not think I have anything else to add except to say this. It would be our wish as a Government not to introduce too much vexatious legislation, but these substances are extremely poisonous. Experience has already taught us that they can be highly dangerous. We have had a number of persons in hospital suffering from the effects of these poisons and I commend the Bill to the House in order that we can control as much as possible the use of the poisons with the least possible damage to the people of this country.

Sir, I beg to move.

THE MINISTER FOR LEGAL AFFAIRS (Mr. Griffith-Jones) seconded.

Question proposed.

MR. COWIE (Nominated Member, Government): Mr. Speaker, may I ask the Minister if in the course of his reply he would say to what extent the Bill will overlap with the existing provisions in what is called the Pharmacy Ordinance. My impression is that there is an Ordinance which covers to some extent the importation of poisons and also to some extent the use of them, whereas this Bill appears to deal almost entirely with the use of them. What I have particularly in mind, Sir, if I may say so, is to ask on behalf of my constituents whether he intends to include arrow poisons in the Schedule under section 9.

Mr. CONROY: Mr. Speaker, if I might reply on the last point, the Pharmacy and Poisons Ordinance provides for the establishment of a list of poisons. This Bill, with which we are dealing now, allows the Minister to declare certain substances poisonous substances for the purposes of this Bill. The two pieces of legislation are, I think, complementary and not conflicting. The Pharmacy and Poisons Ordinance deals principally with the sale of poisons; it also deals with the making up of medicines and the custody of poisons by doctors and pharmacists. The Bill we are dealing with now is an enabling Bill. It does not contain any provisions itself which restrict the use, custody, importation or sale of poisonous substances; it merely gives power to make rules dealing with those matters, and quite clearly, as the Minister has told us, great care will be taken in making those rules to ensure that there is no overlap between the two Ordinances. The appropriate authorities under the Pharmacy and Poisons Ordinance will be consulted to ensure that the rules made under this Bill will not conflict with the provisions of the Pharmacy and Poisons Ordinance.

Mr. Speaker, I therefore think any conflict which might arise is therefore more apparent than real and I beg to support.

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): There is only one point to reply to, Sir, and I should like to recommend to the hon. Member who raised it that when the Bill becomes law he should make representations about the matter to the Minister, that is, myself.

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

### BILL

#### SECOND READING

##### The Water (Amendment) Bill

Order for Second Reading read.  
5.09 p.m.

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): Mr. Speaker, I beg to move that the Water (Amend-

ment) Bill, 1957, be now read a Second Time.

Mr. Speaker, in introducing these rather lengthy amendments to the original Ordinance I should like to begin by paying a tribute to the work of the Water Resources Authority and its Chairman, Major-General Edwards, together with the members of the Water Apportionment Board, over the last six years.

The Water Ordinance which was introduced then was a very lengthy and heavy piece of legislation and went to a select committee in this Council. I was, as a matter of interest to hon. Members, a member of that select committee from the other side of the Council. As a result of that legislation I think hon. Members may like to know that not only has the Bill been adopted as a model in two other territories in Africa—that is to say, Tanganyika and Northern Rhodesia—but it has worked extremely well. The amendments which I am bringing to the Council to-day are the result of the working of the Ordinance and we are finding out where, by experience, it can be improved and changed due to the expanding development of the country which has put greater pressure upon the use of our water resources.

I shall, Mr. Speaker, at a later date in the future, be moving further amendments to this Bill, but at the present stage at any rate I think hon. Members will agree that those put before us are probably sufficient.

I would like to turn to the Bill clause by clause where necessary and indicate to hon. Members where changes are taking place and the reasons for them.

The definition of water undertaker is considered unnecessary as no person becomes a water undertaker unless the Minister so appoints. There is therefore no need to define a water undertaker in the Ordinance; and the new definition of well construction simplifies the reference in the main Ordinance and obviates a need for a number of minor amendments elsewhere. The construction of an extension of a well, a well being, for the information of hon. Members, a bore-hole, could have the effect of increasing the abstraction of water and we do desire to ensure control over extensions and over increase in such abstractions; hence the new definition.

[The Minister for Agriculture, Animal Husbandry and Water Resources].

Clause 3—membership of the Board—is a necessary amendment as the Ordinance at present allows for the Director of Public Works, who is now replaced by the Secretary for Works because the Director has ceased to exist, to be nominated as a member of both the Water Apportionment Board and the Water Resources Authority. Now, experience has taught us that this is ill-advised because often there are public appeals against decisions of the Water Apportionment Board to the Water Resources Authority and it is undesirable to have an interested party on the latter who made the decision against which an appeal is being lodged on the former. Therefore we have chosen the executive officer of the African Land Development Board (Non-Scheduled Areas), commonly called ALDEV, to take the place of the Director of Public Works.

There is also a new sub-section (5), clause 3, which allows the Minister a certain element of flexibility in the appointment of the Chairman and the conduct of the Board.

Regarding clause 4, there was an error in the original drafting of the Bill in that for certain purposes the Water Resources Authority and the Water Apportionment Board were confused and clause 4 delegates authority to the Regional Water Boards more clearly and concisely especially in regard to their respective functions on behalf of the Water Resources Authority and the Water Apportionment Board. At the present moment the Regional Water Boards are required to advise the Water Resources Authority on the apportionment of existing and potential supplies and on the adjustment, calculation and alteration of any licence or permit. These matters are not the concern of the Water Resources Authority. They are the concern of the Water Apportionment Board and this clause seeks to put that situation right.

Clause 5 deals with the composition of the Water Apportionment Board and is necessary for two reasons. We have had difficulty in the past in obtaining a quorum at the meetings of that Board and the proposal before Council is to increase the number of members on the Board; and secondly the change of

status of the Secretary of Works and the abolition of the post of the Director of Public Works has caused the amendment in clause 5 (a).

The same remark, Mr. Speaker, applies in regard to the rules of the Water Apportionment Board as applied to the rules for the Water Resources Authority.

Clause 6 deals with the delegation of powers of the Water Apportionment Board to mainly Regional Water Boards, and I would like to spend a moment or two on this. We have found from experience that the operation of the granting of permits, and the facilities which the Water Apportionment Board gives to the public, have been delayed by its inability to delegate to a lower level. We propose to enable Regional Water Boards to grant permits for construction in the scheduled areas of dams of less than 15 ft. in height above ground level and £500 in capital cost on water courses in their areas in which the water does not flow permanently. The object of this is to expedite the issue of permits and so relieve the Water Apportionment Board of these duties. It should result in a very much more expeditious granting of permits which hon. Members have raised in this Council on a number of occasions.

It is also proposed, and I think it is a very important point, to delegate to the Regional Water Boards the power to declare a watercourse within their area to be a watercourse without a permanent flow for the purpose of the construction thereon of such dams as it will be within their power to approve. That is a further measure which should, I think, expedite the construction of dams and the conservation of our water resources on non-permanent streams on a regional basis.

Clause 7 deals with the construction of wells. Now, as the Ordinance is now worded we have had difficulty in prosecuting persons for not complying with the provisions of this section, and this clause amends the section to delineate more precisely the offence created. We have omitted the proviso to sub-section 2 of the original section in the principal Ordinance in order to ensure better control in respect of wells, since it has been difficult, we have found from experience,

[The Minister for Agriculture, Animal Husbandry and Water Resources] in the event of a prosecution to prove how many gallons of water are extracted from the well in any one day.

I have already referred to the desirability of covering the extension of a well. Very often, especially when the water-table is dropping, there is a tendency by well permit holders to extend the well downwards and, in effect, that means an increasing drawing off from the diminishing supplies available. It is therefore essential for us to have a reasonable control of those operations.

Clause 9 deals with the question of the submission of the records of the construction of a well and particulars of tests carried out during it. We have found in the past that the Ordinance was worded in a rather vague way in that we have had difficulty in proving when a well was abandoned or ceased to be constructed and this puts the whole issue very much more positively from the legal point of view, or more negatively from the point of view of persons wishing to construct wells.

Clause 10 deals with existing wells and is one to which I would like particularly to draw Members' attention. When a new well is sunk within a certain distance of an existing well it is necessary to take particulars of the output levels, etc., in the existing well. Now, we have no power at the moment to ensure that that should be done. It is essential if we are to get the information necessary to decide how much pressure we are putting upon the water supplies below the surface, and this clause makes it obligatory upon an owner of an existing well to provide pumping tests and level tests, where necessary. In the event of a new well being sunk within a certain distance of his own well. It also allows us to waive any such test altogether; this was not in the original Ordinance.

Clauses 11 and 12 as drafted at present (that is to say, sections 44 and 52 of the principal Ordinance) make provision for cumulative daily fines, and the Government is advised that this is an objectionable practice which this clause seeks to amend. The penalties, therefore, have accordingly been converted into a single maximum fine with an increased penalty under clause 11 for a second or subsequent offence instead of the daily

cumulative fine which exists at the present under the principal Ordinance.

Clause 13 deals with the approval of an application and is only a very minor matter. In the original section 67 applicants had to ask for permits in triplicate, whereas in section 70 the wording was "both copies". This merely seeks to make sure that both sections of the principal Ordinance tally in that respect and refer to three copies.

Clause 14 refers to the licensing of dam contractors; and it seeks to licence dam contractors in the same way as the principal Ordinance licensed borehole contractors. Now, if this is enacted not every dam contractor will require to be licensed. I would like to draw hon. Members' attention to that, particularly because an excessive use of licensing might indeed stymie or stultify the work which we want to carry out in getting more dams. The only contractors who will need to be licensed will be those who are building dams which by reason of their height or size or for other reasons are required by rules to be constructed by licensed dam contractors. In the rules to be drafted under the revised section it is proposed to lay down that contractors who build dams over 15 ft. in height and build any dam qualifying for dam subsidy shall be licensed.

There is also provision here for cancellation of any contractor's licence who fails to carry out the work properly and prejudices the construction of the dam generally.

Now those really are the measures which are designed first of all to free as much as possible the sort of dams which regional water boards can approve and to control in the interest of the public the much larger dams, over 15 feet in height and over a certain amount of money, which may become, if badly constructed, a danger to the public.

Now clause 15 deals with the issue of water permits and I should like to spend a moment or two on it because someone. Members may be expressly interested in this.

The provision in the Ordinance as it exists allows for permits to expire with the lease of the land to which the permit is granted and that was done prior to the general extension of leases to 999 years. It is, we believe, impracticable to grant a water permit—that is to say new water

[The Minister for Agriculture, Animal Husbandry and Water Resources] permits—on a basis of 999 years, because no one can foresee the use and development of water as long ahead as that. We do not think it is wise to commit water supplies for too long a period and the general intention of the Water Apportionment Board is to issue new water permits for a period of 25 years or where major permanent works are involved, a longer period as seems reasonable to the Water Apportionment Board.

Now two points will immediately spring, I think, to hon. Members' minds. What is the effect of this amendment on existing permits in being before the present Ordinance was passed, and I would like to assure hon. Members that those permits will not be touched in any way and will continue with exactly the same rights and provisions to water as they have to-day. This new procedure solely applies to new permits being issued after the passing of this amendment. Where a farm changes hands with an existing permit, then one of two things can happen. The new owner can either carry forward the residual element of the existing permit which he has purchased with the farm or he can, if he so wishes apply for a new permit to the Water Apportionment Board and I think that that should protect the legitimate interests of persons who have water permits before the passing of the Water Ordinance. Some hon. Members may recollect that a particular point was made during the debate on the principal Ordinance on that matter.

Clause 16. Again it is an important clause to which I would like to draw the particular attention of Members. The present section 87 in the principal Ordinance empowers the Water Apportionment Board to alter the discharge or quantity of the water which an operator is authorized to divert, extract, store, or use. To refresh hon. Members' memories, an operator is a permit holder, either a single individual or a number of persons joined together.

Now, where the Board is satisfied that owing to certain reasons such as the diversion of water by an operator, which have caused a shortage of water, the Board is authorized at present to alter the provisions. But that provision which we already have in the principle Ordinance

to alter or divert in certain circumstances did not cover a case such as follows, with the increasing development of the country a number of farmers are joining together, pooling their financial resources and piping what we call tapering streams. Now, we have had cases where an individual—an obdurate owner—by reason of the original water permit granted to him, can completely prevent such a scheme and we do not consider that it is right that one single individual should be able to prejudice the complete water development of an area. This section seeks to compel such a person to come into the scheme on certain conditions. There is the right of appeal within 30 days of notice of an intention to operate a joint water undertaking scheme and there is provision for an adequate alternative source of supply to be made available to the person who is obdurate and who is being compelled to join the scheme. There is also provision for appeal by arbitration on the cost of the scheme in the case of such a compulsion.

There is also provision in the section which ensures that any such scheme must have the support of the persons owning or occupying at least two-thirds of the area concerned, I think in that way. Mr. Speaker, we should be able to get over the difficulties which are often very real in this country of staunch individualism; the difficulties of an individual owner preventing the development of a major area because of an old water permit and yet protect his right to water by the giving of an alternative supply, the provision for appeal and the provision for arbitration on the cost incurred in the loss to him of capital works where that occurs.

Now I am convinced as Minister that we need this power because we have got one or two cases of major schemes where one single individual has been able to prevent the development of an area.

Now clause 17 deals with abandoned work. Now under the principal Ordinance the Minister may take over abandoned work for use or disposal, etc., without compensation, but no mention is made of the cost of removing or destroying such works if the Minister decides upon this course. That being so, the public through the work of the Minister may lose financially due to the

[The Minister for Agriculture, Animal Husbandry and Water Resources] default of the owner. This clause allows the Minister to recover the cost in whole or in part from the owner and there is also provision for a period of one month to be given by the Minister to the owner to enable him to remove the obstruction if he so wishes. There is also provision for the Minister, if he so wishes to extend the period of one month in certain circumstances which he thinks would be right.

Clause 18 deals with the question of pollution, and the Government considers that it is important to provide greater powers for controlling the pollution of water with the growing industrialization of the country. The considerably increased penalties which are proposed in this section should have a deterrent effect against pollution, but again we have altered the daily fines which were in the original principal Ordinance—the daily cumulative fines—to a single heavy fine where there is an offence against this section. Under clause 27 which comes later the Minister may make rules against pollution. I only want to say at this stage that experience in the United Kingdom shows that their awareness of the problem of pollution and their mechanism for dealing with the problems of pollution are not as good as they ought to be in terms of industrial usage where one gets considerable substances entering the rivers as a by-product, as it were, of manufacturing processes. I think if one could put the clock back in the United Kingdom many of their assets in the way of fishing on the rivers would be very much better to-day than they are. This clause seeks to take time by the forelock and see that we do not make the same mistake.

Clause 19 deals with the Water Appeal Board and mainly it allows greater latitude for appeals to the Water Appeal Board, allowing an extension to the 30 days, which is now the statutory time in the principal Ordinance.

Clause 20 deals with water undertakers and again is a clause to which I would particularly like to draw the attention of hon. Members, especially as the hon. Member for Mombasa—who is not present, I think—raised it during the Mombasa Pipeline Bill.

Protection at the moment is not afforded under the Water Ordinance to water undertakers against the installation by private persons of further supplies which might cause a water undertaker's supply to become uneconomic, although, if the water undertaker is county council, protection of this kind is afforded to it under Local Government County Council's Orders, 1952.

It is desirable, I think, that all further undertakers should be given a certain measure of protection, and clause 20 in effect will amend section 134 of the principal Ordinance by the addition of a new sub-section (3) prohibiting the construction of works for the supply of water to any premises within an undertaker's area unless the water undertaker consents. Such consent, however, must be given if the water undertaker is either unwilling or unable to give an adequate water supply at the price embodied in his regulations. So it protects an existing water undertaker only in so far as he is able to supply the commitment being offered to him.

There are four other sub-sections in this clause. The first is sub-section 4 which will compel persons who supply water over a certain quantity or to more than a certain number of persons to become water undertakers. They will then be required to fulfil the obligations and duties owed to consumers and imposed upon water undertakers by the Ordinance and will in like manner acquire the privileges and protection afforded to water undertakers. That is an important provision because, with the expanding development of some of our towns, a number of agricultural estates are being broken up as, shall we say, garden city estates supplying their own water, and very often, when the original seller has disposed of the plots, there is no residual interest in the undertaking given on water supply and this will largely protect purchasers of plots and builders of houses in areas of that sort in regard to a joint water undertaking which was given at the time of the setting up of the estate concerned.

The new sub-section also proposes, in section 134 of the principal Ordinance, to permit persons supplying water but who are not compelled to become a

[The Minister for Agriculture, Animal Husbandry and Water Resources] water undertaker to apply to be appointed as such if they so wish and consumers will be also permitted to submit a request that the person who supplies water be appointed a water undertaker. The new provisions, when enacted, will give a much greater degree of control in respect of distribution of water to consumers in areas of the sort to which I have referred.

Now, clause 21 is when a complaint is made to the Minister and the Minister is satisfied, after investigation, that the water undertaker has failed to discharge his duties or to carry out which the Ordinance places upon him, the Minister may declare him to be in default and order him to take specified steps within a stated period.

Now, we have increased considerably the penalty under this section and from recent experience we are convinced that heavy penalties in cases of this sort are necessary because we have run into difficulties whereby persons have undertaken the obligations to supply water and have then defaulted on these obligations.

Clause 22 merely changes the provision for an accumulative fine in the original Ordinance to a single fine enforceable under section 167 of the principal Ordinance.

Clause 23 seeks to define more precisely the matters in respect of which water undertakers may make regulations under section 133 of the principal Ordinance. Two new provisions are introduced in this clause. Under the present clause there is no obligation on and no means of compelling water undertakers to make regulations providing for tariffs and the management of their supplies. We think it is desirable that such regulations should be made where necessary and the clause makes it obligatory on water undertakers to make such regulations.

Clause 24 deals with the power of association of operators to make regulations. That merely means that a body of persons may join together if they so wish and make the necessary regulations in respect of their joint undertakings. Clause 24 carries that further and allows such regulations to be published if the Minister so directs and with the approval of the Minister.

Clause 26 deals with entry upon land. It requires as at present drafted, reasonable notice before the Water Apportionment Board officers enter upon private land to carry out the duties of the Ordinance. Section 131, sub-section (1) of the principal Ordinance empowers them to do so, if necessary without notice, to carry out certain of their duties specified in that section. Now this has led to some confusion and clause 26 seeks to put that right. It makes provision for reasonable notice in all cases of entry upon private land except in the three cases specified in the proviso to sub-section (1) of clause 26. It was necessary for us to clarify this issue as water bailiffs in the past have been prevented from carrying out duties, by the ruling of magistrates, by the confusion that exists under this Ordinance. A small point of interest to hon. Members is the complete deletion of the provision for entering dwellings or enclosed yards; and the reason for that is that this clause does not seek to secure in any way the right of entry into such places and that means, Sir, the original provision in the principal Ordinance is no longer necessary. But I do mention it to hon. Members because when the original Bill came forward, hon. Members were exercised in their minds about the power of entry of the Water Apportionment Board's inspectors. What we seek to do here is to make reasonable notice in all cases other than the three which are covered in the proviso.

Clause 27 allows the Minister to make rules in respect of pollution and matters arising out of the provision contained in clauses 3, 5 and 14 of this Bill. It also allows him to make rules in the case of community projects carried out outside the African Land Units.

That, Sir, I think draws the attention of hon. Members to the main amendments which are before the Council and I beg to move the Motion.

THE ASIAN MINISTER WITHOUT PORTFOLIO (Mr. Madan) seconded.

Question proposed.

LT.-COL. GHERSI: Mr. Speaker, Sir, one very brief point, this amending Bill deals with water undertakers, dams and wells, Sir, and, of course, the necessary administrative machinery. But I have been unable to ascertain whether or not it also makes provision for the actual

[Lt.-Col. Ghesie] control of the flow of water through a stream or river. What I have in mind, Sir, is this: that a dam may be rendered useless and a farmer with low-lying land may find it flooded and waterlogged unless an owner is compelled to keep the water-course flowing through his property reasonably free from vegetation.

Now, Sir, I believe that section 120 of the principal Ordinance provides the Minister with powers to order the drainage of a swamp if it is causing a reduction of the flow of water through a watercourse, but I do not think it gives him sufficient power, or power at all for that matter, to require a landowner to keep the banks and the bed of a river in good order on a water-course on his property.

I shall be glad if, when the Minister replies, he could deal with that particular aspect.

MR. MAXWELL (Trans Nzoia): Mr. Speaker, Sir, the Trans Nzoia Association has asked me to point out that as adopted the new sub-section (4) of clause 20 would virtually prohibit a farmer or farmers to contribute water supplies to their farm labour, unless, of course, a farmer becomes a water undertaker or is licensed for that purpose.

I know that it is not intended that this sub-section should apply to farmers or to hospitals, factories or schools, research stations, institutions, labour lines or forest department, etc., purely for the purpose of supplying their staff with water.

In the Committee stage, I propose, therefore, to move an amendment accordingly to ensure that this sub-section (4) does not apply in these circumstances.

MRS. SHAW (Nyanza): Mr. Speaker, Sir, I would be grateful if the hon. Minister could inform me if under clause 18 No. 2 if either (a) or (b) cover damage to sources of springs by herds of cattle grazing there. Damage or pollution. For often it happens that the source of water, often the sole supply of water for a farm lies outside the control of that farm owner, in other words, the spring may arise on a neighbour's farm, and one would think that the neighbour would guard against pollution, but it may not be his supply of water for he may have an alternative source, and I

shall be very grateful therefore, to know if this is covered under this section and if the penalties which have been increased can also be imposed for this form of pollution.

5.43 p.m.

MR. ALEXANDER: Mr. Speaker, Sir, just two points. Firstly, to supplement the point made by the Member for Nairobi North.

The Minister will perhaps recollect that during the Budget Debate concerning this part of his Portfolio, I raised this very question, and the Minister said he thought there was legislation to require property owners to keep their river beds and banks clear, and since then there has been an exchange of correspondence with masses of copies going through various departments of this massive Government, and if he will refresh his memory on this correspondence, he will perhaps be able now to give us a very clear indication as to whether this particular point is covered legally because like my friend the Member for Nairobi North, all that I have learned since I asked the original question is the fact that the law on the point is inadequate.

Secondly, I was pleased to hear the Minister mention the problem arising from water supplies arising from the subdivisions of land in the peri-urban areas. This particularly concerns my own constituency and he mentioned the City Garden Estate and this refers to clause 20 of this Bill.

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): I thank the hon. Member, Mr. Speaker, Sir, I would like to say that I did not mention City Garden Estate. What I did mention were garden estates round the city.

MR. ALEXANDER: I am sorry, Sir, I apologize, I will mention an estate in a moment.

It concerns clause 134 of the original Bill and section 20 of this Amendment Bill and in the explanatory notes it does say of sub-section 4 that they, that is water undertakers, will then be required to fulfil the obligations owed to consumers imposed upon water undertakers by the Ordinance. The Minister took us so far in his explanation but did not tell

[Mr. Alexander] us exactly how these particular water undertakers were going to be pinned down.

Let me, as an example, give the case of Spring Valley Estate; in which I myself live; it goes back a number of years and when the developers had sold all the land they went into liquidation and left the property owners with a water system that was there, for them to find that it required some £10,000 to put it in order. Now that is just one example which I believe is being repeated time and time again, and unless there is some bond, some guarantee that can be invoked by Government, then there is very little meaning in undertakings by limited companies who become water undertakers and when they fulfil the purpose of selling all their land, they go into liquidation and leave the property owners singing for their supper.

The other point I would like to be clear about is the extent to which the Government require water undertakers to construct the reticulation systems to specifications which will be adequate if such undertakings are in their turn taken over by local government.

As an example of this, I give you the case of Nyall Ltd., which I myself, am personally interested in; I have an interest in some land there. I think that is another very good example of a land development that has gone back many, many years. There is still much of that land to be sold. At the moment, Nyall Ltd. are the water undertakers, but when the day arrives that they have sold all the land, are we to be certain that the Municipal Board of Mombasa, so far as the land of Nyall Ltd. comes within the boundary of the Board, do not wake up to find that they have an inadequate or poor reticulation system that will need many thousands of pounds spent upon it in order to bring it up to specification. I am not suggesting that is the case in Nyall Ltd. I merely bring this one out to illustrate the point, but I think it will help the Minister to realize what I am getting at.

With those two queries, I beg to support.

MR. HASSAN (East Electoral Area): I would like to ask the Minister to give

me some information on a few clauses of this Bill.

First is No. 6 in which he said, that the Water Apportionment Board will pass on their powers to the Regional Boards in the scheduled areas. Why are the non-scheduled areas not included in this? The Regional Boards are finding great difficulty in meeting the demands of the applicants and their applications sometimes—

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): Would the hon. Member forgive me, Sir, if I make a point of explanation.

It is the construction of dams in the scheduled areas to which I was referring. The delegated powers in other matters will apply to all areas.

MR. HASSAN: The second is clause 7 regarding the construction of wells and their deepening and the permit to be obtained thereon. Now I would like to know whether this clause refers to surface wells. Surface wells are not deeper than about 80 ft., and there are hundreds and thousands of them already at the coast just above the water surface of the sea. I find that a number of these wells in the dry season are not giving sufficient water to those who are using them and it is only a question of a few buckets of soil being taken out to get enough water for drinking purposes. Whether this clause is going to interfere in the liberty to get drinking water in the far and remote areas of the coast where it is not possible for those people to apply for a permit for a long time, I do not know.

The third is clauses 15 and 16. It is with regard to those people who have the prior right of drawing water from the rivers for which they have right under their leases purchased by them from the previous owners. We had such a case brought to our notice in the original Board in Mombasa and we found that the notices issued to the company in question about not being able to give them the quantity of water they demanded of us, they produced a lease which they had purchased from the previous owner in which they had the sole right to deal in any way they liked with the water supply of that river.

[Mr. Hassan]

Under that lease the Board said that we could not possibly tackle them.

I believe that case will be brought to the notice of the Water Board. I would like to know whether this clause will affect the legally acquired right of those people in the leases they purchased from the owner.

With these few points, Sir, I beg to support.

Sir ALFRED VINCENT (Nominated Member, Non-Government): Mr. Speaker, Sir, I should just like to put a very simple problem to the Minister—who I should like to congratulate on the clarity of his introduction of the Second Reading—but what happens in the case of a water undertaker who cannot undertake? The Minister did say, Sir, and very rightly, that certain water rights which were possessed should be maintained, and not altered till the legal circumstances altered or the lease ran out. The question I want to ask, is how far paragraph 20 under section 134, or such suitable section, which refers to these despoils in the nature of city giants or municipalities or whatever you may call them. When you appoint them water undertakers for a large area and they cannot undertake—they cannot supply the water—they make demands on the people who require water for development as I pointed out here before, they rule that the people can put down their own boreholes but it is completely at their peril, and when the water undertaker finds he can undertake, then those boreholes can be ordered to be closed and must be sealed. I think that in taking the broader view of the water laws of this country, you must take very great care that you do not place too much power in the hands of these local authorities. They are a great menace and they have proved to be a great menace, Sir, and I am wondering whether there is any opportunity to have this matter put right, I am not interested personally, but I think it is iniquitous that the present law and the present circumstances should be allowed to remain, and I would ask the Minister, if it comes within this Bill—and I must thank you, Sir, for allowing me to proceed if it does not—if he can answer this question. I think it is a very relevant one, as it concerns deal-

ing in water by Her Majesty's Government in this territory.

Mr. TYSON (Nominated Member, Government): This Bill was considered by the Nairobi Chamber of Commerce by one of their sub-committees, and they prepared a number of notes on various sections, but, unfortunately, for some reason I cannot understand, they omitted to furnish the Minister with a copy of these notes. I have, no doubt, an opportunity will occur in the course of the Committee stage to draw attention to some of the sections about which the Chamber of Commerce complained, but I would like to draw attention to clause 16, which I think is a very important one. It will affect this question of the Seven Forks scheme. A 50 years' permit has been promised for this scheme on the completion of the work, and, inasmuch as something like £14,000,000 is involved in the scheme, it does seem questionable whether the Water Apportionment Board should have the powers—very wide powers—which are provided in this section 16. It may be when the Minister comes to deal with the particular clause, he will be able to give some assurance to the Chamber of Commerce that there is protection in the case to which reference is made; but I would like to give notice that when the Committee stage comes I will bring up a number of these amendments which have been proposed by the Chamber of Commerce.

Lt.-COL. MCKENZIE: Mr. Speaker, I should like to inform the Council that at the Committee stage I intend moving an amendment to clause 17 of the Water (Amendment) Bill, referring to section 124 concerning abandoned works, because I feel the 30 days which is in the clause is not sufficient.

Mr. COWIE: Mr. Speaker, Sir, May I ask the Minister one question—that is, the manner in which penalties can be enforced against, shall we say, people living in native areas. What I have in mind is that where it is necessary for a permit to be issued for the drawing of water from a public body of water in a native area, I understand the permit is issued in the name of the district commissioner or on his behalf. Now in the event of something going wrong and that permit not being fulfilled, who actually then gets prosecuted? In other words,

[Mr. Cowie]

how are the penalties enforced against people who are holding permits on behalf of others? It also relates to pollution, Sir.

THE MINISTER FOR LOCAL GOVERNMENT, HEALTH AND HOUSING (Mr. Havelock): Mr. Speaker, if I may reply to the point raised by the hon. Corporate Member with regard to water undertakers—the first thing I should like to say is that I personally, as Minister, take exception to his remarks about local authorities and municipalities and municipal councils. There are so many people—maybe in this Council, Sir, and outside—who seem to forget that in nearly all municipal boards and councils the majority of people on them are elected by the people themselves, and if there are any great complaints then they have every right to put pressure on the elected members, just as hon. Members of this Council have pressure put on them.

MR. ALEXANDER: What about the aldermen?

THE MINISTER FOR LOCAL GOVERNMENT, HEALTH AND HOUSING (Mr. Havelock): I should have thought, Sir, the hon. Member would not need me to answer that question. As far as the alderman is concerned, the pressure is only one stage removed, and I have no doubt he received pressure not only from the people who elected him but other people in the area in which he resides, and all aldermen, naturally, are men of great integrity and responsibility and have the benefit of the people at heart.

Now, if I may answer a specific question, the hon. Member said, what was the Minister to do if the water undertakers cannot undertake to supply water? If the water undertaker is not a municipal council or board, or any other body—and there are numbers of them—then under clause 145 of the principal Ordinance, which is being amended by this Bill, there are considerable powers in the hands of the Minister for Water Resources to ensure that water is supplied to the people which they undertake to supply, and if the hon. Member would like to read that section for himself I am sure it would be better than for me to waste the time of Council in reading it. But as I summed it up, he has consider-

able powers in that regard and, in fact, he has—I think I am right in saying—he has used those powers quite lately on one particular occasion when a water undertaker was not supplying sufficient water in a certain area. If the water undertaker is a municipal council or board, then the Minister for Local Government is responsible, as he is responsible for any failure of any local authority in their duties to their people, and the only reason why the municipal council or board is excluded from the Water Ordinance is because I, as Minister for Local Government, have overall powers to step in on any occasion where the board or council do not discharge their duties properly.

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): Mr. Speaker, some of the questions asked by hon. Members are rather searching. I will do my best to answer them.

The hon. Member for Nairobi-North asked whether the amendment before the Council ensured the proper control of banks and vegetation. That was also put forward by the hon. Member for Nairobi West. Now, I think I owe the hon. Member for Nairobi West an apology, in that when I spoke before—I think in the Budget Debate—on this matter, I thought we had those powers, but the net result of the voluminous correspondence to which he refers is, we have not. We have not got any provision for the keeping of river banks clear. Now, I would like to say this to hon. Members—if they would care to move an amendment in that regard during the Committee stage I would accept it; or, alternatively, I can give assurance, I will see an amendment is moved when the next number of amendments come before this Council. That would not be very long delayed and should ensure it being dealt with within a reasonable period. Perhaps, if hon. Members would like to let me know which they prefer, I will undertake whichever they like.

Now, the hon. Member for the Trans Nzoia raised specifically certain questions in regard to clause 20, and in rather a frightening manner told me he would be moving an amendment. Mr. Speaker, provided his amendment is suitably worded, I should have great



[The Minister for Agriculture, Animal Husbandry and Water Resources] pleasure in accepting it, as the clause as now drafted does give too sweeping powers and does not carry out entirely what we require.

The hon. Member for Nyanza raised the question of whether the eyes of springs could be protected from trampling out by cattle or the illegal movement of stock in the area concerned, and the answer, Sir, is that the new sub-section (2) of section 125 of the principal Ordinance will cover the case of fouling or obstruction of a farm's water supply originating on someone else's land. In other words, the answer is in the affirmative, and a person is not allowed, without authority granted under the Ordinance, to foul or obstruct a spring or watercourse leading from that spring. I think that should satisfy the hon. Member in that regard.

Now, Sir, the hon. Member for Nairobi West also raised a number of points—in regard to water undertakers and water reticulation systems and, although I have not got the full details with me, I will do my best to answer. I do not believe that we can, by legislation, of course, do much about shutting the door when the horse has already left. In other words, where these situations have arisen in the past there is not much we can do, but these amendments do enable people either to join together themselves to become water undertakers, in which case they have to carry out the obligations of water-undertaking, or request that persons should be designated water undertakers.

Now, I find some difficulty in answering the point how one can enforce the carrying out of the responsibility of the water undertaking by persons who are solely engaged in what I would call land speculation, unless the persons who buy the land cover themselves by seeing that the proper responsibilities are accepted either by an association formed from themselves, who can become water undertakers, or by the persons who sell them the land. That seems to me a perfectly simple legal matter, and the amendments before Council do enable persons who buy areas of land, as in Spring Valley, either to become water undertakers on their own by a community association or to request that

somebody else should be water undertakers for them. In the latter case, it is up to them, I think, when they buy the land, to see they have the legal provisions for enforcing the basis upon which they bought the land.

He also asked, Sir, whether we could ensure that the reticulation system and matters of that sort—technical matters—were properly arranged so that if a major water undertaker took over later, the system could be affiliated to the system of the major water undertaker. Well, Sir, that is so. If a group or body of persons wishes to become a water undertaker, and I suggest to the hon. Member in the case he is raising where people buy land that they should not do so unless there is provision for a community project as water undertakers—then they must be registered under the provisions of the principal Ordinance. They are open to, and liable to, inspection by the Hydraulic Branch, and if they do not maintain the rules and regulations laid down by that Hydraulic Branch they are open to the penalties under the Ordinance. So that I think we have some sanction to see that persons who undertake the responsibility of water undertaking do so in a manner, and in a technical manner, which can be fitted into a general development system such as a major municipal project, if and when that develops in the area concerned. The hon. Member asked me to give way.

MR. ALEXANDER—I think I said—the first part of what the Minister is replying to—perhaps I did not make myself lucid there—that it was the responsibility of Government to see that either by third-party guarantee or independent undertakers that they had some hold on the undertakers—on the water undertakers that they themselves authorize.

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): I do not feel, Mr. Speaker, that as a Government we can get ourselves involved in underwriting what are matters of private enterprise.

The point I was trying to make to the hon. Member was that if people want to buy land in one of these estates they should satisfy themselves that the provisions for water supply are binding

[The Minister for Agriculture, Animal Husbandry and Water Resources] either on the people-selling the land or on an association formed to provide the water—I do not feel Government can get involved in that. I may be wrong, but I feel if that were once accepted as a principle there would be no end to it.

(Cries of "No.")

The hon. Member, Sir, for the East Electoral Area raised the question of clause 6. I think I satisfied him on that by my timely—I hope—interruption, and the question of definition of "well": I must make it clear to the hon. Member—the technical word "well" is confusing. It applies specifically to wells which use ground water, and ground water is defined in the Definitions, but water in the normal wells sunk at the coast would not be affected by the wells to which the hon. Member referred. These wells are what we normally call boreholes, tapping underground and major sources of supply well below the surface, and not in any way related to what is called surface water. Now the wells to which the hon. Member is referring are wells which tap the supplies of water known technically as surface water supplies only, and any provision here on wells will not affect the wells to which the hon. Member was referring.

I did not quite understand the hon. Member's point over what he called a lease from a river, but perhaps if I repeat what I said earlier it may satisfy him. Where a permit to extract water was given before the issuing of the Principal Water Ordinance, that permit is as valid to-day as when it was issued. It is only new permits which are affected under this Ordinance, and the intention is to allow those new permits to run for 25 years, when the Water Apportionment Board may reissue them or reconsider them in the light of developments at that time. Where a farm is sold to a new owner with an old permit, the new owner may opt either to carry forward the residual elements of the permit still running with the lease of the land, or apply to the Water Apportionment Board for a new permit, so I feel the rights which were formerly given in water permits are covered by the particular clauses which I am now moving.

Now the Nominated Member for Commerce and Industry has been very

adequately answered by my hon. friend, so I will not deal with his point, and I should like to move on to the hon. Nominated Member who spoke penultimately on this side of Council. He stated categorically that he was going to move amendments. I am quite happy to agree, Sir, that he can move amendments; but I give him no assurance that I will accept them.

First of all, the document which the Chamber of Commerce prepared on this matter was from a sub-committee of the Chamber of Commerce, to the Management Committee. It was never referred to my Ministry. I have examined it this afternoon, and in my opinion the great majority of points raised have been covered in the particular amendments before the Council. I could not give the hon. Member any assurance that I will depart in any degree towards amendments he may move.

He also raised the issue of allocation of a permit to a major hydraulic scheme such as that of Seven Forks. The Water Apportionment Board in that particular case has, in view of the capital moneys involved, varied the permit from their normal procedure now of 25 years, to 40 years, and I certainly do not believe that this Council would be wise, merely because of the magnitude and the size of a man's purse and the virility of his enterprise, to sew up completely a major allocation of water for an unforeseeable period ahead. I think the people of this country must have some system where major extractions are concerned, of review at periods which are reasonably associated with the magnitude of the money involved. Otherwise hon. Members will find that mere money has taken away much of their rights to extract water. I do not think that that is at all a wise situation for us to be in. I think it is inherent in any such matter that where a major enterprise of that nature, by reason of the efflux of time and the changing development of the country, could no longer be supported on a purely hydraulic basis—that matters such as compensation would come into the matter. That is a matter for future Governments and not for the Government of the day.

The hon. Nominated Member who spoke last on this side of the Council gave notice of his intention to move an

[The Minister for Agriculture, Animal Husbandry and Water Resources] amendment rather extending the time for the lodging of an appeal, and I would welcome that amendment as I think that anything that eases the burden of measures of this sort on the individual is wise.

As a matter of fact I forgot another hon. Member, so my penultimate and last will have to move up one. The hon. Member who has the special interests of game under his control, raised the question of permits and penalties in non-scheduled areas. I sought the advice of hon. and learned friend, the Attorney-General and I can only advise that where persons to whom permits are issued, which involve those persons in obligations, do not carry out the obligations, the normal process of the law can be used against the licensee who holds the permit. So in effect if a man has a permit whether he is the district commissioner or not, and does not carry out the obligations of the permit, the normal forces of the law can descend upon them. That is the only answer I can give.

Mr. Speaker, with these reasonably few words, 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-Bentley): That completes the business on the Order Paper, and also the time allotted to us, and Council will stand adjourned until 9.30 a.m. to-morrow morning, Friday, 20th October.

Council rose at fifteen minutes past Six o'clock.

Friday, 25th October, 1957

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

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

#### PRAYERS

#### MOTION

NOMINATION OF MEMBERS OF THE SESSIONAL COMMITTEE

THE CHIEF SECRETARY (Mr. Turnbull): Mr. Speaker, Sir, I beg to move—

THAT, in accordance with Standing Order 118, the following Members be nominated as members of the Sessional Committee for the current Session:—

Chief Secretary (Chairman);

The Minister for Legal Affairs;

The Minister for Finance and Development;

Group Capt. the Hon. L. R. Briggs;

Lt.-Col. the Hon. S. G. Ghersia, O.B.E.;

The Hon. N. F. Harris;

The Hon. S. G. Hassan, M.B.E.;

The Hon. C. B. Madan, O.C.;

The Hon. T. J. Mboya;

The Hon. D. T. arap Moi;

The Hon. J. C. M. Nazareth, Q.C.

Sir, I think most-hon. Members are aware of the duties and powers of the Sessional Committee. Its most-frequently exercised responsibility is the arrangement of the day-to-day business of the Council while Council is in session. It has certain other powers and functions which are set out in the Standing Orders.

There is one matter to which I should like to draw the attention of hon. Members. Hon. Members will note that Standing Order 122 requires that "the Sessional Committee shall nominate the Members who shall serve on any select committee appointed by the Council and the Member who shall be Chairman thereof, unless the Council, at the time of the appointment of the select committee, shall itself have nominated such Members and Chairman".

This year, therefore, Sir, will see a departure from previous practice in that the Public Accounts Committee and the

[The Chief Secretary]

Estimates Committee will be reappointed, in accordance with the terms of the Standing Order, by the Sessional Committee and not by the full Council as in the past.

Mr. Speaker, Sir, I beg to move.

THE MINISTER FOR LEGAL AFFAIRS (Mr. Griffith-Jones) seconded.

Question proposed.

The question was put and carried.

#### MOTION

AGRICULTURE (SCHEDULED CROPS) DRAFT ORDER, 1957

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): Mr. Speaker, Sir, I beg to move—

THAT the Order entitled the Agriculture (Scheduled Crops) Draft Order, 1957, which has been laid on the table of Council, be approved.

Mr. Speaker, the Motion now before the Council seeks approval of a notice which would add cassava to the Schedule under the Agricultural Ordinance and delete masterpiece, red haricot and soya beans and red or mixed njahi beans. I have consulted the Board of Agriculture (Scheduled Areas) and the Board of Land Development (Non-Scheduled Areas), together with the Provincial Commissioners and the local agricultural officers, and I am advised that we would be wise to add cassava to the Schedule. The crop is at present mainly grown in Nyanza Province, but there are indications of increased planting in the Central Province. It is a useful crop in the agricultural rotation, especially as the development of farm planning goes forward, and especially is it useful as a standby in times of drought. It commands a good market and is assuming increasing importance as a pig feed which is related to the steady increase in the pig population.

I am anxious, therefore, Sir, to give the producers of the crop reasonable stability in its production with a guaranteed price. By adding it to the Schedule I am enabled so to do.

In so far as the three varieties of beans which are enumerated in the draft notice and the red or mixed njahi beans

are concerned, these are being removed from the Schedule which will enable them to pass without control into the normal channels of sale and disposal, mainly because the amount of these varieties coming through the control over recent years has been almost negligible. I, therefore, see no point in maintaining them as a scheduled crop.

Mr. Speaker, I beg to move.

THE MINISTER FOR LEGAL AFFAIRS (Mr. Griffith-Jones) seconded.

Question proposed.

The question was put and carried.

#### MOTION

THANKS FOR EXPOSITION OF PUBLIC POLICY BY H.E. THE GOVERNOR

9.40 a.m.

LT.-COL. BRUCE MCKENZIE: 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 23rd October, 1957.

Mr. Speaker, I take it as a privilege and an honour the opportunity which has been accorded to me in putting the Vote of Thanks to His Excellency for his speech in opening the Session. I also take it as an honour as for many years a farmer has not had this privilege. In fact, I think that under no circumstances at any time has a genuine farmer ever had this privilege.

Sir, I do not wish to talk for too long because I think this debate may go on for a day or two. From His Excellency's speech, I think he was attempting to give us two important messages. One was that the post-war boom time is now behind us, and that we are going to have to pull our belts in and put our shoulders to the wheel.

I think his second message, Sir, was that unless we have political stability to lessen this burden we are going to run into difficult times. Now, with these two points at the back of my mind I would like to touch on one or two other points of the speech.

It is pleasing to note that the Emergency channel has daylight at the end of

[LL-Col. Bruce McKenzie]: It is not completely over but we are now past the worst, and arising out of that I think that the Colony owes a debt of gratitude to those officers who have the difficult job of putting the detainees through the funnel and back into circulation. Another pleasing aspect which His Excellency touched on, Sir, was the great drive which is being put on the poachers in our game reserves. This valuable and not fully developed tourist industry, which Her Majesty the Queen and the general public of the United Kingdom took such great interest in at Norwich, is obviously a great asset to us and it can be developed further to help our financial burden.

Our agriculture, Sir, took up rather a large slice of the speech and, in my opinion, quite rightly so. I feel that the statutory Boards which are coming forward are coming just in time. We are running into difficult times and these Boards will be able to mother the various industries concerned, be able to look after research and marketing and will be able to stabilize the industry. All this is tied round the policy of sound, general mixed farming.

At the same time, we have been very fortunate in having a concern such as the Wellcome Trust coming in to help us, and I sincerely hope they are going to be the first of many more overseas commercial concerns and organizations who will come into the country to help us with our various agricultural burdens and problems.

It is also pleasing to note the tremendous drive and energy which is being put into our various irrigation schemes and forest development. The whole picture of His Excellency's Speech, Sir, seemed to be a theme that now is the time for the Colony to surge forward, not only in agriculture but in all the other various industries and aspects which he mentioned—looking for minerals, education in industry, education, local government, broadcasting, public services—where our own lads are going to have an opportunity of serving. All these various commitments need money. In fact, what will be needed is not money in the capital sense but finance brought in in the brainpower of professional men and technicians, in

fact, immigrants from overseas. To get all this drive and research forward, that will be badly needed.

Now, Sir, all this will obviously happen far more easily if we can get political stability.

Before I sit down, Sir, I would just like to speak as a farmer on behalf of all my fellow farmers, irrespective of their race, colour or creed, that we are determined to go ahead with the development of the Colony, including agriculture irrespective of political stability.

Sir, I would like to appeal to my hon. friends opposite. I feel that if one goes back through HANSARD as I did yesterday afternoon, you will find that the general well-being of this country and the special protection of the Africans has been foremost in the minds of all our previous Members of this Council. I do appeal to them, Sir, to cast aside suspicion, to get together and allow us to solve our problems and get on with the economy of the country, especially in the difficult times we know are coming which we agriculturalists are beginning to feel already and know full well are on the horizon.

Sir, I beg to move.

THE PARLIAMENTARY SECRETARY FOR EDUCATION, LABOUR AND LANDS (Mr. Wanyutu Waweru): Mr. Speaker, Sir, I beg to second the Motion, and in doing so I have a few points which I would like to bring to the notice of the Council.

I feel, Sir, that it is a very great honour that I have been asked to second the Motion and I cannot fail to say that I am very grateful to the authority who have asked me to do so.

One very important point which I noticed in His Excellency's Speech is the improvement of the Emergency. All that was said meant more to me than anyone else because I have been among the worst affected areas in the reserves during the Emergency. During this Emergency, as His Excellency has said, the police have done a lot since they were allowed to continue with the rest of the work by the Security Forces that has to be done in the African areas. On this particular issue I would say that never in the history of the police force in Kenya, as far as I know, have the police come closer together with the public than

[The Parliamentary Secretary for Education, Labour and Lands] they have during the time of the Emergency. I am a witness of that because I have seen how hard they have been working and I have seen so many Africans walking into the police stations, asking for their help, speaking with them as friends, and this was not the case before the Emergency.

Going back to the released detainees, I know a good number of those who have now come back. Previously they were very, very bad people but at the time they are being released they are different people. This, as I see it, Sir, is a very great credit to the Prisons authorities and especially the Minister for Internal Security and also to the Rehabilitation Department who are doing a very marvellous piece of work through the direction of the Minister for Community Development. Those people who have been released, as far as I have seen, Sir, have made the least trouble in the reserves and when I saw what His Excellency had to say about them I was really impressed. I know that what he said is very true of what is happening in the reserves.

I am most grateful, Sir, to all the employers of all communities in Kenya for having taken on the Kikuyu, Embu and Meru as employees and although they are being taken on in big numbers as His Excellency said, I think that there is still a greater number that would like to be taken on elsewhere instead of being overcrowded in the reserves. The employers' co-operation in taking on the Kikuyu, Embu and Meru tribes cannot be forgotten and I would here, Sir, pay tribute to all who have done so in good heart. However, I have one point that I would like to bring to the notice of the Government and that is, some of those who are being taken on outside the Central Province are being returned into the reserve again and I feel that a few of them were returned unnecessarily. In their passbooks all sorts of remarks are made, such as "not allowed to return to Nairobi" "not allowed to return to the Rift Valley" or not allowed to return to this or that place. I would appeal to all employers to do something about this and investigate the possibility of helping the one who may not have been on good terms with his employers.

However, before I leave the Emergency situation I would say that all the forces who maintained law and order, police, home guards and administrative officers, members of the Security Forces, should be congratulated for what they have done to bring the country to where we are to-day.

I know that hon. Members will expect me to say something about land consolidation. What His Excellency the Governor said is very true, that Government is not compelling and is not intending to compel any community or any district in the African areas to consolidate their land. This is so, Sir, because I know that in Central and Nyanza Provinces where the land consolidation scheme is going on, no district has been forced to do so. But it is possible, Sir, that some of the Members might have been influenced by some of the articles which we read in the papers as did appear the other day out of a conference at Kisumu, if I remember it correctly, signed by so many people. As is always the case in the land case there are people who are dissatisfied. I was interested to see that one of the signatories of this document came from my own district and I happen to know him very well. He is one of those who lost a small piece of land. After he lost that, that was why he had to sign a document saying that the land consolidation is bad in this or that way. To prove that the man was not like that before he lost the land, when his area was being consolidated he attended the baraza where the local people were asked if they were interested in land consolidation. He was present when they were asked by the authorities their views. He took part in choosing the committee members, standing by his fragment gathering but at the end when he lost a piece of his land, that was when he said that land consolidation was bad. But that is not so, Sir.

One thing which would please the Kikuyu, Embu and Meru on land consolidation, and I believe also the people of Central Nyanza, would be receiving the aerial survey maps. I do not want to criticize anybody here but I know that the speed at which we are getting aerial survey maps, if that could be increased, a lot could be done in demarcating the African areas where the land is being consolidated and it would take a very

[The Parliamentary Secretary for Education, Labour and Lands] much shorter time to complete demarcation than it would if the aerial maps were to be delayed.

Registration of titles is also very necessary where demarcation had been completed and the Kikuyu, Embu and Meru and also the Nyanza tribes who are concerned with consolidating their land are asking that the titles should be given and here I would not forget to pay tribute to the Minister for African Affairs for his right guiding of the Kikuyu, Embu and Meru and also the Nyanza tribes towards consolidating our land. I would also pay tribute to the Special Commissioner, my friend Mr. Johnston, who has done so much in the Central Province to help the Kikuyu, Embu and Meru. I will not forget to say a few words to the Provincial Commissioner, Central Province. We are lucky to have had him at this time when we are consolidating our land, because we are making the best use of his forceful energy. The district commissioners of the Central Province are working very hard and so is the District Commissioner of Central Nyanza who sees that the land is consolidated where the people have asked for it. Our district officers in the field cannot be forgotten and I know when I say so I have the backing of my own tribe and the African land consolidation communities. These committees have done a lot without pay, they do work day and night until the land has been demarcated.

I am one of those, Sir, who believe that the future of Kenya entirely depends on agriculture, there are no minerals in Kenya and I know that if we can finish the demarcation of the land in the areas where the land consolidation is now going on, we shall lay a very good foundation towards the Africans getting this very important wealth that will come from the soil.

This, Sir, brings me to the point of the follow-up. Land consolidation when completed, as His Excellency said, is not itself enough without the follow-up. We have got a start which has been laid by the Agricultural Department, farm planning and farm layout. All this cannot be done without money and if we want to see the fruits of land consolidation we

must have money as loans; I would further go on and say that a lot of crop growing in the Central Province, in Nyanza, in Ukambani, is being forced by the agricultural people in the way which the Africans would like it to go. But there is some dissatisfaction, I know, and I know that the Minister for Agriculture—I am sorry he has gone out—and the Director for Agriculture are aware of some of the unnecessary restrictions, and are doing something about them. The growing of cash crops, for example, where it is getting the co-operation of the local people—in the Machakos area, the Central and Nyanza Provinces—is going on very well and the result we have had now is the construction of a good number of factories such as the factory mentioned in the Communication from the Chair, one paragraph in which Karatina tea factory was mentioned: coffee factories are being constructed, and these are all the signs of the follow-up.

I would here, Sir, pay tribute to the Minister for Agriculture for what he has done so far, although I am one of the last to say that he has done all that he could do. There is a lot still remaining to be done by him.

When I speak of land consolidation, it reminds me of the time of the visit of Mr. Davies, the Director for Agriculture, Northern Rhodesia, to one of these areas—and on his departure from Kenya, he said he saw that agricultural miracles, I repeat agricultural miracles, were being unfolded in Kenya. This is very true, in the areas where the land has been demarcated, one does not need to ask anyone what are the miracles that are being unfolded: one can see for oneself. And when you look at the land next to it, you would see a very great difference.

This reminds me of the time when I offered an invitation to hon. Members to come and visit my place to look at the land consolidation in the African areas, and see these agricultural miracles which are being unfolded. I still offer that invitation.

But here, I would appeal to the hon. Members opposite to do all they can to support land consolidation. This time I will not appeal to the European community, because fragment farming it not known to them, nor to the Asians, but I

[The Parliamentary Secretary for Education, Labour and Lands] would appeal to the hon. African Members to do all they can to support the land consolidation without fearing what Mr. A., B. or C is going to say; but say what you think is going to help the African community. I would appeal to them also to do all they can, not to discourage the land consolidation which I know is the only future for African agriculture in Kenya—indeed I would say in the whole of Africa—but to encourage it, please. As His Excellency said, Government is not forcing any community to do so, or any district to do so. I think the door was left open for us to use our influence and speak to our own people, and tell them what we think is going to be their future. African farming cannot be done without land consolidation. Fragment farming is of no use.

Education is another point. I do help the Minister for Education, though I do not want to blow my own trumpet. A lot has been done, as His Excellency outlined in his speech, and although we are certain that a lot still remains to be done, we are at present tied by lack of finance and qualified staff. Thus until such time as we know we can get these two factors, capital and qualified staff, I do not see how we can do more than we are doing at present. I leave that point to speak for itself when one looks at what has been done in the primary, intermediate and secondary schools, the teacher-training centres and technical training centres.

In conclusion, Sir, I would like to say a few words on the political situation in Kenya. At first, I did not know which community was to blame; whether to blame the hon. African Members, or the hon. European Members, or the hon. Asian or Arab Members; but as I see it to-day, unless a conclusion is reached by all communities in Kenya, it is not just one particular community that is going to be the loser. The whole Colony is going to be the loser. Look at the capital we have had in putting up the present magnificent buildings in Nairobi, Mombasa, Nakuru, Thika, Nyeri and elsewhere. If we do not do something to attract the overseas investors to bring their money into Kenya, the whole Colony is going to be affected, and I think it is high time that all communities in Kenya sat down

to see what they can do, including myself, to see that we make Kenya a happy place for us all to live. Otherwise, the world which is looking at Kenya eagerly will not blame one Member, but will blame the whole community of Kenya. Our leadership, as I see it, Sir, is undergoing a very heavy and a very great test of how we can lead this country of ours, and make it a happy place.

Sir, I beg to second.

*Question proposed.*

SIR ALFRED VINCENT: Mr. Speaker, Sir, I suppose like all speeches from the Chair, there are bound to be a number of omissions. We all have our pet subjects, but reading this Communication over two or three times, I came to the conclusion that the speech had this merit: that it was completely devoid of panic, especially financial panic, and it reflected a quiet confidence in this country and its future despite the difficult stage we are passing through at the moment.

The Mover mentioned the point of stability, and I think that word was the theme of the speech. From stability stems so much, as from political stability, economic stability also stems:

Tributes have been paid to the administration for the wonderful job—I think that is the right word to use, Sir—the wonderful job which has been done in the past two or three years. There have been difficulties; mistakes have been made, but I think that when you look at the colossal task which confronted the Government, and at that time the very depleted administration and police, we can only sincerely congratulate them on what has been done.

At this particular moment, Sir, I would like to express my personal—and I am certain that of many others here—profound regret that Mr. Windley if leaving us, Sir, I can only hope that his success, under what I also hope will be better and easier conditions, will follow the great success he has had here under deplorable circumstances.

As far as the financial position is concerned, there is one point that I want to make to all Members of this Council, and I shall find it difficult to understand if they disagree with me; that is this: if

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we have learned any lesson from *Mau Mau*, we have surely learned the lesson of the two essentials. One is a strong and able administration, and the other—a strong and able police force. Whatever your pet subject is, whatever horse you back in the forward march of progress in this country, I believe Members would be very wise and very right in giving the benefit of the doubt—(when considering the financial provision) if indeed there is any doubt—to the fact that the police and the administration should be kept up to full strength.

One omission in the speech of the Governor was the lack of emphasis on the maintenance of law and order. I do not think that was stressed enough, and I would like the Chief Secretary, who, I understand, will wind up the debate, to give me an assurance on this point. When I talk about the maintenance of law and order, I also include the creation and the retention of complete confidence of loyal citizens, of loyal Africans especially. Sir, We have had cases in one recent strike where physical coercion and intimidation was used.

I am most anxious that the Government should take a very serious view of such occurrences because no matter how good your politicians are, especially African politicians, and how able they are, there are always those on the fringe of the crowd who are not there in the interests of their own race and of the country. I believe that it is the Government's first duty to see that the good solid, loyal people of this country, especially Africans, should feel able to express their opinions free from any type of intimidation.

On the other hand, Sir, I was delighted to see in the Governor's speech his mention of the very good labour relations which have existed for the last year in this territory. I am one of those who values proper consultation between employer and employee. If the past year is any guide, great success has attended the result of good consultation on the proper level amongst the same men away from the political agitators who have arisen in this country and I suppose will always be with us.

I was interested in the warning note of the Governor in his remarks about

local government and its rapid expansion, in fact the mad rush of the development of local government. He did not actually say that but I interpreted his words as meaning that. I do hope that in this time of financial stress we grasp a wonderful opportunity of taking stock of our position and of putting the brake on, as it seems to me that unless we are very careful—because everybody in this country wants everything, provided the other fellow has to pay for it and not themselves—we have got to be very careful that we do not go too fast and that our burden of local government taxation does not compete in its viciousness with the burden of ordinary taxation, Sir. I would like to leave this thought with the Minister, that we are inclined to go too fast and to burden the community with much too much, and if anything good comes out of the present situation so far as finance is concerned, let us hope that this will be the good, or one of the good things that will come from it.

I also appreciated, Sir, as did the hon. Member, the mention of game preservation; and with deep sincerity I would like to pay a tribute to what the Governor has done and the tremendous interest he has taken in this particular question. I believe that further figures have come in, which are in possession of the Ministry, giving a very clear picture—a very sad picture—of the result of the poaching depredations, and I would like the Minister, if he is going to speak in this debate, to give us the latest figures, the latest discoveries, because there is always a fear of overemphasis; and, as President of the Wild Life Society and as Chairman of the National Parks, I have discerned a certain feeling amongst people who certainly should know better, Sir, that the poaching angle is being overplayed. Now, that is not so. It has reached very, very serious proportions and the proof is there—very grave proof by the numbers of carcasses of skeletons recently discovered.

His Excellency, I suppose, had to close on the note of the constitutional talks. Sir, Now, I personally would like to pay a very great tribute to Mr. Lennox Boyd for his real efforts and great patience in trying to get these talks initiated. I hope in the end that he will be successful. I was very glad to see the other day

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one Asian Minister trying to remove the impression that all Asians had agreed to the unconditional terms on the part of one race at the outset, because, from our point of view—and from this country's point of view—we have to take every aspect into consideration effecting every race and creed. This is not a question of a short-term makeshift. This is an era through which we are passing, in which great wisdom and sagacity must prevail. It is not just a question of examining it from what we want and from our point of view but we must take the point of view of every single race in this country and try to put ourselves in their position when considering the long-term application of any constitutional changes. That is the only way one can judge clearly the rights or wrongs, or merits or demerits of any case.

I believe, Sir, that if we do that then we have got a chance of talking things over in a reasonable and quiet attitude, because all races, surely, have the obligation, if they are sincere and if they believe in putting the interests of their country first, to safeguard the future of other dependent groups as well as their own. If this does not take place, Sir, then I am afraid that Kenya will slip back into a state of fretful depression which would be a very, very great tragedy. I am certain that I can appeal to men of good heart and of good understanding to try to judge the position from that point of view because in that, I believe, lies not only the stable political future of this country but also the economic future and the welfare of everybody in this country.

Sir, I beg to support.

SHEIKH MAHFOOD MACKAWI (Arab Elected Member): Mr. Speaker, Sir, I rise to congratulate His Excellency on the Communication from the Chair because it is such a comprehensive survey of the Colony's position.

His Excellency's personal influence has been instrumental in bringing back the state of normality to the country. We owe him a great debt of gratitude.

Sir, I have a point or two which I would like to make to the Council concerning the speech. I cannot but feel

distressed that His Excellency has chosen to dismiss the question of Arab education by only one sentence in spite of all Arab requests for increased facilities for education. No indication at all has been given as to the Government's attitude towards our constant appeals for the introduction of compulsory education for Arab boys. Sir, promises were given to my community in this Council that an extra Arab boys primary school would be built in Mombasa. This, Sir, now appears to have been completely ignored. Also, the Arab girls school at Mombasa is already overcrowded and no indication has been given as to what provisions are being made towards our increasing needs for extra accommodation for our girls in Mombasa.

The necessity for an Arab primary school in Nairobi cannot be over-emphasized and on many occasions I have requested for this school to be built. I regret to note, Sir, that no provision is made for this urgent requirement as there is no alternative school accommodation for Arab boys in Nairobi. All other Asian schools have not been able to admit our children because they claim to be already overcrowded themselves.

I cannot sit down, Sir, without mentioning overseas bursaries for Arabs. I do not think my hon. friend the Minister for Education will again be able to tell me that all applications for bursaries from Arabs have been met. I understand that a record number of Arabs will be sitting for their final examination this year. I should like to ask the Government to keep these in mind.

Finally, Sir, I should like to deal with a matter of grave concern to my community. This is the consideration given by the Law Reform Committee to the

Sir, I beg to support.

law of inheritance and procedure in court. I would like to receive an assurance from the Government that due consideration will be given to the fact that Muslims are governed by the Shria and that whatever reforms will be introduced with regard to inheritance they will not conflict with the Shria.

10.27 a.m.

MR. MPOVA: Mr. Speaker, Sir, in speaking to this Motion I want, if I may,

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firstly to refer to one or two questions referred to in the Governor's speech, and secondly, to make some observations on some points made by previous speakers.

My colleagues will of course in the course of the debate probably make a few points on some aspects of the debate which will be more detailed on some questions which have been mentioned, but I want to point out the African community's concern over the aspect of the State of Emergency.

It was our hope that when the Governor spoke to the Council on this occasion there would be some indication at least as to what the Government's attitude, on its approach in the very near future, was going to be on the State of Emergency. The African community has in the last five years lived under the State of Emergency. Indeed, the whole country has lived in this state. But I think it is right to state or to say that in fact it is the African community that has felt its burden most. The restrictive legislation which is in existence and the various other aspects of it have fallen very much more heavily on the African community than on any of the other communities. The justification for the existence of the State of Emergency and the various pieces of legislation which have been enacted under it was primarily to meet the situation that arose from the existence of bands of terrorists. We have heard in this Council time and time again in the last few months of how successful the operations have been and we are indeed thankful to those forces who have been responsible for this improvement.

We have been given the impression in the last few months that indeed the remnants of the terrorist bands are so small that they can in fact be dealt with by the ordinary police force. Under these circumstances, Sir, it would appear that it is appropriate to have expected at least at this stage that the Government would indicate as to how soon they expect to lift the State of Emergency.

I know that arguments have been raised about the various aspects, particularly the detainee question, as one of the factors which must be given due consideration before the State of Emergency is lifted. But I do think, Sir, that

it is necessary to look at this from a rather broader point of view. A burden to-day exists particularly for the Kikuyu, Embu and Meru tribesmen whose movement has been restricted and whose life generally is contained within the context of the various Emergency restrictive pieces of legislation and who I think are due for some change. Not all of them can be condemned as guilty of the state of affairs that led to the declaration of the Emergency, and I am sure that a great number of them can to-day qualify as having played a very important part in the improvement which has taken place.

The continuance of some of this legislation is in itself to-day punitive in a sense; it cannot be justified under any other sense. Sir, we appeal very strongly to the Government that the time has come when they should consider very seriously lifting the State of Emergency. There are various pieces of restrictive legislation that I need only refer to in passing because they are well known to most of us in this Council.

There is the restriction of movement as between the employment areas and the reserves which when we have inquired in the last few months have been sort of defended in terms of the need to keep an eye on unemployment and so on. But, Sir, if these restrictions are mainly on a part of the community—the Kikuyu, the Embu and the Meru tribesmen—and are not of a general nature then they are punitive in a sense and they cannot be justified under any argument of social and economic problems because if indeed there are these social problems of unemployment, housing and the rest of it, then surely those problems apply generally and not only to members of these particular tribes.

This is a point which I have raised in this Council previously and which I think has to be raised again because it seems that it has not been taken seriously.

The provision of passbooks, permits and passes for members of these tribes has also led to serious difficulties. They are required to obtain these permits and passes before they can get a job, change residence or move from one place to another. Again, unless the presence of these restrictions can be justified in terms

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of security then they can only be punitive and punitive to particular tribes and, in my view, without any justification in the present circumstances.

There are other types of restriction. One important one is that relating to the restriction on members of the Kikuyu, Embu and Meru tribes from participating in the various political associations which have been set up in Nairobi and in other areas unless they have, loyalty certificates. Again, here I think we would be overlooking a very important point if we did not see the need for members of these tribes to play a normal function in the life of the country and to have a channel through which they may express their feelings, their fears and their suspicions. Restriction by itself would not achieve for us the results we want, because I believe that whatever the Government's attitude may be in the long run it must be based on free and voluntary co-operation of the various people and that cannot be attained by mere restrictions. I think the time has come when the Government should review its position on this particular aspect of restricting these people from organizing freely into political associations or from playing a part freely and voluntarily in the established and recognized registered political parties in the various African areas.

When the leader of the European group spoke he paid tribute to the police force, and I am sure that all of us would join with him in this tribute; but I think that we would be missing the point if we thought that in view of the part played by the police and the military forces during the State of Emergency and particularly the height of the State of Emergency that we should therefore base our future policy on the maintenance of a large police force and on emphasizing the need to maintain law and order. I would rather put it differently and urge that our future policy should be not so much emphasized on just maintenance of law and order but on inculcating in the people a respect for law and order, and that consists of a process of educating the people to accept it. It also involves the creation of an atmosphere in which there will be respect for it and confidence in the Government, in the

police force and in their citizenship as a whole. This cannot be attained by a military force or by a large police force. You can force the people, but only up to a certain point, beyond which the force is ineffective. It would therefore be better in planning our future to think more in terms of how best to achieve our objective of creating in this country a loyal citizenship with a respect for law and order, a citizenship which understands its position within the framework of its responsibilities to the State and to its neighbourhood.

I want to make one point on the question of unemployment generally. Some reference was made to this point, but I think that in the way things are moving and on the basis of the various development programmes which have been mentioned, both in the rural areas, in the African Land Units and in the urban areas, this is going to be one of this country's main problems. The degree of unemployment is rising, although sometimes we do not seem to recognize that fact. It is bound to keep rising and there are those attendant problems which I think must be kept constantly in mind or in view. I think it is time we started thinking very seriously of what machinery should be introduced within the framework of the Labour Department to keep us well informed as to figures and facts about unemployment and also to enable us to assist in aiding labour to the various areas where there is employment. The present state of affairs in our labour exchanges is hardly satisfactory in this sense and some legislation would have to be brought in to introduce a system that will enable us to check very accurately on unemployment figures and also enable us to assist labour to get employment. I think that the time has arrived when we should expand the labour exchange system, examine the recruitment systems and examine also the advertisement systems to ensure that the employers who seek labour will readily get that labour, and will readily give the information to the prospective labour, and that labour seeking employment will readily advertise itself. I think that this is a responsibility of the State and that the State should look into it.

I think, too, mention has been made of taking industry into the African areas, and in this respect I suggest that a more

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Now, Sir, I come to the question of political stability. This, as the hon. Mover of the Motion has stated, was one of the messages conveyed in His Excellency the Governor's Speech, and probably one of the most important messages in it. Unfortunately, Sir, I must express my disappointment that not much emphasis was given to it. However, I think that for us in this Council and all the people in Kenya at the present moment this is the question uppermost in our minds. We have spoken of economic programmes and of social programmes and indeed speaking on behalf of the African community I know that these economic and social programmes are in our minds and that indeed the motive power in our political agitation and activity is to secure for our people economic and social advancement. For anyone to interpret our political activity otherwise would constitute a deliberate misleading of the various people of our intentions. We are conscious of our peoples' problems, needs and desires, and we are conscious that if we are going to exist for any amount of time in the political life of this country it will be necessary that we produce results, that we deliver goods to them in terms of that development which they want, in terms of removing and solving these problems which they suffer from. Let there be no doubt, therefore, as to our intentions. But I think that there is often confusion as to whether we agree on the various aspects of methods and approaches to these problems. This probably is the crux of the present situation in Kenya. We have our racial problems which do, in a sense, emanate from the historical circumstances of this country, and we would be fooling ourselves if we did not take that into consideration. We

are the victims of that historical circumstance at the present time trying to resolve these current problems.

I think it is necessary therefore, that in trying to resolve the present situation, and in trying to establish political stability we take into account the historical circumstances of our case.

The African Members have been the subject of comment and, sometimes, of ridicule in the local Press and in other public places for the attitude they have taken in the last few months. We have been criticized left and right, mostly by members of the other racial groups who felt that in taking the stand we had taken we were not interested in the solving of our problems or the problems of Kenya. We have said time and again that in fact we are sincere in our efforts to try to find a solution to the present problems in Kenya. We have said that we are willing to meet and discuss with the other groups these problems and see if a solution cannot be found. I know that it has been stated in many circles and in the local Press that in fact we are not interested at all in discussing these matters or that in the position we have taken we are not interested at all in whether a solution is found. I think at this stage I must put right this impression that is being given in these circles.

I must emphatically state that we are interested in the solution of these problems. The Leader of the European Group, speaking a few minutes ago, made reference to the constitutional discussions and it would have appeared from his statement that again the African group was to be regarded probably as the culprit for whatever deadlock there may be or continue to be. This position I must emphatically deny. I think it is necessary that those who did not participate in those talks and the public at large know exactly on what points there was a deadlock. It was not because we refused to meet and discuss with the other groups, it was not because we were adamant in our demands, it was on one question and one question alone, and that is that we stated that whereas we would be prepared to discuss all the other issues with the other racial groups, any agreement reached on the African demand for increased representation would be final and not subject to agreement being reached on the other issues.

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'We refused to accept the position and we still refuse to accept that position, that once we had discussed and reached agreement on increased representation this agreement should be conditional on agreement being reached on the other four issues that were to be discussed. In other words, failing to reach agreement on any of the other four issues, the agreement on increased African representation would in fact not hold good. Now this is the position.

We also stated that a factor which was consequential on any increase in African representation—a matter of immediate consequence—was what steps, if any, the Government should take in maintaining its majority in the Council. And again the African Members made it perfectly clear that they would have no objection to the two issues being treated together, and the Government taking whatever steps it saw fit to ensure that it had that majority. We also made the point that we would not object to continuing with the talks on the other issues after agreement had been reached on increased African representation, even though the elections for the new Members had not taken place. In other words, we were not insisting that the talks would only continue after the implementation of the agreement.

I make these points because I think there is some very definite misunderstanding abroad as to what the situation was and as to what our stand is. Our only stand, in very simple words, is that the two issues should be separated in terms of an agreement, having been reached on increased African representation being final.

Now, Sir, reference has constantly been made to our attitude and people have said it has been a negative attitude. I do not think it has been a negative attitude. I defend the position we have taken, not because I must but because I am convinced it is right. People may resent the position that we have taken but that does not prove that it is not the right decision. I think people have got to appreciate the fact that just as it is inherent in the European, the Asian or anybody else of any other colour, so it is inherent in the African that he wants to have recognition in whatever

society he lives, that he wants to have a voice in the government of his country. This is not a quality restricted to the European, to the Asian or to people of other racial origins, it is not a quality that knows boundaries of race or colour, it is universal and it is general. No one should condemn us for expressing it on behalf of our people. No one should condemn us for insisting that we should have the right to have a voice in the government of this country, to have recognition in the society of this country. In fact, I would go further, and say that we have not just got a right to have that voice and to have that recognition, but we have a duty to ensure that we do have it, we have a duty to ensure that we are indeed free. We have a duty to ensure that our people have a voice in the government of this country.

To this end, we intend to continue to struggle. This does not mean that we do not appreciate the fears and suspicions of the other racial groups because if we did not—and I say this very sincerely—we would ask for a great deal more than we are asking for now. It is because we appreciate the position of the other racial groups that we have restrained ourselves as much as we have. Now people may not agree on the degree of restraint; that is natural and there should be room for that. But I think, too, that there should be recognition of the fact that, inasmuch as the Europeans have for a long time had the monopoly of the voice in the government of the country, a majority in this Council and a majority in practically every other place, unjustified, illogical and arbitrary, the time has come for a change.

That change has got to take place, not because it must be forced on anyone, not because the European interests, rights, fears and suspicions should be ignored, but because as a matter of course it will have to take place. For the next two and a half years there is the Lyttelton standstill agreement, to which some people in this country may fall back. But complete reliance on this agreement would be a big and fatal mistake because it will come to an end, and when it does come to an end there will be no agreement to fall back to. We shall still have to solve the problems. So I suggest that we do try to solve the

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problems now. I cannot see what is so difficult in the European community agreeing with us that if we met and agreed on the question of increased African representation, this should not be tied down to agreement on the other issues unless they suspect that we are, after reaching that agreement and implementing it, not going to be interested in the other issues. If that is the suspicion, then I would like to remove it by telling them very definitely that we are interested in solving the other issues as much and as well as the question of increased African representation. There can only be one explanation, and that is that we, too, could suspect or may suspect that they want to use that position as a pressure on us on this other question of increased representation.

If there is going to be a solution, there will have to be the removal of these suspicions on both sides. I say in all sincerity that I deeply hope that the European group—the Asians are out of this, they have made their position very clear—will see fit in the next few days or weeks to reverse the attitude that they have taken on this particular question. I am not, at this stage, talking of the details of the various demands that have been put forward on both sides, but I am more concerned with the whole question of the principles involved and the need for us to resolve the situation.

Lastly, Sir, we are talking of political stability and I think we are all sincere when we say that this country needs it and we must all work towards it. But I think I must at this stage express a point of concern to me and my colleagues and to the African community at large, and that is the part that our local Press can play and should play in this particular issue.

To date, the major part of the local Press is European, European owned, European run and European controlled. It can play a very useful part in bringing about better race relations or it can destroy the chances of it. I am, at the moment, very doubtful as to whether it is contributing very much. Unfortunately, the African community have no Press of their own, at the moment. The Europeans can only learn about our attitude, about what we think, through

their Press; the European community is depending on its Press, to educate it on what the African thinks. It is vital that that Press should educate them properly. It is vital that that Press should be, as far as possible, impartial.

THE SPEAKER (Sir Ferdinand Cavenish-Bentick): On a point of order, I have given you some latitude, Mr. Mboya, but the Press does not come within the purview of the Members of this Council.

MR. MBOYA: Thank you, Mr. Speaker. I felt very strongly, Mr. Speaker, that this is an important point; if it is your ruling that I should not say anything on the Press as such, I would only say this, that I think the expression publicly of the feelings of the various people, the Europeans, the Asians and the Africans, is dependent on this instrument and that on that basis, since I also know that some of our own colleagues in this Council control that instrument, unless—

THE SPEAKER (Sir Ferdinand Cavenish-Bentick): Mr. Mboya, I have already ruled that you are not at liberty to discuss the Press in this debate nor are you to suggest that Members of this Council are using any position they might occupy wrongly. I have ruled that you are not to refer to the Press.

MR. MBOYA: Thank you, Mr. Speaker. Well, I will leave any reference to the Press under the circumstances.

I will say this, Sir, that in the interests of the country and in the interests of the problems that we have expressed ourselves as desirous of solving, it is essential that the other groups try to understand—particularly the European group—the African sentiments, try to appreciate that in fact the African is not asking for anything that is new, that the African case in Kenya is not an isolated incident, it is a universal sentiment; it is a universal incident, in that even looking at Africa itself at the moment, at the world at large, all people in similar situations and the circumstances in which we are expressing the same sentiments, are fighting for the same thing, and are trying to achieve the same things. I have said, and I will say again, that to the European group we extend the hand of friendship; I hope they will take it. I have said, and

[Mr. Mboya]

I will say again, that in our determination to fight for the Africans' right to have a voice in the government of this country, to have a place in the society of this country, we shall not—and I emphasize this—refrain at any time from seeking to do this by every peaceful means possible.

THE MINISTER FOR LEGAL AFFAIRS (Mr. Griffith-Jones): Mr. Speaker, Sir, before the hon. Member concludes his speech, may I with great diffidence rise to a point of order on your ruling just now with regard to the Press? I do not wish in any way to appear to challenge your ruling, Sir, but I do ask you to consider whether it is not within the competence of this Council, particularly on a general debate of this nature, to consider and discuss and, if necessary, to criticize the Press and the function of the Press, the activities and operations of the Press, particularly in regard to such matters as race relations and the climate or atmosphere of discussion of political or constitutional problems. As I say, Sir, I rise with great diffidence to place that point of view before you, Sir, in fairness to the hon. gentleman who is speaking.

THE SPEAKER (Sir Ferdinand Cavenish-Bentick): If the hon. Member wishes to have a definite ruling, I am afraid that I must defer my consideration of the matter and my ruling thereon to a future date. But I would say here that no mention was made of the Press in His Excellency's Speech, which we are now discussing, and I would suggest that it is not very wise for us to try to dictate the attitude the Press should take when it does not come within the competence of the Members of this Council. For that reason, for to-day's debate, I have given my ruling and I am afraid it must stand.

MR. MBOYA: I am just going to conclude, Sir, by emphasizing the point that whilst we are going to do everything possible to try to recognize and respect the fears and suspicions of the other racial groups, that we equally think it is necessary on their part to appreciate, recognize and acknowledge the African sentiments, the African legitimate demands and also to recognize our duty to seek for the African that legitimate right, and our duty to fight for the African to have an effective voice in the

government of this country and a recognized status and position in the society of this country.

I beg to support.

SIR CHARLES MARKHAM: Mr. Speaker, in rising to support this Motion, I expected that almost every speaker who has spoken this morning would have started off on the subject of the Emergency. And it is interesting that approximately one-third of His Excellency's Speech was devoted to the problems directly affected by the Emergency.

Now, Sir, I want to refer to two or three of those in the first part of my speech. The first one, Sir, I believe to be one of the most serious, and that is the problem, mentioned by the Governor, of the juvenile delinquent. A lot of these delinquents are the direct result of the Emergency. It was interesting, I think at the Royal Show to see the display given by the Community Development Department and particularly that by the Wamunji boys. I wish somehow that that scheme could be extended all over Kenya with the same discipline as shown by Capt. Gardner at Embu. I do not know under which department it necessarily comes, this expansion, but the juvenile problem—and many of these juveniles were deeply involved in some of the Mau Mau crimes—must be tackled before it is too late. We all know very well of the young spy—of 15 or 16 who by that time is very difficult to teach, anyhow to become a decent citizen. But if they are taken away young enough, these boys—and some of them are orphans—and given a decent training—and it is a very good training—I believe they have a great future in this country.

Now, Sir, in the speech made by my hon. friend the Member for Nairobi Area, he asked that Government should declare their intentions regarding the end of the Emergency. Sir, I hope Government does not declare its hand until Government is satisfied that the Emergency is ended. I think all too often in the past people have asked for information, then when the time comes it has been a disappointment if that information has not been able to be accurate. Now, we know, Sir, that the Emergency is not over. I believe at the moment that the situation, as I said in a debate in this Council some months



[Sir Charles Markham] ago, is what might well be described as "uneasy calm". As far as saying that the Emergency is over is concerned, I would suggest that the person who says that is an optimist. He may well have cause for optimism later on, but the process must necessarily be a slow one especially in view of the numbers who are being released every month and coming into normal life.

Particularly, Sir, the Member for Nairobi Area talked about some of the restrictions. I remember early in the Emergency one of the most difficult problems which I believe may well have caused the Emergency to be prolonged was the freedom of movement within the reserves and from the reserves into the cities. It was very noticeable on a tour round the Kikuyu Reserve that the old stalwart in the Kikuyu Reserve, Chief Njiri, made the very same point to the Commander-in-Chief, at that time Gen. Erskine, "You must control the movement from Nairobi into the reserves." That movement, Sir, is controlled now and I believe it would be very dangerous if ever the situation became different.

Coupled, Sir, with the Emergency situation, there are two aspects which do cause me concern—regarding Security Forces. First of all, there is the run-down of the police and the King's African Rifles—and I understand, Sir, that there is going to be a very sad ceremony at the end of this month when one of the battalions of the King's African Rifles is disbanded. At the same time, there is a general run-down of the police and the Police Reserve, and I do hope that the Minister concerned can tell the Council whether they have plans in the event of a recurrence of trouble to call back those reserves to the colours.

Now, Sir, His Excellency stressed in his speech the police, when he talked about the respect for law and order and co-operation with the police. I am glad, Sir, that he did say that because I believe that it is one of the fundamentals where we go wrong in Africa; somehow the African looks at the police in a different light from the way other races do. In other words, if a criminal is being chased down the street, it is very rarely that you see any African assisting in that chase; he is generally standing by, probably laying odds on the fellow getting away,

or hoping he will. There is somehow this very different character in Africa; the African looks to the police not as a friend, but perhaps, as a bore who is there anyhow.

I believe, Sir, that we have got to get this attitude changed. I was glad to hear from my hon. Nominated friend, who seconded the Motion, about the attitude in the reserves changing where the police are becoming the friends of the villagers. That, I think, Sir, is a very great step forward, and I hope that that can be extended not only to the villages but into the towns and the big towns as well. It is a funny thing, Sir, but I suppose the towns are always the last to make progress and perhaps you get sanity in the countryside and insanity in the towns. I hope the police can try to train and encourage their public relations side to get this attitude mentioned by my hon. Nominated friend universal throughout the country.

Sir, whilst on the subject of the Ministry of my hon. friend, the Minister for Defence, I would like to talk for one brief moment on the subject of these recent troubles in these camps where *Mau Mau* are detained. I think, Sir, it came as a great shock to the majority of the people in this country to think that after so many years of the Emergency there could be riots, indiscipline, in these camps at Manyani. It was quite a surprising event to read that "the situation" to use the exact words which appeared in the paper "was out of hand". Now, Sir, I am wondering whether the officers who are responsible for enforcing discipline in those camps do have sufficient powers to deal with the detainees, or are they, Sir, bound by a strict code based on questions asked in the House of Commons in England? I believe that you are going to get more trouble as the hard core become more and more bitter and I think it is quite impossible for any officer to be in charge unless he knows that at least he can use force which includes the use of firearms if necessary. But I do not know, Sir, what happened in the cases at Manyani but I think there was some considerable confusion at the time.

Sir, I want to turn to some problems affecting agriculture. When we had the Budget debate the Minister for Agriculture gave the Council a rather reassuring

[Sir Charles Markham] statement that he had set up a large body for market research. Perhaps he might now like to tell us how many times that council has sat and what success it has had. I understand, Sir, it has not achieved very much. But, Sir, I do hope the Minister will be able to give the Council some details of how far his Department itself has got with market research. Particularly in recent months we have read from the statements made by the Kenya Meat Commission of the difficulties they are having in finding a market for meat and they say the situation is now becoming serious, but they are exploring all avenues, which I believe is a very useful way of saying you do not know what the dickens you should do.

I know this question does not exactly come within the speech but I want to raise this question now. The biggest problem at the moment of the meat industry, I am not criticizing the Meat Commission, is the question of measles.

Now, Sir, I have discussed this with many of my friends who are producers of beef and they all agree that this problem has got to be tackled in the next two years or you can write off the meat industry of Kenya for ever as being of exportable quality.

Now the question of measles and that rather unfortunate subject of tapeworm is, perhaps, a sordid one, Sir. Nevertheless I believe that the problem must be tackled if we are to achieve the exports and the quality of meat which we require. This problem requires first of all that you have to inaugurate a system of meat inspection in the African areas. It also means that slaughtering must be under supervision. And it also means—and this affects the other Minister, the Minister for Health—you must start a campaign throughout the whole of the country to eradicate this sordid subject of tapeworm. I believe, Sir, there are many cures to-day which are feasible and practical but unless this problem is tackled, and many of my farming friends, Sir, are well aware of it, you can virtually say you have two years before writing off the meat industry. One particular farmer in my constituency is now having round about 60 per cent condemnations off that farm, mainly because one of the stock routes runs right by his farm with all its infection.

I do hope, Sir, that whatever happens the Minister, in conjunction with the Minister of Health, will inaugurate a campaign to try to tackle this problem before it is too late.

Now, Sir, one other thing on the question of agriculture. There has been a certain agitation in the Press and by the Kenya National Farmers' Union and the Kenya Co-operative Creameries for the Minister to intervene and ban the importation of the frozen food such as ice-cream from England. Sir, although my area is one of the biggest milk producing areas and I personally do not eat ice-cream, I think it is a great danger which may arise if such a ruling was made. You may start up once again the danger of the town and country war. I would personally look with disfavour on regulations prohibiting the importation of such food. I believe the way to stop is by educating the buyers and also by improving the local products to be better than the imported ones. But always, Sir, this idea because of a squeal from individuals because somebody is bringing in ice-cream, Sir, I think might cause a great deal of harm to the good relations between the town and country.

At the same time, Sir, I think the Minister might look into the question of this dumping of certain foods into Kenya, such as I saw the other day, some Irish sausages have been brought into Kenya. I would have said that was completely unnecessary because they do not even compare with the quality of the local ones and any housewife who buys them must be mad.

MR. HARRIS: Irish!

SIR CHARLES MARKHAM: I do not know whether the hon. Member for the Coast Area buys them, but I would not have thought he did. But on the whole question of these foods, I do think the time has come when the Government themselves should start to think of quality rather than quantity, especially on things like vegetables and fruit. I know we have got various committees, the Horticultural Union, we have the Creameries, we have the Pig Board, but there seems to be nobody co-ordinating the efforts of those Boards to try to get a universally-accepted standard. As far as friends of mine are concerned they

[Sir Charles Markham] have failed miserably to establish any market in Kenya for their product, mainly because they have been told that the mark-up of the imported article is so much better in so far as the grocer or the greengrocer is concerned. Again, they pay on weight as opposed to quality and the situation becomes farcical when people who are producing good products cannot sell them in Kenya, when the local product is prejudiced by the imported article of not such good quality. There is something very peculiar about our system in this country if such a situation exists.

I would particularly refer to the difficulty of buying in Kenya some of our local canned products. You can get quite easily South African tinned pine-apple but you cannot get the local tinned pine-apple. I understand the reason for that is the mark-up which is allowed on the local one is not as big as the mark-up allowed on the imported article.

Now, Sir, my final point this morning concerns finance. We were told two years ago by the Minister for Finance that he looked to this particular debate for guidance when he framed his Budget later the following year in April. In this Council, Sir, I have never claimed to be knowledgeable on the deeper economics of how to run this country. But there are two items, Sir, I would like to make and I am quite certain that my colleagues on this side of the Council will elaborate on any other items later on.

The two items, Sir, I wish to raise are these. First of all I would like to see some better method of making investment attractive in this country. I know, Sir, that it is very easy to say that, it is a platitude, and then you look at our financial position and see it is quite impossible. But at the moment it is difficult for any company coming into Kenya to get an attractive enough initial return in view of the risks they have got to take. I would hope, Sir, that somehow they should have an encouragement by a moratorium of taxes such as exist for the mining companies in South Africa, over a number of years, to encourage the big and small companies to come into Kenya and start up business, whether it be in agriculture, mining or industry.

The second point I want to raise on this is that when Council assembled again, the Minister for Finance laid on the Table a schedule of write-offs authorized by himself. Many of those, Sir, were for income tax which was not collectable. I understand, although only on second-hand information, Mr. Speaker, one of the gentlemen named in that document as now living in Jersey and refusing to pay any tax, voted in the General Election in this country by postal ballot. Well, Sir, if he is good enough to vote he is good enough to pay as well and I do think, Sir, that we cannot tolerate this position where people can just literally skip the country then, even though living in England, avoid paying tax. There was the case the other day of an individual who was brought back to Kenya at fairly great expense to the taxpayer for a swindle for which he has been sentenced to serve a term of imprisonment. Sir, I think the people who avoid this tax are just as much criminals and just as much committing a fraud as the man who steals the odd gallon of petrol.

I wonder, Sir, whether it would be possible for the Minister for Finance to evolve a system for residents of Kenya who are leaving the country or individuals leaving the country for good to produce a tax certificate, the same as they do in Rhodesia and South Africa. I know, Sir, it is a bore, but you know very well that if a person is leaving his house, his car and his property behind he is coming back. But there is the person who has got nothing at all, who stands up and announces publicly that he is going, as in the case of this individual in Jersey, who made quite a strong speech criticizing the Government before he left. I think, Sir, it would be very easy to say before he went: "Where's your income tax payment?" He could well reply now that he had not even been assessed on it. But I do believe, Sir, that it is wrong that such individuals should get away.

Now, Sir, I do not want to be racial on this one, but if the write-off includes those who go to England, how many others avoid it by going to Bombay? I wonder, Sir, when you see that boat steaming out of Mombasa, the *Karanja* or whatever it is called, laden with bodies returning to India, how many of those

[Sir Charles Markham] are eligible or should have paid income tax. I do think, Sir, the Minister might look into that when he speaks during the course of this debate.

Sir, I have got nothing further to say during the course of this debate except, Sir, to mention one thing on political stability which was mentioned by the proposer of the Motion. It was very apt that he should have proposed the vote of thanks as he was the only Member who was not here to hear the speech. I hope that really does create a precedent that in future those who are not here will speak first. But, Sir, he stressed the point about the economy of the country depending on political stability. Well, Sir, I think we can go on to state that you cannot debate a constitution in this Council, you cannot debate constitutions at public meetings; in fact, Sir, all we hope is that we can get round a table as suggested and then discuss matters in a friendly spirit and then come back with recommendations. Sir, debating points are easy to score in the political field, I hope somehow we can stop this, Sir, and get down to the important task of the country's future.

Mr. Speaker, I beg to support.

11.24 a.m.

MR. CROSSKILL (Mau): Mr. Speaker, to say that the economic development of this country is of paramount importance, surpassing all other factors has come to sound rather trite, but it is nevertheless true, because the solution of all our problems depends on the creation of wealth. We were urged, Mr. Speaker, by the hon. Member who seconded this Motion, that we must put our shoulder to the wheel. Well, Mr. Speaker, those of us who are not as young as we were are not perhaps so effective at that operation as we might have been some years ago and we must, therefore, do what we can by pouring out hot air in this Chamber and hope that some of our words may be effective before that air is wafted through the graceful louvres in this Chamber. We hope that some of our words will continue to be effective before, Sir, they are sucked out in an inhuman and mechanical manner, as I understand is the imminent intention of the House Committee.

But, Sir, the expansion to which I have referred of the economy of this country has just received a very unnecessary, unexpected and unfortunate setback. I refer, Sir, to the increase in the bank rate. Now, Sir, the economic situation in this country, *vis-à-vis* that in the United Kingdom is not comparable in that the situations are so very different. The economic situation of this country is as different from that in the United Kingdom as chalk from cheese. Here we have a young country, the development of which has only really just started. Although recently there has been tremendous expansion, I believe that history will relate at this particular time we are only just touching the fringe of the country's potential. We have been told that even the country's geological survey has only attained a degree of 40 per cent. I think it is right to say that we are only just emerging from a primitive type of fragmented agriculture into a new era of planned scientific agriculture.

Our prosperity, therefore, Mr. Speaker, does depend on development, and continued development. We cannot, in this country, live on our fat and let things slide for a period as could, if necessary, more fully developed countries in Europe and elsewhere in the world. We are dependent completely on the development of our economy.

But, Sir, we have been told, and we know that this development at the present is losing momentum. His Excellency has told us that the speed of our development is not what it was, that we are expanding less rapidly. What then should the United Kingdom have done? We should surely have had a stimulant rather than a deterrent, something which would have increased the momentum and prevent the gradual slowing down, which, unfortunately, is so apparent at the present time. But, Sir, instead of that boost we now have had this deterrent. And why, Mr. Speaker, when conditions are so different out here from those in the United Kingdom? Surely, if a certain medicine has been decided as necessary for the United Kingdom economy, why must we all, Sir, be forced to accept that same medicine?

Let us take, Sir, as a comparison, a family. Now, if cuts in the family

[Mr. Crosskill] economy are found to be necessary, the first cuts surely are not to remove tonic from the baby or some underfed, under-nourished child? No, Sir, those economies will be put into effect where they will cause least suffering and so, Sir, I think they should be when dealing with the financial economy of the Commonwealth. I think it is quite wrong that the commercial banks have slavishly followed the precedent which had, of course, to be set in the United Kingdom. We are here, of course, financially tied to the pound as regards our shilling. But, Sir, I do not believe that it would have been impossible to make financial provision in one part of the Commonwealth so that the increase in rate need not have been applied universally and particularly here, Sir, where it is most undesirable that our development should have been hampered and hindered as it has been by this recent move.

Now, Sir, in his Speech His Excellency said that the standard of living of all the people is dependent on the ability to produce. That, of course, we know, is completely true. When His Excellency was speaking recently at the Agricultural Show he added a little more to that. That, of course, was that our ability to produce is not enough and what we produce must be sold. I wish, Sir, just to refer very briefly again to a subject which has been mentioned so often recently in this Council, and that is with regard to the marketing.

The farmers in this country of all races, Sir, deserve and expect a very much sounder marketing organization that we have ever had before. In fact I would go so far as to say that without it it is no good producing an increasing production. It is impossible, Sir, to over-stress the importance of this factor. I do believe, Sir, that our industrial organizations are more on their toes now than they have been for many a year. I believe that the pyrethrum industry is quite determined that never again shall we have such a fiasco as we had in 1946, when I remember that some of us were ordered to plough in our crop and a few months later, having ploughed it in, were told that they had not looked sufficiently far ahead and would we please plant again as soon as possible. The chairman

at present is exploring world markets and I wish him every success and I hope that he will be enabled to make longer-term contracts for this particular commodity than has been possible heretofore.

The dairy industry, I know again, is facing up to the numerous problems such as increasing production and some difficulty over disposing of their produce. The organization, we are told by the Minister, is shortly to be reinforced by a statutory Board and I sincerely hope, Sir, that we shall have an assurance from the Minister that he will ensure that that body is run by a man of considerable experience, of world experience, maybe from some country where the dairy industry has been established for a very long time, where he will have knowledge of the problems which will confront him when he comes to this country. There are, perhaps, more problems facing this particular industry than any other, Mr. Speaker, at the present time. I would only instance that in 1956 near three-quarters of a million pounds of milk and cream were imported into East Africa. Now it is very sad that that is so. There are difficulties confronting the replacement of that imported article by local produce but I hope that that industry will set itself to solve the problem of how we can substitute that import by a locally produced article, £730,000-worth of cream and milk imported into East Africa.

Other difficulties are to enable the producer to have a reasonable price. I believe here that the milk producer does not get that. There is too big a margin of retail profit. Recently I wrote to the organization controlling this industry and said that I thought in Kenya perhaps it was the only place in the world where the producer got less than half the selling price of that article. The reply was that no, I was wrong, that there was a certain place in America where similar conditions existed. Well, Sir, I felt that this was not quite the right attitude, to find some isolated place in the world where conditions were similarly bad to those obtaining in Kenya. We should look ahead to try to improve conditions for the producer. We should try to reduce the detail margin in the interests of efficiency, so that the producer and the consumer

[Mr. Crosskill] can benefit and that the big amount of profit shall not go to the middleman.

Perhaps the most puzzling feature in the sphere of marketing problems is that which has been encountered by the Meat Marketing Commission during the last few years. I must, Sir, briefly recount some of those difficulties because I think they do indicate that we must approach these problems with more vision, with more energy and more thought than ever has been given to these problems before. I think, possibly those difficulties might be overcome by greater liaison between Government and the organization, so that they should have more information with regard to the market. Government has been playing its part, as we have been told recently by the Minister, Mr. Speaker, in that Government has set-up a marketing organization, not for effecting sales, quite rightly so but for obtaining information with regard to supply and demand in adjacent countries and all-potential markets for our produce.

But, Sir, in examining just briefly the problems which have been encountered by this Meat Commission, we find that in 1955 they complained bitterly of inadequate supplies of meat, they said that Government must do all it could to encourage the production of meat, they said that Government had been fully informed of the precarious position which was endangering the markets which they had then found. They then had, unfortunately, to curtail exports. But, Sir, what do we see in the next year's report? We see that they had been forced to cease their exports, but by the end of 1956 they could not accept all the cattle which were on offer. The situation had changed completely, a complete *volte-face* in a period of 12 months. By the end of 1956 they were unable to accept all the livestock which was offered and, Sir, the present situation in 1957 is even worse, and I was informed recently by a friend of mine that he has 60 head of cattle on offer per month, but the Meat Commission are only able to take six.

How, Sir, does this extraordinary situation arise unknown to the people who are endeavouring to market our produce? In 1956 it will be recalled that

Mr. Neville came out here at the request of Government to advise them on meat marketing. He, Sir, advised them in 1956 that we need not look outside Africa for our market, that Africa would provide the demand which we required. But towards the end of 1956 Government examined this and in 1957 they reported that they could not agree with this and they felt that we must, on the other hand, look for external markets. They said that it was desirable to develop exports to countries overseas. How can there be, Sir, such a conflict of opinion?

All this is very puzzling to the new Chairman. I do wish him every success and I do sincerely hope that the Government, who have certain responsibility in the actual marketing of meat as opposed to the marketing of most other commodities, will liaise very closely with the Chairman of the Meat Commission. I believe that part of the trouble lay in lack of information. Government are doing their utmost to provide that information. But furthermore, Sir, I believe there is a possibility that the difficulties arose to a great extent through lack of liaison on the destocking policy of the African reserves in Kenya. I think possibly that Government, instead of being rather half-hearted over the destocking policy, changed their view and became quarter-hearted and I think that the Meat Commission must know in advance, a year or two years ahead what the destocking policy is to be. I know the Minister has been faced with severe difficulties over stock routes and other obstacles, but these, Sir, must be overcome in order to give the Meat Commission the fullest possible information on Government policy. It appears that Government were right in recommending that export markets were necessary. That I do not know for certain but it will be for the new Chairman to investigate and make his own decision.

I think he may require more accurate, more frequent statistics of availability; then let him ask the Minister, let the Minister provide them. I think above all perhaps that he should have closer liaison with Government.

Also, Sir, I should like to see the Kenya National Farmers' Union take a more critical attitude over the marketing of the various items produced, and to

[Mr. Crosskill] he was talking about present conditions, and when he said that we must not just look to law and order—we must look to something better. We who have been keeping an eye on the establishment of these families in the forests have also had in mind, Sir, that the establishment and enforcement of law and order is not all that is required. The Forest Department, Sir, are carrying out a very big task, a tremendous task, by establishing these families in the forests. I believe that this establishment in the forest of the Kikuyu will be a permanent feature of the economy and of the social way of living in Kenya. I think that we must think more deeply about it than merely by superimposing an organization which will ensure that law and order is maintained. When we put these thousands of families in villages in the forests, we must ensure that they have a pleasant as well as a productive form of life. We must ensure that attention is paid to education facilities, health facilities, Recreation and possibly other services should be provided for them where they are to live, and where they are to make their future homes. Furthermore, I think we must ensure that there are adequate facilities for the disposal of their crops. I think that has been a weakness in the past, and that inadequate attention has been paid to that, in that they have not received possibly as good a price for their maize as they should have done. I think we should see that there are co-operative selling organizations which will enable them to dispose more profitably of what they produce, because we must ensure that these families who are perhaps being displaced and moved to the forests to establish new homes can do so without becoming distressed over the conditions, so that they will accept their new homes, and live happily there. I think possibly Government as a whole is not giving adequate support to the Forest Department in this tremendous task. We must realize that this is an Emergency problem, or post-Emergency problem, a problem which has arisen due to the Emergency, and that the whole burden should not be carried by the Forest Department with its slender finances, but it should be helped, as an Emergency or post-Emergency measure, by the Government; they should not only have extra money but extra bodies where necessary

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[Mr. Crosskill] to ensure that the supervision and provision of services can adequately be provided.

Another measure to which His Excellency made reference with regard to unemployment was the Mwea-Tebere Irrigation Scheme. He talked about various set-backs which they were having. I think when we take on schemes of this nature, set-backs we must expect, and set-backs we must overcome. I believe the particular set-back in this area is that we cannot find a market for the rice which can be produced there. Now, that is rather extraordinary, but that need not kill the scheme. The other day, I was talking to Mr. van Someren; he spoke to me about this particular scheme and suggested that we might make fish ponds instead of producing rice. Now, that is the kind of vision which we must welcome—the imaginative approach to these schemes which are of necessity pioneering undertakings, and if one fails in one way, let us not be despondent, but let us find another way. I think this idea of Mr. van Someren's is well worth investigation.

Protein is one of the main things lacking in the diet for the African, and that could thereby be provided.

Furthermore, with regard to unemployment, I would be grateful if the Minister would let us know in his reply what the position is in regard to the clearing of bracken areas about Kiambu. I noted that His Excellency referred to the African Industrial Estates Development Committee. Well, I hope that that organization will live up to its long name. It promises a lot, and I certainly hope they will do their utmost to establish industries side by side with agriculture in the reserves.

Government made that promise last year, and I hope it will not only confine its thoughts to industries which require power, but will consider peasant industries which are practised in other parts of the world; industries such as the silk industry, the planting and growing of willow trees to make baskets—the small industries which might escape their notice when they are looking for ways and means of using power coming from Jinja, because these small peasant industries can be of great use.

Now, Sir, I do not think that the projects which we have considered and which are being put into effect at the present time will be adequate to occupy all the unemployed. Again, as the hon. Member for Nairobi Area said to-day, this is a continuous process, a process which must grow towards the absorption and utilization of the increasing population. I hope, therefore, that Government will not sit on their laurels, but will continue to think of new and other methods of employment.

His Excellency mentioned the question of crime. I would just like to say something briefly about that, Sir. The other day I was burgled. Now, in the course of the investigation—this is really leading up to drawing attention to one branch of the police, Sir, which has shown great success and which should, I think be exploited, and for which they require credit—in talking to the police about this, one of the police officers said to me that I was not to think by any means that he did not consider that commissioners, deputy commissioners, assistant commissioners, senior superintendents and others did not have their use; but, he said, if he might add a personal note, he, Sir, would rather have three or four dogs. They have, Sir, proved of value up to the hilt and I sincerely hope that the use of these will be developed.

The other day—and I think people should know—in the part of the world where I live, there was a burglary, and dogs were brought on to the scene next day; they took up the trail, and after an eleven-mile point, the dog came to a halt opposite a man who was peacefully waiting for a train at the stationside. This man was found to have all the swag on him. Now, if they can do that, it is well worth following up and exploiting success.

Finally, Sir, I would just like to say one brief word on the constitutional position arising from statements which have been made in this debate. The hon. Member for Nairobi said that the hon. gentleman who spoke first in this debate had not laid much emphasis on this particular problem. Well, Sir, we consider that the discussions are still on, and I think to debate this in detail at the present time would not be to the advantage of the happy solution which we are all seeking. I would also like to say that

[Mr. Crosskill]

the hon. Member did not make any allegation, which the hon. Member for Nairobi denied, that the culpability for the impasse lay on the shoulders of the African Members, and I do feel that perhaps as this question of such importance to us all may be discussed next week, discussion in detail, and certainly recriminations, would not be in the best interests of all.

Mr. Speaker, I beg to support.

11.57 a.m.

MR. SLADE: Mr. Speaker, Sir, the hon. Mover of this debate, along with other speakers, pointed out that the theme of His Excellency's Speech was the dependence of economic development on political stability. Of course, Sir, no one can argue about that, but I do ask hon. Members to pause and consider what makes political stability. I want to emphasize that political stability is not made by paper or words. It is something that rests primarily on security and prosperity. I have said this before, Sir, but I must say it again, because we are so often deluded into thinking that we can make political stability by paper argument. Surely, Sir, political stability rests upon the contentment of the citizen. If you have every citizen satisfied with his lot, you have political stability. If you have discontent, you have political instability. And what makes contentment in the individual citizen is security, safety for himself and his people, freedom to go about his own business without fear, and prosperity. So it is really, Sir, rather like having this Colony's development based on a structure of three legs, the three legs of security, prosperity and political stability, all of which must be growing at equal speed, because each depends on the other, and if we try to make two legs longer than the third, the structure becomes lop-sided and just ceases to grow.

It is on those aspects of security and prosperity that I want to talk in commenting on the Speech, Sir. Before doing so, I would point out that there are other matters which, though not exactly part of the development of a country, are essential in the machinery of development. That is to say, although constitutional developments may not be the main factor in political stability, it is

nevertheless among the essential factors, just like the proper administration of the substantive laws, the proper examination of substantive laws, the structure of local government—all these things are, as it were, the preservatives of the woodwork, or the oil in the machinery which is going to give you your security and prosperity and political stability. So they must not be forgotten. Sir, but they are, I suggest, secondary. They are not part of the main framework. They are incidental to the proper use of the framework.

Well, Sir, dealing first with security. There are a few main points I want to make. First of all, I would like to join others, and particularly the hon. Nominated Member for Central Province. In a tribute to the police and other Security Forces who have seen us through this recent rebellion. I think they deserve all and more of the praise that has been given to them, and the administrative officers with them. But I would join also with the Member for Ukamba in the particular point he made, that the police have quite a long way to go yet in getting themselves regarded as the friends of the public. They can only do half a job until they reach that stage; and they have not reached it yet. It was cheering to hear from the same hon. Nominated Member that they have made such progress in the Central Province, but that can only be a start. I believe the solution lies, Sir, mainly in the training of the African constabulary. If there is not that relationship of mutual friendship and indeed mutual dependence between police and public that we need, it is I believe due to the fact that the African constabulary have not really been taught that that should be the relationship of policemen and the public. If that is so, it is certainly not their fault. It is the fault partly of their training, and possibly even more so of the officers under whom they serve. That brings me, Sir, to a question—it may be an unjustified question, but I do not think so—whether there is really close enough association between the officers in the police and the other ranks, whether they really see as much of each other as has been the tradition of the fighting services where the officer lives the life of his men; because until you get that, you will not get men inspired

[Mr. Slade]

by the example of officers to understand the mission of their particular service.

It cuts both ways, also, Sir; not only is it a case of the police needing the confidence of the public, but they will also need the help of the public, and they ought to use the public, I think, as their friends a little more than they do now, not only in the ordinary administration of justice, but for the purposes of intelligence and security.

Now, Sir, it is not only the police and the administrative officers who have to carry the burden of maintaining security. There are other equally important matters which are concerned more with the prevention of criminal development or subversive development than the cure of it. Police can only be concerned really with the cure of it, and it is social remedies that will prevent these developments. I will only touch on two points already mentioned in His Excellency's Speech, and also by other Members.

One is the question of our children. If we cannot get our children developing on the right lines, we are asking for trouble in the future, in the very near future, which no police force, however efficient, can altogether cure. It is not only, Sir, the juvenile delinquents of the day; it is those children who will become juvenile delinquents if we do not pay rather more attention to their care in good time. In particular, Sir, I am thinking of that class of children who may not yet be delinquents, but will be very soon, the many who are at large because of the Emergency; the vagrant children who, if they have parents, have lost them and are out of parental control. Now it is essential that we deal with them; it is essential that where possible, we see that they get back to their parents and make their parents feel the responsibility.

We can provide for them in other ways; we can establish places where they will be properly looked after on an institutional basis; indeed, a great deal of work for lost African children is already being done by missions all over the country. But that, of course, is only second best, and the biggest need of all, I think, Sir, is to develop more efficient machinery for ironing out at the earliest possible moment where a par-

ticular child belongs, and who his parents are, because unless you do this quickly, you lose sight of his origin and parents altogether. That indeed has been experienced during the Emergency in the work of the Save the Children Fund.

They had many hundreds of African children to deal with in Nairobi whose homes and parents could not be traced, and they are now placed out with missions. There is no hope in the majority of cases of ever finding their homes. The result is a very heavy cost on somebody other than the parents, and the child never knowing a home.

Now, Sir, that is liable to go on, this picking up of vagrants in Nairobi; unless we develop the machinery for hunting out their homes before the knowledge is lost by the passage of time. So, Sir, I refer to the reception centres which were mentioned in His Excellency's Speech; and there, I believe, lies the clue. We need everywhere, all over the native land units, reception centres not for the purpose of looking after vagrant children, but for the purposes of sorting them out, so that when a child is picked up in Nairobi or some other town, and you have any indication of the area he belongs to, then there is a reception centre to which you can send him straightaway, where there is a good chance of his family being traced quickly and made to accept responsibility for him. This, I believe, Sir, is vitally important if you want to catch the trouble at the earliest stage.

The only other factor under the heading of security that I want to mention from the point of view of preventing trouble before it arises is again a factor mentioned by many others; that is the factor of unemployment. It goes without saying that if you let unemployment become rife, you are letting large numbers of potential criminals go on growing, and you will have to do something about it, if only for the sake of security, apart from any question of humanity or anything else.

The question is, what to do? And it is no good, Sir, I think, adopting artificial measures; such as pretending that a man is fit for employment when he is not. I say that in answer to my friend, the hon. Nominated Member, who was rather

(Mr. Slade) suggesting, I think, that because of the pressure on the Central Province, for example, private employers such as farmers in settled areas should be prepared to accept employees and hold them even if they prove themselves utterly unsuitable.

Sir, you cannot run a country or a society in that way. Indeed, it is vitally important in my view, and in the view of those I represent too, I think, that when we employ Africans from the Central Province or anywhere else, we should be sure that they are of a certain standard, not only for the sake of the proper economic development of the country, but also for the sake of our other employees. Among us people in the settled areas, we have some very fine Africans working for us, including many thousands from the Central Province. Indeed, on my own farm, they are entirely from that province. It is not fair on them if you bring in, and insist on keeping others who have proved themselves of a lower standard; because those older, more staunch, more loyal, more responsible Africans will be the first to suffer. So we cannot accept that idea of taking low quality employees, and holding them, simply in order to relieve unemployment.

The truth, I think, Sir, is that, for those who are of the lower quality, there must be some solution other than private employment. To some extent, where you have different levels of employees in private employment, you can cater for them there; but there will be many who are not really fit for private employment at all, and for them it is only Government projects on the mass basis that can provide the answer.

As I see it, speaking generally, Sir, in private employment, you have to be selective; you have to treat each employee very much as an individual, more so than we have done in the past in this country. But in public projects you do not have to do that. There you can still go on treating employees as pawns: it is a worse thing to do when you can avoid it, but sometimes you have to do it with the lower level of the unemployed. Sir, that is all I want to say about security.

Now, on the other main heading, prosperity. It is true, as His Excellency

said, that our first need is continual flow of further capital for the development of this country. I would like to support very strongly what the hon. Mover said when he pointed out that the capital that we need is not merely money. We do need money; we need public funds for public enterprise. We need private funds for private enterprise. But along with that money, we need the capital of the right kind of people, the right kind of brains, the right kind of experience. It is quite as important as the money itself. With those people you can make much less money go so much further.

As has been pointed out, and always will be pointed out by hon. Members, our main source of prosperity in this country at the present time, and maybe for a long time in the future, is our agriculture; and increasingly important is our African agriculture.

The hon. Nominated Member who seconded this Motion emphasized once more the importance of land consolidation as a factor in that particular development. It is quite right to do so, Sir. There is still, I know, a great deal of resistance to land consolidation among Africans. I was interested to learn how strong the feeling was against it when my hon. friend, the Member for Central Nyanza, took me on a visit to his constituency. But it is quite clear to me, both from what the hon. Nominated Member said and from what I saw in Nyanza, that it is only a matter of enlightenment, and only a matter of patient explanation and example. Because, in the course of that brief visit to Central Nyanza, I was taken to see one particular African farmer who had made a great success of his father's farm; he farmed some 40 acres, and he pointed out to me a field where he is now getting 10 bags of maize to the acre and where a few years ago his father only had two bags to the acre. At the end of that visit to that farm he said to me without my inviting any comment, at all that land consolidation was the only answer. That was one of the most successful constituents of my hon. friend, the Member for Central Nyanza. He had seen for himself; and it is now only a matter of his neighbours seeing for themselves, too, and the thing is bound to come.

(Mr. Slade)

But with this question of land consolidation, Sir, I believe almost of equal importance is the question of land tenure, because as you start developing your land, and as you start putting money into your land, the question of your individual security of title looms with more importance, not only for yourself but for your children as well. If we want the Africans to develop their land, it is essential that they be given that inducement and protective security of a firm title. I know that Government is working hard on this matter at the present time, but it is a matter in which we cannot afford to make any mistakes, and although there is a great hurry to develop proper modernized individual titles for African landholders, it is of equal importance to go slowly enough to make sure that, in this unique opportunity of getting the thing right, we do not get it wrong. I would ask the Government in this matter to make sure that they have heard every opinion from anyone who may have something useful to contribute, before they finally plunge on to the course which, once taken, will not bear alteration.

Sir, still under the heading of prosperity, and in particular agriculture, I must join the hon. Member for Ukamba, and, I think, the hon. Member for Mau, to emphasize the tremendous importance of market research as affecting farmers of all races. It is a question indeed of rationalizing our production; it is not only a question of selling what you produce, but it is also a question of deciding what we can afford to produce with any prospect of selling it at a reasonable price. We must make sure we do not encourage farmers to grow what they cannot sell. That means exploration—research is, perhaps, the wrong word.

I think the hon. Minister takes the view that the selling of agricultural produce is more the concern of the industry than of the Government; and in that I would agree, because, in respect of any particular product, it is the industry itself which should be best qualified to grade its produce, and to know the particular markets for that kind of produce and to exploit those markets. But there is a tremendous job for the Government to do, which has hardly been started yet, in the other more political field of, as it

were, fertilizing the ground for overseas markets, and of finding potential markets for our produce at a reasonable price, and of conditioning those markets to receive our products, either in preference to that of other countries or at any rate on the same level. It is finding places where our produce is wanted, and conditioning those places to accept our produce, which is the main function of the Government in market development.

My last point under the heading of prosperity is this question of protective devices. Now, as my hon. friend, the Member for Ukamba, touched on the rather small point of ice-cream, and since I have an interest there as a director of Penguin Dairies Ltd., I think that I had better answer him.

It is quite clear, Sir, that we are not shrieking for the complete exclusion of rival ice-creams. What we do ask for is very reasonable—that is, that if a produce is brought into this country and called "ice-cream" it should contain a reasonable proportion of cream; and that I think is in the interests of everybody as well as Penguin Dairies Limited. For the rest, Sir, we are quite confident of the quality, and that it will cope with any other imported product on sheer merit. I had not have mentioned that if I had not had to answer my hon. friend, but he was quite right when he moved on to the larger field of protection against dumping in general. I agree that that does not arise with what is really a luxury like ice-cream, but it does arise very much in the more essential food-stuffs. It does arise in two ways. One is the obvious need to protect our most vital industry from occasional off-loading of surplus products which were bought up cheaply elsewhere. We must do that if we are going to foster economic development. But the other side is equally important, I believe, and that is the extreme importance of self-sufficiency in essential products of East African territories.

It may seem attractive to the consumer to-day to buy imported foods and other essentials cheaper than they can be produced here, but it is very short-sighted to let that develop to such an extent that we are utterly dependent on imported products; because then you are at the mercy of the importer—and though he may be cheap to-day, he may

[Mr. Slade] be dear to-morrow. If he is dear to-morrow, you have no answer to him because your own production is dead; and we cannot afford to be in that position. Nor, Sir, in the event of war or other serious calamity, can we afford to be dependent upon other countries for essential products which we can develop here ourselves. I hope that will never be lost sight of by this Colony or by both neighbouring territories, on account of jealousy or for any other reason. We must always bear that in mind. It is in the interests of all of us that we should be self-sufficient, wherever we can be, in essential things.

Now, I only want to deal rather briefly with some of those other matters which I described as subsidiary. On the question of law reform, it may seem rather remote, but this is very important in the smooth running of society and the smooth development of our country that our substantive laws should be kept up to date and that they should be in keeping with the public opinion and the requirements of the times. The Law Reform Committee is something which has been needed for many years here, and it will be of great service. I was interested to hear that this committee will pay early attention to the question of testamentary succession and intestate succession. It is a good example of how badly we have needed this committee, because it is now 23 years since I had the privilege to be a member of the Committee of the Law Society which made a full report on that subject, a report representing many months of work; and that report has been in a pigeon-hole ever since. I hope that the Law Reform Society will be able to dig it out, and find that it is yet in a good state of preservation.

There is one other point, Sir, on this question, which is not directly related to law reform but which is related to the smooth working of the laws, which I would like to touch upon: and that is the question we have to face from time to time of producing editions of the Laws of Kenya in a form where they can be found and understood by lawyers and members of the public. In the past, at considerable expense, we have produced a series such as this called "The

Revised Laws of Kenya", where everything is brought up to date and put into a series of volumes. I suppose we are very near the time when we have got to face that expense again, but I understand from my hon. friend, the Solicitor-General, that there is another way of tackling this (which he will explain more fully in reply, perhaps, to me) where you have a loose leaf system of the Revised Laws; and, although it may cost a lot to set up, once you have got it—and provided you keep your print set up as well—you can then replace your printed Ordinances, so as to keep them completely up to date, at very much less expense, and with more convenience. Perhaps he would tell us something about that later on in this debate.

Sir, next I would like to touch on local government, which again is a very essential part of the machinery for our development, and which is particularly important to this country, because it affords a training ground, a place where people can afford to start governing themselves in lesser degrees of responsibility. Now, I was disappointed to hear that we are going to be held up in the development of local government, and I do not think, Mr. Speaker, that that need be so, because, after all, local government, in its development, should be taking over more functions, by process of devolution, from the Central Government. Any time any particular responsibility moves from the Central Government to any form of local government, I would have thought that the funds previously used by the Central Government for that function could pass over to the local authority, too. I do not understand why devolution of responsibilities to local authorities should necessarily involve more money, as opposed to a change of money from one pocket to another. I would like to hear from the Minister on this, because it is a matter, in the view of many of us, of vital importance to keep up the devolution of responsibility from the Government to the local authorities.

That is not the only way in which we are going to develop a sense of responsibility among all people of this country but it is also one of the ways we are going to bridge the big differences that lie between us now in different areas of the country.

[Mr. Slade]

Well, Sir, if I might take one more minute, I would like to say that we are very different in different parts of Kenya to-day. We have different stages of development, different outlooks and traditions, and a single Central Government cannot properly cater for those differences; nor do we want to replace the traditions that each area has for itself in the twinkling of an eye. If you develop local government in these different areas, then you are preserving and using to the best advantage something which is peculiar to the people in that area, something which is too precious to lose—

#### ADJOURNMENT

THE SPEAKER (Sir Ferdinand Cavendish-Bentick): Council will stand adjourned until 2.30 p.m. on Tuesday next, 29th October.

*Council adjourned at thirty-two minutes past Twelve o'clock.*

Tuesday, 29th October, 1957

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

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

#### PRAYERS

#### ORAL NOTICES OF MOTION

##### FISHERIES ON LAKE VICTORIA

Mr. ODINGA (Nyanza Central): Mr. Speaker, Sir, I beg to give notice of the following Motion:—

THAT in view of the steps taken by the Governments of Uganda and Tanganyika in lifting restrictions affecting fishing in their territorial waters of the Lake Victoria, the Kenya Government be urged to adopt a similar action forthwith on the Kenya region of the Lake.

##### GOVERNMENT AGRICULTURAL POLICY

Mr. MULLIRO: Mr. Speaker, Sir, I beg to give notice of the following Motion:—

THAT this Council has no confidence in the present Government Agricultural Policy being pursued in the African areas.

#### ORAL ANSWERS TO QUESTIONS

##### QUESTION No. 5

Mr. MBOYA asked the Minister for Local Government, Health and Housing (Mr. Havelock) if the Minister will make a statement on the health of Jomo Kenyatta, Kagia, Fred Kubai, Kungu Karumba and Paul Ngel?

THE MINISTER FOR LOCAL GOVERNMENT, HEALTH AND HOUSING (Mr. Havelock): All the convicts referred to in the question are in normal health.

Mr. MBOYA: Arising out of the reply, would the Minister state whether it will be possible for the Government to arrange for any African Elected Members to visit them?

THE MINISTER FOR LOCAL GOVERNMENT, HEALTH AND HOUSING (Mr. Havelock): Mr. Speaker, I do not consider that that supplementary arises from the question and in any case I would suggest and advise the hon. Member to place his question before my hon. colleague the Minister for Internal Security and Defence.

## QUESTION No. 6

MR. MBOYA asked the Minister for African Affairs (Mr. Windley) if he is aware of the disquiet arising from the movement of population and the allocation of land in the Ndeiya Location and if he is satisfied with the administration in that Location.

THE MINISTER FOR AFRICAN AFFAIRS (Mr. Windley): I am fully aware of the procedure which has been adopted at the specific request of the Kiambu African District Council, for the allocation of land in the Ndeiya Location and I am satisfied with the administration of that Location.

MR. MBOYA: Arising out of the reply, would the Minister state whether he is aware that there is, in fact, some dissatisfaction arising out of the land administration by his Ministry?

THE MINISTER FOR AFRICAN AFFAIRS (Mr. Windley): The position, Sir, is that I think that if this area had been in the hon. Member's own constituency he might have been better informed on the background. If I may cover his point, Sir, the Ndeiya Location was added to the Kikuyu Native Land Unit for the specific purpose of increasing the grazing available to the Kikuyu people, and also for the purpose of giving a settlement area for landless Kikuyu. Those who are being brought out of it at present, Sir, are those who have land elsewhere; that is why they are being moved, because they should not be in that area at all.

MR. MBOYA: Arising out of the reply, Sir, would the Minister state whether there is a landless population and, if so, what is being done about it?

THE MINISTER FOR AFRICAN AFFAIRS (Mr. Windley): I do not think, Sir, that that arises out of this question.

## QUESTION No. 8

MR. MBOYA asked the Minister for African Affairs (Mr. Windley) to state what fees if any are paid for possession of cattle in Central Province?

THE MINISTER FOR AFRICAN AFFAIRS (Mr. Windley): No fees are paid for the possession of cattle in the Central Province. It is possible, however, that the hon. Member's question refers to the Ndeiya Grazing Scheme in the Kiambu

District, where the African District Council has recently passed by-laws covering the payment of grazing fees for stock depastured in the area covered by the scheme. These fees, which amount to Sh. 6 per head per annum for cattle and Sh. 1/20 in respect of sheep and goats, will be spent by the African District Council in improving water supplies and the general conditions of the grazing in the area.

MR. MBOYA: Mr. Speaker, Sir, arising out of the reply, would the Minister assure the Council that the Africans will be kept very fully informed as to what fees are to be paid?

THE MINISTER FOR AFRICAN AFFAIRS (Mr. Windley): I can certainly give the hon. Member that assurance, Sir.

## QUESTION No. 10

MR. MULIRO asked the Minister for Agriculture, Animal Husbandry and Water Resources (Mr. Blundell):—

- How many African Agriculture Officers are employed by this Ministry?
- How many of these officers are full District or Divisional Agricultural Officers?
- What is the position of the Senior Agriculture Instructors regarding their promotion?

MR. SWYNNERTON (Director of Agriculture) on behalf of the Minister for Agriculture, Animal Husbandry and Water Resources:—

- My Ministry employs 24 Assistant Agricultural Officers and one Agricultural Officer who are Africans.
- The Agricultural Officer, who has a Reading University degree in agriculture and has undergone post-graduate training at Cambridge University, is in charge of a farm institute. Of the 24 Assistant Agricultural Officers, one is a Coffee Officer, two are teachers at Siriba Combined Training Centre, whilst all the rest are in charge of divisions.
- Thirteen Agricultural Instructors, who have not qualified at Makerere or elsewhere, have been promoted to Assistant Agricultural Officers. There are at present five vacancies for Senior Field Assistant (Instructors)

[Mr. Swynnerton].

and 48 vacancies for Grade 1 Field Assistant (Instructor) which will be filled as suitable men become available.

MR. MULIRO: Arising out of the reply, is the Minister for Agriculture aware of the fact that promotion to African Instructors is in rank but not in salary?

MR. SWYNNERTON (Director of Agriculture): No, Sir, the Minister for Agriculture is not aware of that. When African instructors are promoted in grade they are also promoted in salary scale.

## QUESTION No. 15

MR. MUMBI asked the Minister for Agriculture, Animal Husbandry and Water Resources (Mr. Blundell) is it the intention of Government to allow settlement of the Yatta Crown Plateau on the completion of the Yatta Furrow? And if so, who would be eligible for such settlement?

MR. SWYNNERTON (Director of Agriculture) on behalf of the Minister for Agriculture, Animal Husbandry and Water Resources: It is the intention of the Government to establish a settlement on irrigated land of about 2,000 acres on the Machakos Yatta, known also as the Yatta Plateau, on completion of the Yatta Furrow. Settlers will be Akamba.

MR. MUMBI: Would the Minister please inform us who these settlers will be?

MR. SWYNNERTON (Director of Agriculture): I replied to that, Sir; I said the settlers will be Akamba.

## QUESTION No. 17

MR. MUMBI asked the Minister for Local Government, Health and Housing (Mr. Havelock) whether it is Government's intention to establish a permanent health centre at Tseikuru in the Kitui District in view of frequent recurrence of Kala Azar epidemic in that area?

THE MINISTER FOR LOCAL GOVERNMENT, HEALTH AND HOUSING (Mr. Havelock): Permanent health centres are built by the African district councils and there is no plan at the moment to build one at Tseikuru. The Kitui African Dis-

trict Council have built a health centre at Migwani with £1,000 financial assistance from Government. Building is almost complete. It is understood that the Kitui African District Council propose to build a health sub-centre at Usueni, 14 miles north of Tseikuru, in an area where Kala Azar is particularly prevalent.

The area is well served to deal with the outbreak. The field treatment centre at Tseikuru can accommodate up to 100 patients at need. In addition to this, there are African district council bedded dispensaries close by at Ngomeni, Tharaka and Mivukoni.

Until the number of cases of Kala Azar requiring treatment falls to a low level it is Government's intention to maintain the field treatment centre at Tseikuru itself.

The Division of Insect-borne Diseases is investigating the prolonged outbreak of Kala Azar with a view to advising on control measures to restrict the incidence of the disease.

MR. MUMBI: Mr. Speaker, in view of the fact that these two dispensaries are run by the African district councils, would the Minister give us an assurance that Government intends to maintain these as Government health centres, not as African district council dispensaries?

THE MINISTER FOR LOCAL GOVERNMENT, HEALTH AND HOUSING (Mr. Havelock): Sir, in my reply I stated that Government do already maintain the field treatment centre, Tseikuru, which can accommodate a hundred patients at need, and Government considers that in doing that it is contributing to the problem as far as it is should.

## QUESTION No. 23

MR. ALEXANDER asked the Minister for Finance and Development (Mr. Vasey) why is the East African Currency Board based on London?

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): The East African Currency Board is instituted and appointed by the Secretary of State. The membership of the Board is—

Sir Alfred Savage, K.C.M.G.;  
R. J. Vile, Esq., of the Colonial Office;



[The Minister for Finance and Development]

H. J. Jenkyns, Esq. of H.M. Treasury;

J. L. Fisher, Esq. of the Bank of England,

all of whom are resident in London.

MR. ALEXANDER: Mr. Speaker, Sir, is the Government aware that it would be to the considerable advantage of Kenya to have this Board located in these territories? And if so, are our Governments prepared to use all their influence to press for the transfer of the Board to these territories?

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): Sir, the Board, which, as I have said, is instituted and appointed by the Secretary of State, also covers British Somaliland and Aden as well as Kenya, Uganda and Tanganyika, and any suggested alteration is a matter of discussion and alteration in those territories and representations to the Secretary of State who, because Kenya is not a self-governing territory, carries the responsibility in this matter. So far it has proved more economical and convenient from the point of view of the operation of the Board to operate in London where the majority of its work takes place.

MR. ALEXANDER: Mr. Speaker, Sir, how is the Minister able to say that it has been more economical to operate in London, appreciating, of course, that Kenya does not collect the income tax of the people who are paid by them?

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): Sir, the people who are paid are merely four people who are members of the Board. I must again repeat that this is a responsibility of the Secretary of State, and it is an East African matter which concerns the Governments of Somaliland and Aden as well. The functions of the Board are obvious and are laid down in regulations; to issue coins or notes locally on demand against deposits of sterling in London, the whole of the sterling so received to be cash or gilt-edged investments and pay it out again against coin or notes paid in, the receipt and payment of sterling, investment of funds, printing of notes, minting of coin, etc., which must take place in London.

MR. ALEXANDER: Mr. Speaker, Sir, I did not ask for that information; I did not want it, but perhaps other people are enlightened with it.

MR. SPEAKER, Sir, I asked whether the Kenya Government is prepared to use its influence to have the transfer of this Currency Board to Kenya or an East African territory.

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): Sir the hon. Member may not want information but if he persists in asking questions which tend to show somewhat of an ignorance on the functions of the Board he must have it.

The second point, Sir, the Kenya Government will do what it considers best in the interests of Kenya, but it has other Governments to consider as well as our own here.

#### QUESTION NO. 25

MR. ALEXANDER asked the Minister for Local Government, Health and Housing (Mr. Havelock) is it a fact that Nairobi City Council had recently negotiated a local loan of £50,000 for staff housing which the Government refused to authorize, and if so, what are the reasons for such refusal?

THE MINISTER FOR LOCAL GOVERNMENT, HEALTH AND HOUSING (Mr. Havelock): The Government is aware that the City Council recently attempted to negotiate a local loan which it proposed to use for staff housing over and above the approved Capital Programme of the City. Sanction was not given as it was considered that to do so would prejudice current negotiations by the Council and the Government for a major loan on the London market.

MR. ALEXANDER: Mr. Speaker, arising out of that reply, does the Minister recollect that in this Council in May of this year the Minister for Finance gave us an assurance that there would be no obstacles to local government obtaining local loans providing the conditions were not onerous? Does that policy still apply, and is this not a paltry reason he has just given for refusing it?

THE MINISTER FOR LOCAL GOVERNMENT, HEALTH AND HOUSING (Mr. Havelock): The hon. Member has stated something which the Minister for

[The Minister for Local Government, Health and Housing]

Finance is supposed to have said. He did not quote HANSARD, Sir, and I am in doubt as to whether the exact words quoted were said or not. All I would like to assure the hon. Member is that so far as local loans are concerned the Government will continue to help local authorities to raise money locally providing it is in the interest of the Government and the local authorities so to do.

MR. ALEXANDER: Mr. Speaker, the Minister may recollect that these were the words from HANSARD:—

"If any local government authority can come to us and it can show that a bank or a private finance corporation will advance to them on reasonable terms and not dictate financial terms which are burdensome to the rate-payers and which will not upset the whole rate structure of the country's borrowing I have never stood in the way of an authority in that regard."

THE MINISTER FOR LOCAL GOVERNMENT, HEALTH AND HOUSING (Mr. Havelock): Mr. Speaker, may I re-emphasize that that is the general policy and will continue to be so; but because it was in our opinion—and quite rightly so—that it was not to the benefit of the local authority concerned, nor to the Government, to sanction this loan at that time, under the peculiar circumstances it was not sanctioned.

MR. SLADE: Is the Minister saying, Mr. Speaker, that this is the exception that proves the rule?

THE MINISTER FOR LOCAL GOVERNMENT, HEALTH AND HOUSING (Mr. Havelock): I would say that it is one of the exceptions that might prove the rule.

#### QUESTION NO. 28

MR. MULIRO asked the Minister for Finance and Development (Mr. Vasey) from what Vote the fares of the trip of the four Unofficial Ministers to the United Kingdom in July were paid?

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): The fares of the Ministers concerned were charged to the Passages Vote.

MR. MULIRO: Arising out of that reply, could the Minister tell us the

reasons why the European politicians were sent with the public money of Kenya?

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): Mr. Speaker, I am not aware that "European politicians" were in fact "sent" to England. The question that the hon. Member addressed to me was: "What Vote were the passages of the Ministers paid from?" The Vote was the Passages Vote. Three of the Ministers of the Government went to England on leave, to which they were entitled, and the fourth Minister was sent for the purposes of consultations which were necessary with Her Majesty's Government.

#### QUESTION NO. 30

MRS. HUGHES (Uasin Gishu) asked the Minister for Education, Labour and Lands (Mr. Coutts) how many prosecutions there have been throughout all townships and municipalities in Kenya during the last six months in respect of the illegal employment of juveniles?

THE MINISTER FOR EDUCATION, LABOUR AND LANDS (Mr. Coutts): The total number of prosecutions taken in Kenya during the period 1st April to 30th September, 1957, in respect of the illegal employment of children (i.e. persons under the age of 16 years) in townships and municipalities was 64. No prosecutions were taken in respect of illegal employment of young persons (i.e. juveniles between the age of 16 and 18). Children and young persons both come within the definition of "juvenile" in the Employment of Women, Young Persons and Children Ordinance (Cap. 111).

MR. TYSON: Arising out of that reply, will the Minister give further consideration to representations which have been made to him with a view to reducing the age limit for juveniles from 16 to 14?

THE MINISTER FOR EDUCATION, LABOUR AND LANDS (Mr. Coutts): I regret, Mr. Speaker, that owing to an unwarranted disturbance I was unable to hear that question.

MR. HARRIS: It was a Ministerial disturbance!

THE SPEAKER (Sir Ferdinand Cavendish-Bentinck): I do not think the question arises, actually.

## BILLS

## FIRST READINGS

*The Stamp Duty Bill*

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. E. A. Vasey): Order for First Reading read—Read the First Time and ordered to be read the Second Time this day three months' hence.

*The Reinstatement in Civil Employment 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 Canning Crops Bill*

MR. SWYNNERTON (Director of Agriculture) on behalf of the Minister for Agriculture, Animal Husbandry and Water Resources: Order for First Reading read—Read the First Time—Ordered to be read the Second Time to-morrow.

*The Personal Tax 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.

## 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)

*The Liquor Licensing Bill*

2.55 p.m.

Clauses 1 to 12 agreed to.

Clause 13

SIR CHARLES MARKHAM: Regarding clause 13, I did raise this issue during the Second Reading of this particular Bill. I am wondering, Sir, whether the Minister in charge of this Bill would not reconsider his attitude which seemed to me to be completely contradictory to what was stated by the Solicitor-General when he spoke on the Bill. If I might repeat, Sir, one said that it would be unfair to allow

an advantage to one particular individual in regard to off-licences, while the Minister in charge of the Bill rather contradicted that statement. Now, Sir, I am not going to move an amendment, Sir, because under the new Standing Orders you have got to perform all sorts of gymnastics, as mentioned by my hon. friend for Nairobi South, but I am wondering, Sir, whether he would not agree that clause 13 should include both on- and off-licences. If he would do that I would be very grateful. I cannot move an amendment, so that is all there is to it, really.

THE ASIAN MINISTER WITHOUT PORTFOLIO (Mr. Madan): As I tried, during the Second Reading of the Bill, to explain, Government considers that clause 11 (1) read together with the provisions of clause 17 (1) of the Bill are adequate to provide for matters over which my hon. friend feels concern. In addition to that, Sir, you will recall that the learned Solicitor-General also explained that the matter had been carefully considered. I do not think that there is a risk of licences being granted indiscriminately if the provisions of clause 11 (1) and clause 17 (1) are read together—also with the safeguards contained in clause 14. I regret, Sir, that Government is unable to accept the suggestion made by the hon. Member. Clauses 13 to 15 agreed to.

Clause 16

SIR CHARLES MARKHAM: Mr. Chairman, I am not going to repeat the arguments. I used the last time, Sir, but I would urge that regarding the wine merchants' and grocers' off-licence, that the Minister might consider that in order to try to solve this problem as opposed to just letting it run on, he might agree perhaps to give notice that in a year's time every licence for those particular premises will be withdrawn. Then you will start again with a clean bill of health. Sir, I think it is important that the statement made by the Solicitor-General, Sir, should be read to this Council, regarding this particular clause. He said, Sir—

"Now, Mr. Speaker, you are going to say that only one grocer in the street is going to be entitled to sell liquor then you give him an extraordinary advantage over every other grocer in the street, because all the housewives will be drawn as to a magnet to that grocer's shop."

[Sir Charles Markham]

He then goes on to quote, Sir, Chester-ton.

Well, Sir, I do say that what I am worried about is this. If we are in this particular Council to worry about that aspect of the business then I think it makes bad law; and I would only suggest, Sir, that the only hope we have got is to start from scratch again by withdrawing every licence after suitable notice, such as perhaps one or two years' notice, and then allocating them on the basis of need as opposed to the suggestion made by the Solicitor-General that because one chap has it then they have all got to have it. We might well, Sir, use the argument that because the Ministers in the front rank all get £3,500 a year all of us on this side should get exactly the same.

MR. SLADE: And flags!

SIR CHARLES MARKHAM: But we do not. Therefore, Sir, because one *duka* has got it I do not see why the rest should have it. Again, under these new Standing Orders which we have passed with a rush the other day I cannot move an amendment, but perhaps the Minister might like to give his views on the matter I have raised.

THE ASIAN MINISTER WITHOUT PORTFOLIO (Mr. Madan): I do not think, Sir, that I am able to give the assurance—or the type of assurance—that the Member is asking for. I personally doubt whether such a situation will arise, but should it arise within a matter of two or three years I think the matter must be judged then and looked at in the light of circumstances then prevailing.

SIR CHARLES MARKHAM: Sir, the Minister's salary must, I am afraid, have influenced his hearing. I said nothing of the sort. I suggested that he give notice now that he is going to withdraw licences in one or two years' time and give the person a chance to dispose of his stock.

THE ASIAN MINISTER WITHOUT PORTFOLIO (Mr. Madan): My remarks apply equally well to the giving of the notice, Sir.

Clause 17 agreed to.

Clause 18

THE ASIAN MINISTER WITHOUT PORTFOLIO (Mr. Madan): Mr. Chairman, I beg to move that the words "ten days"

be left out of clause 18 and that the words "twenty-one days" be inserted in place thereof.

I do not think, Sir, I need explain at length the reasons for introducing this amendment because the purpose of it together with the purpose of the next amendment which has been circulated to hon. Members was, I think, explained in the Second Reading of the Bill. It was that representations had been made to Government that the time allowed for the filing of an appeal, the time of ten days, was considered rather short. I did say then, Sir, that Government was prepared to extend the time to 21 days. This is the first amendment in this connexion.

*Question proposed.*

The question that the words "ten days" be left out was put and carried.

The question that the words "twenty-one days" be inserted in place thereof was put and carried.

Clause 18, as amended, agreed to.

Clauses 19, 20, 21 and 22 agreed to.

Clause 23

THE CHAIRMAN (Mr. Conroy): There was an amendment of which notice has been given, but which has been withdrawn, relating to the heading of Part IV. In that heading there is an error in printing: instead of "Transfer and Renewal of Licences", it should read "Transfer and Removal of Licence". There is, however, no necessity to move an amendment in respect of that as it will be corrected when the Bill is printed.

Clauses 23, 24, 25 and 26 agreed to.

Clauses 27, 28, 29, 30, 31, 32, 33, 34, 35 and 36 agreed to.

Clauses 37 and 38 agreed to.

Clause 39

THE ASIAN MINISTER WITHOUT PORTFOLIO (Mr. Madan): Mr. Chairman, I beg to move that sub-section (5) of clause 39 be left out and that a new sub-section (5) as follows be inserted in place thereof:—

(5) Any person aggrieved by the decision of the licensing court upon any such report may within twenty-one days appeal against the decision to the Supreme Court and the judgment of the Supreme Court on such appeal shall be final.

[The Asian Minister without Portfolio] I did, Sir, a moment ago explain the reasons for moving the amendment to clause 18 (1) of the Bill. The reasons are the same for moving this amendment also, except that the latter portion of this sub-clause has been enlarged to say as in the case of clause 18 also that the judgment of the Supreme Court on appeal shall be final.

Sir, I beg to move.

Question proposed.

The question that sub-section (5) be left out was put and carried.

The question that a new sub-section (5) be inserted in place thereof was put and carried.

Clause 39, as amended, agreed to.

#### Clause 40

SIR CHARLES MARKHAM: Mr. Chairman, I apologize to the Council for rising again, but I did warn them at the Second Reading that I had a lot of detail at Committee stage.

I have been asked to raise a point under this clause, Sir, by some of my constituents. At the moment, under the Native Liquor Ordinance, a police officer may enter premises if he has reason to believe that there is brewing or possession of native liquor on those premises. I am wondering, Sir, whether this particular clause will now refer to all liquor or just to what you might call the Liquor Licensing Ordinance which does not affect native liquor.

It does seem to me, Sir, rather peculiar that anybody can now, under this new Bill, possess unlimited quantities of liquor both that bottled in Kenya or coming from overseas; whilst under the Native Liquor Ordinance, they are prohibited from possessing liquor. Perhaps, Sir, either the Minister in charge or the Minister for Legal Affairs might tell the Council about that particular problem, because I know it is affecting the administration of the law in certain parts of my constituency.

THE MINISTER FOR LEGAL AFFAIRS (Mr. Griffith-Jones): Mr. Chairman, Sir, the powers of search under this section are of general application. As the hon. Member will see, under sub-section (1) of this clause, a police officer ordinarily requires written authority or warrant of

a magistrate. But under the proviso to that sub-section, he can act without such an authority if it is necessary, in short, to take immediate action with regard to search.

The extent of the power of search relates to any unlicensed premises; that is to say, any premises which are not licensed premises within the meaning of this Ordinance. "Licensed premises" within the meaning of this Ordinance, which is defined in clause 3 earlier on, means premises in respect of which a licence for the sale of liquor has been granted under section 17 of this Ordinance. Therefore, those powers of search will be available in respect of any premises not so licensed if he has reason to suspect that any liquor is sold or kept for sale etc. the point being—if I have understood my hon. friend correctly—that these powers of search are sufficiently extensive to cover all premises in which liquor is thought to be sold or kept for sale, not being licensed premises under this Ordinance. I should also point out to him that the word "liquor" is also defined in clause 3 of the Bill as being any spirit, wine, ale, beer, porter, cider, perry, hop beer or any liquor containing more than two per centum by weight of absolute alcohol, or any other liquor declared, etc.

SIR CHARLES MARKHAM: Mr. Chairman, I would like to thank the Minister for that, but could he help me perhaps on this particular problem: if I can imagine for a moment, in a native reserve, a police officer, given information, goes along to a hut where he finds two barrels of native *tembo*, as we call it, and six cases of Martell Brandy. It is an offence to have the *tembo* but no offence to have the Martell Brandy. It seems to me to make the law an absolute farce, and I am wondering, Sir, whether there is some intention in the future to amend or to finish with the Native Liquor Ordinance.

It appears to me, Sir that it is stupid to have this restriction where a person can own unlimited quantities of imported liquor as long as he can prove he is not going to sell it, and yet he has only got to have a small amount of a native liquor, and he is committing an offence. I would have thought, Sir, that the position is anomalous.

THE ASIAN MINISTER WITHOUT PORTFOLIO (Mr. Madan): Mr. Chairman, the answer to my hon. friend's question is a simple one: in so far as this Bill is concerned, it deals with liquor as defined in clause 3 of the Bill. My hon. friend will note that that definition does not include native intoxicating liquor as defined in the Native Liquor Ordinance or industrial alcohol. If anyone is in possession of native liquor, no doubt he could be dealt with appropriately under the provisions of the Native Liquor Ordinance, but this particular clause deals with unlicensed premises, and it would also follow, I think, Sir, if the premises are unlicensed and the person is also unlicensed, the police officer would be entitled to take action as defined in the clause, and even proceed to take immediate action as stated in the proviso to this clause provided the circumstances justified it.

SIR CHARLES MARKHAM: Sir, I am awfully sorry to be a bore on this, but having heard now the Asian Minister without Portfolio, I must oppose this particular clause because I think it is quite appalling. The effect will be entirely a matter of opinion: it says "... may be seized and removed together with the vessels containing it"—now they are talking about liquor, Sir, and it does not refer to industrial liquor, as was pointed in the explanation given a moment ago—in other words, Sir, some police officer can come along to a house, think you are selling liquor, remove your entire stocks, and you wait for a court to say whether you can drink it or not later on.

Well, Sir, if that is the intention, all I can say is that some of us on this side of the Council will probably end up being teetotal! But I would have thought, Sir, that it was unfair to give that discretion where a person can seize it and retain it, and it may be forfeited by the court. I do not see why that should happen. Sir, and perhaps the Minister for Legal Affairs would tell us about the implications this might mean. I am not going to go on to personalities at the moment, Sir, but I would love to raid some of the houses of Members on this side of Council; but I do think it is unfair to give that discretion especially in view of the fact that it can be a long time before you come before a court.

THE MINISTER FOR LEGAL AFFAIRS (Mr. Griffith-Jones): The purpose of this clause is to enforce control against unlicensed sale of liquor.

Now I can assure the hon. gentleman that if he persists in selling without a licence liquor to which this Ordinance applies, then he will lay himself open to a search, and to seizure of his liquor and to forfeiture of his liquor by the court. I do not suppose for a moment that he has that intention in mind; neither do I suppose that any of my hon. friends opposite have that intention in mind. Sir, I really cannot accept that there is any very great hardship in providing this measure of control. The control is directed against those persons who are seeking to defeat this licensing law by selling liquor without a licence, and it gives a police officer a right with a warrant, if the circumstances permit of his obtaining one in time, without a warrant, if he has to act immediately, it gives him a right to enter and search premises where there is reasonable ground to suppose that liquor is being held for sale or is being sold without a licence. It is a very normal measure of control not only in regard to liquor, but in regard to all sorts of things. But it is, I can assure the hon. gentleman, a most necessary aspect of control if this Ordinance is going to mean anything at all.

Clauses 40, 41, 42, 43, 44, 45 and 46 agreed to.

#### Clause 47

THE ASIAN MINISTER WITHOUT PORTFOLIO (Mr. Madan): Mr. Chairman, Sir, I beg to move that sub-section (1) of clause 47 be left out and that a new sub-section (1) as follows be inserted in place thereof:—

(1) Any person who keeps for sale, offers for sale or sells any liquor which has been—

(a) in any way adulterated, or

(b) diluted by any person other than the bottler thereof

shall be guilty of an offence and shall be liable on conviction to a fine not exceeding ten thousand shillings or to imprisonment for a term not exceeding two years or to both such fine and imprisonment.

[The Asian Minister without Portfolio]

Sir, this amendment is introduced to meet the valuable suggestion made by my hon. friend, the Member for Ukamba, when he said, in connexion with this clause, that there are people in this Colony who import liquor in casks, for example, French brandy, and who have to bottle it themselves when it reaches the Colony; in the process of bottling it they have, of necessity, to adulterate it, not necessarily with any nefarious intention but because of the requirements of the trade. I am grateful to the hon. Member, Sir, for pointing this out to us, and I hope this amendment will meet with his approval.

*Question proposed.*

The question that sub-section (1) of clause 47 be left out was put and carried.

The question that a new sub-section (1) be inserted in place thereof was put and carried.

Clause 47, as amended, agreed to.

Clause 48 to 54 agreed to.

#### New Clause

THE ASIAN MINISTER WITHOUT PORTFOLIO (Mr. Madan): Mr. Chairman, Sir, I beg to move that there be inserted into the Bill a new clause 54 as follows:

*Amendment of the Shop Hours Ordinance, Cap. 114*

54. The Second and Third Schedules to the Shop Hours Ordinance are amended by adding next after the words: "The sale by retail of intoxicating liquors", where those words appear in both Schedules, the words "in premises other than those in respect of which a current wine merchant's and grocer's liquor licence has been granted under the Liquor Licensing Ordinance, 1957".

No. of 1957

(b) That the present clause 54 be renumbered as clause 55.

As explained during the Second Reading of the Bill, Sir, the object of this amendment is to tie up the provisions of this Bill with the provisions of the Shop Hours Ordinance.

Sir, I beg to move.

*Question proposed.*

The question that the new clause be now read a Second Time was put and carried.

THE CHAIRMAN (Mr. Conroy): It is now open to any Member of the Committee, should they so wish, to move amendments to this new clause.

No amendments being moved, I will put the question.

The question that the new clause be added to the Bill was put and carried.

THE CHAIRMAN (Mr. Conroy): It is not necessary, under our new Standing Orders, to move the second part of the amendment because the Clerk inserts the new clause in the appropriate place and rennumbers the following clauses consequentially.

#### First Schedule

THE CHAIRMAN (Mr. Conroy): I would like to draw the attention of hon. Members to a misprint in paragraph 1n (iii) of the First Schedule, which now reads: "Botiller's depot licence" and will be altered to "Brewer's depot licence". It is only a printing error and does not require formal amendment to correct it.

#### Paragraph 4

THE ASIAN MINISTER WITHOUT PORTFOLIO (Mr. Madan): Mr. Chairman, Sir, I beg to move that paragraph 4 be left out of the First Schedule and a new paragraph 4 be inserted in place thereof:—

#### Botiller's Liquor Licence

4. (1) As a botiller's liquor licence shall authorize the licensee, at premises the address of which shall be specified therein, to bottle liquor subject to such conditions as may be prescribed.

(2) Where the holder of a botiller's liquor licence is a brewer, such licence shall, subject to the provisions of sub-paragraph (3) of this paragraph, authorize the licensee to sell the products of his brewery by wholesale, in accordance with the provisions of sub-paragraph (1) of paragraph 3 of this Schedule, at the premises specified in his licence or by delivery therefrom throughout the Colony.

#### Brewer's Depot Licence

(3) Where any such licensee as is referred to in sub-paragraph (2) of this

[The Asian Minister without Portfolio] paragraph occupies any depot, he shall produce a copy of his licence, certified under the hand of the president of the issuing court, to the president of the licensing court within whose area such depot is situate, and the president may, at any time and on payment of the prescribed fee, issue to such a licensee a brewer's depot licence, which licence shall authorize the licensee to sell by wholesale, in accordance with the provisions of sub-paragraph (1) of paragraph (3) of this Schedule, the products of his brewery at or by delivery from such depot, the address of which shall be specified in such licence.

(4) For the purposes of this paragraph, "depot" means premises of whatever description which are occupied by a brewer for the purposes of his trade, not being premises specified in any botiller's liquor licence held by such brewer.

You will recall, Sir, that during the Second Reading of the Bill I explained at some length that it was proposed to delete this paragraph 4 as it stood in the Schedule and to replace it by the present amendment which I have just read out. The main object of this is to enable breweries to operate from depots or distribution points in the Colony which, of necessity, for business reasons they have to have in various centres.

This proposed amendment will also cover the point made by my hon. friend, the Member for Nairobi South, who wanted to ensure that delivery from lorries by brewers would be covered. I think, Sir, the present paragraph 4, as I have just read it out meets with the requirements of the breweries, as we know them.

I beg to move.

*Question proposed.*

The question that paragraph 4 be left out of the First Schedule was put and carried.

The question that a new paragraph 4 be inserted in place thereof was put and carried.

THE ASIAN MINISTER WITHOUT PORTFOLIO (Mr. Madan): Mr. Chairman, I beg to move, that paragraph 12 be left out of the First Schedule and a new

paragraph as follows be inserted in place thereof:—

#### Theatre Liquor Licence

12: (1) A theatre liquor licence shall authorize the licensee to sell by retail in any building, a portion of which is used as a place of entertainment, on any day at such hours between the hours of 12 noon and 12 midnight as the theatre may be open for entertainment or rehearsal to members of the staff of such building, to members of the audience and to the performers in such entertainment or bona fide rehearsal thereof, liquor for consumption in the bar only of the premises specified in the licence.

(2) No such licence shall be granted in respect of any premises access to the bar of which may, during the aforesaid hours, be gained by the public otherwise than from within the building.

I think it right, Sir, to inform hon. Members that this proposed amendment to the theatre liquor licence as it stands in the Schedule at present introduces two important changes.

The first one is that the word "foyer" has been left out of both sub-paragraphs (1) and (2) of this paragraph. In the first instance, that is under sub-paragraph (1), it was felt that if liquor is to be sold for consumption in a bar in a theatre it should be only for consumption in the bar, and people should not have the opportunity to walk about in the foyer of a theatre with a glass of whisky or whatever they may be drinking dangling in their hands.

MR. HARRIS: Dangling a glass!

THE ASIAN MINISTER WITHOUT PORTFOLIO (Mr. Madan): Well, displaying a glass of whisky, Sir. For that reason, Sir, the word "foyer" has been left out under sub-paragraph (1).

For leaving out that word in the sub-paragraph (2), the reason is that it was realized that more often than not, perhaps in all cases of theatres in this Colony, it is necessary for the public to gain entrance to the premises through a foyer and perhaps our theatres and cinemas are not built or constructed as they might be properly to qualify for theatre liquor licences. It may be, Sir,

[The Asian Minister without Portfolio] that under the provisions of this paragraph most of the theatres in this Colony will be excluded, or will not be eligible to obtain a theatre liquor licence.

That is the first important change that has been made to this paragraph.

The second important change is, Sir, that the words "as the theatre may be open for entertainment or rehearsal" have been substituted for the words which hon. Members find at present in the Bill, after the words "12 midnight" "as the entertainment may continue". For those words, as I have explained, Sir, we propose to substitute the words "as the theatre may be open for entertainment or rehearsal". It was considered that the proposed change is more appropriate and better suited to meet the conditions of a theatre liquor licence as they exist in this country.

I beg to move, Sir,  
Question proposed.

The question that paragraph 12 be left out of the First Schedule was put and carried.

The question that a new paragraph 12 be inserted in place thereof was put and carried.

First Schedule, as amended, agreed to.  
3.30 p.m.

#### Second Schedule

SIR CHARLES MARKHAM: Mr. Chairman, perhaps the Minister could tell the Council, in order to avoid any possible confusion, exactly what the position is at the moment regarding fees payable for licences. Almost every court now has received the applications for next year under the statutory notices and almost everybody has been told to send the full amount based on the fees under the previous Ordinance. In the case of some of them, they are considerably more than the ones suggested under this new Bill.

Perhaps the Minister would tell the Council so that the public might be informed as well exactly what the position is going to be regarding the money they have already paid to the Crown for next year's licences.

THE ASIAN MINISTER WITHOUT PORTFOLIO (Mr. Madan): Mr. Chairman, Sir, the position, assuming the Bill will receive its Third Reading in this Council,

will be, as I tried to explain it during the Second Reading of the Bill. I thought I explained it clearly and at considerable length. If this Bill becomes law, all existing licences, so far as renewal is concerned, will become automatically renewed until 30th June, 1958, and the fees payable in respect thereof will be as shown in the Table of Fees at the end of the Second Schedule. No application will be necessary to renew the existing licences for the first half of next year, but licensing courts, licensing areas and members of the licensing courts who are in being now will receive a further lease of life up to 30th April, 1958, in order to enable the public to make applications for the grant of new licences or transfers of licences, and also to keep alive machinery for other matters under the existing law, such as cancellation of licences.

If licensees have forwarded their applications under the existing law, together with the appropriate fee, also under the existing law, for the renewal of their licences, I have not the slightest doubt, Sir, subject to the provisions of this Bill being approved by this Council, that the necessary adjustments will be made by the presidents of the licensing courts in cases where there is any difference in the fees payable at present and those payable under the Table of Fees at the end of the Second Schedule.

SIR CHARLES MARKHAM: I would like to thank the Minister, Sir, for that; and perhaps he might tell the presidents of the various courts what he has told the Council this afternoon, because in two particular courts none of them are aware of that and they have rejected applications for a new licence because the fees were not enclosed under the old Ordinance. If he could just pass on to his people what, they should be doing it would be a help, I think.

Second Schedule agreed to.

Title agreed to.

Clause 1 agreed to.

THE ASIAN MINISTER WITHOUT PORTFOLIO (Mr. Madan): Mr. Chairman, Sir, I beg to move that the Liquor Licensing Bill, having been considered by a Committee of the whole Council, be reported to Council with amendments.

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 been through the Liquor Licensing Bill, 1957, and approved the same with amendments.

Report ordered to be considered tomorrow.

#### MOTION

THANKS FOR EXPOSITION OF POLICY BY HIS EXCELLENCY THE GOVERNOR

Debate adjourned on 25th October, 1957, resumed.

THE SPEAKER (Sir Ferdinand Cavendish-Bentinck): Hon. Members, during the debate on the Motion on Friday last, Mr. Griffith-Jones rose to a point of order in respect of a ruling I gave regarding reference to what an hon. Member suggested was the by no means impartial presentation by the Press of reports on the attitude which he and his colleagues had adopted in certain discussions which had been taking place outside this Council Chamber.

In view of my hon. and learned friend's experience and knowledge of procedure I decided that in accordance with Standing Order 53 (ii) I would defer giving my decision pending further consideration which I have now had an opportunity of giving to the matter.

On pages 124 to 125 of the latest edition of *Sir Erskine May's Parliamentary Practice* references are made to writings reflecting upon the conduct of Members as Members of Parliament, also to wilful misrepresentation of the proceedings of Members. On pages 135 to 139 will be found allusion to complaints against strangers founded upon documents with special reference to complaints made against something published in a newspaper. Where such a complaint is made it should be specific and a copy of the newspaper should be delivered at the Table and the passage complained of read aloud by the Clerk, or by the

Member, for the information of the House. A precedent is recorded where a Member who was complaining of the manner in which he had been reported in a newspaper produced no copy of the newspaper on which to found his complaints and he was stopped by the Speaker. The matter of false or perverted reports of debates—I stress the word "debates" as against happenings outside the House—is referred to on pages 55 and 118. Generally speaking, references by Members in debate to reports or comments published in newspapers—other than to rare cases of misrepresentation of actual proceedings in the House—are discouraged.

Furthermore in this case the question of relevancy also arises. The Motion in possession of the Council indicates that this debate centres on an exposition of public policy contained in His Excellency's Communication from the Chair—by that all must presume that we are engaged in discussing an exposition of Government policy. Admittedly such a debate, as was pointed out by my learned friend, covers a wide field. Not only can any matter alluded to in His Excellency's speech be discussed but it is even permissible to express regret at omissions from his elucidation of Government's programme. No Member, however, could, I suggest express regret at the omission by His Excellency of references to Government's policy regarding the Press or the attitude of the Press which happily is in no way controlled by Government.

Moreover it is my duty to try to keep these debates within reasonable limits.

Lastly, without abundant proof, it must be out of order to suggest in any debate that colleagues in the Council control the Press and are thereby responsible for somewhat biased or prejudiced presentation of information to the public.

Any ruling from the Chair has to be spontaneous and any ruling must be related to the circumstances of the particular occasion. Therefore, whilst not necessarily suggesting that no occasion could conceivably arise in which it might be permissible, in my hon. and learned friend's words, "to consider, discuss and if necessary criticize the Press, the functions of the Press, and the activities of the Press", I shall on this occasion adhere

[The Speaker]

to the ruling I gave on Friday that such references are out of order during this particular debate on the Motion as now in possession of the Council.

Incidentally, having some sense of humour, I must say that despite all rulings from the Chair, in effect the hon. Member whose speech I interrupted has in fact not only adroitly made the point to which he attached great importance but he has, in addition, through the medium of these arguments, secured considerable publicity therefor.

MR. SLADE: Mr. Speaker, Sir, I started my speech on Friday morning by pointing out that political stability depends upon security and prosperity just as much as those two factors depend on each other as well as depending on political stability. These three factors are mutually dependent just as much as the hen and the egg. They are like the three legs on which the future of Kenya is being built and they must and can only grow at the same speed.

Sir, I then dealt with certain aspects of security and prosperity and when the Council rose I was in the process of dealing with certain aspects of political stability such as law reform, local government and so on. I gave my reasons, Sir, for urging that development of local government must be continuous, notwithstanding any alleged financial impediments. And I can only add to-day one further reason for so urging. That is, I believe that the continuous development of local government is the best answer to the isolationist partition which is sought by many citizens of Kenya to-day. Mr. Speaker, I have never subscribed to that kind of partition, but the views of those who seek it must be respected, because they are seeking a local sense of security which I believe all of us, of each race, seek in this country to-day and which is, in fact, an essential element of political stability—a local sense of security.

Sir, if, I believe, the better alternative method of achieving that local sense of security lies in the development of local government, then we cannot possibly afford to delay such development.

Now, Sir, it remains for me to deal only with two further aspects of political

stability. First of all, with regard to the Civil Service. Sir, the Civil Service is, of course, one of the most fundamental elements in political stability. I was very glad to hear His Excellency reiterate the objective of building up our Civil Service more and more from people of this country.

But I had hardly heard him emphasize that objective when my heart sank; because I seem to remember having heard the same elsewhere. We heard the same, Sir, in the opening passages of the report of the Lidbury Commission. We heard there, as the foundation of the whole report, lip-service to this same objective of recruiting our Civil Service more and more from the people of this country. And what, in fact, did that Commission produce? It produced what I can only describe as that masterpiece of *non sequitur*—inducement pay. Thinking of inducement pay and looking at the effect it has had since it was introduced, Mr. Speaker, I am reminded of the legend of the snakes that were sent to strangle the infant Hercules. Not that I mean that imported civil servants are snakes, but if you regard the Civil Service that is to grow from our local people as an infant Hercules, then inducement pay is a snake which will strangle it, if Hercules does not strangle the snake first.

Sir, what has been the effect of this inducement pay? The effect is that any of our local people whom we want to encourage to join the service must either accept that by local recruitment they get less pay than those who come from abroad, and therefore a pretty, low rate of pay, or they have to go to England and qualify to be recruited there then be given a special payment to induce them to come back and serve in their own home. That is the nonsense that we have arrived at, Sir. That is based, in my belief, on the fallacy that people need inducement to come and serve in this Colony. Mr. Speaker, Sir, I believe the best people, those who will give us the finest service here, need no inducement to come. In fact, I think they realize more and more that it is a privilege to come and live in Kenya and serve this country and also that this country has many things to offer that older countries have not.

[Mr. Slade]

Mr. Speaker, if we were to cancel inducement pay, which I am sure we could, apart from, possibly, a few technicians of an itinerant kind, who do need inducement to go to different places because they do not intend to stay there; apart from those cases, if we were to cancel inducement pay, we would then have much more to share out among all civil servants. We would be able to make it much more worthwhile for our local people to join the Civil Service; then, Sir, the young Hercules would have strangled the snake instead of being killed by it, then we should start with the reality of what His Excellency and the Lidbury Commission both declared was our objective.

Secondly, Sir, and last, on the question of political stability, arise constitutional issues. Now, Sir, I doubt whether constitutional issues are best discussed in this Council even though they are an essential factor of political stability; because after all, in this Council, we are designed to work under a constitution as it stands to-day. Nevertheless, hon. Members have raised constitutional questions in this debate and they must be answered. Sir, I have had my share of this debate and I leave it to one of my colleagues to give those answers.

Mr. Speaker, in the course of a rather long speech, I have said little that is new. I do not apologize for that, because it was my objective to bring back the focus of attention in this debate to what I believe are the main issues—the main issues with which His Excellency was trying to deal in his speech. There has been a tendency—a natural tendency no doubt—which has been very marked in recent weeks, to concentrate all political discussion on constitutional issues. The purpose of this speech, Sir, has been to remind hon. Members, so far as they might need it, that constitutional issues are only one aspect of political stability, and in itself political stability is only one of three main aspects of the development of this country. I have in mind, Sir, what I think the hon. Member had in mind when he spoke for the farmers of this country. He said that we, at any rate, are going ahead with our work of developing this country irrespective of political stability. It was a fine thing to

say, Sir, and he did indeed speak, I believe, for all of us.

I think, Sir, the Secretary of State had the same sort of thing in mind; again, when he said the other day that the man who makes two blades of grass grow where one grew before achieves more for the benefit of the country than any politician, or words to that effect.

Mr. Speaker, I do ask my hon. friends, particularly those on my left, to understand the importance of these other issues of security and prosperity, because, unlike constitutional issues, these issues are matters which are of common interest to all races. It is equally important for all of us to achieve security and to achieve prosperity. The hon. Member for Nairobi extended the hand of friendship to representatives of other racial groups. He did it with reference to constitutional issues; but unfortunately there are so many conditions—or such conditions I should say—and such circumstances attached to that hand of friendship, in that respect, that it will not be easy for it to meet any other hands to-day. But, Sir, in these other issues of security and prosperity we have a hand of friendship to offer too and surely those hands can meet. Sir, we could meet and discuss those things, while yet having agreed to differ on constitutional issues. And if we did, we and other racial representatives on the other side of the Council, could keep Government up to the mark, even more than we do now, up to the mark in things which really matter to-day. There, Sir, I believe is where the hands of friendship can meet.

I beg to support.

MR. CONROY: Mr. Speaker, Sir, on Friday, just before the Council adjourned, the hon. and learned Member for Aberdare asked whether the Government had any intention of publishing a new Revised Edition of the Laws. Sir, the answer is in three words: "Yes, in 1960". I think it might be of assistance to the Council to tell the hon. Members why the Government has come to this conclusion.

Sir, the Laws were last published in 1948. They were then contained in eight volumes, one of which was an index; they are now contained in 30 volumes, at least there are 30 volumes in my bookcase. Every year we have added at least

[Mr. Conroy] two additional volumes, so when I tell Members that rather more than half the legislation in those 30-odd volumes is now out of date and has been repealed, they will appreciate that we have one good reason for a new Revised Edition of the Laws.

Sir, a more important reason is that it is essential in any well-run country that a citizen should be able to find out what the law is, and we are getting to a state in Kenya now where it is very difficult, in some circumstances, to get a copy of an individual statute or to get a copy of the Revised Edition of the Laws of Kenya. If a new Crown counsel comes to my chambers I cannot provide him with a set of the Laws, there is not a complete set in existence which has not already been issued to someone. If a practising lawyer writes to the Government Printer and asks for a copy of an Ordinance he may well find it is out of print. We have now got to the stage where we have either got to reprint the existing Laws or have a completely new Revised Edition. I do not think there is any doubt that it is much more desirable to have a new Revised Edition.

Practice with the present Revised Edition has proved that in certain respects it is lacking, and we think that the form used in 1948 is now out of date. It is the Government's intention, provided the money is there, to publish the new Revised Edition of the Laws in a looseleaf form. That means that each Ordinance and its subsidiary legislation will be in one booklet; if during the year any amendment is enacted then subscribers will be issued with a new booklet and they can throw the old one away. That will have the effect of keeping everyone's Laws up to date (and possibly putting some lawyers out of business). It will certainly be of great assistance to civil servants, Sir, and, I hope, to businessmen.

The only trouble with this proposal is that it is an expense, there is no need to shut our eyes to that. The cost of publishing the new Laws will be something of the order of £50,000. I hear exclamations of astonishment somewhere from the direction of Nairobi South, I must point out to the hon. Member, Sir, that the people responsible for this spate of

legislation, Sir, sit in this Council Chamber.

Mr. HARRIS: You have got a majority!

Mr. CONROY: And we have, Sir, over 400 Ordinances in force nowadays and our Laws run to some 11,000 pages. However, the sum of £50,000 will not be written off completely because we will get back a substantial amount from selling copies of the Laws to lawyers and other intelligent people who want to read them. It is considered not undesirable that they should pay the economic price for them, which will come out at about £50 a set. We sold 350 sets last time, so this time we reckon we may well sell 400 sets. So there is quite a substantial sum, which I see my learned friend from Nairobi South is busy working out, which we shall get back. Of course, Sir, there is in the sum of £50,000, a substantial amount for the purchase of new printing machinery which, when it has served its purpose in printing the Laws will save the Government Printer in respect of future years, in other words he will take it into his stock and will not have to have his printing machinery replaced.

Mr. Speaker, I do not think that I will bore hon. Members with the esoteric details of how these Laws will be produced. I often feel rather like a commercial traveller when dealing with this subject—

Mr. HARRIS: And you sound like one!

Mr. CONROY: I am glad I am so persuasive! Mr. Speaker, it is undoubtedly true that we have got now to the position where we have either to reprint our existing Laws, thus incurring expense, and continue with our present rather unsatisfactory system, or go over to a new system. It will be a little more expensive in the first place to produce a new system. It will, however, prove cheaper each year, because at the moment we bind every year's ordinance and every year's subsidiary legislation. And so after a few years we will have caught up with the capital expenditure and we shall, indeed, be making a saving if we adopt the new system.

Mr. Speaker, the hon. and learned Member asked me when the Government intended to do anything about this, my answer was "Yes, in 1960" and of course

[Mr. Conroy] that means that we have to start work, we estimate, in October of next year, October, of 1958. We consider that we are very lucky to have earmarked, if I can use such an expression, for this type of work, the services of Sir Newnham Worley, the retiring President of the Court of Appeal in this work. He is a man of very great distinction, is well-known to hon. Members, and his knowledge of the Laws will prove invaluable. I am sure, in this connexion.

Mr. Speaker, I beg to support.

4.01 p.m.

Mr. MANGAT (Central Electoral Area): Mr. Speaker, Sir, these annual sessions of the Council are very much like the general meetings of a corporation whereat the president himself condescends to address the ordinary shareholders and paints to them a rosy picture for the coming 12 months. At the commencement of the proceedings the minutes of the previous meeting are taken as read and the first essential item on the agenda generally is "matters arising therefrom". This item, I regret to say, has not received due attention.

Last year, the thanks of this Council to its president for his speech would have been unanimous but for one dissentient voice. That voice was the voice which you are hearing now. We were then promised many things. We were told that as the staff of the Legal Department would henceforth be less engaged in work connected with the Emergency, it was the Government's intention to undertake a planned programme of law reform. I said quite a few things in detail last year in my demi-maiden speech on this part of the Pronouncement. In particular I emphasized the urgent necessity of enacting a Hindu Marriage and Divorce Ordinance. I acquired the Indian Acts and passed them on to the Minister for Legal Affairs and put them into a shape which could be adopted for the purpose. Nothing has been done, so far, in that direction and many a Hindu in this British Colony is committing bigamy with impunity although his next door neighbour, a Christian, can get five years' imprisonment for indulging in the same nestling nuptials.

The laws of Transfer of Property and of Contract are where they were. Except

for a few easy-to-draft Bills, we have waited the last 12 months on the Liquor Licensing Ordinance. I am sure we have already absorbed the revenue accruing from that Ordinance for several years to come. The draftsmen of the Legal Department should be thankful to the Asian Minister without Portfolio, but for whose muddling intercession, this very simple Bill would have been on the statute books finally about a year ago. And to keep up the count, of course, we have repealed the Whipping and the Forfeiture Acts.

But I must give praise where praise is due. And that is to the Minister for Legal Affairs, who gained universal applause by expounding the intricacies of the Lyttelton Plan to the hon. Member for Nyanza Central. During his famous exposition he repeated his favourite injunction that the Unofficial Members must not forget that the Council of Ministers is the Government of this country. I am tempted to say to him what the man said to the self-opinionated woman when she admonished him "Remember, you are speaking to a lady". The man replied: "Madam I will respect your secret!". The Unofficial Members have respected the secret of the Minister for a whole 12 months but if it is being blazed abroad like this, he alone shall be responsible for the consequences.

This year's Communication from the Chair is very much of the same pattern as the last one. The only difference is the extra candle on the cake which, however, tastes exactly like the last one, although my saying so, I am sure, will offend certain of the cooks who baked the cake.

Last year, the Minister for African Affairs, in defence of the concoction then served, indulged in a laborious quixotism when, with tender ridicule, he remarked that what the hon. Member for the Coast and I had said about the Speech from the Chair had sounded to him like the muted chorus one expects from a farmyard before the dawn. What a pity the Minister did not take a lesson from two old cocks. History records it that wise men, paying due deference to the cackling of geese, saved their city from assault and ruin. The Minister here evidently turned on his other side and resumed his slumber. On waking up, with calculated pomposity and fatuous bonhomie, he settled that whatever he put beyond his own hearing he put out

[Mr. Mangal] used. And like Mr. Podsnap, who used to use that formula, he has also acquired a peculiar flourish of his right arm in disposing of the difficult problems in this Council, by either sweeping them behind him or propelling them, like unwanted pigeons into the sky to vanish beyond the clouds forgetting that one day they would come back to roost. The result is that the Ministry of African Affairs to-day is in a dire and indeterminate mess. We have on the Order Paper a Motion for to-morrow which is trying to put an end to this Ministry.

As regards finance, to borrow the words of the Prime Minister of Great Britain, our position, though brilliant, is precarious. As many of our civil servants are completely exhausted at the end of an eight-hour day by the exertion of avoiding work, we are advertising new posts. The other day, the Ministry of Community Development had a whole page of advertisements for new appointments. Our Minister for Finance should be not merely a pointsman at the switchbox, he should have the authority of regulating and, if necessary, stopping the flow of money to over-ambitious Ministries. And we are, as usual, short of cash and long on hope.

This year, however, bigger issues have come to the fore and I hesitate to take up the time of the Council on matters which can be left over for another occasion.

What the hon. Mover has called the second message, of "political stability" is far the more important of the two messages which the Communication from the Chair contained. Yet, except for the hon. Member for Nairobi Area, all the other speakers, so far, have displayed "fine reserve and noble reticence" pertaining to it. I should have thought that the remarks of the hon. Member for Nairobi Area, advanced as they were, with admirable candour, required a proper appreciation and response.

Now, Sir, I have decided to rush in where angels seem to fear to tread as I have never allowed myself to labour under the conceit of wearing fragile wings. From the first moment that the hon. African Members have entered the portals of this manufactory of gubernatorial joy sticks, they have subjected

the Lyttelton Plan to a constant hammering with the unconcealed intention of smashing it to smithereens. That no visible crack has so far appeared in it is no assurance that it would not fly into fragments at the next blow.

The circumstances in which the Lyttelton Plan was conceived are too well known to warrant repetition. What contributed a great deal towards its acceptance by the members of the different racial groups was that it was their first Secretary of State for the Colonies and he went to their heads. The Government, by continuing the Lyttelton Plan has squandered away at a rapid pace the good will of all communities. Not concerning myself with others, I know that the Indian Community, in having a Minister in the Government, is in the position of the farmer who was leading his moth-eaten dog for the purpose of entering it in a dog show and when derisively asked about its chances of getting a prize, he said, "I know he will not get a prize but he will meet a lot of nice dogs".

Now, Sir, the critic of the Lyttelton Plan in this Council invites the puerile taunt of the grapes being sour as they are beyond his reach. That could not, of course, apply to the hon. African Members because the grapes have been made to dangle before their noses for the last six months, only to be spited. Nor, I believe, Sir, it could apply to me because as a result of a deep study of behaviour of foxes, I know the sequel to La Fontaine's famous fable of the fox and the grapes. The poor fox, mocked by his friends, conscious of the defeat and ignominy, develops an inferiority complex, for which he knows there is only one cure. Night after night, while the other members of the pack are having a comfortable sleep, he is secretly engaged in taking climbing lessons. After several weeks of dogged effort, finally he does succeed in getting at the grape, only to find that a terrible disappointment has been waiting for him. The grapes were indeed sour as he had pretended from the beginning. But who will believe him? Even he himself cannot believe that those beautiful, succulent-looking grapes are hard and acid as gall. The grapes become an obsession with him. He has to go on at getting them, panting and sweating, and to go on eating the beastly

[Mr. Mangal] fruit for the sole purpose of proving that he is man enough, or fox enough, to reach and eat them and eventually he dies of gastric ulcers. This is the tragedy of those who brag that they have reached the grapes. Such advanced sociological researches and revelations do not appear in the pages of the *Saturday Evening Post*.

To revert to the theme. The making of any amendment to the Lyttelton Plan or any change in the present constitution for the purpose of resolving what is called the present deadlock is the prerogative of the several racial groups in this Council. Therefore, not belonging to any of them, in commenting on the topic, I feel like an infidel who intrudes upon the celebration of strange rites. And the trespass is all the more heinous as the Archimagus himself is watching the rituals. But the unctuous cadence of the ceremonies has ravished my agnostical innocence. At the same time, I must confess that if I were to draft out a compromise between the groups, the title I would choose for it would be what H. G. Wells selected for his most pessimistic piece, *Mind at the End of Its Tether*. This is partly because such is the stinky, all pervading influence of our present political climate that, even the expression of an honest opinion has the effect of a provocation to someone or other. Yet, in this cosmopolitan collection of skulls, when I look round me, I think to myself, like Correggio: "I, too, am a pedagogue and as such will venture a reflexion".

It is manifest that the debate on the proposed constitution is, from the beginning, removed from the level of objectivity. Arguments are not advanced or considered on their merits but by whether they fit with the particular demand, or if not, how can they be made to fit. It is a type of approach to reality similar to that of an infant who examines any object which falls into his hands from the sole angle of whether it could be eaten.

No sooner did the present African hon. Members score at the polls than, fired like Ibsen's *Master Builder*, with verve and vigour, they started the resonant clamour of 15 more seats. The shrill note has become shriller, an

entranced incantation, while the watchwords it propagates in the Desai Memorial and Makadara Halls are simple enough in their ever-repeated tautophony like the rhythmic beating of a tom-tom in the bush. The African Members have made it clear that they are in a great hurry to get, what they consider, is their just pound of flesh.

A few freshly-weaned patriots outside this Council have picked up the phrase: "Africa for the Africans" and this and the "fifteen more Members" slogans disperse the Sunday stillness of this city and run, monotonously, like a row of tombstones, through the speeches of African orators.

The sudden demand for 15 more seats has administered a severe shock to the complacent, indeed overwhelmed many, not excluding the Government and the European Members. The African Members advanced plausible arguments in support of their demand, and, like the emperor's clothes, none dared to say that he could not see them. They have now boldly claimed that their case for 15 more seats is completely acknowledged by the Kenya and the British Governments. It might have brought a tinge of modesty to the emperor's bearing if someone had come forward to tell him that he stood stark naked.

Only last year there was a settlement among the various racial groups whereby the African representation on the Council was increased by two Members and by an additional Minister making them two, one as the Minister for Community Development and the other as a decorative Minister without Portfolio. One could presume that that settlement must have been considered by those Members to be valid at least until 1960 and I find that the present hon. Member for the Rift Valley Province was one of those who took part in those negotiations; and now we find that the present hon. Members, two of whom would not be here but for that settlement, demand 15 more seats. It is noteworthy that now the self-same hon. Member is the first to pronounce that the demand for the 15 seats is the absolute minimum the Africans would accept. No wonder the infidel is unable to understand the antics of enigmatic priests. Now the sonorous crescendo of 15 more seats has attained a piercing pitch.



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The Asian group, in its feigned and thankless magnanimity, *pro gloria deli*, like the juggler in the medieval legend, who, having nothing to offer, performs his somersaults and sleight-of-hand tricks before the altar of the virgin, at once issued an ambiguous proclamation which, interpreted by the Africans, meant a full and unequivocal, and interpreted by the Asians meant a merely partial support for the African Members' demands.

The hon. Member for Nairobi Area, on Friday last, when appealing to the European group for removal of suspicions and reversal of their attitude towards the African demand said, "The Asians are out of it; they have made their position very clear". These words are capable of only one meaning—that the Asians have given full and unconditional support to the said demand.

I should take the earliest opportunity, and this is it, to disabuse the hon. Member's mind of the impression he obviously holds that if the Asian Members are out of it, the Asian community is also out of it. This is not so—at least, so far as the Indian community is concerned. The Kenya Indian Congress has not endorsed this alleged view of the Indian Members so far. The only arrangement the Indian community recognizes is the one made last year and which I have mentioned just now. It is, however, willing to enter into negotiations for a new constitution which might involve the question of safeguards.

By the nature of my vocation, I am sceptical about hearsay evidence and would prefer to hear the Indian Members themselves explain their attitude on this issue. I must confess that it sounds incredible to me that the Indian Members have acted in the way which the words of the hon. Member for the Nairobi Area seem to indicate. Even if they say it is so, I must in fairness to him, tell the hon. Member for the Nairobi Area that the ill-assorted quintet which he calls the Asian Members is not competent to commit the Indian community on this issue. The members of the Asian group have, as usual, come out of the darkness for a purposeless moment and will enter the dark again after they have performed the nothing they came out for.

It is, however, the attitude of the European group which is most puzzling.

It seems that among them the understandable human weakness of evading painful decisions and delicate responsibilities has come to be regarded as a virtue and the essence of democracy. A matter-of-fact unimaginativeness has become a cult with the British. They tend to forget what happens between the emergencies. It is, I suppose, a part of the same apocalyptic temperament that lacks fortitude in minor crises but thrives on catastrophes. In the sacred name of political evolution they follow the Turkish habit of voluntarily undergoing an attack of mild variation of smallpox in order to avoid catching the severe form of the disease. And they fail to be warned by symptoms and commit the pious error of calling the pox a pimple. The European Members kept silence for an unconscionable period though this silence turned out to be fortuitous as it forced the fierce cat of African racial claims out of the pretentious multi-racial bag. Eventually they issued a short communiqué regretting the disturbance to their minds the African Members had caused. It was a pitifully small mouse the labouring mountain bore.

The arguments put up by the African Members in support of their demand for 15 seats, in quite an innocent manner, are that their population is very large—6,000,000—and that it is so ignorant and illiterate that there should be 15 more Members in the Council to explain to this vast populace what is happening in this Council. The fact that the desired increase, if attained, would bring their total number equal to the total number of all others is, they say, a mere coincidence.

The reply which they could be given is that 6,000,000 is not, after all, a very large number in terms of compact populations. It is hardly as big as Tokyo, or taking an instance nearer home, it is less than a Calcutta and a Bombay combined. In India one Member represents not less than 500,000 people nor more than 750,000. I am conscious of the fact that it could be said that the immigrant communities here themselves are only about 2 to 3 per cent of this country. Without protracting the argument, Sir, I will content myself with saying that it must be remembered that bigness is not the same thing as greatness. On the second point, to plead that the

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ignorance and illiteracy of the population warrants a larger number of representatives is to convert a shortcoming into a profitable philosophy. If this argument prevailed, then, any country with an educated population need not have a very big Council. Indeed, Great Britain should not have any Parliament at all. If eight Members cannot explain matters to 6,000,000 neither would 23 be able to do that. It matters little whether a Member has an audience of 750,000 or 250,000. Both are equally inaccessible. It is difficult, therefore, to appreciate that logic or share that morality. I am not denying there might be cogent reasons for the increase of African representation and perhaps there are but we have not yet heard them.

Neither the Government nor the European group gave the African Members a satisfactory reply. I do not blame the latter as they repaired to London. So did many others who unnecessarily trespassed on the courtesy of a great gentleman and made a tired statesman more tired and a sick man more sick. What was worse, when they returned the credulous parliamentary correspondents of the Press of this country questioned them as Christians in the Middle Ages might have questioned the pilgrims returning from the holy land. They might have questioned a mute to greater advantage. For a whole week there were discussions with the Secretary of State for the Colonies here. One would expect that something would come as a result of that. But has it? Before they called it a crisis. Now they say it is a deadlock. In reality it is no more than a melodrama, sensational but pathetic.

I read in the Press the description of what were euphemistically called the constitutional talks; although they never seem to have started, as carefully as I could persuade myself to, sometimes with forced greed as one would listen to the bleep from the artificial satellite, but there was piteous little in it—no more than a touch of esoteric arrogance.

One could discourse on our political situation for hours but I do not wish to rationalize much further. The bare facts are, Sir, that to-day in this country among the Africans there is a mixture of two epochs; one of the race that plods barefoot through the mud seeking to

read its future in the entrails of sacrificed beasts, and the other that carries briefcases and wears horn-rimmed glasses. There is a howling disparity between the respective proportions in which these two exist. I know that the latter insist on asserting that the modern primitive is different from the primitive primitive. We all know that the African is growing; in fact little Herbie is getting too big for his boots. This is the most critical stage of Herbie's adolescence and he must not be allowed to gain the impression that he is capable of putting the rest of the family out in the cold. The Europeans have been playing the proverbial rich uncle and it is their power and riches which Herbie covets.

The European group instead of boldly advancing or firmly holding on to their ground, started manoeuvring. If the leader of the European group intends to defend the bridge he cannot do so by running behind the jamba and abutments. Horatius, I suppose, had to stand in the middle of the bridge. The drums of Lars Porcena are beating louder and louder. Lartius has been glaring on Sextus for quite a while. The hon. Members for Aberdare and Central Nyanza have been touring the Etruscan country like a brace of Pied Pipers. I wonder if Herminius and Mamilius, by this fraternal contact, will avert the tragedy, or is the one, merely assessing the prowess of the other to smite him the better. There is a whole crowd at the Palatinus watching to see if Alfred Vincent can play Horatius Coclès.

The burden and the bliss of responsibility has to be borne by the Government and the Europeans.

In my opinion, the present attitude of hell-raising of the African Members is not the right way to proceed about evolving a new constitution or building a nation.

I suspect that the hon. African Members are stirring up forces which may be the source of grave discomfort to themselves one day. They might find themselves as painfully surprised as the keeper who went to sleep with his head in the lion's mouth.

I say all these things, Sir, knowing that I shall be called apathetic to African aspirations. This is not so. I say these things for two reasons. Firstly, because

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I do not wish that either my own attitude towards a new constitution or my community's sincerity in the African cause should degenerate into exhibitionism; and secondly because I know that majority groups are inclined to become autocratic when they get predominance over the other groups. Indeed, sometimes they find irresistible temptations to become unjust and vindictive when minority groups of standards higher than their own are living amongst them. Therefore, as one who shares in the responsibilities of this House, I owe it to those whose cause I have to watch here to try to see that any new constitution contains not only adequate safeguards for the minorities but fundamental moral precepts protecting the indigenous people of this country.

As the *Manchester Guardian* said the other day—"That a minority has rights, too, is the last and hardest of the lessons to be learned on the road to democratic government". The fears of the Europeans and the Asians will have to be allayed by provisions in the constitution itself. In this country of abnormal happenings, hedgehogs have been known to change into chameleons.

If I were to advise on a new constitution I would not advise rashly. I should ask for time.

At this point of our journey, Mr. Speaker, Sir, the brakes of the train are more important than the engine.

All I can suggest at the moment is that it would not be prudent to amend the Lyttelton Plan any further. We will only make it look like a used coat which has more patches than the original tissue. The African Members are quite right in withdrawing from the Lyttelton Plan if they so wish. I am also aware that the Secretary of State for the Colonies is not satisfied that such withdrawal makes the Plan unworkable. I say, with great respect, that this interpretation of article 11 of the Lyttelton Plan is not correct if it means that the withdrawal of a major community from the Plan would not make it unworkable. The best thing to do would be to make a new start by all the groups asking the Secretary of State for the Colonies, when he comes back, to have the Plan abrogated. This would give all the groups the time to weave the

warp and wool of a new constitution. This could best be done by the Members themselves coming out of the confines of the racial groups and evolving a common outlook and a common aim; and given time it is just possible that a new party might come out which could be answerable to all the races in the country.

On the other hand, Sir, if the Plan continues, I must warn my Unofficial colleagues that the portents are very grave. The other day a Press note informed us that four dozen blue and red flags with silver rods have arrived at the Secretariat for the use of Ministers. The Government, in these days of scarce money, cannot allow this investment of a whole £16 in these flags to lie idle. Hence it is sure to use 48 flags for 48 Ministers. Even if each Minister were decked with two flags, to entitle him to the more than usual courtesy, from the front as well as from behind, even then we shall have 24 Ministers—an increase of ten on the present strength. Then, of course, the Official Ministers will have the more than usual privilege of escorting and prompting the Unofficial Ministers as the crew of a lifeboat escorts channel swimmers. We will then have quite a few more Ministers without Portfolio standing on the shore and not entering the choppy waters, feeding themselves on gold leaf and powdered diamonds at the expense of the country. That is the alternative which the Unofficial Members can have if they insist on retaining the Lyttelton Plan.

The European group is putting it up as a condition precedent to any increase in the number of African Members that they, the Africans, must agree to participate in the Government. What sort of statesmanship is this which insists on the Africans taking two Ministries merely to lend colour to the Council of Ministers? Everyone can see that it is a sop to Cerberus so that we could be at rest for a day.

The Communication from the Chair ended with a maximum of undeniable truth that a prosperous economy and a high level of production depend on political stability. But after that, Sir, it hurried to expire with a lamentable moan, a threadbare exhortation about

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good will on all sides. It was like seeking to build an edifice without looking at the foundations. Castles in the air!

As the odd man out of all the groups I do not feel obliged to give an unsolicited answer to the conundrum. It is for the Government and the members of the various racial groups to do that. But they might remember, with advantage the words of the late President Roosevelt:—

"The world is not interested in the storms you encountered, but did you bring in the ship? Will you bring in the ship or will you give up and then spend the rest of your life in exaggerating the storms?"

The Speech from the Chair does not offer that or any other promise. At its best it is like the Journal of William Fox—inspiring in places but beyond a certain point there is a sense of anti-climax and hopelessness.

In these circumstances, Sir, I cannot persuade myself to lend my support to the Motion.

4.45 p.m.

MR. COWIE: Mr. Speaker, in paying tribute to the address by His Excellency, the Governor, from the Chair, I would like to invite hon. Members to dwell with me for a moment in an entirely different realm from the one in which have been during the last speech. I promise you, Sir, I will not embark on constitutional issues or other matters of that nature, but I would like to relate you to what I call the realities that lie behind His Excellency's speech.

I was very pleased to see that he made a reference to the importance of conserving our water catchment areas. That, Sir, is the first heading on which I wish to invite attention. I hope I can lift that to the prominence it occupies, anyway, in my own mind. As I see it, Sir, this country is dependent almost entirely on whatever falls from the sky. We have our two monsoons, and our two rain seasons, but unless that rain can be allowed to reach the fertile lands on which we depend—and it does not much matter what we do with constitutional reform—we may not have the land or the water to support our economy.

This protection of our catchment is becoming more important than I think most people, certainly in this town, realize. I believe that many of our rivers are drying up; our lakes are dropping in level; some of the boreholes are sinking in their levels; trees are dying, and there is an indication of progressive desiccation. It may well be a cycle through which we have to pass; even if it is, all the more reason why we must take steps to try to combat it even in our life-time.

There is a place, Sir, in the Rift Valley, not very far from here, called Olgorasalle where Dr. Leaky has discovered the remains of a previous civilization where people lived many hundreds of thousands of years ago. There are at least 11 different lake levels; in between each, there is a period of at least 10,000 years. In other words, if you wait long enough, it will rain again, and the water will return. But I do contend that we cannot afford to wait 10,000 years before we take stock on what are our water resources in Kenya.

If one looks, Sir, at the hills which first give a welcome to the monsoons; they are mainly the group of hills in the Wakamba country; they, to our certain knowledge, have been very vastly denuded of their cover. If one looks further north to the Nyambeni Range; on the one side, there is a very heavy rainfall, and on the other side there is a very small rainfall. On the dry side, there are fissures and rifts that have been gouged out by successive years of rain or wind and the soil is going. Those are the first hills which the monsoons hit, and unless they are covered, unless they can induce and retain more moisture, the rain which falls in the highlands will be less.

Going further north, Sir, to the Mathew's Range and the Ndotos; experts tell me that unless something can be done to prevent those particular hills being trampled so much by livestock, and vegetation being denuded, there will not be sufficient water to maintain the population that lives either on them or below. They give a period of some 20 years.

Now, Sir, unless streams can be piped, unless the vegetative cover can be retained and conserved, we are like a lot of ostriches putting our heads in the sand. We may spend a lot of time in this Council debating constitutional issues or even

[Mr. Cowie] planning new capital development, but unless we realize what is happening in the outer remoter regions of Kenya on which our rainfall depends, we will not be able to make that progress which I believe His Excellency's speech indicated.

I would submit, Sir, that all this chatter and clamour for political reform is grasping at the shadow instead of the substance. On the question of water, everybody can join hands; there is nothing racial about that, nor is it political. It is a fundamental reality that unless we conserve our water, and therefore our land, we will not have the facilities and resources that can support this country in future.

Turning to the very surface water itself, Sir, which we are very proud to have, I think most hon. Members will know in their own experience that there are many mountain streams coming down from their sources clear and clean; they only have to reach the lower country where they are contaminated and fouled by all kinds of means. They are used by livestock and those rivers become dirty. Now there are two kinds of dirty rivers to my mind. One dirty river is dirty because it is full of mud that has been washed into it. Then there is dirty dirt which is another form of dirt that goes into a river and fouls it. I believe, Sir, it is a crime against our community for anyone to contaminate or foul a river. If only they could be preserved and allowed to follow their course into the low country, there would be many people and animals that could depend on them and use them with greater success than they do now. If the Minister for Agriculture during his tenure of office could, with the Water Ordinance that has recently been amended, achieve a situation where the surface water of this country is more adequately protected and kept clean, I believe he would be rendering a great service to this country.

Sir, turning for a moment to law and order, which is my second heading. In a very small way, I have seen the clash—if I may call it that—between subordinate officials and members of the public. I am referring particularly to the police. I think that unless the public are prepared to give sufficient support, especially to

the new recruits in the police, those recruits have no chance of success. We all know the occasion where some alleged 'plutocrat' or someone who believes that he is rather superior will be intensely rude to a policeman. He will resent his authority, and, by so doing, he might ruin that policeman. Conversely, one also knows the case where a policeman, probably, through being inexperienced, misuses his authority, and offends a member of the public. That, Sir, at its lowest level, is the relationship between the public and the police. I believe on that depends to a great extent our future progress and peace. I would commend to my hon. African friends that however much they demand positions in Government or positions anywhere else, they must accept that progress carries with it responsibilities. There may well be a day when they will seek protection from the man in authority who misuses it. It happens in every country; it is more likely to happen in a country like this where there is a great disparity between one kind of person and another. Unless those people who accept these positions of authority, however subordinate they might be, can be educated not to misuse that authority, then the members of the public, I believe, are in for some trouble. That is why, Sir, I would commend especially to my hon. African friends that however much one can build up the effectiveness and the usefulness of the police, it is the one way to ensure that we might all achieve a state of law and order which will be very much more healthy than the political clamour that is going on now.

I now turn, Sir, to my last point, which is the question of game conservation and poaching. In this respect, I would like to pay a very particular tribute to His Excellency the Governor for the interest he has taken in this subject and also for the action which he personally has initiated; also, Sir, to the Minister, and the Secretary for Forest Development, Game and Fisheries, for the parts which they have contributed to it. Lastly, and by no means least, the police themselves. The Commissioner of Police has been quite remarkable in the manner in which he has assisted this campaign, particularly in the provision of a spotter aircraft which has made it much more successful.

[Mr. Cowie]

Some time ago, Sir, in this Council, it was said that the statements claiming that, unless something was done about poachers within a year or two, it would be too late were incorrect; I must those some facts and figures to show why those predictions were made. In 1955, David Sheldrick, who was in charge of one section of the Tsavo National Park, and to whom I would also like to pay particular tribute, initiated a new system of dealing with poachers. That was to organize a proper fighting force. It was successful, and was expanded until in the end it became three fighting forces still under his command. The operation was rather like dropping a stone into a pond, in other words, Voi was the centre and it spread outwards. As time went on, more information was gleaned. The Tsavo National Park to-day is almost clear of poachers. That is the first time in its history.

Going further north, these forces, over a period of 15 months, have produced and recovered something over 25,000 lb. of ivory. They have also recovered something over 450 lb. of rhino horn. I would, Sir, hope that the hon. Minister for Finance would be interested in that figure as it may well be calculated that the recoveries have probably covered the cost of campaign.

In the last nine weeks, these fighting forces have been concentrated in an area between the Galana and the Tana Rivers; and in a place, which is not more than 25 miles by 20 miles. They have actually counted 1,280 elephant carcasses. From the knowledge that they have acquired, they are very certain that very few of these carcasses are over two years old. About one in five still retains its tusks. There were 444 tusks actually recovered from that area. The weight of ivory recovered was something over 9,000 lb. That is, of course, included in the 25,000 lb. that I mentioned. Quite a number of these elephants were immature, which indicates that the poachers destroyed the mothers and left the calves to die. But it also shows from the carcasses which still retained their tusks that the average weight of ivory per animal is something a little under 40 lb. I do not like averages very much, Sir, but I think in this case it is justifiable. If one averages the figure, and accepts

that one in five only is recovered from the poachers, one can quite easily conclude that something over 3,000 elephants have been destroyed in the last year or two, only in that zone alone.

These fighting forces have yet to turn their attention to other places where information leads them to believe that they will probably find a similar situation. A lot of this achievement was found due to the spotter aircraft.

I would hazard a guess that the value of the ivory which the fighting forces were unable to recover was something over £100,000. That is the value of the illicit ivory that has drifted out by devious means into the organized ring, or racket.

I can therefore claim, Sir, in spite of remarks that our predictions were overstated that the slaughter was frightful.

In addition to that, I must point to the situation with regard to smaller game. Near the Dura area, I flew over a place where there were over a thousand game pits. More recently, in somewhat the same district, David Sheldrick has found something over 400 pits. These are all in use. In between the pits, there are nooses and in order to direct wild animals into these traps, there are fences. In some places the line of fences continues for well over a mile and a half. That is what is going on. Even in districts upcountry, the snaring of smaller game by using wire nooses has increased out of all proportion. Even in the suburbs of Nairobi, I frequently get reports of people finding trapped animals in their gardens. On investigation, one finds an enormous number of these wire nooses. Wire is easy to obtain, and easy to set; but the destruction is quite disastrous.

So the overall picture, Sir, of the destruction unlawfully of wild animals is certainly not exaggerated. It is in fact worse, I think, than even I predicted some two years ago. But one must conclude that the campaign against the poachers themselves has been at the moment successful. Poachers are on the run. But that only really deals with the activities in relation to elephant and rhino.

I wonder, Sir, if it is realized that some of this poaching is done also to sell meat. There is a fairly vast trade in meat, especially of course to our neighbours in

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the south and as long as a poacher can sell meat at one or two shillings a pound, there is enormous revenue in it. Yet on the other hand, the livestock population of Kenya appears to have increased from under 1,000,000 in 1910 to over 6,000,000 in 1957. There obviously must be some tie-up between the requirements of meat and the surplus livestock on the land. That in itself would destroy the market for selling game meat.

From this report of action, Sir, I think four points emerge: firstly, that the predictions of some years ago were not overstated; secondly, that the campaign itself has almost been financed by the recoveries of ivory and rhino horn collected; thirdly, that there is an absolute necessity to maintain this campaign because unless the poachers are kept in check and continual pressure is brought upon them they can resort to their previous activities in a matter of a week; and lastly, Sir, that I believe a much greater effort must be made to stop the traders organizing, promoting and financing the poacher ring. It is they who I think must accept the greatest blame; the poacher himself, after all, has been a hunter for years and although he is the instrument of destruction to-day, let us be fair and not put all the blame on him. In conclusion, Sir, I would say that on the question of game preservation, we are perhaps on a threshold where at last we have appreciated the danger and the importance of this poacher activity and we have got it almost under control in the field. We are in sight, I hope, of seeing a game policy emerge from this. If so, I believe it will be feasible to reconcile all these difficult conflicting interests where game, perhaps, is not accepted by certain African tribes; where game, perhaps, is not accepted by European farmers. I believe it is possible to reconcile many of those differences and, if so, we will achieve a policy which will be lasting.

As a report of action, Sir, I commend this to you in paying tribute to His Excellency's Speech, particularly so because it was His Excellency himself who played such a part in organizing and promoting this campaign against poachers.

Sir, I beg to support.

5.06 p.m.

MR. NGALA (Coast Province): Mr. Speaker, I rise in support of the hon. Member in congratulating His Excellency the Governor in giving such a very clear exposition of the policy of the Government for the coming year.

Sir, since the hon. Member on the opposite side has just ended his speech on the subject of game, I think that I should take up the subject, because it very much concerns the area I represent. I have no quarrel, Sir, with preserving the game; I have no quarrel with Government having the right of protecting the game, the elephant, the rhino and so on.

But I am very much opposed to the question of pressure on hunting tribes such as the Walangulo, the Wasanya and the Wandorobo in the areas that the last speaker has just mentioned.

The position, Sir, is that the present restrictions brought about by the Game Department have entailed a real hardship on these hunting tribes. I feel, Sir, that something is wrong somewhere in the policy as far as hunting and poaching is concerned. The point is that these people live on their hunting; they hunt for food generally. It is true that some of them poach illegally, which I very much discourage personally. But hunting for food, I think should be recognized by the Government of Kenya. I feel it is entirely wrong and immoral for the Government of Kenya to deprive those people of their means of getting their daily livelihood without making any effort to teach them any alternative way of getting their daily bread.

I met a delegation of the Wa'angu'o away in Ngao at a place called Golbant where every man of the Wa'anguilo seemed to be very weak; they had no food to eat; and most of them are now serving sentences in prisons either as illegal poachers, or people who hunt for food. I feel that there should be a clear line drawn between those people who hunt for food and those who carry out illegal poaching which we all dislike; and that Government should provide a means or an authoritative way of giving the Wa'anguilo, the Wasanya and the Wandorobo a hunting reserve for these tribes so that they can hunt for their

[Mr. Ngala]

food. At the moment, Sir, many of the men are in prison, and the women have nothing to eat in these areas and the children are starving. This is a very serious position and the policy of the Government can be interpreted as not taking into account the difficulties of these hunting tribes. The Government seems to be ignoring their existence and showing meanness in the examination of this tribe, thus presenting a real danger to these people.

Two weeks ago, I was round this area, and I had several delegations from men and women of these tribes; and their main contention is this: that Government is not really interested in their interests as hunting tribes.

When His Excellency visited Mombasa recently, I gave him a memorandum; and one of the items in that memorandum was the hardship that is being experienced by the Walangulo and the Wasanya. I feel very strongly that either an effort should be made to teach these people a new way of life, perhaps an agricultural way of living or a pastoral way of living; and if nothing is done at all, the Government must provide a hunting reserve for these people, even if the hunting reserve is supervised in places like Malindi and Garsen—that I would have no objection to. My contention is that they should be allowed to hunt small animals, those which are not big game animals, for their food; because at the moment they have nothing to eat; and their children are starving, and the women have nothing to eat; and the greater proportion of the men of the population is in prison. This is something which I have mentioned to the Government officers concerned in these areas; I have also mentioned it to the district commissioner, and I have made a memorandum to that effect for His Excellency the Governor.

I feel at the moment that we must do something and very urgently to save this tribe from extermination in a few years' time.

The Game Department is doing some good work in the country in seeing that the game is preserved; as far as the work of the Game Department in the field is concerned, Sir, there are three aspects I would like to bring to your notice.

The first thing is the game scouts: I feel they should be trained people, people who can take up cases of suspicion of poachers and investigate these cases. At the moment, the combined forces of the National Parks and the Game Department are composed of people who are very illiterate mostly, particularly the Africans; and all that they do is to take a short cut instead of taking up the correct course of investigation. They just go about and are in the habit of slapping and beating people; I have also mentioned this to the game officer and to His Excellency the Governor and to the Minister. More correspondence containing specific cases is in the post now on the way to the Minister concerned. I feel that something should be done so that the game staff can be well trained just as the Police Department and various people in the Special Branch are trained to investigate individual cases. At the moment it is not a question of investigation; it is a question of using force and a question of employing people who are semi-illiterate and can hardly exercise their judgment in the right way to win the confidence and respect of these people.

I think, Sir, that the second aspect which I would like to mention also connected with the Game Department is that at the moment the hon. Member who has just finished speaking has said that there is a lot of loss as far as ivory is concerned. The Game Department is feeling that loss in the same way that the African population is feeling the loss that they are suffering in crop damage.

The night I reached Ngao there were 20 families who had lost their crops and when I went down to Baricho again in the Malindi District there were seven families who had lost their crops. All these losses are overlooked and the Game Department seems to make quite a big topic out of lost ivory and forget the loss that local people suffer. This is why the local people will hardly have any confidence in administration of that kind. I hope that damages of this kind will be recognized so that more confidence is won from the local people.

The third aspect which I think is also making the people lose confidence in the Game Department is this: I have no quarrel with the Game Department scouts inspecting the houses of people at

[Mr. Ngala] is. I think, a big disappointment to me night where they suspect that there is an illegal poacher, but what is happening to-day—and I have witnessed this with my own eyes—is that people break into African houses and inspect them, without any warning—however short a warning might be—at night. Now you can understand, Sir, that this is a great inconvenience for these families and such a thing might not be the right way to form confidence in people who are expected to co-operate with the Game Department.

None of us here in the Council would co-operate with any behaviour of that kind and these are some of the things which I feel should be put right in the Game Department if the Game Department is expecting any co-operation from the local people in the Malindi District or in some parts of the Kwale District.

As far as the compensation for crop damage is concerned, I here must express my grave disappointment over the reply that was given to the hon. Member for Nyanza North by the Minister for Game. I have not much comment on this because I intend to table a Motion soon on the question of compensation. Therefore I will only express my disappointment at this stage over the inability of paying compensation. I hope that we shall take it up in the Motion which I shall table.

Now the second thing that I would like to take up, Sir, is the question of afforestation. In His Excellency's Speech the question of afforestation was made quite clear. I very much appreciate the idea of creating and maintaining protective or productive forests, but in many places central government and local government have used their policies through the district commissioner or through the local bodies; they have used them to take up African land in batches for afforestation. Now, I feel that the policy of afforestation should be that of teaching the Africans to grow their own trees so that whatever comes out in the way of productive forest goes into the pockets of the individual farmers themselves, which might improve their position.

As far as the protective forests are concerned, the African is generally very appreciative of forests and even before the British Government came here the

African took care of his forest in many places. They are quite aware of the value of communal forests under the Africans themselves and belonging to the Africans themselves. At the moment, so many forests have very strict regulations so Africans are not allowed to get poles, etc., for building just because a combination of central government and local government has taken over the forests in a way that is not understandable to many Africans.

I hope that the principle of preserving forests will continue but I particularly hope that it will give a chance to the individual planters to grow their own forests and their own trees.

In some places like the slopes of Mt. Elgon, Africans have been asked to move away and the locational councils are there growing forests which may not belong to the original Africans. It is things of this kind that we very much dislike and give us suspicion over the whole idea of growing trees.

In the same place the forest boundaries in the Elgon Nyanza, so I understand, have been moved four miles into the Native Land Unit, and thereby have taken over an area of land which belongs to the Africans themselves. Such are the things that make the Africans very suspicious of afforestation schemes. I hope that something will be done to remove that suspicion by real genuine co-operation.

As far as education is concerned, Sir, I must congratulate the Minister for Education and the Director of Education and his officers for starting for the first time an intermediate school for Somalis and other people at Naivasha. I hope that there will be more and more schools for the Somali people because they need education so much. However, I was very much surprised that the system of education according to the statement is being pursued on racial lines. Reading through, I find African education, Asian education and European education on the lines of races. I very much deplore that situation, Sir, because in a country like Kenya I strongly believe that any expensive system of education should be done away with and that interracial schools and interracial education should be accelerated as much as possible.

[Mr. Ngala] I fear we still go by races and this to read it in the statement. I hope that the Minister for Education and the Director of Education will look into this and make it possible to accelerate interracial education.

Already, Sir, in some places, particularly along the coast, at Mombasa, Mamburi, Vanga and Malindi there has been some amount of discouragement in running these interracial schools. I have had to correspond with the education authorities in that area to try to discourage them from bringing about racial differences in education. I really do not see, Sir, how the curriculum and work which is going to be taught in Asian schools is very much different from what is going to be taught in any African school of the same status, and, therefore, there is no case for separating the two races, unless we want to run expensive education unnecessarily, which is quite undesirable as far as Kenya is concerned.

As far as secondary education is concerned, Sir, I am pleased to see that the intention of the Minister for Education is to accelerate secondary education and to increase teaching facilities. This is a very good thing. For the Coast Province I would like to see a secondary school for girls. I have hoped for a long time that the Coast Province would be remembered and be provided with a girls' secondary school. But this has not come to fruition and when His Excellency the Governor was going round the Coast in Teita, at a place called Wundanyi, this was very strongly expressed to him by the people of Teita. It is the strong opinion of the Coast Province people as a whole.

I hope that in accelerating secondary education the Coast Province will be remembered for a girls' secondary school. This is quite necessary now because we need girls of such a calibre and standard of education so that they can teach others in the Coast area.

I feel that the policy for many secondary schools should be that of day secondary schools. I understand that the Minister and the Department are inclined to agree to day secondary schools. I feel that this will reduce the expense in

education, particularly at the secondary school level, and will greatly help us.

I was very disappointed to see that in the statement there was no strong stress on eight-year education, because this is something which is necessary, particularly for the African community. I believe, Sir, that the Africans cannot tolerate any more the difference in education where we have most of the African children only getting primary education, and others, including Europeans, getting higher education on common funds. Now this is intolerable and any thinking person can see that the question of education must be levelled down so that fairness can be done to every community, and so that the minimum fairness in African education can be done to the African community.

As far as technical education is concerned, I was very pleased that the statement mentioned several places where technical education was going to be given some attention. But I was expecting the statement to mention something about technical education at the Coast. I was disappointed; there was no mention of technical education for the Coast Province. During the debate on the Budget I mentioned the need for technical education, the extension of technical education at Kwale and I understand, Sir, that the staff at Kwale Trade and Technical School is greatly disturbed by the lack of housing facilities there. I feel that the extension in particular courses there should also be given necessary attention; we need not only carpentry courses there, but things like mechanics and plumbing and all the courses that we have at Kabete. The technical education at the Coast must go hand-in-hand with academic education.

I feel that independent schools, Sir, however disapproved by some of the Members or other people, are a necessary aspect of the educational system of any country so that people can help themselves by providing education for their children on private lines or on independent lines. It is very unfortunate that some of private and independent schools at the moment are unpopular, but I hope that in time independent schools will be allowed to run, particularly when Government policy is unable to provide universal education up to the eighth class.

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(Mr. Ngala)

I was very pleased to note from the speech that university education in Nairobi might come to fruition and I hope that the plans submitted to the Minister regarding Mombasa education will be considered and will be passed. I think the Minister for Education is quite aware that Mombasa people are prepared to contribute quite a lot to such education and I hope that the plans will be considered sympathetically and that the Minister will be in a position to investigate personally what is required in Mombasa so that it can be brought into effect as soon as possible.

As far as political stability is concerned, Sir, I feel that I should not comment much, but looking through from the beginning in March, I feel that it is only the African who has tried his best to meet the other racial groups and tried to get their point of view. The other racial groups have very much kept aloof and that to me is not an indication that they are seeking some agreement or seeking some good will which has been preached so much in the past two weeks. I feel that if we wish to solve or reach any good will, we must get together as people from different places with common problems and try to understand the point of view of every person and his fears and suspicions.

Recently in Mombasa, some people of a certain race asked me whether I knew what the Europeans' fears were, and I replied "No"; and he told me one fear. Now, living in Kenya and being a Member of this Council, I do not think I should have to be told by an outsider what the fears of my fellow Members are. I should be able to tell the Europeans my fears and the Europeans should be able to tell me their fears and the Asians should be able to tell us their fears and we should come to some agreement, discussing and thrashing out these fears. It is quite impossible to expect good will when we do not know one another. If we want good will we should try to meet one another. The Africans, in my opinion, have tried to do that, but, unfortunately, there are some people with fears which they do want other people to know. If there are some people with fears which they want to hide, it is impossible to reach any agreement at the present moment.

Another thing, Sir, one hon. Member on this side has just been speaking, and I do not know his stand, because it was very difficult to find out what his decision was. He was at one time praising the Africans, at another time praising the Europeans and at another time very much discouraging his own Asians, and throughout the talk, although it was a talk of great fluency and everybody has admired it, I think, but it was very difficult to get to know exactly where this Member is standing and what his own conviction is. I feel that we here should have our own convictions and put them across to our friends of other races. But we should have a really strong conviction before we can take action. Without that I feel we shall be beating about the bush and the time will come when we shall feel very sorry for behaving in a very irresponsible way as we have been doing during the last three weeks, in my opinion.

With those few comments, Sir, I beg to support.

5.35 p.m.

MR. MULIRO: Mr. Speaker, Sir, I have three points to mention, since many of my colleagues are going to deal with many of the details which are here. I will deal with the Emergency, agriculture and the constitution.

The present State of Emergency should be terminated according to the Speech from the Chair. The Governor very clearly placed before the hon. Members of the Council that there are only about 150 terrorists at large who have learned methods of concealing themselves so well that it may take 10 years to know where they are. But I think when one moves in the Central Province, which was the centre of the Emergency, one looks at people, very peaceful, moving up and down, doing their business around the countryside, although they are not allowed to come to Nairobi and, therefore, Sir, I feel that the State of Emergency should come to an end. That is what all the Africans are looking for. If the Colonial Secretary could bring this boon to Kenya this time, as the visit of Princess Margaret saw the arrest of General China, the Colonial Secretary's visit could see the end of the State of Emergency in Kenya, we would be most pleased.

(Mr. Muliro)

Another point of the Emergency, Mr. Speaker, is closer administration. We demand that the Emergency should come to an end, because it has brought into Kenya with it very many intricacies. It has brought to the African areas the notorious closer administration. Closer administration, although some hon. Members on this side and opposite might think that it will bring law and order to this country, and that it is the only security for peace and what not, I think that is deceiving us. Regimenting people in the state of fear is no solution at all.

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

(Mr. Deputy Speaker (Mr. Conroy) took the Chair)

The citizen should respect the law simply because he sees that without respecting that law his ends would not be met. But at present the laws are not laws but are restrictions.

Another point I would like to raise on the Emergency is the releases of the Nyanza tribesmen from the detention camps. These people are finding it most difficult to come out of the detention camps because they are regarded as hard core *Mau Mau* detainees, which, Mr. Deputy Speaker, is untrue. What they demand from these Nyanza tribesmen is beyond them. They demand that they denounce all oaths, and they tell them how many people they killed and how many firearms they had and where they kept them. Now all that is not so. Many of these people were just taken in simply because the chiefs did not like them, and there one finds them unfortunately in these camps, and it is very surprising to see that Nyanza tribesmen amounted to about 68 or just over that and yet they have not been able to get them all released. Now the main reason is simply because they never took the oaths, they cannot confess for what they never took, and that is what is keeping them behind barbed wire. Furthermore, there are five people who have come to my notice, two of them come from Central Nyanza and three of them come from the constituency which I represent. These people have been declared as "white" and therefore they were allowed to come to the open camp at Saiyusi where they would be released.

To my greatest sorrow, a rehabilitation officer at the place, by the name of Mr. Robertson, declared that these people were still black or red, and they were not wanted by their tribesmen. That, Mr. Deputy Speaker, I say is untrue. Because nothing of that nature has been brought to the notice of the people at home whether these people can be accepted or not. Furthermore, the Government requires co-operation from these people in detention camps, but how can a man behind barbed wire co-operate with the Government? First of all he must come out and then show the Government that he is able to co-operate. As long as he is behind barbed wire, I think that is too much to ask for. If the Government is interested in bringing about good relations, and in finding out whether these people are genuinely supporting the Government or not, let the Government allow them to come out and see whether they can co-operate or not.

Another issue I want to raise under the Emergency, Mr. Deputy Speaker, is the rehabilitation and absorption processes. According to the Speech from the Chair, the process of rehabilitation and absorption into the community is going slower than the release and therefore many of the people who are in detention camps, the 26,000 Africans who are in detention camps, have to hold on for some time.

THE CHIEF SECRETARY (Mr. Turnbull): I trust the hon. Member will forgive me for interrupting. Is he certain that the figure is 26,000? I think he will find 18,000 if he checks his figures.

MR. MULIRO: That is a great consolation Mr. Deputy Speaker to hear that it is now reduced to 18,000, but there should be less than that.

Now the main problem which is facing the Central Province particularly is the question of unemployment. Unemployment brings distress and discontent to people and therefore there is another source of the same crime. We talk very glibly in this Council that we want to bring the State of Emergency to an end; and yet, while continuing the State of Emergency because people are hungry. Many people have to steal to live, and that has been put very ably before me by one policeman who said one man told him in the Central Province that he

[Mr. Muliro] could not live unless he stole. He had to steal in order to live simply because this man is not allowed to come to Nairobi. This man is not allowed to go to say, the Rift Valley Province, the Coast Province or the Nyanza Province to work, and some of the people (Mr. Wanyutu Waweru put it very well) are given cards and it is written on their passes that they are not to return to places of work, for example; not to return to the Nyanza Province and all that. Well, if he returned to the Central Province where would he get employment? The people in the area who are taking out trading licences for selling their vegetables in Nairobi, are refused passes and they cannot bring their goods to Nairobi and therefore they cannot sell their products. Now if they cannot sell their produce, where are they going to derive their livelihood? Yet the Government is encouraging the formation of European companies, going through with transporting people to Central Province, going out to give certain prices to the Africans in the area in order to come and sell on the Nairobi market. This, Mr. Deputy Speaker, is bringing a lot of distress to the Africans and on this I shall be most grateful if the Minister for Security could examine the case of Nyanza detainees, bearing in mind that most of these people never took the oaths at all, and therefore, they are regarded as hard core terrorists because they never took the oaths.

Another point I would like to raise is on agriculture. Land consolidation is talked about everywhere one goes—land consolidation, land consolidation, land consolidation—as if it were manna from heaven. It is not manna from heaven. The hon. Nominated Member praises it so much that to his horror he will find that when the 18,000 people at present behind barbed wire, whose lands were confiscated on their return to the Central Province—they will not have that manna which they so much long for. I know, and this is very true that people in Central Province are discontented about land consolidation methods. We know very well that when these people come out there will be troubles over land. So the picture of the Central Province should not always be quoted by the Minister for African Affairs in that Department that land consolidation is a

blessing that Africans can get. It is not a blessing—it is a curse, and the African wants land consolidation, I have told you in this Council that I support land consolidation. I have told that to the district commissioners and everybody at home that I support land consolidation. I have addressed meetings and I have expressed the fears which are coupled up with the policy of land consolidation and as long as land consolidation goes on in the way it is going on without taking due regard of the warnings we are giving you now, we will find that the solutions are actually not solutions, but disillusion.

Another point is, that there are methods of indirect land consolidation in many African areas, and these indirect methods are brought about by schemes like ALDEV schemes. If you want ALDEV benefits you must consolidate your land. You must plan your farm before you get the benefit of ALDEV schemes. Well if ALDEV schemes are there simply because the Africans have to consolidate their land and plan their farms, I think it is a very serious case. I have found these fears, particularly in the constituency which I represent, but I have taken up their cases with the district commissioner and I was well assured by the district commissioner that he had no opinion of imposing land consolidation or farm planning on the people. Now that was very gratifying and I was pleased to tell my people that it is not like that. Land consolidation. Mr. Deputy Speaker, as far as the Government is concerned, seems to be the end of everything. It is the solution of all problems. But I think land consolidation is only a means to an end; it is only the first step towards something greater. I know people who have got consolidated holdings. I have a friend of mine who has something like 50 or 60 acres but this man only gets ten bags of maize a year. Why is he only getting ten bags of maize a year? When land consolidation was the solution, he consolidated his holdings a long time ago. Well, they will tell you he is not a better farmer. But can you have a better farmer without money? Let the Government not deceive the Africans that if you consolidate your land you will be rich. No. The Government should have its loan policies very much broken

[Mr. Muliro] up so that the African should get more magnanimous loans for a longer period. Now at present the loan policy of the Government is like an Indian buying clothes and keeping them in the *duka* waiting for an African woman who would come and buy them so that he can get the profits; and that is exactly the way in which our present Government is dishing out loans to Africans. Just for a year or two, and then after that they say, "All right you will pay the loan in two years". Now, if someone took out the loan to plant coffee for instance, a cash crop, which is very valuable in places like Kisii, Nyanza Province, Central Province, Embu and Meru and other areas. He is required to repay the loan before the coffee flowers, where will he find the money to refund the loan? Is he not going to sell his goats in order to pay that loan? Is anyone getting the loan because he wants to become poorer than he was? No. Therefore the Government should think about that.

Irrigation schemes in the African areas, particularly those areas which are very dry, are very, very much essential. I was very downhearted when I heard in the Speech from the Chair that areas of high agricultural potential would have irrigation schemes. If you look at Nyanza Province and Central Province and neglect the rest of Kenya as being barren, then where are we going? These areas with less rainfall they should be the areas where more of the money from plans like ALDEV should be spent, to bring about irrigation schemes for those people. In the areas where water is available the Government should give the Africans loans to put in the soil so they can produce and not to be wasted on the irrigation. Nyanza Province is a place very well-provided with water. We have a lot of rain in Nyanza Province. If you could build more dams for irrigation in Northern Frontier, Coast Province and Ukamba, I think I would be more pleased, because the general growth of wealth among Africans in Kenya is what we want—not to choose the most fertile place for these schemes. Even if people from my place might think that I was rather weak on this point, I am not weak on it, because

I am a Kenya politician and a Kenya political leader and I speak for the best of all Kenya nationals.

Another point, as far as agriculture is concerned, the restrictions on the planting of cash crops among the Africans is not taking us anywhere. I have been worrying about the coffee growing in Nyanza Province. I have been told by the local agricultural authority—and I think the Director of Agriculture will be telling me the same thing—that as far as coffee planting is concerned we never know the diseases of coffee until we have had that coffee for about eight years or so. Well, there has been consultation of some kind, but I feel there should be no restrictions because we do not know whether that is the right type or that is the best type for that area; but restrictions on cash crops. I know my district is rather badly off and we are just wondering—the district commissioner and I about the future of the district—I am making a definite plea for a better scheme for planting coffee in North Nyanza, because at present our financial position is very precarious. I think the only solution is to get us some cash crop like tea—as was suggested by the Agricultural Department—and coffee and see how far we can get on, otherwise the future of that district is in danger.

Another point which I have to oppose from the Speech of the Governor is that on African land tenure. The draft Bills are there. They are coming before this Council. I know they are going to be passed simply because the Government has a majority, but here I am only, Mr. Deputy Speaker, asking that African land tenure should be left as it is for some time. The Government is in a mad rush to bring about changes, but this haste might bring about a lot of horrors. As far as land tenure is concerned—let it go on as it is now without worrying the Africans at all. You tell them now of new title deeds. Now, if the Africans have title deeds and sell property to the Asians, then what would be the result? There is no reason and there is nothing to hinder the African from out-selling himself off from the land.

THE MINISTER FOR LEGAL AFFAIRS (Mr. Griffith-Jones): Has the hon. Member seen the Government's legislative



[The Minister for Legal Affairs] proposals? Is he aware that there are measures included to protect the African from his own stupidity in that regard?

MR. MULIRO: Well, learned men can always twist the language in the way they wish to twist it. I think the learned gentleman is just playing upon words. I am not worried about legalistic documentation. What I am only interested in is that the Africans should remain holding the present land tenure as long as the African is not conscious of the change.

AN HON. MEMBER: And unable to raise loans.

MR. MULIRO: The Government want loans. What about the taxes we are paying every day, hon. gentlemen?

Another serious omission in the Governor's Speech was the debate on the Royal Commission. The Africans are all eagerly looking forward to the debate on the Royal Commission in this Council. The Government is evading issues all the time. When the Council of Ministers pass these things, the Government says: "It is all right; send a despatch to London; everything is quiet". No. The country is not quiet. Let us debate the thing here and let us dispose of the whole nonsense before long.

Now, Mr. Deputy Speaker, I will go on to the constitution. Before I talk on this constitution, I want to tackle the points raised by some two or three hon. Members. One: the hon. Member for Aberdare, when my colleague, the Member for Nairobi Area, extended a hand of welcome and friendship to the European community on Friday, my hon. colleague, the Member for Aberdare, said that that was not enough; he should have gone further and said security and prosperity. What are his words? Are they not empty words? What security do you look for if political instability is there, so political is the source of lack of security, both economic and social. Let us not deceive ourselves by using very beautiful language; that once we talk about prosperity and security we will get ahead. What is security?

5.58 p.m.

[The Deputy Speaker (Mr. Conroy) left the Chair]

[The Speaker (Sir Ferdinand Cavendish-Bentinck) resumed the Chair]

Another hon. Member here for Central Electoral Area—is a gentleman—a very nice gentleman—who has not made up his mind at all. He has not made any decision: Kenya at present requires men and women who can stand and make decisions. Now, if we find some hon. Members among us here playing always with words, being eloquent without putting across exactly what they want to stand up for, I think hon. Members like that are not worth their place at all. They are not, Mr. Speaker, worth their meat and salt, and the constituencies which have returned hon. Members of that type should rethink. Some Members talk of proper safeguards—safeguards for the minority. When one comes to talk of safeguards for the minority, actually one declares himself out of the rank of other citizens. You do not consider yourself a citizen because if you are part and parcel of that society why should there be safeguards against yourself? You are the maker. Hon. Members, we are now the makers of Kenya and how can we protect ourselves? The future is ours. We have to mould it. But this moulding the future requires that determination from the European community, the Asian community and the African community, so that we can mould a future where we do not worry about safeguards, and as far as the present is concerned, there are no better safeguards than the Colonial Office regime. The European community, the Asian community and the African community should not worry about that, because the best safeguard we have got is the Colonial Office regime.

Another hon. Nominated Member was also talking about Africans clamouring about positions in the Government and they do not assist the police—the present police force. An hon. Member has told you that they have no place in the heart of the Africans at all. They are always beating the Africans. I have realized it when I have been called out of my sleep in the location where I live to go to rescue my driver from the hands of the police.

AN HON. MEMBER: Was he drunk?

MR. MULIRO: There have been cases where, Mr. Speaker, the policemen have

[Mr. Muliro] gone next door to me to beat people. I know someone who is lying in the hospital who they beat up very thoroughly last Friday. African Members in this Council will never respect the policemen who do not respect themselves.

On the constitution, Mr. Speaker, the Government's attitude is lamented. Even the Colonial Secretary's attitude is lamented. A responsible Government and a responsible Minister of the Crown, coming out without a definite policy, coming out trying to see the viewpoint of one community without the others—we felt that was too much. The position as far as the Colonial Secretary and the Government must be clarified. Kenya Government and the Colonial Secretary must make a decision. I have just been talking of decisions in this Council, and those two—the Government and the Colonial Secretary have not made their decision. They should make it and make their attitude publicly known—what their stand is.

The attitude of the European community is most lamented too, in that they are talking of certain arrangements, certain safeguards for the minority, prosperity, economic stability—all those things do not mean anything at all.

AN HON. MEMBER: Come, come.

MR. MULIRO: Simply because the European in this country is the man who is fully entrenched in a privileged position, and therefore, when the African says: "Let us continue with the Colonial Office rule", the European should be the last man to say "No", because the Colonial Office rule, as long as we have no unity in this country, is very, very important. The European community—I am challenging them on this floor now. They have declared that the Africans have not honoured their agreement. With your permission, Sir, let me quote an extract from the paper from the speech of the hon. Member for Nairobi South, to illustrate this point. "We insisted on the implementation of last year's agreement over the ten additional seats because we considered we must establish the principle that if African Members make an agreement with other races, they must be told they have got to honour that agreement". I am chal-

lenging the Member for Nairobi South in this debate to give the African Members to-day a document with the signatures of the African Elected Members. If he gives us that document, duly signed by Members of our community, we are going to honour that document.

AN HON. MEMBER: You did not the last one.

MR. MULIRO: The document of the last African Nominated Members—if it can be produced to-day we are going to honour it.

AN HON. MEMBER: That's what you think.

MR. MULIRO: But the Africans never signed any document and we do not want to be feeding people, the European community in particular, on lies which are unfounded, because hon. Members go to public meetings—some meetings of adults and some meetings of schoolchildren—telling them that the Africans have to honour their agreements. What agreement? If there are agreements, we shall honour them. We have told the Government—the British Government—the European community and the Asian community in this country, that the Africans were never a party to the Lyttelton proposals. They were not signatories to it, and now you come along with very fictitious information and say the Africans were a party to the regional seats. The objections of the Africans, as far as the regional seats were concerned, were that the regional seats were introducing two new principles in the Kenya constitution. One was that of the limited common roll franchise, as against the present communal roll. Another was the regional representation as against the present constituency representation. From those two principles, as the hon. outgoing African Members said, we are not going to part. If there would be any agreement, there were four items which were discussed in October last year. One was the Corporate Members; we have the hon. Members here with us. The two extra African Members—we have the two hon. Members with us here. Another one was on the two extra Ministers, one European and one African Minister, which would have been implemented last year but because of some fears from Government circles that was not implemented and this year it was rejected by the hon. African Members. Now, the fourth item was on

[Mr. Muliro]

regional seats. At that time the African Members declared categorically that even if the European community and the Asian community are going to have their seats as regional seats, the Africans were going to make their seats constituency seats, but the matter should be left until the next elections. The negotiations were opened and now are still open. We are prepared to negotiate. Why are they afraid of something which was never finished as a finished document? That is where the European community is very wrong, and I declare the European community as enemies of this country. I am not speaking of the European public in this country—people who are definite friends of mine. I like the European community. I like the ordinary settler. When I meet him I go to his place and have a cup of tea. I go to Kitale and am very much at home with the European community. But the European politician is misleading the European community.

AN HON. MEMBER: What are you doing?

MR. MULIRO: That is what I am doing, Sir. So that is enough, and Mr. Harris, Member for Nairobi South, is going to tell us more about these regional seats.

Another point, Mr. Speaker, is on the Asian community. The Asian community in this country always wants to confine themselves with sitting on the fence. You saw what was displayed to-day. He had no point to put across. Now the whole community is asked to come out and make a decision. You are to make a decision. The Asian community must make a decision. To sit on the fence is not at all important. One has been putting the case that the Africans have a slogan—"Africa for the Africans", of course, but who is this African? Who is this African? If one asked me who is an African I would give a very interesting answer to hon. Members to-day. An African is anybody who stands with his feet very firmly on African soil and owns complete allegiance to the African Continent. Now if that is a definition of an African, is a Kenyan, those people who call themselves Kenyans are Africans by virtue of geographical locality. According to that very simple analysis, I do not see why people should

be worried by people talking of Africa for the Africans. When people say Africa for the Africans, it means people who owe allegiance to this country should govern themselves. The Egyptians are as white as the hon. Members opposite, but they are governing themselves in Egypt as Africans. We do not want to use those adjectives, hon. Members. If we use those adjectives, then we confuse the issue, because the definition of an African is not a black man.

Now the Asian attitude is being challenged. The European attitude is being challenged. They must make a decision. Now, what are we to do? We are asked to adopt a national stand—a definite national outlook—so that when we discuss these constitutional problems, let us think that we are here to stay. The future of the children of the people in Kenya—never mind whatever their colour, race or creed may be—must live in this country. But if we are to do that, are they going to do it by entrenchment in political privileges? No. Because any political privilege is no guarantee whatsoever, because whatever you take through sheer force, when I gather sufficient momentum to overthrow you I will overthrow you and take it from you. So we want to prepare slowly; what the African wants now is to go slowly in preparation for a good future for all people who want to make their homes in Kenya. Whilst we rush through we shall make mistakes. If we make mistakes we shall regret them.

With that note, Mr. Speaker, I beg to support the Motion.

#### ADJOURNMENT

THE SPEAKER (Sir Ferdinand Cavendish-Bentinck): I think that as it is so near to the time for the interruption of business, it is hardly fair to call on another speaker in this debate. I therefore propose to adjourn Council. Council will stand adjourned till 2.30 p.m. to-morrow, Wednesday, 30th October.

*Council rose at fourteen minutes past six o'clock.*

Wednesday, 30th October, 1957

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

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

#### PRAYERS

#### BILL

#### CONSIDERATION OF REPORT

##### *The Liquor Licensing Bill*

Order for consideration of report read.

THE ASIAN MINISTER WITHOUT PORTFOLIO (Mr. Madan): Motion made and question proposed:

THAT the Council doth agree with the Report of the Committee of the whole Council on the Liquor Licensing Bill.

Question put and carried.

#### THIRD READING

##### *The Liquor Licensing Bill*

THE ASIAN MINISTER WITHOUT PORTFOLIO (Mr. Madan): Mr. Speaker, I beg to move that the Liquor Licensing Bill be now read a Third Time.

*Question proposed.*

The question that the Bill be now read the Third Time was put and carried.

The Bill was accordingly read the Third Time and passed.

#### MOTION

THANKS FOR EXPOSITION OF POLICY BY H.E. THE GOVERNOR

*(Debate adjourned on 29th October, 1957, resumed)*

Mrs. SHAW: In rising to support the Motion before the Council, Mr. Speaker, I should like to comment on what the hon. Corporate Member for Commerce and Industry referred to as "the quiet confidence" which he said was the underlying theme of His Excellency's whole speech. Perhaps some people may have been disappointed for they have expected more of a clarion call. But, Sir, I do believe that the speech we listened to last Wednesday will do a great deal to restore confidence in Kenya. For the major portion of the speech was devoted to the tremendous improvement in the security position; and in his survey the Governor

outlined a quite remarkable progress made in restoring law and order which has enabled life in most parts of the Colony to return to normal.

The work of rehabilitation is an immense task and one which Government through their Special Commissioner has tackled with courage, energy and imagination. The administrative officers concerned with this work deserve the greatest credit for the excellent results which they have achieved in a very short time.

The hon. Minister for African Affairs has played a large part in this work in the early stage; and, Sir, I should like to take this opportunity to pay him a tribute, for although some hon. Members state year after year that the hon. Minister is redundant I think that most of us will agree that he has played a vital part both during and after the Emergency. Indeed, Gambia's gain is Kenya's loss and we are very sorry to see him go, although I can assure him that our good wishes will go with him.

I would also like to join Sir Alfred Vincent in making a plea to all men of good will to try to reach agreement over the constitutional talks. That, I believe, would do more to restore confidence in this Colony than anything else. For if we could show to the outside world that we intend and are able to solve our problems here, however complex, and to live and work together for the progress of Kenya as a whole— which, after all, most of us regard as home; it would be a good thing.

Perhaps some of our difficulties spring from a misinterpretation of English. For, after all, two out of the three main races here do not have English as their mother tongue. Scholars will tell us that primitive languages have a great many limitations and also have a rather excessive use, when spoken badly, of the imperative tense; and I have wondered lately if that is why the African Members have met the European plea for negotiation with a demand. Possibly, Sir, the hon. African Members fail to realize that people bred for generations in the democratic tradition understand negotiation; whereas demands immediately give rise to resistance. Yet, it would be a tragedy if a misunderstanding of outlook and language were to be a bar to the progress and stand in the way of

[Mr. Shaw] progress for Kenya with which is bound up in every way the prosperity and happiness of all the people we are here to represent. There is no doubt in my mind that some of the difficulty in raising the most necessary finance is tied up in an atmosphere of political instability in this Colony. If I may quote the Governor on that, Sir, His Excellency said:—

"A prosperous economy and a high level of production depend in turn on political stability."

Prosperity of course is essential, for prosperity breeds happiness. If I may once again quote His Excellency, he said:—

"We cannot allow unemployment to give rise to distress and distress to cause discontent and subversion."

For although in any country the police force acts as a deterrent to crime it is not the cure. The cure lies in prosperity, more often than not. As the hon. African Member for North Nyanza told us yesterday, people turn to crime when they are hungry and unhappy and when they have nothing to lose in life.

Progress breeds problems and land consolidation will be no exception for although land consolidation in conjunction with better farming methods will enable the land to support a greater number of people it will in time be bound to create a landless class, and one of our greatest problems will be how to provide these people with security and to absorb them into our economy.

With your permission, Sir, I would again like to quote from the Communication from the Chair on this subject. Referring to this problem His Excellency said this:—

"Important progress has been made and many landless families have been found work, and the number on relief works has fallen. We must, however, continue the most strenuous efforts to deal with unemployment."

In the very near future, Sir, those remarks will not only apply to the Kikuyu, Embu and Meru tribes but they may well apply, as individual land tenure spreads all over the African areas, to all tribes in this Colony: for with the march of civilization the enclosure of common

land is bound to come, as indeed it did in Britain—generations ago; and our greatest threat when it has been fully developed will be from our inability to absorb this new class. It is no use thinking in a vague way that they will find employment and a living wage in agriculture for already in that field there is unemployment. At the moment there are over 1,000 Africans unemployed in the Kericho District—in the very heart of the tea industry.

I believe, too, that industry cannot absorb all the people waiting for jobs to-day, for I have been told that there are many hundreds of people unemployed in this city alone. It seems that development of secondary industries and other forms of development is failing to keep pace with the agricultural development and progress in this country. I would support the hon. African Member for Nairobi in his plea that industries should go out into the African reserves and site their factories in suitable places there and also in the peri-urban areas of towns other than Nairobi. In support of this His Excellency said:—

"The creation of industrial estates in the African land units is an important development, and next year will see the establishment of such an estate at Karatina. Its administration will be the responsibility of the African Industrial Estates Development Committee and will open up opportunities for the development in that area of industries suitable to local conditions. Such industries will provide employment and training for local people near their homes and will, at the same time, lessen the social and housing difficulties encountered in urban industrial communities."

That, Sir, is quite excellent, but it only refers to one estate at Karatina of which we all know the seed was sown quite a long time ago; and if I may repeat, Sir, it is my firm belief as I said before that Government's policy in the field of industrial expansion has failed to keep pace with the need which is being created by progress on the agricultural side. Therefore, I hope that our Minister for Commerce and Industry, who I am very glad to see has returned from wherever he was, will show greater results for the global explorations. As, Sir, he is now

[Mrs. Shaw] here, I know that I shall be told, as I have been told before, that while he is absolutely in favour of decentralization of industry. Government cannot force industry to go outside Nairobi. That, of course, Sir, is perfectly true; but I am convinced that Government can do a great deal more than it has done by offering inducements such as land, a peppercorn rent, etc., to encourage industry to leave the Nairobi district.

But there is no doubt, Sir, that the one great deterrent to industry's going outside the Nairobi area up to the present time has been the lack of adequate communications. For road, rail and air services are essential, and are the life-blood of development in any country. Yes, Sir, I can find no reference in His Excellency's Speech to communications of any kind. Does that mean that Government is unaware of the need for improvement in our road, rail and air communications, or that they have no policy as regards the expansion of these vital services? Whatever the reasons, the omission seemed to me a very curious one in a speech which is supposed to be a survey of the Government's past progress and policy and plans for the year to come.

There is just one further point before I sit down, Sir, that I wish to mention briefly which His Excellency mentioned equally briefly in the Communication; and that is the registration of domestic servants on which I brought a Motion before this Council on the grounds of security as long ago as May, 1956. The Emergency is still with us, although its active phase is over, and has been succeeded—as the hon. Member for Ukamba said—by a phase of what he described as uneasy calm. That is as may be, but what is absolutely certain is that the Emergency, as indeed all armed rebellions tend to do, has left in its wake a trail of crime with violence. It is against this form of crime that the ordinary citizen of every race seeks protection, protection through some form of registration of those who are taken into our homes to take up positions of trust and responsibility as domestic servants. All we ask for is for some record of character and service to safeguard householders from taking known criminals into their homes to the danger of their

wives and families and property, men whose sole object in applying for such jobs would be to have a base for their nefarious activities.

The growth of industry in and around our towns will attract thousands of workers, and bring prosperity to this Colony. But with the growth of a floating population, there is always a greater danger from this type of criminal, in other words, the spiv and the thug who are the modern version, and a very unpleasant one, of the old highwayman. Surely, honest law-abiding citizens who pay their taxes have every right to expect Government to take steps to protect them from one of the greatest dangers of our modern civilization.

Mr. Speaker, I have much pleasure in supporting this speech.

2.50 p.m.

MR. PANDYA: (Eastern Electoral Area): Mr. Speaker, Sir, I would like first of all to congratulate the hon. Mover of this Motion and commend the bravery of his speech, for in that short space of time, I believe he has covered the salient features of the review of His Excellency the Governor. I think, Sir, this proves that the genuine farmer, with the interest of the country at heart, can do as fine a job as he does on his own land.

Now the Governor's review I feel, under the circumstances, is quite encouraging. He has told us of the measures taken by the Government of bringing this country from Emergency conditions to normal conditions, and at the same time, he has emphasized that except for a few people still at large, and those that are under detention and in prison camps, there is very little that is left to be done.

The fact that over 50,000 detainees and ex-Mau Mau convicts have been released within the space of the last three years, I think, does great credit to those who have been responsible for bringing about this position. I think it is very important in this aspect to realize that since these people have been released, there have not been any cases of any recaptures or any untoward incidents which have forced the authorities to retrace their steps. I am conscious, Sir, that vigilance is necessary and that we should all be prepared, but

[Mr. Pandya]—I feel that there is no need for any diffidence of any panic after hearing the review of His Excellency the Governor. The leaders of all the three races indeed have assured everybody that they are all against this evil, and have endeavoured to do whatever they can to fight this menace; the time has come when we should try to create confidence in this country, and in its future, and it may be worthwhile for the Government to re-view the situation in the light of their assurance and the picture that has been given to us by His Excellency the Governor.

I would like to say a word, Sir, on the problem of juvenile delinquents, and the excellent work that has been done by the probation service in this particular respect. It has to be realized that this particular service has been doing this work under very trying and very difficult conditions. They have had very inadequate premises, premises that have been rented and are not quite adequate or suitable for the work they have undertaken. They also have a very big lack of trained staff; in spite of these difficulties, in my opinion they are doing a very good job by putting these young people back on the sound and proper lines so that they will be able in future to be worthy citizens of this country.

I would also like to say a word, Sir, on game preservation. I think all of us in this Council have emphasized quite adequately the fact that poaching is a menace to the greatest attraction, the greatest potential of this country—tourism, and that we should take all measures to eradicate it at all costs. We have recently passed legislation tightening the possibilities of poaching and from what we have heard in this Council, they are bringing in very good results.

But I would like to say one thing. Sir, that sometimes in the enthusiasm and emotion which overcomes responsible officers, there is every likelihood of innocent people being victimized. A few cases have come to light now and then in which I am sure proper discretion has not been used by the authorities with the result that in some cases injustice has occurred to those people who really had nothing to do with this type of case. The traders have assured us of their full co-operation and

I hope that the authorities will exercise proper judgment and discretion so that the innocent people may not be penalized.

I am glad, Sir, that the Government is aware of the need of employment, particularly for those people who need to be reabsorbed in the economy of the country. There is a great demand for such type of labour, particularly in the sugar and sisal plantations, and I know the demand is greater than the supply; and if the employers are able to provide adequate facilities for this type of labour to be protected from any further disturbance, I think this policy should be encouraged for we do not want to be saddled later on with the problem of unemployment while there is still room for employment on such estates.

Now, Sir, I would like to turn to that very popular subject, for a few minutes—education. I would like first to endorse the views expressed by my hon. friend, the Member for the Coast Province. I personally had hoped that His Excellency would refer in his review to the intention of the Government of gradually overcoming these racial compartments, and transforming to a policy of common schools. The advantages and the needs of such schools are too well known and I do not want to dwell at any length on those particular points. At the same time I would like to say that the Asian community are quite appreciative of the new buildings that are proposed to be put up in the various centres. While they do not meet with all the demands of the community, they certainly will relieve to a great extent the problem of overcrowding. But I feel, Sir, that in the absence of any other immediate objective we should now try to move to narrowing down the differences in the educational pattern of the different communities. I mean, Sir, an attempt to get nearer to common standards, and also getting a similar application of rules and regulations that are applied at the moment to the different races. The hon. Nominated Member who seconded this Motion, while emphasizing that the Government had done a lot in the field of education, put before us two limitations: one was finance, and the other was the lack of adequate staff. The first one, I admit, is rather difficult. I think if we had adopted the policy of rather dividing what we have available more

[Mr. Pandya]—adequately, and more fairly as between the different races, the problem might to a certain extent be alleviated. With regard to the availability of adequate and properly trained staff, it has been said in this Council before that we should not hesitate to get people from abroad until we have created our own supply.

I want to say a word here, Sir, on the question of modern schools. The Asian community at the moment is quite dissatisfied with the proposed introduction of courses in the schools next year. I would urge the Minister to consult the leaders of the community before their final introduction. It is felt very strongly by the Asian community that there should be at least a course of four years in modern schools; the two years' course suggestion is very strongly resented, and the fact that a child of 15 would be thrown out of school is certainly very objectionable. There is another suggestion I would like to make; that a student who has once failed in his examination should be allowed to take a panel examination after the first year he has been in a modern school, so that he does not have to repeat the course; and at the same time he gets the advantage of a modern school education and of sitting for the particular examination to see whether he can still qualify for academic education.

I would also like to say to the Minister that the time has now come when classes for Higher School Certificate should be opened in Mombasa. I think he will appreciate that there is now quite a good demand for it and I hope he will consider this request favourably.

Now, Sir, His Excellency referred very briefly in his Address to the need to develop local government in this country. I am very glad of this assurance, but I hope that when we do discuss this matter the discussions will be devoid of racial considerations which so many times in the past have played such a major part. You only have to look at the development of the constitution and composition of the county councils to realize how unfair the whole set-up has been from the point of view of the non-European community. I hope an early opportunity will be taken to remedy this situation and make the necessary revision in the constitution and set-up of the

county councils and other forms of local government.

Now, Sir, with regard to the development of health services, I would particularly draw attention to the control and treatment of tuberculosis. The dissemination of this dreadful disease, as is well known, in mainly from the congested and overcrowded centres of population in the larger cities. These people are really very poor and they cannot afford very expensive treatment and the cost of drugs which they must take if they are to avoid a catastrophe. Until such time as cheaper treatment and drugs are available, I suggest some sort of relief should be given to these people and at the same time more facilities should be provided for patients of this nature, for I think that the present facilities are totally inadequate to meet the demands of the great number of people who suffer from this disease.

Now, Sir, I turn to a very popular subject to-day, and I would like to say a few words on that. It is the subject of political stability. We have heard speeches in this Council on the objectives and I sometimes wonder where the difference really lies because all talk of things that matter to all of us but at the same time when it comes down to proper discussions it is apparent that things are not so close as they really look at first sight. But I think we are all agreed about one fact that it is very necessary to bring about "unity of purpose" and understanding through good will and sincerity. I am sure, whatever little political experience I have with the Members here, that we can, if we give a proper application to the problem, bring about the desired result, although it may take quite as long a time, and longer, than many of us believe. The door is still open for these negotiations and I have no doubt that those of us who are in responsible positions just now will take every opportunity to see that we try to bring a quick and just solution to this problem, for time is very important. We must have economic security if we are to make progress in all the other fields. We have an assurance from leaders of all races, and indeed from the African leaders, that they are equally interested in economic security and social security as well as political stability.

[Mr. Pandya].

The Member for Nyanza-North said yesterday that the Asians were still sliding on the fence and they must make up their minds. I think it is quite clear from our attitude that whenever problems have faced us we have made a decision, but we cannot make decisions in advance, if we are not told of the type of constitution and other matters which are envisaged in the future. Until we are told that, we cannot really express any opinion, but when the time comes and when we sit down to discuss this matter I am sure that we will give mature consideration to all the problems as they arise.

He also referred to the slogan "Africa for Africans". I do not think any of us has any quarrel with that slogan; it is a very excellent slogan, full of great emotions, particularly where it is shouted at meetings of 2,000 or 4,000 people. But where I fear the difference may lie is in the emphasis, for it must include, from our point of view, those people of immigrant races who have settled here, so not necessarily those who are just birds of passage—

MR. MUIRO: Mr. Speaker, I made it very, very clear that anybody in this country who stands with both feet on African soil is an African, and I included the hon. Member; so he should not misunderstand me.

MR. PANDYA: Mr. Speaker, I was not trying to misinterpret because I know that when these slogans are shouted there has been at the same time an attack on one or other immigrant community; I am very glad that the hon. Member has assured us that he does include me and many others like me in the slogan "Africa for Africans".

I would just like to refer, Sir, to the misunderstanding which might have been created by my hon. friend, the Member for Central Area. I think he meant to convey that the Indian Members had not conveyed the feeling of the community to the various groups. I think other Indian Members will agree with me that the Congress has supported the demand for increased African representation when it was first made about six months ago, and we certainly have not deviated from any Congress policy; I cannot see where the difference of

approach lies. While we enjoyed his eloquence and his brilliance and fluency, I think we should not be carried away by any misunderstandings which may have been created as far as other Indian Members are concerned. The Indian and Asian Members do not hesitate to consider any problems and indeed they always have given very mature consideration to all the matters as they have arisen before them with regard to the constitutional matters particularly.

Now, Sir, as I said before, if these differences are not settled, it may have very serious repercussions on the economy of the country. We cannot allow the confidence of business men to recede, for that would be really dangerous, and we should try to do all in our power to halt this process. I think what is most important is that we will not be in a position to attract new and sufficient capital so much needed for development from outside; not only that, whatever capital is here may indeed tend to fly away. We must remember that there are many other countries in competition for capital in foreign markets offering probably greater security and promising a greater future. I think we should try to act now that there is no time for us to repent of our actions later on.

I personally am heartened, Sir, by the fact that there is determination on all sides to tackle this problem for the benefit of this country of ours as a whole.

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

THE EARL OF PORTSMOUTH (Nominated Member, Non-Government): Mr. Speaker, Sir, before I turn to His Excellency's Address, I feel that the Council will be with me in offering my sympathy and theirs to the hon. and gallant Nominated Member, Colonel Bruce McKenzie on the sudden serious illness of his daughter and in giving him all good wishes for her speedy and lasting recovery.

*(The Council signified its sympathy)*

Sir, I do not, as Corporate Member for Agriculture, feel it part of my duties to enter into the constitutional differences which have arisen, but I would like to say just this: it is not only lip service on my part, but my sincere and heartfelt wish that talks may occur and that they

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may have a successful and mutually satisfactory outcome. (Applause.)

Now, Sir, I would like, in order not to waste this Council's time, to take only three not very major points in His Excellency's Address—that is they may not appear very major points to the general public. They are on page 5 and I will treat them in the order in which the Governor spoke of them.

The first one deals with a reference to irrigation and to the setting up of an experimental station on the Kano plains. Let me say at once that I congratulate Her Majesty's Government on this small beginning of a problem which should have been tackled a generation ago much more strongly than it was. I would like to enter a plea that irrigation should not by itself be treated departmentally; that it should not be taken as an isolated act of good works without reference to other things.

Now, Sir, far be it from me to enter, even when I have taken off my shoes, before the burning bush of the Seven Fork Scheme. I would like to take another and much more hypothetical instance in that little consideration has yet been given to it. The Grant Report, the recommendations of one chapter of which were published, made reference to a dam at Broderick Falls which could serve, in the first instance, as the source of water and power for a pulp mill. That concerns the department of my hon. friend who has just returned from abroad. But, Sir, it also concerns many other departments. If that scheme could come into being there is irrigation in that area of the Kitosh country which could be carried out—very important too. If it could come into being there would be employment, not very far from one of the most over-crowded areas of Nyanza. If it could come into being, there would be power, and if it could come into being there would be a tremendous outlet for the timber industry of West Kenya. All those things together are so much more important than one single aspect that I think that when irrigation in its beginning, at any rate, is discussed, it should be discussed in relation to other Ministries and other needs as well. In other words, I think we should try to turn our attention to something in the nature of the Tennessee Valley Scheme. That was an area, rather larger than Wales, badly

eroded, depopulated, filled with poverty, in which the rivers were silted and there was no life and no industry. The rivers were cleaned and dammed, irrigation took place, forestry was restarted, industries and navigation, tourists came; the whole thing was correlated and brought together so that the country was lifted back at one stroke, but in several years, into prosperity by this imaginative type of work.

Now, Sir, if I may turn from irrigation to another aspect—to forestry. His Excellency spoke of the Craib Report and the large increase in exotic and economic forests for this purpose of conversion. Now I think there is another aspect there which we ought to look at. The Craib Report could not only be a matter for Government expansion and improvement in our forests, but could, I think equally well be supplemented by private forestry. The units, for instance, in a Craib saw-milling unit are capable of dealing with from 10,000 to 20,000 acres in rotation, so there is in many cases an upward limit—a very high upward limit—which will not be fulfilled without additional private forestry. I do not think from what I know—and this is my personal opinion after consultations I have had with many people in the industry and in the Forest Department—that Dr. Craib by any means over-estimated the capacity for converting timber and marketing it in this country, in fact I think it is going to go on if properly comes to this country and stays here, in ever-increasing measure and we are going to need more and more timber which it is unlikely that the Forest Department can by itself produce. Therefore, I suggest that this is the moment within the next year to start some skeleton scheme of private forestry with Government assistance and also if that occurs with a plan which almost amounts to dedication in return for that assistance.

Now, Sir, I can give you two or three instances of how that assistance could take place. I see my hon. friend the Minister for Finance pinning me with a steely look. The first way is, I think, that the present income tax laws should be adjusted for the profits from a clear felling to spread over a period of years, so that very heavy taxation would not fall unjustly on a man who has taken years to grow the crop.

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Secondly, in England, there is a provision whereby agricultural land is liable to 40 per cent less death duty than any other form of property. I suggest that if you want to encourage private forestry in this country the loss to the exchequer might be a few thousand pounds, if that, nothing would give in the case of long-term crop, a greater fillip to the industry, than to remove death duty on the standing timber when the owner dies.

Thirdly, one wants to encourage replanting and there I think that a large rebate on income tax on the block acreage to be replanted should be considered rather than the cost in order to give that encouragement.

Now, Sir, those are three ways of meeting the situation, mostly as far as the European land units are concerned. But I think also, in fact I am quite sure, that if that type of assistance and advice were to be given to European farmers, an equal, analogous type of assistance and the same useful advice should be given in the native land units to private African foresters or woodland owners, and tree growers, as is given under the Swynnerton Plan to African district councils.

Sir, I have always held—and it is very much my personal view—that we have gone far enough in cutting our great indigenous rain forests to replant with exotics. Here and there in future it may be possible and wise to round off bits of the forest and that should be done, but in my view the future of the great indigenous forests should be reduced in economic purposes to selective cutting, keeping its own original ecological attributes and uses. So, Sir, we have got to look for our forestry programme, I believe, as much as we can outside the great indigenous forests and that is why I think it is so important that at the very earliest moment we should make a start on planting exotics and other useful trees with Government assistance on a long-term plan and in co-operation with the Forest Department.

Now I have only one other point to take up and that is the reference made at the bottom of page 5, to protective forestry. Nobody welcomes that reference more than myself and nobody realizes the importance of giving assist-

ance to African district councils and such bodies for protective forests in their own land units. I know very good work has already been started and I am delighted that it is to continue, but, Sir, if we take the wording of this paragraph we get this: "This aspect of forest policy resolves itself mainly into assistance to African district councils in preparing long-term forest management plans, in financial aid to carry them out, and in the gazettement of the areas which, by mutual agreement between the Central Government and the African district councils are to be set aside for forestry".

Sir, if that is all that is going to be done it is funking the issue. My hon. gallant and Nominated friend who spoke yesterday on behalf of game and forests brought this point up. I do not think it can be stressed too strongly. The real place where protection has got to take place, which will matter more, important as the African district council forests are, are the outer bastions of this country's climate and they run from the east right to the north-west and there, I say without hesitation, we are funking the issue. It is an urgent job which we cannot funk.

Sir, many of the field officers I have known have got the guts to govern but I am all too frightened that when it comes to the Secretariat in Nairobi the all-over-shadowing fear of questions in the Westminister Parliament makes that null and void. We must tackle places like the Matthews Range and other areas mentioned by my hon. friend, Sir, I do not think this can be too strongly stressed. Indeed, 18 months ago I had the honour in another place in England to bring forward a Motion on the desiccation taking place in Africa south of the Sahara. Whatever other results it may have had, it did have this, that when the Forest Adviser to the Colonial Office came out here on his next visit, he not only looked at the productive forests but he did a tour of the areas which should be protective forests and are not, and, Sir, he backed everything that we said. I do not want to commit him to that in those exact words, but in effect we got his full support and backing. At the end of that debate I wound up by saying that it will be of little use to devise the best constitution, to put up the most splendid buildings

[The Earl of Portsmouth]

for council halls and bureaucrats' departments if, when you turn over to the self-government of the inhabitants of the country of whatever race, you leave them with a denuded country and a climate that is fading. Sir, I repeat that now but I would say too that if it goes on for very long or continues for a century, you will find the desert rats and lizards scuttling in the roofless halls of bureau-democrats.

3.25 p.m.

MR. ODINGA: Mr. Speaker, Sir, many thanks have already been paid to His Excellency for his Speech and to the Mover of this Motion, so that if my thanks are not included I do not think it will matter very much.

Sir, as some of my colleagues have started I will also start with the Emergency because it matters a great deal to us, the unfortunate African Members. In the course of His Excellency's Speech, he mentioned that there are still about 150 terrorists at large and that there are still many detainees in the camps.

Well, to us, Sir, we do not only consider the 150 terrorists and we do not only consider the detainees in the camps, but we do mostly consider the ordinary citizens in the country because the Emergency is affecting everyone, not only those people in the forests and those people in the camps, but nearly everyone. Well, I have all the time been surprised to see that some of the Members here and some of my colleagues on this side also support the Emergency and they say that the Emergency must still carry on and go on. I do not know whether they enjoy or get some games from it, but I will say that the Emergency is detrimental to the good progress of we good citizens of this country.

For example, the Emergency could easily be applied on African Members here and it would make our movements and even our activities, even as Members of this Council, very unpleasant. If I want to hold a meeting I have to go to kneel to the district commissioner, stand even for half-an-hour in front of his office and then later on I will get in and he gives me the permit if he likes. Then I go. For example, I might even ask for a meeting to-day and I will have

to wait for about 14 days before I get the permit. That may only leave me about two days within which to announce the meeting. Of course when the day comes I may get very few people to the meeting.

Recently something happened to me which was very cruel. I went to a meeting and in the course of it somebody dashed with a letter to me and he showed me a letter from the district commissioner. "We wanted to make a tea party for you here and we asked the district commissioner to give us permission to collect the money to do that, and this is the letter which says: 'I am unable to give permission to make a tea party for Mr. Oginga Odinga, M.L.C.'"

MR. HARRIS: That is what your allowances are for!

MR. ODINGA: Well, you will see there are so many unpleasantnesses. Recently you heard something here that we could not attend other meetings or move to other places and then meet the African people. I could not even address a meeting outside my constituency. Because, probably, of God's wishes recently I got the chance of addressing a meeting in Nairobi and Mombasa and I thank the man who actually gave us such permission.

But all these unpleasant things which are happening, are happening because of the Emergency. Somebody, somewhere, has got to give the excuse that he is applying it because the country is still under the Emergency conditions. There are so many of such things which probably my friends the Europeans or the Asians do not actually see very much, but we, as the African Members, find that we are humiliated and they are the things which cannot at all bring any co-operation which you people talk about and which you all admire very much. Co-operation will only come when everyone is treated equally. With all this discrimination in treatment you can never hope that co-operation will come, if other Members are treated differently from others and yet we are all called hon. Members when we are in this House.

Now, to go back, Sir, to the Emergency, I would say that the Government's reason for keeping the Emergency on simply because of 150 people still in

[Mr. Odiga] the "Tribes" is not enough and will not convince any African Member of this Council, because we feel there are only 150 and no one really knows if they are alive or dead, no one can say that. Also, to go on spending a lot of money or keeping a large force to watch on these people is not enough. I think the Government should have had 150 askaris to look for those people and declared the Emergency at an end.

When we come to the question of detainees, I understand we are still waiting and the Government is still waiting for these people to change their minds. But the Government should not be blind. I think we should face realities. It may be that these people used bad methods, but certainly they had grievances. They had grievances and those grievances must be actually faced. For example, the people whom you call the hard core *Mau Mau*, are the most genuine people, the people who hold strongly to their views, and if you could consult with them and convince them they would be co-operative. But with your present attitude to them, if all of them come forward and say: "It is all right if you want me to say that I was wrong, yes, I was mistaken in the methods which I used, but I still have grievances". The grievances are still there whether he says the methods he used are wrong or not, the grievances are still there. These grievances must be faced and we must try to settle them.

In this country it is not news to us, we all know that the Kikuyu, ever since 1920 have been crying and writing petitions after petitions, which were sent to the British Government and this Government about land. In my country we had detainees who were at Mageta; when some of them escaped from the island and one of them was shot and caught, he was taken to a place near my home at Bonda, he was badly wounded and he was going to die. It is common talk that when he was about to die he asked for soil and when he was given soil he said "I die because of this soil" then he took it in. Then people were going about circulating stories all around. If these people believe that they are dying because of the soil why not face facts and see if a solution is possible so that we should never later on get such troubles again

into the country? It is better to go into the root causes of all these troubles and try to settle them.

This is the time that we can go into them to settle them. I quite admit that the methods they used were bad, but they had genuine grievances and real grievances are there which need to be settled. There are the agrarian grievances and they are coupled with frustration due to bad administration.

There are these genuine grievances. With me I may have very few grievances about land because it may be that a large portion of our land was not actually taken by any other men, but with the Kikuyu it is a different matter. The usual remarks are: "Oh, we found that land vacant, it was empty, there was no one", would we agree with those remarks? No, but for even if it was empty, and not inhabited. Yet, they knew it was theirs, they kept it for future expansion, they kept it for their people for collecting firewood, timber and all other things. So with the Kikuyu, whatever land they had was there kept, reserved for future children, for their own future expansion and as the grazing grounds. Because it was kept as grazing grounds, does not justify one to argue that it was not inhabited.

I am certain that the Government must be able to face all these facts. What is the use now of somebody rushing to Great Britain, to Australia or even to Canada to induce somebody to come and live in Kenya. There is the Kikuyu tribe crying for land but there is no land available for them because their skin is not white. That cannot be a justified case and we cannot pretend that these people who come bring capital. What capital? These are just youngsters who come from the colleges, they have not acquired any capital, they come here straight from colleges and then later on they are advanced some money and then they are induced to stay and live here. Why not induce the Kikuyu? The Kikuyu people are very industrious people, they can work very hard and I am sure that they can compete with anybody in this land here, if given the same opportunities.

SIR CHARLES MARKHAM: That is the way to get votes?

MR. ODINGA: The Kikuyus are not actually in my constituency, so I am sorry I will not get votes!

THE SPEAKER (Sir Ferdinand Cavenish-Bentinck): Will the hon. Member please remember to address the Chair?

MR. ODINGA: I am sorry, Sir. I shall leave that part of it and come to the other side.

At the same time, I hate injustice and I am not going to be unjust. I love a white man, a black man and even a brown man, but what I hate is injustice.

There is another thing which we must try to correct and that is the administration; and those who do not live in the African reserves should not imagine or claim that they have ever understood it. I do not know whether you can ever understand me; but had you been there and had the same treatment applied on you in the way cases are arbitrarily conducted and fines imposed by Government officials of all sorts, you would realize the differences, because with you, perhaps, the laws are properly followed and magistrates have actually to deal with your cases; whereas in the African reserves such is not the case. For example, from the beginning of the Emergency, the people living in the country have been kept busy with unpaid work. Now, on Monday, one man is supposed to go to the chief's *baraza*, on Wednesday, he has to attend the headman's *baraza*, on Thursday he is supposed to work on land conservation. It is called land conservation in disguise to make it appear very nice, but it is not land conservation, but merely forced communal labour. On Friday he has to attend the sub-headman's *baraza* and now he has got four days in a week on which he is forced to attend to those things for which he is not paid; and he is only left with Tuesday and Saturday to work for his livelihood, and even on those days also he is not entirely free, for the Agricultural Officer wants him to deal with certain weeds on his *shamba*. He is wanted also to deal with a certain weed called *binju* in our language. But later on we find that many of those able men are compelled by these hardships to run out of the country. Some of them run to Uganda and are miserable there, and some of them run to Tanganyika; but how long can you let these people

go on like that? When it is injustice I see it very clearly and I must warn that that is not the way to conduct a country, and I do not think that we can ever bring in any economic development that way. For example, if Longonot were in an African area, Africans would be worried a great deal that the land is badly eroded, but because it is among the European settlements we have not heard of a farmer there being collected every morning to go and conserve the soil there, and being fined for default concerning this particular place. The situation is very bad indeed.

I now come to the Government policy on the Africans. I know the policy as it is at the moment, as I see it in the light that the African is regarded as one who is still a child and even if he does not like something now, if it is forced on him, later on he would accept it and appreciate it. That is the policy of the moment. I call it a very unhappy policy. Many people have talked about it and they think that it is so. I do not know how I shall make the Government here understand that the African is not a child, but it is essential that the matter be clearly understood. A man who produces children cannot be a child. You may not understand his ways, you may not understand him, but if he does not understand your ways and differs in certain ways, that cannot be a justification that he is a child. He is also developed and mature in his own way and when he sees you dealing with him like a child, in return he also would despise and hold you in contempt in his own way. I take the Government, in its present policy, to be like a man or like a teacher who has failed to explain all the lessons to the children, and then begins abusing and blaming the child and kicking him about saying: "Why do you not understand me, why do you not get on?" That is what we call a bad teacher, a poor teacher, who does not even know what to do. I think that with everything we must alter the present Government policy. I would only use the necessary to take this move at the moment just as we tell you. It would be better for the Government to adopt the method of properly explaining and showing the African every new thing or policy which comes to be introduced. If he has got to be shown, he should also be shown kindly and at the

[Mr. Odinga]—The same time—ought to understand it, and certainly, if the African understands it, the results are most encouraging, for the African is a man who is also very quick to learn and ready to copy things put clearly to him.

He is very quick at following, but if you go, as the Agricultural Department have been doing, forcing them to follow, and punishing them if they do not follow, things that they have not been made to understand, I think that will not work and will in no way succeed with the people. You will, instead, make them hate, as they at the moment hate the agricultural officers who treat them in that way. If they see an agricultural officer coming they know that the man will impose fines on them, and do all sorts of things to their distress.

I think it is time that the Government should change the policies, and I will give you examples to show why I think they should change their policies. They should, in the first place, encourage self-help for the Africans. I tell you in the name of truth that it is better that we should start getting away from the policy of asking the African and dealing with the African, through the European, as is the present policy of the Government. At the moment if they want to deal with an African they deal with him through a European. But it would be very much better if we now begin to deal with the African directly because by that way the Africans will learn much more than under the present methods. The Africans, as is the case with everybody else, will learn through their mistakes. Through mistakes the Africans will also endeavour to learn to shoulder responsibilities.

For instance, the Nyanza Marketing Board deals exclusively with the African produce; but surprisingly you find that there are only about two or three Africans to deal with the African on that body which handles the whole bulk of African farm produce. That means that somebody is taking it that everything should be done for Africans. But if the Africans have to get everything done for them, how long shall all these things be done for us? We want to do certain things for and by ourselves and in that case we must be the people with the final say in matters that concern us solely. If

we need any help, we should be the people to ask the Europeans. But at the moment the Europeans have the majority in all the statutory Boards. They hold the important jobs in those Boards. Well, it is high time that the Africans were also in all the Boards, and especially with a majority representation. They should know what is going on from within in order not to be ignorant.

Mr. Speaker, Sir, I will now leave that part of the Government's policy, and I hope that you will understand me when I give you some personal examples. Although I do not actually like doing this, I find it necessary to do so, in so far as it illustrates the meaning.

First of all, I was in a Mission centre. Why did I leave Mission service? I will tell you, and in so doing I will say that this kind of experience concerns not only myself but also many other Africans too. At that time I was a teacher (and there were Europeans there at the same time). I was in charge of a class. But probably the principal did not trust my ability to show a sense of responsibility, despite the good results of my work. Secretly he instructed a European to supervise me. Later on when I found out that there was somebody sneaking behind me and that I was not trusted I said, "I will not stay, I will go into Government service." When I went into a Government institution, later on there was one white man who came to me direct and told me that being an African I was not entitled to use my head to think but to carry out orders from Europeans, whose right it was to think and plan for us!

THE MINISTER FOR AGRICULTURE,  
ANIMAL HUSBANDRY AND WATER RE-  
SOURCESS. (Mr. Blundell): You should  
have been in the Army.

Mr. ODINGA: I thought, "Where can I use my head?" It meant that I would never be able to use my head at all if I stayed. So, I went out to see if I could use my head in business. And it occurs to me that this same attitude of dealing with the African is the one adopted by the present-day Government, and it makes the Africans very frustrated indeed, because we also have a right to use our initiative. There are so many capable Africans who would also like to shoulder high responsibilities in this country. They should be given that

[Mr. Odinga] opportunity, because keeping the Africans behind in an inferior position all the time will not be enough for them, nor will it offer any solution to our problems.

Now, Sir, I turn to the political side of His Excellency's Communication; and, if you will allow me, Mr. Speaker, I will not speak so strongly. All the subjects which I wished to speak about have already been mentioned by my colleagues and it is no use repeating their remarks again.

There is, however, Mr. Speaker, one thing that I should say. The Europeans, the Asians and all these people think that this country is a multi-racial country. But we as Africans do not think so; and that is where we differ. I would only like to help you in this. We, as Africans, believe (and we know it is quite correct) that this is Africa and Kenya is an African country. But other people have also come to live here; having come to live here, they will be here of course, but one thing they must understand, when they are in Africa and in this country they should adapt themselves to this country and at the same time try to renounce their country of origin and try to be equal citizens with Africans in all spheres of life. That is what the Africans understand this to be. We understand that they should not stand as a group, separately, but to be as individuals who have come here to this country and stand as individuals; and let us all develop common patriotism to this country, and work together in a national movement towards our independence; but not as groups.

If you come to a new country you cannot say, "We will just all join together as a group and just live our separate lives as separate entities". You have got to conform with the original people, you find in that country. It is no use trying to do the opposite. It is a clear fact and this is known to be an African country, and anybody who comes here must come and live with the good will of the Africans. And he will only live with the good will and after winning the confidence of the African people and only with their co-operation can they be able to work and live together.

At the same time when some people talk of parity we know that the

Europeans got the franchise in 1920 and at that time they got at once 11 representatives. Later on they had struggled with the Asians who got five representatives allotted to them in 1923. And at that time we also got a safeguard, which was that when a conflict of interests arose in this country among the races, the African interests would be considered first. When some people talk of sacrificing parity or of other things that they are going to sacrifice, we must also recall what we know that the Government gave the Africans in 1923; the pledge was confirmed, moreover, in 1930. Whilst on the subject of safeguards, I think we shall never come to any agreement at all and therefore I am asking you, Mr. Speaker, and I am asking everyone that we should come to our senses. We should come to know that we are all in this country. We understand that the Europeans have come here; they have settled; they have struggled to build businesses in this country; they have also brought other useful things in. The Asians have also done that. They have started from scratch and made some big businesses in this country. We understand all these things, but on the other hand you must realize that they made a lot of profits. That should not be what we should dwell on; they invested to reap something out of it and they have reaped a great deal.

SIR CHARLES MARKHAM: Not always.

MR. ODINGA: If not, they should have run away. You cannot live indefinitely on losing business. You will at one time or another run away and leave it. Therefore, when it comes to the point, we should consider it. We love this country Africa, and we love Kenya because it is our home. We have no other homes at all. Kenya is our home and we love it. We also like to live with those people who will also be considerate in everything and see to it that we all join hands to build Kenya, and to the good of the masses of Africans who are living in this country, some of whom want assistance.

If you will excuse me, Mr. Speaker, before I end I wish to deal with Nyanza affairs. In the course of his Speech His Excellency mentioned—and one of my colleagues from Nyanza has also mentioned it—that the people who are still in the detention camps are those regarded as the worst *Mau Mau* detainees. Well,



[Mr. Odaga] This concerns a great deal and I would only go on to mention again that the Government should reconsider this matter and find those people—those detainees—who actually did not take part in *Mau Mau* but were detained only on suspicion and release them immediately. Even people like Mr. Achieng' Oietko or even Mr. Odede are just detained. Mr. Odede is confined somewhere and the Government contends that he is not detained. If the Government is not able to release him at large it is better that he should be confined at his home rather than be confined away from his home. We would wish that they should be freed now.

His Excellency mentioned that afforestation is done with mutual agreement between the African district council, the Government, and the owner of the land. This is not the case, because we find that there are so many people who are complaining, especially from my area and from Maragoli, and there are a lot of troubles concerning the people who did not agree that their land should be afforested, and probably they were not even consulted properly.

Before I end, Sir, I will say a word about land consolidation and land reforms in Central Nyanza. I am glad His Excellency mentioned that Central Nyanza needs a lot of land reforms. It is quite true, but we have got to understand that Central Nyanza is not as rich as other districts and moreover Central Nyanza has got a very big population. And if you divide the area per person you will find that each person only has about three acres and you will find that most of it is along the coast of the Lake which does not have plenty of rain each year. Formerly these people kept a lot of animals and these animals died. It would be better if the schemes like the industries which the Governor mentioned in his speech could have been thought of very much in Central Nyanza. For example, such industries could be started along the Yala River. We have got very good places where I think if Government thought of starting some industries it would probably give some people employment.

Now, Sir, we come to the Kano Scheme. The Minister for Agriculture has

mentioned that he did not think that this would work very well, but I thought that he should reconsider his position and he will find that this scheme, if it is started, will employ so many of these people and probably help to solve the difficulties.

With these very few remarks, Mr. Speaker, I beg to support the Motion.  
4.02 p.m.

MR. MATE (Central Province): I wish to make a few comments particularly with reference to the Central Province. I was very pleased to note that there is freer movement in the Central Province besides the accelerated release of detainees and a vigorous approach in tackling the problem of reabsorption and employment of ex-detainees. We in the Central Province appreciate all this.

I would like for a moment to refer to the vast majority of population in the Central Province. The ordinary man and woman in the Central Province have experienced these five years of the Emergency; many of them have co-operated with the Government in different capacities in bringing about normal conditions in the Central Province. This includes people who have served in the Home Guard and others who were doing Government jobs; others have been farmers and others are just ordinary people. This co-operation and endeavour has been instrumental in bringing about normality in the Central Province. These people find that the Emergency Regulations are still with them. They still feel that the matter of passes, the curfew and other jobs and demands are made on their time and energy because of Emergency Regulations. I would submit that the large majority of people are seeking, as anybody would be, to feel that their part in the Emergency is recognized and that they can get passes freely: they can get the time and the feeling that they are free, ordinary citizens like any other citizens in Kenya. I would say that even in the Central Province, and those who live there know this, a great calm prevails. It is not uneasy. People live their ordinary lives. They go to their farms; children go to school; and people go about their jobs; and they feel happy and safe. So that the terror of *Mau Mau* is, with them, no longer a terror. At this stage I would like to thank all the

[Mr. Maté] Government forces and our own people who have done so much to bring this situation about.

Mr. Speaker, Sir, the vast majority of people in the Central Province would very much welcome the news of the end of the Emergency to make sure that they felt they were free citizens like other citizens in Kenya, because they have shown by their endeavour, by their loyalty, by their confidence in the Government that they are co-operative, that they have a positive attitude; and it would be important to mention here what His Excellency said in his speech—that there has been no trouble with ex-detainees in the countryside. Sir, I submit that this is not a matter of an accident. It is a fact that the people in the Central Province generally want to live a decent ordinary life; they want to see that there is prosperity in the Central Province; and I would urge the Government to consider this question of the vast population in the Central Province and this desire that they should like to feel free like any other citizens. They would like to feel free and the Emergency ended, because if I cite the disability of the Kikuyu, Embu or Meru tribes I know that the position is better now; but the fact that one is an ordinary Kikuyu, Meru or Embu means that in the eyes of the police or the Government or other people one is automatically supposed to have a pass. Now, it does create a strong feeling that if you take people who have all the time been loyal and are loyal to the Government and have done their best when called upon that they are as equal as anybody else in the country, as decent citizens of the country.

Sir, the other problems connected with the Emergency are things like villagization. During the outbreak of the Emergency it was necessary to have people living together so that they could be guarded and so that they could guard themselves. But normally the people are used to a homestead kind of way of life and not so much to villages. So I would like to see as many people as possible going out to their gardens and *shambas* living there so that we do not have all these very large villages.

The other thing is that it would be wrong to think that people in the Central

Province are not interested in politics, and thereby postpone or deny them for too long the opportunity to organize political associations which are banned just now under the Emergency Regulations. Last time, Sir, I raised a point with the Minister for African Affairs that we should have—or that we should be allowed to have—political organs so that we could air our political views, he said that we could form district associations but that these were not specifically supposed to be political associations; and I did point out that there is no clear division between political and non-political things. I feel, Sir, there is room for responsible political associations organized under responsible leadership so as to be able to co-ordinate political opinion in the Central Province, otherwise there will be a state of vacuum in the country which will make things very difficult.

As a politician—as the Member for the Central Province—I have no link between the ordinary man and myself, when I organize meetings many people are very shy to come because they are afraid—they do not know where they stand. It makes things very difficult for me because I would like to be able to consult freely the opinion of the Central Province—the responsible opinion—and so be able to know what they feel about various political problems. Further, these organizations would help to educate people in the Central Province in due course into a way of tackling politics in the right way.

These are, Sir, some of the disabilities under the Emergency Regulations in the background of the normal conditions in the Central Province to-day.

Turning to the subject of detainees, I said earlier that I was very pleased to learn that more and more detainees are being released and I hope that Government will not spare any further effort in making sure that the remaining ones come out. Sir, it is a difficult problem but I feel that these people who are called "hard core *Mau Mau*"—people who have been in the detention camps for a long time—may be made up of people of different ideas, different people, perhaps misinformed people; people, perhaps, who do not understand exactly how things are and maybe people—an element of people—who were detained

[Mr. Mate] accidentally. They were not involved and perhaps they were detained wrongly—they did nothing wrong—and all methods should be used to try to search them out to make sure it is easier for them to come out. The Member for North Nyanza mentioned yesterday the question of Nyanza tribesmen. Maybe some of them are confused. I feel that no effort should be spared to try to help these people come out and be useful to the country and to themselves and to their families.

As a result of the Emergency, Sir, we have very many social problems that face us in the Central Province—problems of broken families, orphans, juvenile delinquents, and other things which His Excellency mentioned. These are some of the results of the State of Emergency in the Central Province and I feel that Government are doing a very good job of work in their organization of clubs and places where these children can be looked after; and I would like to see more of such organizations and youth clubs organized towards helping the people to train to become useful citizens for the future. I would welcome any more assistance that the Government can give towards the provision for this social problem of people who must be trained to become decent citizens for the future. I would like to mention here institutions like *Wamunu*. They have been doing some very good work. In many other training institutions the work is very good in helping these young people. I would also like to emphasize the importance of occupational training in these youth clubs and centres so that they can learn a trade like agriculture or some craft or some way of being useful to themselves in the future.

I now come, Sir, to the subject of land consolidation. I said earlier in this Council that the gathering of fragments so that a man with land could have a consolidated whole is a good thing, and I still maintain definitely that it is a good thing. I feel that anybody would agree that that principle is correct; but I did state, Sir, the fact that in so doing there are many problems, problems of boundaries of land; or the problem of an old man who has, say, five or ten wives—a very legitimate African custom—and where the child of the last wife is

equally entitled to a piece of his father's land as is the child of the first wife. Now, I would emphasize again that Government and the officers who are doing this work and the committees should very carefully observe the rights of each individual member of a family when apportioning land. There is the danger of unscrupulous people trying to get other people's land and there again, I would mention the people who are in detention camps, and will be coming back; some unscrupulous man might try to go and get somebody's piece of land just because he is not there, in the hope that he is dead, and that will always cause trouble and grievances. In my view, it is not a question of how much land a man has; it is a question of making sure if a man is entitled to a piece of his father's land that he has it. If he likes to exchange it with another man, that is a thing he can do willingly. But a question of boundary limits, and ignoring people's rights in these matters is very important.

Following land consolidation, His Excellency mentioned that we must have the follow-up services. The surveying, and of course loans to farmers. Here, I would join with the hon. Nominated Member Mr. Wanyutu who said that farmers cannot go ahead if they have not enough surveying teams to finish surveying their pieces of land and also so that they can go on growing their crops that they want to grow in order to reap the benefits they expect. Therefore, I would ask Government here to see their way to giving these particular farmers assistance in the way of loans and these teams in order to help accelerate the production.

Tied up with land consolidation in general is the problem of the landless people and the unemployed. It is a fact, Sir, that generally in the Central Province, and especially in some of the districts the question of land shortage is a real problem, and also unemployment. Land consolidation is going to make it more acute in that if, in a family where they all used to come together one of the members of the family is, by agreement, left to farm a piece of land, the others may not be able to farm it. So he will be employed, but they cannot all be employed. The land available is by far much less compared to the population,

[Mr. Mate] I feel here the Government should go on encouraging industries in the reserves; to take an example, the new factory at Ragati in Karatina, a tea factory, will absorb labour; it will also provide farmers with an outlet for their tea crops that they have farmed; but we require more of such industries in order to absorb the people who cannot have land, and also to relieve the overcrowding. It is a very real problem.

At the same time, we must encourage self-help in the Central Province—shopkeepers, traders, people who own buses and lorries, should be encouraged to run these forms of transport so that they can themselves get some money and also become employers. Here, Sir, I would like to point out that I have many fears about these companies that have started to come into the reserves, running bus services and transport services. But if they should come in and take over these routes, then it means that the African lorries and buses who want to have the work, the passengers and the luggage, will not be able to. I feel, Sir, that there is a strong case here for Government to realize that these companies could have a limited amount of trade, but the African buses and lorries should be given a kind of priority. I refer here to the Transport Licensing Board on this matter, for I think they should consider it because I feel it should happen again as it did before the Emergency, in order to relieve the poverty and economic difficulties that face us.

On the question of employment, I feel, Sir, as I said before in this Council, that the pass book system can become a threat as far as the Kikuyu, Embu and Meru tribesmen are concerned. I would join with the Nominated Member opposite when he referred to the question of cancellation of people's passes on what one might call not security grounds, but excuses on security grounds. I have got very good reasons for saying this and can substantiate it because I have experienced it myself. It can so happen that an employer who may not like a man's face might easily influence someone else to cancel his book just because he does not like him and because he is a Kikuyu, Embu or Meru, in which case he has to go to the reserve. I feel that is a very

important point to be remembered. Social problems, economic problems, problems of employment are matters apart from security as in the fact that members of these tribes who get passes do in fact get passes because they are judged good citizens. They get them because various district officers and district commissioners know them well, and give them the passes. Nobody should think that just because a man is a Kikuyu, Embu or Meru he is then automatically a citizen from outside Kenya. They are part and parcel of the country called Kenya and thus are citizens; and the security aspect should be separated very clearly from the social and economic questions.

On the same point, about landlessness, I do submit, Sir, that there is a very real land hunger and that there are people with capital and the energy to be able to use land properly and I feel it is time Government thought of getting such people working in the Crown lands, or in the parts of the White Highlands that are not used so that they can produce something there; they can make their homes there, and these pieces of empty land can be used for the good of the country. I feel this very strongly, Sir, because considering the problem before us, and the possibility of making very good use and meeting the people who are in difficulties half-way would be a very good thing.

Just a word now, Sir, about the various schemes which have been started. I would like to congratulate the Government on the schemes that have been started all over the Colony, many in the Central Province; and I would like to remind Government that as some of these schemes may be near work camps where detainees are working, it would be important for the success of these schemes to make sure that as the detainee labour decreases, alternative methods are found of making sure that these schemes succeed. For, as I said before, there are schemes set up by Government where Government demonstrates to people who may not have the capital and cannot carry out what they have been shown. But such schemes should be limited to the capacity of the people who are going to take advantage of them and also to the changing position of the labour market.

[Mr. Mate]

On the question of agriculture, I was very glad to note that Government is planning to start institutes where farmers can go and learn agricultural methods. I hope this will put right the bad relationship that exists to-day between the ordinary agricultural instructor and some of the agricultural officers, and the farmers, for these men seem to force the farmer to do the right thing instead of showing him how to do it so that he can go ahead on his own. I feel that the farmer is a man with initiative and he should be left to go ahead with his work and should not be hindered by people who, in obeying Government rules, sometimes not very wisely actually annoy them by forcing them to do things that they ought to do themselves.

I would like to mention here also the question of good roads in connexion with farming. It is no use producing a lot of crops when we have no good roads. That is a very important point, as is also the marketing and the control that Government proposes on African produce.

Sir, I would like to point out here that in the Embu district recently, the people produced more maize and more beans than the Maize Control at Sagana could absorb. They could not take all the maize and beans produced and as a result, many farmers complained that they could not sell their produce and did suffer hardship.

Therefore, I feel that the Minister for Agriculture should consider very seriously methods of making sure that a farmer's sweat is not wasted because the marketing and control rules are so strict that they defeat the very end they are supposed to serve. I am sure this is a very important matter for the agricultural areas to be able to market their produce. Alternatively, I do not see why we could not issue licences to traders who want to take the extra that the Maize Control cannot take and sell it, or else sell it to places like Nairobi or even to Kiambu where the people are short of food instead of having these very, very stiff rules thus causing hardship.

On the subject of education, I was very pleased to see that Government is going to lay emphasis on secondary

schools and teacher-training, and especially on day secondary schools. Sir, I feel self-help in African education must be allowed to play its part. Where the parents can afford to put up a school and have it organized and inspected by Government inspectors, they should be allowed to have a chance to build these schools when they are so much needed, because there are many children who cannot go to secondary school, but if the parents build one and have it inspected by Government, Government should consider that very seriously. I do hope more and more schools will be opened in the African areas so that children who cannot go into the existing secondary schools will find a place to go to. I would also like to mention that I would like to see the Higher School Certificate started in African secondary schools as soon as possible so as to make sure that those who want higher qualifications to go to universities outside Kenya have already got locally high enough standards to qualify for these entries.

Another important aspect of education is that we must not forget the necessity for more primary schools, because if we concentrate only on secondary schools, and do not take notice of the need to keep expanding as much as possible the primary schools, we shall be shutting the doors to the young ones who want to come and start.

About multi-racial schools, Sir, I was very impressed by a visit I paid to one school here in town, in Nairobi, the Hospital Hill School, which is supposed to be an interracial school, and is an interracial school. The happy spirit I saw there would, I think, go a very long way in helping to solve our future interracial problems if more such schools could be encouraged, where the children can meet and get rid of some of their fears and learn to trust each other, rather than just go by the colour of a man's skin as a clue to what kind of man he may be.

With regard to the public service, His Excellency said that there was training planned within the Government for local people to take part in the executive and administrative posts of Government. I would like to emphasize the importance of this to the African community. The African community feel that they would

[Mr. Mate]

like to see more and more of their people in the public service of Kenya; and also many African public servants in many departments join the Government but it takes a long time before they get promotion. Alternatively, they do sometimes get what I might call demotion. Sir, that is a very disheartening experience for those who work for Government to find that they are going backwards and forwards. Now, I would like to quote an example here: the new rank of district assistant gives less prestige to the Africans who were assistant district officers before that; but as assistant district officers I think they felt they were nearer the rung of the ladder where they become full district officers; now they feel they have gone backwards in this assistant district officer's rank. I do feel that the way should be open for people serving as district assistants, people who have proved themselves by their ability, by the understanding of their work, to feel that the way is open for their becoming full district officers or full educational officers, or full agricultural officers, or veterinary officers, in taking charge of an office, irrespective of who the rest of the staff is in that office. I make this point again: that many Africans, public servants, get disappointed and that is a serious problem with the Africans serving in the public service.

It applies also to the police service. Africans find themselves capable, having done the examinations like other races, but realize that the rate of their promotion is slower. It is, nevertheless, a fact that these Africans have shown exceptional ability. They do most of their work in English—it is not their mother tongue—and appreciation should be shown to these people, because of their extra efforts in learning the English language, which I would say is the official language of the Kenya Government; but it is not the language of all the people in Kenya. But having been given that condition, and having accepted it, the African should be given even more credit in these departments so that their promotion is not slowed down.

I would like to answer what one hon. Member opposite said yesterday; he talked about Africans not supporting the police because, he said, Africans—and he referred to African Elected Members

particularly—should realize that the police are there to protect everybody. I agree with the hon. Member completely, but it is not an African speciality to be rude or to despise the police. Rather would I appeal to all the races in Kenya: I have seen this happen, where a man would try to bluff the police—whether African, Asian or European rank—just because he thinks he can get away with it. So that I would rather the appeal were made to all the races in Kenya, not just to the African alone, because it applies equally well to all the races in Kenya. If we want to support our police force, we must all support it. I would here just like to mention the signs I have seen of the happy relationship between the police and the people, where the people have come to respect the police. I would appeal then to the Government, and to the Minister to make sure, if possible, that the police themselves realize that people fear them merely because of things that have happened before, but they too can do a lot to win the respect and the confidence of the people. It is not just a question of people having to come to the police in that respect, but the police themselves must prove this in action. I have seen it happen in Meru where for some time we have had quite a happy relationship between the people and the police, but it came from all sides. It was give and take; it was not a question of the police expecting to be respected when they themselves did not respect the citizens.

Mr. Speaker, Sir, I would refer to this other current problem of political stability. The question of Africans' increased representation to me is a catching up, a kind of paying of arrears because of the way up to now the African community has been represented. The African is a citizen of this country, and as a community they have had a raw deal in the way of representation. The African, right out in the farthest places like Marsabit pays taxes; Government takes the trouble to post Government officers there to go and collect taxes and also gives them the services. They are recognized; therefore, I do not see why even the people in Marsabit and places as far away as one might imagine should not have a Member as near to them geographically and otherwise to represent them on this

[Mr. Mate] Council, because the law is made for these people, to apply directly to these people. So the question of knowing English is beside the point. One hon. Member on this side, the Member for Nyanza, did mention the question of African demand and mixing it up with language difficulties.

Mr. Speaker, I rather doubt the accuracy of the statement regarding the way African Members have put their case: I think it is clear as clear could be. If it were a question of knowing the English language, I would answer that it is a foreign language to us, and we have done a lot to learn the language, and the other races could do quite as much to learn our languages—Kikuyu, Luo or Swahili—but what I am saying is that the Africans' learning of the English language is to his credit. The African demand is not therefore dependent on a language difficulty: it is based on true fact which goes beyond the question of language, or the question of secondary education because political awareness is something different from the ability to read or write.

The need for African representation, as I see it, could be argued this way: the African Members put forward a demand for 15 seats. We have about 42 African districts in Kenya. If any man had said, "Let's have one man per district", that would have sounded too much. Now, in comparing 42 seats to 15, I see a lot of moderation, a lot of sense in it, and a lot of sense of proportion and sense of evolution and development. So that challenging the number of 15, I feel, is in itself not enough argument. We have the fact of population to equal that; we have the fact of geography, and the fact that a Member needs to keep in the closest possible contact with his constituents in order to be able to serve them properly. With the majority of the African Members to-day, that is impossible. Some of us can never hope to keep in close contact; we remain strangers in our own constituencies. I feel, therefore, that this is a very serious situation.

The other argument is that we need to democratize the opinion of Africans in the country. The Africans want to make their points and their opinions known,

of what they think themselves, but they have nobody to interpret Government policy to them; people to hear what they have to say about this, that and the other issue in order to have it out before they come to their final conclusion. I feel this is a very important thing that must be recognized. Of course, the African impact is going to be felt more and more in the political, economic and social spheres of life in Kenya as time goes on. I would here like to join with my hon. friend, the Member for Nyanza North, when he described in his way that an African is anybody who has both feet in Kenya. I do not think there is any question of race, colour or creed here; it is a question of Kenyans truly and sincerely working together to make Kenya a happy place for all, with equal citizenship but not in leadership, which is very, very doubtful. I do not know whether leadership is an inborn capacity. It is that kind of influence that anyone with a strong will among others has so that they follow his ideas—his sense of proportion, his sense of leadership. It is not a thing that can be imposed, and the African people least of all would be the last to accept a third class citizenship in Kenya. The question of leadership does not depend on race; education we need, we need many other things, but the question of innate abilities of an African or any member of any other race does not depend on his being a member of such and such a group, to determine whether or not he is a leader.

So, Mr. Speaker, Sir, I would appeal to all Members of this Council to feel that the African case for more seats is not just a thing to be ignored, but it is a genuine demand—which some might call a grievance—but it is a demand for a rectification of an anomaly in the representation, and we feel that when we say that, we are very, very sincere and we mean to co-operate with everybody else.

Sir, I beg to support.

4.42 p.m.

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): Mr. Speaker, I wish to rise on a point of order arising out of Standing Order 60. I did not raise this point of order when the hon. Member for Nyanza Central was speaking.

[The Minister for Agriculture, Animal Husbandry and Water Resources] nor when the hon. Member who has just sat down was speaking because I did not wish to interrupt him.

The standing order, Mr. Speaker, reads: "A Member shall be responsible for the accuracy of any fact he alleges to be true and may be required to substantiate any such fact or to withdraw his allegation".

During the course of his speech, the Member for Nyanza Central alleged that the Nyanza Marketing Board had only two or three Africans on it. I now have to inform the hon. Member that the Board has two officials and eight un-officials, of whom five are African. The hon. Member therefore was grossly wrong to a degree of 100 to 150 per cent in the figures which he gave to this Council.

Now, Mr. Speaker, I think it is essential that hon. Members should acquaint themselves with facts before they make allegations. Therefore, Mr. Speaker, I call upon the hon. Member to withdraw the statements he made that there were only two or three Africans on the Nyanza Marketing Board.

MR. ODINGA: Mr. Speaker, Sir, I thank the Minister for clarifying this, for what he has told us. I have now just got the facts for which I asked for some time ago from his department.

THE SPEAKER (Sir Ferdinand Cavendish-Bentinck): In other words, Mr. Odinga, you admit that you misinformed the Council, presumably not intentionally, but you did?

MR. ODINGA: Not intentionally, Sir—

THE SPEAKER (Sir Ferdinand Cavendish-Bentinck): Yes, I said not intentionally, but you did?

MR. ODINGA: Yes, not intentionally, but I did.

THE SPEAKER (Sir Ferdinand Cavendish-Bentinck): Thank you.

THE EUROPEAN MINISTER WITHOUT PORTFOLIO (Group Captain Briggs): Mr. Speaker, I would like to reply to some of the matters raised by hon. Members opposite, particularly those which con-

cern me as a member of the War Council. The Member for Ukamba gave a number of reasons as to why the Emergency cannot be regarded as over and sought an assurance from Government that there is no present intention of declaring the State of Emergency at an end. On the other hand, the hon. Member for Nairobi Area and other hon. African Members sought an assurance to the contrary. Sir, I can give, at the same time, to the hon. Member for Ukamba the assurance which he seeks and make plain to the hon. African Members that there can be no question of the State of Emergency being declared at an end in the immediate future.

Nor is it possible for Government to make any forecast as to the date when such a declaration might be possible. All I can say is that when the time comes for making such a decision, it will be based entirely on an appreciation of the security situation existing at that time. Obviously some factors which will be taken into account will be the extent of subversive activities and the general situation relating to the progress of rehabilitation and reabsorption.

Now, I will not repeat all the reasons for retaining a State of Emergency. They were dealt with in the course of the Communication from the Chair, and on previous occasions in this Council. There have been no real changes since this matter was also debated in this Council on previous occasions, and to avoid tedious repetition—of which we have had a great deal in the course of this debate—I would suggest that if hon. Members like to look into past numbers of HANSARD they can perhaps satisfy themselves as to the details.

Now, as hon. Members are well aware, a large number of Emergency regulations have been either revoked or relaxed, and of course Government will not retain any Emergency regulations any longer than they are necessary. Nor will Government, on the other hand, reimpose them unless it is strictly necessary for the purposes of maintaining law and order.

Now, the hon. Member for Nairobi Area particularly referred to the restrictions on movement. He must, I feel, be aware that certain relaxations have taken place already, but it is clearly quite impossible to remove all the restrictions

[The European Minister without Portfolio]

under present circumstances. Apart from other important considerations, it is essential that control should continue if the release of detainees through the pipeline is to continue smoothly and work satisfactorily, and also to avoid any undue risk to security and the welfare of the general law-abiding public.

Now, it was also suggested by the hon. Member that this regulation was a punitive one. I do suggest that it is no more punitive than the speed limit on dangerous roads or in the case of law intended to protect the public from the dangerous or drunken driver. It is protective not punitive, and it operates as much in the interests of the Kikuyu, Embu and Meru loyalists as anyone else.

Now the hon. Member, in the course of his speech, also suggested that the Africans have suffered more as a result of *Mau Mau* than the Europeans. Personally, I deplore such comparisons and I do not intend to enter into a fruitless and unrewarding debate on this subject. For I believe that one of the remarkable features of the present phase is the complete lack of bitterness either on the part of Africans or of Europeans who were themselves directly concerned in the conflict.

Now I do, of course, exclude from that generalization those hard core irreconcilables who are so deeply sunk in the iniquity of the *Mau Mau* that I fear their minds cannot be regarded as those of other men.

The hon. Member for Mau, in referring to the settlement of Kikuyu, Embu and Meru families in Lembus Forest, suggested that the maintenance of law and order is not the only thing that matters. Personally I would say that the preservation of law and order is a prerequisite of any other activity, but at the same time, while it is very unlikely that all the amenities of a Butlin's holiday camp will be provided there, nevertheless I feel quite sure that the lighter side of life, to which the hon. Member referred, will be taken care of by those responsible.

Mr. Speaker, Sir, I beg to support.

MR. HASSAN: Mr. Speaker, Sir, I rise to support the Motion and to state that

His Excellency's Communication from the Chair, giving full details of the progress made in this country in economic development, was welcomed by this side of the Council.

Sir, it is quite clear from the Communication of His Excellency that the State of Emergency has been the greatest stumbling block in the economic development of this country and to a great extent it has interfered with the attraction of new capital. The European Minister without Portfolio has very ably explained the reasons as to why this Emergency cannot be called off in the near future, but for economic reasons alone I find that the Emergency has been costing Kenya a colossal amount, not only during the active time but even now when we are facing the normal time, dealing with what remains from the Emergency and at the same time preventing the lawlessness from appearing in future. I find this country is footing the bill to the tune of about 30 per cent of the revenue of this country in meeting the interest on the loan which we had to borrow to meet the Emergency, together with the costs of Police, Administration and the Prisons services to-day.

Now that the country is very short of finances for the very important developments in this country, it is for that reason alone that the Government must seriously consider doing away with the Emergency as quickly as possible, taking into consideration necessary security.

Sir, one thing must not be forgotten, that due to the very great attempt that has been made to hunt up the 150 people in the forests, we are having signs of lawlessness appearing in the major towns to very much greater proportions than we have had in the last two years. I think it is the duty of the Government to spend more money to protect the larger number of people in these major towns, who are suffering at the moment much more from the lawless element which is appearing now, than the smaller number of people likely to suffer from the expected danger from the 150 in the wilder forest areas.

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

[Mr. Deputy Speaker (Mr. Conroy) took the Chair]

[Mr. Hassan]

In this connexion, I would like to take this opportunity to pay tribute to those people who did excellent work to eliminate lawlessness in this country during the State of Emergency, and I say that they deserve all the credit that is due to those who make sacrifices for the safety and protection of the people of this country. But, Sir, in this connexion it was rather amusing to see that hundreds of people's names appeared in the *London Gazette* and hundreds of people working as civilians and in the Kenya Police Reserve were mentioned for their good services in this country and some of them were given medals. Unfortunately, at least in the list of *London Gazette* I did not see a single name of an Asian. It seemed to me as though the person responsible was probably suffering from Asian blindness.

I took part in the Emergency myself and there were no less than 2,000 to 3,000 people that I sent to work in the Emergency and they were reported to have done extraordinarily good work in the combat units. It was very disheartening that not a single Asian, although the military officers and the police officers thought very highly of them, appeared in the lists of those who did good work in the Emergency.

THE MINISTER FOR LEGAL AFFAIRS (Mr. Griffith-Jones): Mr. Deputy Speaker, before the hon. Member speaks to his next point, on a point of order, will he clarify in his last remarks whether he is referring to medals—that is to say the African General Service Medal—or whether he is not in fact referring to mentions in despatches. I think it is only mentions in despatches which are quoted in the *London Gazette*, and certainly the qualifications for medals, particularly the service medals, are not quoted in the *Gazette*. I would be very surprised if the Asian members of the combat units did not qualify for those medals.

MR. HASSAN: I meant those mentioned in despatches.

I would like to deal with a few matters regarding veterinary services mentioned by His Excellency. I would associate myself with the previous Member in thanking the Welcome Trust for their generosity for making a very decent sum

available for building an institute for research into foot-and-mouth disease. I hope for this useful work the Government will give all possible assistance to have this building completed so that the institute should be in a position to produce enough vaccine to use if necessary, even free, generally all over Kenya to eliminate this disease. It is one of the worst menaces to livestock, particularly to the high-grade variety in this Colony. Unless we produce very cheap vaccine to use in a general way it will never be possible to get rid of this disease from this country.

The second thing which I noticed that there was no mention of was measles a very serious complaint; it is now spreading in Kenya. We used to have measles in this country and somehow or other the spread was kept in check and to a certain limit, and that was entirely due to some natural causes. I feel that the spread of disease was kept in check by continual and regular burning of grass systematically in this country twice a year. It used to eliminate the infection in the fields and the large ranching areas. That system of eliminating infection of measles disappeared from the time when this country was very thickly populated and agricultural holdings were taken up by quite a large number of farmers.

The second thing which appears to be increasing the spread of this disease in this country is the hundreds and hundreds of dams which we are building all over this country. Infection which is all over the catchment areas is now being washed by rains into these dams and I feel that it is very essential that a committee of experts should be appointed to investigate the possibility of eliminating the dangers of measles among the stock. The percentage of measles in the stock is increasing to such an extent that it is feared we may never dream of exporting meat from this country. It is not very pleasant to hear that the meaty meat can be made harmless by keeping it frozen in the cold store for a month. I do not think it is very pleasant for a country to know that meaty meat is ditched out and made harmless for people to eat. Unless something is done immediately to deal with this menace, I am afraid the only way stock free of measles could then be produced would

[Mr. Hassan] be by stall feeding at colossal expense to the stock-owner.

Sir, His Excellency mentioned that attempts are being made to train people here so that we should rely more or less on local recruitment for essential services. There is no doubt that certain very highly qualified technicians and specialists will be required for a very long time to come from overseas, but I was surprised to read in the Police Report that over 260 people, brought into this country on contract services, as police inspectors from overseas, were made permanent and pensionable this year. When we hear in the Press reports of unemployment and we hear of cases requiring the services of the nature of those of police inspectors—which need no qualification at all, only training in this country—I really could not understand why these posts were not filled locally from the people of Kenya and those contract service, temporarily employed people should have been allowed to go back after finishing their job in the Emergency.

Sir, I would like to say a few words on the constitutional matters which were touched upon by His Excellency the Governor. Sir, before the election in this country we used to have a body called the Unofficial Members' Organization. We had in respective groups an extremist element, but we had a majority of moderates in every group and so it was that we always had the greatest pleasure in attending meetings here because we found out that the extremist element were always kept down by the moderates and in a general meeting we used to have everything decided with pleasure to everybody, and unanimously without any heartburning and without any trouble.

After this election, unfortunately, it was the European group in which a very serious rift appeared. The moderates appeared to have become the minority and they had certain splits in their ranks. The conditions were made far worse for the non-European communities when we had the Corporate Members appointed at a later stage. I say the conditions became worse because before the advent of the Corporate

Members we used to have European Members of different views dominated by the moderate groups and we always used to have give and take and decide things without any difficulty. But from the time the Corporate Member joined the European Elected Members he has united them and cemented their unity to the great loss of the non-European community.

Unfortunately they united not with a view to meeting the non-European groups but they united with a view towards doing without the non-European group. This serious state of affairs did not permit us to join together all groups and talk matters over to deal with African demands.

Sir, I feel that the whole trouble and disunity among the Unofficial Elected Members is due to the fact that the European Members have been united by the Corporate Member who is responsible to nobody. He is very intelligent and a very able gentleman and he has great influence to satisfy all and he is giving advice to unite them together so that the moderate element has almost disappeared from the European Elected Members.

African demands for increased representation was supported by the Asian group, and they not only published it in the Press that they are supporting their demands but even as a group we brought it to the notice of the Secretary of State for the Colonies. I regret that one of the Members—I would not like to call him an Asian Member because he refused to accept that he was an Asian Member—was informed that the Asians had been called by the Secretary of State to meet him on this very important issue and although he did not give it in writing, he said he was not an Asian. Unfortunately he did not make an attempt to join us and study the whole difficult question which was facing the country. We made our decision and one of our colleagues, the Member for Eastern Area, from the Coast, has made it clear in his speech—representing his colleagues—that this view was supported by the Congress, I, as a Muslim representative, can say that demands for increased representation by the Africans was supported by the Muslim League.

[Mr. Hassan]

This I say to undo the harm which might have been done by the statement by the Member for the Central Area, and at the same time to bring it to the notice of the hon. African Member for Nyanza North that we are playing straight and honest and that we are above board. Whatever we promise to the Africans, we have given it in the Press and we have brought it to the notice of the Secretary of State for the Colonies.

If he has shown any suspicion against the Asians, I must inform him that we have also a very large number of Asians who have suspicions about the intentions of the Africans. Our statement as a group was made and we are following that statement; we are not only following that statement, but we have committed ourselves to the highest authority and I do not think we can make any further promise.

I must bring it to the notice of the Government that we supported this increased representation, a matter which has been supported by the Government as well as by the European Members. It is nothing new. If the talks broke off they broke off on a matter of procedure and I must state here that the demands for the increased representation we agreed, because they had a right to ask for it because their country is very large and it is humanly impossible for a few members to represent the country. As stated by my friend the Member for the Central Area, he said that the population for the whole of Kenya was not even equal to Bombay and Calcutta. But with the greatest respect to my hon. friend I must differ from him. He talked of two towns the population of which numbered more than 6,000,000, but he must not forget that Kenya is almost 600 square miles and its population is spread over 600 square miles. Therefore the more members are needed simply to go to the remote corners of the country to acquaint the people with the affairs of this Government and therefore an increased number is essential for the Africans.

Now, why the Government and the European Members demanded that increased representation could only be permitted provided they agree to enter into Government, I do not know, this

was utterly wrong procedure. They had a right to demand more representation we all agreed, therefore, this question should have been dealt with in the first instance. Whether they deserve 15 or whether they were satisfied with five, that matter should have been left to the negotiations. After having had that matter decided, the second question should have been dealt with regarding their entry into the Government. But there was no reason to mix up one with the others, that unless they entered into the Government and gave their promise that they will enter into the Government, before implementing the subject of representations. If a separate representation was agreed upon by all groups together then the matter of entry into the Government would have been a matter for separate negotiation, and everyone had a perfect right to their own opinion. That should have been decided on their demands for which they have made no demand at the moment. It may be they need one minister, or maybe they will need two ministers and maybe they may ask for three ministers, but that is a matter for negotiation.

Then the third question was the protection and safeguards for the minorities. But this thing, personally I am not frightened of these people at all. (Hear, hear.) Even if I am in a minority I know how to face them, I can hold my own. It was a long standing matter, it was not a matter to be decided to-day, when we have an experimental multi-racial government which we will have until 1960. Until such time as we have a full self-government there was no necessity whatsoever to talk about protection and safeguards for minorities at this juncture.

I personally feel, Sir, that these matters which were of long standing and should have been followed after the demand for increased representation was decided, we could have done it gradually by a slow process at a very much later stage.

I feel, Sir, that I have made my personal position very clear that this present deadlock could be done away with by the European Unofficial Elected Members if they were to use their skill and knowledge, their experience, their intelligence, their position in the Government they could have satisfied the Africans' demands without suggesting conditions entailed with their demands.

[Mr. Hassan]

Unless they come forward and help the Africans this talk can never be resumed. In my opinion this demand of theirs, if not decided, will create difficulties for our future co-operative and peaceful work in this Colony.

Sir, with these few points I support the Motion.

521 p.m.

Mrs. HUGHES: Mr. Deputy Speaker, His Excellency in his speech conveyed to my mind a determination as well as a hope to secure the economic progress as well as political stability despite and, perhaps, in spite of all the financial and other difficulties which there are at the moment.

Now, Sir, the basis of every ordered and civilized community is, and always will be, while the non-communist order pertains, the family life, or the family unit. Prince Phillip, in a recent speech in Canada expressed the view that man and his wife and family are the central and the important characters, even in a highly industrial economy. I would, therefore, like to base my speech on that theme whereby we here can best serve economic progress and combat so many other social problems and, I think, arising out of that, so attain political stability which is the outcome of a rising standard of living.

I agree with many of the views expressed by the hon. Member for Aberdare and surely the house of political stability must be the superstructure integrated as well as built on the very firm and lasting foundation of economic progress and understanding. So often we Europeans are asked to understand the African point of view, but I think little attempt is made from the African side to understand ours. Not, let it be said, that our interests do lie very wide apart. Our interests are the common ones of the family. And so, to acquaint ourselves better with the African view, we must strive for better understanding one with the other by deep, personal knowledge of the people as a whole. It is right in the heart of the reserves, the villages and the local councils where mutual confidence can start. To further this I think it is essential that we have continuity of the services and of the administration

and this was evidenced very much during some of my recent visits to the reserves where, unlike the hon. Member for the Aberdare, I did not go with song and dance, but I went quietly and visited the homes of the people. They spoke English to me, and we spoke of mutual problems, and probably they spoke more freely to me because I am the mother of a large family. There, Sir, I found in those reserves much industry and much progress. I would like to emphasize that the mischievous feeling of unrest that pervades Nairobi these days is not indicative of the mood up-country.

One complaint made to me by many of the chiefs was the frequent changes in the personnel of the *boma*, where they were so often moved as soon as they had gained some of the confidence and knowledge of people and that, Sir, is very important indeed in creating a sense of security and a respect for law and order.

To illustrate this, Sir, one of the small police stations in my constituency has since April, 1956—18 months—some nine changes of the officer in charge. Now, Sir, to add insult to injury they have got an officer there for three weeks only, pending retirement.

Sir, I would like to extend my personal congratulations to the Minister for African Affairs on his promotion and, in so doing, I would like our thanks to go also to the very able assistance that he has received from Mrs. Windley in all his work and particularly in connexion with her work for the girl guides in this Colony.

Sir, to quote from His Excellency's speech, he stated that "the encouragement of sound farming in all areas, particularly in areas of high potential, continues to be the basic aim of the Government's agricultural policy. In European areas the livestock population is still rising and more and more farms are being run on approved systems of crops and animal husbandry." The great majority of my constituents, on the advice of Government, have turned from monoculture to the very much sounder principle of mixed farming and many at great initial expense and hardship, despite the generous assistance from Government. They cannot and, indeed,

[Mrs. Hughes]

they would not turn back to the older methods. But, Sir, there are the most alarming signs and considerable unrest among the farmers caused by the inability to provide for an adequate outlet for slaughter stock. The Kenya Meat Commission is no longer able to accept all the slaughter stock offered and the situation is bound to deteriorate at an accelerated pace unless there is an energetic and immediate drive to improve the market multi-potential and ensure sales for future production over the years.

I am sorry, Sir, that I have not had the answers to the questions which I put before the Minister or possibly it would not be necessary to raise these points. But I am told of people who can no longer meet their commitments because they are unable to realize on their stock. At present there are, I understand, some 3,000 to 5,000 surplus stock in my constituency alone. Well, Sir, to the beef barons that might not seem a very big figure, but to those smaller farmers who have experienced crop failures over the last few years, this is the only method of liquidation in order to avoid bankruptcy. The problem of marketing is not only vital but it is desperately urgent.

Sir, speaking as one of a minority group of two women Members of this Council, I feel that I should deal with the status of the African women which still leaves a very great deal to be desired. Although periodically a great deal has been said about the education of African women, to take her right and proper place beside her menfolk, I believe that too much stress has been laid on the purely academic, rather than those aspects which will enable her to raise the standard of living of her family and, indeed, of the community as a whole.

Already by means of pre-natal and post-natal services a great deal has been done to ease their lot. But in the outlying districts much more must be done, within, of course, our financial limitations, to improve the general health of these women by giving them instruction in hygiene and homecraft, and ridding them of some of the superstitious fears which are, after all, largely the outcome of indifferent health and disease with

which many of them at the moment are cursed. The facilities for the cure of disease are better now than ever before, but what is wanted in the first place is the prevention of so many of their ills by raising the standard of their home environment.

There are many other ways in which the African women can be aided in the carrying out of her very great responsibilities. By admitting more women to the veterinary and agricultural schools, they can introduce better cattle management and agricultural methods and so improve their diet and the production of cash crops which would be of such value to them. And I think this is particularly important on small holdings on which the women still do most of the work. These small holdings offer, when properly run, the greatest possibilities in the extensive and economic development of the land.

Now, to perpetuate an understatement, there has been some talk of extra African representation, and if and when such seats are agreed I do hope, Sir, that a seat will be found for at least one African woman in this Council.

Any breaking down of the family unit or weakening of discipline and authority of the elders, I think must be the biggest cause of juvenile delinquency. This has been dealt with by other hon. Members in this debate, but there is one aspect, Sir, on which I would like to touch briefly and that is the problem, particularly in Nairobi, of juvenile prostitution.

Last year, I asked that consideration be given to the setting up of a home for the care of these young girls. I have, Sir, every reason to believe that we may be getting this home in the near future and if so, I hope this home will be run by people who will give these girls good medical care and attention, as well as giving them a practical training so that they can take their proper place in the community.

One last point in this connexion will be the necessity for legislation to permit these children to be committed to this home, and I hope this legislation will be brought before this Council at the very earliest opportunity.

Now, Sir, I will turn to the basic structure of the family unit—housing, and before speaking about the Central

[Mrs. Hughes]

Housing Board, I would make one comment on the joint African housing scheme as mentioned by His Excellency.

It is unfortunate that there appears to be a great deal of doubt regarding the completion of the whole scheme of 5,000 houses, which scheme would have created the basis of an African family life and contentment in Nairobi, and I hope that some assurance will be forthcoming from the Minister.

The Central Housing Board's function is not solely a financial one, that is to make loans to local authorities for African housing. The Board has powers, in consultation with their architects and town planners, to advise on the types of houses to be put up. This, is, to a very great extent, a technical one, but of late it has taken cognisance of the social and family aspect of the project. Encouragement has been given to the erection of a type of dwelling that would be available, or at least would be suitable for family units once this becomes an economic possibility.

The Board, however, deals solely with African housing and I believe that the terms of reference of this Board should be widened and its policy revised so it becomes, in effect, an advisory committee on the lines of the Central Housing Advisory Committee which is in existence in the United Kingdom.

I think such a committee should be empowered to advise the Minister for Local Government, Health and Housing on all aspects of the problem and from the viewpoint of all races of the Colony. It is indeed a constant nagging worry to all who do not own their own homes out here. The Minister's main functions would, therefore, as in the United Kingdom, be largely of a supervisory nature.

Sir, in 1949, I did produce a memorandum on this subject on behalf of the East Africa Women's League and the East African Institute of Architects, and at that time I suggested, *inter alia*, a committee on the lines that I am now advocating. This memorandum met with great response from the Press, but I must say it had a very lukewarm reception by the Government, and the then Minister for Local Government, Health and Housing virtually pooch-pooched the idea. It was suggested that the authorities

concerned were fully aware of the pressing needs and were taking all practical steps towards meeting them. All I can suggest, Sir, is that they were very short and inordinately slow steps for they do not seem to have travelled any great distance in that period of nine years.

The Advisory Housing Committee—I hope I will not bore you with details of this but I do think it is very important—this Housing Committee which I envisage should consist of eminent persons with experience of housing and representatives of the local authorities, the building societies et cetera and they need not meet very frequently possibly once a quarter only, in order to make a very real contribution towards this problem. It should, however, be given powers to set up small committees or sub-committees in the interim, or at any convenient time, to examine specific technical and social problems.

The committee I have suggested, with its members representing all facets of the problem, would have the additional advantage of expert advice on the ancillary aspects of housing—these essential amenities such as shops, community centres, schools and hospitals that must go hand-in-hand with housing if the latter is not to become mere barracking with possible deterioration into slums. And this is to be especially encouraged if the family unit is to be encouraged, for a house should be something more than merely a place of bricks and mortar in which you sleep and eat, and if the social advancement of the community is to receive its proper attention.

In short, we have a body dealing not merely with the admittedly urgent problem of housing, but also with the long-term policy of providing most economically those services which in due course make every house a home.

Sir, I mentioned the necessity for the Central Housing Committee setting up sub-committees to study specific problems. One such problem concerns the matter of building costs. A sub-committee or a working party could, with advantage, investigate all the aspects of building costs with a view to reducing the present very high cost of building. Such a working party would concern itself not merely with the cost of materials and profit margins, but with types and details

[Mrs. Hughes]

of housing and fittings with a view to making the most economic general use of available supplies. For example, in the United Kingdom, outside the London area, the Ministry of Works has submitted and enforced a set of model building by-laws. In this country, the building by-laws vary from one area to another and from one local authority to another and this is a source of considerable irritation leading to delays and also to unnecessary expense. Model by-laws, with modifications only to suit specific local conditions or characteristics, could well be adopted here and in this connection, Sir, I would like to quote from the model by-laws in the United Kingdom. It says: "The period since 1939 has seen great advances in building methods and technical knowledge. The main object of model by-laws has been to allow more freedom in the use of new materials and methods. Economy and the best possible use of materials are vital", and, Sir, I think that last sentence needs underlining. It has been suggested that to impose by-laws on a local authority is to usurp its powers and it is a highly undemocratic principle. I cannot see, Sir, that a measure designed to improve the lot of the great majority of people can be termed "undemocratic". In any event, such a series of by-laws could be agreed after consultations with the local authorities with a view to getting some sort of uniformity and simplification of the problems of administration.

Many of the existing by-laws throughout Kenya are out of date and urgently need revising. The suggested building by-laws would, of course, be designed to cover all buildings and not just housing alone.

Sir, the rents to-day of commercial buildings as well as houses constitute a burden which represents a highly disproportionate fraction of salaries. I think it is something in the nature of about 30 per cent or even more of the average salary out here as against what it should be—some 12 to 15 per cent—and of course it does contribute to the high cost of living. Sir, I would like to see this model set of building by-laws extended in principle to take in the other functions of the local authorities. I have heard a great number of complaints from the smaller municipalities and Boards that

they have not got the officers with the necessary qualifications and they cannot bear the expense of employing legal draftsmen. The advantages, if the Ministry undertook this work, would be uniformity and consolidation of all the by-laws throughout the country and the by-laws would be drafted from the experience gained by these local authorities and would far better serve the requirements of a tropical country than those on which they are at present based.

Sir, I would like to end by referring to the family unit in the widest sense of the expression as part of the body politic. It is the principal function of the family, that despite individual differences which must occur in any healthy family, and I know it only too well, Sir, the sense of loyalty and responsibility to something other than one's individual desires is the really overriding consideration in all these problems. Recently I think a great deal of political capital has been made out of the fact that many Kenya citizens are not ethnologically native to Kenya. It must be accepted that to many thousands of Asians and Europeans Kenya is home. They know and they owe allegiance to no other place. As members of this Kenya family, we may well have to go abroad from time to time in order to attain professional qualifications or higher education in technical matters. Only, Sir, to return to benefit this, our home and our family.

We are, in this Colony, developing a very young and vigorous family and as I see it, one of the functions of this Council is to air one's differences here, and then, as is most sensible, and as a result a happy family, resolve them in the best interests of the family unit as a whole.

Sir, I beg to support.

THE SPEAKER (Sir Ferdinand Cavendish-Bentick): I would draw the attention of hon. Members to Standing Order No. 50. I try to be reasonably unobservant but I would ask hon. Members to assist me by remembering that this Standing Order does exist.

MR. TYSON: Mr. Speaker, Sir, in the course of his speech, His Excellency referred to the urgent problem of juvenile delinquency. This is assuming serious and alarming proportions in the



[Mr. Tyson] urban areas—and particularly round about Nairobi, and I am not by any means satisfied that the Ministry concerned is taking the steps to remedy to some extent this growing problem.

Representations have been made to the Ministry by the Probation Committee of Nairobi, pointing out the alarming increase in the numbers of juvenile delinquents round about Nairobi.

I think one of the reasons for it, and this reason has been represented to the Ministry concerned, is the gap that there is between the school-leaving age and the age of what is called a juvenile. In this country, round about Nairobi, anyway, the bulk of African boys leave school at the age of 14. Until comparatively recently, that was the school-leaving age in Great Britain, but whereas in Britain when a boy left school at 14 he went to do a job of work of some sort either in an office or factory, here we have a restriction on the employment of juveniles who are under the age of 16.

I maintain that it is that gap between the age of 14, when these boys drift into Nairobi, as is not uncommon in any big town, that gap between the ages of 14 and 16 when they can obtain employment is the period during which this delinquency takes place.

I realize that there are, in some of these matters, international regulations, but I do submit, Sir, that whilst international regulations may be all very well in Europe, it is a very different proposition to apply those regulations in this country where the conditions are totally different.

A large number of these African boys having left school because further schooling would be of no use, come into Nairobi to obtain employment to obtain food, but because of this difficulty of their getting employment they get into mischief and they resort to petty thieving which is the reason for the alarming increase in the figures of juvenile crime, anyway, so far as Nairobi is concerned.

There is, I think, no reason so far as this country is concerned, why the age of a juvenile should not be reduced to 14 and I would ask that the representa-

tions that have been made by the Nairobi Probation Committee to the Minister concerned should receive further consideration.

I support the Motion, Sir.

5.50 p.m.

MR. HARRIS: Mr. Speaker, I do not intend, with one exception, to take up any of the particular points so far raised in this debate. The particular point was the instance we had yesterday, which sounded rather like the French Chamber of Deputies while challenges were flying across the floor—and later, Sir, I will deal with the Forest of Fontainebleau at dawn. In the meantime, Sir, there are, to my mind, three serious omissions from the Communication from the Chair.

Some months ago, Sir, the British Government issued a White Paper on Defence, and in that White Paper it was indicated that the Middle East Command Headquarters should be sited in Kenya, Aden or in Cyprus, and, Sir, it is of considerable import and interest to this country to know if a decision has been made or when a decision will be made. It is significant that only last week Sir Roy Welensky was quoted as saying he would be happier if there were a military base south of the Sahara. Whether, Sir, that expression of his was inspired or not, I do not know, but I would ask the Government to make an announcement as soon as a decision has been reached.

In the same field, Sir, we had indications, almost a year ago now, that an oil company were interested in the possibility of a refinery at Mombasa, and now, Sir, that the Minister for Commerce and Industry has returned, perhaps he might report to us whether there is any progress with that project or whether it is another of those things which, unfortunately, we shall not get.

I mention these two points, Sir, because they do have a considerable effect on the economic position in this country, and I would join with another hon. Member—I think it was the hon. Member for Aberdare—who suggested that if you have an economically stable country you are more likely to get one which is politically stable. I believe there

[Mr. Harris] is far too much emphasis on trying to get political stability when it has not got the economic mattress underneath it to make it a sure and sound foundation.

A third omission, Sir—and here the Minister for Finance usually likes to keep this one for Budget Speeches—but there was an indication that there were demands of increased pay for the Civil Service some little while ago. It would have been interesting, Sir, if His Excellency had been able to tell us what Government's reaction was to those demands. I mention it particularly because we do not want it suddenly bounced on us in the middle of a Budget Debate.

One last omission, Sir, is on the question of the recently published report of the Committee on Social Security. It would help if the Government could give an indication as to what their intentions are in regard to the recommendations of that report. It is important that the Government's intention should be known, and known quickly, because in the report there is an indication of insurance for old age, and I am informed that at present many large firms in Nairobi are holding back on schemes which they were working on, not knowing whether, in fact, it is the intention of Government to introduce an overall scheme or not. I think if some indication could be made of Government's intentions then either these schemes could be proceeded with or else they might be merged into a larger scheme.

I think it was in this debate last year, Sir, that I raised the question of the marketing of agricultural produce. Several Members have raised the same point again this year, and the reply of the Minister for Agriculture on the last occasion was to the effect that he did not intend to do the job that commerce is designed to do, nor did he intend to interfere with the normal activities of commercial firms. It is a valid argument, Sir, but I do think the Minister would be well advised to take very careful advice from people with commercial knowledge of markets. Looking back over the last few months, we have a state of affairs where the Minister is encouraging Africans to grow pineapples. It is not a very happy marketing situation there.

The next cash crop that the Africans were encouraged to plant was pyrethrum. I think if the Minister studies the stocks of extract in the country at the present time and the stocks of flowers at the present time which are unsold, he will find that the position of the future of the pyrethrum industry is anything but rosy. Therefore, Sir, before he encourages any farmers, but particularly African farmers, to produce increased crops or new crops, I would suggest that a very careful study is made of market trends for those particular crops, because I cannot believe that he would have been so enthusiastic in encouraging pineapple growing and pyrethrum growing had he been warned of what was likely to happen in those two markets.

On the same score, Sir, one of the African Members stated that Transport Licensing Board licences were being refused to vegetable growers to enable them to bring their vegetables into the market towns. I would like to support the plea that that Member made, Sir, and ask the Minister responsible either for vegetables or for transport licensing to investigate that complaint and see that it is put right, because it does seem to me, Sir, that it is very little good encouraging the growth of vegetables and then denying the grower the means of getting them from his farm to the markets.

Now, Sir, I come to the present political situation. During this debate there have been expressions all along this side of Council which seem to appear as if everybody wishes that there shall be a solution to the present problem. There have been, also, some recriminations as to whose fault is the present deadlock. I, Sir, strongly support those who would like to see a resumption of the talks and a solution of them. I feel that the present is no time for recrimination. At the same time, Sir, I think it is right that the present position should be placed squarely on the permanent record. As Members know, the Secretary of State arrived out here some weeks ago and had a week of almost continuous discussions with the various racial groups, and I think what I might describe as one and a half meetings with all groups. Before he left for Tanganyika he issued a statement which brought the situation up to

[Mr. Harris] date as he saw it. With your permission, Sir, I would like to read that statement as I think it shows how he saw the problem, having discussed the matter with all racial groups over several hours during that week. This, Sir, is the statement that he issued:—

"In order to avoid any possibility of misunderstanding of my view on this matter I think it would be helpful if I gave an outline of the views I expressed to representatives of all races at my meeting with them on 18th October.

I began by reminding them of the reasons for my visit to East Africa. The first was that the three East African Governors, the Resident in Zanzibar and the Administrator of the East Africa High Commission had been meeting together in Entebbe, and I had taken the opportunity of discussing with them matters of common interest. Secondly since I became Secretary of State I have had no opportunity to make an extended tour of the three East African territories and Zanzibar. I explained that in Uganda I had certain constitutional talks, and that I would be leaving on the following day for Tanganyika, where I proposed to do a good deal of touring. I regretted I had not been able to see more of the country in Kenya, although I had spent one very illuminating day in Fort Hall.

On the constitutional issue in Kenya I recalled what I said in the House of Commons on 1st August, and which represented my consistent line of approach. I am hoping to visit East Africa later in the year and to be available to take part at an appropriate stage in further discussions in Kenya, which will clearly be necessary.

I explained that since my arrival in Kenya I had had almost continuous discussions for six days with various people. I felt that a considerable number of the wisest people of all races wanted to reach an agreement in the interests of Kenya. It was, however, clear that suspicions existed between the communities, which frank and friendly talks could help to break down, and which must be broken down in the interests of the country as a whole. As a result of my talks I had been generally requested to meet the representatives of all groups for an exploratory talk. I had made it clear to

representatives of all races that no Minister with a sense of responsibility could take action inconsistent with undertakings given by his predecessors. I had made it plain to all whom I had met that neither I nor Her Majesty's Government were in a position to initiate changes themselves in the Kenya constitution during the currency of the 'standstill' arrangements. I explained that I did not believe that it was in Kenya's interests that constitutional uncertainty should drag on.

I expressed the hope that this exploratory talk would lead to further meetings over which, in the nature of things, I would not be able to preside, since I was leaving for Tanganyika on the following day. Nor, indeed, if I had no other responsibilities but Kenya, would it always be appropriate for me to do so, because these matters must be settled in Kenya by those who live here.

I said how anxious I was that the present talks should not break down on a procedural difficulty. The issue was far too important for that, and if it happened it would be a grave and surprising disappointment to Kenya's many friends in Great Britain and elsewhere, who would not be able to understand a breakdown on a purely procedural issue. What was important was to get to grips with the problem in a practical manner.

I said it was not my role to impose an agenda. It did not seem to me to matter greatly which subject was discussed first, but whichever was chosen must be discussed within the context of the problem as a whole. In referring to the problem as a whole I had in mind four main aspects: (1) Increased African representation in Legislative Council without corresponding increases in the representation of other groups. (2) Participation by Africans in Government. (3) The statement issued last year by all the groups in the Legislative Council. (4) That constitutional development should ensure confident acceptance by all Kenyans of responsibility for each other, with opportunities of mutual service fostered by safeguards for all races. Of course there was also the question of the duration of any agreement reached between the groups.

I explained that when, as I hoped, agreed solutions were reached, these

[Mr. Harris] matters being constitutional problems must eventually come to me. I therefore wished to make it quite clear that I could not decide any of them in isolation. This was merely a restatement of what I said in the House of Commons on 1st August.

I then suggested that the meeting should be carried a little further by choosing one of the four items I had put forward for discussion. I thought a committee might be established which would consider as its first item the question of increased African representation. The Chairman might be the Chairman of Committees in the Legislative Council, namely the Solicitor-General. If such a Committee made good progress, and it was the general wish, I would be available for a short time on my return from Tanganyika to give any further help and advice I could."

Now, Sir, that, I think, explains the attitude adopted by the Secretary of State after those discussions.

THE SPEAKER (Sir Ferdinand Cavenish-Bentineck): Was that a quotation from a newspaper?

MR. HARRIS: No. It was a copy of the statement made by the Secretary of State which I can hand to the Clerk:

*Document handed in to Clerk.*

Simultaneously with that statement by the Secretary of State, was a statement issued from Government House, which read: "A Government spokesman explained that after the statement made by the Secretary of State the African Elected Members made it clear that they were not prepared to take part in the work of the proposed committee or to discuss the other matters at issue unless they could be given an undertaking that the question of increased African representation in the Legislative Council would be decided before the other issues were discussed. As this was not acceptable to the Secretary of State he had felt reluctantly obliged to bring the meeting to a close. The Secretary of State hoped, however, that wiser counsels might yet prevail". I can also hand that statement to the Clerk.

Now, that is the position where we found ourselves last Friday, before the

Secretary of State left for Tanganyika, and I think, Sir, it makes it quite clear that the Secretary of State in any case did not see in the European attitude the cause of the breakdown in the talks. It was quite clear that he had said that the subject of constitutional changes must be dealt with within the context of the whole problem. The African Members reiterated, as they did in a statement they issued subsequently, that they considered that the question of increased African representation should be dealt with separately. They also made it clear, Sir—and I am trying to be very fair—that they were willing to discuss other subjects, but that the question of the number of additional African seats would be decided before discussion took place on the other subjects.

The Secretary of State took the attitude that the whole matter must be considered as one. The Europeans, Sir, had earlier issued a statement in which they had stated their belief also that the matter should be dealt with as one subject, and I want very briefly to give the reasons why they considered that it would be impossible to take any one of these items and make a decision on it without considering the other connected subjects and the implication that making a decision on one might have on the others.

In the first place, Sir, the Europeans issued a statement in, I think, July to the effect that they agreed that there was a case for some additional African representation. During the course of talks the Europeans made it clear that until the other matters were discussed, any figure which was mentioned must naturally be completely tentative, but they indicated that four additional seats would be the point from which they could negotiate, again bearing in mind, Sir, that any figure must be tentative. Now, Sir, the African demand has been for 15 additional seats and it is essential, before one can decide on those 15 seats, to know where the 15 gentlemen, or the 14 gentlemen and one lady suggested by the Member for Uasin Gishu, are going to sit. If it is intended that the 15 should join the present eight on this side of Council, making 23 African Members altogether, then there must be adjustment on the other side of Council otherwise there would be a Government in

[Mr. Harris] minority. We have had a Government in minority once before in this country, and we decided that we did not like it.

Now, Sir, I believe the Africans, in a statement I have seen quite recently, have said that if they get their 15 additional seats they do not mind what Government does with the other side to make up the number. But, Sir, we do. We want to know what sort of Government we are going to have and it is rather important to know what sort of Government one is going to have before one agrees to have it. If it is the intention of the Africans that some of their Members should accept His Excellency's invitation to become Ministers, and if some of them possibly cross the Floor as Parliamentary Secretaries, it makes a considerable difference to the number of seats which will be left on this side of the Council, and I would have thought, Sir, that it was quite logical, in discussing any question of additional seats, to know whether it is the intention of the Africans to participate in the Government in accordance with the present constitution.

Now, Sir, one African Member this afternoon—the hon. African Member for Nyanza Central—did not seem to realize what parity meant. He mentioned the word "parity". If 15 or five or one additional African seats are granted without compensating seats for the other races, it means that the basis of the present constitution, which is based on parity, is gone. It is very obvious, Sir, if one gives up the basis of a constitution one should know what the basis of the new constitution is and not agree to destroy the existing basis without working out what basis you are going to put in its place. I think, Sir, that the indication of the Europeans that they are willing to consider the disappearance of parity is a gesture which I should have thought might have convinced the Africans of the good will of the Europeans. It is a thing which the Europeans have stood on for a very long time but, Sir, if we are willing to make that gesture, we want to know the basis of the future constitution.

I now come, Sir, to the last thing which was tried in those talks, and that is what the Secretary of State describes as—among those matters to be discussed

was No. 3—the statement issued by all the groups of the Legislative Council. Now, Sir, I come to the Member for—in this context—the Member for Nyanza North, who questioned whether any agreement had ever been made last year on regional seats. The position, Sir, is this: that on 17th October, 1956, there was a meeting between representatives of the European Elected Members and representatives of the African Representative Members. That meeting, at which agreement was reached, was followed by a meeting at Government House. Among those present at Government House were Mr. Ohanga and Mr. Mathu. As a result of that meeting at Government House, a Press communiqué was issued which started off with the words: "Modifications to Kenya's Constitution proposed in a joint document drafted by Unofficial Members of all races has been formally welcomed and accepted by the Government". You will note, Sir, that it was drafted by Unofficial Members of all races. The Colonial Secretary, speaking in the House of Commons on 31st October, 1956—and I am quoting, Sir column 1423 of the House of Commons HANSARD—"Mrs. Castle"—some Members will remember Mrs. Castle—"Mrs. Castle asked the Secretary of State for the Colonies if he will make a statement on the proposed constitutional changes in Kenya. Mr. Lennox-Boyd: All groups in the Legislative Council have requested changes in the constitution. Because of their length, I am circulating details of these in the Official Report. The immediate changes will increase the number of Unofficials in the Council of Ministers from six to eight, by adding one African and one European Unofficial Minister; and will also increase the Legislative Council seats by four, two of which will go to new African Representative Members. Special arrangements will be made for Arab representation in the Council of Ministers. I have agreed to take steps to implement the proposed changes. I feel sure that the House will welcome these changes and the fact that they are being made at the request of representatives of all races in Kenya." Then, Sir, Mr. Grant-Ferris drew attention to a stranger reading a newspaper in the Gallery and the debate seems to have broken up in disorder.

## ADJOURNMENT

THE SPEAKER (Sir Ferdinand Cavendish-Bentinck): I would draw the attention of hon. Members to the fact that I now adopt the procedure of interrupting business sometimes a minute or so before the quarter and sometimes a minute or two after. I am sure all the Members agree that an effort to avoid interrupting the theme of a speech is a courtesy which should be afforded to any Member who may be speaking.

Council will now stand adjourned until 2.30 p.m. to-morrow, Thursday, 31st October.

*Council rose at twenty-four minutes past six o'clock.*

Thursday, 31st October, 1957

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

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

## PRAYERS

## ORAL ANSWERS TO QUESTIONS

## QUESTION NO. 31

Mrs. HUGHES asked the Minister for Internal Security and Defence:—

- (1) If Government is aware of the widespread thefts in Nairobi of non-ferrous metals which find a ready market with receivers?
- (2) Is Government aware of the extent to which juveniles are involved in this form of crime?

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

- (1) Yes.
- (2) The appropriate statistics show that adults are responsible for this form of crime in the very great majority of cases.

Mrs. HUGHES: Mr. Speaker, Sir, arising out of that answer, can the Minister tell us what steps Government are taking to trace and prosecute receivers?

THE MINISTER FOR INTERNAL SECURITY AND DEFENCE (Mr. Cusack): Mr. Speaker, Sir, the ordinary processes of detection by the police operate in this form of crime as in every other form and in addition Government intends to introduce legislation to deal with the registration of dealers in scrap metal.

Mr. SLADE: Mr. Speaker, arising out of the reply to the second question, has the Minister consulted not only statistics but also the evidence of administrative officers working in Nairobi, as to the extent in which juveniles are involved in this kind of crime?

THE MINISTER FOR INTERNAL SECURITY AND DEFENCE (Mr. Cusack): In amassing material to reply to this question, I naturally made the fullest investigations.

## QUESTION NO. 34

Mr. MBOYA asked the Minister for African Affairs what factors were taken into consideration in fixing the rents for the Makadara Meeting Hall at Sh. 50 per meeting?

THE MINISTER FOR AFRICAN AFFAIRS (Mr. Windley): The tent fixed is such that the revenue received therefrom should cover the expense of running the hall.

MR. MBOYA: Arising out of the reply, would the Minister state whether when the revenue has been recovered the tent will be lowered, or whether we shall take over the hall.

THE MINISTER FOR AFRICAN AFFAIRS (Mr. Windley): We will certainly give consideration to that point when it arises, Sir.

MR. MBOYA: Arising out of the reply, would the Minister state whether he is aware that halls built by the City Council of permanent material with better equipment only cost Sh. 5 per meeting?

THE MINISTER FOR AFRICAN AFFAIRS (Mr. Windley): I am aware of that, Sir, but I think the hon. Member will find that the City Council are considering putting up the rents for those halls, as they are certainly uneconomic as they are.

MR. ALEXANDER: Mr. Speaker, Sir, is the Minister aware that one of the halls of the City Council costs something like £120 for an evening.

THE MINISTER FOR AFRICAN AFFAIRS (Mr. Windley): I am sure the hon. Member would have that sort of information at his fingertips!

#### MOTION

##### DISCONTINUATION OF PAYMENT OF AFRICAN HOSPITAL FEES

MR. USHER (Mombasa): On a point of order, Mr. Speaker, this Motion appears to purport to reduce revenue, and I am not quite sure whether—worded as it is—it is in order. I am, of course, very reluctant to inhibit the Motion in any way.

THE MINISTER FOR LOCAL GOVERNMENT, HEALTH AND HOUSING (Mr. Havelock): On a point of order, Mr. Speaker, the wording of the Motion is "do recommend", and I suggest that it should be allowed.

THE SPEAKER (Sir Ferdinand Cavendish-Bentinck): I think I would prefer to see—it will not make much difference to the intention of the Motion—some words to the effect "asks the Government to consider the discontinuation of pay-

ment"; that, I think, would bring it more within the scope of our Standing Orders, as I gather we have not formally received His Excellency the Governor's permission. If you would move in those terms, that would cover the situation.

MR. ARAP MOI: Mr. Speaker, Sir, I beg to move: that this Council, being conscious of the inevitable hardships confronting Africans unable to pay hospital fees, ambulance fees, etc., asks the Government to consider the discontinuation of payment of such fees in future.

Mr. Speaker, Sir, I attach great importance to this Motion from my own observations that I have made ever since the introduction of hospital fees in the reserves and elsewhere. Mr. Speaker, Sir, it creates hardships and inconveniences among the African community. In most cases in the reserve an ambulance can go to a place and find that a sick man cannot sell his goat or anything that he has in order to pay fees to cover the expenses that have been incurred by having the ambulance, nor is he able to pay on the spot the fees which allow him to be admitted into the hospital. Since sickness does not give notice, it is impossible for one to have money on the spot.

Last year, it was agreed that hospital fees should be introduced in all African areas and I did say that we do not object to Government's waiving such fees in such a way that it will not create any inconvenience to the people. At the moment, the standard of living of the African community is so low that it makes it difficult on the African's part to pay such fees.

I know, Mr. Speaker, that disease is prevalent in those areas—malaria, epidemic diseases and others. At the same time, people have no sense of hygiene; they still depend very much on the native doctor who advises people often to get medicine from the reserves in the form of roots of trees and so on. At this juncture, to impose fees on the African community in this form makes it even more difficult for them to do this. It drives them away from the present position into a very awkward position.

If I may, Sir, I will give an example that can be seen in certain areas. In one of the backward areas that I have been

[Mr. arap Moi] visiting lately, I find that people depend very much on their own different forms of belief and conception. If somebody advises them that such a thing would get rid of such a disease, they can easily move to that position. Consider, for example, the people living in West Suk, where blindness is common. Many people there believe that anything that would make them better is worthwhile taking notice of. *Dinti ya Msambwa* which has taken root in West Suk; the leaders of this sect tell them that their blindness will be cured; they tell them that this particular sect or cult will make them better, and put them in a much better position. This is one way of encouraging such a thing, because they will find it more difficult to pay fees on the spot.

It does not mean that people are not able to pay anything; they are able to pay, in fact, but this system has put them in a position which makes it difficult for them to pay the fees on the spot. I have seen many cases where a patient has been taken to a hospital, and when he got there he found that he could not be admitted because he had no money to pay. Secondly, one patient was told he could not be admitted until he or his relatives could produce the money. As I have already pointed out, it is very difficult for the African community at the moment to pay fees in the present form. If Government could find a way to facilitate the present position, I would very much appreciate it.

Mr. Speaker, Sir, I need not speak further on this because I have pointed out that in many areas, in townships, in the reserves and everywhere, people are finding it difficult to pay these fees because they have not got the fees on the spot.

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

MR. MBOYA: Mr. Speaker, Sir, in seconding this Motion I would like, I think, to clarify one or two points, namely that of principle. This is not a case in which the African is asking for service for nothing. It is not a case in which we are ignoring the fact that these services are paid for, because, in fact, as my colleague has stated, we appreciate that these services have to be paid for.

In fact, there are other ways of levying the necessary revenue for these services which would reduce the inconvenience to the individual directly and at the time when he urgently needs the services. This is the basis of the Motion which has been put forward.

My colleague has explained that there have been instances where people have been sick but, because they have not had hard cash in their pockets, they have not had the necessary services. Either they have been turned away or have just themselves decided that it was not worth going to the hospital because they knew that they would have to produce the Sh. 2 or whatever it is before they received attention.

It has, I think, two immediate effects. One is the moral obligation; I think, that all of us—and in particular Government—must feel, the need to give these services to the people in all the various areas. I think the other one, which has been touched upon by my hon. colleague, is that we do want to encourage people to go to hospitals when they are sick, and particularly to go when they are not yet in a critical state of illness. It would have the tendency, if we have these fees directly paid by the patients, rather to dissuade many of these people from rushing direct to a hospital, because they have first to look for the money or they fear that they will not be well received unless they have the money.

I think this is an important question because all along we have spoken of medical services and particularly of the need to introduce further medical thinking among the Africans or medical consciousness among the Africans. Nothing, in my opinion, is doing this greater disservice than the insistence that the individual must pay these fees directly.

In Nairobi, Sir, where I think the question of the ambulances is even more concerned than in the other areas, I have the following facts: At the General Dispensary there are Government ambulances. These are restricted to taking patients from the General Dispensary to the King George VI Hospital. They may not take patients from the African locations. The service between the locations—the African estates—and the Dispensary is left in the hands of the ambulance service by the City Council. Before

[Mr. Mboya]

any African patient is taken by this ambulance service from the locations to the Dispensary he must have Sh. 10. This is a general levy. The actual position, I understand, is that he is charged Sh. 4 per-mile. This fee of Sh. 4 per-mile is much higher than the charge that he would pay for a taxi-cab within the same area and in fact the man in charge, when we were trying to gather this information, said he would strongly advise that patients should use taxis unless they had fractures.

When we inquired about this very big difference in the rate of taxi charges and ambulance charges we were told it was because the ambulances had stretchers in them. It was not necessary for the patients always to use the stretchers, but it was a general levy to cater for the stretchers whether they were used or not.

At the dispensary the African patient would be required to pay Sh. 2. He has to produce this Sh. 2 bill in order to be attended to. That is for an adult; and it is Sh. 1 for a child. When he is admitted to the King George VI Hospital he pays Sh. 10 for the first week, and if he continues after that week to stay at the hospital he pays Sh. 5.

Now, Sir, the amounts involved, to some people in this country may seem small or to some sections of the African community may seem small, but I think we have to think here of the bulk of the African population, those on the minimum wage limits, those on very low wages. I think there is a very important point here which should be borne in mind. There are already exemptions to this particular requirement. I know that when the Government replies, they are going to tell us that, in fact, a doctor may exempt a person from paying this fee and that, in fact, other exemptions exist. But that is not the general rule. In this case in particular, the exemptions already exist for certain people in certain services, in the Civil Service, for example; and I believe this is the case in the Railways and in the more established and higher paid groups. This is all the more reason for me to suggest that it is a serious situation because where exemptions exist they are actually applied to people who need them least.

It is the people on the minimum-wage level, the people with the less secure jobs, the people who are not employed by permanent and big firms, who suffer the consequences of this particular requirement.

Now, Sir, I also want to suggest that if the exemptions are as numerous and as wide as it would seem from the various services that are included in this category then, of course, the argument that we derive a lot of revenue from this particular service does not hold water because it seems that only a few little batches of people here and there are left to pay the hospital fees. All the more reason why, I think, that the Government would not suffer much in reconsidering the whole situation and, if possible, withdrawing the requirement to pay these fees.

Now, I want to deal, if I may, with this position of the doctors who are in a responsible position for waiving the fees if and when they think the case demands it. Now, we have to think of the African, in some remote African village, very far away from the hospital, whose only knowledge is that in these days before he goes to hospital he must pay some Sh. 2 and also he must pay for the ambulance. It is only in very rare cases when the man gets to the stage where he sees the doctor in person, and if it is only the doctor who has got those powers to waive the fees then, of course, his chances of ever getting there, of ever being examined so as to determine whether he should or should not pay the fees, are very remote; so remote that, in fact, in practice it never happens.

We have also, I think, got to look at this problem from the point of view of the nature of our society and the country in which we are living. We know, Sir, that more developed and better enlightened societies have seen fit to include an element of this service in their general taxation policies. In order to avoid the inconvenience that it might cause the individual at the time when he urgently needs the services. Now, Sir, we are in a society and a country where we are less developed, less conscious of these problems and yet we are suggesting that the people would have the understanding to know that they must go to the doctor for examination or that the

[Mr. Mboya]

doctors will be so enlightened and the people at the hospitals will be so enlightened as to see fit and examine very carefully the various cases that come before them.

I suggest, Sir, that the chances of this working effectively and efficiently in the practical sense in the interests of all the people affected is so small that, in my view, it would be much better to consider the whole problem as such, the problem of paying for these services, and see if no other practical and more convenient way, more efficient way, cannot be found of getting that same amount of revenue and yet making it possible and more convenient for all people to receive the services.

I think my colleague, the Member for Rift Valley, has asked "How?", and I hope the Minister will find it possible to consider his suggestion.

In my own constituency, of course, the question of payment of hospital fees and ambulance fees goes beyond just the ambulance service to the General Dispensary and those fees at the King George VI Hospital, in that we have also maternity charges which amount to between Sh. 35 and Sh. 38 per patient plus Sh. 1 per day for the meals during the time the patient is at the maternity hospital.

I want, if I may, to appeal very strongly to the Government to consider this position and, especially, to bear in mind that the hardest hit on this particular occasion is not the African on the higher wage level, but the man on the lower wage level, the man on the minimum wage level, and to him that additional expense of Sh. 2, Sh. 3 or Sh. 10 for the ambulance fee is a very big burden indeed, in addition to his other burdens. I think we should also look at it from the point of view that in fact, as my colleague has stated, there are already cases where people have been sick and where they have not been able to get the medical attention necessary because they have not had the fees. I know that we shall be told there are so many cases statistically where these fees have been waived and where exemptions have applied. But I would like us to look at it from the general aspect of how many people there may be; how many patients there may be, who have

suffered this inconvenience and who have not had the same opportunity for exemptions.

Mr. Speaker, Sir, I beg to support.

Question proposed.

2.59 p.m.

Mr. MUMI: Mr. Speaker, Sir, in supporting this Motion I would like to drive home the facts that I have seen with my own eyes in very recent times and in so doing I would like to say that let it not be said by anyone in this Council that the African Elected Members are in any way trying to discourage the system of self-help; that is, that the African Members are in any way trying to discourage the other Africans not to pay hospital fees or such fees as are levied for the benefit of the Africans and the other communities.

I would also like to say that, I know in certain districts the African district councils do levy hospital fees or medicine fees in the form of African district council cesses. I am also conscious in certain African district councils I know, more especially my own constituency, that the system of charging hospital fees at the African district council dispensaries has been tried at one time but it proved a failure because of reasons stated by the previous speakers in that the people in the African reserves, the majority of them, are not aware of the benefits which they get when they go to hospitals or dispensaries, and we are only making a beginning in trying to teach them to like going to dispensaries and to hospitals.

Now what has happened, as I said in my first words, and what I have seen with my own eyes, a certain man about a fortnight ago was brought by a taxi from the reserve being very seriously ill and was taken to hospital and admitted. But to my disappointment that man was not attended to because he had not paid the hospital fees. He was seriously ill. Then on the morrow he was asked to produce the Sh. 10 admission fee. He could not produce the fee and was discharged. I am sorry to say I do not know what happened to the man and there are many like him in the reserves who are very sick but they cannot go to hospital because they have not got their fee and probably the man I have

[Mr. Muimi]

spoken about might have gone home and spread the news that even if you go to hospital without the fee you will not be admitted neither will you be treated.

Another case, it was just a week ago when I went away for a week-end and somebody came to me with a very serious case. I myself took him to hospital, he was a Government servant, and before he was attended to the first question put to him was: "Have you a sick sheet?" That was on a Sunday! I wonder whether Government has considered that a seriously ill man would wait until Monday comes and he gets a medical sick sheet.

There are many such things which make it more difficult for the Africans to like going to hospital. I feel, and I would like to suggest to Government as the African district councils have done, that Government should do likewise, should find ways and means of decreasing the expenses on medical services not by levying hospital fees on individuals but in whatever other ways Government may think suitable.

Another point I would like to bring to the notice of the Government is that we take into account the sort of people we have to deal with in the reserves. Most people on the opposite bench know exactly the position of the people in the reserves and the pains that one has to take to try and teach anything of benefit to them and I feel that the system of imposing fees is a way of driving the Africans away from coming forward to hospital and getting the benefits which they should get rather than encouraging them to like the hospital services.

For these reasons, Sir, I feel that Government should reconsider the question of hospital fees and also the question of ambulance fees as suggested by previous speakers.

With these few points, Sir, I beg to support the Motion.

DR. WALKER (Nominated Member, Government): Mr. Speaker, I would like to clarify the statement made by the hon. Member for Nairobi Area on the system by which exemption from the payment of fees is worked.

We have tried to make it as widely known as possible that if a man is poor and cannot pay the fees he should, if

possible, go and obtain a note from the Administration or the chief or other reliable source. If he has that note he comes to the hospital and is given treatment without any question. If a person who cannot pay does not have such a note there is a rule in the hospitals that that person should be referred to the medical officer or the senior member of the medical staff present. He should in no circumstances be turned away without medical treatment. It is a big responsibility for the medical staff and the doctor to balance an overriding need for treatment against the duty to collect revenue for the department. But the medical staff and the doctor are, by the nature of their training, fully fitted, I think, to come to a proper decision in this matter.

There is a further point which was raised by the hon. Member who has just spoken in that he complained of a patient arriving at a hospital urgently ill being refused treatment because he was unable to pay his fees. Doctors know and they have been instructed by us that the urgency of a case must be paramount. Treatment must be given, proper treatment, and the question of the raising of fees can await a later time. If we adopted any other course it would be entirely against what the Medical Department sets out to do and that is to give a medical service to all who come.

I trust that the Mover and his supporters will be assured that, so far as we are concerned, this matter of raising fees to improve the resources of the Medical Department is in no way going to interfere with the prime duty of giving medical aid to those in need. For that reason, Sir, I would be unable to support the Motion because I feel that the hon. Members of the opposite side should have sufficient confidence and faith in the medical officers and our medical staff to see that the call of human need never goes unanswered.

THE MINISTER FOR LOCAL GOVERNMENT, HEALTH AND HOUSING (Mr. Havlock): Mr. Speaker, this system of fee-paying was introduced, as hon. Members have stated, in January of this year, it was only introduced in certain parts of the Colony and there are still other areas in which we are considering whether to introduce it or not. But some statistics may be of interest to hon. Members

[The Minister for Local Government, Health and Housing]

which I think will show that the fears expressed from the opposite side of the Council are not really justified.

Taking out-patients first, the general charge is Sh. 2 for an out-patient who is an adult, as the hon. Member for the Nairobi Area mentioned, in Nairobi and children Sh. 1.

The impact of the introduction in fee-paying resulted, almost immediately, in a fall in attendance of some 51 per cent in the first month in out-patients. Some six months later the number of attendances had risen and at the moment it is about 32 per cent below that pertaining before fees were charged.

There is no doubt that a number of people were attending as out-patients at the clinics, as they do elsewhere in the world, as a sort of social occasion and there is also no doubt that the doctors and hospital attendants had to waste a very great deal of their time in treating what on many occasions turned out to be rather imaginary diseases. I want to re-emphasize that that is not something that is confined only to the African community, every community has those types of people—I have been accused of being one myself.

The hon. Director of Medical Services has explained the system whereby the doctor has full right and indeed we try to ensure that he has every opportunity to waive fees for anybody who is not able to pay and the result, Sir, is that out-patients, in other words patients who have been attended to and have not paid fees, out-patients have been .6 per cent, that is all. Only .6 per cent really needed to have fees waived as out-patients.

The picture is slightly different for in-patients. When fee paying was started for in-patients there was no big drop of admissions into hospital. In the first month the drop amounted to something about 6 per cent, which is very small, but at some hospitals as from the time of the introduction of fees the number of admissions increased and, indeed, to-day there is still a very varied figure and nearly all the figures show a general steady increase in admissions is carrying on in spite of fees.

The fees that have been waived, Sir, for in-patients on the system as outlined have amounted to approximately 7 per

cent. About 7 per cent of the in-patients were treated free of charge for the reason of not having the money to pay or having a certain disease which showed that they would be unable to earn their living and thereby get the money to pay and, thirdly, of course, in the case of necessity where they were too ill to be sent back to get the money. Numbers of those cases have been waived.

The financial return, Sir, which may be of interest to the Council, again approximate figures, shows that up to date about £4,000 is being collected from out-patients' fees a month and about £2,700 from in-patients' fees a month. That is over the whole Colony. At this rate we may expect to obtain a revenue over the year of some £80,000 to £85,000. The cost of collecting the fees we have tried to keep as low as possible and we feel that over a year we will come out at the cost of approximately £10,000, which allows, therefore, the Medical Department the use of £70,000 or £75,000 for the improvement of its services which we definitely intend to do.

I do quite recognize, as hon. Members opposite have spoken, that they have not suggested that medical services should be reduced and that the fees waived; they said that the money should be found in some other manner. I quite recognize that and I thank them for supporting one of my departments in that way. However, it is not easy to know how the other money can be raised. The suggestion has been made that extra cesses might be put on by the African district councils for medical attention. Now, Sir, first of all, medical attention—hospital attention—is the responsibility of the Government throughout the Colony. Other types of medical attention, such as the provision of ambulances, maternity services and health services are the responsibility of local authorities. If any local authority feels that they would rather have an extra cess and as a result of the money collected by that cess they would then waive the fees for, say ambulances, or maternity, or any other matter that is their responsibility, then that is entirely up to them. I have no objection myself although I personally believe that in principle a small fee is a good thing. I admit that in some areas there may, if what the hon. African Members have stated (is correct), be

[The Minister for Local Government, Health and Housing] cases for refusing fees. There may be real cases of hardship in so far as the cost of ambulances is concerned. That is up to the local authority.

When one turns to hospitalization, Sir, the only way that I can see to meet the suggestions of the hon. African Members that the necessary revenue should accrue to the Medical Department without inconvenience and possible risk of hardship to the individual patient is a hospital cess on all taxpayers, with, presumably, hypothecated revenue for the medical services; because it might well be that the hon. Minister for Finance would welcome the suggestion of putting up African poll tax, as an example, by Sh. 2 in order to cover the £70,000 or £80,000 which I would require, but I would be very surprised if the hon. Minister, Sir, would be prepared to guarantee that I would get that Sh. 2. In other words, Sir, the hypothecation of such revenue I know is not a principle which the Government is prepared to follow.

Now, Sir, turning to one or two remarks made by the hon. African Members, I have mentioned the ambulances, and I do suggest to the hon. Member for the Nairobi Area that if he has a complaint about ambulance fees he should address his complaint to the City Council in the first place, although of course as Minister for Local Government I am always happy to help with any relationships between the public and local authorities.

There are, of course, a number of areas in this Colony where fees are not charged, and when the hon. Member for the Rift Valley Province states that there are areas where there are very considerable hardships in collecting fees I would like to know what areas he has in mind; because there are, for instance, the following hospitals where fees are not charged, mostly because we feel that they are the districts which as districts may not be able to afford to pay for them. That is the Northern Frontier Province, Kipini, Kapenguria, Maralal and Mwamba. Ortom, which is a Roman Catholic hospital in the West Suk District, also does not charge fees, as I understand it, and is supported by grant from Government. I would be quite happy to discuss

any black spot in this regard with the hon. Member for the Rift Valley Province, or any other Members, if they would like to bring it to my notice. When we first brought in fees, Sir, we made it quite plain that the Government were not considering creating hardships either on the individual or on any particularly poverty-stricken area, and that still stands.

Now, Sir, a few figures might be of interest to hon. Members, of what it actually does cost to provide a hospital service for the African community, or a basic hospital service. I would remind you, Sir, that the fees, as has been stated, is Sh. 10 to stay for as long as anybody likes, or rather as long as he is sick (which might run into months and often does), at any hospital other than our super-hospitals—that is, King George VI and the Mombasa Hospital, where the fees are Sh. 15 for as long as the patient is in hospital.

Now, it is reckoned, and these are the estimates' figures, that it costs the Government an average of Sh. 15 per day to keep a patient in our Government hospitals; and we ask from the patient—the most we ask—Sh. 15 for one day, and any other days which he stays in he does not have to pay for. The average stay, Sir, it is reckoned of every patient in our hospitals is ten days. (These are average figures.) Therefore, each patient costs the Government approximately Sh. 150 for an average ten-day stay at Sh. 15 per day. The top figure that we charge any patient is Sh. 15—most of them are charged ten. I do not think that we can be accused, Sir, of trying to squeeze too much money out of any patient according to what it does actually cost us. In other words, the basic hospital service of this country is still very heavily subsidized—and so it should be, and so it will continue to be.

I am afraid, Sir, that I cannot accept the Motion as it stands, and I would say to hon. Members that I am certainly prepared to consider any specific instances of hardship, any area hardships that they can bring to my notice, and also to help in any way that I can where they feel that hardships can be proved in local authority areas.

Sir, I beg to oppose.

MR. MATE: Mr. Speaker, Sir, I feel that the Minister's last remarks about the Motion were "beside the point." The quarrel is not on what the Government does with the overall services of the Medical Department to the people, but rather it is on the individual man or woman who is poor and goes to the hospital and cannot know when he is going to be ill to go and find out from somebody if he can be exempted; but finds that he is ill, and he has no money and has to go to hospital. He is the man on whom the burden falls because he is sick, and when he goes to hospital he has no money and may have to be turned out.

The question of assessing the poverty of a man is a very difficult one because many people cannot go round to chiefs or other people saying, "I am very poor. May I be exempted?" because some people are poor and they never get sick. Others are poor and they become sick, and this is the difficulty. It is more the waste in human material which may result, as a result of lack of attention because a man has no money. That is the worry. A man may be ill and he dies because he has no money.

The other aspect of it is that the relationships between the staff of the hospitals and the people themselves may not be what one might wish to see. In some hospitals—and I know some of them—one finds that the staff themselves are not sufficient enough. They may be overcrowded with work; they may be in a hurry to get a lot of work done, and thereby they dismiss a lot of people rather quickly.

There is another very important thing. A man who is sick usually requires the help of other people, and when he has no money then it is very easy for him to be told, "Go and get some money." So I wish the Minister would assure us that all the staff in all the hospitals will admit everybody who is sick irrespective of whether he has the money or not and then, perhaps later on, go and see if the man can pay after that. I know examples in mission hospitals who do admit people into their hospitals whether they have the money or not. Usually these mission hospitals get involved in a lot of debts to individuals, and they try to get their money through the chief; per-

haps, or some Government people, and usually they do not get their money. The missions, of course, give it free and this hardship is a very real one and a general one, and if Government are prepared to let the poor people have the treatment and then later on see if they can pay, that would be quite all right. But the question of hardship is there among these ordinary people who themselves cannot sometimes know whether they are going to be sick and they go without help. So I do feel, Sir, that there is a very strong reason here why the Minister should reconsider the position and the hardship and the resulting debts on some of the individuals who cannot get the money.

Sir, I beg to support.

THE MINISTER FOR LOCAL GOVERNMENT, HEALTH AND HOUSING (Mr. Havelock): Sir, the hon. Member made a remark which I think he should substantiate. I think he said that the missions give hospital treatment free. If he can substantiate that, he should do so.

MR. MATE: I said, "Some mission hospitals charge fees" but they admit some people who cannot pay and they try to get the chiefs, later on, to help them; and usually they are not paid."

MR. CROSSKILL: Mr. Speaker, the hon. Minister has used tactics so often used by Government by submerging the issue in a welter of statistics.

I think this Motion has great sympathy, not only on this side of Council, but on the other. We cannot, of course, tolerate a situation in which sick people are unable, through the lack of a few shillings, to get medical attention. I cannot, however, agree with the idealism expressed by the hon. Director of Medical Services in having hope, faith and confidence in the charity of the medical services. Facts speak louder than words, Mr. Speaker, and facts have been given to us by the hon. Member for the Nairobi Area in which he has shown that, in certain cases, Africans cannot get access to the medical officer in question in order to get exemption. Now, we know that happens and let us face the facts, Mr. Speaker.

Time and time again, it is quite impossible for an African person to get access to a medical officer and he is

[Mr. Crosskill]

turned away by an African dresser before he is able either to be accepted or get exemption.

Now, Sir, the ideal solution, I suggest, would be to increase the personal tax by Sh. 5 so that we can all have free medical attention. Unfortunately, that solution might not be acceptable to the hon. Minister for Finance. Therefore, I think we have to look somewhere else and, at the same time, see that citizens realize that these services cost money. They must appreciate that the service must be paid for. Therefore, I do suggest, Sir, that the Minister might consider recommending to African district councils that they should increase the contributions paid to them and that African district councils should then purchase coupons which they could issue to Africans before they go to hospitals. I think that would be an eminently suitable answer to the question, Mr. Speaker.

I beg to support.

3.29 p.m.

MR. MULIRO: Mr. Speaker, we are quite shocked with the attitude of both the Director of Medical Services and the Minister for Local Government, Health and Housing. They seem to be dismissing the problems so easily—as the Member who has just sat down said—according to statistics. But statistics do not say anything more than mere numbers do. They do not tell you any facts at all. Statistics are mere statistics and are no more than that.

The main problem before us now in Kenya is to fight against the ignorance of the mass of Africans to educate them that medical attention is very, very important. In many parts of Kenya up to now people have not yet realized the value of the Medical Department, and medical services, as such. Therefore, in order to clear this ignorance the Government should leave the Africans free to go to hospitals as they have been going without these hardships at all. I am very pleased that there are some very backward districts now being left out, but that is not all; and the Minister should not say to himself that those districts at present which are down for paying are actually having everybody in that district

medically conscious. You have districts in Nyanza Province, but not all people in the Nyanza Province or the Central Province are actually medically minded or educated for medical services. So to wipe out that ignorance—medical fees should be waived.

The Member for the Nairobi Area mentioned the problems concerning ambulances, which I know are very difficult. I know that in the countryside it is much worse than that. In a place like Nairobi or Mombasa you can go to the telephone and ring the taxi to come along and pick up the patient. But in the countryside where you find only one ambulance for two or three locations; one cannot go to hospital without going to the dispensary and saying, "Look! I want the ambulance to come and pick up my patient!". You have to deposit five or 10 shillings down before the ambulance can go out. Now, that, to a dying person, is very, very difficult. I know of a case where someone's child died during the recess of Legislative Council simply because this man went to the hospital assistant in the place and asked for the ambulance while he had no money. The hospital assistant said, "Look, it is the order from the medical officer in charge at the hospital that I must collect the fees before I can come to pick up the patient". Therefore, when this man was running about to get hold of someone to borrow some money from, the child died in the meantime. That child probably would have been saved if the hospital assistant had taken immediate action to go and pick up the child.

Another problem which the Minister for Local Government, Health and Housing and the Director of Medical Services should consider is that I have during my talks, definitely told them "Supposing we could raise the taxes by so much, would you agree to that so that you do not pay these extra taxes during the course of the year in the form of hospital fees". Many of these people whom I have talked to, particularly my own constituents, are very willing to do that. They say that if it could be explained to them that paying an extra two shillings or so would allow them to have free medical attention for themselves and their children throughout the year, it is much better than one paying perhaps Sh. 100 during the course of the year,

[Mr. Muliro]

because you are never sure whether you are going to fall sick during the course of the year. Furthermore, I have just received a telegram that my brother is seriously sick in hospital; I am not prepared for that bill at all.

I think, Mr. Speaker, that it would be very beneficial if the Government would consider that point; so that even if the Africans can pay some money—and this money should be known especially as hospital fees—it should not go to the hon. Minister for Finance, knowing very well that he is going to use it for some other development scheme. But it should go definitely for health services. I can say that this would be fully welcomed by us as African Members.

Another point which should also be considered is the question of public health. One finds that these people who have not got the money sometimes get infectious diseases like venereal disease and other allied diseases like that. Now, these persons, simply because they have not got the money, will not go to hospital. Hence they are a danger to the community at large; they will spread these diseases everywhere; and I think that is the most serious part of these hospital fees. That is a point which the Director of Medical Services and the Minister of Health should consider very, very seriously. We do not want people to ruin the whole population by bad practices simply because they have not got the money. Such people should be forced to go to the hospitals for free medical attention so that they are disease-free and healthy among others.

With these points, Mr. Speaker, I beg to support the Motion.

MR. SLADE: Mr. Speaker, I firmly support for all races, the principle of payment of some fee for medical and hospital services by the patient. Some of my hon. friends have made the point that there are at present many Africans who do not value these services supplied by the Government sufficiently to think that they are worth paying for. But there is another side to that. Not only Africans, but people of all races are apt not to value very much what they do not have to pay for. I can think of cases I have heard of where patients are required to undergo a course of injec-

tions have been given free the patient only takes the first and does not bother to turn up for the rest; but where a patient pays fees for the whole course, he makes sure he sees the whole course through. If I am wrong in that, and if it be the case that a little payment for these services does not make people value them, well then, you get the converse—that they value them so much because they do not have to pay for them that there is great danger of their being abused. It is very attractive indeed to have several days in hospital without paying for them, when it would cost you quite a lot in an hotel. You must have it one way or the other.

Nevertheless, Mr. Speaker, there are two important qualifications here. One is that the normal fee for whatever service is under consideration must be within the reasonable means of people in their ordinary course of employment. They must not be such that they are the privilege of a rich man. Now, from what I have heard and know, I believe that the present charges for Africans are reasonable, and I would like Government to make quite sure that they always are within the means of the ordinary employed worker.

The other qualification is still more important, and that is the application of the principle expressed by the Director of Medical Services. He put it very clearly, Sir, and if effect was always given to what he said was the policy of the Medical Department, I do not think there could be any complaint about the position to-day. But it is vitally important that beyond that being the policy of the Medical Department, it is strictly applied; and we have heard quite a lot of evidence from hon. Members that it is not being applied. I support the hon. Member for Mau in saying, and I fear also, that some medical officers, in outlying places particularly, perhaps do not realize their responsibilities in this matter, and what they are expected to do with regard to patients who cannot pay, or with regard to patients as to whom there is some doubt. They do not seem to understand in all cases what the Director of Medical Services called "the paramount need of treating the urgent case".

The Minister quoted figures of the Nairobi Dispensary, I think, of 6 per cent



[Mr. Slade] exempted from fees. He quoted that as evidence of the small number of people who needed exemption. But it could be evidence of something else; namely the number of people who do not receive proper consideration, when they need exemption. I do not think, as my hon. friend from Nyanza North said, that statistics always prove what we would like them to prove.

Sir, for those reasons I do not support this Motion but I do ask Government to take very seriously this question of whether the policy of treatment first and payment afterwards is being, in practice, fully applied.

MR. NAZARETH (Western Electoral Area): Mr. Speaker, I feel that the seconder of the Motion has made out a case for the Motion which has not been adequately answered by the Government. The objection to a system under which fees are to be paid in advance are not removed by a power to grant exemptions. There appear to have been cases where persons have been actually turned away when they needed medical attention. If that is so then I think that a sufficient case has been made out for a Motion which tries to prevent a situation arising where a person is urgently in need of aid and is denied that aid.

In the case of ambulances I appreciate that that matter is outside the power of the Government because it has got to be dealt with by the local authorities. But even there Government could use its good offices to dissuade local authorities from imposing fees to be paid where a person urgently requires an ambulance and may as a result of not obtaining an ambulance be denied medical aid in time. In matters of this sort one feels that fees ought not to be made a primary consideration; and it undoubtedly is the case that in the past a certain number of cases have been denied attention. If that has happened in the past then a mere instruction given to medical officers to observe the policy of Government more carefully in the future will sooner or later again receive the same laxity in observance that it might have received in the past. Sooner or later the same situation is bound to recur. Therefore, some other system must be found of

obtaining that amount of money required which Government, now obtains—if Government considers it is necessary to obtain that amount. Apparently it comes to about £80,000, which is not a very considerable figure considering the very large amount that is spent on medical aid. I am sure the Government could find some means to obtain that amount of money rather than apply a principle which must deny the claims of humanity to even a small number of persons who may urgently need help.

For these reasons, Sir, I would support the Motion.

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): Mr. Speaker, on behalf of my hon. friend, the Minister for Local Government, Health and Housing, I would open by saying that all the remarks which have been made in this debate will be taken note of and circulated to medical officers who are in charge of hospitals.

I would also on his behalf, too, say that if the evidence of any particular case is brought to his notice he will take the matter up and have it investigated. But, Sir, when that is said and done I think we must come down, as the hon. Member for Aberdare has said, to a little reality in the case of what we are being asked to do.

First of all, Sir, let us clear right out of the way the fact of the case raised by the hon. Member for Nyanza North who spoke about the man who could not get an ambulance to take him to hospital. That is, of course, a matter within the competence of the African district council, and if the African district council wishes to reduce its fee and make up any loss from other sources of revenue I am sure they will find no opposition from my hon. friend, the Minister for Local Government, Health and Housing. I suggest to my hon. friend that they take these matters up with the local authorities as, indeed, after this debate, will my hon. friend, the Minister for Local Government, Health and Housing. But whether they be African district councils, municipalities or central governments, if services have to be provided, they will have to find the money from the people one way or the other.

Mr. MBOVA: The other way.

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): Now, Sir, we will come to the question of the other way. The other way may, of course, be that the African district council will be prepared to impose an extra cess upon its people and use that cess for the amelioration of medical, ambulance or hospital fees within its area. But that is in the competence of the local government authority. It is not within the competence of the Central Government and I am sure there is not one hon. Member who would suggest that the Central Government should impose such action upon an African district council or indeed upon any other local government authority. If I understood the arguments of the hon. Member for Nyanza North correctly, he was, indeed, pleading for a free medical service on the understanding that something like Sh. 2 a year was to be paid extra in taxation. Well, it may interest him to know that my hon. friend has been very interested in what it would cost to run a national health service in this country, and the figure is something like £40,000,000, which would indeed double our present Budget. The hon. Member has only to look at the present level of taxation to realize what that would indeed mean only from a health point of view. That would not meet the hon. Member's demands for education and all the other things which he is pressing for, and I shall be delighted in a debate in the future to note their willingness to pay provided they receive services.

The amazing thing, of course, is that all the hospitals are full. I think that is a correct statement, and, indeed, full to overflowing. Now, Sir, we all have sympathy with individual cases. Whatever hon. Members opposite may say, I know (and I happened once to occupy the position that my hon. friend, the Minister for Health, is in now) that the Medical Department is fully conscious of its duty to the people. You may find individual exceptions and we have said that if you will call those individual exceptions to the attention of the department concerned, and to the attention of the Minister, they will be gone into. But we cannot, Sir, for one moment contemplate in this country a system whereby services of this kind are in general rendered free, and through central taxation. The burden would be an impossible one for the

economy of the country to bear. If we are to find a system, it must be a system which in some shape or form makes the recipient conscious of the service he receives.

Even under present circumstances, the services we are talking about are subsidized to the tune of 90 per cent by the central taxpayer, and my hon. friend, the Member for Nairobi Area, spoke about this element having been introduced into civilized structures. I think we must be well aware that that figure of subsidization for medical services compares very favourably—or unfavourably, according to the point of view—with any civilized place. It is a fairly heavy burden for the central taxpayer to bear.

So, Sir, the real reasons why Government cannot accept this Motion are pretty clear. In the first place, it calls for a reduction to be considered in certain things like ambulance fees which are outside the competence of Government. In the second place, it calls for the discontinuation of fees generally because of certain individual hardships. If the system whereby we do not call upon individuals to pay in cases of hardships is imperfect, then no one is more willing than the Government to look at that imperfection and see what it can do to remedy it. But I must say absolutely bluntly from the Government's point of view that at this stage of our economy, we cannot accept the principle of a free medical service without having some portion of fee element which will make the recipient of that service conscious of its cost and of the fact that it is a burden upon the taxpayers—a burden which the taxpayer is only too willing to meet, but in which the taxpayer's capacity is limited because of the general calls made upon the taxpayers. Sir, I oppose.

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

MR. ARAP MOI: Mr. Speaker, Sir, I was astonished to see that the Members opposite could not support this Motion. They have been misled in that they think my intention in moving this Motion was that the African community—the African be or she—can shirk his or her responsibilities in not contributing towards any medical facilities. Many

[Mr. arap Moi] people have been taken with the idea that the African Elected Members are asking for free medical services. That is not the case. We have tried, my colleagues and I, and the Secorder of this Motion did make things clear. Such things cannot be overlooked. The death roll is rising up. I must emphasize this. If the Minister for Local Government, Health and Housing and the hon. Director of Medical Services take it for granted that things are moving pretty well, I, for one, doubt such thinking. At the moment, they say that we must have sufficient confidence in the medical services provided in the reserves. The Director of Medical Services said, in fact, that the doctors in any area can contact a district commissioner or a chief or the headman. A sick person cannot wait for letters from the district commissioner. They cannot wait for letters from the chiefs, the exchange of letters or correspondence which are involved in the whole matter. At the same time, the medical officer is deprived of his duty, to discharge his duties. Instead, he is expected to deal with money, the accounting system which the Minister for Finance is interested in. His ideas cannot convince me that the £80,000 cannot be found if every African taxpayer is levied let us say Sh. 2 or Sh. 3—how much could be found? You know the number of taxpayers in this country, and you are afraid of your £80,000. I do not think that is really.

If, then, the Government insists on its policy of castigating ignorance and disease, I do not think the Medical Department will get anywhere. Furthermore, the Minister for Local Government, Health and Housing said that the cost of every patient in a hospital is Sh. 15. Well, that is the responsibility of the State; that is very irrelevant, and has nothing to do with what I have said.

My colleagues and others did make clear the difficulties that are involved in this situation and they did not, in any circumstances, want to avoid their responsibilities and the responsibilities of all the African community. I must make it clear also, now, that the African is prepared to pay anything for the education of his child and the medical services. Others, you doubt it; but these two services are very important to the African

people. If you do not agree, you will find that the state of affairs of the health services in the African reserves is becoming disgraceful.

Further, Sir, in England, you find certain taxes are fixed, and all the people are given free services. Why could not such a system be adopted in Kenya so that people can go to hospital without being asked to pay fees in advance? The Member for Western Area did make it clear that it is difficult to pay money in advance before being attended to.

Mr. Speaker, Sir, I think before I conclude in this debate I will ask for a free vote, and see how many people really have sympathy on this Motion.

Many people minimized the importance which I stated before; I, myself, attach a great deal to it. It is not a question of not wanting to pay anything towards medical services. It is the difficulty—

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): The hon. Member for the Rift Valley has spoken as if there has been a suggestion from this side that the African did not want to pay for service. No such suggestion was made. The reference was, Sir—with all due respect—to the general taxpayer; and I did suggest that perhaps the African district councils should be brought into it.

MR. ARAP MOI: Thank you very much. I must make it clear in this; and I think he did help me in giving me another idea.

The Member for Nairobi Area did state that the man who is most hit is the ordinary man who has nothing—the man who is in the lower wage group. Yet all employees of the African district councils and all civil servants are exempted; why then should such fees be imposed on these ordinary men, so as not to encourage them not to attend such services? I raise this question, because it drives Africans away from attending and being induced to attend the present medical facilities provided. I hope, therefore, they are aware of the fact that Africans are finding it very difficult; and I hope they will take that into consideration; and I do not think guarantees that the Minister for Local Government has given can be taken as such. You will find that in the reserve medical officers

[Mr. arap Moi] are very rare; there are only a few of them in number. There are hospital assistants and dressers. Dressers find it difficult to take action in the absence of the medical officers.

Therefore, I ask Government to reconsider, and Mr. Speaker, I hope a division will be taken. I beg to move, and I request Government to allow a free vote.

The question was put and negatived.

4.02 p.m.

MR. HARRIS: Mr. Speaker, on a point of order, I think the African Members were asking for a division but were not sure how to do it—I am not sure.

THE SPEAKER (Sir Ferdinand Cavenish-Bentick): Members shall acquaint themselves with Standing Orders. On this occasion I am afraid that I must give a ruling that in my opinion, a division is unnecessary because I think the outcome of such a division is obvious. The hon. Members concerned have, however, a remedy in their own hands to my ruling which is that six of them stand under our new Standing Orders—and I must call for a division.

Having had this trial run, I hope that hon. Members in future, if they really want a division, will get up immediately, and say so, because this really does waste a great deal of time.

I now want the names given to the Clerk of two tellers from each side of the Council and the Clerk will show them to me. The lobbies are the eyes to the right, and the noses to the left. Mr. Waweru and Mr. Crosskill will be tellers for the eyes on the right; and Mr. Mboya and Sir Eboe Piribhai will be tellers for the noses on the left.

#### DIVISION

The question was put and Council divided.

The question was negatived by 31 votes to 9.

AYES: Messrs. Crosskill, Mate, Mboya, arap Moi, Mumi, Muliro, Nazareth, Odinga, Oguda. Tellers for the eyes: Mr. Waweru and Mr. Crosskill.

NOES: Messrs. Alexander, Blundell, Blunt, Conroy, Coultis, Cowie, Cusack, Lt.-Col. Gherrie, Mr. Griffith-Jones, Captain Hamley, Messrs. Harris, Have-

lock, Hope-Jones, Mrs. Hughes, Messrs. Johnston, Mackenzie, Lt.-Col. Bruce McKenzie, Messrs. Madan, Maxwell, Nzioka, Sir Eboe Piribhai, Messrs. Robinson, Sagoo, Mrs. Shaw, Messrs. Slade, Swynnerton, Tyson, Vasey, Wadley, Walker, Windley. Tellers for the noses: Mr. Mboya and Sir Eboe Piribhai.

#### MOTION

DESIRABILITY OF WIDENING THE RANGE OF INVESTMENTS AUTHORIZED BY THE TRUSTEE ORDINANCE

4.16 p.m.

MR. SLADE: Mr. Speaker, Sir, I beg to move:—

THAT the Law Reform Committee be requested to consider the desirability of widening the range of investments now authorized by the Trustee Ordinance for investment of Trust Funds.

With your permission, Sir, I have amended this Motion from the terms of my original notice, by deleting any reference to the Law Reform Committee being required to report back to this Council. The reason for that amendment is that I am advised by the Minister for Legal Affairs that it is not the proper function of the Law Reform Committee to make a formal report to this Council, or indeed to anyone else other than Government. That being so, and still being of the opinion that the Law Reform Committee is the right body to consider this matter in the first place, I am content to delete that requirement.

Nevertheless, Sir, I still maintain that it is very desirable that this matter comes back to this Council before any final decision is made, after the Law Reform Committee have considered it and, therefore, I am making this amendment on the understanding that the Minister will in due course bring a Motion before this Council, whichever way the Law Reform Committee recommends. That is, either a Motion for some kind of amendment of the law as it stands, or a Motion to the effect that no amendment is required.

Mr. Speaker, Sir, as appears from the terms of the Motion, I am asking for investigation only at this stage. Therefore, it is not a case of convincing the Council to-day that there is any need for amendment of the law. Nevertheless,

[Mr. Slade] to justify this Motion, I must make out a *prima facie* case for the need of amendment. Indeed I want to go a little further than that, and make out a substantial case for consideration by the Law Reform Committee; so that they may understand as fully as possible, from what I and other speakers on this Motion may have to say, the strength of the case for amendment.

Sir, the law to which this Motion refers is contained in section 4 of our Trustee Ordinance which provides as follows:—

"4. A trustee may invest any trust funds in his hands, whether at the time in a state of investment or not, in the manner following, that is to say—

- (a) in any securities in which trustees in England are for the time being authorized by the law of England to invest trust funds;
- (b) in any securities the interest on which is for the time being guaranteed by the Imperial Parliament or by the Government of the Colony, or in any public debentures issued under the authority of and guaranteed by any Ordinance;
- (c) on the purchase of immovable property in the Colony held for an estate in fee simple or for a term of years;"

(with certain qualifications with which I need not trouble the Council)

"(d) in any security given by any municipal council or municipal board established under the provisions of the Municipalities Ordinance, 1928, which the Governor in Council has, by notice in the *Gazette*, declared to be a trustee security for the purposes of this Ordinance."

I should add, Sir, that those provisions apply only in so far as the terms of a trust do not expressly provide to the contrary, either by enlarging the authorized range of investments or by narrowing it.

The most important part of those four categories of authorized investments is that contained in paragraph (a), which relates the power of investment here to securities authorized by the law of England. Sir, I will not weary the Council with a list of those securities which

are authorized by the law of England, but broadly they are what are termed "gilt-edged securities".

Before moving on to discuss the merits of the provision, as it now stands, I would just like to point out, Mr. Speaker, that this Ordinance itself dates from 1929, so it is nearly 30 years old. It reproduces almost word for word the English Trustee Act of 1925, which in turn followed, I think, in this respect without serious modification, the Trustee Act of 1893. I am not quite sure whether the Trustee Act of 1893 was the first express provision of this kind; but the law has remained clear and unaltered for some 65 years.

Sir, these provisions are undoubtedly designed for two purposes; but mainly for the protection of the capital of a trust fund. It is not the purpose of the ordinary trust, or this law, that trustees should use a trust fund in such a way as to increase its value to any vast extent, as much as to make sure that they do not let it evaporate while in their hands. That is the first essential consideration in the investment of trust funds.

There is a secondary consideration which is to provide some kind of reasonable return to a life tenant, but that consideration is quite definitely secondary to the first—the preservation of capital.

Now, Mr. Speaker, the reason for this Motion arises from the question whether that purpose of preserving the capital of trust funds—is really being achieved to-day, in the circumstances of to-day, by such a limited provision as we have now in our Ordinance. I would ask hon. Members to bear in mind that the archetype of this law was designed for circumstances and times when gilt-edged securities really were gilt-edged, when there was little or no risk of depreciation through inflation or through fluctuating rates of interest. That was certainly so in the 'nineties, and it was still so, I think, in the 'twenties of this century. But it is not so to-day.

We are limited, in default of expressed conditions to the contrary, to the investment of trust funds in so-called gilt-edged securities, that is war loans, government stocks, municipal stocks and other fixed interest securities. It will not take long to satisfy hon. Members that

[Mr. Slade] such securities are far from being secure. I need only quote one or two outstanding examples of depreciation in such securities over the past three years. 34 per cent War Bonds in the United Kingdom stood on the market in October, 1954, just three years ago, at 90. They stood last month at 63. They have depreciated by nearly a third over three years. 34 per cent Tanganyika Stock 1973 stood three years ago at 95½, last month at 72½. 34 per cent Uganda 1956-69 stood three years ago at 97½, nearly par—last month at 77. Our own 34 per cent Kenya Stock 1973-78 stood at 94 three years ago. Last month it stood at 69½. And our City Council Stock of Nairobi, 44 per cent—quite a high rate of interest—stood at 98½ three years ago and 84 last month.

Mr. Speaker, trustees, who by the terms of this Ordinance were limited to the investments described by section 4, and who invested their trust funds three years ago, in 1954, could only invest in those kind of securities I have just described, unless they were prepared to take the rather doubtful alternative of investing in land, which is a particular exception allowed by the law of this country. If they did invest in any of those securities three years ago, how do their trust funds stand to-day? Depreciated in most cases by nearly 33 per cent.

Well, Sir, one must ask, "Why is that so?" and I hope that, if I am wrong, my hon. friends who are accountants will correct me—they are more learned in such matters. But it seems to me that the main reason for this is fluctuating rates of interest. During this same period of three years on thereabouts, current rates of interest have moved from 4 per cent per annum to 8 per cent per annum, or thereabouts. Now, if you double current rates of interests, it must be inevitable that you halve the current market value of the securities concerned, if the securities are fixed interest securities. But, as I pointed out, Sir, all investments now authorized by law, other than land, are fixed interest securities. That, Sir, is the first trouble. It is the fluctuating rates of interest that we have to face to-day.

But, Mr. Speaker, there is a second and more insidious trouble which does not

appear quite so clearly on the surface, because it is not related to nominal values. It is the effect of inflation. Even if money which trustees invested ten years ago comes out again, when realized to-day at par, and thereby preserves its nominal value, still its actual, its purchasing value has become over those ten years by reason of inflation well below par. I do not think I need elaborate on that, Sir, because we all know what inflation has done to us in the purchasing power of the pound or the shilling, and in the cost of living in this country. Surely, Sir, it must be the duty of the trustee as far as possible not merely to preserve the nominal value of his trust fund, but to preserve its actual value.

Well, then, Mr. Speaker, the question is, how to achieve protection of trust funds against inflation, and against fluctuating rates of interest. And, in my submission, the only answer is to do as any sane investor does with his own money, that is, invest part in equities, in ordinary stocks and shares, in stocks and shares which carry with them a share of the value and tangible assets of profit-earning concerns, because it is those things alone which remain unaffected by inflation, those things alone which remain unaffected by fluctuating rates of interest.

When I advocate following the practice of ordinary investors, I am not only referring to the private investor, I am referring also to the present practice of some of the more public concerns, such as insurance companies, which, if anyone should know what is the best and safest form of investment, which should, if anyone, have the greatest sense of responsibility for shareholders and policy holders. It is a fact, Mr. Speaker, that insurance companies to-day, the world over, are moving more and more to investment of their surplus funds in equities as opposed to so-called gilt-edged securities.

Now, Sir, I have pointed out that this Ordinance only applies where the terms of the trust do not authorize a wider range, and I say without much fear of contradiction that nearly all expressed trusts nowadays, where good advice has been sought and given, do authorize a wider range of investment than that provided by this law. But the fact that good advice is available to the man who wants

[Mr. Slade] to create and trust—and good advice will probably put him outside the terms of this law—is not the whole answer; because the Ordinance still applies where the creator of a trust has not given the matter sufficient thought—where there has been careless drafting of the trust deed, and of course it also applies to the many kinds of trusts which arise by mere operation of law, such as a trust arising from intestacy.

Still, we are bound then, by the terms of this Ordinance, however much the person concerned, in creating the trust, might, if he had been asked, have said, "Those restrictions are the very last that I require".

Now, Mr. Speaker, I am not altogether original in raising this issue. The Law Society of England has already appreciated the trouble and sought an amendment of the law in England. Likewise, there has been a Parliamentary Committee at Westminster to deal with the law relating to charitable trusts, which made recommendations for widening the range of investments authorized for such trusts.

Now, in 1955 there was a question put in the House of Commons to the Chancellor of the Exchequer as to Government's intention in these matters, and he gave a fairly full answer, indicating that at the present time the British Government was not prepared to amend the law. The reasons he gave can, I think, be summarized as follows.

First of all, he said that there is a great risk if you give trustees a wider discretion. You may indeed be enabling them to do more for the trust in certain circumstances, but you are also widening the scope of possible loss through injudicious investment.

Then he said that there is a difficulty about authorizing specific investments outside the present range of gilt-edged securities, because there may be some implication that Government is guaranteeing the reliability of those investments, and that is a thing which Government cannot afford to do.

Then he said that the main object, after all, of any trust is to ensure the safety of the trust fund, rather than to offer the trustees opportunities for the exercise of their skill in the selection or manipulation of investments.

Then he said: "You have got to balance the interests of life tenants against remaindermen, and that is best achieved by the present limitation to gilt-edged securities".

Then he said: "And after all what you are trying to do when you provide by law for something in default of express provision is to give effect, as nearly as may be, to what you think would have been the intention of the settlor or the other creator of the trust, if he had been asked his intention".

Now, Mr. Speaker, all those arguments were splendid arguments 60 or 70 years ago, but very few of them bear careful consideration to-day. Let me deal with the first, the risk that comes from enlarging the range of securities; I would suggest, Sir, that there is far greater risk in leaving the range where it is now, where you are limited to fixed interest securities. There is far less risk if you allow trustees to put part of the trust fund in equities and part in fixed interest securities. Then, like ordinary private investors, they have an opportunity of covering themselves both ways.

As to the second point, the implication of guarantee by Government, I quite agree, Sir, that any such implication is most undesirable but it can easily be avoided by sufficient generalization in describing the nature of the investment authorized. So I shall point out in a moment.

Now, Sir, as regards the third point, the Chancellor quite rightly said that the great object is to ensure safety. Well, in view of what I said before, Sir, I ask: "What safety is there at present in trustee stocks as defined by this Ordinance?"

Then, as to the point that there is no intention in the law to give trustees the opportunity of showing their skill in the manipulation or selection of investments: that is so, Mr. Speaker, but still they are expected to show some skill if they are taking their trust at all seriously; that is what their beneficiaries expect of them. Where is greater skill needed nowadays than in selecting and manipulating gilt-edged securities, so as to avoid a loss? I would suggest, Sir, that it is a very much easier thing to choose and vary investment in equities without risk of loss than to do so with gilt-edged securities.

[Mr. Slade]

As regards the point, Mr. Speaker, relating to the balance between the life tenant and the remainderman, that is a point which must not be forgotten, and it has often struck me that the law in the past has leaned rather heavily towards the interests of the remainderman at the expense of the life tenant. But however that may be, and still accepting that the first consideration must be the protection of the corpus of the trust, the question of balance as between life interest and remainderman must surely be to some extent related to the question of current rates of interest. That is to say, if current rates of interest are very low, then it may be fair enough that the life tenant's return from the corpus of the trust is correspondingly low. But if rates of interest are running high, it is a bit hard if the life tenant's proper balance should still be regarded as a very low rate of interest. There is some possibility of remedying that again, if we have among the trustee investments a sprinkling of equities.

The last point, as regards the settlor's intentions, I think I have already dealt with, for seldom if ever nowadays does the settlor deliberately limit the range of investments of a trust to these statutory securities. Therefore it is a question of trying to define what a settlor or creator of a trust would have done if he had put his mind to it, and I think the answer is inevitable—he would have given authority for a wider range of investment than this.

Mr. Speaker, the Law Society of England evidently took the same view as that I have just expressed, because they sponsored a Private Member's Bill only last year in England. In that Bill they proposed that the law should be altered to authorize investment of not more than half of any trust fund in debentures or equities of financial, industrial and commercial companies quoted on the Stock Exchange. There, Sir, you see the answer, I think, to all the objections raised by the Chancellor. You see the provision that limits equities to half, so that you have the hedging both ways—that, I agree, is necessary. You find generally of description, disposing of any possible suggestion of guarantee by the Government of the suitability of any particular investment. You have, in my

submission, much greater provision for preservation of the corpus than you have in the present law.

Sir, that Bill was withdrawn on a promise by the British Government of further consideration of the matter. It is just such consideration, corresponding to that now being made by the British Government, that I am asking for to-day. I think the Law Reform Committee is obviously the right body to embark on such consideration, provided that they are going to take evidence and not merely turn it over in their own minds and provided that we are going to have another chance in this Council of discussing what they eventually recommend.

Before I sit down, Sir, I think I must also acquaint the Council with the views of the Law Society of Kenya in this matter, particularly as I have quoted the attitude of the Law Society of England. Now the Law Society of Kenya does not at present support this Motion. I will quote from a letter that was written recently on the instructions of the Council of that Society:—

"In the present stage of development in this Colony, and having regard in particular to the inexperience of trustees as compared with the vast experience available in England, and the English reluctance to widen the scope of investments, my Council does not feel competent to recommend that alterations should be made at present in the range of trustee investments in Kenya."

Mr. Speaker, I have a very deep respect for the Law Society of Kenya, but I regret that I am not at all impressed by that communication on this particular subject. Reference to the present stage of development of Kenya hardly seems relevant to the question of what is or is not a suitable security for investment by trustees. Reference to inexperience of trustees as compared with the vast experience of those in England strikes me as curious. We find inexperienced trustees all over the world I am afraid; I do not think they are the monopoly of Kenya. I have met trustees in England I thought might learn a thing or two from a few trustees here. However that may be, there is very good advice—professional advice—from accountants, lawyers and stockbrokers

[Mr. Slade] available in this country just as much as in England. The English reluctance to widen the scope of investments; well, we do not know, it is under consideration at the present moment, but I think, as we have said in this Council before and I say again, that we have not always got to lag behind the legislation in England if we think something needs to be done. We do not necessarily have to wait for England to do it.

That is all the reason given by the Law Society of Kenya for not being interested in this proposal. I do not know whether any members of the Council of the Law Society of Kenya are trustees or beneficiaries under trusts. It makes me wonder. For myself, Mr. Speaker, I have never had the privilege of being a beneficiary, in that happy position under a trust, but I have had the responsibility of being a trustee on a number of occasions, and in that capacity I do know the present hardships in the law as it stands. I, therefore, ask for the support of this Council.

Hon. Members will bear in mind the parable of the talents; how the man who buried his talent may not have shown any return to a life tenant, but he did at least dig it up whole. Not even that can be said for trustee securities as at present authorized by law.

I beg to move, Sir.

4.47 p.m.

LT.-COL. GHERSIE: Mr. Speaker, Sir, in recording this Motion I feel, perhaps, there is very little I can add to the arguments so ably presented by my hon. friend, the Mover, but, Sir, I would like to try to augment some of his arguments with factual examples.

Now, I am sure, Sir, that all hon. Members are aware that gilt-edged are to-day a bad investment and this is increasingly becoming recognized. Sir, a wasting asset is usually regarded—in fact, it is condemned—as an unsuitable object for investment of trust funds. But that is precisely what gilt-edged are becoming to-day. Sir, in order to illustrate my case I must relate an investment to the actual purchasing power of money in the world to-day and in Kenya in particular.

Now, Sir, I once had the privilege of serving on the Plewman Com-

mittee whose deductions and, I think, recommendations were very conservative and I would suggest that to-day the purchasing power of the pound in Kenya in relation to 1939 is Sh. 7—that is a conservative estimate, it might even be less. In relation to 1945 it will be about Sh. 10/50 and this is where I wish to give an example, Sir. It should be borne in mind that the example I propose to give is based on a calculation prior to the actual increase—the recent increase—in the bank rate. If anything, the position would be worse to-day.

Now, Sir, as an example, I wish to take the Kenya 3 per cent stock which was issued in 1945, again having regard, Sir, to the relation of the purchasing power of the pound; £100 invested in 1945 is the equivalent of £190 in 1957, and the market value of the stock to-day I am placing, Sir, at £70; that was prior to the increase in the bank rate. As we heard to-day from the hon. Mover, 3½ per cent Kenya Stock is round about £68 so you can well imagine the 3 per cent stock I am quoting is lower than that, but I am giving it the benefit of £70 so that my calculations remain accurate. That means a loss on the capital account in terms of 1957 of £120 or over 60 per cent.

But, Sir, it should also be borne in mind that the 1957 value of the dividend paid on the investment since the issue up to date is only £41; and therefore that is still £80 less than the actual loss of the capital account. I hope my hon. friends appreciate that.

Now, Sir, if this sort of thing continues, I suggest that Government are not justified in authorizing trustees to invest in gilt-edged, quite apart from their forbidding them to invest from their forbidding them to invest in equities. If Government really intends, and I believe they do, to protect the interests of the beneficiaries in a trust, they must give this matter very careful consideration. I do believe, Sir, that a complete breakdown in Government credit might easily have taken place had it not been for the general public apathy and the unawareness of the true position.

I would like to give a contrast, Sir, and in this case I do not propose to quote the name of the particular company with gilt-edged and a first class East African

[Lt.-Col. Gherrie] stock. This example, again speaking in terms of 1957 values, is an investment of £285 in 1939 which has yielded in terms of dividend after deduction of tax at the company rate at source a total of £677 or an average of 15 per cent free of tax to date. And what is more important, and it is a point made again by my hon. friend, the Mover, is the preservation of the capital. What is more important, Sir, is the market value of that investment which is to-day over £2,200. A capital appreciation in terms of 1957 value of a little less than 700 per cent.

Now, Sir, this is no doubt an exceptional but a similar story; in rather less exaggerated, but nevertheless in quite spectacular terms, could be told of many other investments in this Colony.

Now, Sir, it may be of interest to hon. Members also that the chartered accountants of the United Kingdom have just produced what they term a retirement benefit scheme and I would point out, Sir, that they have made provision whereby this is not geared or tied to either insurance or gilt-edged stock, it is geared to equity yields and equity values.

Sir, I do not think there is anything further I can usefully add, but I have tried to give those examples in order to augment the arguments put forward by my friend, the hon. Mover.

Sir, I beg to second.

Question proposed.

SIR ALFRED VINCENT: I shall be sorry, Mr. Speaker, Sir, if logic does not prevail in this matter and that Government does not have the wisdom to accept this Motion, because we go on talking of the pitfalls which confront investors to-day, and after all the object, Sir, in creating a trust is to not only protect the funds with which the trust is entrusted, but also to protect the trustee by naming certain stocks and securities. The investment market is in a dreadful mess to-day because of the currency depreciation as well as the actual value—purchasing value—of the pound, or of any currency, soft currency, and I do hope Government will be convinced that this Motion should be accepted. As far as the English experts are concerned, well, as the Mover has already said, you

have some of the finest experts in the world, not necessarily amongst lawyers but amongst the large insurance companies and banks and so forth and so on, from whom we could get very good advice. We all know that Great Britain is very slow to make a change and I do suggest that the Mover is absolutely right when he states that he does not think it necessary for us to always tag on behind legislation and ideas which emanate from Great Britain. Those practices and those precepts may not be suitable for this country and in the meantime we may suffer great loss and great hardship because we are not taking the logical view and making progress on our own.

I beg to support.

MR. ALEXANDER: Mr. Speaker, Sir, I am sure that I speak—I am entitled to speak—for many in the professions who have to do trust work or are called upon to act as trustees, when I say that I think this Motion will have the support of all those types of people. There are distressing stories that can be told, particularly in recent years, of beneficiaries whose capital has been confined to trustee securities and this is particularly so in the case of people like lonely widows who have no other source of capital or income.

I would, Mr. Speaker, with your permission, like to supplement what the hon. Mover said by referring to an article in a very authoritative publication—the *Economist*—in relation to insurance. It is useful in this debate simply because, of course, insurance companies are renowned for the caution and the conservative attitude that they adopt towards investment and I believe that it would be accepted from a publication of such high repute as the *Economist*. Mind you, Mr. Speaker, I only relate that phrase to their articles on commerce. I would not like to extend, for example, to all the articles that they choose to write about Kenya. But this is what they say in a special supplement on British insurance and as a coincidence it is headed "Equity versus Gilt-Edged." "Nothing, surely, better illustrates the disregard into which gilt-edged securities have fallen and the rising status of ordinary shares than the history of insurance investments during the years of

[Mr. Alexander] infation: Between the years 1951 and the end of last year, the book value of the 44 offices regularly analysed in this survey rose from £3,108,500,000 to £4,432,700,000. Towards this increase of nearly £1,325,000,000, gilt-edged stocks contributed less than £45,000,000 and the proportion of gilt-edged stocks in the regularly growing total fell sharply from 32.4 per cent to 23.7 per cent. It was possible only a few years ago to find some insurance managements so routinely opposed to any idea of equity investments that they did not feel that it was consistent with the security of their policy holders to hold a single ordinary share. Now there is not one that would deny the importance of equities as a buttress to the security of both life and general insurance funds in an age of inflation."

Just two other short extracts which I think are quite significant which I would like your permission to read.

[Mr. Speaker (Sir Ferdinand Cavendish-Bentley) left the Chair]

[Mr. Deputy Speaker (Mr. D. W. Conroy) took the Chair]

"Here, after all, are displayed the collective decisions of highly skilled investment teams in a highly competitive industry and their choices between fixed interest securities and equities should have a positive and sophisticated quality directly related to their conception of the long-term interests of the policy holders to whom they are responsible, and to the long-term effects of continuing inflation on those interests."

And, finally, the last quotation, "Last year was the second in succession to record a fall in the book values of gilt-edged holdings. These have fallen from £1,098,800,000 to £1,051,200,000 and the proportion that they contribute to total assets is now less than a quarter, whereas ten years ago it was the order of two-fifths."

I trust, of course, that hon. Members have enjoyed those figures as much as we enjoy them in the Budget Statement. But here, I do suggest, Mr. Deputy Speaker, that they are very necessary.

That, Mr. Deputy Speaker, is the story of insurance in Britain. Insurance in a country renowned for its stability in this

particular matter, I do know from my own experience of the administration of certain public funds in the last three years in a matter of an investment of £10,000, because of the confinement of the investment to trustee securities we have had to drop over 10 per cent, that is a loss of £1,000 in a matter of some three years. I think that clearly illustrates the problem that trustees are up against if they are confined purely to gilt-edged securities.

The hon. Mover did mention the discretion that is allowed by testators in wills to their executors, but my experience of that discretion is that normally it is in the hands of very cautious and very conservative people and it is never used because of the existence of the Trustee Ordinance. They rely on that to use their discretion because they feel if they go beyond it they will be in trouble, and it stultifies the work of those who might otherwise have discretionary powers.

Mr. Deputy Speaker, I beg to support.

THE MINISTER FOR COMMERCE AND INDUSTRY (Mr. Hope-Jones): Mr. Deputy Speaker, I only want to say that I found myself in a very considerable measure of agreement with what a lot of hon. Members have said. I did want to make one remark about that most authoritative paper which my hon. friend, the Member for Nairobi West, just referred to. It so happened that I was reading last week's *Economist* and they pointed out that these wise and conservative gentlemen who are responsible for the very great onus of investing the money of the insurance companies are now beginning to reverse that trend which has been dominant for the last two years and are beginning to move into gilt-edged. It does not derogate in any way from what the hon. Member said when he referred to the authoritative nature of the *Economist* newspaper, a sentiment with which I am in full agreement, but I thought it was just as well to bring the views of the *Economist* up to date for this Council. It does not in any way derogate from what the hon. Member has said but I thought that it should be remarked that some of the most skilled investors in the world are becoming bullish on gilt-edged.

[Mr. Speaker (Sir Ferdinand Cavendish-Bentley) resumed the Chair]

THE EARL OF PORTSMOUTH: I rise as a layman and a life-long victim to a trust to support what the hon. Mover has just said, and the arguments produced by others. As well as being the victim of a trust myself, I have been trustee to various other trusts, and my experience is that when a trust is not flexible and is drawn up as tightly as the law will sometimes have it, the beneficiary is not a beneficiary, he is a malefactor.

Mr. Speaker, Sir, I beg to support.

MR. TYSON: Mr. Speaker, Sir, I support the Motion which the hon. Mover has put forward. I think recent events have shown how imperative it is that this investigation should be made. Trustees who have been restricted under the terms of the Trustee Ordinance have seen the evaporation of a considerable proportion of the trust fund when it comes to the question of capital value. The hon. Mover, I think, referred to the 3½ per cent War Loan which is widely held in East Africa and which we have seen tumble down from the original issue price, I think, of 98 to something like 63. We have local experience as well which has been rather bitter—3½ per cent Nairobi Municipal Loan which I think also was floated at 98, now stands at somewhere round about 75; a considerable loss in the capital value of the security level.

The hon. Mover has pointed out that the first consideration of trustees is the protection of the real capital of the trust, but instead of having been able to protect the trust funds by investing in equities, which in many cases would have more than balanced the losses on these fixed interest securities, they have been tied down by this Trustee Ordinance to these particular securities and have been helpless to take any measures of protection against that loss.

Apart from Great Britain there are in this country provident funds and insurance funds run by many companies which are invested under the terms of this Trustee Ordinance. It does seem to me of vital importance, particularly so far as superannuation and insurance funds are concerned that the trustees should have more latitude so that they can, in fact, protect the trust fund or insurance fund

as the case may be in the interests of the employees who are ultimately entitled to benefit under these funds.

I support the Motion, Sir.

5.10 p.m.

THE ASIAN MINISTER WITHOUT PORTFOLIO (Mr. Madan): Mr. Speaker, Sir, I have just one point made by the hon. Mover to which I want to refer and it is in connexion with the Law Society of Kenya. I also have a very deep respect for the Council of the Law Society of Kenya, the more so because I have the privilege of being a member of that Council myself. My recollection of the matter is that when the hon. Mover referred this item to the Council he requested the Council to support the idea that the scope of trustee securities should be enlarged. Again, Sir, I speak from memory and that is my recollection of the matter. If he had asked the Council to consider an investigation of the matter, which is an entirely different proposition, which I understand him to be asking for to-day, it is possible that the views of the Council of the Law Society may have been different.

When the Council referred to the present condition of this Colony, I think they took into consideration all factors. It is pertinent to point out that the Council deliberated on this matter on a reference from the hon. Mover on two occasions and I would like to assure him that the most careful consideration was given by the Council.

THE MINISTER FOR LEGAL AFFAIRS (Mr. Griffith-Jones): Mr. Speaker, Sir, I am very happy on behalf of the Government to accept this Motion.

I may, perhaps, be forgiven for opening my remarks by saying that my main residual impression of what has gone on since the hon. Mover moved this Motion is one of concurrence with my hon. friend, the Member for Nyanza North, that statistics are statistics!

Sir, the sanctity of trusts is very deeply embedded in our jurisprudence and we have become accustomed over many years, as the hon. Mover has pointed out, to a static limit on the range of trustee investments designed to protect the corpus of the trust. Now in the days when this particular safeguard was

[The Minister for Legal Affairs] devised it undoubtedly served that purpose. In those days there was—though it was before my time, Mr. Speaker—a measure of stability and, relatively speaking, of lack of hazard in the field of investment. These conditions were very different from the conditions which prevailed to-day and which now confront the investor, whether he be trustee or private investor.

Sir, I accept, and indeed it has been most cogently argued by the hon. Mover and Seconder and those hon. Members who have supported the Motion, that an extension of the field of trustee investments is most necessary. I think I am right in saying that that first leg of the problem would probably receive universal acceptance in Kenya and, indeed, in England.

But, as I have said, the sanctity of trusts is very deeply embedded not only in our jurisprudence but in our reflex thinking—if there is such a thing. When one comes to approach a matter affecting trusts, a matter affecting trusts so vitally as the range of permitted investments, one is naturally inhibited by caution. Now, caution is, I believe, an excellent quality, no less in this regard than in other regards. But caution in this respect tends to acquire a certain mystique which converts, or tends to convert, it into ultra conservatism; and I do not believe, Mr. Speaker, that we would be serving the interests of trustees or beneficiaries of trusts if we allowed ourselves to be unduly influenced by ultra conservatism, though I do believe most firmly that in proceeding on this extremely precarious and difficult road we must be inhibited by caution.

I do not want to dwell very long, Sir, on the merits of the case for extension. Neither do I wish to dwell very long on the difficulties and dangers which lie in the path of extension. I think it is better that both aspects should be examined, as they will be examined, in great detail and with the utmost care by the Law Reform Committee. I should like, however, to say this—that if it is practicable (and I see no reason why it should not be practicable) to achieve a rational extension of the field of trustee investment, with sufficient safeguards, then I think we shall be doing a service not only to

the remainder-man, who is interested in the preservation of the true value of the capital of the trust, but also to the life tenant whose interest lies in the income returned from that capital; because unless I am very wide of the mark—and my accountant friends will be able to correct me—I would say that the return from equities is unlikely to be less, or appreciably less, on average (and is likely indeed to be considerably more) than the return on gilt-edged. That may not be entirely true in present conditions when gilt-edged are very heavily depressed; but as a generality I would say that that is probably true. I believe that that, Mr. Speaker, is another advantage to be gained from extending the range of trustee investment—namely, that we will thereby serve best the interests not only of the remainder-man but also of the life tenant. We will therefore achieve a result which is quite remarkable. We shall, in fact, be serving two very largely conflicting interests.

Sir, I will certainly undertake to bring this matter back to the Council for debate after the Law Reform Committee has considered it. I am obliged to my hon. and learned friend, the Mover, for having deleted from his Motion, at my request, the reference to a report back by the Law Reform Committee to this Council. I made that request, not of course from any lack of respect for this Council, but because the Law Reform Committee is advisory and, as its members fully appreciate, their views cannot be regarded as binding on the Government, although of course they carry the greatest possible weight with the Government. Therefore, whatever they recommend, I will undertake to come back to this Council with a Motion representing Government's policy. That may be an acceptance—as I confidently believe it is likely to be—of the Law Reform Committee's advice, but it may indeed be a rejection of the Law Reform Committee's advice.

Sir, I do not think I need dilate on the subject matter of this debate to any great extent; but I should like to say, Sir, in fairness to the Law Society of Kenya that when this project was originally suggested by my hon. friend it was supported by the Law Society of Kenya. I felt it necessary to consult the appropriate authorities in the United

[The Minister for Legal Affairs] Kingdom as to what consideration or action had been given or taken in this matter in the United Kingdom. I also invited the Law Society, through my hon. friend, to consult their associate body in the United Kingdom. As a result, I think, of the very conservative and cautious information which we received from the United Kingdom the Law Society of Kenya, somewhat understandably I feel, decided that it might be rash for them to step in where the angels of the United Kingdom had feared to tread. But, Mr. Speaker, I do not accept that "Tom Tiddler's ground" is barred to us in Kenya merely because it may be barred to our angelic brothers and sisters in the United Kingdom. I believe we have great value to draw from the examples and precedents and the great repository of wisdom in the United Kingdom, but we have our own problems to deal with and, while we will draw on such assistance from elsewhere as we can usefully draw our problems are our own and we must tackle them and solve them in our own way.

Mr. Speaker, I beg to protest.

MR. SLADE: Mr. Speaker, in the circumstances that the Government is accepting this Motion, I need only comment very briefly on one or two things which have been said.

First of all, I would like to thank the Asian Minister without Portfolio, who is also a member of the Council of the Law Society of Kenya, for the explanation he has given. It is quite true, Sir, that I asked the Law Society to support a Motion for amendment, and not a Motion for investigation. Even so, I rather think that they could have come back with at least luke-warm water.

Sir, I am grateful also to the Minister for Commerce and Industry for the point he made, because it emphasizes very much what I was trying to say in this matter of hedging with your investments. If you are allowed to go out of one box into another at your discretion then, of course, if it is a wise discretion, you can take advantage of each box in turn; and the fact that the insurance companies have been moving away from gilt-edged investments during the past two years and are now tending to move back into them, when they are such an

attractive buy at the present time, makes my point. It is what any sensible trustee would do.

Finally, Sir, I appreciate very much the way in which the Minister for Legal Affairs summarized really the issues at stake here. He said that he had every hope that he could devise some rational extension of the range of investments with sufficient safeguards. That is what we have got to try to do. I think it was quite clear from what he said that he appreciated an essential element of all legislation; and that is that law must keep moving with public opinion. If we are going to move with public opinion in this matter then surely one of the best tests is what would a settler do, if he were properly advised. I am quite certain that if the Law Reform Committee did take evidence on that they would not find a single responsible lawyer or accountant nowadays who would advise a settler to limit the range of investments, to the present Trustee List.

I beg to move, Sir.

The question was put and carried.

#### MOTION

LIFTING OF FISHING RESTRICTIONS IN LAKE VICTORIA

5.36 p.m.

MR. ODINGA: Mr. Speaker, Sir, I have the honour to move this Motion—that in view of the steps taken by the Governments of Uganda and Tanganyika in lifting restrictions affecting fishing in their territorial waters of the Lake Victoria, the Kenya Government be urged to adopt a similar action forthwith on the Kenya region of the Lake.

Sir, in moving this Motion I am pretty sure that the Council knows the motives which are urging me. If I could be allowed to do so, I would like to refer back to the history of these restrictions on fishing in the Lake.

I will say that Lake Victoria is in the East Africa High Commission Services and the services are all unified; and as such, I took it that any legislation or restrictions which affect Tanganyika and Uganda should automatically also affect Kenya—that is, the Kenya side of the waters. I remember that we have what is termed the Lake Victoria Fisheries Board, which controls the movement and

[Mr. Odinga] ... the activities of the fishermen and also the fishing in the Lake.

At one time the restrictions were applied throughout Kenya, Uganda (and Tanganyika), but later on, somehow, they found that the restrictions were a little bit expensive as they could not enforce them properly, especially in Tanganyika and Uganda; and so they decided that they could not keep up with restrictions or with laws which could not be properly enforced.

Well, it was only last year when they recommended that these restrictions should be relaxed, but for some reasons the Kenya Government found it not possible that the relaxation should apply in Kenya and they gave the following reasons: that our part of Lake Victoria is small and there are so many fishermen that if we allowed them to go on fishing freely, probably within five years' time we will not have any tilapia fish left in the lake. Another reason is that what is termed as the Kavirondo Gulf is the breeding ground for tilapia and at the moment there is intensive fishing which probably might, if left uncontrolled, affect the fishing industry in the future.

While I quite agree with the Government that this might be the case, I have many other points to make and which I would have thought would have been looked at by the Government.

Our part of the lake does not only comprise the Kavirondo Gulf. The Kavirondo Gulf forms only a small part of it, but we have got our people, some of them living just on the shores of the main lake itself on the sides of South Nyanza and Central Nyanza, and these people are in direct contact with the people of Tanganyika and even Uganda. Generally you find the people in Uganda fish quite freely with seine nets of all sizes even with the gill nets, but when it comes to the Kenya side of the lake these people are caught and punished very severely for fishing and so if you can imagine with these fishermen, a lot of whom are very ignorant, we find that they are greatly disturbed and they do not understand why they should be treated differently. This has caused some immigration over to the Uganda side because they thought the Uganda side

was a bit easier. The same thing is happening on the Tanganyika border.

If the Government found that the Gulf itself was the breeding ground for the tilapia fish, which is what I think the Government is worried about, I think it would have been better for the Government to consider the seasonal times of fishing. There are times when the fish are breeding and there are times when the Gulf could be open for free fishing. That would also help the people who are living along the shores of the Gulf itself.

There have been other reasons which people have advanced, but to the public and the ordinary man in the country, if he is told that if he goes on fishing in that manner later on the fish might be finished, or that after five years they might find themselves without any fish at all, they say, if that is the case, it should also apply to Tanganyika and Uganda because the movement of fish is communal. The fish from Tanganyika move to Uganda and to Kenya and, therefore, if at some time there are less fish found in the Kavirondo Gulf, probably those which have left there will move back again and so it goes round. Therefore, if there is to be any control, it should be unified as it was before, and if it cannot be unified, it is better that control should be released throughout the lake.

Sir, we the people, as I said yesterday in this Council, the people of Central and South Nyanza, especially the Luos who are along the shores of the lake, have a very big population and the land is not able to hold this big population without getting a living somewhere else. The lake itself has been the source of our income for a long time and at the present moment the seine net, and that is the mesh which is the size of 5 in., is not enough to sustain somebody who is fishing in the lake because that net is able to catch at a time about four to seven fish only and with that one he cannot retain the labour, he cannot retain the boat, he cannot sustain the cost of the net itself. He finds that he is at a loose end in that concern, but if he has no other trade to carry on with, then he keeps on with it like that and that is why probably these people are sometimes found caught when indulging in illegal fishing. They cannot help it and

[Mr. Odinga] ... there are a lot of illegal fishermen in the lake and sometimes when they are caught, they suffer severely for it. I can tell you what happens to them. This is the Annual Report for 1955/56: "It is reported here that the total financial penalty to the fishermen in Kenya alone during the past 12 months amounts to the amazing figure of Sh. 58,230. That illegal fishing is able to withstand such punishment and still flourish is some testimony to the profit obtainable".

Well, I think the authorities take it that they fish because of the huge profits made from fishing. That is not the case. I will tell you that it is simply because these people have no alternative way of earning a living. It is the only way that many of them have earned their living for ages and ages and it has been their business for ever and now they cannot possibly get other ways of earning a living. Many of them, when they are fined, go back to their homes and take the only animals which they have and sell them to pay the fine and then they carry on fishing.

I would draw the attention of the Government and the other Members from this side, that I am mostly worried about those people who live on the main Lake itself. People who come from places like Samia, Timbo, Bunyala and Sakwa, all these people along the Lake to the other side such as Rusinga, Mwanjano, Kadem, Kagame, Karungu and all those other places which are directly concerned with the main Lake and it is hardly possible that you can convince them if you say that our Gulf is the breeding ground for Tilapia, and as such we must keep it controlled, they cannot understand you. At the same time, when they are caught and punished while their neighbours on the other side are fishing freely, it reflects very badly on the Kenya Administration. In some other spheres it does not only reflect on the Kenya Administration, but they say Kenya is spoilt by the settlers who do not like us to be rich or to earn anything or have anything for our own livelihood.

In that respect, I think somehow the Government should be able to recon-

sider their stand, but they may not be able to do so, even though I understand the experts who did the research in the Lake or in the Gulf itself were undecided and some of them said that fishing could go on indefinitely, it is only the second one who probably said that if you go on indefinitely without restriction, it may be that after five years, it may be, he said, and again it was only one, it may be, you will have no fish, but he was only guessing.

With all these restrictions in Kenya we are losing a lot of business and a lot of trade because now the first itself, even the supply you get in Nairobi and Mombasa comes from Tanganyika and Uganda and our people are missing this trade and we are not getting anything out of it. If it were left to these people, I am sure that our people are industrious, particularly in the fishing industry because it was what they have been doing for a long time, and if we feel that the licences and the fishermen themselves are too many, then the best thing that we could do is to restrict the number of licences. That would be better to leave them to fish as much as they can, but restrict the licences which should be in the Lake itself.

Well, Sir, with these few remarks, I would ask the Government Members and even my colleagues on this side, that as they have seen my point, I hope they will support me and see that we give our people, especially the fishermen who are now so miserable, a chance of getting on with their fishing peacefully.

Mr. Speaker, I beg to move.

MR. MULIRO: Mr. Speaker, Sir, the problem which faces our people is a very acute one as far as the fishing industry is concerned in the Nyanza Province in both the South and Central Nyanza Districts. These people go fishing not only for food, but in order to raise funds to pay their taxes; we have been debating to-day hospital fees. Now, if these people do not get money for their fish, they will not be able to go to hospitals at all. Mr. Speaker, I think the hon. Member for Nyanza Central has put a very good case for removing these restrictions so effectively and I have not got more words to express what he has expressed.



[Mr. Muliro]

The main problem is that of fishing nets. If the fishing nets, which are the source of all these fines, were not imported at all the Africans would not be culprits. The Indians in Kisumu and Nairobi who import these fishing nets get the money and go away with it and when the Africans want to make good the money they have lost in buying these fishing nets they are arrested and that is the source of over Sh. 58,000 as revenue to the Government.

Now, if the Government is interested in allowing the Indians to make money over the fishing nets and yet forbid the Africans to use those nets, I think it would be only fair for the Government to ban the importation of the nets in question. If the Government could do that, then there would be no Africans going in for those fishing nets.

With those few points, Mr. Speaker, I beg to second the Motion.

Question proposed.

MR. SLADE: Mr. Speaker, Sir, I intervene in this debate with some trepidation; but the hon. Mover did take the trouble to take me on what has been called a "song and dance" in his constituency for the very purpose of showing me something of what was going on there, and I can confirm that what he showed me, this trouble that he discusses in the present Motion, is a matter of very widespread concern among his constituents.

He took me to many places, fairly remote, in his constituency, and everywhere, it was not only the local intelligentsia, but also the rank and file, of those whom I met expressed the same worry over the restriction of fishing nets.

That being so, it is obviously a matter that has got to be taken very seriously, and I do feel a great sympathy with those involved, particularly those who border on Uganda. It must be quite maddening to live on the edge of an imaginary border and see chaps going out with any net they like only a few hundred yards away, while you are restricted yourself.

I know it has been explained to us in previous debates that there is a special case for protecting the fish in the Kavi-

rondo Gulf, because that is a great breeding ground, and that we have to look after our own interests as well as everybody else's—Uganda and Tanganyika—by protecting the fish there. But surely these other waters along the open lake shore bordering on Uganda, cannot be in any different position from Uganda itself. How can you explain even to a fairly educated man, let alone a humble fisherman, the justice of putting him in a different position from the fisherman just down the shore.

I would have thought that if the case was such for protecting fish in the Kavirondo Gulf, the restrictions should be limited to those waters alone. Then one would begin to see some reason behind it.

If, Mr. Speaker, the Minister shows reason why this Motion cannot be accepted, then we come to the point made by the hon. Second, which I think again is very important. If you are going to restrict the use of a particular kind of net right up and down the shores of Kenya on Lake Victoria, then you must also restrict the possession and sale of such nets by shopkeepers. For you are dealing here with very simple fishermen, who will go and buy nets which the shops have to offer, only to find afterwards that they are not allowed to use them. So not only do they suffer unnecessary financial loss, but naturally you get aggravated indignation and discontent from the fishermen concerned.

MR. OGUDA (Nyanza South): Mr. Speaker, Sir, I have spoken at some length on the fishing industry before in another debate and I do not think I have very much to say this time. It does appear that when the Minister has been answering our queries on restrictions on fishing in the Kavirondo Gulf, he based his arguments more on the fact that the Kavirondo Gulf acts or serves as a breeding ground for fish. Well, I would like the Minister to make it very clear, when he is replying to the hon. Mover, whether the research organization which is working perhaps under the Kenya Government or under the East Africa High Commission has spotted out exactly which parts of the Kavirondo Gulf really breed more fish than others, because if my knowledge of the fishing industry is

[Mr. Oguda]

correct, I do think that fish mostly breed where the water is shallow in the lake or in the ocean, because it is there where they get most of the planktons they feed on, and it is there owing to the shallowness of the lake and because of the water being warm that you find most fish.

Well, the reason why I raised this point or why I should like a clear answer on this point is that most of the fishermen with their very primitive craft confine most of their fishing to the lake shores, and you cannot expect these native fishermen to go far out into the Lake in their simple dug-out canoes.

There again you see I say this because I think in answer to one of the questions to the hon. Mover the other time, he (the Minister) stated that most of the Uganda fishermen did go far out into the Lake to get their fish there, as if to imply that more fish do breed in places far away from the Lake shore.

Also I should like the Minister to tell us what alternatives Government has, to make sure that those people whose sole means of existence and earning a livelihood is nothing but fishing, can always get fish. You do find, quite rightly as the hon. Mover put it, that there are seasonal fluctuations in the number of fish in the Lake. There are times when you do have plenty of fish and there are times when you do have very, very few fish in the Lake. Now, you know that for those of our people of Central Nyanza and South Nyanza who inhabit the Lake shore areas—fishing is really a very, very important industry. For those people whom we represent and who live along the Lake shore, fish really is not only a commodity of trade; it is not only a commercial commodity. I think it is, as the hon. Member for Nyanza North has said, a means of getting their income. Well, of course, that is quite true. If you meet these people they will speak to you with a certain measure of bitterness about these restrictions on fishing in Lake Victoria. But they do not only use the money they get from the fish for paying poll tax or school fees or paying for the other services like the medical services as we have been speaking about this afternoon. As the Minister for Agriculture might very well know—and I think he has toured those places extensively—

these Lake shore areas are really areas of very low productivity as far as farming is concerned.

The main point I am trying to bring out is this. These fishermen catch fish and take it far inland to sell it; from the money they receive they buy whatever foodstuffs they need—maybe millet or *wimbi* which they have to go and grind—and, as you know, *posho* or maize forms the staple food of the African. But you say: "All right, that is what we have said; we think we have to try and make sure that the fish do not get finished and in the interests of the fishing industry in the country we are not going to lift the fishing restrictions"—without suggesting any alternative to the people as a means whereby they could get money—get more income—just to buy other necessities of life let alone money to pay for school fees and other services.

Also I should like to endorse what the hon. Member for Nyanza Central has said—that it is high time we told the Government and we made the Government know that our people do feel very, very sore about the penalties that are imposed on fishing illegally. I think I spoke very clearly last May or April, and there is not much that I think I need to add.

With these few remarks, I beg to support.

MR. MUMBI: Mr. Speaker, Sir, fish has never been seasoned to my taste, but I have a point I would like to make in connexion with what has been said. If I remember rightly, when the question of fishing was raised at a previous debate, the Minister for Fisheries did state that the control and prohibition of fishing was imposed or is imposed by the East Africa High Commission, on which I know that Kenya is represented, and if the two neighbouring territories did agree that they impose no restrictions on fishing and only Kenya—the Government of Kenya—should impose these restrictions, it is a matter that we Africans fail to understand. Well, I do not want to have to think that the Kenyan people are not represented in the East Africa High Commission, and if they are not—our Members do not think rightly like the Tanganyika and the Uganda members of the East Africa

[Mr. Mulimi]  
High Commission—then our Members should resign.

With these few remarks, Sir, I beg to support the Motion.  
5.38 p.m.

THE MINISTER FOR FOREST DEVELOPMENT, GAME AND FISHERIES (Mr. Blunt): Mr. Speaker, Sir, after the eloquent and well-reasoned speeches in support of this Motion, I certainly cannot reply by referring to what I have said on previous occasions, though HANSARD contains my answers to many of the points that have now been made—no longer ago than last May and June. However, I will try to give an equally reasoned reply to these Members, and I will try to be as brief as I may.

It is perfectly true, Sir, that Uganda and Tanganyika have relaxed their control of set nets between the dimensions of 3½ and 5 in. The reasons which led them to do this are that they believe that under the general conditions of their fishing areas in the Lake they will do no harm to the stocks of fish by this relaxation. I am not going to suggest whether they are right in their theory or whether they are not, but there is no question that they are different from Kenya in the conditions which they have for their fisheries. They have a very large area of the Lake between them—something like 99 per cent of the total. We have little more than 1 per cent. Furthermore, in the Kenya waters it has been shown that the proportion of *Tilapia* to other fish is greater than it is in the open water of the Lake fished by these other countries. We have about 250 square miles of fishing water for Kenya. On that we have something like 8,000 fishermen, taking out something of the order of 2,000,000 or more *Tilapia* annually.

Now, Sir, the catch per net has decreased over the period of the last 40 years, and during that period it has decreased from an average of 20 per set net per night in the early days to something under two at the moment. Those figures are taken from the Lake Fisheries Service records. Now, Sir, I have pointed out before the difference between the Uganda and Tanganyika waters and our own water, and the point has been well taken by those Members who have spoken, and it has been made clear that

those differences apply to the Kavirondo Gulf. They do. The Kavirondo Gulf is, as it were, a closed area or partly closed area. It is a breeding area and we have to be extremely careful what we do with it, lest we destroy the fish population there. The other areas to which three or four hon. Members have referred of the open Lake, are admittedly rather more like the conditions of Uganda and Tanganyika than those in the Kavirondo Gulf, but there is no question but that there are further breeding grounds in those areas. They are not continuous throughout those areas, it is true, but there are breeding grounds at or around the mouths of the Nzoia River in the north and the Kuja River in the south, and I submit, Sir, that we must take just as much care of those breeding grounds as of any others.

There may well be certain areas of open water between those rivers and outside the Gulf where conditions are much the same as in Uganda and Tanganyika, but I believe it would be almost impossible to have one set of regulations dealing with say nine-tenths of our fishing area and another set of regulations dealing with one-tenth. But we have gone some length towards meeting that particular difficulty, because permits are given, under certain circumstances, for seine netting in certain areas, and it is particularly to meet that difficulty that these permits are given. Where there are no known breeding grounds, seine netting can be allowed under permit.

Now, Sir, I have previously given this Council the opinion of various experts that we have had working on the lake for many years past. To-day I will give the Council the opinion of Mr. Beverton, who was invited only this year by the High Commission to come out and look at the data which have been accumulated both by the Lake Victoria Fisheries Service and by the Jinja Research Service on the subject of tilapia in the lake. He came out some four or five months ago and he made a fairly thorough examination of the position. He has written, and I have here, an interim report, but we have not had his final report. In his interim report he says two things which I would like to be permitted to quote. He says: "Relevant here is that in the Lake Victoria Fisheries there is no very close relation between

[The Minister for Forest Development Game and Fisheries]

the weight of the fish and its market value. Thus tilapia caught in the 5-in. net are typically nearly twice the weight of those caught in the 4-in. net, yet the difference in value to the fishermen is slight and may disappear altogether if the market demand is heavy enough. The consequence is that fishermen will try to maximize the number of fish they catch rather than the total weight of their catch, and this encourages the use of small meshes whenever the number of larger fish has been substantially reduced by fishing."

There I think he puts his finger on one of the difficulties in regard to the tilapia in our waters, and that is that by and large the half-grown or three-quarter grown fish is worth just about as much as the full-grown fish. That might in time be taken care of by sales by weight, but it will not be the total weight of the catch, of course, that is involved. It will be by the weight of the individual fishes. That is a thing which I hope may come into practice in the future and I believe that it will help both fishermen and fishing, but it is not a thing that can be readily established or can be brought into force in time to deal with the particular difficulty with which we are now faced.

The other extract I would like to read from Mr. Beverton's report is this. It is headed "Conclusions"; and he says: "Some degree of regulations of the Lake Victoria Fisheries is essential if there is to be a high level of production. The present arrangement, which is mesh regulation and prohibition of seine netting in Kenya and non-regulation in Uganda and Tanganyika, is suitable for the fisheries of the respective territories as an interim measure, pending better knowledge of the effects of fishing on the stocks."

Now, Sir, Mr. Beverton is a man whose finding cannot be lightly disregarded, and he, in effect, tells us there that we are right in maintaining these restrictions.

Now, Sir, I think everybody, particularly everybody who has been fishing, will agree that fishery research or getting to know what fish are doing and going to do is a very difficult matter. Personally I find it extremely difficult

when I go fishing, but although there are a lot of things that we still need to know about the fishing in the lake, there are certain things that we do know. They are these. That the Kavirondo Gulf and certain areas of the river mouths that I mentioned—the Nzoia and the Kuja River—are breeding areas. Secondly that in a partially closed area such as the Gulf, fish do not move in and out very much. The point was made by some hon. Members that they did. I do not say they are entirely enclosed by any means—there is some movement—but all the evidence that we have goes to show that that movement in and out of the Gulf is comparatively small. The third fact is that when tilapia arrive at the early breeding stage, they are of such size that they are caught in a 4- or 4½-in. net. The fourth and very obvious fact, which applies not only to fish—if you catch or kill the breeding stock you must progressively reduce the total stock of fish you have to deal with.

Now, Sir, we take, as I previously said, 2,000,000 fish a year out of our small area of water, and if those are legally caught they are caught in a 5-in. mesh net, but those fish that are caught in a 5-in. net are also breeding fish; they have bred probably, already, but if they were left alive they would breed further, but they do not get the opportunity. So even using the 5-in. net and cropping the fish—and we must crop—we are still destroying a high proportion of the breeding fish. If in addition to that we go to the length of catching and killing the fish at an early breeding stage, we shall have just nothing left to continue to breed.

Now, Sir, it is also an accepted fact among fishery experts that if you reduce the number of fish in a fishery beyond a certain point, there is a point of no return. You can reduce a fishery by bad treatment so far, and then, if you treat it better—give it a rest or whatever it is—you may be able to rebuild it, but there comes a point and if you go below that point and reduce the fishery below that, you can never replace it. Well, Sir, we have reduced our fishery, as I pointed out earlier, but I do not think by any means we have got to the point of no return; but if we are to go on killing our breeding fish both large and small, there is no doubt that in a very

[The Minister for Forest Development Game and Fisheries] short while we shall reach that point and we shall have destroyed our fishery.

Now, Sir, all the hon. Members from Nyanza who have spoken, I think made the point of the importance that this fishery has financially to the people engaged in it, and I entirely agree with them, but are we, because at the moment it is financially important, to say in effect "All right, you want this money; go on; catch these fish: never mind the fact that within four or five years' time there will not be any more fish to catch and you can find some other jobs to do then"? That is, in effect, what you are suggesting.

I should also point out that these restrictions which we put on do not affect in any way the other very important fishery in that area, which catches various other species of fish which give a large contribution to the food of the local population. They would not catch any more of those other fish if 34- to 5-in. gill nets were permitted, because those fish are rather larger than the *Tilapia*, so they are caught by the large net or the smaller nets. There has been a suggestion made that possibly the answer to this problem is the introduction of other varieties of *Tilapia*, and particularly *Tilapia zillan*, which is a weed feeder. The habits of that fish are quite different from the habits of the *esculenta*, about which we have been talking. They, in fact, do not go out into the Lake and are not caught in any of these gill nets, but such as are in the Lake and are caught are generally caught inshore in traps and baskets and so on. They are, in fact, vegetable feeders and they stay near the shore; they are not a variety that we could use in substitution, as it were, for *esculenta*, but we should regard them rather as a valuable supplement, if we can breed up sufficient numbers of them, to the *esculenta*—

#### ADJOURNMENT

THE SPEAKER (Sir Ferdinand Cavendish-Bentinck): It is time for interruption of business. Council will stand adjourned until 9.30 a.m. to-morrow morning, Friday, 1st November.

Council rose at seventeen minutes past six o'clock.

#### Friday, 1st November, 1957

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:—

The Immigration (Amendment) Regulations, 1957.

The Immigration (Prescribed Organizations) (Amendment No. 2) Regulations, 1957.

(BY THE CHIEF SECRETARY (Mr. Turnbull))

The Price Control (East African Flour) (Amendment) (No. 4) Order, 1957.

(BY THE CHIEF SECRETARY (Mr. Turnbull) on behalf of the Minister for Finance and Development (Mr. Vasey))

#### ORAL ANSWERS TO QUESTIONS

##### QUESTION No. 40

MR. HARRIS asked the Minister for Legal Affairs are steps being taken to appoint a City Stipendiary Magistrate for Nairobi?

THE MINISTER FOR LEGAL AFFAIRS (Mr. Griffith-Jones): A Senior Resident Magistrate is to be appointed City Stipendiary Magistrate and will very shortly assume duty in that post.

He will retain his substantive jurisdiction as a Senior Resident Magistrate and will be and will remain an officer of the Judicial Department under the Chief Justice.

He will hear cases involving offences against the City Council By-laws, made under the Municipalities Ordinance, and such other criminal cases as are connected with the City of Nairobi. His decisions, like those of any other magistrate, will be subject to the revisionary and appellate jurisdiction of the Supreme Court. All prosecutions in this Court will, of course, remain subject to the authority and direction of the Attorney-General.

The Magistrate's civil jurisdiction will be that at present exercised in the Court of the Resident Magistrate who deals with "municipality cases".

[The Minister for Legal Affairs]

Government will be reimbursed in full the cost of the Magistrate's services, including his salary and pension contribution and the City Council will provide the court-premises and the necessary subordinate staff.

It is proposed that the revenue accruing to the court from fines imposed in cases of convictions for offences against City Council By-laws shall be relinquished to the City Council and in due course an amendment to section 123 of the Municipalities Ordinance will be introduced to legalize this proposal. As the law stands at present fines in respect of offences against the Nairobi City By-laws are divisible equally between Government and the Council.

MR. HARRIS: Mr. Speaker, Sir, arising out of the reply, will the Minister confirm that this magistrate who will be trying cases involving the City Council and City Council By-laws will be entirely independent of control and influence by the City Council?

THE MINISTER FOR LEGAL AFFAIRS (Mr. Griffith-Jones): Yes, indeed, Sir. It is the joint concern of the City Council and of the Government that this magistrate should remain within the Judicial Department and under the jurisdiction, authority and control of the Chief Justice and that the fundamental principle of the independence of the judiciary should be wholly preserved.

MR. ALEXANDER: Mr. Speaker, Sir, do I understand that this magistrate will have a long and continuous period with the City Council, which naturally he will appreciate is specialized work and requires someone who is going to be there a long time?

THE MINISTER FOR LEGAL AFFAIRS (Mr. Griffith-Jones): Sir, it is the intention that he should occupy this post permanently, and in fact I am losing a very valuable officer of my own for this position. He will not, of course, be a servant of the City Council in any respect whatsoever. He is an officer of the Judicial Department who is put on to the specialized duty of hearing cases involving City Council By-laws and such other criminal and civil cases as he has time for.

THE CHIEF SECRETARY (Mr. Turnbull): Mr. Speaker, Sir, with your permission, I would like to bring the attention of hon. Members to certain matters dealt with by the Sessional Committee. The following select committees have been appointed:—

#### Public Accounts Committee—

Lt.-Col. the Hon. S. G. Gherrie, O.B.E. (Chairman).

Hon. R. S. Alexander.

Hon. Sir Charles Markham, Bt.

Hon. C. G. Usher, M.C.

Hon. S. G. Hassan, M.B.E.

Hon. A. J. Pandya.

Hon. B. Mate.

Hon. A. Oginga Odinga.

Secretary to the Treasury.

Capt. the Hon. C. W. A. G. Hamley, O.B.E., R.N.

Hon. J. L. Riddoch, O.B.E.

In this connexion, Sir, I would like to say that the committee had very great pleasure in expressing their appreciation of the work done by Lt.-Col. Gherrie as chairman of the Public Accounts Committee.

Secondly, the—

#### Estimates Committee—

The Minister for Finance and Development (Chairman).

Hon. R. S. Alexander.

Lt.-Col. the Hon. S. G. Gherrie, O.B.E.

Capt. the Hon. C. W. A. G. Hamley, O.B.E., R.N.

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 Sald el Mandry.

Hon. N. S. Mangat, Q.C.

Hon. J. M. Mulmi.

Hon. J. Nzioka.

Hon. L. G. Oguda.

Hon. Sir Ebooo Firbhal, O.B.E.

Hon. G. A. Tyson, C.M.G.

In addition, the Sessional Committee, Sir, has examined the programme of business for the following week, and on the assumption that the debate on the

[The Chief Secretary] Communication from the Chair will continue throughout Tuesday, 5th November, have reached the decision, that on the conclusion of the debate on the Communication the following business should be taken.

#### Committee stage—

- The Water (Amendment) Bill.
  - The Coir Fibre Industry (Repeal) Bill.
  - The Criminal Justice Bill.
  - The Northern Province Livestock Improvement Bill.
  - The Use of Poisonous Substances Bill.
- Second Readings and further stages—
- The Reinstatement in Civil Employment Bill.
  - The Canning Crops Bill.

Those committee stages and Second Readings and further stages will be taken on Wednesday, 6th November.

In accordance with the usual practice, Thursday, 7th November, will be devoted to Private Members' Motions and the remaining ordinary business will be taken on Friday, 8th November.

#### MOTION

THANKS FOR EXPOSITION OF POLICY BY H.E. THE GOVERNOR

(Debate interrupted on 30th October, 1957, resumed)

MR. HARRIS: Mr. Speaker, Sir, when Council adjourned on Wednesday, I was dealing with the question of whether an agreement had or had not been reached on certain matters last year which included an agreement on what are now known as regional seats. I had explained that there was a meeting of representatives of all races, which included Mr. Ohanga and Mr. Mathu, for the Africans, at Government House on 17th October, 1956, and I had just read an exchange at Question Time in the House of Commons during which Mr. Lennox-Boyd had said, among other things, that all groups in the Legislative Council have requested changes in the constitution. And later he said, "I feel sure that the House will welcome these changes

and the fact that they are being made at the request of representatives of all races".

In the local Press on 5th November, Sir, the exchanges at Question Time in the House of Commons was reported verbatim. On 20th October, 1956, before this exchange in the House of Commons, a Press communiqué had been issued from Government House which began with the words: "Modifications to Kenya's constitution proposed in a joint document drafted by Unofficial Members of all races have been warmly welcomed and accepted by the Governor".

So that, Sir, we have the Press communiqué issued from Government House saying that it was drafted by Unofficial Members of all races; we have the Secretary of State for the Colonies saying, "All groups in Legislative Council have requested . . ." We have him welcoming the fact that the changes have been made at the request of representatives of all races in Kenya. We have that again, Sir, in case people do not read the English HANSARD, we had that repeated again in the local Press on 5th November.

As far as I am aware, there is no record, either in the records of this Council or in the record of local newspapers, that there was any denial from any source that that statement, following the meeting at Government House on 17th October, was anything but an agreement reached freely by representatives of all races.

There have been plenty of opportunities in the last 12 months—almost 12 months to the day—for ample rebuttal if anyone considered that an agreement was not reached at Government House. When the Chief Secretary, whom my records show as having been present at that meeting, replies to this debate, Sir, I would ask him whether he can confirm that, in fact, the statement issued as a result of that meeting at Government House was as a result of an agreement freely entered into by representatives of all races. So that, Sir, when my friend, the hon. Member for Nyanza North, in to-day's paper, asks "what agreement?" I am talking about the agreement reached at Government House on 17th October, 1956.

[Mr. Harris]

Now, Sir, we come to the contents of that agreement.

The Colonial Secretary, in answering Mrs. Castle's question on 31st October, placed on the official record a statement. That statement was the same as appeared in the *East African Standard* on 20th October but I think it would be preferable, Sir, to rely on the official record of the House of Commons. I will not bore the Council by going right the way through the statement; I will merely, Sir, quote the relevant part which deals with the creation of regional seats. The hon. Member who raised this matter—the hon. Member for Nyanza North—said that agreement was only reached on, I think, three of the points. That was the two additional Africans and the two Corporate Members, an additional African Elected Minister, a representative Minister, and an additional European Unofficial Minister. But, Sir, the statement made by the Colonial Secretary reads this: "4. Extra seats should be created in Legislative Council within the framework of the Lyttelton Plan"—and I would, Sir, emphasize "within the framework of the Lyttelton Plan"—"with the object of (a) correcting the disbalance in number between the Government and the non-Government benches, and (b) providing an opportunity for Ministers to represent a wider section of the community in a single constituency as at present. An examination should be made of the total number of seats required and the manner of selection: These seats will be created after the African elections in March and during 1957. One of the new seats will be occupied by an Arab".

Now, Sir, there was discussion at that time which was mentioned by the hon. Member for Nyanza North. The Africans requested that if we agreed to regional seats, the two African seats should be constituency seats and not regional seats as they would prefer it that way. There is a record, Sir, of the European Elected Members on 17th October, 1956, agreeing that if the Africans wished their seats to be constituency seats and not regional seats we would have no objection. It is significant, Sir, that that is the day before the meeting at Government House and the representatives of the Europeans who attended that meeting at Government House were fully briefed in the

knowledge that we would have no objection to the African regional seats being, in fact, constituency seats.

That, Sir, is the meaning of the Secretary of State when he said "the method of selection of those seats". But, Sir, he also said that these changes would be within the framework of the Lyttelton Plan and he mentioned quite categorically that the seats would be created during 1957—it did not leave much time if the negotiations were completely incomplete—and he also said that one of the new seats would be occupied by an Arab.

Now, Sir, anybody who has an elementary knowledge of the Lyttelton Plan will know that if there is one Arab, even with one digit in the build-up, you can build up exactly what number are going to be received by all other races. One Arab under the Lyttelton Plan would mean a minimum of two Asians and, Sir, we have it from experience that in all these matters the Asian Group have always requested that they should have two because of the religious differences between the Muslim and the Hindu. So, Sir, we now find that we have one Arab and two Asians. The Lyttelton Plan, Sir, gives parity as between African and Asian at the present time, that is one Arab, two Africans and two Asians. In the framework of the Lyttelton Plan, Sir, you will remember it is part of the plan that racial proportions, either on one side of the Council or in the Council as a whole, shall not be altered and therefore, Sir, as the whole foundation of the constitution was parity, if you had one Arab as stated by the Secretary of State, two Asians and two Africans, then there are, *ipso facto*, five Europeans. That is the origin of the ten seats.

Sir, I do not know whether the hon. Members who laugh so much have really studied the Lyttelton Plan or whether they have studied their arithmetic, but there is no doubt, Sir, that that is the position. But I have further evidence on this, Sir. After the meeting at Government House the European representatives reported to their colleagues on what had happened at Government House.

Now, Sir, I agree that it would be unfair in this discussion to accept the European report to Europeans on what

[Mr. Harris] actually happened but this is the position. Having reported that, among other things, it had been agreed at Government House that there should be one extra Arab and two extra Asians (one Muslim and one Hindu) within the framework of the Lyttelton Plan this meant that five compensating European seats would have to be created. A copy, Sir, of the report which the European Members received from their representatives was sent to Government House for record purposes, and that is significant.

But now, Sir, the Member for Nyanza North. I think it was last Tuesday, said this: "If there would be any agreement there were four items which we discussed in October last year. One was the corporate Members, we have the hon. Members. The two extra African Members, we have the two hon. Members with us here. Another one was on the two extra Ministers—one European and one African Minister—which would have been implemented last year but because of some fears in Government circles it was not implemented and this year it was rejected by hon. African Members. The fourth item was on regional seats and at that time the African Members declared categorically that even if the European community and the Asian community were going to have their seats as regional seats, the Africans were going to make their seats constituency seats, that there was a good deal which should be left until the next election".

I have accepted, Sir, that agreement was reached, that the African seats should be constituency seats if they so wished. But, Sir, the hon. Member then went on, and I believe he has repeated it in to-day's paper, asking for the signatures to this agreement. Sir, will he produce for me the signatures which enabled the two additional Africans to come to this Council? Would he produce to me the signature on the agreement whereby we already have in this Council two Corporate Members? Would he produce for me, even going through history, signatures on any inter-racial agreement which has ended in people sitting in this Council? Sir, until this recent argument it has not usually been considered necessary when discussions

have taken place at Government House for everybody to put their signatures or thumb-prints on the documents. It has been accepted as an agreement and honoured as such. I think I have said quite enough, Sir, to show first of all that there was an agreement; secondly, Sir, I think I have shown that there was an agreement that there would be European and Asian regional seats and that the Africans opted to have constituency seats as their share. I think, Sir, the very fact—

MR. MBOYA: Question!

MR. HARRIS: The hon. Member for Nairobi Area, I always like his voice, Sir, because he says "Question" always in the same way, questions that staminate of mine. When a Secretary of State for the Colonies tables a statement in the House of Commons saying—after a full stop, Sir, so I am not taking anything out of context—"One of the new seats would be occupied by an Arab" and when he also says: "These seats will be created after the African elections in March and during 1957" it sounds to me pretty categorical that the Secretary of State for the Colonies is satisfied with the nature of these seats, for had he not been satisfied he certainly would not say that they would be created in 1957, and how in Heaven's name, Sir, did he know that one of them would be an Arab had there been no agreement?

Now, Sir, during the early part of this debate the Member for Nairobi Area rightly said that the present situation is—I do not think these are his exact words—bedevilled by suspicion on all sides. I think anybody who has studied the history of the last few months must accept that. All of us must accept our share of blame for the suspicion.

Sir, I think I can probably give one very good reason why there are all these suspicions. That is that I personally have never heard from African lips what their demands are. All the negotiations of the last six months have been carried on through East African Standard House—or whatever the headquarters of that newspaper are called. The only knowledge that the various groups have of one another is what they have read in statement and counter-statement, at

[Mr. Harris] public meeting and counter-public meeting and I do not wonder, Sir, that when our only knowledge of people who spend most of their working hours in the same building is by reading about them in the newspaper, I can appreciate the reason for suspicion and distrust.

I believe, Sir, that there is something about the spoken word which is much more human than the printed word. There are many times when a smile can take the edge off something rather distasteful, and, Sir, to read some of the things that members of all racial groups have said about members of other racial groups in cold print, I can assure the hon. African Members that it is not entirely what was meant by the words had they been spoken over a committee table. I believe that our problems at the moment are not insoluble. I believe that there is underneath the desire to get our point of view on the record, underneath all that I believe there is quite an amount of good will which is increasing.

I believe that we should try and get together round the committee table and thrash out these matters and find the solution which will put Kenya on a peaceful and prosperous path for a long time. In any case, Sir, if we can meet and discuss these things as man to man, at least—even if we fail—future generations will be able to say we acted like grown-up men. But, Sir, we have got to create the right atmosphere. I do not think that either meetings at Kilimani School or meetings at Makdara Hall are going to do very much to help.

I do not think letters in the newspaper, talking about people who we meet every day in our daily lives, questioning their veracity five times in one letter is the right way of creating an atmosphere of good will. I, for my part, Sir, having replied to the challenges which I received the other day, intend to try and live up to what I have just said in future.

Sir, I beg to support.

10.01 a.m.

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): Mr. Speaker, before I deal with the points which have arisen in this debate on agriculture, I would like, with your permission, to make two remarks. The first is, Mr.

Speaker, I think I would be voicing the views of many Members of the Council if we could ask you to see whether there was some way in which the extraordinary cacophonous noises that take place outside—old tin cans dragged along the highway—could be stopped during the deliberations of this Council. I am sure I speak for hon. Members when I say that I think the work that we do here ought to take precedence over a dustbin being transported in the road outside behind your back, Mr. Speaker.

The second point I would like to mention, Sir, is that I am only going to deal with agricultural matters in speaking. We have had, during this debate, a very considerable number of essays on politics, some of which centre round whether there should be additional Members of this Council. I would only like to take this opportunity of reminding hon. Members that if the agricultural industry of the country cannot proceed at a reasonable level, and with a reasonable economy, we shall not, of course, be able to afford any more hon. Members in this Council. I therefore beg the Council's pardon if I draw their attention, during my speech at any rate, to agriculture.

Now, Sir, the hon. Member for Ukamba asked me first of all whether I could give an outline of what has happened in regard to market research and marketing, especially in regard to a body which I have called together to discuss the matter. The situation at the moment is as follows: I called a large and representative body of people together, drawn from the whole industry, to discuss the problem of marketing. They sat under the chairmanship of the Permanent Secretary to my Ministry, and set up a small committee to make recommendations on the whole problem. That committee reported and the recommendations from the committee were not entirely favourably received by a wide section of the agricultural community, including the Board of Agriculture and the organized industries themselves. As a result of that, Sir, discussions are now proceeding within the industry itself on lines which I will indicate to the hon. Member and I felt it wiser, as Minister, to try and allow the industry itself to resolve its marketing problems if possible.

[The Minister for Agriculture, Animal Husbandry and Water Resources]

The older and more established industries, that is to say, for instance, the coffee, sisal and tea industries, together in a certain degree with the pyrethrum industry, have long-established and mature marketing organizations. The problems in marketing centre round the newer industries, such as the Pig Industry Board, the Kenya Meat Commission, the Kenya Co-operative Creameries, the Horticultural Union and the poultry industry. It seems to me that all those industries have a common problem which is finding markets both in this country and in the neighbouring territories and overseas for an increasing production. I believe that they would be well advised to organize themselves together to pursue their actual marketing and sales side. I do agree with some of the remarks made by the hon. Member for Nairobi South, I think in a previous debate, where he pointed out how wasteful it was for a number of representatives to go and sell small packets, or pockets of produce in the neighbouring territories when a centralized organization could possibly do it for all five industries.

Now, Sir, I believe the industries themselves are having discussions on those lines, and I would not, at this stage, want to say anything further about them.

I should like to reinforce what the hon. Member for Aberdare said with regard to marketing. It seems to me that the functions of the Government are legitimately those of market research, economics in connection with the industry, and efficient production, and to get together with the representatives of other governments to facilitate the passage and sales of our goods overseas. In my opinion, we should not, as a Government, interfere in the normal channels of trade and the normal marketing organizations, except in so far as the industries ask us to help.

So, Sir, on the marketing side the position is that having made an attempt to get the matter examined, I am pleased to say that that seems to have initiated discussions amongst the industry itself which I hope will bear fruit.

On the research side, the hon. Members will, I think, be pleased that as far

as my Ministry is concerned, we are in agreement with the other Ministries affected in regard to the organization of the research side, and we are now advertising and trying to get suitable bodies for the positions we can offer. The hon. Member, Sir, on that, went on to the question of Kenya Meat Commission and meat. That also was touched on by the hon. Member for Uasin Gishu and the hon. Member for Mau. I propose first of all to deal with the question only of measles. I think the hon. Member, Sir, was possibly guilty of an exaggeration when he said he thought that measles would eliminate the beef industry in two years. I have no evidence of that, and I would like to say, Sir, in this Council, that the meat which is passed for inspection and sold by the Kenya Meat Commission is perfectly safe for anyone to eat.

Now, early in this year, we set up within my Ministry a committee to examine the question of measles and make decisions on how best to tackle it. As a result of that, we are now discussing with the Ministry of Health measures designed to plan a large-scale attack on the adult worm amongst our human population, to extend meat inspection generally and gradually into all the major consuming areas in the country, to intensify and continue propaganda on farms with a view to trying to eliminate the source of infection there, and to continue research into the immunization of animals and the production of a workable diagnostic test. The Chairman of the Kenya Meat Commission has also undertaken to put to his Board suggestions that the meat industry itself should help in that programme.

Now, in order that the hon. Member may get a proper appreciation of what is involved, we have taken out some preliminary calculations on the cost of the campaign for which he asked. The recurrent cost would be certainly about £120,000 a year with a capital expenditure of £312,000. That is the current cost of meat inspection in all areas, including the African land units. The cost of trying to eliminate the tapeworm from the human in five Provinces would be recurrent about £45,000 a year, and capital about £54,000 a year. Now, Sir, bearing in mind that estimates are often slightly below the targets, I think we can assume

[The Minister for Agriculture, Animal Husbandry and Water Resources]

that the total cost to the country, of what the hon. Member is requesting, would be something like a £175,000—£200,000 recurrent; and £350,000—£400,000 capital expenditure. I feel that the Government must examine the matter in great detail before it embarks on expense of that nature.

Now, going on from that, Sir, the hon. Member for Uasin Gishu and the hon. Member for Mau raised certain questions about the Kenya Meat Commission. I would like to say this, Sir: the Kenya Meat Commission, since this increasing supply of beef has become evident, has taken steps to bring the canning part into operation. We hope that will be in operation in January. This will certainly enable us to lift off a great deal of the poorer quality meat and the frozen meat which has been in store for some considerable time. They have also managed to increase/considerably orders from neighbouring territories, both in Tanganyika and Uganda. We think that as a result of a new agreement we shall be able to move off increased quantities to Uganda and we are also making an approach to Uganda to free some of the restrictions which they have imposed on our beef from this country. In addition, Sir, the Kenya Meat Commission will be organizing—which will, I think, meet this problem in the Member for Uasin Gishu's area—will be organizing, I hope, sales on the hoof which will take the amount of stock offered as surplus to the Kenya Meat Commission's present requirements. We have already moved from the hon. Member's area something like 1,106 head of cattle belonging to Africans; and 978 head of cattle belonging to European farmers. The estimate which I have received of the surplus in the hon. Member's area is around 2,000 head from European farms.

Now, I would like to say just a word on this to hon. Members. It is very difficult indeed to access with great accuracy where a point of over-production or shortage lies. Consumption of beef this year has dropped by 1,000,000 lb. over the 1955 figure, or it certainly looks as if it will. In addition to that, our sales to Uganda, through no fault of our own,

have been seriously curtailed through the action of Uganda itself in an attempt to protect its own beef destocking policy. Those two factors, together with a long drought and the desire of farmers to move their stock off farms has brought on to the market an amount of animals which the Kenya Meat Commission could not really forsee.

Now, there is one other aspect in this which I must draw hon. Members' attention to because they could help me in it: we did issue, or the Kenya Meat Commission did issue something like 18,000 circulars to farmers asking them if they would indicate the date and the probable onward movement of beef cattle. Now, I regret to tell hon. Members that the replies received were only around 500. Now, no industry can possibly organize itself if the component and producing part of that industry will not let the organizing and selling side know what is the amount of onward-moving cattle which they can expect in the future. So in the particular situation in which we are now, one must accept that a certain amount of the fault is due to the producer himself who has not filled in the return.

Now I would like to assure hon. Members that I am well aware of this problem and I am deeply sympathetic to people who have a large number of animals on their hands which they cannot move; we are, however, doing our utmost to relieve the position. I have confidence in the Chairman of the Kenya Meat Commission, and I see that he says that he feels that with the arrangements that he is now making (and he has thrown himself into this problem with very great energy), he hopes that this particular surplus will be removed in the near future.

The hon. Member for Ukamba, Sir, also raised with me the question of frozen food with one voice, and another hon. Member raised a contrary voice. I thought that perhaps I would like to touch upon this matter possibly to indicate the line upon which I think the Government should proceed.

First of all, Sir, we as a Government would accept that agriculture is the basic economy of the country and it needs, therefore, as much help and support as we can give it. That means that

[The Minister for Agriculture, Animal Husbandry and Water Resources] we would not allow the undermining of our agricultural industry by indiscriminate and unwise dumping of food-stuffs from overseas. Now, in so far as there is no dumping or indiscriminate importation I think that our attitude would be to attempt to support local industry where it was truly efficient and produced food-stuffs of quality. We would attempt to encourage persons who were interested in importing food-stuffs from overseas to set up their own organizations in this country to manufacture those food-stuffs from our own local produce. I believe that by resisting dumping, by encouraging local manufacture and by a system of licensing—which we have already adopted, in case hon. Members do not know, in the case of strawberries and onions—we can probably meet the desire of the agricultural industry to expand on a fair wicket without stifling natural private enterprise outside.

I would just like to say, Sir, two words on this whole problem. One or two hon. Members have raised the question of quality in our own local produce; and I would like to say, as Minister for Agriculture, that there has been a very marked improvement in the quality of our local produce together with a real attempt by the agricultural industry to take it further. Where we are terribly deficient is in the presentation in the retail shops. Much of the finest vegetable produce which can be marketed almost anywhere is either rejected by retailers because they can get a poorer quality vegetable cheaper or so misused on the floor of the shop that the bloom and quality of the produce disappears. I believe that the agricultural industry would be well advised to pay considerable attention to measures designed to put pressure on retailers to handle fresh produce in a far more hygienic and attractive way.

The hon. Member for Mau raised the question of the dairy industry—and the Chairman (of the Dairy Industry Board)—and I know he will forgive me if I do not answer him, because I will be producing in due course a Dairy Industry Bill and I suggest that this matter might well be debated then. I have made a note

of the hon. Member's point with regard to the chairman and I think the best place to deal with that is in the Council when the Bill comes before it. He also asked, Sir, whether we would attempt to get the greatest liaison with the meat industry on its problems. I would like to tell him that my relations with the present Chairman of the Meat Commission are excellent and he is free to come and see me or my officers at any time he likes to discuss the problems of the industry with us.

Lastly, Sir, there is one point which I must vigorously deny. He said that we were half-hearted on de-stocking in the African land units and that now he felt we were quarter-hearted. Now, Sir, I do take that very much to heart because it is a matter which I have interested myself in very much. I propose just briefly to give the hon. Member one or two rather heartening facts. I beg hon. Members' pardon.

In the Kitul District we have greatly restored the quality and cover of the grazing and the hon. Member, I think, will be interested to know that a recent census of stock there, which was very keenly supported by the people, showed that we have now got in Kitul a balance of animals between the grazing and the stock-carrying capacity. We can expect, I think, an increase from now onwards, not only in carrying capacity but in quality of stock.

Secondly, Sir, in the Baringo District we have managed to finalize the rather difficult and intricate talks on stock routes from that area and we should begin to get a flow of animals from that area.

There are two other points I would like to raise, Sir, and the hon. Member must accept that much de-stocking in the African areas is terribly handicapped by disease. Until we have produced an easy and cheap form of foot-and-mouth vaccine from the new institute, de-stocking will be periodically held up by outbreaks of foot-and-mouth. The last point regarding de-stocking, Sir, is that the African stockholders, until quite recently, expected high prices for rather inferior animals. I was pleased to see that when I visited South Baringo a week ago and spoke to the people there I was pleased to find a very intense desire to

[The Minister for Agriculture, Animal Husbandry and Water Resources] get rid of their surplus stock. (I see the hon. Member is shaking his head, I think.) However, I did get the impression, Sir, that they were anxious to dispose of their stock at a lower price in order to relieve the pressure on their land.

I think, Sir, I have dealt with the points raised by the hon. Member for Aberdare as regards marketing and the protective side for a substance such as ice cream.

I would like now, Sir, to turn to the points made by the hon. Corporate Member for Agriculture. All I wish to say on that, Sir, is this: I would thoroughly agree with him that irrigation is not a thing in itself. The moment we start an irrigation project we run across a number of Ministries—and the liaison within Government is good. An instance of that is Perkerra, where as a result of the expenditure on the Perkerra Irrigation Scheme we have now had to enter into discussions and we have reached agreement with the Tugen people on the protection of the Perkerra catchment; because without control of the catchment we cannot control the flow of the streams which are feeding the irrigation. I would agree with him, Sir, that probably we shall move sometime to something on the lines of the Tennessee Valley Authority, in our country.

I would, however, like to give one word of caution on that. We are, as a country, very much prone to boards and authorities. I think that before we move to more authorities covering the whole of regions and streams we do just need to watch the development of the country a little further, probably. I think it is a matter we can speak about, but we do not want to enter into without a really proper analysis of all that it entails.

Now, Sir, I come to the point raised by the hon. Member for Nyanza Central who, I notice, is doing us the honour of appearing here in evening dress. I only want to take up one or two of the points which he raised. He said that he felt we should have taken the same action at Longonot as we have in African areas. I do not want to join issue with the hon. Member but I do not know of any

serious or even reasonably slight erosion on Longonot. There are the old furrows made by the flow of lava, but I do wonder whether the hon. Member is confusing Longonot with the mountain of Suswa which is very similar indeed and lies slightly to the south. If he is so confusing it, then it reinforces my argument because erosion on Suswa is largely created by the Masai people and over-grazing. It does rather show, I think, that we must have control of unlimited grazing and fair control of erosion in African areas. We have got exactly the same powers in European areas and we do enforce them.

Now, Sir, the hon. Member also made some allegations about the officers of my Department, saying that they forced Africans to do things and that they should treat them more kindly as they imposed fines. I would only say this. There is a very good relationship between the officers of my Department and African farmers. Where African farmers deliberately flout the law there is nothing to be done but to operate the law and ensure that it is carried out. That must result in fines. If the hon. Member really wants *laissez faire* and the freedom for African enterprise in his constituency he has only got to look at what has happened in Africa over the last thousand years to see what will be entailed by such an action. We have got a great number of good people, but ignorant and superstitious people, with a considerable amount of apathy as well. The only possible way in which we can prevent them undermining their heritage in the form of the soil is by insisting on good land management. If that means an infringement of the private individual's liberty then the choice is perfectly simple. We must infringe on his liberty or destroy his basic asset. I have no hesitation in saying that we must, of course, see that the rules of good husbandry are carried out.

I would only say to the hon. Member that there will be a debate on African agriculture and I expect he will join once more in the fray there so I will not deal with this matter at great length to-day. I will be visiting his area when I have fixed the dates (I can discuss that with him afterwards) so I will only say this. I think the tremendous energy which he

[The Minister for Agriculture, Animal Husbandry and Water Resources] shows in speaking in this Council is more to be admired. I would like him to put as much of that energy to helping me deal with these problems in his area. What he is voicing is the natural suspicion and ignorance and resistance of a very uneducated African people who have not had the advantages which he has had. Instead of reinforcing them like a trombone at the bottom of an orchestra the hon. Member ought to come with me and with his personality and his knowledge of his own people try and convince them that what we are doing is right. I do assure him that if he will not do that I will tell him what I told him in March. If he will not carry out good husbandry in his own area and we cannot change the outlook of the Luo people then there is nothing for them but an increasing and declining poverty.

The hon. Member referred to the Kano Irrigation Scheme. All I will say is that we have now got the pilot area of land set aside with funds available for the work and we shall be proceeding with the pilot scheme. A point on that, Sir, is this—that our irrigation efforts elsewhere have already taught us that we do need careful experiment and investigation before we embark on very extensive schemes.

The hon. Member for the Central Province did raise two questions on strict regulations for produce. I have examined the cases that he raised with me. In both cases I am satisfied that the produce was rejected properly. In the first case the maize was too wet for acceptance and in the second case the beans to which he referred were below quality. Now, if we do not keep to our standards we cannot maintain our markets; and that is another self-discipline that hon. Members have got to get over to their own people. The only alternative is a mass of poor quality produce which nobody will want to buy.

Now, the hon. Member for Nairobi South, Sir, raised the question of enthusiastic planting of pineapples and pyrethrum, and I am going to leave that to the Director of Agriculture to deal with as he has been personally interested in it.

I think that covers most of the points raised on agriculture, and I will deal

further only with the points raised by the hon. Member for Nyanza North. This is rather important.

The hon. Member raised the question of loans to farmers. I thought he might like to have some information on them. There is available for loans to farmers, in the period 1957/60, £250,000. The limiting factors are the reliability and credit worthiness of the African or the scheme wishing to draw on the loan finance. Experience shows us that that varies considerably from district to district. I will give the hon. Member an instance. He may like to have it; and he may like to help me by drawing the attention of his own people to it. In the four Nyanza Districts on 30th June, 1957, 21.5 to 41.9 per cent of the loans were in default on amounts of considerable value. So that in his own country one-fifth to just under one-half of the people to whom we have lent money have so far not met the obligations inherent in the loan.

Sir, the hon. Member alleged that the loans were given for only two years. Now, Sir, this is not so, but I have not been able to check up whether there were any given for two years. I will look into that for him. However, it is not true to say that we have not got a considerable amount of money available for loans. We have given out £53,000 in loans to 1,004 African farmers.

AN HON. MEMBER: Shame!

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): In the case of Kakamega, 5.45 per cent of the loans are overdue. In the case of Elgon Nyanza, 31.8 per cent of the loans are overdue, and in the case of Central Nyanza 41.9 per cent of the loans are overdue.

I seem to have heard an hon. Member crying "Shame" because the amount of money available is four times the amount of issues. The only thing that is holding it up is the attitude of the African farmers to loans, their credit worthiness and their sense of obligation.

The hon. Member also raised the question of restrictions on cash crops. Now, I propose to ask the Director of Agriculture to deal with that shortly because I expect it will come up in a

[The Minister for Agriculture, Animal Husbandry and Water Resources] later debate. He has raised the fact that semi-arid areas were neglected. Well, I would like to suggest that the hon. Member should really acquaint himself with the facts before he makes his allegation. In the case of our policy we believe that the money we have got available is best spent in the high potential areas because there we get the quickest return from our efforts and out of that return we can hope to finance the expansion of the agricultural policy in areas of less potential. But, Sir, it is absolutely untrue to say that semi-arid areas are neglected and I am going to give the hon. Member the figures.

In the Coast Province, out of a total expenditure of £353,000 up to date by ALDEV, £150,000 have been spent in semi-arid areas—that is a fraction under half the amount of money available. In the Southern Province, out of a total expenditure of £3,600,000 by ALDEV, altogether £1,300,000 have been spent. Well, the Southern Province is, on the whole, a semi-arid area, and hon. Members will see that very nearly between one-third and one-half of our ALDEV expenditure has gone into that Province. Lastly, Sir, in the Rift Valley Province, out of a total expenditure of £612,000, £344,000 have been spent in the semi-arid areas: so that we are devoting to the semi-arid areas about half of the resources available, Sir, to us. I think, therefore, that the hon. Member cannot really sustain his allegation that those areas are being neglected.

I think, Mr. Speaker, that includes the points concerning agriculture, and I will not detain the Council any longer.

10.32 a.m.

MR. NAZARETH: Mr. Speaker, Sir, although great stress has been laid in this debate on political stability, there is, I would suggest, not anything like that stress contained in the Communication itself. There, the matter of political stability has been referred to or dealt with mainly in two sentences. The first is in the second paragraph of the Communication which says:—

"Recovery, development and expansion can only be fully achieved in an atmosphere of political stability."

The second sentence is in the final paragraph of the Communication. It reads:—

"A prosperous economy and a high level of production depend in turn on political stability."

What is notable in the Communication is the lack of attention to measures designed to promote political progress and its almost entire concentration on economic progress. I do not minimize the importance of economic progress or deride Government's careful attention to that aspect. The attention which has been given to it should very much delight the heart of the hon. Member for Nairobi South who seems to conceive of Kenya's political stability built upon an economic mattress. I should feel very unhappy if I thought of any kind of stability in which I have an interest as built upon any kind of mattress.

The trouble with Kenya's progress has been that it tends to go to sleep or to get buried in the economic mattress. Modern political thought, I think, conceives of economical and political progress as interwoven, each providing the foundation for the other, and each, as it were, the handmaiden of the other. I regret, therefore, the lack of attention to political progress in the Communication which, in a proper measure, is necessary to political stability.

There is, in fact, in the Communication no evidence of Government's intention to take steps to achieve political progress, even to the minimum extent necessary. The Constitutional talks have so far not even got really started.

The hon. Nominated Corporate Member for Commerce and Industry, who is constitutionally of no race, but who has the honour to be the leader and Chairman of the Elected Members in this Council, who must constitutionally belong to the European race has paid tribute to the efforts and patience of the Colonial Secretary. I should myself like to thank the Colonial Secretary for the courtesy with which he received us and for the attention which he paid to us. But I feel that at the outset he made an unfortunate mistake:

On 1st August he made a declaration which has been referred to in the statement published in the Press and to which he adhered in the course of these talks.



(Mr. Nazareth) from which it seemed that he had identified himself with one party to the dispute; and he adopted and maintained a fixed stance which made it seem, that he had prejudged a cardinal matter in issue; and he thus disqualified himself from or greatly prejudiced his work of playing any effective role as a mediator. His patience, however great, could hardly overcome such major self-created obstacles, and his efforts in such a situation—

SIR CHARLES MARKHAM: On a point of order, Mr. Speaker, is the hon. Member in order in bringing up criticism against the Secretary of State for the Colonies?

THE SPEAKER (Sir Ferdinand Cavendish-Bentinck): I have not heard the hon. Member impute any improper motives. He is at liberty to give his own personal opinions up to a point.

MR. NAZARETH: As I was about to say, his efforts in such a situation would be largely wasted.

The hon. Member for Nairobi South has dealt very fully with the justification of the stand taken by the European Elected Members; it becomes necessary, therefore, to examine whether in fact that stand was justified.

I had not intended to speak at any great length in this debate, but I am afraid that this examination will take a little time.

Now, before I come to the matter of this justification I should like to deal with certain matters, certain misrepresentations or certain misunderstandings, about my own part in this matter. It is important to do that because if the strength or nature of African opinion, or the opinion of any group behind a particular stand, is miscalculated or misunderstood, serious political mistakes may result.

It has been suggested that I advised the African Members to stand firm. Now, I wish I could flatter myself that the African Members would seek my advice or take advice from me. There is a lot of fantastic talk going on in the country about European leadership. Anyone who in the present-day East Africa, with its racial set-up and racial rights, believes that leaders of one race can lead leaders

of another race or even the people of another race lives in a dream world of his own. I hope the expression is not too strong, but I would say that he is a lunatic who ought not to be allowed a large in any significant place in politics. I wish to make the matter quite plain. The African Members have not sought any advice from me nor have I given any advice to them to stand firm. I take it that none of my colleagues in this Council—none of the hon. European Elected Members—are in any way associated with these statements that have been made about me elsewhere, and none of them who was present on the last day, when all groups met the Colonial Secretary, both in the morning and in the evening, would have any excuse at all for making any such suggestion.

Now, to come to the matter of the justification of the stand of the various parties, the Africans demanded 15 seats on the Unofficial side; the reply to that demand (made by the European Elected Members, or the European Members because apparently the Corporate Members go with them) was published on 5th July. The Africans replied to the European Members' statement about 11th July, just before two of them left for the United Kingdom. It was thus clear in the middle of July that the Africans were demanding a separate decision on increased African representation and that the Europeans on the other side were insisting on what might be called, or has been called, a package deal. Therefore, it was likely to have serious consequences on negotiations and on any attempt to bring parties together if someone who had responsibility for decision in these matters did or said something at an early stage which had the effect or which might be regarded as identifying himself with one of the two principal parties to the dispute. A very complete and full justification is therefore necessary for such a stand.

Now, in the statement made in the House of Commons on 1st August no justification was then attempted. In answer to a supplementary question the only justification stated was as follows:—

"If you mean claims to increased African representation, I could not, of course, deal with that question in

(Mr. Nazareth) isolation from other aspects of the constitutional problem, but I welcome the recognition of the European Elected Members that in certain circumstances an increase in African representation should be a feature of any settlement."

The talks began here with the Africans, the Europeans and the Colonial Secretary all adhering to their respective stands. Since the Africans were the claimants—claiming increased representation—it is of basic importance to know what justification there is in fact for refusing to deal with their claim except as part of a general settlement of constitutional issues.

Two main justifications have been attempted. The first is that an increase on the Unofficial side would have repercussions on the Government majority. I would suggest that the African answer to that is that they are fully prepared to accept a Government majority as sufficient. The second justification attempted is that the relative proportions of the Government and non-Government sides would be affected by an African decision as to participation or non-participation in the Council of Ministers. I would suggest, Sir, that that is not an insuperable obstacle, as a decision or agreement on the increase could have provided in the alternative for an African decision as to participation or non-participation.

A third justification which I heard advanced on Wednesday by the hon. Member for Nairobi South was that parity was a basis of the constitution and that the Europeans were entitled to know the new basis if they were giving up or as they were giving up parity. Now parity is, I would say, in no way a base of the constitution in the way in which Government majority is a base of the constitution. Without a Government majority it might be difficult or impossible to carry on the work of Government. But the principle of parity is certainly not in that class as a base of the constitution. It was really a convenient instrument by which Europeans had obtained excessive representation and by appeal to which they have placed themselves in a position to deny fair representation to other communities.

I would therefore submit that the objections which have been advanced against a separate decision on the question of increased African representation have no validity. Of course, I realize it is impossible to convince the hon. Member for Nairobi South, especially after the long extracts to which he has treated us, that he or his colleagues are in the wrong. I appreciate their difficulty. They are like a certain French lady who, in a dispute with her sister, said "But I meet with nobody but myself that is always in the right".

The Africans say they are under-represented and that as they seek no vital change and none is consequential on the remedying of the injustice of which they complain they should not be put under pressure or made to pay a price to obtain a remedy for the removal of that injustice.

Now, seeing that the Europeans are willing to concede some increase, they in effect accept the justice of the complaint as to under-representation. Then why should they compel the payment of a price not essentially connected with the complaint?

Consider the matter from a practical aspect. If increased African representation can be obtained only as part of a general settlement, then either Africans will be subject to heavy pressure to make concessions in the negotiations which might not even end in agreement, or else they might have to do without any increase at all. Therefore, the effect of coupling the question of increased representation with other constitutional issues would be to have something in the nature of a trap which might give the Europeans a stranglehold on the political development of the Colony.

I would remind hon. Members of one of those great truths that Edmund Burke uttered in his speech on Conciliation with America: "Refined policy ever has been the parent of confusion and ever will be as long as the world endures". Africans feel that their political progress must not be held up in the same way that Kenya parity held up the progress of non-European races, by that progress being burdened with conditions which in fairness they should not be put under pressure to accept. Now I should like to say a few words about the Asians' stand.

[Mr. Nazareth] Asians gave their support to the African stand, but it was not given as a result of any pressure, it was given on the merits of the matter. I will be brief on this matter because it has been quite fully dealt with by the hon. Member for the East Electoral Area, but I wish to avoid any misunderstanding that might result from the speech made by the hon. Member for the Central Electoral Area. The Asians have unconditionally supported the African demand for an uncompensated increase. That is to say, they have not coupled their support with any conditions.

THE MINISTER FOR LEGAL AFFAIRS (Mr. Griffith-Jones): On a point of order, Mr. Speaker, does the hon. gentleman suggest that the Asian group has accepted the African demand for 15 extra seats? Because if he says they have accepted it without conditions, that is the only interpretation one can put on his words. If so will he substantiate that statement?

MR. NAZARETH: I was going to deal with that very matter.

THE MINISTER FOR LEGAL AFFAIRS (Mr. Griffith-Jones): I was dealing with the statement that the hon. gentleman has just made, not with the one he is going to make.

MR. NAZARETH: The hon. gentleman, that is the hon. Member for the Central Electoral Area, interpreted the support, or the words used by the Asian Elected Members—that is, that they unconditionally supported the African demand for increase. But in the statement that has been made on this matter, we have never stated that we agree to 15 seats. We have unconditionally supported the African stand, which means that we do not attach any conditions to that support, but we have used, in statements that we have published, the words "for an increase", not the increase or the increase of 15 Members. I would say quite plainly that the Asian Elected Members have not agreed to an increase of 15 seats or any specified number—

LT.-COL. GHERSIE: Why not?

MR. NAZARETH: That is a matter for negotiation and agreement or decision.

There is, in fact, no significant difference in the stand taken by the Indian Elected Members or the Muslim Elected Members or the Kenya Indian Congress. As early as April, 1957, the Kenya Congress supported African demands for increased representation. They have maintained that position thereafter, but nowhere has it been stated that the Asian community or the Kenya Indian Congress or the Asian Elected Members support an increase of 15 seats. That I wish to make clear beyond any possible doubt or misconception. The Asian Elected Members consider there was not sufficient reason why the claim for an increase in African representation should not have been first discussed and a final decision reached thereon before any constitutional issue was discussed.

The attitude of Asian Elected Members is set out in a statement which I made, which I think I can claim has the support of the other four Asian Elected Members, and, since much has been put on the record, I would, with your permission, Sir, like to read this statement, which represents the position of the Asian Elected Members:—

"We are greatly disappointed that no way could be found out of the impasse between the position, on the one hand, of the Colonial Secretary, which has also been the position of the European Members, that he was not prepared to decide the question of increased representation as a separate matter from other constitutional issues, and the position on the other hand of the African Members, that the question of increased African representation must be finally decided before the other issues or matters were discussed. The Asian Members agreed that, in all the circumstances, there was no sufficient reason why the question of increased African representation should not have been first discussed and decided. On the respective attitudes adopted at an early stage, the talks had no real chance of success. The Asian Members sincerely hope that some modification of the stands taken may enable talks which have a greater chance of success to take place."

That statement, I think I can claim has the support of the Asian Elected Members. The inevitable exception is the

[Mr. Nazareth] hon. Member for the Central Electoral Area, whose political habitat I do not know, whether he is an Asian Elected Member, or an Indian Elected Member, or just sole founder and sole member of the rational party, or the Capricorn party or whatever is its correct name, the odd man, as he described himself, out of all groups, the sole member, I may add, in his own group.

I have had occasion to say this before, but I think it will bear repetition. Once again the speech that he has made on the Communication has shown how well he exemplifies that famous horseman of Stephen Leacock's, who leaped on his horse and rode off to battle in all directions, mowing friend and foe, principle and policy alike, with uninhibited vim and vigour.

The Asian Elected Members are well assured that in the position they have adopted they represent the view of the great majority of the Asian community and they represent the views of representative Asian political institutions. They can fairly say that their decision was taken on the merits of the matter, not out of fear or favour or as the price of a bargain, as has been sought to be made out in the European Press.

At the back of the failure of these talks was, to a great extent, the European desire for safeguards and security. Now, that is a very proper and natural desire. The Member for Nyanza North attempts to reassure them by saying that the slogan, "Africa for the Africans", really means nothing and that Europeans and Asians are included among Africans. Now, I think I ought to say that that sort of assurance really cuts no ice "Africans" and "Europeans" and "Asians" in Kenya are racial terms. You have European Highlands and African Reserves, institutions or concepts built purely on race. The term "African" is not a political term and therefore if terms of this sort, which arouse much emotion and cause much confusion, are to be used, I might perhaps suggest that the hon. Member, if he wants a slogan, might adopt one that appeals a great deal to my hon. friend, the Member for Nairobi West: "Kenya for the Kenyans".

My hon. friend, the Member for the Central Electoral Area, with the same

fears in mind, has advocated safeguards for minorities written into the constitution. Now, safeguards for minorities are merely a means to an end and that end is security for the minorities. There are two ways in which one might approach this matter. One is to rely on entrenched clauses, on such institutions or franchises as communal electorates or reserved seats and so forth. The other way is to promote institutions that foster the growth of a common consciousness and that generate good will and racial understanding.

I feel that entrenched clauses are not a lasting means of protection. They have been broken down in the most important country south of the Sahara. In the ultimate analysis they are dependent on tolerance and good will. Unfortunately, racialism which has been practised by the most important, politically important, community in the past—the European community—has provoked in its turn, racialism among the Africans.

LT.-COL. GHERSIE: The pot calling the kettle black!

MR. NAZARETH: I am not enamoured of entrenched clauses. I would like, however, to study such a suggestion much more closely before accepting entrenched clauses as an adequate solution. But I am clear that the better way is to promote common institutions that foster and promote good will and develop a common consciousness.

My hon. friend, the Member for Nairobi Area, has interjected during the course of this debate that minorities need no safeguards. That may perhaps be so, but I am sure he will agree that minorities ought to have a sense of security and I think he ought to agree, too, that it is no less in the interests of the majority than in the interests of the minorities that the minorities should have a sense of security.

MR. MBOYA: I explained that the minorities did not need safeguards for the time being.

MR. NAZARETH: I was coming to that very point. I was going to say that, since in these talks, Africans are nowhere near obtaining control over the Government, that the stage had not yet arrived for writing safeguards into the constitution but, nevertheless, it is certainly im-

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[Mr. Nazareth]

portant that now steps should be taken to develop those institutions which create a sense of security in the minorities by promoting good will and tolerance as between the different communities.

That brings me to the main gap or deficiency in the Communication. The Lytleton constitution, with its mortgage of stand-still clauses, imposes now a heavy burden on political progress. It is functioning under a system of collective responsibility. In a multi-racial country it contains leading Ministers responsible to mono-racial constituencies, and these constituencies hang like a millstone on any liberal intentions that these Ministers may develop. When they enter their constituencies, any liberalism they may have developed is in serious danger of becoming emasculated. There is no real chance of political progress because several Ministers are responsible to opposing forces moving in opposite directions, or which ought to be moving in opposite directions if they attempt to carry out election declarations or election promises.

In fact, the kind of administration that we now have reminds me of that graphic description of Burke, of Lord Chatham's administration nearly two centuries ago, which I would like, with your permission, Sir, to read to this Council.

"He made an administration so chequered and speckled, he put together a piece of joinery so grossly indented and whimsically dovetailed, a cabinet so variously inlaid, such a piece of diversified mosaic, such a tessellated pavement without cement, here a bit of black stone and there a bit of white, favourites and courtiers. . . ." and so he goes on, but I should like to read the last sentence: "I venture to say that it did so happen that persons had a single office divided between them who had never spoken to each other in their lives until they found themselves, they knew not how, pigging together heads and points in the same truckle-bed".

The black stone is at present out of this tessellated pavement; the brown occupies a very minor part; and the cement which was provided by the Emergency has almost entirely disappeared. Where is the cement that is to bind this administration in the course of the next two or three years? There is now, Mr.

Speaker, too little speed in political progress, and too little speed can be as dangerous, or even more dangerous than a little too much speed. With Government driven by fissiparous urges and centrifugal forces, with pressures pulling in different directions, it is not surprising that the Government has been grinding down to a political halt; when movement is necessary, not only for progress but even for safety. Kenya's stability, like that of a bicycle, needs movement to keep it from falling.

The political standstill has become so complete that Asians will have to consider whether they should continue to share collective responsibility in such circumstances. The standstill clause of the Lytleton Plan might cover a multitude of sins in the political field, but what is there to prevent progress in directions where progress is not stopped by standstill clauses in the Plan. For example, what is there to prevent the removal of racial restrictions on the ownership or occupation of land in townships? If a community, poorer on the average, has to pay higher prices for land and in consequence higher rates, or cannot get land where they want it, it is difficult to believe in the good faith and sincerity of those who perpetuate the injustice or who benefit from it.

The matter of local government has been referred to in the Communication, but mainly from the point of view of financial arrangements. Now why is there no suggestion in the Communication for an increase in the representation of non-Europeans in local government? This field is specially suspect because the present Ordinance is largely founded on or derived its impetus very largely from the Kenya Plan of 1946, which was framed by the Electors' Union or whatever was the representative body then of the Europeans to secure political control through the organs of local government. Local government must be broadly based.

I understand that the Minister for Local Government has under consideration a system of proportional representation. I hope that he does not intend to confine his study to representation solely in regard to the Asian community, and that he will enlarge the area of examination and consider whether Europeans

[Mr. Nazareth]

and Africans should not be brought under a system of proportional representation so as to develop those institutions which I feel are so necessary to develop a common consciousness and to foster good will.

The hon. Member for Coast Province made a plea for inter-racial schools. I fully realise the difficulty in starting inter-racial schools on a wholesale basis. I know one exists. But I can see no reason why the Government should not initiate a policy by which a few children of each race should be admitted into schools primarily intended for the children of other races. The first law of survival is adaptation. The House of Lords in England, which has provoked much opposition, has nevertheless managed to survive because it has steadily adapted itself to changing circumstances and has imported so much new blood which does not come from birth; it comes from the province of industry, law and so forth.

Here also the same process of adaptation ought to be followed as early as possible. If you build racial walls, without the good will of the bulk of the people, they will be pushed over as easily as were the walls of those houses in this very same city of Nairobi which had no foundations and the pictures of which we saw in our daily newspapers.

I should like to say a few words in regard to the policy of the Asians. They have been accused of sitting on the fence. Now, in one respect, the hon. Member who said that the Asians were sitting on the fence was perfectly right. With the African reserves on the one side, with what are now called the European reserves on another side, with what I might call the desert and forest reserves on a third side, not to speak of racial restrictions on land in townships; what is left to the Asian except fences to sit upon. In any other sense of "sitting on the fence" it is a stupid mistake to accuse the Asians of sitting on the fence. Their policy is the very opposite of that. We do not believe in playing power politics; we do not make nice calculations of European and African forces before we decide which side to support.

We have supported, and we intend to support, that group or section which is in the right on any specific issue. We will

retain our independence; we have no intention of being tied to the chariot wheels of either of the other races. On African representation we supported the African demands. If Africans were unreasonable on any issue in the constitutional talk, and if the Europeans were reasonable on that issue, we would without hesitation support the Europeans on the issue. If anyone likes to call that sitting on the fence, he can do so, but he thoroughly misunderstands the ordinary use of the phrase.

I would conclude, Mr. Speaker, with a plea for the detainees even at the risk of being charged with pleading for hard core *Mau Mau*. There is no indication in the Communication that there has been a recent review of policy in regard to the detainees. The military handed over to the civil arm as long ago as November, 1956, nearly a year ago. There is, I feel, too much complacency about the deprivation of liberty of large numbers of men without trial. The case of Mr. Pinto, which I have had occasion to mention before in this Council, I would submit, shows quite clearly that there is a considerable element of punishment involved in the detention of these persons. Here was a person who applied to be allowed to see his dying father, whose family was prepared to pay the expense, yet that facility, the granting of which could have no prejudicial effect on security, was denied. I say in such circumstances it is impossible to accept that there is not an element of punishment involved in the detention of these persons.

They ought to have a hearing which approximates more to a fair trial. I know there is a system of appeal, but that, I submit, does not really give them a fair trial, and I cannot help wondering whether higher levels have not become hardened in their attitudes and incapable of adjustment, and I feel there must be a change now that war has given way to peace, and robbery in the towns is more to be feared than attacks in the forests.

The organization of the *Mau Mau* has been broken up; an organization that has been broken up is difficult to rebuild. The men who have taken part are marked men; security forces are much stronger. Any political struggle that takes place is likely to take a wholly different

[Mr. Nazareth] form from the one that has taken place. Men have learned that violence does not pay. They are unlikely to resort again, in the immediate future, to violence.

The only matter which causes one to hesitate a little in speeding up the process of release is that it might cause a large amount of unemployment or increase the problem of unemployment if provision was not made for men who are released. But that does not apply to several men who have been in leading positions in African politics before the Emergency. I would remind Government of the observations of the Parliamentary Commission which I feel have not been taken sufficiently into account in framing the policy set out in the Communication. In paragraph 93 of the report of the delegation of the Commonwealth Parliamentary Association, the members of the delegation say this:—

"Now, however, we are faced in Kenya with a return to normal conditions. Release from detention is being pushed along by the Government energetically and we recognize that 'the shooting war' is barely over; nevertheless, we feel we must stress the fact that the liberty of the subject is imperilled so long as detention without trial exists and that this should be kept in mind in Kenya as being fundamental to human rights. The very reasons for which such detention is acceptable in times of violence, namely the security of law and order and the preservation of the State, are also the reasons why detention is unacceptable once normal conditions return. The utmost speed in ending detention is then required."

And in paragraph 94 the delegation says: "Detention ought not to be regarded as a normal part of the legal system".

I would say that we are in danger of forgetting those observations and that we have adopted a far too complacent attitude in regard to the detention of these large numbers of persons. I would suggest that there is no great danger to security involved at the present stage in releasing a much larger number of men than are now being released. I fully accept the difficulty the Government has in releasing men if there is no provision

for absorbing them into the economy of the country.

I would suggest that Government should give serious consideration to the appointment of a select committee of this Council to deal with the delicate problem of a due balance between the conflicting claims of security on the one side and liberty and humanity and justice on the other side.

I am sorry, Mr. Speaker, that I am unable to give any enthusiastic support to this Motion. The merits the Communication has on the economic side are, I feel, more than counter-balanced by its deficiencies on the political side.

11.15 a.m.

MR. ARAP MOI: Mr. Speaker, Sir, in thanking the Mover of this Motion I should like to make a few observations on the speech from the Chair.

First of all, Sir, I should like to start with the very popular subject—constitutional matters. The Member for Nairobi Central Area alleged that I have advocated for 15 seats—

MR. MANGAT: He was one of those who advocated it.

MR. ARAP MOI: I admire his answer but I must refute his remarks.

Since the African community was not and is not still a party to the Lyttelton Constitution, I have got every right to air the views of the African community.

[Mr. Speaker (Sir Ferdinand Cavendish-Bentley) left the Chair]

[Mr. Deputy Speaker (Mr. Conroy) took the Chair]

Mr. Deputy Speaker, Sir, the Member for Nairobi South has been making speeches outside this Council trying to convince his electorate as well as the Members of this Council that the European community are on the right road in this particular matter. This is not a new thing, the Central African Federation has already quashed a previous constitution, and other Southern African territories. But I should like to make it perfectly clear that when the Member for Nairobi South stated that an agreement was made last year, there was in fact no agreement at all. He said, in fact, it was a free talk with no agreement

[Mr. arap Moi] and definitely previous African representatives made it quite clear that they could not commit the newly African Elected Members to the whole issue.

MR. HARRIS: As I understand it, the hon. Member has just said that there were no agreements last year, is he now denying that there were agreements covering the admission of two additional Africans and Corporate Members to the Council?

MR. ARAP MOI: Well, as far as agreements are concerned, an agreement is a signed document, Sir. (Cries of "No.") And you speak on agreements but I speak on the real truth of the whole trouble, that is, the Lyttelton Constitution. The hon. Member for Nairobi South advocated previously that there is no signed agreement in the world. What about the Lyttelton Constitution?

MR. HARRIS: It was not signed.

MR. ARAP MOI: Well, the whole thing which concerns the Lyttelton Constitution had no unanimous agreement, and the previous African Members did not agree, in fact.

MR. HARRIS: The hon. Member must be careful what he says. I was a party to the Lyttelton Agreement and I signed nothing but I still hold to the Lyttelton Agreement.

MR. ARAP MOI: I thank the hon. Member and still I say that last year's agreement was only an interim agreement on two Corporate Members and the two African Members.

MR. HARRIS: Did you sign those?

MR. ARAP MOI: Well, it was a matter of last year, not this year!

MR. HARRIS: Did anybody sign them?

MR. ARAP MOI: Further, at no stage consideration on the part of the Government was given to the African representation. If Government says now Africans are under-represented why was it not considered before?

The question of parity has nothing to do with the Africans' increased representation. Many Members are advocating that we should participate in the Government. These two issues have no connexion at all. There have been state-

ments about us not participating in the Government and about African increased representation.

As far as the background of African increased representation is concerned, in 1944 there was one African. In 1948 there were three additional Africans but there were many major changes in the constitution. In 1952 there were two Africans. The increase of two are, I think, the normal increase of the African increased representation. But now the time is ripe for the African community to demand their right to be adequately represented. If Government denies that, well, we Africans also demand our safeguards. Now that the European Elected Members are advancing safeguards, the European Elected Ministers who are part of the Government seem to have no confidence in the Government and, therefore, they advocate for safeguards. We Africans have no fear of any safeguards at all so long as the Government is in the majority. We did not, in fact, ask for an African Unofficial majority, we asked only for a fair—not even adequate—increased representation.

The Member for Nairobi South says that if there was to be an increase of one Arab Member he assumes that the European community should have five Members: Does he also assume that by having one African, one Asian and one Arab the European community should still have five Members?

We must face facts and facing facts does not mean that one side should deny other people's rights.

MR. HARRIS: Mr. Deputy Speaker, I made it quite clear that it was within the framework of the Lyttelton Plan. The framework of the Lyttelton Plan is not one African, one Arab, one Asian, one European.

MR. ARAP MOI: Well, Mr. Deputy Speaker, we have come down further, far from our previous stand. We did not want to consult the European Elected Members because we felt that Government should come into the open as far as the question of African increased representation is concerned. Last May, as far as I can recollect, we met the European Elected Members. We met them and they asked for a document which we sent to His Excellency the Governor, and they assured us that we

[Mr. arap Moi] were going to have another meeting. But what happened? Instead a statement was issued by the European group that Africans should have some increase and attached certain conditions. Is that how to handle the affairs of this country? Is that the attitude that we should all adopt to build a united front in our own affairs? I suggest not. In fact, everywhere, we have been called extremists, we have been called awkward types of extremists. In the last respect, I met many Europeans and, in fact, I have got many European friends—more than any European Elected Member has, and I know their difficulties. I know their real and genuine grievances. And as far as land is concerned they are genuine, but what the European Elected Members do is misleading them. They say: "Let us have an Upper House, let us have proportionate division of seats". A man who has proper ideals and convictions is not a man who moves from one place to another not knowing what he is doing.

Our stand is, in fact, such as we have stated and as far as I can see the European Elected Members have not moved even an inch despite their liberal attitude.

THE CHIEF SECRETARY (Mr. Turnbull). Would the hon. Member care to explain how I come into this?

MR. ARAP MOI: I am glad you ask me, Sir. I thought the Member for Nairobi South was asking us to confirm our last year's agreement, but in this thing I wanted also to hear whether you can also commit the Government in expressing things which are right from other racial points of view.

Now, Sir, these are the views which I have stated everywhere I have been. They are the views which come from my own conscience and come from my own mind; they are not from somebody else's mind. As far as I have seen I do not think there will be any solution to these constitutional talks so long as every group insists on its own stand. We have moved towards a solution, but others have not given way, even a bit. I am worried because the European Elected Members—some of them—say all affairs should be settled by the "Kenyans". But at other times they say: "Oh, no! In these affairs we support the Colonial

Secretary because he has said this, this and this"; and sometimes they say: "The Colonial Secretary should step aside, let us settle our own affairs".

If the European Elected Members and the two Corporate Members, are sincere, let them come forward and say: "Let us support the African increased representation". If they will discuss the matter I am prepared myself to discuss some other issues. But what is behind the whole problem? What is their ulterior motive? Why cannot we dispose of this? We have no ulterior motives except for African increased representation. Let Government continue, the Colonial Secretary says the present Government will continue and we do not oppose it. Let it continue then; Government can adjust their own side with any number they like provided they have got a majority, so that the European Elected Members are secure. If we had had any power on this side, yesterday's Motion, my Motion, would have gone through. But it did not go through because the Government so far is in the majority and why should we suspect it? I know the Minister for Commerce and Industry is not convinced, but he will one day be convinced.

THE MINISTER FOR COMMERCE AND INDUSTRY (Mr. Hope-Jones): I gave no indication of my views, in fact I have no views!

MR. ARAP MOI: Well, Mr. Deputy Speaker, I can see the sure sign!

So, Mr. Deputy Speaker, I think, as I said, that many people will be convinced one day that we were right in our demand. The Leader of the House is, I think, an economist and can tell me whether political economy, which is the distribution of wealth, is not tied up with political stability. If political temper continues, then I do not see any clear future. To me, as at present the future is dubious, I cannot see it myself. But there is still room for reconciliation, there is still room for people who think that this country is for all. I made it quite clear to a good audience of Europeans that none of us have ever said that Europeans or Indians should go. We want them to live with us, to work together as people who aim at one objective and that is that everybody who lives in Kenya should live happily

[Mr. arap Moi] without fear or suspicion. But at present fears and suspicion prevail. I do not know when we shall be in a position to explain to our own people that we are working together. I do not mind the various communities, the Asians, the Europeans, the Africans.

The Member for Nairobi South did mention a statement which the Colonial Secretary made in the House of Commons last year on the constitution. The same Colonial Secretary also said in the House of Commons in August last year that he was coming to Kenya to help to solve the problem. People are confusing the issues completely. The three other issues have in no way anything to do with the African demands for increased representation. Nobody has come forward and convinced us that 15 seats are not justified. This is due to the unrealistic attitude towards any demands made by Africans. It is always thought that any African who can express the genuine grievances of Africans is regarded as a bad man—a bad leader who is misleading the Africans. I wish I could take everyone to the reserves to see their difficulties. We are even more liberal than they are in the reserves.

Now, Sir, as I have stated, let us not deceive ourselves on the present state of affairs. There are two things which we can do, jointly, as the hon. Member for Nairobi Central Area said, abrogate the Lyttelton constitution and start a new constitution.

Sir, the only solution, as I see it, is only for this Council to decide about the present constitution. I said before—the Minister for Commerce and Industry is shaking his head—but I do not think we shall get anywhere unless we start first with the African increased representation. Dispose of it and implement it.

THE CHIEF SECRETARY (Mr. Turnbull): Mr. Deputy Speaker, Sir, I think all hon. Members are now seized of the political views of the hon. Member now speaking. Would it be possible for him to continue with the remainder of his address and save the time of the Council?

MR. ARAP MOI: I was going to end, Sir, by saying let us not hide behind the Lyttelton constitution, because it is the barrier.

Now, Sir, I want to move to one of the things which were mentioned by His Excellency in his speech. One of the stumbling blocks in the African farming is the marketing of African stock; although the Minister for Agriculture, in his speech on this matter, covered a few points involved. He did not make it quite clear in his speech as regards marketing. There are thousands of livestock in the African areas. How are we going to solve this problem? The Member for Uasin Gishu did mention that she has 5,000 stock in her own constituency, but my people have more than 500,000 head of cattle as well as 500,000 sheep and goats. How are we going to overcome this difficulty? Unless we improve the standard of living of the African people we cannot generally improve the financial side of the country. I should like to urge the Government to legalize stock marketing going into Uganda. Government has not made it quite clear as to why Government cannot allow Africans to sell their stock to the Uganda people. The mere excuse which is being given by the Minister is because of the foot-and-mouth disease.

Secondly, Sir, the price of maize is quite deplorable. Why should an African sell maize at Sh. 29 or Sh. 27 and when it comes to buying posho from the Malze Control he gets it at Sh. 60. That is not really the way to improve the standard of living of the Africans; in fact it is making the Africans poorer and poorer. They sell at a loss. Artificial manure and phosphates require money. People buy and when they try to put it into the land, they cannot get anything in return. This, I think, has not been dealt with by the Minister for Agriculture. He should either come forward and help increase the produce to the level of that of a European farmer, or ask the Africans themselves to organize their own marketing.

Another point, Mr. Deputy Speaker, which was mentioned in His Excellency's speech is the development which is taking place in the reserves. I entirely agree that there should be development in the reserves, but I should warn the Government that any development should not be carried out without the consent of the people or the African district councils. There are schemes which do in fact affect the social structure of the

[Mr. arap Moi] people, and this should not be overlooked; schemes such as those carried out in West Suk, Maralal and South Baringo and certain places in Masai are good in themselves, but they will do great harm if such schemes change the social life of the people. In West Suk, I appreciate what Government has done. But I am afraid that Government is also losing by this, because some of the people fear the restrictions, and are crossing the border into Uganda. In that way, Government is losing taxes.

I urge the Government to avoid as much as possible these difficulties which confront the Africans in those areas.

I also urge the Government that provision of water in these areas be speeded up. Most areas have got no water, and they often walk seven, eight or ten miles to get water for their own use or for their stock. If Government continues to spend money on projects which do not provide water, then I think these developments will not succeed. Again, Sir, I should like to refer to His Excellency, the Governor's speech from the Chair.

The Member for Mau—and I strongly support him—mentioned a very important point, these about Kikuyu who live in the forests, of the Rift Valley, and the Minister without Portfolio gave a very flippant answer, saying that the duty of the Government is to maintain law and order, and that is all. What about providing schools? What about providing recreation—and some other necessities? If Government is thinking that this is not going to be a permanent feature, well, it may be right; if the Government has some other place to squeeze them in later if this is not going to be a permanent feature? This too should not be overlooked.

The Education Department has done as much as it could within its financial capacity, and has contributed much towards the education of African children in the settled areas. I urge the Government to stop child delinquents. I said last time that it was worrying me, and indeed it is worrying most parents in most of these districts. If Government is not going to provide something to keep these children busy so that they become good citizens; the future will not be good for them.

I also said last time that within five or six years, when these peoples have accumulated and married again, you will find the country in chaos. I should also like to add this—though I do not want to speak very long on African education—that African teacher-training centres are essential in the development of African education in the Rift Valley Province. I therefore urge the Government to give every serious consideration.

Again, Sir, I should like to refer to His Excellency's Speech in that he referred to local government; and the Member for Western Area mentioned a few minutes ago that the Government referred to financial side. I was expecting to see that one of the African district councils during this coming year is going to have its own president, but nothing is mentioned.

The Government is interested that we should join the Government. What about the true, firm foundation of local governments? They should be well run, and at the same time should teach Africans to take their full share in them. You blame us for shirking our responsibilities and for not joining the Government; but we too must blame you in not encouraging Africans to play a big part in local government.

Furthermore, Sir, I should like to ask the Minister for Health and Housing to have more members on these local councils, that is, rural councils, and other district councils. In the Rift Valley, particularly in settled areas, there is inadequacy of representation. In most towns, particularly housing in townships, in Molo in particular, Africans are very much annoyed in the way the urban district councils of the area have treated them. The Molo Urban District Council decided that they should demolish the present African houses and start other houses afresh; but why? Do they give any compensation to Africans who had built permanent houses? What guarantee or what security do these Africans have? I hope the Minister for Housing is going to investigate these matters.

Now, Sir, I want to turn to the police. The Member for Ukamba did mention. I think, that the police force is not playing its part quite properly. The behaviour of the police is up to standard; I must say that the constable should learn how to

[Mr. arap Moi] handle all citizens alike. For instance, I was passing through one of the Rift Valley stations; I was stopped, and I was following a European in his own car, whilst I was driving my own car. I was stopped. I said, "What is it?"—and I thought he wanted to see my driving licence. He said, "Why were you driving fast?" I said, "Well, if I was driving fast—why did you not stop him? If I was guilty, then he was guilty too." I see the Minister for Commerce is also not convinced in this matter.

Also, in certain places, I hope that the Minister for Internal Security does not take these things as matters of exaggeration. It is a fact. Well, as I understand it, a policeman means a friend. In Nairobi, I have not much to complain about, because here the standard is quite high, and I appreciate that very much. Although some people do not appreciate it, I do appreciate it. You will find some very friendly, some directing people (who do not know certain places). But not so in the reserves—they are making other people busy for nothing.

Let me refer again to another police case right in the reserve. What they do is to go drinking beer in shops or bars and try to annoy Africans. They are made to go along with them, they are put in remand for one or two days, and released without facts, without having anything against them.

So these things are facts. The conduct of the tribal police is very high, they are doing the right thing. They are maintaining law and order in that sense.

Sir, the only advice I would give to the Minister for Internal Security and Defence is that all police should be trained, because at the moment tribal police is far much better than the police constable.

So, Mr. Deputy Speaker, I have spoken at great length, and should like to conclude my speech, but before I do so, Sir, I would like the Leader of the Council to give me an assurance that the civil servants' salaries, particularly the lower groups of Africans, will be considered now. The Lidbury Report was good in those days; but it is not good now as far as the present standard of living is concerned.

I also want to ask Government whether it is considering increasing the pay of that particular group. Further, one Member has suggested that inducement should no longer be something permanent. I support him. It should cease. Services of local people and the services of imported men are all the same. You cannot say that a local man cannot do the job properly, whilst a man from overseas can do the job properly.

(Mr. Deputy Speaker (Mr. Conroy) left the Chair)

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

Therefore, I urge the Government to increase the pay of civil servants, particularly the lower group type, including teachers.

Mr. Speaker, I beg to support.

12 noon.

THE MINISTER FOR COMMERCE AND INDUSTRY (Mr. Hope-Jones):—Mr. Speaker, I would first of all like to apologize to the hon. Member who last spoke. On two occasions, he said I was not convinced of his arguments. Well, Sir, as I had not indicated in any way what my views were, and as I was doing my utmost to follow the hon. Member—and at the time I found it somewhat difficult—I feel I owe him an apology if he misunderstood the efforts that I was making to follow him as indicating a negative or a positive view.

Mr. Speaker, in commenting on the gracious speech, I would like to return to the economic side as far as it affects my Portfolio. I am aware that economics are not exciting in the way that political negotiations and political statements are. I was glad to hear the last hon. Member who spoke refer to the importance of economics, although it would be possible to say that he did not draw the obvious conclusions from that remark.

I was disappointed to hear the hon. Asian Member who last sat down say that the very fine record of economic progress referred to in the Communication from the Chair was not sufficient and was—if I understood him rightly—to a certain extent negated by the unsatisfactory political situation.

MR. NAZARETH: Mr. Speaker, I did not run down the economic record. I

[Mr. Nazareth] said it was more than counter-balanced by the political deficiencies.

THE MINISTER FOR COMMERCE AND INDUSTRY (Mr. Hope-Jones): That, Mr. Speaker, was what I thought I had said.

If I may turn to some of the points raised by hon. Members—I understand that in my absence a point was raised by my hon. friend, the Member for Nairobi Area, about progress in regard to Karatina. That was also referred to by another hon. Member. I should like to assure hon. Members that in spite of certain difficulties—and it is a complicated matter, obtaining land for an industrial estate in the heart of an African reserve—in spite of certain difficulties, we are getting a great deal of support, and I have every reason to think that we should be in a position to proceed and try to obtain those industrialists who would be willing to take the undoubted risk of breaking new ground, and go there. Now, it is no use deceiving ourselves that just by setting up an industrial estate, and saying: "That is a good thing; that is where industrialists should go" will result in success, in spite of inducements of an economic nature; it is no use just thinking that anybody can tell them to go there. People who invest money in industry, just as people who invest money in other things, expect to see a profit, not only for themselves but for their shareholders and those who entrust their money to them. So let us not deceive ourselves that by putting an industrial estate there, an industrial revolution is going to take place or that by doing it, it is necessarily going to be a profitable enterprise. I hope it will be, as do the Government—with, I hope, the co-operation of all hon. Members, particularly African Members who have a great deal of influence in that direction—we hope it will be successful, but Karatina is an experiment.

Another hon. Member said that she hoped similar schemes could be extended to other parts of the country. I hope they will be; but let us learn to walk before we start to run, let us see if this project at Karatina is successful. I believe and hope that it will be and then I would like to see further experiments, possibly in Nyanza and possibly elsewhere. Certain conditions, of course,

have to be fulfilled. There have to be good communications, there has to be a good water supply, a power supply and roads, and a population ready to work. Those conditions must be fulfilled, and that brings me to the point raised by the hon. and gracious lady, the Member for Nyanza.

She referred to the policy of the Government in regard to the dispersion of industry. I am completely in agreement with the hon. lady, that as far as possible, we should give economic incentives to achieve this. We are doing so in places like Thika; we are doing so in other centres, and there has been an encouraging movement of industry to the smaller places. It is no use, however, ignoring the fact that for certain industries, say those with export potential shall we say in the case of Mombasa, find the Port of Mombasa the ideal situation for industry. Again, there are certain other types of industry where Nairobi is the ideal location. Let us look at the facts in these matters. I see no conflict whatsoever between what the hon. lady advocates and economic facts, provided those economic facts are fully recognized. She made one further remark on which I would like to comment briefly. She said that she thought that industrial development was not keeping pace with agricultural development. Well, of course, agriculture is the basis of Kenya's economy in the absence of the discovery of minerals on a large scale, that again is an economic fact. Nevertheless, from small beginnings in 1947, when there was a national income in Kenya of approximately £53,000,000, £4,500,000, or 8.5 per cent of that national income, was contributed by manufacturing industry. Here I am not, of course, including the processing of agricultural products such as tea, coffee, sisal and the like, or the dressing and extractions of minerals. I am referring to manufacturing industry: in 1947, £4,500,000, or 8.5 per cent out of £53,000,000.

In 1956, out of a national income of approximately £159,000,000, £21,000,000, 13.1 per cent, was provided by manufacturing industry. Now, Mr. Speaker, that represents in a period of nine years an increase of nearly 500 per cent in manufacturing industry—as I said, from

[The Minister for Commerce and Industry]

small beginnings, based not on great natural resources such as copper in the Rhodesias, or minerals in the Union, or the great mineral wealth of, say, Canada; but in a comparatively poor country, this is a very remarkable development. I would here refer not to my own views, but to the opinion expressed in one of the periodic reviews issued by a well-known British bank where they remark that the industrial development in Kenya, based as it is on comparatively small resources, is a most remarkable and encouraging economic phenomenon.

Now I know that what the hon. lady said had relevance to something else, and there, Sir, I entirely agree with her. It is necessary that we should push ahead as far as possible, and as quickly as possible with the growth of industry for the benefit of all our inhabitants. Nevertheless, I thought I had better get the record straight in terms of percentages. The percentage increase of industry is approximately three times that of the growth of agriculture during the same period. That is not in any way derogating from the importance of agriculture which remains the basis of our economy.

I would like to refer to two or three points raised by the hon. Member for Nairobi South; he mentioned the question of "C" licences from the Transport Licensing Board for the carriage of vegetables from certain African areas, and the fact that some appear to have been refused. I have already set in motion inquiries on that matter, and if there has been any abuse in the matter, I will do my utmost to put it right.

Another point that he raised had to do with the refinery project at Mombasa. This is the position: the company concerned, under the agreements entered into with Government, has a little over two years yet in which to make up its mind as to whether it will go ahead with the project or not. Now, in this project—it is a very large one—the cost would run into tens of millions of pounds. On an issue like this it is quite reasonable that time should be taken before decisions of that kind can be finalized. When I was in London I saw directors of this particular company and it

appears that there is a good chance that an earlier decision on the project will be taken. In other words, the whole of the remainder of the period during which they can take their decision will not be used. I do not think that hon. Members would wish me to say more, or in any way to prejudice what must be the freely taken and well thought out decision of those who may make the investment. They have done a great deal of work already; they have acquired the land and made a number of preliminary investigations. All I can say is that if we can achieve this development, it will have a most helpful and beneficial effect on the economy of the territory.

Now, I think that deals with the specific points that have been raised by hon. Members. I hope that those who were going to raise the points which specifically concern my Portfolio have already spoken. If they have not, and they raise new points, then either one of my colleagues will answer them, or I will do my utmost to give them an answer as soon as possible.

I want to end on the note on which I began. I do hope that in the political difficulties that we all have to face at the present time, that we are all passing through, the fundamental importance of building up the country's economy, which is the obverse of confidence in the country, will be borne in mind. It is only through good will that this confidence can be achieved; and it is only when that confidence is there that the economic progress of this country can be continued and assured.

Sir, I beg to support.

MR. MAXWELL: Mr. Speaker, Sir, I rise to support the Motion before the Council. I for one was most favourably impressed by His Excellency's Speech, a communication which, in my opinion, conveyed a note of quiet confidence.

Obviously, economic stability and progress is of the utmost importance, particularly in a young developing country such as Kenya. But, Sir, to-day it seems to me that we spend far too much valuable time which is frittered away in dealing with matters of a purely political and contentious nature. Time which, in my opinion, would be better spent in seeking ways and means of stimulating



[Mr. Maxwell] the progress and wealth of this country without which we cannot hope to continue to make progress.

If all the peoples of this Colony will work industriously then I am confident that in time all will enjoy a measure of prosperity as a result of their efforts. Then, I am convinced that a saner political atmosphere will prevail and politics assume a better balance in our affairs. The time has come when we must all work together for the common good of this Colony.

There are, I believe, several developments which would lead to an increase in our wealth. For instance, I understand we import something like 60 per cent of our refined sugar requirements into this country—approximately 60,000 tons annually, representing well over £2,000,000 in value. Obviously there is scope for the establishment of additional sugar mills in this country, and I can think of one or two obvious sites—I would mention Chemelil or Mthoroni. Such a mill would be quite independent although it would naturally rely for its supplies of cane on the planters already in that area, possibly on a co-operative basis.

I earnestly request the hon. Ministers for Commerce and Industry and Agriculture to give suggestions, such as the one I have just made, their earnest and early attention. In order to carry out such a project financial assistance would undoubtedly be sought from the Industrial Development Corporation and that, of course, brings in the Minister for Finance and Development to the picture.

I have little more to say, Sir, except that I do support and endorse the point made by the hon. and gracious Member for Uasin Gishu yesterday in regard to the necessity and urgency of finding an outlet for the cattle from that area, because the same remarks apply to the district I represent—Trans Nzoia. I was indeed glad to learn from the Minister for Agriculture this morning that not only he but also the Kenya Meat Commission are making every effort to rectify this, at present, deplorable position.

Mr. Speaker, I beg to support.

THE MINISTER FOR COMMUNITY DEVELOPMENT (Mr. Johnston): Mr.

Speaker, Sir, I propose to deal briefly with some of the points which have been raised by hon. Members, and the first one I would like to deal with is the question of land consolidation. I would like to stress the fact that land consolidation does not, of itself, create a landless class. It is merely the gathering of fragments together in single units. Individuals already have rights in respect of these fragments, and these rights are not affected. Land consolidation is therefore merely gathering them into one single unit.

The hon. Member for the Central Province has said that there will be certain problems arising from the new boundaries in the consolidated areas, and he went on to say that there might be some difficulties arising from people attempting to obtain land to which they were not entitled. Those difficulties are fully realized, Sir, and we have set up in each consolidation unit committees of local notables for precisely this purpose.

The hon. Member for the Central Province also raised the question of survey teams, and he said that he hoped it might be possible to increase the number of such teams in the areas where consolidation was going ahead. We have in most districts of the Central Province an adequate number of survey teams existing—adequate to the amount of supervision that we can devote to them. In those areas such as, perhaps, Meru or Embu, to which I think the hon. Member may be referring, we have still to train more surveyors; and, Sir, they are not trained easily in three or four weeks.

Turning now, Sir, to the general question of detainees, I think it was the hon. Member for the Western Electoral Area—I hope I heard him aright, Sir—who urged that the release of detainees should be speeded up and he seemed to imply that the release of detainees depended upon the availability of employment. That is certainly not the case and it is not the Government's policy.

The release of detainees is governed by the response that they give to rehabilitation and by their renunciation of their allegiance to *Mau Mau*.

The hon. Member for Nyanza North raised certain specific matters concerning the release of Nyanza detainees. I think he said that many had been

[The Minister for Community Development] detained by the chiefs because the chiefs did not like them and that many had not taken the *Mau Mau* oath. Of the 60 or 70 Nyanza detainees now in the camps (we have already released quite a lot) 90 per cent were not, in fact, detained in the Nyanza Province at all. They were detained in Nairobi or detained on release from prison because they continued their allegiance to *Mau Mau*.

The hon. Member also said that five Nyanza detainees whom he described as "white" had been sent to Saiyusi, which was an open camp for release but that because they were not acceptable to a certain officer there they were sent away. The facts of the case, Sir, are that these detainees were moved to Saiyusi which, incidentally, is not an open camp, and they were sent because they had a most undesirable influence upon the co-operators at Lodwar. When I heard that these detainees had been moved I issued the instructions that they were to be sent from Saiyusi after considering their cases myself.

The same hon. Member suggested that co-operation could not be obtained from detainees in a detention camp. I would like to challenge that statement, Sir, because we have obtained—and are still obtaining—good co-operation from a great many Kikuyu who are in detention camps; with the result that the number of releases have been, in my view, very satisfactory.

I would like, in concluding this particular passage on detainees, to express my grateful thanks to hon. Members who paid tribute during this debate to the rehabilitation staff.

The hon. and gracious lady, the Member for Uasin Gishu, has mentioned the question of juvenile prostitution. I agree that it does constitute a serious problem in Nairobi and Government is taking urgent steps to deal with it. It is rather a complex problem and we require as much advice and help as we can get; and we are getting that advice and help from unofficial bodies, including the Christian Council of Kenya. We hope that a suitable home for these juvenile prostitutes may be found very shortly in an area where medical facilities are available.

The hon. and gracious lady, Sir, also went on to say that she thought the legislation for the commitment of these juvenile prostitutes needed looking into. I think that is so. We can commit them at the present time under certain Emergency Regulations, but my hon. friend, the Member for Legal Affairs, is considering amending legislation to the Children's Ordinance—Ordinance No. 12 of 1955.

Now, Mr. Speaker, there were three other points which were raised by hon. Members and which concern the Ministry or the work of the Special Commissioner. One of them was the training of juvenile delinquents, the problem of the waifs and strays and juvenile vagrants, and the employment of Kikuyu outside the Central Province. I am very grateful to the hon. Member for Ukamba and to the hon. Member for the Eastern Electoral Area for drawing my attention to the general problems of juvenile delinquency, and to the former for his praise of the good work done by Captain Gardner and his staff in Wamumu.

I am glad to say that the number of juvenile detainees at the camp has decreased very considerably and the majority of the boys now there are the waifs and strays or the juvenile vagrants who are outside parental control or who have no parents. I agree wholeheartedly with the hon. Member for Ukamba when he said that the same spirit and the same methods of training which have been adopted so successfully at Wamumu should be introduced into the various institutions dealing with juvenile delinquents. But, Sir, as the hon. Member knows, it is a matter of getting the right men with the right personality for those particular institutions. I will give my personal attention to this problem and see what can be done.

#### ADJOURNMENT

THE SPEAKER (Sir Ferdinand Cavendish-Bentinck): The time has come for the interruption of business. Council will therefore stand adjourned until 2.30 p.m. on Tuesday next, 5th November.

Council rose at thirty minutes past Twelve o'clock.

Tuesday, 5th November, 1957

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

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

#### PRAYERS

#### ADMINISTRATION OF OATH

The Oath of Allegiance was administered to the following Member:—

William David Gregg.

#### PAPER LAID

The following Paper was laid on the Table:—

Report of the East African Commissioner for the year 1956.

(By THE CHIEF SECRETARY (Mr. Turnbull))

#### ORAL ANSWERS TO QUESTIONS

##### QUESTION No. 24

MR. ALEXANDER asked the Minister for Finance and Development is it a fact that in the worst years of Kenya's economy between 1932 and 1938, the Sterling Reserve Fund of the East African Currency Board ranged between 9.9 per cent and 49.8 per cent of outstanding currency and, if so, why is it now necessary for the reserve to be as much as upwards of 100 per cent in sterling investments?

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): In 1932, the Sterling Reserves of the East African Currency Board stood at £356,032 which was approximately 10 per cent of the currency in circulation. During the 1930's the reserves gradually recovered, but 100 per cent was not reached until 1950. It is not now necessary for the sterling reserve to be upwards of 100 per cent.

MR. ALEXANDER: Sir, arising out of that reply, I do not think the Minister answered my other point as to whether in 1938 the figure was 49.8 per cent.

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): Sir, I am not arguing with the hon. Member's figures. In 1938, the figure, or reserve was approximately 50 per cent of the amount in circulation.

MR. ALEXANDER: Mr. Speaker, Sir, will the Minister say why it is necessary for outstanding currency that is permanently localized to be covered by sterling reserves.

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): Because, Sir, this is a matter, as I have told the hon. Member in question several times, for the Secretary of State; that is his final responsibility, and he regards the present amount of reserves and local issues that we have been allowed to make as the maximum to which he is at present prepared to agree.

MR. ALEXANDER: Mr. Speaker, Sir, is the Minister aware that in other colonies it has been, and perhaps still is, far less than a 100 per cent?

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): Sir, it may be so, but in the circumstances of the East African Currency Board this is the figure which is regarded as desirable at the moment.

##### QUESTION No. 27

MR. ALEXANDER asked the Minister for Finance and Development of the £581,500 for passages in the 1957/58 Estimates—

(a) what sum is attributable to leave passages; and

(b) whether income tax is payable by the individuals who receive such leave passages, on the cost thereof?

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): The bulk of the provision in the Passages Vote is attributable to leave passages. Income tax is not payable on the cost of these passages.

MR. ALEXANDER: Mr. Speaker, Sir, is the Minister aware that the legislation requires that income tax shall be paid on such passages, and why is it not being paid?

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): Sir, I am not aware of that, particularly in view of the fact that civil servants are treated in the same way as all other employees whose leave passages are paid for by their employers. Such employees do not pay income tax on the cost of the passages provided.

MR. ALEXANDER: Mr. Speaker, Sir, I was not asking about civil servants in particular. Is the Minister aware that section 8 (1) (b) of the Income Tax Management Act, when dealing with chargeable income, describes it, amongst other provisions, as "any other allowance whether in money or otherwise".

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): Sir, I do not think that arises out of this particular question; but I have no doubt that the income tax people are using their discretion and interpreting the law as they have been advised.

MR. HARRIS: Who advises you?

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): Sir, the legal departments of the various administrations, and the High Commission.

##### QUESTION No. 32

MR. MBOYA asked the Minister for Legal Affairs what action has been taken to implement the undertaking given to this Council on 1st June, 1954, to examine the question of extending the system of trial by jury to races other than European?

THE MINISTER FOR LEGAL AFFAIRS (Mr. Griffith-Jones): This matter has been examined in some detail during 1956 and 1957 by the Law Officers in consultation with the high judicial authorities. It is their considered view that there is at present no practical possibility of providing a sufficient number of adequately qualified jurors on which to found a jury system for all races, whether on a racial or multiracial basis. Whether any such extension of the jury system be considered desirable or undesirable, therefore, it is in present circumstances impracticable.

MR. MBOYA: Mr. Speaker, Sir, arising out of the reply, would the Government state whether they think it is desirable that we should have the jury system extended to all races.

THE MINISTER FOR LEGAL AFFAIRS (Mr. Griffith-Jones): Until such an extension is practicable, the Government is not in a position to commit itself, or even to consider the matter.

MR. MBOYA: Arising out of the reply, Mr. Speaker, will the Government state

whether they think it is desirable or undesirable.

THE MINISTER FOR LEGAL AFFAIRS (Mr. Griffith-Jones): Without due consideration, Sir, no.

THE SPEAKER (Sir Ferdinand Cavendish-Bentick): In my opinion, that is not a question that should have been asked. It merely refers to an expression of opinion.

MR. ODINO: Arising out of the reply, Sir, what is the Government doing to make it practical?

THE MINISTER FOR LEGAL AFFAIRS (Mr. Griffith-Jones): That is an answer that is somewhat difficult to give within the compass of an answer to a question, to any question; but, Sir, it really lies in the continued efforts made towards development and advancement in all fields, both social, economic and intellectual.

##### QUESTION No. 35

MRS. HUGHES asked the Minister for Community Development what progress has been made towards instituting a home for juvenile prostitutes?

THE MINISTER FOR COMMUNITY DEVELOPMENT (Mr. Johnston): Government realizes the importance of establishing a Home for Juvenile Prostitutes as soon as possible and is now examining, as a matter of urgency, the proposals which have been made by representatives of the Ministries concerned.

MRS. HUGHES: Mr. Speaker, Sir, arising out of that reply, can the Minister tell us how many they intend housing in this institute.

THE MINISTER FOR COMMUNITY DEVELOPMENT (Mr. Johnston): Sir, on our present figures, about 50.

MR. MULIRO: Arising out of the answer, Mr. Speaker, is the Government preparing to institute juvenile prostitution in this country as legal?

##### QUESTION No. 37

MRS. HUGHES asked the Minister for Education, Labour and Lands is the Minister satisfied that the number of prosecutions in Kenya during the period 1st April to 30th September,

(Mrs. Hughes)

1957, in respect of the illegal employment of juveniles represents more than a small fraction of the total number of cases of illegal employment that have occurred during that period?

THE MINISTER FOR EDUCATION, LABOUR AND LANDS (Mr. Coutts): Yes.

Mrs. HUGHES: Arising out of that answer, Sir, is the Minister satisfied that adequate steps are being taken by the Department to stop this illegal employment of juveniles?

THE MINISTER FOR EDUCATION, LABOUR AND LANDS (Mr. Coutts): Mr. Speaker, Sir, I am fully satisfied.

#### QUESTION No. 16

MR. MUMI asked the Minister for Agriculture, Animal Husbandry and Water Resources whether he would consider the question of releasing the Eastern Crown Lands for grazing purposes by members of the Kamba and Yatta tribes free of grazing fees?

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): Yes, Sir, I will consider this.

#### MOTION

THANKS FOR EXPOSITION OF POLICY BY HIS EXCELLENCY THE GOVERNOR

(Continuation of debate interrupted on 1st November, 1957)

THE MINISTER FOR COMMUNITY DEVELOPMENT (Mr. Johnston): Mr. Speaker, Sir, at the adjournment of the debate on Friday, I was about to make an answer to the points raised by the hon. and learned Member for Aberdare who has stressed the need to ensure not only that juvenile delinquents, but the waifs and strays should have an opportunity to develop along the right lines. I would here like to pay a tribute to the work done by the Save the Children Fund during the Emergency. My hon. friend, the Minister for Local Government, Health and Housing, and I fully appreciate the problem, and we hope that the reception centres which we are now setting up in the Central Province will serve as clearing houses for all the children in the categories I have mentioned. The majority of those children, of course,

who come into the centres will have parents or close relatives in the district; and it will be the duty of the local probation and community development officers to investigate their cases, and to arrange for the return of all those children—where they are satisfied that proper parental control can be exercised. Some, the minority, will have no parents, or if they have parents they cannot look after their children properly.

It is our intention that such children should be sent to approved institutions, either Wamumu or a church institution where they will receive the care and training necessary to make them useful citizens.

As an example, Sir, since May, 1957, the Kiambu reception centre has admitted some 750 juveniles, of whom 26 have already gone to Wamumu, 15 are waiting to go to Wamumu, three have been admitted to Church institutions and the balance, 706, have been returned to their homes. For the older children in the districts I hope to extend the experiment which we are now making in the Nyeri District of youth clubs for boys and girls, where they may obtain some form of training in an atmosphere of responsibility and discipline. I would not wish hon. Members to think that the development of these clubs depends entirely upon the provision of funds by Government. Considerable sums of money have already been collected locally. Club-houses are being built by local enthusiasts and in many cases a grant of land has been made so that the club may have a properly planned farm where members can obtain a good grounding in agricultural methods. It will, however, be necessary to ask for some assistance to prime the pump.

The hon. Member for Aberdare also touched upon the question of unemployment and said that unsuitable low-quality labour should not be kept in private employment just to help the situation in the Central Province. I agree with that but I do ask the hon. Member to do what he can to see that the Kikuyu coming, say, to the Rift Valley Province are given a fair chance to make good. I hope that before a Kikuyu employee is returned to his home as unsuitable he can be given two or three chances with

[The Minister for Community Development] different employers so that his work may be fairly judged.

Finally, Sir, I am glad to say that the unemployment problem in so far as agricultural workers are concerned, has become less acute in the Central Province, though our experiments to recruit Kikuyu labour for sugar and sisal estates have not been an unqualified success. But there is still, of course, a serious difficulty in obtaining employment for those persons who have previously worked in the city or the larger towns.

Mr. Speaker, I beg to support.

THE MINISTER FOR INTERNAL SECURITY AND DEFENCE (Mr. Cusack): Mr. Speaker, Sir, it is a great pleasure for me to hear the very agreeable things said by many Members opposite about the Kenya Police. I refer particularly to the statement made by the hon. Nominated Member, Mr. Waweru, who stressed how greatly relations between police and public had improved in the Central Province. What he said was borne out by what was said also by the hon. Member for the Central Province, who testified that relations in Meru District, in particular, were very good indeed. Similarly, the Member for Rift Valley Province spoke of the improvement amongst the police force in Nairobi. He, however, qualified his remarks somewhat and, I think, perhaps unnecessarily, by referring to some personal incident which happened to him when he was seemingly stopped for driving too fast. The Member for Nyanza-North did not join in the tributes, but once again his reason seemed to be that his chauffeur was in trouble with the police.

Now it is accepted policy that the police in this country should establish themselves as friends of the public. I wonder, however, if all Members realize what a very high standard we are setting ourselves in going forward with this. I believe that that standard has been achieved only in part of the United Kingdom, and in some Dominions. The policeman in Ireland is certainly not regarded as a friend by the public, nor, I think, is the French gendarme or the Italian carabinieri regarded as such. However, it is the aim of our policy here, our

training is directed towards that aim and although we lack the long tradition of the English police and, in most cases, the background of education of the English police constable, we intend to do this and from the remarks of hon. Members opposite it seems that we are beginning to achieve a measure of success in eradicating some of the para-military attitudes which have perhaps prevailed until recently.

Now, in this connexion, Sir, I would like to refer to the somewhat curious logic of the Member for Mau, who advocated the replacement of senior police officers by dogs.

AN HON. MEMBER: Shaggy dogs!

THE MINISTER FOR INTERNAL SECURITY AND DEFENCE (Mr. Cusack): Dogs being, of course, the friend of man. Sir, whilst we cannot solve the public relations problem by proceeding exactly along the lines that the Member for Mau has suggested, I do assure Members—that all police, including senior police officers, greatly appreciate and are aware of the value of dogs and the great success that is being had in the use of them. In 1956, 1,753 arrests were effected by patrols to which dogs were attached, and this year, by the end of September, 3,554 similar arrests were made. But, Sir, in view of the heights reached by another dog over the week-end, I think I had perhaps better be modest about the achievements of our own dogs.

I would like to refer, Sir, to the need stressed by the hon. Corporate Member who said that the police should be kept at full strength, and to the reference by the hon. Member for Ukamba about the run-down of the police and of the police reserve. In this connexion, Sir, the term "run-down" is possibly misleading. What we have done is to reduce the Emergency strength of the police force to a carefully assessed regular strength. This strength is based on the best appreciation of the Commissioner of Police and of others concerned of what we need for the maintenance of law and order in the present and in the foreseeable future. I should add, Sir, that there are still nearly 4,000 Kenya Police Reserve of both sexes and of various races who are available to be called out, should the Commissioner of Police think

[The Minister for Internal Security and Defence] that their services of the services of any of them are necessary. They have not, in fact, been legally stood down, but recently there has not been the need to call on those services which we all know are so readily and cheerfully made available, often at great personal inconvenience.

I should add, Sir, that provincial police officers are also empowered to call out the Kenya Police Reserve in their provinces, should the need arise.

The hon. Member for Ukamba made mention of the 2nd/3rd Battalion of the King's African Rifles. I attended their farewell parade last week and it was indeed a sad and moving occasion. It was a very smart parade; it consisted of the two companies, which were in fact left to the Battalion—the rest had already run-down by ordinary reasons of discharge. Now in this connexion there is nothing really to add to the Government statement made at the time when the decision to dispense with this fine battalion was made. The statement was this: "The agreed establishment of the East African Land Forces does not allow for the existence of the 2nd/3rd Battalion of the King's African Rifles. Now that the East African Land Forces Organization has been set up, therefore, it has been decided to disband the 2nd/3rd Battalion. The disbandment is being effected by the amalgamation of the personnel of the battalion with the parent battalion, the 3rd, and with other units of the King's African Rifles. It is hoped that these arrangements will avoid any soldier of the battalion being prematurely discharged and permit all those who wish to do so to complete their current engagement of service".

The statement went on to say—and this is a fundamental reason: "The improved situation in Kenya, resulting in the virtual ending of active Mau Mau terrorism, was taken into account when the establishment of the East African Land Forces was agreed".

Sir, I think we may all regret this disbandment, but I do not think the need for it is in doubt.

In brief, Sir, and about run-down generally, we are ensuring that our forces are adequate, but equally we are ensuring

that there is no unnecessary Emergency fat left on them.

I would ask the hon. Member for Aberdare to reflect on what seems to me to be a dichotomy between his desire, which I share, for the police to be the friends of the public—and I suppose the idea of the policeman as a friend of the public is most successfully embodied in the English village constable—and his query whether the relationship between officers and men in the police approximated to the relationship between officers and men in the fighting services. Sir, I suggest to him that the two kinds of discipline, the two theories of policing, the village constable and the fighting service, are not reconcilable. The relationship between officers and men which he spoke about exists in the General Service Unit of the police, but naturally not in the others.

Sir, the Member for Ukamba referred to the recent riots at Manyani, and asked about the disciplinary powers, prisons officers had, including powers to use firearms. Now I would very readily have spoken about this, and I think the hon. Member has a very good idea of what I would have said, but detailed reference to the Manyani riot would, I think, Sir, at present, bring me into conflict with Standing Order 59, which reads: "No Member shall refer to any particular matter which is *sub judice*". As the hon. Member for Ukamba knows, a number of the detainees who were concerned in that riot have recently been sentenced to death for the murder of two warders. Their appeals are pending, and I think, Sir, in the circumstances, it would be very unwise of me to advance on to any general description of what went on at Manyani at that time.

I would like, Sir, therefore, to content myself with telling the hon. Member that I am perfectly satisfied that the disciplinary powers of the prisons officers, including the powers to use firearms, are adequate and very clear.

I would like also to say to the Member for the Western Electoral Area—who is not here, but still—that his suggestion that the detainees had learned that violence does not pay is hardly borne out by this event. Perhaps those who were sentenced are about to learn.

[The Minister for Internal Security and Defence]

The hon. Member for Ukamba saw the possibility of further trouble in detention camps. I do not disagree with him, Sir, and would remind him that when I was speaking on the Prisons Estimates in May of this year I said, "I think I must honestly expect the likelihood of disturbances created by these remaining bad men in camps will increase". Sir, it is of course the case that except for the 150-odd terrorists at large, whom His Excellency mentioned in his Address from the Chair, and save for the *Mau Mau* inmates of the prisons and detention camps, the whole of the detected, active *Mau Mau* of times gone by have either been killed in action or executed or have been rehabilitated and released. Now that is the answer to the hon. Member for Western Area's suggestion that by some magic means all remaining detainees should suddenly be set free. We have a tried and tested means of rehabilitation and releasing detainees which is at present releasing them at the rate of about 1,700 a month, and we have no intention of departing from that as a result of any irresponsible suggestions made by the hon. Member.

I would also add—I am sorry he is not here but my remarks may as well be recorded—about his references to the one Goan detainee, Pinto, whose case is very frequently reviewed indeed: he has a thoroughly bad record which is reviewed against a changing background; and I would say that his remarks and representations will not have the least influence on anything which is done for or about that man.

The Member for the Central Province asked about the promotion prospects for Africans in the police—particularly Africans who had gone to considerable lengths to learn to speak English and to educate themselves well. Now, these efforts are indeed appreciated and I would like to say here quite sincerely what a very excellent career I think the police offers to an intelligent and educated African.

There is now a total of 315 Africans in the Inspectorate, and of those seven are Chief Inspectors. I might perhaps say, Sir, that the particular African inspector whom I mentioned, when I last spoke about the police, as having been

chosen for a course at the Police College at Ryton, has now completed that course and is just about on his way back; he is, I am told, regarded by the Ryton staff as one of the most brilliant Colonial pupils they have had there.

Now, the hon. Member for East Electoral Area asked about honours for Asian members of the Police and Prisons Service given during the Emergency. I could really rather wish that he would not ask that. These honours are not given to these people because they are Asian: they are given to these people because they are good and gallant police officers, irrespective of race. However, he has asked, and I will tell him that a total of nine medals and two mentions in despatches were in fact given to police officers who were Asians.

The same Member asked about local recruitment. In the three years from 1st November, 1954, 83 local recruits of all races have been recruited to the Inspectorate and we have not, since July, 1956, recruited for the police in the United Kingdom. That last statement about July, 1956, of course, takes into account the recruitment or transfer from the contract Inspectorate to the permanent and pensionable staff.

The hon. Member for Nairobi South asked whether there would be an announcement about a decision concerned with the statement in the Defence White Paper, that the headquarters of the Middle East Command might be transferred to East Africa. In the course of his speech he made numerous references to HANSARD and to other papers which he had carefully amassed by his side. He had not, however, by his side the Defence White Paper in which, of course, there is no mention whatever of Middle East Headquarters being transferred to East Africa. The statement in the White Paper which I have read here before, Sir, but which seems to be constantly misquoted or forgotten, says:—

"In the Arabian Peninsula Britain must at all times be ready to defend Aden Colony and Protectorates and the territories in the Persian Gulf for whose defence she is responsible. For this task land, air and sea forces have to be maintained in that area, and in East Africa."

[The Minister for Internal Security and Defence]

That is the actual statement, Sir, and I have no hesitation in giving the not very difficult undertaking that when some final decision is come to it will be announced.

Mr. Speaker, I beg to support.  
3.04 p.m.

MR. COOKE (Coast): Mr. Speaker, I would crave your indulgence, Sir, and the indulgence of the Council if I consult my notes more than I usually do, because I am anxious now not to say anything which would aggravate the already delicate situation when I speak on the question of the constitution. I am mindful of the fact that my hon. friend, the Corporate Member, once said that when an Irishman gets up to speak he does not know what he is going to say and when he sits down he has forgotten what he has said. Therefore, I am very anxious to-day that there should be no mistake whatever in what my opinion about the constitutional position is.

Now, Sir, I could, of course, remain silent but I feel that having taken up the position that I took up in August, people will expect me to say now whether I stand by that decision or whether I have abandoned it. I also am encouraged to speak because I think my hon. friend, the Member for Nairobi South, in his, I must say, very able and excellent speech he made the other day, did omit some very important matters which I hope to deal with in the course of my very few remarks.

I am sorry that the hon. gentleman made that speech, able as it was, because, Sir, I think that speech and the speech he made at Killimani, and the speech—with all due respect—which my old friend, the Member for Aberdare, made at Thomson's Falls, would not readily lead to an accommodation between the Europeans and the Africans; because I think that some bitter things were said which would have been much better left unsaid. I believe, Sir, that those speeches breed suspicion and mistrust, and it is going to be very difficult to come to any common agreement in this country which will please all races if this suspicion and mistrust continues to prevail.

Now, Sir, it is common knowledge that I joined issue with my colleagues in

August about a statement which they issued (I think they issued it early in July) with regard to the constitutional problem. I opposed that statement because I thought that it was untimely and unwise. I thought it was untimely because it was issued at a time when we were in the midst of delicate verbal negotiations with the Africans and I thought it was unwise because it contained a proviso that the Africans should abandon their opposition to the Lyttelton Plan before the Europeans would enter into any discussion with regard to seats. In other words, it was an invitation—indeed it was a challenge—to the Africans to go back on their election pledges: because I well remember the hon. Member for the Nairobi Area in a letter to *The Times*—I think it was 25th May last—made it quite clear to anybody who wished to interpret his words that the Africans were bound by their election pledges not to take part in any Ministry under the Lyttelton Plan. Therefore, I thought it was unwise to have expected them break their election pledge to their own constituents. Now, it seems to me, Sir, a sorry state of affairs, if Europeans, of all people, who are supposed to be leaders—and indeed I think are leaders in this country—should in any way give the suspicion that they themselves were not anxious that election pledges should be fulfilled. I must say that I deplore the fact that the Secretary of State in his reply—or in the newspaper report of his reply—to the Africans said that the Government of this country could be quite well carried on whether the Africans joined in or not. I think that is a profound mistake, Sir, and I do not think any Government can be carried on in this country successfully without the co-operation of the majority of the African people.

We have only got to look to Northern Rhodesia to see what happened last year, when the Rhodesian Government there lacked the co-operation of the African people of Northern Rhodesia. I would draw attention to that because it led to several—certainly—outbreaks which might have been avoided.

I was sorry that my hon. friend, the Member for Aberdare, rejected the offer made by the hon. Member for Nairobi Area—an offer of shaking hands; however it may have been put; and the hon.

[Mr. Cooke]

Member went on to say that he felt that Europeans and Africans, even though they did not join together in the political sense could join together for mutual security and prosperity. I submit, Sir, that my hon. friend was profoundly wrong, and I say that without political stability there can be neither prosperity nor security in Kenya. Firstly, we absolutely must obtain political stability. That is the reason why I regret so much that the talks so far have not progressed more favourably.

My hon. friend the Member for Nairobi South talked about safeguards. Well, Sir, in my opinion, paper safeguards are not worth the ink with which they are signed. We have only got to look at what happened in South Africa—

MR. HARRIS: And Ireland.

MR. COOKE: We are coming to Ireland!—written into the constitution which were torn to pieces by the National Government. I am informed that Sir Roy Welensky is thinking of tearing to pieces certain safeguards—I may have been entirely wrong but I am informed so—and of course there is Mr. Nkrumah of Ghana who has threatened to imprison anybody on the Opposition side who—

SIR CHARLES MARKHAM: On a point of order, Sir, in the past you have ruled that Members must substantiate their remarks. Would you, perhaps, Sir, like to rule that about the hon. Member for the Coast? He has made an allegation against the Prime Minister of a neighbouring territory. Perhaps he would like to substantiate his remarks, Sir, about tearing up agreements.

MR. COOKE: I particularly said that I was informed—

SIR CHARLES MARKHAM: I asked you for a ruling, Sir.

THE SPEAKER (Sir Ferdinand Cavenish-Bentinck): I understood the hon. Member to say that he "had the impression" or "was informed" or something of that sort. I consider that permissible.

MR. COOKE: Mr. Nkrumah is threatening—or seems to me to be threatening—certain safeguards in the

Ghana Constitution and I have only drawn attention to these facts because I do not believe really that written safeguards are of any use at all to-day.

The real safeguard in this country at any rate, is the good will of its inhabitants and with that you can make any safeguards you like.

I said I was coming to Ireland, Sir, and it is a typical example, Sir, that when Southern Ireland was handed over to the Government of Eire some 30 years ago there were no safeguards in that constitution. Yet the people—the Protestants and the Catholics of Southern Ireland (the late Loyalists and the Nationalists of Southern Ireland)—now live together in the greatest amity and friendship.

AN HON MEMBER: Go back there!

MR. COOKE: I suppose the jeers and cheers are referring to the raids a few unemployed young men sometimes make in Northern Ireland. Those raids have been deprecated and strongly condemned by Mr. De Valera who is the Premier of Southern Ireland.

Now, Sir, it will be more than a tragedy—I think it will be a disaster—if the Secretary of State (and I told him so when I had the honour of meeting him on Saturday afternoon) leaves this country without a settlement, even if it is only a temporary settlement. Because to leave matters in a political vacuum in this country would, I am afraid, invite trouble of a serious nature.

Now, I do hope that my hon. friends and colleagues on this side of the Council will withdraw that proviso—will magnanimously withdraw the proviso they made—that they would not carry on talks with the Africans with regard to the number of seats unless the Africans agreed to join in the Ministries.

Now, I want to ask my hon. friend, the Member for Nairobi South, a very plain question, and I think that question is susceptible of a plain answer. Now, does he really think that it was either ethical or expedient to require the Africans to go back on their election pledges? Does he really think—will he get up now that he really thinks it was a wise and expedient and a natural thing to do to say to the Africans—"Unless you join the Ministry and go back on your election pledges we will not carry on any

[Mr. Cooke] discussions with regard to the number of seats?" Perhaps my hon. friend would like to say something. He will doubtless get another opportunity.

Now, Sir, I believe myself that the Secretary of State has only got two alternatives in front of him to-day. One is to persuade the European Elected Members to withdraw this intolerable proviso, and the other is that he should go back fairly to the *status quo ante* the Lyttelton Plan and go back to sensible Colonial Office rule, because I feel that at any rate the Lyttelton Plan was void *ab initio*. I hope that I am not getting out of order when I say that this was for two reasons. One was because it had gone back on the very definite pledges given by two Secretaries of State and by the Governor of this Colony that there would be no changes in the constitution of Kenya without a round-table conference. The Lyttelton Plan made a very serious change, and without either consulting the Europeans or the Indians or Africans of this country as to what should be done. Now, secondly, if it is, as I think, void *ab initio*, this is because it was never accepted by the majority of people in this country. I say it would be wise for my hon. friend to go back on the Lyttelton Plan. After all, I do not advocate going back on a promise, but we have already gone back on a promise given to us by two Secretaries of State.

A very interesting article written by a high official in the Colonial Office stated that a characteristic of post-war Colonial constitutions is their impermanency. Since the war, in the last 15 years, constitutions have been set up and abrogated within a few years. So there is nothing new as advocated by my hon. friend, the Member for the Central Area in an abrogated Lyttelton Plan.

I have nothing further to say except that I was disappointed, as usual, with the Governor's Speech. I am not going to talk about any kind of clarification call to victory now—or to "cock-crow" as I think my honourable friend, Mr. Windley, last year suggested but, at any rate, I am disappointed that there was very little said about the economic position of this country, about inflation, and

those other problems which so sorely affect this country at the present moment. I neither support nor condemn the Address.

THE MINISTER FOR LOCAL GOVERNMENT, HEALTH AND HOUSING (Mr. Have-lock): Sir, certainly there are problems and people who vex this country at the moment. Also I want to talk about things I think of rather greater importance than what the last speaker has discussed. I would like to say one thing on his remarks, and that is that I certainly have no knowledge at all of any definite stand taken by the European Elected Members, stating they would not discuss extra seats for Africans unless the Africans joined the "Ministry", as the hon. Member stated.

(Interjection by Mr. Cooke.)

THE MINISTER FOR LOCAL GOVERNMENT, HEALTH AND HOUSING (Mr. Have-lock): I think, if the hon. Member would read this statement properly, it is not the case.

(Interjection by Mr. Cooke.)

THE MINISTER FOR LOCAL GOVERNMENT, HEALTH AND HOUSING (Mr. Have-lock): There are other Members—

MR. MBOYA: On a point of order, does the Minister speak as a Minister of the Government or as a European Elected Member?

THE SPEAKER (Sir Ferdinand Cavendish-Bentick): The hon. Member is allowed to speak as a Member.

THE MINISTER FOR LOCAL GOVERNMENT, HEALTH AND HOUSING (Mr. Have-lock): As I was personally associated with the statement, I see no reason why I should not speak about it.

But to come to more important matters. The first thing I would like to refer to is the remarks made by the hon. Corporate Member regarding local government. I would like just to remind the Council of his remarks, because in these long debates we are inclined to forget the first speakers about two weeks ago, or ten days ago. His remarks were: "I was interested in the warning note of the Governor in his remarks about local government and its rapid expansion—in

[The Minister for Local Government, Health and Housing]: In fact the mad rush of the development of local government". Then he went on later: "We have got to be very careful that we do not go too fast and that our burden of local government taxation does not compete in its viciousness with the burden of ordinary taxation". I do not think the hon. Member could have gathered from the Speech from the Chair just what he stated. In fact the Governor's remarks, Sir, with regard to the development of local government were as follows: "It is the established policy of the Government to foster and promote local government, but the scale both of capital and of recurrent financial assistance to local authorities by the Central Government must be related to the availability of finance for the needs of the Colony as a whole".

I hardly think those remarks justified reference to the mad rush of local government; and, of course, as usual, one is put into rather an awkward position because other hon. Members opposite look exactly an entirely different line and advocated very much greater and faster development of local government.

As far as the fears expressed by the hon. Corporate Member are concerned, I personally believe that his fear of over-enthusiastic local authorities imposing heavy rates which would unbalance the overall taxation figure or picture—that is I think his main fear—I do not think he need have it. I think there is no doubt at all that the ratepayers in their position as electors of members of local authorities have that very much in mind, and I know that in a number of cases where local authorities have wished to increase the rates the pressure of the ratepayers has prevented it.

On the other hand, Sir, with regard to the actual development of local governments and the criticism, especially of the hon. Member for Aberdare, I feel that we have struck a fair balance. There has been development of local government but a very good progressive and stable development. I think it might be interesting for hon. Members who think we are standing still in this matter to hear one or two figures of the more important local authorities of different types. Nairobi City Council, of course,

I suppose, will have to come first and in 1954 their budget was £1,500,000. In 1957 the estimated budget is £2,500,000. So that, I suggest, is a pretty good advance. Mombasa shows a similar picture—£376,000 in 1954 and an estimation of £654,000 in 1957.

Now, to clear the mind of the hon. Corporate Member I am now answering the other criticisms that local government has not been developed fast enough—in giving these figures, the Kiambu African District Council is quite a good one to take with regard to that type of local authority. In 1954 their budget was £82,000; in 1957 it is estimated at £168,000. Again, it shows almost double in three or four years. And county councils, urban district councils, and so on all show a very similar picture. I do not think, Sir, that that is a mad rush and I do think it is a steady and progressive development. However, I must say that with the financial stringency which we are now facing local authorities have been instructed to give very serious consideration to their expansion, especially of capital works. But in this regard we cannot possibly have a standstill because it is my belief that if we do not develop in Kenya then we must retrogress. It is not possible to mark time. The capital expenditure, of course, does lead naturally to increased recurrent expenditure, and therefore one has not only to moderate the capital expenditure by itself alone but with one's eye on recurrent expenditure. On the other hand, Sir, there are, as the hon. Member for Aberdare mentioned, certain activities which I think could be extended from or transferred from the Central Government to local authorities, which are practical even in our present circumstances. I am now examining, Sir, in my Ministry, in conjunction with other Ministries, what functions local authorities can take over from Central Government, either directly or on an agency basis. If certain services are supplied to the public by Central Government to-day, and paid for, then there should not be any great extra expense in transferring those services to local governments and paid for that way. But there is one difficulty in such transfers. If sections of certain services were transferred from the Central Government to different local authorities, there is a

[The Minister for Local Government, Health and Housing] likelihood that an uneconomic residue might remain with the Central Government covering areas where there are no local authorities, or where local authorities are not in a position to take on such services. And again, looking at the overall picture, one has to be a little bit careful because in that case, with that fragmentation of certain services, the total expense to the citizens, to the general taxpayers of the Colony, may well be higher than it is to-day.

So that, Sir, is one disadvantage of decentralization which one has to keep in mind the whole time. But, of course, the hon. Member for Aberdare went on and mentioned what is very important indeed; that is, the imponderables with regard to local government. That is cashing in on the initiative and local patriotism and, of course, the variation of the standards and the types of services in the different areas of the Colony, which in themselves are so diverse. And that, too, the Government fully recognizes, and that is the reason why, to quote the words of His Excellency, "It is the established policy of the Government to foster and promote local government".

Now, Sir, that has all been said before, but I think it is a good thing to stress it and re-emphasize it, especially in view of the remarks of some hon. Members opposite, the hon. Members for Ukamba and Aberdare.

Turning now to another side of my portfolio, both touched on the problems of juveniles, and that has been dealt with in detail by my hon. friend the Minister for Community Development. But I did want to say two things on this. Firstly, to repeat in fact what the hon. Minister for Community Development said, and that is what a great help the Child Welfare Society has been in this problem, and to state that I am doing my very best to persuade local authorities to take an even greater interest in the child welfare problem, either directly or possibly preferably at the moment through the Child Welfare Society, and I will continue to press local authorities of all types on that point. Therefore, Sir, when in the field tackling this problem we have the Government local authori-

ties, the churches, and the Child Welfare Society, I am quite sure that with proper co-operation and co-ordination we ought to be able to tackle what is, I consider one of the most important and most dangerous problems that is facing our country to-day. When I say that I include the problem that took up all the time of the hon. Member for the Coast.

Now, Sir, if I may turn to the hon. Member for the Eastern Electoral Area: he complained about the composition of certain county councils or of all county councils (as did other hon. Members), suggesting that the racial proportions of representation were unfair.

I wonder if, maybe, other hon. Members have really studied this. The non-European representation in the areas which especially affect them is very considerable indeed, that is, the urban areas. May I explain again to hon. Members that the county district councils within the area of the county councils, and especially the urban district councils are autonomous bodies of their own. They are not the junior partners, they are not small councils to be instructed by the counties; they have specific powers, specific duties and they hold full responsibility for those powers and duties. Therefore, with regard to the activities in such a district as an urban district council area, they have full responsibility. Admittedly—and rightly—they are associated with the county council, within the total umbrella of the county for other problems which affect the whole county. But over those specifically affecting their areas, they have complete control. I think it is something that hon. Members are inclined to forget, and in those particular areas, Sir, in those particular councils, the non-European representation is very considerable indeed. I believe that on the whole it is very fair. There are, of course, also non-Europeans on the county council as well, and rightly so; they too have a substantial representation there.

Now, Sir, with regard to the points raised by the hon. Member—still referring to the points made by the hon. Member for the Eastern Electoral Area—about tuberculosis, I would rather leave that to the hon. Director of Medical Services to deal with as it a detailed and rather specialist subject.

[The Minister for Local Government, Health and Housing]

Now, Sir, if I may come to the hon. Member for Uasin Gishu. She brought out a very large number of subjects in her comprehensive and may I say very thoughtful and constructive speech. Firstly, she stressed that it was essential to raise the family standards through education, health, hygiene, etc., of the African women. I, of course, and Government entirely agree with that; it is our policy so to do. In fact, I would like to outline to hon. Members what we have in mind. That is, what the Medical Department and health authorities are doing now, and what they plan to do in the future.

The health visitor service, which is the instrument to achieve this particular policy, was established in 1956; and the present establishment is one senior health visitor and 15 health visitors. At the moment, the senior health visitor is at Kisumu, in charge of the services in that town, and the training school. Other health visitors are stationed at Embu, Machakos, Central Nyanza, Kwale, Kapsabit and Bungoma, and later it is proposed to post further health visitors to Wesi, Tambach and Kisii. Postings, of course, depend, I am afraid, on the availability of accommodation—of houses. There are ten unfulfilled posts in our establishment, and recruitment is geared to the availability of accommodation, of which hon. Members know Government is very short.

There is an assistant health visitor training-school at Kisumu and 20 students have graduated from that school and 12 from a school at Embu. At the moment, there are 14 more students at Embu reading to sit their final examinations. Once they have passed, as the others who have already passed, they will be posted to African district councils in different areas, to health centres in the African district council areas; especially North Nyanza and Central Nyanza Districts are already ahead of others in this regard. In the Central Province, the need arose to have one such person as an assistant health-visitor in each village when villagization took place; and the Red Cross, of whom there are 11 in the Central Province, have informally taken girls, one from each village, and appointed them as home

helps, and given them as much instruction as they can in consideration of the fact that they have other duties as well, such instruction as: child care, home hygiene and nutrition. The distribution of the Red Cross workers, Sir, is three at Fort Hall, three at Nyeri, three at Kiambu and one at Embu. And—this is a very satisfactory position—the Meru African District Council have taken on a Red Cross worker themselves, and pay her salary fully. I am sure that they realize what a great benefit that lady is to them.

Sir, the Department tried to post health visitors where no Red Cross workers are available and in due course the Red Cross, who are unfortunately a temporary establishment really, will be replaced by permanent health visitors.

Now to the plans for the future. I just want to outline this to show that we are not sitting down on this—we have got our plans, which, of course, if they come to fruition, would, I think, fully meet the requests of the hon. Member for Uasin Gishu. We hope and we want to have one health visitor per every 100,000 of the population. They would supervise assistant health visitors who would be employed in the ratio of one to every 10,000 of the population; and they in turn would supervise home visitors who would be employed in the ratio of one to each village, or, say, 3,000 population. That eventual coverage would mean 50 health visitors, 300 assistant health visitors, and 1,500 home visitors. We estimate that the overall cost would be something like £220,000 a year recurrent; and the capital cost of something like a quarter of a million pounds, for housing, vehicles and other necessities.

Well, there is the plan. But, unfortunately, as we come up against it so often in this country at the moment, we have not got the money, and we have not got the trained staff. But that is our object, and that is our goal; and if we could only achieve it; I am certain that what the hon. Member requires—that is, a complete change in the outlook of the African women with regard to home life and so on—would take place. It is taking place, but it is not taking place fast enough for my liking. However, we may

[The Minister for Local Government, Health and Housing] just have to accept the second best owing to the lack of money and bodies.

Turning to another subject now, Sir, the hon. Member asked about the housing in Nairobi, and the 5,000-house scheme. The first 1,400 houses, as I think she knows, are in the course of being erected; some doubts have been bruited abroad about this particular contract, but I have made specific inquiries and I see no reason why the promise I gave in this Council earlier this year should not be carried out; and that is, that the houses would start to be ready for occupation early next year. I see no reason why that should not be achieved.

I have arranged for a discussion with the representatives of Nairobi City Council next week to see if we can work out how to go about the next phase for which the money is available in the Central Housing Board funds for 600 more houses. I hope that we will come to an amicable settlement with the Nairobi City Council and get ahead with letting another contract so that there is no stoppage and there is no delay; in fact, houses will continue to come off the production line from early in the year onwards.

As regards the further capital which will be required to complete the scheme of 5,000, that is, further capital for 3,000 more houses, hon. Members will know and realize that capital is more difficult to-day than it was when we mentioned this matter six months ago. However, Government is still determined to do everything in its power to raise the capital either through its own or local government sources to find the capital for these houses and further discussions with the City Council will take place on that too.

I was very interested, Sir, to listen to the remarks of the hon. Member, and the suggestions she made regarding the amendment and procedure for the Central Housing Board. I note also, Sir, her memorandum which she submitted in 1949, which I have now checked; and it is true that nearly all the suggestions she made in that memorandum are ones that can be applied to-day. I will be putting before this Council in the near future—

I have them in front of me in draft at the moment—a number of amendments to the Housing Ordinance which I think will meet the hon. Member's requirements, and most of her suggestions. I do especially agree with her in the principle that the Central Housing Board should be an advisory committee on housing policy to the Minister. That is one of the things we have in mind.

Now, Sir, let us not give the impression though that only when such amendments can be made can we expect any improvement in the housing position. In fact, the Central Housing Board and its staff has done an extremely good job already, and are still doing an extremely good job in what we want them to do, and that is to reduce the cost of housing, and to make it more simple for local authorities to provide the type of accommodation that is necessary. Not only has the adoption of the pumice technique which we have discussed in this Council before provided a lower figure per square foot, such as Sh. 12 at Naivasha, Sh. 15 at Eldoret and Kitale, but also the free advice that is given by the Central Housing Board architect in design and layout has helped considerably. In some instances, also, the Central Housing Board staff has undertaken the responsibility of not only calling for the tenders, and placing the tenders, but actually supervising the work. At the moment, the housing officer is supervising a tenant-purchase scheme in Kisumu which is on designs and layouts which he has helped and advised on, and we estimate that with all that help that has been given, the cost of those houses at Kisumu will probably be reduced by something like 35 per cent compared to the ordinary market costs.

Now, Sir, there was another subject—a very difficult subject—that the hon. Member raised, and that is building by-laws. I fully appreciate the hon. Member's complaints. First let me say that we are trying to build, trying to compile a set of model by-laws for the use of local authorities. As by-laws on any particular subject are submitted by a local authority, they are checked by the Government's legal draftsman, and then approved; and such by-laws, having been checked and approved, will then become a part of a folio of model by-laws available to all local authorities for

[The Minister for Local Government, Health and Housing]... tion. I am afraid one cannot get any particular priority for them, although we both—the Minister and I—we both recognize that a long delay in the production of such by-laws will affect, and in fact one must admit is affecting, development. Therefore we will do everything we can to get them out as quickly as possible.

Now, Sir, the hon. Member for Nairobi South asked if Government is going to introduce the scheme suggested by the committee on social security dealing with old age pensions. Well, Sir, the report was Tabled for interest only. No decision has been taken by Government and the very important financial implications are now being examined. At first sight it would seem that such a scheme would lead to very considerable cost and in our present financial situation it may not be practicable at the moment. In any case, it will be a long time before the scheme can come into being and especially before pensions can be paid out. I do not think that the scheme in any case would conflict with a private pension scheme sponsored by an insurance company as I think was mentioned by the hon. Member. My advice, therefore, would be that as the scheme would be complementary to private schemes, employers and insurance firms should not hesitate to initiate private schemes now.

Mr. ALEXANDER: They have been at it for six years.

THE MINISTER FOR LOCAL GOVERNMENT, HEALTH AND HOUSING (Mr. Havelock): The City Council have been at it for six years, the ex-alderman tells me. The by-laws will then have to come to my Ministry and be submitted to the law officers for checking.

Mr. ALEXANDER: Another six years.

THE MINISTER FOR LOCAL GOVERNMENT, HEALTH AND HOUSING (Mr. Havelock): And I hope that they will be completed and approved within six months.

Mr. ALEXANDER: Hurrh!

THE MINISTER FOR LOCAL GOVERNMENT, HEALTH AND HOUSING (Mr. Havelock): The Mombasa By-laws, which I think interest the hon. Member for Mombasa particularly, are in a more advanced stage, and are now being checked by the Government in co-operation with the Municipal Board, and they should be in force earlier than the Nairobi ones, early next year.

But it is essential that the by-laws are examined to ensure that they are *intra vires*, and unfortunately there is such a great pressure on my hon. colleague, the Minister for Legal Affairs, and his staff, that they have just got to take their place in the queue with other legisla-

tion. I am afraid one cannot get any particular priority for them, although we both—the Minister and I—we both recognize that a long delay in the production of such by-laws will affect, and in fact one must admit is affecting, development. Therefore we will do everything we can to get them out as quickly as possible.

Now, Sir, the hon. Member for Nairobi South asked if Government is going to introduce the scheme suggested by the committee on social security dealing with old age pensions. Well, Sir, the report was Tabled for interest only. No decision has been taken by Government and the very important financial implications are now being examined. At first sight it would seem that such a scheme would lead to very considerable cost and in our present financial situation it may not be practicable at the moment. In any case, it will be a long time before the scheme can come into being and especially before pensions can be paid out. I do not think that the scheme in any case would conflict with a private pension scheme sponsored by an insurance company as I think was mentioned by the hon. Member. My advice, therefore, would be that as the scheme would be complementary to private schemes, employers and insurance firms should not hesitate to initiate private schemes now.

The hon. Member for the Western Electoral Area mentioned that he thought I was giving some consideration to proportional representation for Aisan members on local authorities. This is quite correct, and as I stated in this Council some months ago, Sir, I asked my officers to obtain from that hon. Member the detailed scheme which he outlined rather broadly in this Council about six months ago. Whether this principle can be applied to all races is a different matter; but I will say that we are making a special study at the moment in my Ministry of election rules and procedure for local authorities. I would be very interested, therefore, to receive any suggestions from hon. Members on this rather detailed and intricate matter; and as it is detailed and intricate, I would prefer that those suggestions were sent to me in the form of memoranda rather than verbal suggestions over the Floor of this Council.



[The Minister for Local Government, Health and Housing]

The hon. Member for Rift Valley Province mentioned his disappointment that there was no mention of appointment of Africans as presidents of African district councils in the Speech from the Chair. The African District Councils Ordinance, Sir, is being amended and the amending Bill will be brought before this Council in the near future. One amendment will enable Africans to be presidents of African district councils. That is in accordance with my promise to this Council some months ago. The hon. Member also, Sir, complained about the demolition of permanent homes and inadequate compensation. I am afraid I do not know to what area he was referring—he did not specify any particular area.

All I can say is that temporary buildings causing a nuisance to health have been demolished in urban centres but this has always been done after a Court order has been obtained and only when alternative accommodation is available. There has been no specific compensation, as far as I know, to these people because they have had no legal right to the temporary occupation of particular plots and their temporary buildings. But, let me say this: if the hon. Member has any specific complaints, specific cases of hardship, I would be grateful if he would bring them to my attention in detail.

The hon. Member also, Sir, complained—so I understand—about the siting of the Molo Estate. Well, Sir, I have seen no complaints in my Ministry and neither has the County Council, with whom I have checked. In fact, the architect of the Central Housing Board has been congratulated by many local residents, and by many local Africans in that area, on the siting of their houses. There again, I will repeat, if there is any specific complaint, any known to the hon. Member, I suggest he brings it to me.

Now, Sir, I have dealt—as one has to in a Ministry—with a number of points that are, I believe, of practical value; of definite practical interest to all people. And I just want to end, Sir, on this note. I believe that the great majority of people in this country are more interested in these sort of matters that we have been discussing than in the rather more high-falutin matters that have taken up the

very great majority of the time in this debate. I believe, Sir, that there is only one obstacle to the settlement of constitutional matters, if you wish to put it that way; and that is that all races must be sure of the sincerity of the others. By that I mean that all must be sure of the sincerity of feeling that all races have rights in this country, and that the suggestions put forward by any race are not only, and not particularly for their own advantage; but for the advantage of Kenya as a whole. If that spirit, I think, if that spirit was really abroad and was really sincerely held by all hon. Members then we could come to a settlement tomorrow.

Sir, I beg to support.

3.50 p.m.

THE MINISTER FOR EDUCATION, LABOUR AND LANDS (Mr. Coultis): Mr. Speaker, my friend, the hon. Member for Aberdare, speaking in this debate, said that he felt there was little that was new. In dealing with my own Portfolio, I am inclined to agree with him. Except for a few odd *sputniks* which were distributed round this Chamber, letting off peculiar noises, as *sputniks* do—bleep, bleep, bleep, I believe—which the special receiving section of the Education Department tells me they have been listening into with some interest. They have also told me that there is very little new in them. Apart from these *sputniks*, I believe that what I have to deal with this afternoon is very much what I have dealt with in the past.

Before turning to education first, I want to digress for a moment and also to depart from my own custom, which is to deal specifically with my own subject, just to remark on certain statements which were made in regard to land consolidation by my hon. friend, the Member for North Nyanza.

[Mr. Speaker (Sir Ferdinand Cavendish-Bentick) left the Chair]

[Mr. Deputy Speaker (Mr. Conroy) took the Chair]

He said in that statement that he believed that land consolidation was a means to an end. I thought, possibly for the first time, that we were hearing something from the other side of the Council which meant that they realized that land

[The Minister for Education, Labour and Lands]

consolidation was only a step in a certain direction. He said also, however, that land consolidation was not a blessing but a curse. Now, Sir, I want to bring, and have brought, this particular matter in at this point for this reason: that I feel that land consolidation is a means to a very desirable end. The end is to raise the wealth of all persons in this country; and to raise that wealth is the only means whereby the majority of people in this country will get what they need and what they desire, particularly in education. Without raising the wealth of every individual member of the society in this country, there is no hope—and I say so quite definitely—there is no hope of gaining the educational ends about which we have heard so much in this debate.

Now, Sir, turning to the particular points which were raised, I come once against to the points raised by my hon. friend, the Arab Elected Member. Now, Sir, in so far as compulsory education for the Arab primary school for girls on the Coast is concerned, I must refer him to page 871 of HANSARD of 4th June, 1957, where he will find my answer quite clearly set out.

SHEIKH MACKAWI: Always!

THE MINISTER FOR EDUCATION, LABOUR AND LANDS (Mr. Coultis): Always, as my hon. friend says!

As regards primary girls, there has been an allocation of £24,000 made in the present Development Plan, and we hope that we will spend that money within naturally this development period, but in a very short time in order to provide the extra accommodation necessary for primary girls. In so far as providing special accommodation in Nairobi is concerned, I do feel that is difficult, because there are schools which can take people of a Muslim faith in Nairobi, and it seems to me, therefore, difficult to make special provision for Arabs. As regards his overseas bursaries, all I can say is to reassure my hon. friend that provided the people are there with the necessary qualifications, we will give them as many overseas bursaries as they are qualified for.

Now, Sir, several Members raised the question of multiracial education or non-

racial education. Once again, Sir, I would like to refer hon. Members to a speech which was made by my predecessor in this Council on 17th May, 1955. I would like Members to read that particular statement which my predecessor made—amongst other things he said: "Now this is a subject on which there are wide differences of opinion, and on which many people have strong views".

I would like to reiterate that this afternoon, and also to remind people that at a place which I believe is called Jive Dogo—or Little Rock—there has been recently quite a lot of trouble emanating from the fact that people have tried to force certain views on certain people. I think, Sir, that force in such matters is not a good thing. It is a fact that there are wide differences of opinion, they have actually been mentioned in this debate, because, as I have just said, the hon. Elected Arab Member has asked for a specific school for Arabs in Nairobi, and I am constantly being asked to make provision for Muslims in education and quite recently, as a result of special representations made by the Somalis, as all Members probably know, there is now in construction an intermediate school at Naivasha particularly for Somalis. All of that, I think, points to the fact that people do hold very divergent opinions on this particular matter, and, therefore, one must approach the whole problem with considerable caution.

I sensed also in the debate a feeling that perhaps Government should allow more latitude for independent schools to be set up. Now, Sir, I have said before I think in this Council that provided we as a Ministry, and the Education Department are satisfied that a particular agency or particular set of people are qualified to run a school, we have by and large no objection to that agency or body of people opening a school. We have to be satisfied, however, that these people are capable of running a school. I want to say, however, this afternoon—as emphatically as I can—because I think it is important that one should say these things when one means them—that Government will not countenance the reopening of the type of independent schools which in the past were known as

[The Minister for Education, Labour and Lands] the Kikuyu-Independent Schools Association; either that, or Karinga schools, as they were also called, will not be countenanced by the Government again. Therefore, anyone who wishes, to open a school which is not at the moment within, shall I say, the local government or Central Government orbit, must show that they are capable of running the school properly.

Turning now to the speech of the Member for the Eastern Electoral Area, who dwelt for a brief moment on the subject of Asian education, when he mentioned modern education and said that the Asians themselves felt that they must have four years of modern education rather than the two which were at the present moment being offered. Now, Sir, I must say here that one of the main difficulties has been in the past the fact that number of Asian boys have repeated classes in the primary section of the schools. Indeed, repeating, I regret to say, has been a common custom. Well, Sir, if you repeat classes, it means that as you are not getting any younger, your age is increasing. Therefore, by the time you have got to the point where you leave the primary section of education, you are probably a good deal older than, shall we say, the average person in the United Kingdom who leaves a primary school to go to a secondary school. If he enters a secondary school, whether it be for modern or academic education, obviously he will be required to leave after he has reached the normal statutory age. Therefore, it would be more normal for that person to do two years rather than four. If, however, later, as this policy is pursued, it is possible for children to be taken in at the proper age, to complete all the classes at the proper age, and to emerge at the proper age, it may be possible to give more than the two years which have so far been offered.

Now, Sir, I want to turn to matters concerning African education, most of which were raised by my hon. friend, the Member for the Coast Province. I hope that in dealing with the matters which he has raised I will also deal with other matters which have been raised by other hon. Members. He mentioned the

question of secondary schools generally, and he raised the possibility of a secondary school for girls in the Coast Province. I have examined the numbers of girls who are likely to offer themselves at the present time, and they appear to be: this year, 14; next year, 14; and the year after that, 17. Now, Sir, as every good educationist knows, these numbers are not enough in themselves to constitute a class. We usually require at least 20, if not 25, to start a class, and we are prepared, if the hon. Member is prepared to agree, to consider a school at Wusi, if he is prepared to agree that it should be co-educational, because it will be necessary to make up the classes with boys offering themselves for it. If he is prepared to consider this proposition, I shall be glad to discuss it with him.

Arising out of that, I do want to say a word about secondary schools generally. I think I have made it very clear in this Council in the past that we must move away from boarding schools, which are so expensive in every possible way, to day secondary schools all over the country. Now, I have received requests from various parts of the country for day secondary schools and I would like to say how grateful I am to people who are prepared to consider this departure from previous policy. I would like particularly to assure the hon. Member for North Nyanza that if he is prepared to accept that it may be necessary to give up an intermediate school, with its existing buildings, for a day secondary school, there is a possibility of so introducing one. That also, of course, goes for other parts of the country if people are prepared to make something of a sacrifice. If they want it more quickly than the present development period, they will, of course, have to contribute quite considerably to the capital cost of setting up that school. As, however, it will not be a boarding school, naturally the capital cost will be much less than in the case of establishments which need dormitories.

That old hardy annual—eight-year education—was brought up, and I would just like to say this on it, that I think, as all Members know, it will be necessary to start a scheme for eight-year education in one part of the country and gradually to expand it. I have also made

[The Minister for Education, Labour and Lands] it perfectly clear in the past to the predecessors of the hon. African Members in this Council that they will be required to contribute quite a lot to any scheme of, shall we say, universal education, which is what it is, for any particular area. As hon. Members are aware, the scheme on which I have still to report to this Council is that concerning Nairobi, and it has been held up because of Government's intention to impose a graduated poll tax rather than a poll rate, as in the past; and there have been discussions which have taken place during the last two or three months regarding the actual rates which are to be levied. I am glad to say that that now has become a lot clearer, and I hope to be able to report to this Council in the not too distant future regarding the scheme for Nairobi.

The hon. Member also raised the question of the introduction of Higher School Certificate courses in African schools. Now, Sir, I think I have already spoken about this in the past. In devising the present Development Plan it was our intention to bring in Higher School Certificate during the present development period, but, as everyone is aware, the construction of laboratories for this type of work does take a great deal of capital money. All Members are also aware that this work is done both at the Royal Technical College and at Makerere, and we feel that as money was so short it would be better that we should spend what money we have on secondary education and on teacher training, and still let Makerere and the Royal Technical College do the work which they are at present doing, after ordinary School Certificate, and between School Certificate and the entry to university.

Naturally I share the hon. Member's views. I would like to see a Higher School Certificate course introduced in at least one of the African schools in this country, and I believe that our neighbours, Uganda and Tanganyika, are likely to be aiming at doing something of this nature by about 1959 or 1960, and we would naturally wish to be in the field along with them. But as things stand at the moment, for the foreseeable future, the next two or three years, I doubt very much if we will be able

to introduce Higher School Certificate for the reasons which I have given.

The hon. Member for Rift Valley Province, I think, raised the question of the difficulties which African education encounters in the settled areas and also the question of teacher training. I have noted the two points which he has made and I hope that we will be able to second an education officer for the purpose of making a plan for the settled areas; as soon as we know what that plan will cost, we will do our best to implement it.

The hon. Member for the Coast raised the question of technical education, and specifically spoke about Kwale. The position about Kwale was that we had expected to get for Kwale a sum of £32,000 from a cotton cess fund. Unfortunately, in the end we only received £21,000, and therefore there was a shortfall in the amount which we expected to have for Kwale of £11,000. By a reshuffling of such Votes as we have, we have been able to find another £8,000, and this money will be spent largely on the housing which the hon. Member said was so necessary for the Trade and Technical School at Kwale. I hope, therefore, that the situation will be assisted very materially within the next year.

I cannot agree with him, however, when he says that there are not enough places for the courses which are conducted at Kwale. There is a possible intake of 40 and we have only been able to take in 33 people each year, a total therefore of 66 instead of 80. If there are more people who wish to join these courses, then they should come forward.

He also suggested that other courses should be added at Kwale; I put these into the category of "courses with frills"; that is the mechanical course, the shoemaking course, the tailoring course, the electricians' course and the plumbers' course. These, Sir, are very expensive to set up and, as they have already been set up at Kabete, I regret, certainly for the present, it will not be possible to duplicate them in country districts, and therefore places like Kwale will have to be satisfied for some time with the courses they have got, carpentry and masonry, and to send those people who want the other courses up to Kabete where they will be taught.

[The Minister for Education, Labour and Lands]

Now, Sir, I wish to turn to labour for a moment. People on all sides of the Council were apparently a little worried about the unemployment situation. I would like to begin by giving you, Sir, the actual figures for each race, so that these can be considered. The Europeans: the present figures on the book are 126 out of 14,000. Asians: 303 out of 33,000. And Africans: 5,325 out of 426,000. I think hon. Members will agree with me that these figures do not really represent an alarming percentage of the numbers of people who are in. We must admit that there is an unemployment problem; we have to, I think, every day of the week accept the fact that there is an unemployment problem. But I do not consider at the moment that these figures really should make us worry unduly about them.

I should have mentioned that in Nairobi the African figure is 876 out of 70,000, which probably is a little higher than we would like. But, Sir, many people have registered and actually refused the employment which has been offered to them and stated that the particular work is ungenial. In such cases, Sir, I submit that these people are not unemployed, but unemployable, because if, being offered work, they refuse it, it would appear that their actual desire for work is not as great as they themselves would make out.

Also, my hon. friend, the Member for Nairobi Area, says: "Question". If he questions it why does he not tell them to take the jobs that are offered to them? We are perfectly prepared to provide them for them. Also I think, Sir, that there are quite a number whom I might describe as "spiv types" who spend a lot of their time hanging around Nairobi, really with no intention of taking a job. They are part of the migratory system, which has a foot in both camps, and therefore, once again, one cannot say that they are truly unemployed. Also, of course, the Emergency did upset the whole balance, and there has also been undoubtedly a slight trade recession in the last few months; therefore one must expect that there would be perhaps a few more people looking for work than there had been before. However, Sir, I would

like to repeat that I do not regard the situation as in the least degree alarming.

There is one point, Sir, which I would like to take up while I am discussing this question of unemployment, and that particularly concerns European employment, as I have noticed in the Press, over the last few months, that there have been a number of letters which have been headed, "Looking for Work". I would like to say that, in conjunction with other races, there is, in my view, adequate provision for people to register and to have jobs offered to them at employment exchanges. There are employment exchanges for everyone. But dealing with the European case particularly, I would like to say, Sir, that applicants for employment are registered and details of their qualifications and experience are recorded; that is exactly the same as it is for everyone else. In the case of up-country applicants, these are ascertained by correspondence, and about a quarter of the applicants listed are usually not resident in Nairobi. Potential employers write from all over the country, and in the case of non-Nairobi vacancies the introduction is effected by the employment service's writing to the applicant for work, giving him the details of possible employment and the relevant address, and copying the letter to the potential employer.

In the case of Nairobi vacancies, the applicant for employment is provided with a letter of introduction to the potential employer.

In view of that, Sir, I feel that the Government does carry out its obligation to do its best to find employment for people, and in the figures which I have given—which is 126 out of 14,000—and remembering that of that 126 about a half are people who are normally changing their jobs anyway, I rather feel, Sir, that there must be something wrong with the applicants and not something wrong with the Government system.

Going on, Sir, to these questions of labour matters, the hon. and gracious Member for Nyanza raised the question of the registration of domestic servants. I admit, Sir, that this matter has been in the Government's boiling pot for quite a long time. But there are two reasons for this, Sir. Firstly, there may be other ways of meeting the point which was raised by

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my hon. friend that the actual way which was recommended by the select committee of this Council, and these have been considered. Also, Sir, I have myself been away, as everyone knows, from the Colony for the last three months.

I can assure her, however, that I will give the pot a stir and try to produce something for her at an early date.

With regard to labour exchanges, my hon. friend, the hon. Member for Nairobi Area, mentioned that he felt that labour should be directed. Now I am quite certain he did not mean that.

MR. MBOYA: Assisted.

THE MINISTER FOR EDUCATION, LABOUR AND LANDS (MR. COULTS): Assisted? Well actually I have put down in my notes that probably what he meant was that labour should be encouraged. Well, Sir, labour is encouraged; I have already covered the question of the present labour bureaux and I would like to say that there is also a weekly broadcast of vacancies over the African Broadcasting Service. I feel that the people who wish to be assisted might listen into these services. There are also 23 employment offices for Africans throughout the country. As I have said, they exist for all races. But at the moment, without actual direction, which I am quite certain the hon. Member was not referring to, there are quite a number of ways of encouraging Africans to take work.

My hon. friend, the Corporate Member for Commerce, mentioned the subject of intimidation. I did tell him in a previous debate that this matter was being considered by the police, and I would now like to tell him that it was considered by the police. The police confirmed that after the most careful investigation, they were not able to substantiate a case. Now I think the hon. Member must appreciate that if we cannot find the evidence necessary there is no point in going to court. I can assure him, however, that the Labour Department knows that if a case is likely to be able to be taken, and there are people who are prepared to come forward and give evidence, a case will be made.

I would also like to mention a point which was raised by my hon. Nominated friend, Mr. Tyson, who raised the ques-

tion of the employment of children. He has raised this point, I think, in this Council before. I think he gave a slightly incorrect impression, to the effect that children could not be employed at all. The fact is that children under 16 may be employed in certain types of work if they receive a permit from the Labour Department. And I have said before, and I am prepared to say it again, these permits will be issued when it is obvious that in certain cases it is a good thing that the child should be employed. But one has always got to remember that the Government has got an obligation to protect children in this matter, and also we have got to remember that there is an adult employment problem, as I have just outlined to this Council earlier on in my speech.

[Mr. Deputy Speaker (Mr. Conroy) left the Chair]

[Mr. Speaker (Sir Ferdinand Cavendish-Bentley) took the Chair]

We must consider this very carefully and it is part of a much wider problem than just purely reducing the age from 16 to 14. At the moment, however, I do know that there is a total ban on the employment of children in certain industrial enterprises, and I will examine that again to see whether it would be possible for certain juveniles or children to be employed under permit in certain industrial undertakings. But I must say—and I must repeat this—that it is part of a very much wider problem than just the question of the employment of juveniles.

Before I sit down, Sir, I would like to assure the hon. Nominated Member, who seconded the Motion, that the Survey Department is doing everything it possibly can in order to assist with maps for land consolidation. I had the pleasant opportunity the other day of going over Survey Headquarters and seeing the actual work which the people there are doing, after aerial survey, and the maps they are producing of various parts of the country. They are doing, I think, an excellent job of work and they assure me that any map which people may require for land consolidation will be produced.

I would like at this stage also to extend invitations to Members of this

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Council, if they have a moment, to visit the Survey Headquarters which is on the Thika Road, on the left-hand side of the road going out towards Allsopp's Brewery, it would repay them if they went there. And I would like them to feel that they would be well looked after and they would see a good job being well done in those headquarters. I would like them to visit it.

Sir, I beg to support.

4.19 p.m.

MR. ALEXANDER: Mr. Speaker, Sir, I am glad that the speech of my gracious friend on the left has had two important influences. Firstly, it has meant that the Minister for Local Government has had to reply to her at considerable length on some very important matters, and secondly, I am sure her great exposition on family life rippled with speed out of this Council to hasten her into grannyhood. And another little redhead has appeared in Kenya.

Mr. Speaker, I must deal first with my friend, the Member for the Coast. I am sorry he has disappeared because he had much to say about people's election manifestos. I realize, Mr. Speaker, that it is always dangerous to start referring to people's manifestos, particularly in this political world that is moving at such a speed at the moment. Nevertheless, he has asked for it, and he is due to have some references to some manifestos he has issued. He talked, Mr. Speaker, about the need for co-operation and reminded us that without co-operation with the Africans it would be difficult to make speedy progress in Kenya. That sentiment I am sure we all share, Mr. Speaker. But he forgot to remind us or to tell the Council that one of the factors that the European Elected Members wish to have discussed is this very subject of co-operation in perhaps two respects. Firstly, that the Africans should take their proper place in the Council of Ministers and secondly that we believe that after any further increases on communal seats we should move to some form of non-racial representation. This, Mr. Speaker, is the very co-operation we seek, because this is the type of co-operation that we believe is in the best interests of Kenya.

Now, he in fact signed a manifesto in which he himself said much the same when he wrote as follows: "We—he was one of several at the time—"will therefore press for Ministers to advise on the particular problems of their respective races". That, Mr. Speaker, is precisely what the European Elected Members are now asking to be done, and which to-day apparently he seeks to ridicule. He also said that it was essential for the Secretary of State to make some agreement, any agreement, before he leaves this Colony, even if it was of a temporary nature. Now on that, Mr. Speaker, it is perhaps interesting for us to remember what he wrote on this particular theme. This is it: I quote. "History has proved that a policy of appeasement based on temporary expediency"—those are the words I underline—"temporary expediency, defeatism or defeat, forfeits all confidence and respect, and leads only to disaster, both for leaders and for those whom they wish to lead. We categorically reject such a policy."

Another feature in this manifesto was in the words "the restoration of the numerical strength of the Opposition in Legislative Council, recognizing that the Government must have a small working majority". That is the end of the quote. That was written a year ago, Mr. Speaker, and we are being entirely consistent in now seeking to discuss with the Africans their demand for extra representation in this Council. The Member for the Coast was a party to those words.

He then talks about the return to Colonial Office rule. It is true that earlier in last year's General Election he did sign a minority statement saying that he believed that it was wisest to return to Colonial Office rule. But in the final manifesto that he signed this is what is written: "We intend to press for progressive transfer of executive authority from the Colonial Office to the Government of Kenya, and for progressive removal of restrictions on the legislative authority of the Legislative Council of Kenya".

TWO SPEAKERS (Sir Ferdinand Cavanish-Bentlineck): Mr. Alexander, without wishing to interrupt you, I must draw your attention to the fact that we are now supposed to be discussing His

[The Speaker]  
Excellency's manifesto and not that of Mr. Cooke.

MR. ALEXANDER: Right, Sir, I will turn to the Address from the Chair! I trust that the Council, nevertheless, is satisfied, before I leave my friend, the Member for the Coast, about the inconsistencies of his Irish mind.

I turn now to His Excellency's Address. It was very noticeable that amongst the words used in that Address were the words "African settlers" when he was describing the Mwea irrigation scheme. I am sure, Mr. Speaker, that all of us would wish that African settlers at Mwea or elsewhere—because there are many all over Kenya—should never suffer the mischievous and misinformed criticism aimed over a great number of years at their European and Asian counterparts. Much of it has been generated by hatred or jealousy or ignorance. The enemies of Kenya, both here and elsewhere, have largely succeeded in denigrating the noble and adventurous word "settler" into a term of derision and stigma, but the fact of the matter is that all, irrespective of race, who have made their homes in Kenya are settlers, and are thereby entitled to be known as as Kenyans, a very worthy designation.

On this theme, there are two other words which require clarification within the context of Kenya: I refer to the words "immigrant" and "indigenous". Normally, these words are intended to refer to non-Africans and Africans respectively, whereas, on fact, because of the recent origin of our human history in Kenya, we are all immigrants, including the Africans.

The word "indigenous" must surely embrace all long-established in Kenya. The sooner the peoples of Kenya, and others realize that it is as Kenyans that we must deal with one another, the sooner, Mr. Speaker, we will begin to provide Kenya solutions in Kenya, to all our problems. The best way to do this is for us openly to acknowledge how and where there are differences between us as Kenyans—economic, social, cultural—and having done so, proceed to concentrate our efforts and thoughts on those many—very many—aspects of our Kenya life

upon which we are in complete agreement and on common ground. The behaviour of a few arrogant Europeans, or the continuous use of embittered and sweeping phrases such as "European privileges", "Asian exploitation", and "wazungu burra" do very great harm to the happiness of Kenya. And so do people who demand before they have even tried negotiation and persuasion.

Here I am very greatly encouraged to be able to refer to some words of the Member for Nairobi Area which were written in a letter recently to the local Press, and an extract from this letter reads as follows: "Let it be known that if there is going to be any understanding between the races there must be respect for each other—abusing and trying to ridicule African leaders does not help towards this end, but on the contrary provokes the entire African community". Those Mr. Speaker are sentiments which I am sure all reasonable people would share, and I trust that the Member for Nairobi Area, and his colleagues, will now also avoid distasteful and mischievously provocative language.

I must refer to some words of the Member for the Rift Valley Province which he spoke in this debate last Friday, and I quote: "I do not think there will be any solution to these constitutional talks so long as every group insists on their own stand". Later he said: "But there is still room for reconciliation: there is still room for people who think that this country is for all". Here again, Mr. Speaker, these are sentiments, which I am sure all our people will share, and I am relying on the sincerity and the integrity of the Member for the Rift Valley Province to take him up on that and to invite him, and any of his colleagues who are thinking and feeling the same way as he is, to meet us within the spirit of those excellent sentiments. But unfortunately there appears to be a contradiction entering into this, uttered by the Member for Nyanza Central, when he says: "We as Africans believe—and we know it is quite correct—that this is Africa and Kenya is an African country". That, Mr. Speaker, savours of the sinister and dangerous slogan of "Africa for the Africans", and if anything, is in complete contradiction to what the Member for the Rift Valley Province said. We

[Mr. Alexander]

European Elected Members are entitled to know just exactly where we do stand with our African friends and colleagues, and I trust they will take the earliest opportunity to make it clear.

The Member for the Rift Valley Province went on to say: "Has anybody come down and said: 'Gentlemen, show us how you would distribute these seats?'". Mr. Speaker, I can only refer to what has been referred to on so many occasions, the many invitations that we have issued to our African friends to come and discuss just this very subject and other allied subjects. The Member for Nairobi South the other day elaborated at great length on this same subject.

Then the Member for the Rift Valley Province uttered some words that I do consider unfortunate. He said, and I quote: "What I should advise is that they should not be encouraged by what the Colonial Secretary has said". There was also some ridicule aimed at the Colonial Secretary by the Member for the Western Electoral Area. These instances, Mr. Speaker, are, I do submit, distressingly unfortunate, because all of us who have had dealings with the Secretary of State during his present visit, we all know of the very many patient hours that he has put at our disposal and he listened to us with great charm and great patience. He is a statesman who has a record of great success in negotiation in Africa, and it would be very rash of us to lay any blame on him for any breakdown in negotiations, because surely, Mr. Speaker, we must realize that until there is good will between the majority of all racial groups in this our country, then it is beyond the ability and powers of any Secretary of State to come to a successful conclusion. We here first must search our hearts and put them right and when we have done that we are entitled to go to the Secretary of State and ask for his help to finalize the conclusions that we have reached.

I turn now, Mr. Speaker, to the economic features of His Excellency's Address. It contains several references to economic development. At the beginning Members will remember that he said: "I would like to-day in this communication to emphasize the extent to which it is

now possible for my Government's plans to be directed towards the extension of the economy of the Colony". Later in the Address he explained certain of Government's plans towards that policy, but it is most unfortunate, Mr. Speaker, that there was no mention whatsoever of the much-needed reform of our taxation system, because however much we may applaud our economic potential we will cease to obtain enterprising capital, in the quantities that we require from abroad, without a system of taxation that openly attracts capital. And these taxation incentives must not only be related to money capital—they must be extended liberally to the capital that is invested in skill and managerial ability that is related to individuals.

In order to attract capital we have to have people to look after it, and there must be in our taxation system inducements for individuals of the right type that Kenya requires so urgently. We must remember that capital is most easily attracted to those places where there is the "know-how", and the integrity of individuals to care for it and to reproduce from it. The capital that is brought in, in the minds and the heads of people is just as important, perhaps more important, than the capital that is brought in, in their pockets. Here it is perhaps relevant, Mr. Speaker, to make a comparison on the taxation of individuals with a country further south that is perhaps our greatest competitor for capital. I refer to Central Africa, and Southern Rhodesia in particular, and here are some figures which I hope will prove to Members of this Council why individual's skill and ability is being attracted to the Central African Federation and not to Kenya. I deal first with the category of the married man with no children, and here are the figures: On £700, Kenya tax, £26; Central Africa, nil. On £1,000, Kenya tax, £59; Central Africa, £15. On £1,500, Kenya tax, £153; Central Africa, £75. On £2,000, Kenya tax, £284; Central Africa, £165. Married man with two children: £1,000 a year, Kenya tax, £28; Central Africa, nil. On £1,500, Kenya tax, £93; Central Africa, £24. On £2,000 a year, Kenya tax, £207; Central Africa, almost half, £114. Those figures, Mr. Speaker, I believe, are useful to prove to us just where we are going wrong in not dealing with this question.

[Mr. Alexander]

particularly of taxation of the individual, and dealing with it quickly. There is a great urgency in this matter.

We are told by our Minister for Finance that recommendations on tax reform, and here I quote "will have to wait for the consideration of any suggestions until the future Budgets of the country". The plural in relation to Budget there is particularly significant because it would seem that we must wait indefinitely to hear what the final appraisal of recommendations on tax reforms is to be. Later, on the same subject the Minister for Finance also said, and I quote, "The Coates Commission Report, if it is to be dealt with, must surely be dealt with as a whole".

Here, Mr. Speaker, there seems to be a serious contradiction. In the first statement the inference is that suggestions on tax reform will be dealt with from time to time, but later on we are told, No, they will be dealt with as a whole. This Council is entitled to know, Mr. Speaker, just what Government does intend to do about all the mass of recommendations on taxation reform.

You will recollect, Mr. Speaker, that it is five years ago now since the Gill Committee was appointed, and in that time there has been very little change in taxation policy. We were told recently, I know, that the legal and administrative aspects of the reform proposals are under consideration, and I trust that in the Central Assembly meeting in December of this year we will begin to hear—begin to have a glimmer of light on this subject.

One of the proposals in recent times has been that company taxes should be increased. It is I believe, Mr. Speaker, timely that we should think carefully on this, particularly as we have so often been told that what we receive in April Budgets of each succeeding year, is in some way influenced by the discussion in this particular debate. We must realize that an increase in company tax would only benefit Government to the extent of the revenue collected from the tax on profits retained by companies, because of course, the tax on profits distributed as dividends, as hon. Members know, is recoverable by the individuals who receive such dividends. Commercial Members will appreciate that taxation is

an appropriation of profits, and the higher the company tax is, the more likely there is to be lower, lesser dividends. Lesser dividends—in the hands of those in the higher income groups will mean a far greater loss of revenue to the Government than what they derive from the increase in company tax. The man who is paying Sh. 10 in the pound and has his dividends reduced and thereby pays Sh. 7/50 in the pound, is going to benefit the Government far less than whatever they might get from increasing the company rate by another 50 cts. in the pound.

I submit, Sir, that before there is any attempt to raise company tax, we must await the result of the more effective methods of collection of taxation that are at present going on. I do know—I know from personal experience—that the staff of the Income Tax Department are really now working most vigorously to bring all arrears up-to-date, and to bring into taxation—which perhaps is more important—all those who have so far escaped it. Here, Mr. Speaker, it is perhaps appropriate to record a word of praise and thanks to the work of the Special Investigation Branch of the Income Tax Department, because theirs is the work that does not always receive publicity because so many cases are settled out of court. I do know some of the results of the work of this Department, and they are very, very substantial. There are many hundreds of thousands of pounds being collected for the revenue of this Colony—by this Department which perhaps the public never know about, and they ought to know about it. I take this opportunity to, at any rate, convey my appreciation of the work of this Special Investigation Branch.

There is another aspect of economic development which His Excellency did not mention in his speech, and I refer to the whole question of a local loans policy—or in this instance—the lack of a local loans policy. I do realize that in April of this year the Minister for Finance dealt at quite considerable length with this subject, but I am very far from satisfied with his explanations. He told us at great length of the capital that had been taken off the local market in recent years, but what he did not tell us—and this is what I was trying to find out—was the amount of capital that has escaped the net of the Government in

[Mr. Alexander] recent years. Members will remember him saying—I am only sorry, Mr. Speaker, that only just now my friend, the Member for the Coast, has come in, as I had very delightful things to say about him earlier on—

MR. COOKE: Say them again.

MR. ALEXANDER: I was stopped. Members will remember that the Minister for Finance said the following: "When this Government goes fishing, it goes to deep sea with a trawling net". Now, Sir, I can appreciate that the Government goes out to the deep sea with its trawling net, but only to catch the very big fish. What I am interested in, Mr. Speaker, is also those little-moneyed fish that get out of the net. For example, what has happened to the £50,000 that I questioned in this Council the other day, that was offered to a local government body? I would like to suggest that perhaps that £50,000 has already left Kenya. That, Mr. Speaker, is an example of what I call the lack of a local loans policy.

What we would like to know, and know in reply to this debate, is what long-term local loans have been obtained by our Government since the Minister for Finance last spoke in April of this year.

All this lack of a proper borrowing policy, a proper local loans policy, is attributable to at least one reason, and that it is very doubtful whether there is anyone available in these territories with a highly expert and specialist banking and financial experience to concentrate on such matters. The remedy, Mr. Speaker, is in the transfer of the East African Currency Board to these territories, with the appointment of the Chairman as Financial Adviser to the Territorial Governments. He must be a man of considerable and specialized knowledge of banking and of economics and finance, and I am sure that if our Government is prepared to press for the transfer of the Currency Board to these territories, that it would be possible to have the appointment of such a man—particularly in a few moments when I quote the salaries that are paid to the staff of the East African Currency Board.

At this point it is appropriate for me to deal with certain remarks of the

Minister for Finance on this very subject in this Council a short time ago. Firstly, there were two remarks, and this is what he said. I quote: "So far it has proved more economical and convenient from the point-of-view-of-the-operation-of-the-Board-to-operate-in-London-where-the-majority-of-its-work-takes-place". Next he said, and I quote: "the people who are paid are merely four people who are members of the Board".

Here, Sir, I would like to turn to the accounts of the East African Currency Board. Unfortunately I have only the copy for the year to June, 1956. I have been trying to get the copy to June, 1957, but I am sure that the figures I am going to quote will be extremely significant to Members. Remember, Sir, that he said: "The people paid are merely four people". I notice, Sir, that the salaries and allowances for these are £27,520. Other expenses—and remember he said that it was more economical for the Board to operate in London—other expenses are rent charges, £15,970. Sir, even in Nairobi with high rents we could hire a very big building at that price. Then, Agency fees, £6,000. Travelling expenses, £596. I find it very difficult to know where they travel unless they are paid a commuter's fee. Miscellaneous, £1,485.

Sir, in just those few items—and there are others—just those few items are a total of something more than £50,000. There is an income, on the other side of very—nearly £2,000,000—£2,000,000 of income going into the East African Currency Board from investments that are covering our currency. And that income, Mr. Speaker, belongs to these territories. That, Mr. Speaker, I hope answers whether it is more economical for the Board to be in London.

Then, later, he went on to say—and I quote: "The functions of the Board which must take place in London. . . . He said later on—and I quote again: "The hon. Member may not want information but if he persists in asking questions which tend to show somewhat of an ignorance. . . ."—and this is me: I am the ignorant chap—. . . on the functions of the Board he must have it". The second quote is, Sir: "The Kenya Government will do what it considers best in the interests of Kenya but it has

[Mr. Alexander] other Governments: to consider as well as our own here". Sir, as my ignorance appears to astonish my hon. friend the Minister for Finance I will now proceed to demonstrate the ignorance of those who write authoritative books. This is in answer to two statements by the Minister which I have just quoted: With your permission, Sir, I would like to quote as follows:—

"One of the distinguishing attributes of modern monetary authorities is their concern with such matters as the development of commercial banks and other credit institutions, the development of local capital markets and the formulation of policy. This is particularly the case in underdeveloped countries where the financial structure is in the course of evolution. The Currency Boards with their narrowly circumscribed responsibilities have displayed little interest in these problems. This is especially true in the case of the East and West African Boards, as a result of their expatriate composition. The results have been a failure to consider the problems involved in monetary and financial evolution and to place an undue administrative burden on Government officials." My heart bleeds for them. It went on, and I quote:—

"This fact was recognized by Southern Rhodesia in 1949, with the result that a new position was created combining the functions of Chairman of the Currency Board and financial adviser to the Government."

Here I would like to deal with one or two matters. I am reminded to state the source of my quotation which is from an authoritative work headed *Money and Banking in British Colonial Africa* and it is by two renowned economists W. T. Newlyn and D. C. Rowan. (The Minister's name was not part of it.)

I turn now, Sir, to some of the answers that were provided to-day on this same subject. Members will remember that the Minister for Finance said—and I quote:—

"It is not now necessary for the sterling reserves to be upwards of 100 per cent."

He did not of course tell us what it was necessary to be upwards of but perhaps

when he replies he will tell us that. He then went on:—

"Because, Sir, this is a matter, as I have told the hon. Member in question several times, for the Secretary of State. That is his final responsibility and he regards the present amount of reserves and local issues that we have been allowed to make as the maximum to which he is at present prepared to agree."

Those were the two—or part of the two—replies. Here again to answer those if I may, Sir, with your permission, read an extract from the same authoritative work, so that hon. Members may have a keen appreciation of precisely what is wrong and what is possible, it reads:—

"We have argued that more than 50 per cent of the outstanding currency can be regarded as permanently localized currency areas, and that the sterling reserves at present held by the Boards are, therefore, excessive. Having regard to the magnitude of currency contraction experienced in the very severe depression of the 'thirties and the possible range of variation in security values, we are of the opinion that a reserve equal to 50 per cent of the outstanding currency is perfectly adequate for the maintenance of convertibility. Indeed, if allowance is made for the ability of Governments to borrow in a London . . ."

And, Sir, I would interject here that in fact that was the situation in the late 1920's, and early 1930's, but it was never resorted to and it goes on:—

". . . then, the maximum fiduciary element might exceed 50 per cent."

As we have seen, the principle of borrowing in London; if necessary to maintain convertibility at par, has already been admitted in the case of the East African Board, while no less an authority than Lord Keynes—we are now really getting on to an authority, Mr. Speaker: these are not ignorant people—writing of the reserve problem in the case of India, argued:—

"It would be extravagant to maintain a reserve adequate for all conceivable contingencies unless the London money market had collapsed. It is always open to the Secretary of State to borrow by means of India

[Mr. Alexander] bills—there would be nothing shameful in this, though probably some expense.

All this, Mr. Speaker, I trust will have convinced this Council that the time has come for a public inquiry into the currency and sterling exchange system operating under the East African Currency Board, and into our whole policy of borrowing. And I ask Government to agree that such an inquiry is necessary at an early date.

Now, there are other remarks, Mr. Speaker, I would like to deal with on this very vital matter to Kenya of these Currency Board balances, because Members will remember that when I was asking the Minister for Finance regarding the formula for calculating Kenya's share of the investments in the East African Currency Board, he was unable to satisfy me regarding the lack of a calculation in the formula for capital permanently transferred to Kenya and for a factor in respect of invisible exports. He said:—

"The formula is one which is agreed upon by the various territories in so far as the factors can be calculated. The points raised by the hon. Member are, I think, not agreed as calculable by the people concerned."

Later he went on:—

"There are other factors which also arise and which might not be entirely to the advantage of Kenya in the overall transaction."

This, Mr. Speaker, was, I submit, merely a vague disposal of the question. He did not tell us, and made no attempt to tell us, what the other factors were that would work to the detriment of Kenya. And when he replies to this debate I would ask him to tell us. The importance of this to Kenya is because so much of the permanently transferred capital comes to Kenya and because Kenya's share of invisible exports is, I submit, greater than the other territories? The importance of these two factors to Kenya, Mr. Speaker, would be to load our calculations, our share in the Currency Board balances, in favour of Kenya.

As an example of this I would refer to the increase in the Currency Board

sterling reserves from £6,500,000 in 1938 to £28,378,000 in 1945. Members will observe that those are the years that cover the last great war, and we all remember Kenya's mighty contribution to that war. It was in Kenya, of the three territories, that so much of the services and feeding was provided for troops from overseas, and the increase in the investments in the Board during that period are, I claim, very largely attributable to Kenya.

The other importance of this, Mr. Speaker, is that according to the calculated share of Kenya in the Currency Board balances, so will Kenya receive, I imagine, the same proportion in fiduciary issues, and here again this is very important for Kenya. As we move away from the sterling cover of our currency and are permitted more and more to invest our currency cover in local loans, so it is important for Kenya to be able to claim our rightful share of such fiduciary issues, and this, Mr. Speaker, is why it is so important for Kenya, and it is why I hope hon. Members will appreciate that I had to bore them over very many months with questions on this before I was able to get even anywhere near a glimmer of an answer from the other side of the Council.

I have already mentioned, Mr. Speaker, that unfortunately in His Excellency's Address there was no reference to a loans policy, and here I would like to deal with another aspect of it, and that is the theories upon which our loan ceiling is based. In April of this year we were told by our Minister for Finance, and I quote: "We take the loans ceiling on the amount that we believe can be obtainable from the combination of local and London markets". This means that the extent of our borrowing is limited by the capacity of the lender, Britain, and not by the extent of our ability—our ability is Kenya—to repay capital and to bear interest. This, Mr. Speaker, is a most unfortunate financial situation. We are not judged on our financial capacity; we are judged on what somebody else thinks they might be able to lend us. Here it is perhaps interesting to compare our position with what was in a report recently regarding New Zealand, where it is reported that in the next four years they propose to raise for development

[Mr. Alexander] £1,000,000,000, and we are fiddling about with a paltry £23,000,000 in the next three years.

That is a comparison, Sir, with a country of a population of over some two millions—I agree two million people who generally have considerably higher standards than the majority of people in Kenya. Nevertheless, we are talking of the difference between our £23,000,000 in three years and New Zealand's £1,000,000,000 in four years, and it is just about time, Mr. Speaker that we really got down and had a good look at the whole of our borrowing policy.

We are entitled to know what our Government has done to borrow outside Britain and we are entitled to know whether Britain encourages borrowing from foreign governments and foreign sources.

A very bold Colonial Secretary of State made a very bold statement in Tanganyika only a few days ago when he said, and this was the report in the newspaper, and I quote: "There was no reason why, if the money could not be found in Britain, it should not be sought elsewhere by any Colonial territory requiring it."

We are entitled to know Mr. Speaker, whether that is in fact the attitude of the British Treasury and of the financial influences of the City of London. My information from the City of London, and I believe it to be reliable, is that whenever attempts are made to go outside Britain for capital, there is open discouragement.

We are entitled to know whether Britain will guarantee foreign capital into our public sector if necessary. This, Mr. Speaker, may sound selfish, but Britain alone, having gone through two wars and suffered as she has, is to-day unable to service all her commitments overseas to the full and she must, and we, Kenya, must look to foreign sources and it is not asking too much, when the ultimate responsibility for Kenya lies in Britain, for Britain to guarantee capital from abroad if such guarantees are necessary, because if we are to make economic sense of Kenya there has got to be a new imagination, a new boldness over the whole of this subject. We will never, never be able to cope with the social

needs and uplift of the six million people for whom we are trying to work in this country if we go on at the rate of fiddling about with £23,000,000 every three years; we have really got to move considerably faster both in the importation of money capital and the importation of the capital that is carried in people's skilled hands and in their heads.

Now, Mr. Speaker, I would like to deal briefly with the question of the Liddbury pay system. I think my friend, the Member for Aberdare, may have been in slight error the other day when he said that those who are to be appointed, or seek to be appointed, on inducement pay are required to go to Britain for appointment. I understand that that is no longer the case since the move to the policy where the Secretary of State's Appointment Board comes to Kenya and appoints here people who receive inducement pay.

If that is the current situation, I think it makes even more of the point made by my friend, the Member for Aberdare, because what is happening now is that those who are appointed by the Secretary of State Appointment Board in Kenya are receiving inducement pay to stay in Kenya, to remain here, not to come here. Sir, if that is the situation, it makes it even more farcical.

I believe, Sir, that the time has come for an inquiry into the whole of the Liddbury pay system. Perhaps the Government may be worried that the Civil Service will attach to such an inquiry the inference that it might deal with claims for increases of pay, but I am quite certain, Mr. Speaker, if it is made clear in this Council that that is not its purpose, there will be no fear whatsoever in going ahead with this inquiry now, and Mr. Speaker, here is an opportunity this time for us to use our local talents and experience to make this inquiry. We want no expatriates coming here on this subject to tell us what to do. We have plenty of people here who are competent to make this inquiry. Here, Mr. Speaker, is a very good chance where we as Kenyans can show to ourselves and the world that we can deal with a Kenya problem.

Lastly, just one remark on the police and all I have to ask, Sir, is quite humbly and simply is whether the policy is to

[Mr. Alexander] leave the burglars in Nairobi alone on the theory that they will become so rich that they will quit.

Mr. Speaker, I beg to support the Motion.

MR. OGUDA: Mr. Speaker, Sir, before I go on to make a few remarks on the constitution as everybody has done, I will touch on a few matters which concern my constituency.

AN HON. MEMBER: Good!  
5.22 p.m.

MR. OGUDA: Good for a change. I think a change is just as good as a rest and I want to make you rest a bit before I speak on the constitution.

With regard to education—I am very sorry that the Minister for Education has gone outside and I hope there is somebody to make notes, and will be able to tell him what my complaints are. So far as South Nyanza is concerned, Mr. Speaker, I do feel that we have been forgotten in very many ways, and speaking about education particularly, we do find that with regard to secondary education, the only Government African secondary school is at Kisii, and this caters for the secondary education of all the tribes of South Nyanza. I really think that this one secondary school is not enough in view of the fact that the number of intermediate schools has increased very, very quickly in the last ten years or so.

Although the Minister has said that the Government is contemplating the opening up of day secondary schools, I do think that Government must not forget that in certain parts of the Colony people are very poor. Certain districts are very poor and therefore by leaving the matter to voluntary agencies or for people to start day secondary schools, you might find that some districts which are poor, for many years to come, will not be in a position to have secondary education at all for their children. So I do think there is a case for Government opening up more aided secondary schools, not only in South Nyanza, but in Kericho as well.

I have been made to understand, before I came to this Council, that the Governor had given promises last year that a secondary school would be built for the Kipsigis in Kericho District. Now, no mention was made about this second-

dary school in the Kipsigis area for the Kipsigis people and I would really appreciate an explanation on this point.

Turning to technical education, I think the Minister concerned and even the Minister for African Affairs has received a memorandum from a certain political organization from my area stating very clearly that in view of the fact that so many boys who fail the Kenya African Preliminary Examination do not have anywhere to go, and cannot all be absorbed into Sigalagala—and certainly if they have failed, Sigalagala is not going to accept them—there really is a need for a technical school for South Nyanza or for both South Nyanza and Kericho. At the present moment we have what I think is called a "rural" training centre—the Mawego Rural Training Centre. The Mawego Rural Training Centre is not, in the real sense of the word, a technical school. The entrants to this training centre are boys who have completed Standard IV as well as Standard IV failures—I mean those who have failed the Common Entrance Examination. These boys, with that low standard of education, are only given two years' training in masonry and carpentry. Now, one can see very, very well that Government are satisfied with a lower class of skilled workers, boys with only Standard IV education, taking a two-year course in craftsmanship; if Government is prepared to tell me now that in future all we need is half-baked artificers I really think that very little will have been done by the Government for South Nyanza. I feel that even if Government thinks that it is difficult, or if they do not have the money to open a proper technical school for South Nyanza, the number of years of training which these children should undergo should be increased to four so that at the completion of their course, they will have learned not only lessons in carpentry and masonry, or whatever it might be, but also a bit of geometry, a little bit of English, and mathematics and other allied subjects. That will perhaps bring them up to the status, academically, of a Kenya African Preliminary Examination boy.

Turning now to agriculture, I have only a few points to make and I should ask the Government to consider very seriously the starting of irrigation schemes especially in those parts

[Mr. Oguda] education and agriculture. If there are any other small points that I have left out, I will deal with them later and see the Minister in his office where I hope my complaints might be better attended to.

Now I come to our controversial issue of the day, the Kenya constitution, or whatever you might like to call it.

I will begin first of all by trying to refute remarks that were made by, I think it was the hon. Member for Nairobi South. He was talking last Friday about agreements and there was an exchange of what might be called a bit of nonsense between him and the African Member who was speaking at the time.

I think the whole quarrel was about the definition of the word "agreement". Surely there is not only one definition to the English word "agree". I could quote from the big dictionaries in our library from now until a quarter-past six before I gave you the definition you might like.

Mr. Speaker, if you will allow me to give you a few meanings of the word "agree"; I have seven of them here and with your permission I will quote them as I have them from the dictionary: to agree means (1) to please or be pleased with; (2) to be to the liking of anyone or to suit the humour of; (3) to receive or take in full part or, to favour; (4) to make agreeable or harmonious; (5) to reconcile or to make friends; (6) to arrange or settle a thing in which various interests are concerned; (7)—and I was by this time quite tired—to come into harmony.

An hon. Member says "hear, hear" so perhaps that is the definition that suits him best.

Then of course, I said: "That does not seem to do me any good", so I turned to the word "agreement" and struck up several possible definitions, some of which were satisfaction, consent, an arrangement between two or more persons as to a course of action; a mutual understanding, a covenant or a treaty; and according to law, the legal meaning of an agreement is a contract duly executed and legally binding on the parties making it.

I am not a lawyer, anyway.

I really think that Government should try their best to water these areas so that people would have water for whatever crops that could be recommended by Government for them to grow. At the present moment, you find that places like Asembo, Karungu and all other places around the lake are much too dry. Of course, you would not deceive me that there is always ample rainfall for those people to grow sufficient maize.

Again we have difficulty with regard to forests. I think I should ask Government, very kindly, to consider the clearing of forests and thereby eradicating tsetse flies in some of the forested parts of South Nyanza, because I think the presence of these forests and the tsetse flies which they harbour are a great impediment to agricultural progress. I have known of such places where people who are quite willing, for example, to plant sugar cane, could not do so because these places were still forested and had not been cleared and of course, more than that, they are tsetse fly infested, infested with *Glossina palpalis*, which causes sleeping sickness. Not only that, but they are also infested with different kinds of tsetse flies that bring cattle diseases. During my recess, when I went round these areas, the people told me that it was impossible for them to keep good stock, and impossible even to have a good team of ploughing oxen. Then, of course, they say, and quite rightly too, that they are not happy to see so many people die of sleeping sickness, and to see their cattle die because of diseases caused by tsetse fly and they generally complain that in view of the fact that these places have not been cleared and are infested with tsetse fly, it is very, very difficult for them to grow such crops as sugar cane which might just as well encourage the multiplication of tsetse population.

I think, Mr. Speaker, that is all I have to say concerning my constituency on



[Mr. Oguda]

I do hope that if any agreement was made last year, Mr. Speaker, surely the meaning of that agreement must fall within the ambit of that last definition, that is "a contract duly executed and legally binding on the parties making it".

When the European Members speak about the constitution or about our refusal to have discussions with them on the constitution, they seem to attach so much importance on this funny agreement of theirs which they had last year. They say—and if you ask them to produce the document, the signed document, they switch over to signatures—they say that an agreement need not necessarily be signed. I will tell you this, what happened last year was precisely this: there were talks, recorded talks, but you cannot make me believe that if these people met at Government House with two of our African Members only, and decided or rather talked on certain things and had the meeting recorded, that we must interpret that to be an agreement between those parties.

Of course I know you are going to say "How foolish these Africans. They just stand up and say nothing". Well, that is exactly what we say about you because we cannot understand each other's points of view.

THE MINISTER FOR LOCAL GOVERNMENT, HEALTH AND HOUSING (Mr. Havelock): You are saying too much.

MR. OGUDA: I think the hon. Minister will give me time to go on, Mr. Speaker. I think the hon. Minister will be very sympathetic and will just sit there and, well, listen to what I say even if it is wrong. It is always worth while listening to wrong things and to nonsense too.

Well, the hon. Member for Nairobi South said, if I may quote his words: "They never heard from our lips what our demands were except through newspapers". Well, who heard, who ever heard, and let him tell me now, of your conditions, of your fears and of your safeguards you seem to talk so much about from your own lips except from the newspapers perhaps?

THE SPEAKER (Sir Ferdinand Cavendish-Bentinck): Mr. Oguda, you must not use the word "you". You should use the term "hon. Members" and address the Chair.

MR. OGUDA: Thank you very much, Mr. Speaker. I have no intention anyway of addressing anyone but the Chair.

Now, you see, what did happen exactly is this, and I would like to have it on record. I wish, you know, I were as fluent as Macaulay in the English language. I could then put it very, very well to you.

What happened is this. I think it was on a certain evening of May, or June—May, Mr. Speaker, when we met the European Members for the first time. After a lot of talking, which did not amount to any sense as far as I am concerned, they disagreed with us, and they seemed to disagree amongst themselves. They said they did not know what our demands were. Yet, Mr. Speaker, this hon. Member tells us that what they have heard about our increased representation is only what they read in newspapers. But, mind you, at that time they denied that they had read anything from the newspapers. We said: "All right, we will give you copies of all the letters we have sent to the Government. Go through them, peruse them and then we should arrange for another meeting". I think both our Chairman and our Secretary tried, in between that meeting and the anticipated second meeting, to contact the Chairman of the European Members Organization about this second meeting which we had spoken about. Much to our surprise, after they had read all these things, Mr. Speaker, do you know what they did? Instead of coming to us and talking to us man to man, and allowing us to hear from their own lips, they also employed the very wicked method they had accused us of having employed. They employed the Press. And what did they say? They said: "We find it very difficult to support the African demand for increased representation".

Right. Then came the great day: I think one of the greatest days in the history of Europeans in this Colony. I think it was 5th July, when they issued that very famous statement of theirs. In that statement of theirs—and mind you, Mr. Speaker, it was not still man talking to man, it was the European Members talking to the African Elected Members through the Press for the second time.

They said, "All right, increased African representation subject to". I think it was,

[Mr. Oguda]

"one to seven conditions being fulfilled". Condition No. 1 was participation by Africans in the Government. Now, you see, I am completely defeated when these Members stand up and say that they do not attach any conditions to our demand for increased African representation in this Council. In fact, if the Colonial Secretary had not come here I doubt whether any European would have been bold enough to call a meeting of all the racial groups. They had failed to do it. In fact, after our first meeting when we showed them very clearly or showed our anxiety that we wanted to come to a certain agreement or to have these things discussed between us, they never did anything. That showed a very great fear. Rather than approaching us man to man they preferred to approach us through the Press. Then, of course, they go on to say that one of the conditions is that last year there was an agreement with the African Members, and the agreement was the invention of a very wonderful formula—the formula of five, is to two, is to two, is to one. I think it was a case for five more Europeans, two more Asians, two more Africans and one more Arab. They say this is one of the conditions which we must agree to discuss. It is one of their conditions, unless I am wrong; but I think it is one of the conditions—the case for regional seats. They have been playing with words and have called it "non-racial seats". There is nothing non-racial in this word; it has got to be "one way or the other".

Now I think, Mr. Speaker, I must challenge the Government for having committed what I will call political immorality to have allowed these discussions to go on in view of the pending African elections which were to take place the following year. They knew very well new Members were coming on. How could they expect the new Members to accept agreements, whatever they might call them, which have been agreed to by newly elected Members of the Council, European and Asian Members, and old African Members who were not even sure of regaining their seats after the elections.

THE CHIEF SECRETARY (Mr. Turnbull): Would the hon. Member like to tell us what gives him the impression that the Government organized the meeting.

MR. OGUDA: I do not think the Government organized the meeting, but since the meeting was held at Government House and I think if any signature or any agreement was made it was done at Government House—I do not think it could have been held there without the Government knowing about it, or even if they did not know anything about it, they encouraged it.

Turning now, Mr. Speaker, to a few points made by the Member for Nairobi West—I have not gone west myself—he said—I cannot remember his words exactly, but I think he said—all are immigrants, including Africans. Well, to immigrate means to come to settle in a country which is not one's own.

MR. ALEXANDER: Like the Luo have done.

MR. OGUDA: I should be quite prepared to sit down and give way to the hon. gentleman if he thinks he has anything to say. Now, I think some people are trying to change the history of Kenya, and before they do that they had better go to the Education Department and have all the existing history books banned; tell them those books have not been properly written—that all the history in them is wrong—and let us begin a new history. Who can make us believe to-day that the African was not the first man to arrive in this country. When did the Bantus arrive at the Coast, Mr. Speaker? I think it was some time in the third century, probably, Anno Domini. I said that because I wanted to make you laugh, because I thought Members were becoming a bit too sad and probably thinking I was making them, you know, as it were, unhappy. Well, anyway, I do not care very much about the date, but the point I want to bring home, Mr. Speaker, is that the first people to live in this place which is now called Kenya were black people. I am not going to call them Africans; I might be very proud and say Kenya for the black man—it is his country.

MR. ALEXANDER: Portuguese and Arabs first.

MR. OGUDA: They were not here, Mr. Speaker, before the black man. Mr. Speaker, if I may correct the hon. Member, I think he will agree with me that when the Arabs came they traded

[Mr. Oguda] in slaves, and I hope they were trading in black slaves, not white or brown slaves. Whichever way you may put it, I think the black man was here first. So you see, when people try to change the history of Kenya, it is obvious to see from what motives they do that, or what really impels them to think of such deceitful statements. I mean, if we have to be frank or if we want co-operation, we can only have that co-operation by giving a true picture of the situation.

MR. ALEXANDER: Mr. Speaker, on a point of order, I have been referred to as being deceitful, I believe. I certainly was not trying to deceive anyone or be deceitful.

THE SPEAKER (Sir Ferdinand Cavendish-Bentinck): I do not think the hon. Member was referring to you personally, but if so he was entirely improper.

MR. OGUDA: Mr. Speaker, if you will allow me to go on, I think at this juncture I will quote a little bit of history. I think the British came here and, indeed, even the Indians came here at the time they did because there were reasons for their coming here at that time. The British, I think, came here as a result of the scramble for Africa. You must remember by the time the British people came to Kenya the Suez Canal had been opened, and then, of course, the Germans were probably just becoming interested in Tanganyika. Then, of course, the British people—firstly to safeguard the sea route to India—No. 1; No. 2, I think, they wanted—as everybody else wanted, and I am not accusing them on that point—as every other European nation wanted at that time to exploit the wealth of these territories. That is the history. It is true. Then, again, they came, too, as a result of the call which they received from missionaries like David Livingstone, who had explored these places, to help suppress the Arab slave trade.

THE SPEAKER (Sir Ferdinand Cavendish-Bentinck): We are, I think, wandering a little far away from the subject.

MR. OGUDA: Anyway, Mr. Speaker, I just sort of have to quote a bit of history to make clear my point, but if you think I have gone too far, all right, I will just leave it at that.

Well, the Europeans did come here, or rather the European settlers—a very unhappy word, and I do not know who coined that word, because it seems to have a very bad impression on the African at large. Anyway they came and the first settlers who came out here—that was in 1901—were only 13 in number, and I think that was after the then Governor had annulled certain of the restrictive Ordinances on the acquisition of land and, of course, it is only that way that we, the tribes of Nyanza, came here, because originally we belonged to the eastern part of Uganda. We never belonged to Kenya.

MR. ALEXANDER: You were immigrants.

MR. OGUDA: Of course, I would not accept that retort, that we were immigrants. The mere fact that a boundary is shifted from Nakuru to Tororo does not make us immigrants. Anyway, this 1902 decree made land available for sale to the Europeans and then so much land was acquired by them, and I do not need to go into all that sad history—sad as far as the African is concerned—because meanwhile the tribes were getting very much bewildered and it was only when they were beginning to perceive that their land was probably being taken by the incoming European immigrants who bought up land. I think in the process of all that there were certain losses, and we cannot just shut our eyes to truths that have happened in the past. I think in the process of all that alienation of land, 100,000 Kikuyu found themselves squatters in the White Highlands and lost, I think, if I am correct, 492,220 acres of land. The Wakamba, who lost most of their fertile land, lost 296,532 acres. The Masai, of course, lost most of all; in fact our present Government, Mr. Speaker, will remember that in 1911 the Government turned the Masai out of Laikipia, and the same thing was repeated in 1937. Now all these are serious things.

THE CHIEF SECRETARY (Mr. Turnbull): On a point of order, Mr. Speaker, I do not think that it can seriously be contended that the history of the Masai comes within the scope of this debate.

THE SPEAKER (Sir Ferdinand Cavendish-Bentinck): I must ask the hon.

[The Speaker] Member to confine his remarks more closely to the Motion.

MR. OGUDA: All right, thank you, Mr. Speaker. Now we come to the question of increased African representation. Of course, a lot has been said here in this Council about the present constitutional crisis, but much of what has been said has not really helped us to solve the deadlock which is at issue. Indeed, I think when His Excellency, the Governor, appealed to us the other day, he did so in the hope that we would, in this Council, try to find out solutions to all these problems. But I think so far nobody on this side of the Council—no European Member I think—has tried to prove, or at least to show us or tell us that indeed there is a case for regional representation; we do see there is a case for the isolation of the two issues—No. 1, increased African representation, being dealt with on its own merits without any strings whatsoever being attached; and if they do insist on attaching these strings, for heaven's sake they must tell us in this Council, if they are afraid of telling us outside, why they think that the whole question of increased representation cannot be discussed in isolation. In other words, what justification have they for attaching these other conditions to our demand for increased seats? We are human beings; we are also reasonable. If they advanced reasonable arguments, we might say: "All right, we think you are right here, but here we think you are wrong". It is only by discussing things in that form that we can really make any headway. But if people are going to keep on beating about the bush talking about co-operation—and probably by co-operation they mean that Africans will always come and say "Yes", with a "Sir" on top of it—we won't get any further.

MR. ALEXANDER: Let us get around the table.

MR. OGUDA: Mr. Speaker, I think I will stop there, as indeed my speech was interrupted because you felt you had given me much latitude. Anyway, I will not quarrel with you. I shall only end by saying, Mr. Speaker, that we here in Kenya are being ruled by the British because we are willing to be ruled, and any people can only be ruled if they

show their willingness to be ruled. You cannot rule anyone by force, and I think we have shown this willingness to be ruled very, very admirably, as evidenced by the part the Africans played during the First World War and the Second World War. And it is unwise for anybody to say that this country can only go on with European leadership. Well, if Europeans feel it is only they who can lead, I think that is a very selfish motive. That is far too egocentric a view to be held by anybody. If they say they are the only people who can lead Kenya at the present moment, it seems to suggest to me they are not prepared to train Africans to have initiative and also take on that leadership side by side with them. On the other hand, it seems to me that they insist so much on being leaders, because they do not want to be led. But who does not want to be led, and who would like to be led for ever?

Mr. Speaker, in conclusion, I would only say that all we ask to be given—and I think all the African asks for—is more land, more democracy.

I beg to support.

MR. MACKENZIE (Nominated Member, Government): Mr. Speaker, Sir, I hope that my hon. friend who has just sat down will excuse me if I do not follow him into his extremely lively discussions on history and geography and various other matters, because I am afraid if I did, Sir, you would probably rule that I was out of order.

There is only one small way, Sir, in which I would like to follow him, and that is, to a slight extent, in a geographical way. Towards the end of his speech he did move towards my hon. friend, the Member for Nairobi West, and I would like to begin by dealing with one or two points which my hon. friend, the Member for Nairobi West, made in his speech.

The hon. gentleman, Sir, referred at considerable length to what he suggested was the lack of a local loans policy in Kenya and quoted at quite considerable length from various statements that have been made by my hon. friend, the Minister for Finance. I think that he will probably wish that most of those points should be replied to by my hon. friend, and therefore I will not go into all of

[Mr. Mackenzie] them. There are, however, one or two points which I would like to deal with. The first, Sir, is the reference to what I think was called the theories of a loan ceiling. As I understand it, the hon. Member for Nairobi West felt that there was some fixed immutable ceiling that had been placed above our heads, with our own concurrence, which meant that could only borrow some £23,000,000 during the current development period, whereas I think he felt—in fact he suggested—that if we had new imagination and new boldness we ought to be able to obtain very much more money.

MR. ALEXANDER: I thank the hon. Member for giving way. It was not any theories of mine. Just to refresh his memory I quote the Minister for Finance, and this is what he said. "We take the loans ceiling on the amount that we believe can be obtainable from the combination of local and London markets."

MR. MACKENZIE: Yes, Sir, but I think that the hon. gentleman went on to suggest that if we had new initiative and new boldness we should be able to borrow considerably larger sums of money, and as an illustration of the way in which this might be done, he referred to the fact that the Government of New Zealand was proposing to borrow £1,000,000,000 in the next four years for development purposes, and he suggested that against that our £23,000,000 was a very paltry affair. Well, of course, Sir, there are one or two points that one could make about that. The first is that £23,000,000 was not by any means the measure of the amounts which the Colony would like to be able to spend, but was based on a mature judgment of the amount that, with the best will in the world, it was likely to be possible to borrow. There is a great deal of difference, Sir, I suggest, between what one would propose to spend if one could find people prepared to lend the money, and what one can actually spend, what one can actually borrow. We had a very interesting illustration of that only in the last week or so, in the difficulties which the Government of India has been having in raising money for their development programme. They have been quite unable to obtain anything approaching the amount which they need, and for that reason they have, as I understand it from

the newspapers, taken a step which, from other remarks which the hon. gentleman made, I imagine he would approve of strongly. They are, as I understand it, proposing to reduce their sterling reserves very considerably and have a much greater fiduciary issue of currency. Well, Sir, that illustrates the difficulties that many underdeveloped countries are facing at the present moment in raising capital on the world market, and even the Government of New Zealand's plans for £1,000,000,000 will naturally have to depend, I imagine, on whether it is possible to borrow £1,000,000,000 in the world markets.

At the present time, as we all know, the pressure on the London money market is extremely great. It has been great for a long time and that is one reason why it has been necessary to place the bank rate at its present high level. There are demands from all the industries of the United Kingdom for development, for money which could be very well used and which would be used in a very remunerative manner. There are the demands from all the local authorities in the United Kingdom, and above all those—or, at least, in addition to all those, although very much smaller in quantity, are the requirements of, first of all, the great Dominions overseas and then of the colonial territories. These demands, Sir, cannot possibly all be met and the loan ceiling which we have accepted—or which has been really imposed on us by the difficulties of obtaining money—that loan ceiling, Sir, is based on the judgment of what our share of the investment is likely to be. When a Colony approaches the London market, or rather when an area approaches the London market—and London, I might say, tends to look at East Africa from the point of view of lending as an area—the lending institutions and the lenders in the London market look to their East African portfolios and to their colonial portfolio generally and then gauge how much they can add to those portfolios in that type of stock. I can assure my hon. friend that the amount which can be raised in that way is severely limited.

MR. ALEXANDER: Mr. Speaker, Sir, I thank the hon. gentleman for giving way. Just to refresh his memory, he will perhaps recollect that I very clearly described the difficulties of Britain. What

[Mr. Alexander] I was seeking was information whether our Government had sought resources elsewhere. That is the point.

MR. MACKENZIE: Yes, Sir, I was just coming to that point. The hon. gentleman said what had Government done to borrow abroad. He referred to a statement which I think he said had been made quite recently by the Secretary of State, that there was no reason why money should not be found elsewhere than in the United Kingdom, and then, Sir, he went on to suggest that any attempts to borrow from the world market outside the United Kingdom was discouraged by, presumably, the City of London and the British Treasury. Well, Sir, those ogres have often been held up as being institutions which prevent anybody who wants to do sensible things from doing them, but I can assure the hon. gentleman that there has been no question of discouragement of such borrowing from the United Kingdom. But, Sir, the suggestion that Britain should guarantee loans—that is a rather different matter. Our credit-worthiness must be judged on our own merits, and I hardly think it is likely that in our present circumstances the United Kingdom would be prepared to take on additional burdens of guaranteeing loans. They would much prefer that we should stand on our own feet and on our own credit-worthiness.

#### ADJOURNMENT

THE SPEAKER (Sir Ferdinand Cavendish-Bentick): It is time for the interruption of business. Council will stand adjourned until 2.30 p.m. to-morrow, Wednesday, 6th November.

*Council rose at seventeen minutes past Six o'clock.*

Wednesday, 6th November, 1957

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

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

#### PRAYERS

#### MOTION

THANKS FOR EXPOSITION OF POLICY  
BY H.E. THE GOVERNOR

*(Debate interrupted on 5th November, resumed)*

MR. MACKENZIE: Mr. Speaker, Sir, yesterday afternoon at the close of the proceedings, I was dealing with the Government's loan policy and I was attempting to answer suggestions that with greater imagination and with greater boldness we should get much more money. Well, Sir, as regards the imagination, I have often sat down and imagined all sorts of very nice things, but that is not quite the same thing as getting the actual money. So far as that is concerned there are three factors really which have to be watched.

The first is the need for the loans, and as far as that is concerned, in our circumstances, the need is almost unlimited, that is to say, we could use almost unlimited funds for our development. The second which we must look to is the effect of the charges. We have got to see whether the terms on which we can borrow money are reasonable and we must also decide whether the total amount which we have to pay in loan charges is such as the Colony can afford to pay. That is a point on which hon. Members have in the past placed a very great deal of importance, and it is one which the Government will, I am sure, always bear well in mind, although I think I could say that if it were a question of having to take the risk of not having all the capital that was needed for development and taking a slight risk in spending more on loan charges, if the money were available on terms that could be regarded as at all reasonable, Government would in the present circumstances be quite prepared to take a reasonable risk, and would be quite justified in doing so.

But, Sir, there is a third factor and that is whether the money is in fact

[Mr. Mackenzie] available to be borrowed. That, of course, all depends on the lenders, whether they are local lenders or they are in London or they are foreign lenders. At the present time, the ceiling of £23,000,000 is the best estimate that can be made of the amount which it is probably going to be possible to borrow during the current planning period, and I might say, Sir, that in the present state of the market, when, as the Council is aware, it has not been possible for the Colony to find its way on to the London market, in these circumstances we shall be quite lucky if we in fact achieve that target. It is nothing self-imposed, it depends on what there is likely to be available in the market.

Then, Sir, as regards foreign borrowing, there has been no discouragement of borrowing outside the United Kingdom by either the City of London or Her Majesty's Treasury. There again everything depends on whether the money is available and what the terms are, and also on what the people with money to lend would be likely to think of our credit. I can assure hon. Members that any ideas that there are large sums of foreign capital waiting to come here, or to any under-developed territory at reasonable terms are nothing more than a myth.

As regards local loans, Sir, the Government has pursued a practice of going on to the market when it felt that it was possible to raise some money. In addition to that, Sir, while talking of a local loans policy, I might say that in addition to long-term borrowing, a great deal has been done in the way of borrowing for short-term purposes. Short-term loans have been raised to quite considerable extents on behalf of the Government's general purposes through tax reserve certificates.

In mentioning tax reserve certificates, Sir, I would like to mention that I have heard suggestions that the rate of interest—3 per cent—may not be adequate. Sir, that 3 per cent is tax free, and for the income tax payer, particularly in the higher brackets, a 3 per cent tax-free investment is in fact a very worthwhile thing.

In addition to tax reserve certificates, Sir, by which over £1,000,000 has been

raised, we have the Cereal Finance Corporation, which has raised us short-term money, and the Land Bank has also been raising a good deal of its requirements short-term. In fact, Sir, the general policy of the Government as regards local loans is that we borrow as we need the money and what we need when and as we can. That, I think, is a purely empirical approach to it and it is the only approach which is possible.

Now, Sir, I would like to turn to another matter dealt with by my hon. friend, the Member for Nairobi West, in his speech. That, Sir, is his suggestion that there should have been some announcement regarding taxation reform. Sir, my hon. friend, the Minister for Finance, has said on many occasions that the Government will announce its views on the level of taxation and matters of that kind in Budgets from year to year. And the plural was certainly used. My hon. friend certainly said "in Budgets". He did not necessarily say that everything he ever had to say about taxation reform would be made public in just one Budget. Even my hon. friend, the Minister for Finance, Sir, is not a magician and he cannot be expected to do everything that can possibly be done in the way of alterations in taxation in one Budget, nor can it be expected that we can have perfection at one move.

Now, Sir, when dealing with such questions of taxation relief, I would also like to remind the hon. gentleman that the largest individual taxpayer in this Colony is still the British taxpayer, and that if there is any relief he can hardly be blamed if he expects that some of it should come his way.

As regards rewards for skill and integrity which were suggested, I think everyone on this side of the Council fully agrees that skill and integrity should be properly rewarded, and, in fact, I am quite sure that those who deserve rewards will get them according to their deserts.

I do not propose, Sir, to deal with that very fine muster roll of comparisons, or with the company rates, as I understand that the Minister for Finance will be dealing with that when he speaks later in the debate. Before leaving taxation policy, I would like to say "Thank you" to the hon. Member for Nairobi West for his tribute to the Investigation Branch

[Mr. Mackenzie] of the Income Tax Department. They have done extremely good work and it is very pleasing to hear a tribute of that kind being paid.

There is one final point, Sir, that I would like to mention. In the Governor's speech, reference was made to the principal instrument upon which the Government relies for the execution of its policy; that is, the Civil Service, and my hon. friend, the Member for Nairobi South, said in his speech that he was surprised that there had been no mention of any changes in Civil Service pay in the speech. Well, Sir, I must say that I was not altogether surprised that there should not have been any mention, because I think that matters of that kind would not normally be dealt with in the speech. The fact is, Sir—

MR. HARRIS: If the hon. Secretary to the Treasurer will refer to my speech, he will see I said I was sorry, not surprised.

MR. MACKENZIE: I should like to thank the hon. Member, Sir, for correcting me on that point.

As regards Civil Service pay, Sir, there are one or two points I should like to mention. The first is that the Government in its policy on the Civil Service pay aims at obtaining an efficient Service, at obtaining sufficient recruits and at keeping the Service contented. In order to do that, it has to pay adequately and I am sure that that is one of the things that the Government always has in mind. Indeed, Sir, pay negotiations are going on continuously at various levels in the Service; and here, Sir, I would like to mention that I think that in this context of pay, it is quite wrong to think of the Service as homogeneous whole. There are many facets to it, many different types of professions and skills in the Service, and I think that the approach which has possibly been inevitable in the years during and since the war of increasing pay from top to bottom and dealing with pay matters from top to bottom over the whole Service by flat-rate increases is not the most satisfactory way of dealing with this in normal times; because, Sir, in normal times, one must look at the difference of grades and professions in the Service separately, and see what is needed to attract and retain the people

in each of those grades and professions. In doing that, Sir, one must pay attention to the type of reward that people of the kind required are getting outside the Service, one must look at the question of supply and demand, not in any particularly crude way, but because stability and continuity are needed, and supply and demand is one of the things that must be taken into consideration. But, Sir, I think the important thing is that there should be a considerable amount of selectivity in deciding whether pay increases are needed or not. The Government should look, in each case, at what is a reasonable rate for the job. The rates change, and the needs for different types of people change. There are certain grades, I agree, where it may be difficult to find a corresponding type of person in outside industry; for instance, policemen came readily to mind, and prisons officers. One does not normally come across private policemen and private prison officers. In cases of that kind it is quite possible to look at the type of qualifications and the type of man who comes forward, and to decide what is a reasonable rate of emoluments.

To conclude, Sir, the test is whether what is paid at each level in each grade in each profession is going to be successful in bringing about recruitment, and in retaining the officers who are required.

I think, Sir, that that is the approach which should in future be followed as far as possible in dealing with these matters, and that it is one that should be applied from time to time as required rather than in a general overall manner through such things as salaries commissions.

With that, Sir, I beg to support.

2.52 p.m.

MR. MUMU: Mr. Speaker, Sir, although I am the last African to come to the table, I have also a bone to gnaw like many other people.

I would first of all like to deal with the question of the Emergency as stated by His Excellency the Governor in his Speech. I should like first of all to say how gratifying it is to note that only about 150 Mau Mau terrorists still remain at large compared with the number stated in His Excellency's Speech of last

[Mr. Muir]

year. It would be the pleasure of every one of us to see that the few that now remain are brought to book, and that the State of Emergency is brought to an end as soon as possible. I would also like here to say that it is also gratifying to note the way Government is doing things in order to try to rehabilitate the many *Mau Mau* in detention camps. But here I would like to draw Government's attention to a fact that in this country as a whole, not every area, and not every tribe was so actively engaged in the *Mau Mau* activities. Although the Africans have pressed very hard on the Government to try to relax the Emergency Regulations, Government seems to overlook that fact. May I, Mr. Speaker, with your permission, take for example my own tribe, the Akamba. Very few Akamba took an active part in the *Mau Mau* movement; and any elements of *Mau Mau* which were noticeable in the Akamba reserves were suppressed at once, not from pressure either from Government or from any other people, but through the willingness of the Akamba to try to stop any subversive activities which may have hindered the progress desired in Ukamba. It would be very wrong for Government to suppose that continuing to maintain Emergency Regulations in Ukamba (and I am referring to this as one particular case) is gratifying to anybody. I do not understand why the many Akamba, and the many other tribes so loyal to Her Majesty's Government should be kept under the pressure of the Emergency Regulations. I do appeal to Government to consider now—not to-morrow—relaxing all Emergency regulations in areas where no active *Mau Mau* elements have been noticeable.

Again, Sir, in this connexion, I would like to say that Government is overlooking the fact that in some cases, tribal law and custom has more effect in the rehabilitation of these people than even the rehabilitation camps. In that regard, I should like to press on Government that such few detainees of such tribes as I have mentioned should be handed over into the hands of the tribal elders if possible through the locational councils, so that they could be better dealt with. I may, Sir, here also say that tribal law,

for example the Akamba customary law, provides punitive measures sufficiently strong to deal with any elements in the few people that are involved in such subversive activities.

May I, Sir, go on to the next point. I should like to be as brief as possible, because I know the Council is very tired on hearing things being repeated. Now, Sir, I will turn to the question of juveniles. That is one problem that is worrying the African even more than any other community in this country. As the Governor stated in his Speech, we have three kinds of juveniles to deal with: (a) the juvenile detainees; (b) the juvenile delinquent; and (c) the juvenile vagrant. Well, it is gratifying that the category (a) juveniles are being dealt with at Wamumu Camp, and as the Governor stated, the camp will not come to an end with the rehabilitation of the last detainees, but it will be maintained. But the fact remains that this camp applies to one part of this country. There are other parts of this country which are as much affected as the Central Province.

...We have got to face the facts and the reasons which have brought about juvenile delinquency and juvenile vagrancy. I am not at all accusing any community, but may I say that especially in the case of juvenile delinquency this has been encouraged by certain firms. If I may say so, who go to the reserves and persuade young African children that they will provide employment for them. Then they take them into towns and Nairobi city. The African young men do not see the result of the promises given; they do not get the employment as they anticipated, and as a result they desert the firms, go into the towns and cities with nothing to live on, with nothing to spend. Therefore, what is the result? They become law-breakers. They try to get their living by any illegal way.

Also the next kind of juvenile vagrancy is in the Central Province; for, instance, as a result of the *Mau Mau* activities many children have been rendered parentless. The tribal law which looks after the children has deteriorated to a great extent with the multiplication of the tribal law into the national law, and, therefore, it cannot be expected that the parents, and in particular I am referring to the African reserves, have any real control over such parentless children. I

[Mr. Muir]

feel it is for the State to take the task on its shoulders, the responsibility of trying to save these homeless wanderers, and I think there is a serious state of affairs in this respect. I am afraid these young men when they become grown-ups will be a source of trouble in this country, and, therefore, I call on the Government to try to establish such things as the Africans have been always pressing for, and that is things like training for these young people so that they can make themselves responsible people. Again I should like to urge the Government to take a serious view of the fact that certain firms are assisting in creating these homeless wanderers.

If I remember rightly, at one time the African district council of the constituency I represent, of which I happen to be a councillor, stressed very strongly the fact that no firm may be allowed to take children away from the reserves without the consent of their parents; I do not know what has happened because I do not know whether it is Government or who—that fact has been overlooked, and now young people and even young boys and even young girls are flocking into the towns and into the cities, and there is no measure of trying to stop such moves.

Now, Sir, I come to the next point, and that is the question of agriculture. Government policy, as I understand it from the Governor's Speech, is to try and encourage sound farming in all areas of high potential. It refers especially to European farming and says that in European areas populations of livestock are increasing, but it says nothing of the African livestock population either decreasing or increasing. Well, in his reply, I believe the Minister for Agriculture will tell us what Government policy is on the African livestock.

The other day I made a complaint to a certain responsible officer of the Government that we were now feeling very strongly about the ways that Government are going about it—that is, the officers in our reserves imposing destocking. The officer, I remember rightly, said that the people are very happy about it. Well, I am glad if that is so. But if I were allowed to go into any European bank and snatch as many notes as I could—and then the Europeans told me

that they are happy about it, I would agree. Well, this is a problem which I am calling the Minister for Agriculture very seriously to look into, because I must assure him the officers of the Agriculture and Veterinary Departments are doing very little in the reserves to achieve the objective that Government is aiming at. Instead, they are encouraging—or they are doing it to try to see—an end to the African livestock. This is a welcome piece of news, although the Minister might take it otherwise, but may I just point out one fact that the African is not at all happy about destocking in the way it is carried out to-day in the reserves.

Only the other day in a certain location in my district, a certain man—an elder was told to offer so many animals for sale, and he did as required by Government officers. However, I regret to say that the chief, a responsible person, the elders and the chief *askaris* did not see fit that this man was willing to assist in reducing the unnecessary stock, but went into his place and drove the whole lot of cattle out for sale.

AN HON. MEMBER: Shame!

MR. MUIR: As a result, the man was so aggravated that he took his bow and arrow and shot the *askari* dead. When Government tells us that the African is happy about destocking, it should tell us that the African should take such steps. I regret the policy of the Agricultural Department and the Veterinary Department in as far as destocking is concerned is very detrimental to the problems of this country.

May I, Sir, before concluding on this point—the trend of destocking in African reserves has gone so extremely that I do not see the reason for the employment of so many veterinary scouts and so many veterinary officers, and as destocking has gone up so considerably I should like to appeal to the Government that these veterinary scouts and veterinary officers who have nothing to do now should be reduced, and the money put into better use.

Now, Sir, coming to the question of soil conservation and dam construction, I have great pleasure, especially in what Government is doing in my own constituency. But I must say this very frankly—that certain things done in connexion

[Mr. Muimi] year. It would be the pleasure of every one of us to see that the few that now remain are brought to book, and that the State of Emergency is brought to an end as soon as possible. I would also like here to say that it is also gratifying to note the way Government is doing things in order to try to rehabilitate the many *Mau Mau* in detention camps. But here I would like to draw Government's attention to a fact that in this country as a whole, not every area, and not every tribe was so actively engaged in the *Mau Mau* activities. Although the Africans have pressed very hard on the Government to try to relax the Emergency Regulations, Government seems to overlook that fact. May I, Mr. Speaker, with your permission, take for example my own tribe, the Akamba. Very few Akamba took an active part in the *Mau Mau* movement; and any elements of *Mau Mau* which were noticeable in the Akamba reserves were suppressed at once, not from pressure either from Government or from any other people, but through the willingness of the Akamba to try to stop any subversive activities which may have hindered the progress desired in Ukamba. It would be very wrong for Government to suppose that continuing to maintain Emergency Regulations in Ukamba (and I am referring to this as one particular case) is gratifying to anybody. I do not understand why the many Akamba, and the many other tribes so loyal to Her Majesty's Government should be kept under the pressure of the Emergency Regulations. I do appeal to Government to consider now—not to-morrow—relaxing all Emergency regulations in areas where no active *Mau Mau* elements have been noticeable.

Again, Sir, in this connexion, I would like to say that Government is overlooking the fact that in some cases, tribal law and custom has more effect in the rehabilitation of these people than even the rehabilitation camps. In that regard, I should like to press on Government that such few detainees of such tribes as I have mentioned should be handed over into the hands of the tribal elders if possible through the locational councils, so that they could be better dealt with. I may, Sir, here also say that tribal law,

for example the Akamba customary law, provides punitive measures sufficiently strong to deal with any elements in the few people that are involved in such subversive activities.

May I, Sir, go on to the next point. I should like to be as brief as possible, because I know the Council is very tired on hearing things being repeated. Now, Sir, I will turn to the question of juveniles. That is one problem that is worrying the African even more than any other community in this country. As the Governor stated in his Speech, we have three kinds of juveniles to deal with: (a) the juvenile detainees; (b) the juvenile delinquent; and (c) the juvenile vagrant. Well, it is gratifying that the category (a) juveniles are being dealt with at Wamumu Camp, and as the Governor stated, the camp will not come to an end with the rehabilitation of the last detainees, but it will be maintained. But the fact remains that this camp applies to one part of this country. There are other parts of this country which are as much affected as the Central Province.

We have got to face the facts and the reasons which have brought about juvenile delinquency and juvenile vagrancy. I am not at all accusing any community, but may I say that especially in the case of juvenile delinquency this has been encouraged by certain firms. If I may say so, who go to the reserves and persuade young African children that they will provide employment for them. Then they take them into towns and Nairobi city. The African young men do not see the result of the promises given; they do not get the employment as they anticipated, and as a result they desert the firms, go into the towns and cities with nothing to live on, with nothing to spend. Therefore, what is the result? They become law-breakers. They try to get their living by any illegal way.

Also the next kind of juvenile vagrancy is in the Central Province; for instance, as a result of the *Mau Mau* activities many children have been rendered parentless. The tribal law which looks after the children has deteriorated to a great extent with the multiplication of the tribal law into the national law, and, therefore, it cannot be expected that the parents, and in particular I am referring to the African reserves, have any real control over such parentless children. I

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[Mr. Muimi]

with dam construction, terracing, road works and such, are open to abuse. I am sure everyone is happy when a dam is established and we can get water easily. The people have done quite a lot to try to construct these dams. The Government is trying to help to construct these dams, but on the other hand, where Government eyes cannot see, evil things are cropping up. In the construction of these dams women are employed.

AN HON. MEMBER: Shame!

MR. MUIMI: Government in their answer will say that they are employed to assist in bringing water and food to the men working on the dams, but speaking as one who has seen these things, I must say that it is very untrue. To-day what is exactly happening is that these women, more especially young African girls, are taken away from their homes to the dam sites, and then the chiefs, the agricultural instructors and the chief *uskaris* establish camps for these girls and they do not return to their homes, in most cases for the duration of a month. They are right in the bush. Now tell me, any man with sense, what does he expect? I must say that such things are not only immoral but evils which must be put to an end immediately, and I should like to urge Government to make it known that employment of women on any such works as dam construction, terracing and road work is an evil-thing which must come to an end.

Now, Sir, I come to the more pleasant side of the agricultural problems. I would not like to repeat what has been said by my previous speakers, but I would ask the Minister to tell us about a great omission that I have noted—what Government's future policy is on the growth of cash crops such as coffee, sisal and tea in the African areas. Mention has been made of some few African areas, but in this connexion—I am referring to places like Ukamba—in African areas where coffee has just come to the growers and where sisal has played a great part in producing cash crops, I know nothing has been done to try to grow tea, which could be grown also. Probably the Minister will tell us what his Department has in mind.

Now, Sir, I come to the next point which has been made mention of, and

that is the question of land consolidation. I believe it is high time the African community were told exactly what the Government policies and intentions are, and in this case may I, Sir, stress the fact that the African is very eager to see that land consolidation is brought about at some stage. Well, we also know that land consolidation is bound to come at some stage, but it is the speed and the harshness with which this problem is being brought to the African community that is objected to. His Excellency the Governor, in his speech, said that it was not his Government's intention to impose land consolidation although he, like us, knew that it was bound to come. But sometimes indications of policy are restricted by certain statements made by officers in their meetings and places in the African reserves. Well, I do not want to accuse any officer in particular but statements are made such as "land consolidation will continue whether you Africans like it or not". Now, then, when an ordinary African hears of a statement of that nature made by a responsible officer of Government, and on the other side his representatives, the African Elected Members, tell them: "It is not Government policy to impose but it is Government's policy to encourage", then the African fails to understand what is the difference between Government policy and a statement made by the officers in the reserves. Therefore, I call on Government to check on the statements by their own officers, to make sure that such statements do not become a stumbling block in this problem, which we must face at some stage or other.

Now, Sir, may I add in this connexion by saying that it is no good deceiving ourselves that the African is happy about events which have taken place in the past. It is true, and nobody can deny it, that when the African was ignorant his land fell into other hands, and whether we like it or not we have got to face that fact. But we cannot go back and try to make good what has taken place, we can only try to improve it. And the way I feel we can improve it to some degree is to assuage the grievance that the African has over the loss of his land. I should like to call on the Government that all Crown lands which are still unpossessed by any other communities should be given to the Africans, and I

[Mr. Muimi] should like to ask the Government to now—no later—try to annex all the Crown lands on the borders of the Akamba, because I believe they have lost much more than most people think.

Now, Sir, I do not want to dwell at great length on the question of the game preservation. We know that game must be maintained in this country, but game should not be maintained at the discontent of a certain tribe in this country. It gives pleasure to visitors when they come into this country to see and shoot, but the African, in whose country, in whose land, these animals are, cannot be allowed to see and shoot. All that we are asking the Minister for Game and Fisheries to do, and I believe it is very generous, is to allow the African hunter—the African has been a hunter all his life—to hunt small animals for food. Again, when I put a question about what compensation Government paid for damage done to crops by wild game, the Minister replied: "Government has no responsibility". It is something worth laughing at because if my herd of cattle stray and go in his *shamba* I am responsible: now here is the Minister trying to refrain from a fact which faces him. He is the person responsible to the animal herd. He should pay compensation in the same way as I would if my herd entered his *shamba*. Now, then, he may not know how he would do it but I am going to suggest to him what the African had in mind and what I, in particular, had in mind when I put the question to him. When these animals—an elephant or rhinoceros—is killed for damaging crops, the trophy and the horns should be given to the crop-owner so that he compensates himself. When the elephant is killed for killing somebody, because it has strayed, the trophy of the elephant or the horn of the rhinoceros should be given to the family of the deceased, and they would be satisfied.

Now, Sir, I come to the question of education. I am sorry the Minister for Education is not here: but I am sure notes will be taken of my remarks. I regret the way in which African education was dismissed summarily without giving the Africans a hope to look forward to. The one hope that the African thought the Government would give him at this stage: what steps are

being taken now, after the African plea for so many days, for the eight-year education, the eight years for Africans with school-age children? Although it is said that schemes are envisaged for Nairobi; in the reserves this problem is very acute and whether Government likes it, or not now or later some schemes should be started in the reserves in addition to what is envisaged to be done in Nairobi so as to compare the expense of this education in a town and in the reserves. Well, may I end the problem of education by saying we are happy in my own place for Government giving us a women's teacher-training college. But I feel the time has come when Government should consider the question of a state secondary school in Ukamba for girls, and in so saying I have in mind the existing girls' boarding school—Girls' Government School—in Machakos, which has all the facilities and which could be raised into a secondary school, and I beg to ask the Minister for Education to consider the question of raising the status of this school into a secondary school.

Now, Sir, I come to the last point. I know that I have heard many of the people on the opposite side repeating what has been said in the past. Now, Sir, I come to the present political crisis in Kenya. I do not want to repeat what has been said in the past, but I would like to set the facts clear and I must say I am very serious. I believe that the time has come when we must tell the world, and the people of this country, exactly what has happened and what is happening, because it is no good sitting at our desks and deceiving ourselves that the people in this country are satisfied with what is going on. I would like, Sir, with your permission, to follow the sequence of events from the beginning. Now, Sir, the beginning of the present crisis had its roots from the time when I was first nominated to the Kenya Legislative Council in 1956.

MR. HARRIS: Was it your fault?

MR. MUIMI: You should wait and see how. When I was first nominated to the Kenya Legislative Council with my hon. friend Mr. arap Chumah, who is not here with me, I recalled very rightly that the European community during that time never invited us—the two new Members—and our colleagues in the Council, to

[Mr. Muimi] any formal discussion or gave us any information as to what had taken place before our time. We were not aware, we two, of any agreements reached before by the European groups and the other racial groups.

AN HON. MEMBER: What about the Member for the Rift Valley?

MR. MUIMI: Well, the Member for the Rift Valley, the Europeans and the Africans, then did not make this known to us new Members, and that position remained until the African elections in March. An agreement had already been made which we two new Members had never been informed of: it was made by a Nominated group of African Representatives who were not sure of their return to Council. The European and Asian new Members had already been elected and they knew, whatever the case may have been, that their Members were there.

But the poor African had no future, did not know what might take place. And then elections came—and this is where I question European leadership, for which they have been claiming so much in this country—African elections, on which so much depended. There was a period of at least a fortnight within which the European leaders could have invited the African Elected Members and told them the state of affairs; and probably after the Africans had issued their statement they should have had the courage to have invited the Africans and made it known to them exactly what the position was. But, to my disappointment, as from November, when I joined the Council, up to the time the Africans made their statement, I was very doubtful indeed about the leadership that the Europeans are claiming.

Now things went on as they were. The Europeans went on saying this and that at their meetings and in the Press, but they did not think it meet to call the young African politicians and try to discuss matters with them. They only told us when, after all we asked them whether they would be willing—they, older people, more enlightened people, stronger even than the Africans—to meet and discuss matters. I remember at the first meeting that we held with the Europeans an hon. Member, whom I do not

want to mention—and he or she will, I think, recall how his or her statement went—"Let us first of all revive the Un-Official Members' Organization; and then we can discuss constitutional changes". Why, when on the other hand the programme and the question that we were faced with when we met was to discuss the African seats?

Now, Sir, I must say that this affected a technique which the Europeans are trying to use on the young African politicians, and I do not feel, in my position as representative of my people, that the Europeans are in any way prepared to solve the problems of this country.

It has been said—and I must, with your permission, Sir, say so—by the Colonial Secretary, by the Kenya Government and by the European community, that the Government of this country is running smoothly and will run smoothly indefinitely, in spite of the Africans' refusal to participate in it. After the Lyttelton proposals, it was said that the Kenya Government was to be a multiracial government. I question whether the Government, without African participation, is multiracial or in fact biracial.

Now, Sir, let me come to a more serious fact. When this country was faced with the threat of the Germans during the 1914-18 war, for every one European there were about 1,000 Africans going to face the foe. During the Second World War, for every one European there were about 2,000 Africans going to face the enemy.

THE CHIEF SECRETARY: Mr. Speaker, on a point of order, is the hon. Member in order in making capital out of matters of this sort? Would he perhaps like to refer to the casualty lists?

MR. MUIMI: Mr. Speaker, Sir, I think I would like, with your permission, to make the point I was trying to get at, without making capital, as the Chief Secretary has said. Now then, what I was trying to say is that the African came out to face the enemy because he felt he was part and parcel of his country. And I have said many a time, the African has no other home to go to but this country. Most Europeans refer to England as their home. Most Indians refer to India as their home. They cannot have two homes. I must say that

[Mr. Muimi] it is those people who have one foot in Kenya and their other foot either in England or in India who are confusing issues in this matter, and the sooner they go the better.

Now any person who claims to be a Kenyan will certainly see the position that we are now in, and come out without hiding behind the bush.

May I conclude, Sir, by saying that it ought not to be said by anybody that the African has not been willing to meet the other groups, as has been alleged; that the African has not been willing to discuss the problems of this country, as has been alleged; it is the reasons put forward by especially the European group to refuse to see the African point of view which have brought about this deadlock.

Now the last point, Sir, which I would like to mention is this: a Bill is being introduced on personal taxation. I have only one thing to say: that I am proud to say that I am the son of this country; I have no other country to go to. Now those other people who have the heart of this country with them must come out with the Africans and try to secure the settling of this country, for I see it collapsing.

May I end by saying that the hon. Member for Nairobi West has consistently and continuously shown some anxiety for relief from tax for the top men. This Bill is coming to determine the standard of the African, I mean the ability of the African to pay tax, and if he is a true Kenyan, as he claims, I hope that he will join us in trying to exert any pressure we can on the Minister for Finance to secure relief in taxes for the small man.

J.39 p.m.

I beg to support.

MR. RIDDOCH (Nominated Member, Government): Mr. Speaker, Sir, I share with a number of other hon. Members who have already spoken to this Motion the pleasure that forestry was given a prominent place in the Communication from the Chair. I think it indicates clearly that Government is serious in its intentions to implement the forest policy which was so recently adopted by this Council, both in regard

to productive and protective forestry, although I must say that a very great deal has yet to be done in connexion with this second activity.

Now, Sir, both these aspects of forestry have already been very ably dealt with by the hon. Corporate Member for Agriculture and I do not wish to cover the same ground. But I would like to draw attention to two points which I do not think he mentioned. The first point concerns productive forestry and is mainly concerned with our exotic softwoods, but also with the economic management of our indigenous forests and also the ultimate output of private forestry. His Excellency mentioned that as a result of the adoption of Dr. Craib's recommendations, we would have, in a Government softwood plantation alone, a most valuable asset, which in a term of less than 35 years would yield in royalties an income of something of the order of £2,000,000. Now, Sir, I think that is a misleading way of representing the value of our plantations. It merely represents the cost of the raw material which industries like saw-milling and others would use in utilizing the trees that they purchase at the cost of royalties. I think, Sir, it would be very much more realistic to express the value of our plantations at, at least, the estimated value of converted sawn timber. And as royalties represent from one-fifth to one-sixth of the value of sawn timber, that would mean that the value of our plantation on the basis referred to by His Excellency would be something between £10,000,000 to £12,000,000 annually. That is a very considerable sum.

However, Sir, saw-milling is not the only activity that we can expect to derive from our plantations and our other forests. There are distinct possibilities that we may be able to establish paper pulp manufacture and even rayon manufacture, which may be able to utilize thinnings which would otherwise go to waste, and also timber from the wattle tree which is grown in so many parts of the country. In addition to that we can look forward to the more economic use of sawn timber for building purposes and other things. So that altogether there is a very bright prospect in front of us of the timber industry, in all its branches, playing a very important and large part in our economy.



[Mr. Riddoch]

Now, Sir, the next point I want to make is in connexion with protective forestry and I confess that I am not too happy about that. As His Excellency correctly pointed out, it is an essential part of the forest policy, but I share the doubts of the hon. Corporate Member for Agriculture, that the means by which Government proposes to implement its protective forestry policy—mainly by assisting African district councils where, by mutual consent, lands are set aside for forestry purposes—is not, I think, enough by any manner of means. I know that a good start is being made in this direction and a lot will be done, but His Excellency made no mention of the terrific problems which face us in the mountain ranges to the north of us. And indeed we must not forget that we are running against time.

Sir, the diminution in our water supplies in so many parts of the country has become so serious that I consider that this question of protective forestry and the correct use of land which goes with it should be considered as a national defence measure. As a matter of course, we spend money on defence, in a military sense; why should we not spend money readily and adequately against an enemy which is even more insidious than the military one and unrelenting in its impact—that is the encroaching desert?

Sir, one very great difficulty I think we are up against in appreciating this most important matter of protective forestry and all that it implies is simply that in our annual Estimates any moneys which have been allocated for this purpose have been lumped together in the Estimates of productive forestry, which is supposed to find the ways and means of spending what it can on protective measures.

Now, Sir, what I suggest is—and I urge it most strongly—that funds for protective forestry should be shown separately in our Estimates, not only to make the matter clear to hon. Members here but also to the country. I suspect that if this were done—and I hope it will be done—in spite of perhaps certain accounting difficulties, it will be revealed that the amount now spent for such purposes is pitifully small.

Now, Sir, I have nothing more to say there; I have just tried to make those two points. But before I sit down I should like to pay a warm tribute to our Chief Conservator of Forests, Mr. Waterer who is on leave pending retirement. He is a first-class forester and, being possessed of a strong personality and strong views, he has, during his term of office, initiated many measures which have greatly improved the efficiency of his Department. But it is in the field of protective forestry that he will be best remembered. By virtue of his experience in Cyprus, where he had remarkable success in re-establishing forests on eroded hills, he readily recognized the dangers which faced Kenya in dealing with similar problems when he came here first. In fact, on all possible occasions he has preached the gospel of protective forestry and the correct use of land and water conservation in our dry areas.

I confess I became an ardent disciple of his, but if he has been successful in arousing a widespread awareness of those problems to which I have referred he will have done his country a very great service.

Sir, I beg to support.

MR. USHER (Mombasa): Mr. Speaker, Sir, before I get on to the main theme of my speech, I should like to complain of certain delays in dealing with rather urgent matters. In the Speech from the Chair, we read: "The Government will indicate its intentions regarding the recommendations of the Select Committee on the Registration of Domestic Servants during this present session." Now, Sir, how much more happy was the phraseology of the Minister for Labour yesterday; he, with the curious felicity which we expect of him, did speak of its having been "long in the boiling pot" and said he would "give it a stir". Let us hope that it will not be long now before we get something concrete.

There is another matter, too, about the time—and when we are speaking of time, it seems to be about the sort of time that Sir William Blackstone meant when he spoke of "Time, whereof the memory of man runneth not to the contrary". Anyway, it is a very, very long time ago that I entered into an amiable conversation with the Minister for African Affairs—who, I see, is not here

[Mr. Usher]

—with regard to the movement of Africans into urban areas. The matter was an urgent one then. I think he wished to enlarge it to embrace urban areas other than Mombasa, in which I was then interested. First he felt that it ought to be a matter for general legislation, then he thought it should be a matter for local legislation, which has never really proved successful in these matters. Anyhow, there was that delay. Then calamity really befell us because it got into the hands of a working party, and I suppose that it still resides there. I do not know how the Government and how local authorities are going to cope with urban problems if there is not some such control. How are they to arrange for housing, how are they to arrange for the social services, if they have not this control? And above all, it is not fair to the Africans who have gained a footing in the large towns and established themselves there.

My third case of delay: what on earth has happened to the Mombasa social survey? It has been completed for a long time now; we hear tales of the Hollerith machine being overworked; but please, please, let us have the statistics which we so urgently need.

Now, Sir, while I am on the Coast, I should like to say a word or two about sea fish; and I should like to start by quoting from—the Kenya Fisheries Annual Report for 1956, 'As the Member for Nairobi West would say: "I quote". "To illustrate the increasing Kenya demand for sea fish, a demand which could be multiplied many times by modern marketing and advertising, the following statistics of imported sea fish are given. These figures also serve to show that shopkeepers are overcoming the bad marketing of Kenya sea fish and the shortage of off-season supplies by importing fish from Europe and South Africa."

Now, Sir, I will not read the statistics, but I will state this: they show an increase of 64 per cent in the importation of fish since between 1952 and 1956, exactly, you will note, Sir, the period during which the East African Marine Fisheries Research Organization has been at work. This is a "through-the-looking-glass" situation.

Speaking of through the looking glass, hon. Members will remember Humpty Dumpty's little poem he recited to Alice on the subject:—

"I sent a message to the fish,  
I told them this is what I wish,  
The little fishes of the sea,  
They sent an answer back to me,  
The little fishes' answer was,  
'We cannot do it, Sir, because'."

Now Alice was perplexed at this and said so and Humpty Dumpty replied, "It gets easier later on".

I do not quite know how this situation is to get easier later on because we still seem to get the same difficulties. I am not going to tilt at that research organization which I mentioned just now because I know that they are doing valuable work. But I do believe, Sir, that they operate, as it were, in an atmosphere of cloistered calm. They proceed in an academic, civilized, scientific manner. And I would remind hon. Members that they are financed up to 1960 by the Colonial Development Fund and by our own contributions; but what happens thereafter I do not know. What I should like to see happen is that they should be as practical as possible and get some fish out of the sea on to our plates in that period.

I know that there are many difficulties (not, I think, perhaps, fishing grounds), and I will say that they have explored new and promising fishing grounds near Lamu. There are many other difficulties; there is the question of the fisherman—he is not a poor fisherman really but in some senses he is a poor fish. And we shall somehow have to capitalize him.

Then there are the questions of transport and refrigeration. I spoke about refrigeration before in this Council and I am very glad to be able to say that private enterprise has at least done something since then, for Messrs. A. Baumann and Company are putting in a refrigeration plant in Mombasa. But, of course, there are other problems of refrigeration, and notably upon the railway. I believe that we shall shortly be able to convince the railways that they can have a cold storage van and operate it economically. The present insulated wagons are all very well in their way, but, as is said, they do cost the earth when it comes to providing

[Mr. Usher] the refrigeration within those insulated wagons. That applies not only to fish but to up-country produce, notably that of the Creameries.

I pass now from fish to another question of local produce. In the course of his speech, the hon. Member for Ukamba hinted that there was a possibility of a town versus country war over these things. I would not put it as high as that, but there is something very like it and I will try to explain why. It is, I think, that housewives are not sufficiently educated in what there is, where they can get it and at what price. I therefore very much welcomed not only what he said but what the hon. Member for Nairobi South said and what the Minister for Agriculture has said, both in this Council and, I believe, last night at the Kenya National Farmers' Union dinner. We must get this thing organized.

One thing I would like to stress very much is that we need that this organization should have some control over what is put on the market. I am not going to specify products, Sir, because it would be invidious, but I should like to point out that there are certain products in tins which are extremely good; I think if the Minister were here he would probably blush. There are others which are extremely bad. Sir, there is one particular product which I am thinking of and which I would be very glad to put on my table in front of the most discerning guest; there are others of the same kind of thing which I would not feed to my parrot.

It is all very well, Sir, when a country has established itself in certain commodities and industries for it to take chances but at the beginning it must not do so. I believe some people go to Marseilles and indulge in a thing called *houillabaisse*. It is described by an acquaintance of mine who writes novels as "assorted marine garbage", which indeed it is, and no person of discernment would think of having it.

But we cannot afford here to put a low-class local product on the market yet. Now, I believe that an organization such as has been suggested must be co-ordinated or brought together by somebody or other and I suggest that possibly the Asian Minister without

Portfolio might take that under his umbrella.

MR. ALEXANDER: Canned curry!

SIR CHARLES MARKHAM: Give him some work to do!

MR. USHER: I now turn, Sir, to the question of direct and indirect taxation, even if the Minister and the Financial Secretary are not here. Ten years ago one of the most brilliant reports that has happened in Kenya was produced. It is known as the Plewman Report. Two hon. Members who were on that committee adorn this Council to-day. It is just as well for us to record an important recommendation of that committee, I quote:—

"Guided by the evidence submitted and a peculiar knowledge of local conditions, the committee is satisfied that a fair and just measure of fiscal equity is likely to be achieved for the present so long as the yield of indirect to direct taxation remains proportionally of the order of 1½ or 2:1."

The last bit sounds a little complicated, but what it means is this; that the direct taxation should not be more than 33½ per cent or a little over 36 per cent of the total of direct and indirect taxation by which, of course, we mean Customs and Excise and income tax and what is now personal tax. What are the facts which we face to-day? In 1955/56 we received in indirect taxation 51.4 per cent, and in direct, 48.6—a fairly healthy situation. What happened thereafter? In 1956/57 there was an estimated indirect of 56.2, but the revised estimate gave us indirect, 45.8 per cent and direct accordingly 54.2. In the present Budget, we have an estimate of 45.25 indirect, and 54.75 direct. That, Sir, is quite unhealthy.

The exchequer returns to the end of the first quarter show that the collection is well up to schedule. I am very glad to see that it is so, but, of course, in regard to direct taxation, that cannot be taken with the same seriousness as the indirect taxation. Also, the return from indirect taxation compares favourably, rather to our surprise, with last year's. Now, I am not suggesting for a moment that the Minister for Finance can alter this ratio at a stroke of the pen or in one Budget. What I am suggesting is that his mind

[Mr. Usher] should be directed, directed firmly to redressing this ratio. I know that it will not be popular everywhere; nevertheless, the Plewman formula was founded upon a very sound basis, and I doubt whether the tables which appear in that report would show to-day any great difference.

These things can be adjusted, of course; the income tax is collected by the High Commission; so is the Customs and Excise taxes, but I believe that with a little talk in that palace on Secretariat Hill—which, by the way, I heard recently is known by the junior members of the Civil Service as "Bruce's Little Hut"—would do a very great deal of good.

I pass now, Sir, to another sort of tax, and that is the personal tax. My conscience and my humanity have alike been stirred by the incidence of this tax on certain classes of the population. I have seen cases of young people of 18 upwards having to shoulder very heavy family responsibilities and meeting with no favourable response when they apply for exemption from their taxes. I should like to see, Sir, a far more humane attitude towards this, and perhaps it could be dealt with by local committees where the circumstances of the people are known. It raises very much in my mind, Sir, whether a young person left with a whole family on his hands—and I know several of such cases—should be required to pay taxes at all—at least, until he is 21.

Having said so much, Sir, I will leave that subject, and pass on to another. A lead was given me by the hon. and noble Corporate Member for Agriculture when he spoke of the use of private estates for afforestation.

He asked—and asked very reasonably—that taxation relief should be given in such cases. He asked that income tax relief should be given, and he asked that estate duty should be remitted. I wish he had gone a great deal further, Sir, because I feel very strongly upon this question of estate duty. The report for last year notes—I am afraid with complacency but one cannot help that—that £250,000 was collected. Now, this erosion of capital has been going on since 1926 or 1927, and it is a very serious one. In the last 15 years or so, the Government has paid grave attention to the erosion of soil; but none to this

most disorganizing tax, and the erosion and disorganization which follow from it. It is not even put to some capital account; but it is dissipated in services. Now, Sir, a loss of capital of that order year after year is a very big one. The sum of £250,000—the estimate actually for this year, though how an estimate is made I do not know, is £190,000—now if that were absorbed into indirect taxation, it would really only involve an overall addition to Customs and Excise of 1½ per cent. That is where I suggest that it might be absorbed. We are going to consider during this session matters of a testamentary nature; I hope that the question of bringing into line the law of this country with that of England with regard to reversions has not been allowed to lapse. I hope also that it will be possible for the Minister to consider what I have suggested in regard to estate duty.

Here again, it will not be perhaps popular; it will not be popular because of that "Rapturous, wild and ineffable pleasure of drinking at somebody else's expense". We all do it, in greater or smaller measure; we must see that it is not done immoderately.

When I spoke of the Plewman Report, and of the necessity of getting back to it, getting back to the formula, or somewhere near to the formula, I should have said that it was accepted with acclamation in the Legislative Council. One hon. Member said this about it in his peroration: "Of course the Report is obvious. Thank heavens the obvious has been stated in black and white that all who think may read, 'that somebody has had the courage to place the obvious on paper that all who read may understand; and let us hope that understanding, they will take the equally obvious, appropriate and necessary action'."

Now, it is obvious that anybody who could speak such stirring words had a future in front of him. I will disclose the name now of the Member—the hon. E. A. Vasey.

Before I sit down, Sir, I should like—if only for the purpose of record as there are no African Members present—to say this about the constitutional difficulties we are in: I would like to invite them to remember that when people go into

(Mr. Tibery)

public life, they are, if I may quote from Sir Paul Thompson with a great deal of wisdom, "It is not only their comments who listen to what they have to say, it is the rest of the country, and it is the people of countries overseas."

Now, when a man has got himself into a difficult position, it is sometimes necessary for him and was for him to change his mind. I hope that they will change their minds, and if it is any encouragement to them to do so, I would like to say that by agreeing to meet us, as we have asked them to meet us, they would perhaps get a little more sympathy locally, but they would run the apparatus of a vast number of people outside for their services and their problems.

We do not support.

12.30 pm

Mr. Speaker, I am sure that the members of the Council will be interested to know that the Government have decided to set up a committee to investigate the fisheries of the Kenya coast. This committee is a sub-committee of the Fisheries Commission, which is a body set up by the Government to advise them on all matters relating to the fisheries of the Kenya coast.

The committee will be headed by Mr. Tibery, who is a member of the Council, and will include representatives of the fishing industry, the Government, and the public.

I want to say briefly about the work of the committee. It will be to investigate the fisheries of the Kenya coast, and to report to the Government on the results of its investigations. It will also be to advise the Government on the best way to develop the fisheries of the Kenya coast, and to recommend to the Government the best way to manage the fisheries of the Kenya coast. I do feel in those matters it is so much better to try to adjust an existing system to the conditions of the time, and that is what the committee is trying to do. We have carried out several investigations—one into the Clove Growers Association, which sounds a long way from fish, but which is nevertheless connected intimately with the Taita system.

Another is the Tufmac organization; and here I would like to bring home to the Member who has just sat down that the economics of this coastal fishing are difficult. I have gone carefully into the cost of landing coastal fish. There are some snapper grounds which lend themselves particularly to this filleting trade, rather on a parallel with the Tufmac organization. There is a snapper fishing ground north of Lamu—an extensive fishing ground where suitable fish can be caught—but to land that fish at Mombasa in my opinion will cost at least Sh. 1 a lb. Now, Sir, let me tell you that in the Tufmac organization, which I understand has had £150,000 lent to it by the Uganda Government, and which in its initial organization, so I understand, had to write off a £250,000 deficit, they buy fish on Lake George at 30 cents per lb., as opposed to Sh. 1 a lb.; and they sell it in Kenya at, I believe, Sh. 4/35 for 1 lb. So you can see that at Sh. 1 a lb. it is going to be very difficult to compete or to get reasonable fish on the Kenya market, because the selling and catching of fish is a capital cost. It is all very well to talk about this, but they have to be able to buy and land their fish, and to sell it, when being transported from one place to another, have to be very carefully looked after. Although I have to admit that the committee will in due course find a solution, yet it is going to take time, Sir.

There is a lot of research being done. My hon. friend who just sat down was getting a fish meal up in the research. The research in December is a different sort of research from that going on at the coast here. They are both serving a very useful purpose. In my opinion, the research on the Kenya coast is a most valuable one, because it is more closely related to commercial fishing, and I want to pay a tribute to the fishery officers, and in fact, all those in the Department of the Minister involved in this business, they have made very rapid progress; they have only been doing this since 1950—eight years—and they have made a very great difference to coastal fishing. They will have to have more money. I suppose that to appeal for more money for them in this debate would be out of place like the typical Green Cross Era

(Captain Hamley) in the C.P.A. Room. But they will have to have more money in time, Sir, and the fishermen will have to have more money.

Now, here is where "I would like" to put in a plea to the Minister for Agriculture. Sir, the researches that these coastal fishery officers have carried out have resulted in the finding out of very much better equipment for fishing on the coast, in particular the blue nylon net has been evolved. That net catches six times as much fish per yard as the old type of net; but it costs £100 a net, and that is beyond the resources of the average African fisherman. In fact, it is leading to a rather undesirable position, because there are plenty of fish coming in with the expensive gear, and that is rather cutting out the African fisherman and cutting out other poorer people, and that we do not want.

Therefore, I want to point out to the Minister for Agriculture, who is after all the Minister for food production that there are 3,500 fishermen on the coast catching fish, producing protein, and they produce this protein without all the fuss—if I may say so—that the farmers make, without the benefit of Boards and Controls, laboratories and colleges and soil conservation and artificial insemination centres and all those things that the farmer gets and the fisherman does not get.

Now, Sir, another thing that the farmers get is access to loans. I think I heard the Minister for Agriculture say the other day that he had £250,000 available for loans to farmers. Now, Sir, if he is the Minister for food production and the fishermen are producing food, I ask him to let the fishermen come in on this loan business. Why should they not have a share of the loans available to the Minister for Agriculture—let him be broadminded and say let them have £5,000 from his loan funds as a revolving fund with which to buy boats and nets. I think that they are worthy of as much consideration as the farmer and I cannot see why they are kept out of these benefits that the farmer can have. If the Minister for food production or Agriculture, or whatever he is, does not like it, what about the Minister for Commerce and Industry? He has loans for traders. If you do not like to call the

fisherman a food producer, well, then call him a trader, and let him have access to some of those loans; but let him have access to loans of some sort, because he needs them.

I never believe in something for nothing, and if the Minister for Agriculture will bear with my request, I will finish up by giving him a hot tip for his research team. I spent the week-end looking into different types of ropes and buying ropes; and I have come to the conclusion still, after many years at sea, that manilla rope is still the best rope, and manilla rope, Sir, is made from the fibre of the wild banana; and the wild banana, I understand, grows in profusion in Kenya; and there is a quick quid pro quo for the Minister for Agriculture.

Sir, I support.

THE MINISTER FOR FOREST DEVELOPMENT, GAME AND FISHERIES (Mr. Blunt): Mr. Speaker, Sir, there are a large number of points that have been made in connexion both with forests, game and fisheries, and in spite of the fact that we have now been over a week on this debate, I am afraid I shall have to take some little time of the Council in referring to them. But I will endeavour to be as brief as may be.

First of all, if I may deal with certain forestry matters which have been raised, I would refer to the speech of the hon. Member for Mau—

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

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—and to similar suggestions that were put forward by the hon. Member for the Rift Valley Province. They referred to the large number of families that are now going back into the forests and suggested that it was not only security measures that should be taken in connexion with these families, but that much more had to be done to try to provide for them a happy and contented way of life.

Now, Sir, this aspect has by no means been overlooked. I think it will be agreed that the security aspect must take priority over any other; at any rate, that is the line we have adopted. But there is a great deal more being done in the

[Mr. Usher]

public life, they are, if I may quote from Saint Paul, "compassed with a great cloud of witnesses". It is not only their constituents who listen to what they have to say; it is the rest of the country, and it is the people of countries overseas.

Now, when a man has got himself into a difficult position, it is sometimes necessary for him and wise for him to change his mind. I hope that they will change their minds, and if it is any encouragement to them to do so, I would like to say that by agreeing to meet us as we have asked them to meet us, they would perhaps risk a little unpopularity locally, but they would earn the applause of a vast number of people outside for their courage and their prudence.

Sir, I beg to support.

4.13 p.m.

CAPT. HAMLEY (Nominated Member, Government): Mr. Speaker, Sir, the trouble for minor guns in a debate of this length is that by the time it comes for them to poop off Members are getting pretty tired of the debate, and consequently they are perforce brief and their no doubt important message to the world is wreathed in smoke.

Sir, parts of this debate have forcibly reminded me of gunfire, of a 21-gun salute, when guns poop off at regular intervals, and each one sounds exactly the same as the last one.

Sir, I want to talk briefly about fish in reply to the Member who has just sat down.—Members will be aware that recently there has been appointed an advisory committee on coastal fish. That committee is deliberating, though results are not as fast as one would like, because the matter is a very complex one. In the first place, the marketing of coastal fish is very difficult. It is at present done by the Tajari system, which is an old established system which is not proving itself equal to modern conditions. But, Sir, we must not do away entirely with the Tajari system. I do feel in these matters it is so much better to try to adapt an existing system to the conditions of the time, and that is what the committee is trying to do. We have carried out several investigations—one into the Clove Growers Association, which sounds a long way from fish, but which is nevertheless connected intimately with the Tajari system.

Another is the Tufmac organization; and here I would like to bring home to the Member who has just sat down that the economics of this coastal fishing are difficult. I have gone carefully into the cost of landing coastal fish. There are some snapper grounds which lend themselves particularly to this filleting trade, rather on a parallel with the Tufmac organization. There is a snapper fishing ground north of Lamu—an extensive fishing ground where suitable fish can be caught—but to land that fish, at Mombasa in my opinion will cost at least Sh. 1 a lb. No, Sir, let me tell you that in the Tufmac organization, which I understand has had £150,000 lent to it by the Uganda Government, and which in its initial organization, so I understand, had to write off a £250,000 deficit; they buy fish on Lake George at 30 cents per lb, as opposed to Sh. 1 a lb.; and they retail it in Kenya, at, I believe, Sh. 4/45 for 14½ ounces. So you can see that at Sh. 1 a lb., it is going to be very difficult to compete or to put reasonable fish on the Kenya market; because the retailing and distributing of fish in a tropical country of this size is a very difficult proposition. It is all very well to talk about cold stores, but they have to be particular sorts of cold stores and the fish, when being transferred from one vehicle to another, have to be very carefully looked after. Although I have no doubt that the committee will in due course find a solution, yet it is going to take time, Sir.

There is a lot of research being done. My hon. friend who just sat down was getting a little mixed up in the research. The research in Zanzibar is a different sort of research from that going on at the coast here. They are both serving a very useful purpose. In my opinion, the research on the Kenya coast is a most valuable one, because it is more closely related to commercial fishing, and I want to pay a tribute to the fishery officers; and in fact, all those in the Department of the Minister involved in this, because they have made very rapid progress; they have only been doing this since 1949—eight years—and they have made a very great difference to coastal fishing. They will have to have more money. I suppose that to appeal for more money for them in this debate would be out of place like the upside down Union Flag

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fisherman a food producer, well, then call him a trader, and let him have access to some of those loans; but let him have access to loans of some sort, because he needs them.

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Sir, I support.

THE MINISTER FOR FOREST DEVELOPMENT, GAME AND FISHERIES (Mr. Blunt): Mr. Speaker, Sir, there are a large number of points that have been made in connexion both with forests, game and fisheries, and in spite of the fact that we have now been over a week on this debate, I am afraid I shall have to take some little time of the Council in referring to them. But I will endeavour to be as brief as may be.

First of all, if I may deal with certain forestry matters which have been raised, I would refer to the speech of the hon. Member for Mau—

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—and to similar suggestions that were put forward by the hon. Member for the Rift Valley Province. They referred to the large number of families that are now going back into the forests and suggested that it was not only security measures that should be taken in connexion with these families, but that much more had to be done to try to provide for them a happy and contented way of life.

Now, Sir, this aspect has by no means been overlooked. I think it will be agreed that the security aspect must take priority over any other; at any rate, that is the line we have adopted. But there is a great deal more being done in the

[The Minister for Forest Development (Game and Fisheries)]  
 way of the provision of welfare services, schools, dispensaries, and various things of that kind. We expect to spend during the course of the coming year nearly £10,000 on such services recurrent, and over £5,000 non-recurrent. Now, Sir, this money is provided very largely by the people concerned themselves. I remember that during the course of this debate the Member for Nyanza Central said that Government discouraged self-help. Now this, I submit, is an excellent example of self-help. The revenue to provide this money for these services in forest villages is derived partly from the rent of shops, partly from market fees, partly from produce inspection fees, and a cess on vegetables; but to a large extent, it is derived from a voluntary cess which the villages and the individuals in the villages have agreed to, to provide money so that they can have these services, and the money will be spent on those that I have outlined. That money is handled through the African Trust Fund. Another point which the hon. Member for Mau made was that we must provide facilities for these people in the forests to dispose of their crops. That, also, Sir, is being done. We have produce inspectors ensuring that the crops are in a satisfactory condition before they are sent out of the forests, and buying arrangements are made.

Now, Sir, if I may go on to discuss two speeches together. First of all, that of the noble Earl, the Corporate Member for Agriculture; and I will take together with that the speech which my hon. friend, the Nominated Member who spoke last on the subject of forestry, made.

The hon. Corporate Member referred to questions of irrigation, and referred particularly to the possibility of a dam at Broderick Falls. He showed how this might affect not only pulp from forests, but it might also make irrigation water available, and he stressed the need for co-operation between the various departments concerned. With that I entirely agree, Sir, and I would like to assure the Council that as far as we are concerned—and I think I can give the assurance of the other Ministries—there will be full co-operation in such matters. We fully appreciate that the fact that a

number of Ministries are interested in it makes it always a more important and more desirable sort of scheme.

He then went on, Sir, to refer to the question of private forestry; there he suggested that it was desirable and that this should be encouraged not only for itself, but in the way in which it might contribute to supplementing the Crown forestry proposals we hope shortly to put into effect.

Now, Sir, I would just like to refer shortly and quote one passage out of the forest policy statement which this Council approved not very long ago, and which states: "Government desires to encourage and assist with advice and in any such other ways as may be possible the practice of forestry by local authorities, communities and private owners for protective as well as productive purposes".

That is the policy, Sir, which we have accepted. The hon. Member has recently discussed with the Forest Advisory Committee methods by which such a policy might be implemented.

A very helpful memorandum has been put up by that committee which is now being examined, and which contains certain suggestions which the hon. Member has already mentioned during the course of his speech. I am not in a position to say whether they can be accepted yet, because as he will realize, they involve consultation with other Ministries and particularly the Treasury. But I can assure him that we shall pursue that matter and take up these questions and the proposals that he has made in connexion with tax relief, loans, lower death duties, and various other things. At the moment, finance conditions being as they are, I think he will appreciate that it will not be easy to get such measures approved, but I have hopes that in due course we may meet his views, at any rate, in some respects. But he may rest assured that as far as my Ministry is concerned, we are anxious to do anything that we can, practically to assist in the establishment of sound private forestry. That goes not only for European farms, but equally for African farms and individual holdings in African areas.

Now, Sir, the next matter which he raised and which was also raised by my

[The Minister for Forest Development (Game and Fisheries)]

hon. friend the Nominated Member, was this question of protective forestry, and both hon. Members suggested that inadequate work was being done on protective forestry. I have made my views clear on this matter on previous occasions, Sir, and I entirely agree with him. I am grateful to both of them for pointing out the great need that exists, but I cannot agree with the suggestion of the hon. Member opposite when he said that we were fudging the issue, as far as policy on forestry on the outer bastions was concerned. There I think he referred particularly to the Ndotos and Mount Nyeru and Mathew's Range. The question of dealing with those large areas is one which, although I would be only too glad if we had a large sum of money which we could spend on them right away, I think has got to be taken slowly, and I believe that whereas they have been going downhill, they have not reached the bottom and we have now stopped that downgrade movement and set it in reverse, even though slightly and very slowly. Those forests have already been gazetted and have the status of Crown forests. We have a very, very small staff there, but we have come to agreement with the Administration and other people concerned as to what our aims are, and we are endeavouring with the small staff we have to try to put those into effect. I do not wish to weary the Council, but I think I should point out some of the things which have been agreed to be undertaken by all departments concerned.

First of all, that these should be gazetted, and that has been done. Secondly, that they should be surveyed. That, as Members will appreciate, is a long business. The land must be surveyed and demarcated, and then the first object of management is to maintain and improve the yield of water, both directly and indirectly, for use in the area. Next, in order to achieve that improvement in the yields of water—the high forest canopy must be restored. It has been agreed that the production of utilizable timber is secondary to those other objects. Next that fire protection be applied and that effective grazing control must be applied. Now that, Sir, I submit, is the crux of the whole issue. The one

thing that has caused this destruction in these forests in the past has been the lack of controlled grazing. If we can bring that about, I think we can reverse this running-down process and start to build up. Then such other things as the improvement of communications have not been overlooked; the piping of water from those areas to water the cattle outside, and the establishment of strategically sited control posts for fire protection; the provision of protection staff, and a very close co-operation with the Administration and all other branches of Government to try to bring these things about.

Now, Sir, I do suggest that although it is only the start, it is a start on the right lines in restoring the position there, and that we have got everybody now concerned working together to that end. Furthermore, in connexion with protective forestry, more particularly in the reserves, agreement has been reached recently on the question of management of African area forests, and it has been agreed that Government shall provide the finance for forests where the primary purpose of such forests is protection. That in itself as we go further forward will involve us in a very considerable Government expenditure on this protective forestry, so that I submit, Sir, although I entirely agree that we are not going fast enough, we are doing what is possible with the resources which we can obtain—the financial resources which we can obtain at the moment.

I should like to take this opportunity of thanking the noble Earl for the enormous amount of work he has put in on the Forestry Advisory Committee and the very useful and valuable advice that committee through him has given to me.

The hon. Nominated Member, Mr. Riddoch, went on to suggest that in order that we might be clear as to what is being done for protective forestry, we should try and divide the Estimates into two sections, showing what is being spent on productive and what is being spent on protective forestry. Now I fully appreciate the underlying idea there, and I would very much like to do that, but having looked at it it seems to me that it is an exercise which is almost impossible to carry out, for two reasons. The first is that staff is not divided between

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those people dealing with protective forestry and those dealing with productive forestry. The same staff handles an area, and you will have productive and protective forests within that area. It would mean in fact arbitrarily dividing the cost of all the staff between the one and the other. But that is not the biggest difficulty. The even bigger difficulty in doing what he suggests is that it is impossible to say to what extent any particular forest is productive or protective. There are cases of protective forests only, which are not productive at all. They are easy to put into one category, but in between that and the purely productive forests you have every gradation possible between production and protection. It would be a matter of somebody trying to decide in the case of every forest what percentage of it is really productive and what is really protective. Fulfilment is impossible; and if it were fulfilled anyone could argue that the figures were incorrect. However, Sir, if there is any means by which we can indicate to this Council in some rough and ready way the amount of funds that are being spent on one side or the other, I will try to produce that information.

The other matter that the hon. Nominated Member raised, and in which I should like very strongly to support him, was his remarks on the subject of the Conservator of Forests. I have known Mr. Waterer for some 20 years or more; I knew him in Cyprus and I have known him here, and I have realized the contribution that he has made in both countries—particularly as to protective forestry—and his enthusiasm and his single mindedness and tenacity in trying to bring to the understanding of all people in the country the paramount importance of that protective forestry; I warmly support the remarks that the hon. Member made about him.

Now, Sir, I think that almost deals with the forestry matters that have been raised, except for one small matter raised by the hon. Member for Nyanza South yesterday, in which he said we must get rid of the forests in South Nyanza in order to get rid of the tsetse fly. Now, Sir, I think he is a little bit confused there, because in fact there are no Crown forests and practically no other forests

in the South Nyanza District. The only forest there is the one which is now being established in the Lambwe Valley, which is in fact a tsetse reclamation area. What his trouble is, I believe, is that there is a lot of bush country there, and that bush country does harbour tsetse fly. But it is not the responsibility of the Forest Department, and there is nothing that we can, with our very small staff in that area, do about it. It is rather a tsetse clearance matter.

Now, if I may go on to matters connected with game, I would like in the first place to welcome the remarks of the hon. Nominated Member who represents the wild animals in this Council, and to thank him for his kindly remarks about the Secretary to my Ministry, which I fully endorse, and also to thank him very much for his support on the forestry side. I would only like to say one further thing about it, and that is to emphasize that the figures that he quoted and the picture that he painted of what has been found to have been going on in the way of poaching over the last few years, should make us all the more determined to maintain these anti-poaching measures which are proving successful at present, until we have cleaned up this poaching racket, as I have called it before. Even when we have done so, we shall have to maintain adequate staff to see that it does not break out again.

There is only one other remark in connexion with this Speech that I would like to make, and that is that I find it most unfortunate that one of the headlines in the *East African Standard*, reporting his Speech, says that 1,280 young elephants were found dead. He said nothing of the kind, Sir: he said that 1,280 elephants had been found dead and they were believed to have died or been killed rather within the last two and a half years. He did make it quite clear that about 20 per cent of them were young elephants. There was another mistake in reporting also in the same paper, where it said that more than 35,000 lb. of ivory have been recovered: the figure he gave was, in fact, 25,000 lb.

Next I come to the points made by the hon. African Member for the Coast Province, and here, I am afraid, I shall have to repeat certain things that I said previously. The first point he made was that he was opposed to bringing this

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pressure that we are putting on the hunting tribes. Well, Sir, I have some sympathy with these people: they have, in fact, lived illegally by poaching for many years, and a stop is now being put to that. He suggested that they were in a very poor way, that many of them had gone to prison, that when they came out they had nothing on which to subsist, and that their wives and children were also starving. Now, Sir, steps have already been taken by the Administration to provide food for those for whom it is required; Steps have already been taken to provide instruction for those at any rate who have been in prison, and he tells me it is 75 per cent of the population of Walianguru, and give them instruction in agriculture. But I suggest to him that in view of the fact that they have been poaching, and poaching very successfully, for a number of years, and that some thousands of pounds worth of ivory have disappeared to the poachers, they should be very well off and they should be in a position to buy themselves cattle, and I cannot agree that we should set aside a reserve where they can continue to hunt and live in the same illegal fashion that they have lived in the past. I would like to suggest to him, Sir, that the same thing is open to them as is open to any other people in any other country who find themselves put out of business, and that is that they should go out and seek employment. There is employment on the coast: let them go and engage themselves as labourers. Then, Sir, he referred to the game scouts and said that they should be trained to investigate properly game matters and should not use force. Well, Sir, the position is this, that we had to organize these game control teams and we had to employ as game scouts such Africans as we could find, who were willing to take on this employment. We try to get the best men that we can: we cannot possibly spend a great deal of time before they go on to the job trying to train them in the job, and we therefore try to train them as they work, and instructions have been issued to the supervisory staff that that is what is to be done. I am afraid it is a fact and it is not confined to the Africans, that when people who are not very far advanced have a little additional

power over their fellows thrust upon them, they are apt to misuse it, and I have no doubt that that has happened in some cases with these men. We shall try to see that they use their authority properly, but I am afraid these things are liable to happen in such a case.

He then went on to refer to the loss of crops due to game and I referred to that on previous occasions. I would like to put this to him, that it is up to the African to co-operate with us in trying to prevent damage. I believe that it is a fact that in certain areas it is impossible for the elephants to get down to drink without going through *shambas* because there is a continuous belt of *shambas* along the river side. Elephant, like anything else, will go to water—they must go to water—and I do suggest that they must be allowed to get through, and a continuous belt of cultivation the whole way along the river side is bound to suffer damage. Another thing that creates a danger is that whereas we try—the Game Department tries—as far as possible, to protect the crops, it is quite impossible if *shambas* are scattered here and there and everywhere else and not in any way concentrated together. If they are concentrated in areas then we can do a considerable amount towards protecting them from the depredations of game, but if they are scattered here and there, miles apart, I am afraid it is beyond our powers to do so.

He then referred to the question of inspectors breaking into huts without giving any warning. Well, Sir, when you are looking for offenders, in the case of poaching offences or any other offences, I suggest that it is not a very good thing giving the people warning that you want to see what they have got there, because they will take measure to dispose of it where you cannot find it. These inspections, to be effective, have got to be made without warning. But we have, as a result of what the hon. Member has told me, instructed the people charged with supervising these men that they are to ensure as far as possible that they carry out their job properly and that there is no question of using force and breaking into huts and things of that kind.

Now, Sir, here I am afraid I must go back to forests one moment, because the

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hon. Member raised two points in connection with Forestry which I did not refer to under that head, inadvertently. He referred—and the hon. Member for Central Nyanza also referred—to the fact that, or what he said was a fact, that African lands have been taken for afforestation without the agreement of the people concerned. Now, Sir, I have referred to this before. The position is this, that the Forest Department approaches the African district council and suggests to them that it may be desirable to form an African district council forest. It is entirely up to the African district council then to determine whether they want such a forest and to agree with us as to the area. When they have done that, and agreement has been reached with the African district council, we then take charge of that forest on their behalf, and we spend Government money on developing it and we allow the African district council to have the profits. Now that seems to me a perfectly fair thing and it seems to me that the African district council—the district in fact—is doing very well out of it, and it is an impossible state of affairs if hon. Members then come here and tell me that the Forestry Department is pinching the Africans' land to afforest. Whatever we do we do with the full consent and approval and at the request of the African district councils, and the people that they should quarrel with are the African district councils; if they want to quarrel with anybody on the subject.

He then referred to a case—in the Nyanza area—where he said that forest boundary had been pushed forward for about four miles into the reserve, and that we had taken over that amount of African land. Well, Sir, I have tried to find out what he was referring to, and I can tell him what has happened. It is this, that up until 1952 we used to cut the forest boundary line regularly every year, but owing to Emergency conditions, shortage of staff, and so on, it was not cut from 1952 onwards until this year. It has now been cut again. As far as I know it has been cut in exactly the same line, and we shall take precautions to check that that is so by the beacons. We shall send our surveyors and make certain it is so. The only thing I can think of,

if anybody finds boundaries four miles further into the reserve, it is that the reserve had encroached four miles into the forest.

Now, Sir, the hon. African Member for Akamba referred to game, and suggested it gives great pleasure to visitors to see and shoot game, but Africans are not allowed to do so. I shall be only too glad if African would really see game more than they do, and begin to realize what a value it is to go out and look at game and see how it lives, and that kind of thing. He also referred to the matter of compensation, but as one of his colleagues has already threatened to bring a Motion, on that I think I will say no more about that at this stage, other than to refer to the answer I gave to the question he put on the subject.

Now, Sir, if I may come to fish, one matter which the hon. Member for Mau raised was the possibility of establishing a fish farm, if I understood him, in Nyanza, and the possibility of establishing fish ponds in some of the irrigation areas where rice has not proved so successful as was hoped. I would only say in reply to that that we have, as I think he knows and many other Members know, a fish farm at Sagana which is occupied with investigations and research into the best methods of dealing with stocking on farms. We have had a good deal of success recently in devising means of sexing *tilapia* at a very early stage and we hope to be able to put that into practice and to be able to stock ponds with one sex only when they are quite tiny, and we believe that we shall then be able to crop them within a reasonable space of time and shall get a comparatively high yield of mature *tilapia* out of those ponds. As soon as we have tied up this research we shall try to extend the use of those methods to all the areas of the Colony where there are suitable waters which can be stocked.

Finally, Sir, I would like to come to the matter of sea fishing which was raised by my hon. friend the Member for Mombasa, and my hon. naval friend behind me. They have between them mentioned many of the things that I would have said. They have pointed out the difficulties in establishing a sea fishery, arising mainly from lack of cold storage and refrigeration on the railway, and I might say it arises to a large extent also

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from the cost of collection and the losses that take place in handling fish up and down the coast.

My hon. friend referred to the difficulties caused by the Tajiri system and to the difficulties caused by lack of capital. Well, Sir, it was pointed out that a commercial firm is now establishing a cool store and I understand that in conjunction with that they are in fact approaching the Railway with regard to the provision of proper refrigeration to carry fish from Mombasa up-country to Nairobi and beyond. I welcome that project tremendously because I believe that is where we can break into this difficult sort of circle that we have not been able to break into before and start the marketing of fish on a much sounder basis.

Then my hon. friend on the Back-bench remarked that the Coast Advisory Committee has set on foot investigations as to how the Tajiri system can be altered so as to make it a more effective system under the present modern conditions; and he referred to the necessity for loans. I fully appreciate that need. We have not been able to obtain money from the Development Programme either for the ship that we wished for for research purposes or to provide loans. We have, however, at the moment got an application into one of these American aid organizations, I hesitate to give the particular letters because there are so many of them and I am somewhat confused about them; but we have put in for assistance, particularly for this purpose, to obtain capital for loans to fishermen for boats, gear and so on.

The hon. Member pointed out—and it is an unfortunate fact—that these various handicaps will take a considerable time to be eliminated. We will do our best to eliminate them but it must be admitted generally that the position in regard to the sea fisheries of this country is unsatisfactory and that there are a number of difficulties which we somehow or another have to eliminate before it can become satisfactory.

The hon. Member for Mombasa also quoted figures of the large quantities of fish that are being imported into the country, and I am afraid that I cannot

quote figures myself, but the proportion of the fish requirements of the country—the market requirements—that are provided by the sea fishery is very little more, I believe, if any more, than the value of the fish imported into the country. Now, that is a terrible state of affairs to have to admit. We have fish, and plenty of them, round our coast, but we still have to devise means, first of all, for catching them and then for putting them where they are wanted on the plates of the consumer.

I believe, Sir, that we can in due time sort out the inshore fishery and improve it to the extent where it will provide more and better fish than it does at present; but at present the inshore fishery is the only fishery that we touch, and the great bulk of the fish that could be supplied in this country is the off-shore pelagic fish. We have got so far that we do know that they exist in large shoals up and down our coast. We do not know very much about the varieties of them, but we know there are some good eating fish amongst them, and we have not yet discovered how to catch them. However, that is an investigation which we are rather precluded from making ourselves owing to lack of an adequate ship to do it, but I would like to tell hon. Members that only this week at a meeting of the East African Agricultural and Fisheries Research Organization this question was under discussion, and particularly the question of the research to be carried on in Zanzibar. We had a representative from the Colonial Office who came to represent the views of the Colonial Office Fisheries Advisory Committee. The view that he expressed very strongly was that it was the function of the Fisheries Research Organization to find out about these fish and to find out how to catch them, and to hand that information over to us so that we could then develop an industry to catch that fish. I think that is a very satisfactory position and I hope that they will pursue those researches—and we are certainly urging them—to the point where they will be able to give us that information. But even then we shall be faced with a major difficulty and that is how we are going to finance a fishery of that kind. It means more and bigger boats—costly boats—and it means people with considerably more skill than the average

[The Minister for Forest Development, Game and Fisheries] fisherman down at the Coast. Nevertheless I believe that in due time we will get that information as to how they are to be caught and what they are and how we are to handle them.

I think, Sir, that I have now dealt with all the points about which I have made notes and I must apologize for taking up so much of the time of the Council.

That is all, Sir.

I beg to support.

5.07 p.m.

LT.-COL. GHERSIE: Mr. Deputy Speaker, Sir, as the last batsman on the Opposition Benches I will try to make some quick runs and get out.

Now, Sir, this debate is usually regarded as an opportunity for hon. Members on this side of Council to give some indication to Government, and more particularly to the Minister for Finance, as to our conception of what the Government's policy should be and more particularly in regard to its fiscal policy for the forthcoming year. I would suggest also it is an opportunity where although we deal with various matters dealt with in the course of the Communication it is an accepted fact, I think, Sir, that we deal also with omissions, with certain limitations.

His Excellency touched on a number of subjects very briefly but with the exception of a reference to mining and the creation of industrial estates in the African land units we learned very little in regard to Government's policy in respect of economic development and Government's fiscal policy.

I was hoping, Sir, that the Minister for Commerce and Industry would have expanded on Government's policy (yes, Sir, I am referring to you) with regard to prospecting for minerals, and the actual exploration of the mining industry in general.

Would you like me to sit down?

THE MINISTER FOR COMMERCE AND INDUSTRY (Mr. Hope-Jones): Mr. Deputy Speaker, if the hon. Member will refer to what I said in the Budget debate I gave a very full review there, and I, therefore, did not think it appropriate to repeat what I said then.

LT.-COL. GHERSIE: We hear so much in Budget debates, Sir, but no action is taken afterwards. This is another case of six months afterwards where I am sure I can point out a number of things which have not taken place.

Now, Sir, His Excellency did point out during the course of his Address that the staff in the Mines Department had improved and because of the improvement activities would be accelerated although he dealt entirely with the basic geological survey. The Estimates disclose that there were no more technical staff engaged to-day than in 1955, and this may well be that a number of posts which were vacant then have since been filled.

During the course of the Budget debate last year, Sir, I referred to the desirability of teaching Africans to become prospectors. I pointed out, Sir, the advantage which I thought might be derived from building up a prospecting team who would work within the organization of the Commissioner for Mines Department. It is quite obvious, Sir, that the data which is collected and made available by the Geological Department would, if it were made available to prospecting teams, be the most constructive and speedy way of discovering mineral deposits, always provided that they exist.

Now, Sir, the Minister accepted the logic of this argument and suggested that it was a subject which he would discuss with the Commissioner. Has he done so, and if so what is the result? He did of course during the course of his speech state that if hon. Members on this side of the Council raised any matters which were matters affecting his own particular Portfolio he would arrange for some other hon. Member on the Government Benches to reply on his own behalf—and I sincerely hope that he will do so.

Another matter was that I advocated the desirability of the creation of a loans fund rather similar to the Gold Mines Development Loans Fund. This was for the purpose of assisting prospectors who were searching for base metals. I admit, Sir, that this again received a very sympathetic response from the Minister but he did point out at the time that, of course, base metals have enjoyed a very

[Lt.-Col. Gherrie] improved price in the world market during recent years. However, I would suggest, Sir, that that perhaps does not apply to-day.

THE MINISTER FOR COMMERCE AND INDUSTRY (Mr. Hope-Jones): I could hardly have made any response to the hon. Member because as in this case he spoke after me.

LT.-COL. GHERSIE: Is the hon. Member referring to the Budget debate when I spoke after him?

THE MINISTER FOR COMMERCE AND INDUSTRY (Mr. Hope-Jones): The general debate.

LT.-COL. GHERSIE: I would have thought that if I had spoken after him in the Budget debate there would have been all the more reason why he should have anticipated what I have got to say now and have brought it out in the course of this debate.

I will conclude on this note. I would plead with the Minister, Sir, to give this matter very careful consideration—and that is the creation of a prospecting team or wing under the organization of the Commissioner of Mines.

THE MINISTER FOR COMMERCE AND INDUSTRY (Mr. Hope-Jones): There are two.

LT.-COL. GHERSIE: With all due respect to the hon. Member I mean two wings, not two men.

THE MINISTER FOR LEGAL AFFAIRS (Mr. Griffith-Jones): On a point of order, could the hon. Member be invited to address the Chair and stop this cross talk with my colleague?

LT.-COL. GHERSIE: On that point of order, Mr. Deputy Speaker, interjections are coming from here and I presume that I am expected to reply to those—

THE DEPUTY SPEAKER (Mr. Conroy): Order, order! We would be able to proceed with the debate very much more expeditiously if Members would address the Chair and if Members did not rise to make interjections except either to points of order or to explain matters on which they have been either misrepresented or misunderstood.

LT.-COL. GHERSIE: Thank you Mr. Deputy Speaker. I do my utmost to

address the Chair but my attention was distracted by the interjections from that side of Council.

If I could just end on that note—I was appealing to the Minister to give very careful consideration to the building up of this prospecting team or wing to operate under the Commissioner for Mines. I do suggest—and it is so obvious—that if minerals in any reasonable economic quantities were discovered in this Colony it would completely revolutionize the economy of this Colony.

Now, Sir, again, in the Communication from the Chair His Excellency made a reference to the medical services and he said that a recent decision of the General Nursing Council of England and Wales had been made to accord recognition to the King George VI Hospital approved training courses for State Registered Nurses.

Well, Sir, of course we are very pleased to hear this news. And he also went on and made a reference, very briefly, to expanding dispensary services and to control and treatment of tuberculosis. But, Sir, what disappointed me in that particular speech in respect of medical services was that there was no reference made at all to Government's policy in regard to the treatment of poliomyelitis.

Neither the Minister nor the Director of Medical Services are here, unfortunately.

Sir, I have had occasion to visit the Infectious Diseases Hospital on more than one occasion and more particularly the wards occupied by poliomyelitis patients. Sir, in the first instance, I would like to pay a tribute to the doctors and the nursing staff on duty in the Infectious Diseases Hospital. Not only for their untiring efforts and nursing skill, but for their keenness and cheerfulness which inspires confidence in both patient and relative. Sir, for those who have not visited the Infectious Diseases Hospital, and particularly poliomyelitis wards, they would find it difficult to appreciate what I really have in mind, Sir, when I talk of the devotion to duty of that small team of workers.

Sir, I believe that poliomyelitis is one of the biggest medical problems we have in East Africa and while the doctors and nursing staff are performing magnificent



[Lt.-Col. Gherse] service with the limited equipment they have to-day, I do believe, Sir, that not only would their burden be lightened, but they would be able to achieve very much more. If some few tens of thousands of pounds were expended on additional equipment. One of the biggest worries there, certainly, in the past, and I presume it applies now, was the time factor in the change-over to the auxiliary electric power plant if there was a power failure from the main supply. I think it is very wonderful to think that that change-over can be achieved in three minutes. But, Sir, there are certain patients who are dependent upon the iron lung to assist their breathing and who cannot last three minutes.

Again, Sir, there is a question of the rocking chair. I believe there is only one that exists in the whole hospital, and quite recently, if my information is correct, in fact I am sure it is correct, that rocking chair was out of order.

Now, Sir, an equally important factor is the rehabilitation of the patient after he or she has recovered from the actual illness. This, Sir, can be a very long and expensive process, of educating a person to try to adjust his ideas to the loss of the movement of certain limbs and the loss of some certain senses. I also understand the Infectious Diseases Hospital to-day has proved a great strain on the nursing staff of the King George VI Hospital, which is another matter which requires urgent attention.

Sir, I do hope that someone on behalf of the Minister for Local Government or the Director of Medical Services will be able to give the Council an assurance that plans are in hand to provide all that is required both in staff and equipment.

Another matter I wanted to ask the Minister for Local Government, Health and Housing had he been here, Sir, it was in the course of an earlier debate and the subject was the question of waiving of hospital fees, and he made a statement, if I remember correctly, to the effect that his Department would be deprived of something in the nature of £75,000. I was really going to challenge that, Sir, because I feel that it is incorrect. Surely those funds would not go to his Department, they would go to central revenue, I merely wanted to get

clarification on that point, but I regret he is not here to answer it.

His Excellency also, in his Address touched very briefly on housing, but his remarks were confined to the City Council and local government housing schemes for Africans, which are very necessary and very desirable. In fact, Sir, the question of housing Africans in Nairobi to-day is becoming so desperate that industry or the expansion of industry will be curtailed unless, of course, the housing of African employees can keep pace with the expansion of industry.

But, Sir, what I suggest is equally important is the provision for housing for other sections of the community. If my information is correct, one of the Government's biggest problems in recruiting and retaining civil servants in the service is the lack of housing for Europeans. Sir, I have no wish to embark upon a Budget debate and I realize the difficulty in regard to the raising of loan funds to-day. But here in Kenya, and quite apart from the High Commission services, we are allocating the sum of £675,000 in respect of rent of offices and houses and house allowance in lieu of quarters. Now, Sir, it should also be borne in mind that in recent years we have constructed a new Secretariat, a new Treasury, a new headquarters for the police, and yet this colossal sum is still being spent on rents and allowances in lieu of housing and as my hon. friend pointed out, we have Bruce's little hut on the hill—£50,000.

Now, Sir, these figures respectively are £350,000 and £325,000. Now last year the figure was £495,000, so regardless of this expansion of buildings, the figure has increased by £180,000 in one year.

Sir, imagine that sum of £675,000 being utilized for interest and sinking funds on a loan; it would probably save this Colony millions.

[The Deputy Speaker (Mr. Conroy) left the Chair.]

[Mr. Speaker (Sir Ferdinand Cavendish-Bentley) resumed the Chair.]

Taking into account, Sir, our present commitments, and on a conservative basis, £6,000,000 at 5 per cent per annum, repayable 20 years hence, and if

[Lt.-Col. Gherse] the money was spent on buildings it would have cost the Colony nothing. On the other hand, Sir, it was suggested by the Secretary to the Treasury that Her Majesty's Government at present, anyhow, was not prepared to guarantee loans. We realize the difficulty Her Majesty's Government is in, but if they are not prepared to guarantee loans, and this Colony cannot raise loans from any other source, then of course it simply means that there must be a halt in our Development Plan, curtailment in some social services and the result would probably be a large unemployment problem.

Sir, another reference was made in the Communication from the Chair on Company Law. Sir, we were informed that there is to be a new Companies Law which is in the course of preparation. I was rather puzzled, Sir, on the other hand when it stated: "It is obviously in the interests of East Africa as a whole that this legislation should be similar in all the territories and steps have been taken to achieve this objective as far as is practicable."

Now, Sir, what is meant by "as far as is practicable"? We must in the case of Company Law and that type of legislation, have legislation that is identical in the adjoining territories. In fact the ideal would be a Bill similar to the East African Income Tax Management Act, which is applicable to all the territories concerned, and I do submit, Sir, that this Bill ought to be on the same basis, and if it is not, let us hope that the words "as far as is practicable" are unnecessary in the statement and that it will be identical. The policy of the various territories remaining in watertight compartments is not in the best interest of economic development or industrial expansion and it results in a lot of unnecessary expense, companies having to register in adjoining territories with the consequential increase in offices, secretarial staff, directors and so on. Sir, I am informed on very reliable authority by a number of businessmen that unless they do register in these territories, their prospects of obtaining business in those territories are very remote.

Sir, it was also very interesting to hear, very gratifying actually, His Excellency's

remarks on the public service. He said: "The policy of Government to build up a public service drawn from people of the country and at the same time to maintain those standards which have served it so well in the past, the speed in which this policy can be fulfilled is largely governed by the extent of the facilities available in East Africa for higher education and training. These facilities are not yet such as to enable us to fill more than part of the administrative posts locally."

Sir, we do appreciate, however, that due to the limited finance at Government's disposal, it will be some time before these facilities are available on the required scale. But under the circumstances, Sir, Government should endeavour in the meanwhile to provide for an increased number of selected candidates to be sent overseas for technical and professional training.

On the subject of taxation, again it was just a very brief reference. His Excellency did refer to the introduction of the new Bill, Personal Tax Bill designed to give effect to the proposals which were agreed in the course of the Budget debate. But, Sir, he made no reference to taxation in general, neither did he make any reference to the Coates Commission Report on Income Tax. We have, of course, been informed by the Minister for Finance that this was a matter which was now under consideration by the Finance Ministers of the various territories concerned, but we do hope that Government will, at some stage, produce a White Paper so that, if necessary, those recommendations may be the subject of a debate in this Council.

Sir, I think enough has been said on constitution, anyhow in regard to the conflicting ideas which exist in regard to constitutional advance, and I do not propose to labour this point. I must, however, comment on one or two statements made by previous speakers: for instance, I suppose the somewhat, I would say, futile and ungenerous remark made by my hon. friend the Member for East Electoral Area—Dr. Hassan. He said that the hon. Corporate Member, Sir Alfred Vincent, was responsible for uniting the European Elected Members and that this was done with a view to doing without the non-European groups.

[LL-Col. Gherisic]

Sir, I suggest that a remark like that should properly be ignored. But on the other hand, it is necessary, for the sake of the record, to get the facts correct.

Sir, the truth of the matter is that the European Elected Members approached the non-European groups with a view to reviving the Unofficial Members Organization some time ago. In fact, long before the hon. Corporate Members had ever been nominated to the Council.

One of the hon. Members says "not as far as they are concerned". I am stating a fact. If they want proof of the matter, Sir, it can be furnished.

That overture from the European Elected Members was ignored. I think I am correct in stating that the hon. Asian Members said that they would not be prepared to join the Unofficial Members Organizations unless the African group did so also. I do not know whether that is called "sitting on the fence" but anyhow that is the truth. On the other hand, Sir, he unwittingly paid the hon. Corporate Member a compliment in so far that he did pay him the compliment of building up a team who at least have a policy and know what they are attempting to pursue. What is more, Sir, earlier in his speech, he said: "before the election in this country, we used to have a body called the Unofficial Members Organization. We had, in respective groups, an extremist element, but we had a majority of moderates in every group and so it was that we always had the greatest pleasure in attending meetings here because we found out that the extremist element was always kept down by the moderates, and in a general meeting we used to have everything decided with pleasure to everybody and unanimously without any heartburning or any trouble".

Well, Sir, again as I said, this unfortunate paragraph: "But from the time the Corporate Member joined the European Elected Members he has united them and cemented their unity to the great loss of the non-European community. Unfortunately they united, not with a view to meeting the non-European groups, but they united with a view towards doing without the non-European groups. This serious state of affairs did not permit us to join together with all groups and talk

matters over to deal with African demands".

Well, Sir, all I can say is that if disunity is a criterion for discussions, it should be a very simple matter to get together with the Asian community.

But, Sir, the hon. Member who really astounded me quite frankly was the hon. Member for Western Electoral Area, Sir, for one who is a distinguished member of a very learned profession and by the very nature of that profession must be gifted in argument, to use such fantastic and inconsistent arguments is really beyond comprehension. Sir, he gave the impression that the Europeans were the arch architects in the practice of racialism. I have it all here, ready to quote if necessary.

Sir, I first came into Legislative Council in 1938 and never have I heard an hon. Member indulge in racial talk anything approaching the extent of this particular hon. Member. I often wonder, Sir, if he has a chip on his shoulder. If so, I suppose we should sympathise with him. But, Sir, when an hon. Member with legal training refers to "increased representation with considerations" as being a "trap"—well words fail me.

CAPT. HAMLEY: Speak up, please.

THE MINISTER FOR LEGAL AFFAIRS (Mr. Griffith-Jones): Words fail him.

THE SPEAKER (Sir Ferdinand Cavenish-Bentinck): It is difficult to hear the hon. Member. Perhaps LL-Col. Gherisic you could speak a little louder.

LT.-COL. GHERISIC: Yes, Sir.

Sir, does not the hon. Member require safeguards for the younger generations of the community that he himself represents?

Sir, as a lawyer, and the hon. Member is a lawyer—I would have thought that he would be the first to appreciate that when an agreement has been entered into, and then subsequently it is amended or modified, it is the duty of those responsible to see that the clients' interests are safeguarded. Sir, in this instance, the clientele are the people that we, in this Legislative Council, represent and, therefore, I suggest that the comparison applies.

[LL-Col. Gherisic]

Sir, I also think the hon. Member's attack on the Secretary of State was not only bad taste, but was unjustified. I suggest, Sir, that if ever a Minister of Her Majesty's Government has shown patience and understanding of the problems of this particular Colony, then, Sir, it is the present Secretary of State for the Colonies—Mr. Lennox-Boyd.

Now, Sir, another remark he made was that the constituencies were a "millstone round the neck of a Minister". Sir, does he hold the same views in regard to the Ministers drawn from his own community? If so, is it his wish now that we return to the old form of Colonial Office rule? It is all very well to make these bright remarks but they have also got to remember the repercussions. In fact, Sir, can the hon. Member inform us of any country which practises a true democratic form of Government—whose Ministers do not represent constituencies?

Sir, the hon. Member resented a reference to his colleagues "sitting on the fence". Well, Sir, if his reply, when challenged the other day by the Minister for Legal Affairs, does not justify that accusation then I am afraid he does not understand the expression "sitting on the fence". All along he and his colleagues have certainly given the impression that they agreed to the African hon. Members' demands for an extra 15 seats without conditions being attached. They have given that impression and it is only yesterday or to-day, Sir, whenever it was that the hon. Member spoke, that we learned that the principle of the additional seats for the Africans is accepted by them, but they are not prepared to commit themselves on the actual number of seats. I doubt very much whether the hon. African Members are quite so stupid as not to see through this little game; I mean, "You know, let us give the impression that we support the demand, but at the same time let us sit back and allow the European Members to do battle".

Sir, the hon. Member also used the expression: "This fantastic talk of European leadership" and suggested that people who used that expression were lunatics. Having listened to the hon. Member, I have come to the conclusion

again that he does not understand the meaning of leadership, unless, of course, he means leading up the garden path. It may be, of course, that the hon. Member has his eye on one of those beaded caps and is endeavouring to qualify.

I have just one or two notes here which I shall conclude on and they refer to my friend, the Member for the Coast.

I shall be very brief, and one of his remarks which astounded me was a reference to a "temporary settlement"—"even if we achieved a temporary settlement". Really, coming from the hon. Member for the Coast, again I was astounded.

He again advocated an increase in African seats in this Council. We have agreed in principle there should be. But, Sir, in the next breath he says: "We should return to Colonial Office rule". Now, there you have the two extremes—increased representation in the Council and the return to Colonial Office rule—which I suggest is the other extreme. I suppose his consistency is really proved by his inconsistency.

Again, there is one remark which he made, which I think is rather unfortunate and that was when he referred to Sir Roy Welensky—Prime Minister of the Federation of Rhodesia—"tearing up agreements".

Sir, I suggest that hon. Members cannot make statements in this Council unless they can be substantiated or in any case furnish the source of the information. After all, Sir, Sir Roy Welensky is a very respected Prime Minister of an adjoining territory, anyhow another territory in Africa, and I should be very sorry if he thought for one moment that a statement like that was made in this Council and went unchallenged.

Sir, there is only one final remark I wish to make and it is with reference to a remark of our African friends, one of the African Members who said that we were not willing to discuss matters with them. Well, Sir, I would just conclude on this note: if I remember the history of the early negotiations, it was one of the hon. African Members who stated that they did not wish to discuss matters with the European Elected Members and the only person they would discuss matters

[Lt.-Col. Gherie] with was the Governor, Sir, I believe that was actually in writing and I think it was published in the Press.

Mr. MBOYA: Even you met us!

Lt.-COL. GHERIE: I will conclude, Sir, hoping that some hon. gentleman will be a little more logical and a little more balanced in future, and with those words, Sir, I support the Motion.

THE ASIAN MINISTER WITHOUT PORTFOLIO (Mr. Madan): Mr. Speaker, the debate which has been raging in this Council over the constitution controversy is bound, I think, to assume historic importance. I therefore think it is necessary that the attitude and the aspirations of the Indian community should be clearly placed on record in this matter.

I wish to do so too, not because it would appear odd if I did not mention this subject, all the other Members sitting opposite having spoken or talked about it, but because in my opinion the case of the Indian community has been neglected.

My colleagues, those who represent the Indian community in this Council as Elected Members, will note that I use the expression "the case of the Indian community".

In this respect, Sir, I think the case of the European community has been very well served by the hon. Member for Nairobi South, whom I would like to compliment on the manner in which he presented the case for his side. I think I can say that he did it nearly as well as I, myself might have done it as an Advocate.

The hon. Member for the Western Area could not have argued the African's case better even if he had been retained by them and my friend, the hon. Member for Central Area, who had an opportunity at least on this occasion to render a real service to his community, came out with a speech which showed an infinite variety of political creeds. (I will not say political principles because principles at least demand honest adherence.)

I think, let it be said and let it be understood clearly in case anyone has any illusions or misgivings about the position of the hon. Member for Central Area, that his opinions and his views are no more the authentic opinions of the

Indian community than the fly whisk as a weapon which my hon. friend, the Member for Central Nyanza, brandishes in the face of almost everyone in this Council.

Mr. Speaker, the African Members have filed a "plaint" demanding "an increase of 15 seats in their numbers. They have argued their case in this Council and they have argued it and submitted it to public opinion outside, but I would ask them to realize that the filing of a plaint does not in itself of necessity establish or justify the extent of the demand of the claim, it has to be proved; it has to be discussed and it has to be accepted by others who are concerned.

A lot has been said, Sir, in regard to the statement issued by the Asian Elected Members, excluding, of course, the hon. Member for Central Area. The Indian Elected Members in conjunction with their colleagues who form the Asian Elected Members' group issued a statement saying, and I have it here, Sir, that they declared their "unconditional support" for an increase in African representation.

Mr. NAZARETH: On a point of order, Mr. Speaker, the Asian group comprises more than the Asian Elected Members. That statement was issued on behalf of the Asian Elected Members excluding the hon. Member for Central Area.

THE SPEAKER (Sir Ferdinand Cavendish-Bentick): I take it Mr. Nazareth that you are explaining what you yourself said when you spoke.

5.39 p.m.

THE ASIAN MINISTER WITHOUT PORTFOLIO (Mr. Madan): I have no quarrel with the hon. Member on that score, Sir. I agree that the statement was issued on behalf of the Asian Elected Members excluding the hon. Member for Central Area. I was trying to read the relevant portion of the statement where the Asian Elected Members said that they declared their "unconditional support" for an increase in the African representation. No numbers are mentioned. No reference was made to the demand for 15 seats asked for by the Africans. It has never been stated by the Asian Elected Members, and I repeat

[The Asian Minister without Portfolio] it now, here, as the hon. Member for Western Area made it clear, that the Asian Elected Members have supported "unconditionally" the demand and not the numbers which the Africans have asked for, because they have always felt that that was a matter for negotiation. Anyone reading that statement can only relate the adjective "unconditional" to the word "support" and to nothing else.

Sir, the hon. Member for Central Area mentioned that the Asian Elected Members had issued an ambiguous proclamation, and the Africans had interpreted it as being an unequivocal support for their demand for 15 seats. I do not think it is anything of the kind, and in this connexion I would like to place it on record, Sir, that the Indian Congress also issued a similar statement using exactly the same expression—that is, "an increase"—to support the African case. The hon. Member for Central Area was in the chair when that statement was agreed.

I should like to make it clear that when the Asian Elected Members gave their support for "an increase"—not for 15 seats—to Africans, they were torn neither between fear nor duty, but in recognition of the case for increased representation, the merits of which had to be discussed and determined. I would suggest to my African friends not to pay too much attention to what the hon. Member for Central Area has said as purporting to be on behalf of the Indian community, and it is necessary, though unpleasant—and even it hurts me to do this—Sir, to refer to a report of a speech which appeared in the *Colonial Times* on 12th April, 1957—a speech made by the hon. Member for Central Area. It stated—I quote—"The accepted Indian policy was to support the African aspirations and he"—that is, the hon. Member for Central Area—"would not deviate from that policy". This, Sir, was only about six months ago. So I would ask hon. African Members to accept that the views—the constantly changing views—of the hon. Member for Central Area do not necessarily represent the views of the Indian community.

I would also like to assure the Africans that in the consideration of their case, we are willing and prepared

to sit as assessors, to judge it fairly, honestly, impartially and, in doing so, Sir, if I thought the matter or the decision would be in the interest of my community, I would commit my community to that decision, and also, in doing so, I would not feel the necessity neither would I consult the hon. Member for Central Area. I say that to dispell any illusions that people may have that the other Elected Members have not the right to commit their community.

In a matter of this kind, Sir, I would much rather be one of the quintet, even an ill-assorted quintet, than be a pariah. I go further, Sir; I would not, on behalf of the Indian community, agree to the abrogation of the Lyttelton Plan unless I was first shown what was proposed to be substituted in its place and what the position would be of the Indian community in the new set-up. I would not agree, Sir, to plunge my community into an uncertain dark future. I think, Sir, it is necessary to place it on record that neither I, nor does the Indian community, consider—as was stated by the hon. Member for Central Area—that the Government of this Colony had rapidly lost the good will of all races here. It certainly has not lost the good will of the Indian community and, I might even say, of my Muslim friends.

I should also like to place it on record that the Indian community stands behind the Government, is prepared fully to support the Government, to maintain law and order and in order to carry on the Government of this Colony.

I thought, Sir, it was regrettable that the hon. Member should have said a thing of that kind, when, on the occasion when the Secretary of State arrived to have constitutional talks with the various groups here—and here the hon. Member will correct me if I am wrong—I understand he was out of the Colony on professional business. It might be said, Sir, not without justification, that the hon. Member was playing a legal fiddle while the Colonial Secretary was having talks here on constitutional matters.

THE SPEAKER (Sir Ferdinand Cavendish-Bentick): I must ask the hon. Member not to suggest unworthy motives or conduct to a fellow Member of this Council.

MR. MANGAT: Mr. Speaker, I should not have any objection at all with reference to me. The hon. Member should have freedom to say what he likes.

THE ASIAN MINISTER WITHOUT PORTFOLIO (Mr. Madan): I am, Sir, so glad to hear the remark of the hon. Member, because at least he has this quality that he can take it as well as give it.

Mr. Speaker, the African Members have denied that there was any agreement in regard to what have now come to be called the regional seats, and they have stated that they would like to see a written document to prove the existence of such an agreement. In my opinion, Sir, men of honour and representatives of the people and political leaders—among such people a verbal agreement is as binding as the written word. By contesting the two extra seats in the elections last March, by accepting the two extra seats, it is fairly obvious to me, Sir, that the Africans and the African community are estopped from denying the existence of the agreement that was reached last year. If any further proof were needed, it is the presence of the two Corporate Members who were born as a result of that agreement and who sit in this Council now. I have no doubt in my mind, Sir, that there was an agreement reached last year in regard to what we now term regional seats. Inasmuch as the agreement was reached within the framework of the Lyttelton Plan, as a result of which the Asian and Arab community became entitled to certain extra seats, we, in pursuance of the courtesy and charity which we always show, both to the Europeans and to the Africans, and in order to facilitate the immediate implementation of two parts of that agreement, we agreed that the African seats might be increased immediately by two and we also agreed that the two Corporate Members might be instituted also immediately. As far as we were concerned, we agreed, with that stoic patience which only orientals can show and which only orientals have, to wait until this year for discussion and implementation of the third part of the agreement, which was the creation of the extra seats. We did not demand any immediate *quid pro quo* for the creation of the two African seats, neither for introducing the two Corporate Members,

I submit, Sir, we again proved that the Asian community were the shock absorbers in the constitutional vehicle of this Colony. It would seem to me, Sir, that if the terms of that agreement are onerous, it would be better to plead for a change in the terms, and if we—the Indian Members—felt that a reasonable case were put up, we would not hesitate to lend our support.

I did say at the beginning, Sir, that I thought the Indian attitude and the Indian aspirations should be placed on record. The Indian community has aspirations in this Colony, but we have aspirations not as Indians, but as Kenyans. We live to see the day, Sir, when we will see ourselves and others as common citizens of Kenya, when people will call themselves Kenyans without attaching any particular claim to leadership because they are Kenyans. We will live to see the day, Sir, when the various races here will blend together as Kenyans as the different nationalities who went over to the United States and blended themselves into one nation. We would like, Sir, to see our energies diverted towards economic development of the Colony and a stop put to constitutional quibbles. We cannot abide ostentatious politicians. Sir, we are prepared to lend our support to any patriot who, of whatever race he may be, is prepared to work in the interests of the Colony. I believe there are such people even in this Council, if only they would have the courage to free their minds from the fears of their electorates. I feel, Sir, the time has come, indeed if it has not already passed, to recognize that the racial slant in our politics is in that state of interregnum which follows the end of a useful period and the consciousness of it.

With these thoughts, Sir, I would say to my hon. friend, the African Member for Akamba, that we have no intention of leaving this Colony; that we hope to continue to live here, not only with your good will but because of the services that we can render and because we hope you will want us to continue to live here.

Mr. Speaker, I conclude by recording my support for the Motion.

MR. MANGAT: Mr. Speaker, Sir, the hon. Minister—on a point of explanation—

THE SPEAKER (Sir Ferdinand Cavenish-Bentinck): On what you said?

MR. MANGAT: On what I said and what the Minister said. If that would be admissible, Mr. Speaker, the Minister said that the statements issued by the Asian Members and the Congress were identical. The only word missing in the Congress statement was "unconditional", which appeared in the statement of the Asian Members, and which made all the difference between these statements.

THE ASIAN MINISTER WITHOUT PORTFOLIO (Mr. Madan): On a point of explanation, I admit that I did say that the Indian Congress and the Asian Elected Members used exactly the same statement, and if the hon. Member will look in HANSARD he will find that exactly the same phrase—that is, "an increase"—support for "an increase"—was used in both statements.

MR. MANGAT: Except for "unconditional".

THE ASIAN MINISTER WITHOUT PORTFOLIO (Mr. Madan): Except the word "unconditional".

6.02 p.m.

MR. SWYNNERTON (Nominated Member, Government): Mr. Speaker, Sir. A number of hon. Members have referred to land consolidation and asked where it was leading. The hon. Member for Nyanza North called it a curse and not a blessing, while the Member for Akamba said that its speed and harshness were objectionable. Other Members, particularly the Member for Nairobi Area and the Member for Nyanza North, decried the unemployment which would be created. The Communication from the Chair, Sir, pointed out that land consolidation was but a means to an end: I would like to stress the means whereby good farmers can gain great benefits from the sound use of consolidated land and at the same time give employment to the less fortunate Africans who own uneconomic portions of land. I will quote the case of two African farmers in Nyeri District. One farmer, Sir, having a consolidated holding of 12 acres which is under-planned farming, had a gross annual income of Sh. 22,198, a net income of Sh. 11,183, and employed six labourers. Another farmer, Sir, had 16 acres and had a gross income of Sh. 18,841 and a

net income of Sh. 7,963. That farmer employed four labourers.

AN HON. MEMBER: Is that a generalization?

MR. SWYNNERTON (Director for Agriculture): It is not a generalization. It is a statement from a particular case. Perhaps I should proceed from the point which the Minister for Education, Labour and Lands made yesterday. He said that services for which he was responsible and other services could only develop from prosperity amongst the people. That, Sir, is where land consolidation is leading us. It is a means to an end. Following that we hope to develop a sound farm planning system, intensive cultivation, intensive management of livestock and the growing of cash crops, and the farmers who adopt those methods will benefit and the country will benefit and wealth will be created which will help to meet the services for which there is so much demand, and to a certain extent it will help the labour problem—that is, the people who are out of employment or people who at the present time have insufficient land of their own to make a living of the order of which I have quoted.

A number of hon. Members, Sir, have referred to cash crops. Some have referred to restriction of planting—that we are going too slow; the Member for Nairobi South has suggested that we are going too fast. There is no restriction on the growing of coffee. Sir, provided that that coffee is grown well. Coffee is treated as a specific example. What we do try to lead the African to do, is the production of high yields, high quality and the best use of their land. It is no good producing 10 cwt. of coffee from three acres when it is possible to produce the same amount from one acre; by producing 10 cwt. of coffee off one acre it leaves two acres for other purposes—either growing more coffee or growing food crops or for stock-keeping. That is our objective, Sir: to raise the productivity of the land in order that it will carry more people—either as farmers of the land or as employed labour on the development of that land.

It is most important that we should maintain a high standard of cultivation. Some people will remember the wave of

[Mr. Swynnerton] coffee berry disease that so greatly reduced the coffee areas between Sotik and Trans Nzoia in the 1930's. It was suggested that we should let coffee be grown any old how; let the people do as they choose. At the present time coffee berry disease is spreading round this Colony. It is very serious in Kiambu and very serious in parts of Nyeri. The prime coffee growing area of this country lies in Embu and Meru; there are some signs of coffee berry disease in that area now, but it has not spread seriously; but any neglect of cultivation will encourage the incursion of that disease into the best coffee *shambas* in this Colony and I, for one, would never support the destruction of an industry through carelessness. The same applies to the Hemelela leaf disease which, while not serious in the better growing and higher growing areas, will be extremely serious in such areas as the Nyanza Province. Nyanza Province has a large potential for coffee growing provided that the coffee is well tended and well sprayed, but the industry, as the industry in Ceylon was many years ago, could quite easily be wiped out by the Hemelela leaf disease of coffee.

It has been suggested that we are holding back growers from growing coffee, and I would like to quote a few figures, Sir. The total number of African growers of coffee in 1956 was 39,408. In 1957 there were 57,208—an increase of 17,702. I would quote Central and Nyanza Provinces just to indicate the proportion in those areas. The growers in Central Province were 27,638 in 1956 and were 37,862 in 1957—an increase of 10,126. In Nyanza Province in 1956 there were 10,234 and in 1957 there were 17,106—an increase of 6,852. Our target, if all goes well with the coffee industry and there is no major disaster—and I would say here to the Member for Nairobi South—our target for growers by 1958 is of the order of 140,000 coffee growers in the African areas, as compared with to-day's figure of 57,000.

There has been a similar expansion in acreage. In 1952 we started off with an acreage in the African areas of 3,038. In 1953 we brought in an accelerated development plan for African coffee growing and we said that as soon as we could we would get the expansion of

coffee growing in African areas up to a basis of 5,000 acres a year. We set about developing nurseries to achieve that and, as you will see from the figures I have quoted, we have achieved that. Sir, in 1952 the figures were 3,038 acres. In 1953, 3,860 acres—an increase of 829. In 1954, 5,339—an increase of 1,472. In 1955, 7,521—an increase of 2,182. In 1956, 10,239—an increase of 2,718. And at 30th June, this year, Sir, 15,259 acres—an increase of 5,020 over the previous year. If all goes well, as I say, with the coffee market, there is no reason why that rate of planting should not be steadily increased. The justification for our policy of sound management is fully supported from Meru District. You will appreciate, Sir, that coffee only comes into bearing in the fourth or possibly fifth year; therefore I am giving you figures for the bearing acreage. In Meru, from 1,970 bearing acres, a yield was obtained of 10 cwt. of coffee per acre last year, which at a price of something over £500 a ton is not a bad return per acre.

On the quality, Sir, the coffee is tested into 12 or 14 classes. Last season coffee achieved 78 per cent in the first three classes. In Embu District, from 87 to 89 per cent has fallen into the first six classes in the last three years. Indications are that coffee prices may decline in the next year or two fairly substantially, but that there will continue to be a demand, not at the present prices but at the top of the market price at the time, for high quality coffees, and so long as we produce high quality coffees in this country from the African areas as well as from the European areas, we should always find a good outlet for the coffees of this country.

The hon. Member for Akamba asked for a statement on certain other cash crops, in particular he mentioned tea and sisal. In the debate on the Estimates last June or July, Sir, I did give figures and indications of how tea development was taking place, and I will not go into any great detail at the present time. The acreage planted on Mount Kenya and in the Aberdares, in the Nyeri District and a bit of Embu District is now around 500, and will increase at the rate of nearly 400 acres a year, provided this tea continues to be successful. The first manufacture of tea has taken place and it has

[Mr. Swynnerton] fetched high prices, and it is a matter for the closest observation to see that the growers in turn get high prices for their green leaf and that not too much is wasted in the transport of green leaf to the factory and in the operation of the factory. I hope it will be successful.

In Kericho and Kisii the first plantings of tea took place this year, and arrangements are being made to extend this by large nurseries in both those districts. Nurseries have been established in the Nandi District, in the Kaptumo Location, for the same purpose, and tea estates in the neighbouring areas, both Nandi, Kericho and Kisii, have come forward and offered to purchase the green leaf from those schemes until such time as it is possible to build factories. I think that is an indication of how the industries of this country—the cash crop industries—wish to develop as one industry for the benefit of all people.

An investigation on similar lines is going on at the present time in Kiambu. Now, the hon. Member particularly raised, of course, his area—Ukambani. I must say to him that tea would be extremely chancy in the highlands of that province. Coffee we certainly have down on the list. It is being developed in those higher areas and I hope, in due course, we shall be able to build up to 3,000 acres in the highlands of, particularly, the Machakos District. But he must appreciate that because of the arid areas round about there will be problems with coffee, which do not occur in the other coffee-growing districts, particularly with various types of borer. However, provided we can overcome that, he may rest assured that where coffee can grow it will be grown.

He mentioned sisal, Sir. In fact, the African Land Development Board lent a large sum of money to the Machakos African District Council for setting up a brushing and baling plant in Machakos, to purchase washed fibre from the Akamba of Machakos District. That scheme went ahead quite well so long as there was a food shortage in the district and so long as the price of sisal was reasonably high. The price of sisal at the present time is low, and for the last two years there has been a plentiful supply of food in the Machakos District.

To keep that factory going requires about 100 tons of fibre a month. In recent months, that is most of last year and the early part of this year, only between 15 and 30 tons of fibre a month were being delivered. It just was not economic to maintain that factory in production; but knowing the needs of the people—that is that they will enter into a famine in due course, or food shortage I should say—that factory has been put in moth balls and gradual collection is taking place of sisal fibre, so that it can be brought into production again should the Akamba from Machakos require it and be prepared to bring forward the requisite quantities of sisal fibre.

#### ADJOURNMENT

THE SPEAKER (Sir Ferdinand Cavenish-Bentinck): It is time for interruption of business. Council will stand adjourned until 2.30 p.m. to-morrow, Thursday, 7th November.

Council rose at sixteen minutes past six o'clock.

Thursday, 7th November, 1957

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

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

### PRAYERS

### ORAL NOTICE OF MOTION

#### COMPENSATION FOR DAMAGE AND DESTRUCTION CAUSED BY WILD GAME

MR. NGALA: Mr. Speaker, Sir, I beg to give notice of the following Motion:—

THAT in view of the loss caused to crop-owners by wild game, this Council urges the Government to introduce legislation to enable compensation to be paid on crop damage or/and destruction caused by wild game.

### ORAL ANSWERS TO QUESTIONS

#### QUESTION No. 29

MR. HUGHES asked the Minister for Agriculture, Animal Husbandry and Water Resources:—

(1) Can the Minister state whether the temporary lifting of the rule "that European farmers should sell slaughter cattle through the Kenya Meat Commission" will be retained as long as there is a surplus to the number of cattle that can be taken by the K.M.C.?

(2) Is the Minister satisfied that the local East African market potential is sufficient to absorb the beef production for the next five years as planned?

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

(1) Whenever the Meat Commission cannot take all cattle offered, alternative arrangements for disposal will be authorized, wherever possible.

(2) The indications are that the East African market could absorb Kenya's likely production of fresh meat over the next five years, but actual consumption will depend on prices being suitable.

#### QUESTION No. 38

MR. NGALA asked the Minister for Local Government, Health and Housing:—

(a) What building defects or inconveniences have occurred since the completion of Phase I—Changamwe Housing Estate?

(b) If there are defects and inconveniences when are they going to be put right?

(c) How much money is going to be spent to remedy such defects and inconveniences?

(d) Who is going to pay for this extra expenditure and how is it going to affect the rents of the estate?

THE MINISTER FOR LOCAL GOVERNMENT, HEALTH AND HOUSING (Mr. Have-lock):—

(a) Certain defects and inconveniences in the Changamwe Housing Estate have been reported of which the most important are leaking roofs and floors and faulty run-off of sewerage.

(b) The necessary work to remedy the defects is already in hand.

(c) The estimated cost of the work is £6,444 to rectify the defects in the whole estate which accommodates 3,733 persons.

(d) A special committee of the Mombasa Municipal Board has been appointed to consider the problem of the incidence of cost of this additional work. Their report is awaited.

MR. ALEXANDER: Mr. Speaker, Sir, arising out of that reply, is there any evidence that tenants are not forthcoming for this housing because they may be in doubt as to what the rent increase might be.

THE MINISTER FOR LOCAL GOVERNMENT, HEALTH AND HOUSING (Mr. Have-lock): There is certain evidence that tenants are not as forthcoming as we would like, but not necessarily on the rent factor, mostly on the factor of defects, which are awaiting repair.

MR. COOKE: Mr. Speaker, who is responsible for these defects; is it the contractor who has let us down, or who?

THE MINISTER FOR LOCAL GOVERNMENT, HEALTH AND HOUSING (Mr. Have-lock): The contractor is responsible for a certain number of the defects, Sir, such as the leaking roofs, the leaking floors of the upper storey flats; and also with regard to the rubbish disposal, that is not a matter for the contractor really. It is unfortunately a matter of the habits of the inhabitants of these houses.

MR. NGALA: Arising out of the reply, are there any defects concerning the ventilation of the housing estate as a whole?

THE MINISTER FOR LOCAL GOVERNMENT, HEALTH AND HOUSING (Mr. Have-lock): Mr. Speaker, there have been complaints about the windows' not opening sufficiently, and they have been investigated. It is considered by the experts that the design is not really at fault, but, in order to make it more comfortable, certain adjustments will be made to those windows.

MR. MBOYA: Arising out of the reply, would the Minister state how they have determined that the reluctance on the part of the tenants is as a result of the defects, and not the rents? People in the same town live in worse buildings and keep trying to obtain rooms in these much worse premises.

THE MINISTER FOR LOCAL GOVERNMENT, HEALTH AND HOUSING (Mr. Have-lock): Well, naturally, Sir, tenants do not wish to take over a lease of a building of this sort unless they are satisfied that it is in good condition. They are awaiting the remedying of the defects.

### MOTION

#### LIFTING OF FISHING RESTRICTIONS IN LAKE VICTORIA

(Debate interrupted on 31st October, 1957, resumed)

THE MINISTER FOR FOREST DEVELOPMENT, GAME AND FISHERIES (Mr. Blunt): Mr. Speaker, Sir, when the Council rose a week ago, I think that I had made a case which I hope will convince those with the interests of fishing in Lake Nyanza and of the fishermen in that area, at heart, that we must maintain those regulations. In fact, I believe that the hon. Mover is, at heart, convinced

that that is the case when, in his speech in which he moved this Resolution, he said, "Another reason is that what is termed as the Kavirondo Gulf is the breeding ground for *Tilapia* and, at the moment, there is intensive fishing which probably might, if left uncontrolled, affect the fishing industry in the future.

While I agree with the Government that this might be the case, I have many other points to make."

There are, however, one or two points that were raised during the course of the debate that I think I ought to touch on. The first is a suggestion by the hon. Mover that, as I understood him, we might close the fishery during the breeding season and thereby avoid catching breeding fish. Well, now, Sir, I am afraid that that would not, in fact, work because it does not matter much when you catch a breeding fish if you catch him or her before they are able to breed; and if you closed the fishery during the breeding season but had it open just before then, you would probably have caught before then a number of the fish which were just going to breed, so that I do not believe that that one would help us very much.

Now, another point, Sir, that he made was that we were losing business to Uganda and Tanganyika on this fishery. Well, Sir, I do not believe that facts would bear that out. There is a demand for all the *Tilapia* that is caught, whether in the Lake or in Uganda and Tanganyika, and I do not believe there is ever any difficulty in selling it.

The third point that he made—and it has been put to me by other hon. Members as well—is the possibility of dealing with this problem by the restriction of licences. Sir, that might be a means of doing it but I do not think it would be a very satisfactory means. If we were faced with that, it would mean, in fact, going to the fishermen and saying, "Well now, look here, 25 per cent or whatever it may be, of you have got to give up fishing". I would not like to be one who had to choose that 25 per cent. I do not know if my hon. friend would help me over it, but we should certainly be in great difficulty in selecting who might fish and who might not. I believe that what we are now suggesting is the better method.

[The Minister for Forest Development, Game and Fisheries]

Another point was made by the hon. Member for North Nyanza, and he said that people were selling these illegal nets and making big profits out of them, and that if they were not on sale the fisherman would not use them any more. I very much welcome that statement, because we have now being drafted, I hope, a Bill to make it illegal to possess these illegal nets on land and we shall prevent them from appearing in the shops; so I shall hope for his support when I come to lay this Bill before the Council.

The last point I wish to deal with is that raised by the hon. Member for South Nyanza. He said, "Also I should like the Minister to tell us what alternative Government has, to make sure that these people whose sole means of existence and earning a livelihood is nothing but fishing, can always get fish". Well, Sir, to that I would reply, "Exactly the action which we propose to take now". We propose to maintain this control over the net size exactly in order that we may always have fish for these people to catch in the future.

Mr. Speaker, it seems to have been suggested by some of the supporters of the Motion that for some sinister reason Government wishes to prevent people from catching the fish that are available in the Lake, and to prevent the fishermen from earning a good living. Now, Sir, that, of course, is the last thing that we would wish for. The only reason why we wish to keep on these restrictions is because we believe that it is the only way in which we can maintain the fishery as productive one. And, Sir, history has shown in many cases and in many parts of the world that uncontrolled fisheries have often destroyed themselves completely. I suggest, Sir, that we should take note of that and make sure that we do not allow the same thing to happen in this country.

In view of what I have said, Sir, I am afraid that Government cannot accept this Resolution. I am fully satisfied—and I hope I have satisfied the Council—that in the present state of our knowledge this restriction of nets is necessary to maintain our valuable fishery. But, Sir, I will give this undertaking: that if further research and investigation does show that

by any means we can achieve a bigger off-take of fish from the Lake without damaging the fishery I shall be only too happy to arrange that that may be done.

Sir, I beg to oppose.

Mr. CROSSKILL: Mr. Speaker, whilst being in full agreement with the Minister, and being convinced from the evidence at his disposal, that he is taking the right course in prohibiting the use of seine nets, I should have preferred to see some alternative put forward, some positive action taken, rather than just the negative one which is unfortunately so necessary.

The perturbing feature, to my mind, of this restriction is that the period for which it may be necessary is undefined and unknown. Mr. Beverton, in his report, confirms that in his opinion it is necessary as an interim measure, but, Sir, it may be necessary for many years, and during that time this restriction is causing hardship. It is causing unemployment and shortage of food, and is curtailing what is potentially a promising industry in the Nyanza area. Therefore, Sir, with your permission I would propose the following amendment:—

"In view of the present necessity for the restriction of fishing in Lake Victoria, Government is requested to consider, as a matter of urgency, the establishment of fish farms in Kenya, with particular reference to the Nyanza Province."

Mr. Speaker, Sir, it is, I think, about the fourth time I have advocated to Government the establishment of fish farms in this country. We are told that great advance is being made in experimental work on fish farming at Sagana and also at Kisumu. We are told that Government is now able to breed in laboratories and that they are now able to sex fish at a very small age so that fish can be grown in a much quicker way than heretofore. Sir, I believe that we have now reached the stage in scientific experiment when this should be put on a commercial basis. I think it is always very difficult to discern the point at which science has examined a project sufficiently for it to be carried out on a commercial basis. But, Mr. Speaker, I think I can show that we have now reached that point, or perhaps even passed it. I would just like to say that

[Mr. Crosskill] scientists are not interested in commercial undertakings and I think that if some commercial undertaking, for example, had not taken the steam engine out of the hands of Mr. Stevenson he would still be—or his grandsons—examining how much he could improve the valves or the running of the engine. I think now that we have reached the stage, as we had many years ago with the engine, where this should be put on a commercial basis.

Now, Sir, fish farming is well established in other parts of the world. It is in Palestine being carried out on a very large scale, and under conditions which are much more difficult than those obtaining in Kenya. It may have been started on that memorable day when the two small fishes which were all that were available by the shores of Galilee were found to be inadequate; I do not know whether fish farming started then but certainly at the present time it is a very well established industry in that country. And, Sir, in Buganda, a province of Uganda—and we know very well that the restriction imposed on fishing in the Lake does not apply to Uganda—there are now 1,200 established fish ponds, which contribute a very great deal towards the supply of fish for the country and provide an industry. We are continually being told that it is industries such as these that are required very urgently in the country. Again, Sir, it is proved in Kenya itself—I would wish your permission quote from the Lake Victoria Fisheries Service Annual Report, 1955-56. I quote—referring to dams that have been stocked with *Tilapia*: "With a few exceptions, these have done well and many dams are now, in the words of the owners, 'swarming with fish.' One European farmer, indeed, wrote to say that his dam was so full of fish that he was sure that they were starving, that he was feeding them vast amounts of boiled cabbage every week but could not afford to keep this up much longer, that the situation was getting completely out of hand, and what should he do?"

Well, Sir, I think that proves that it can be a thriving industry.

Now, Sir, with regard to the locality, I am not in a position to give advice with regard to that, but I do suggest that the Kano plains are worthy of investiga-

tion; we certainly have rivers flowing into Lake Victoria which could be diverted to fill up these ponds and refill them as necessary. I believe, also, that the Mwea Taberi rice industry could be utilized also for fish farming. In several parts of the world, the establishment of rice which, as Members know, is being grown at Mwea Taberi with difficulty at present, where rice is grown fish are also grown in the same pond. I do believe that that also is worthy of investigation from that point of view.

The fish farming industry could, Sir, I maintain, either be run as a peasant industry, as it is in Buganda, or it could be organized on perhaps a large scale, if the topographical report recommends such a large scale, on a co-operative basis: having been established by Government, it could be handed over to an African co-operative.

The advantages, Mr. Speaker, of fish farming over fishing in the Lake or in the sea are several. We heard only yesterday how difficult it is to organize the supply of sea fish, owing to the lack of cold storage. At certain seasons fish is ample, and at certain seasons fish is scarce. Therefore the supply must be regulated by cold storage. But, Sir, that difficulty does not arise in fish farming in ponds because they can be taken out of the ponds as the fish is required for the market. Furthermore, Sir, the fish will mature in as short a time as 10 months from being put in as small fry. Crops of varying tonnage—I have been told that four or five tons to the acre is quite easy to obtain, and I believe that as much as 15 tons to the acre have been achieved.

Another advantage, Sir, is that we should not have to restrict our food to *Tilapia*, but bass and, at higher altitude, trout could be farmed under this principle.

I think, Sir, that there is no doubt whatsoever that the establishment of something on these lines is most desirable in order to overcome the hardship which is, of necessity, being occasioned by this restriction. There is unemployment; additional food, over and above that which at present is being obtained, is required; and above all perhaps we do require the establishment of industries in this country.

[Mr. Crosskill]

I think, Mr. Speaker, also that I have shown that it is practicable and that it is being done already in East Africa and merely requires direction and stimulus from the Government for it to be carried out on a large scale in Kenya. I therefore, Mr. Speaker, wish to move my amendment.

3.00 p.m.

THE SPEAKER (Sir Ferdinand Cavendish-Bentinck): I am afraid I have some difficulty in accepting this as an amendment. As worded I cannot accept the proposed amendment: it is almost a direct negative to the Motion before us, and I feel moreover that it raises a question which, in my opinion, should be raised by a substantive Motion after notice has been given. It raises a completely new issue. It could perhaps be reworded if you wish it.

MR. RIDDOCH: I feel rather diffident in taking part in this debate as I was not here when the Motion was first put forward, but having read HANSARD and what the Mover and subsequent speakers had to say I think I could, perhaps, with some advantage, say a word or two with regard to what the previous speaker said. Was it your official ruling that it really forms a contribution to the existing debate, or was it ruled out of order altogether?

THE SPEAKER (Sir Ferdinand Cavendish-Bentinck): You may discuss the subject raised, but on the Motion as it stands. The proposed amendment was almost a negative.

MR. RIDDOCH: The previous speaker certainly put forward something which is constructive and something which I think should be followed up, but one thing I think he has overlooked, and it is this, that the Kavirondo Gulf is in itself a fish-pond—no more, no less. It may be a big one, but it is so essentially shallow, no more than 40 feet deep at any point, except towards the entrance to the main lake, but over the greater part of its area it is no more than 40 feet deep. It is in my opinion simply a fish-pond. Now, Sir, I do not know that it would help very much if we created a whole lot of extra fish-ponds at the expense of immobilizing the land for agricultural and other purposes when we have got this very

natural and substantial fish-pond at our doorstep. Nevertheless, I think these suggestions do merit investigation and I have no doubt that the Minister will well consider making experiments in the directions suggested.

But to get back to the original Motion, Sir, I would like to say this: the whole trouble seems to me to be that the local fishermen in Nyanza are very incensed and hurt that, as they see it, their means of livelihood is being curtailed, is being stopped through the prohibition of what is known as seine nets. Now, Sir, it may surprise the hon. Mover and other Members that I was the person originally responsible for the introduction on a commercial scale of those nets. I did so some 30 years ago on the recommendation of a gentleman who was brought out to investigate the fisheries of Lake Victoria, and amongst his other recommendations he did say that he considered that the use of seine nets restricted to a certain size might be beneficial if used in certain places. My attention was drawn to this by an individual who was interested in fisheries in Nyanza; not for any profit motive—he was merely interested in furthering the fisheries of that part of the world—and he asked if I might import a number of those nets. I did so, and that was the start of the commercial importation of those particular nets.

That took place in the early 1930's—I forget just when—but it did not take many years to pass before it was realized that those nets were being used in a way which was not intended by Dr. Graham who recommended their use. Instead of their being used individually and in special places where there are beaches where the semi-circle of the net would be restricted, the users of those nets began to tie them together—as much as ten in one great line—and spread them out to make a huge circle and, in fact, constitute a big trawl, taking everything in its way on to the shore. Now, Sir, there is no doubt that even then—that took place in the middle 1930's—we were aware of the position and when my attention was drawn to it I recommended Government there and then to prohibit not only the use but the importation of those nets. By that time, however, it had become a vested interest to use those nets, and Government were reluctant to

[Mr. Riddoch]

do anything about curtailing their use; they did, from time to time, try to restrict their use to a few numbers, but in fact, the thing got out of hand that, as time passed, especially during the war when the enforcement of regulations could not be carried out effectively. We have now reached a situation where it has become imperative for Government to adopt the measures they have now adopted. Indeed, Sir, there is no question that the yield of fish in the Kavirondo Gulf has declined. I have been aware of it over 30 years—it has declined tremendously and it is due entirely to overfishing, due to a large extent to the misuse of those nets. In fact, the fishermen are not only using these nets of one and one-eighth mesh, they are even using mosquito netting which is used as trawls, drawing into the shore just everything, young and old fish. Well, the result is inevitable if that is allowed to go on. There will not be any fish to catch in the course of time. It is very similar to the misuse of land: if we go on cropping one bit of land one year after the other indefinitely, the time inevitably comes, as we well know in many parts of the country, when the yield is uneconomic. Now, with regard to fish, I do not think there is any diminution in the supply of food for the fish, but if fish are caught before they are able to breed—as a previous speaker pointed out—how can they multiply?

Now, Sir, my reason for saying all this is merely to support what the Minister has said. There is no doubt to my mind that the Kavirondo Gulf, being a peculiar area so far as fish breeding is concerned, is rather unique in the Lake, although not completely unique, but it is different from the main waters outside the gulf. Nevertheless, Sir, unless these measures are taken there will be no more fish to catch.

My real criticism, Sir—and I have got a criticism of the Government's attitude in all this—is simply that they should have taken those measures long ago—30 years ago—before this thing, the use of seine nets, became a vested interest, and to that extent I have sympathy with the fishermen, that they have been allowed to carry on year after year and build up a vested interest and then suddenly be

called upon to stop like that. Now that hurts—I know it must hurt. But the situation must be faced up to, and I think if the position is put to them squarely and patiently I feel that they will appreciate what is being done, to ensure that in future, with the building up of fish supplies, allowing the fish to breed, that their industry will return in a greater measure perhaps than it has done hitherto. When I say that I have in mind the introduction of *Tilapia zillii* as opposed to the indigenous type of *Tilapia esculenta*. The Minister, I think, said a week ago that the *Tilapia zillii* fish is a fish introduced from the waters of Lake George, of those other lakes in Uganda; they are weed feeders as opposed to the *esculenta*, which are plankton feeders. They grow much more rapidly, and in fact I am told that they grow as rapidly in so many months as the other type of *tilapia* do in so many years. If that is the case, and I am assured that the results are encouragingly, we should have a much bigger supply of *Tilapia zillii*; and possibly of *esculenta* as well, in a few years' time. I know that the *zillii* type of *tilapia* presents problems in the catching of them, but I think that does not present a tremendous problem. I think that can easily be overcome, but I think the great thing is to have the situation clearly explained to the fishermen who are affected, and to make them realize that unless the fisheries are allowed to build up again the future is completely hopeless, and also for all those people round the Kavirondo Gulf who depend on fish as a food. I beg to oppose, Sir.

MR. MOVA: Mr. Speaker, Sir, in supporting this Motion I appreciate that a lot has already been said, not only in this debate but also in previous debates, and that presumably we are merely going over the ground already covered. A lot of reference has been made to the fact that the Kavirondo Gulf is in fact the breeding place for fish in Lake Victoria. I think the Government's case is almost entirely based on this argument.

Now with due respect to the Minister concerned, I think both the Mover of this Motion and some of my colleagues have pointed out not only in this debate but in previous debates, that they accept and recognize that in fact this is the breeding area for fish in Lake Victoria. I think that the substance of the Motion



(Mr. Mboya)

would require that the Government recognize the hardship that is caused to the African population living around the Lake shore and small islands within the Kavirondo Gulf, and that means and ways be found whereby whilst respecting this fact that this area is a breeding place, there will also be room for the fishing activities of the people in these areas.

I am made to understand that in fact for some time, and indeed for some years, it was the practice to restrict fishing during certain seasons, and lay it open for all kinds of fishing in other seasons. Now the Minister has advanced arguments to support his contention that this would not meet the situation, because he claims that this type of fishing-net would anyway catch this size of fish—the size of fish that breeds, whatever the season. But I do not think that in the course of the debate we have been given very much to go by in terms of how much expert study and work has been carried out, and to give us as accurately as possible what the breeding seasons are, and how difficult it would be to control fishing during that period or the period just before the breeding period, in order to avoid the catching of fish or the potential breeders. I think it would help us a great deal if the Government had told us how much in fact they know about the whole thing, and how far their sense of urgency in the whole matter is justified, with the facts at hand.

The speaker who has just sat down has in fact claimed that in his opinion this control ought to have been introduced some 30 years ago. Now 30 years ago is quite a long time. I really do not know whether this was implied—the fact that within that 30 years we have almost run out of fish in the Kavirondo Gulf or in Lake Victoria as a whole. I do not myself know how much we have in terms of facts as to what the fish situation is in the Lake as a whole. We heard from the Minister in an earlier debate that there was disagreement among experts as to whether or not action taken in Tanganyika and Uganda would not lead to the complete elimination of this type of fish in Lake Victoria. Some experts or expert suggested that although there may be certain dangers, or some dangers, he would have approved of Kenya taking

similar steps. We have heard in the course of this debate, however, that another expert has this time definitely recommended that there should be this restriction, but as was rightly pointed out by the Member for Mau, this expert said this would be a sort of interim measure, and I think it is necessary that in the circumstances the Government ought to point out just for how long they want to continue their restrictions before they attain the plans that they want to acquire in the population of fish in the Lake—or are we to understand that this restriction is to be of a permanent nature?

Now I know that when the Nominated Member at the back spoke in this debate the last time, he advised my friend the Member for Central Nyanza probably to have meeting with fish, as it was not the decision of the Kenya Government that fish should breed in the Kavirondo Gulf. Well, on 20th June the Minister said that the restrictions in the Kavirondo Gulf were imposed—these were the words—“under the present arrangements it is imposed by the High Commission”.

An interesting point raised by one of the earlier speakers in the debate—I think it was the Member for Aberdare—when pointing out that in his visit with my colleague the Member for Central Nyanza he had found widespread concern among all the various people around the Lake shore over this same subject, and that it was in fact deeply felt among them regardless of who they were—I think this is an important point to take into consideration. But I recall the Minister this time saying that although here may appear to be a very definite sense of injustice when, particularly in the case of those people living on the borders of Kenya and Uganda and also on the borders of Tanganyika, a person or on the other side of the imaginary border may fish freely using any type of net. A person who happens to be on the Kenya side of the imaginary border may not fish as freely, in fact. Sir, this really would lead to a situation where a Kenya man, living on the border of Kenya and Uganda, who threw his nets on the Uganda side of the border, on coming ashore on the Kenya side of the border, would probably be put under arrest for fishing with illegal nets.

Now this leads to a very complicated arrangement, not only for the relatively

(Mr. Mboya)

illiterate person, but even for me. If, in fact, these restrictions are the result of conditions imposed by the High Commission, then I would strongly question the Minister's contention that he would not lift the restrictions in the case of those people living in the open waters of the Kavirondo Gulf bordering on Uganda on the one side and Tanganyika on the other side. The narrow parts of the Kavirondo Gulf I think could reasonably be argued to be—as the hon. Member put it—a large pond. But surely, beyond Ruzinga Island and Mfangamo, just outside the border—could not this be regarded in the same sense?

Now the people to whom reference was made as fishing outside this restricted water in the narrow part of the Kavirondo Gulf, are probably some of those people greatly affected, and more so, psychologically affected, because just across the border they have relatives who may do what they wish. The Minister's argument was that he thought it would be a rather awkward arrangement to have people in Kenya, some with licences to fish as they wish, and others with restricted licences. But, Sir, if this is a condition imposed by the High Commission, I surely do not see any reason why the High Commission should on the one hand have the right, and the Kenya Government accept that right, to impose conditions on us on the basis of an East African service, and our people be made to comply strictly with territorial regulations without any respect to the fact that we are doing this on an interterritorial basis and for the sake of an interterritorial service.

I think, Sir, there is the case for considering, somehow, some way out of this problem, by removing restrictions in the case of those people living outside the restricted part of the Kavirondo Gulf, just outside Ruzinga Island and Mfangamo and within the Kavirondo Gulf—considering whether or not with the expert knowledge available it will not be possible to remove or lift restrictions during certain periods of the year. The African community in these areas appreciate that if they fished all the fish out of the water there would be no more fish to fish, and I think they would be the first people to agree with the Government that any measure preserv-

ing the fishing industry should be employed. But we would be blind to ignore the fact that here we are not only defending the industry in terms of its commercial value, but we are also dealing with a situation when some of these people living in these areas regard it as their only means of livelihood. Also, as the Member for South Nyanza explained, in most of these areas, there is hardly enough rainfall, and very often the people rely on the very small fishing trade. It is almost a system of barter, as it were extending to a monetary system, where they need the money for other services. I think this aspect has got to be considered a bit more seriously—the hon. Member, Nominated Member, said this was comparable with the question of continued use of soil despite its diminishing fertility.

But I am sure the hon. Member will agree with me that at no time would we say that because some part of Kenya had lost its fertility, we should stop the people from further cultivation until we had completed some irrigation schemes, and so on. In fact, there are areas where we are continuing the cultivation—I see him shaking his head, but I thought he did refer to that particular question.

I feel very strongly, Sir, that we can meet both points of view on this particular issue, both the need to preserve our fishing industry, and also the essential needs of the people in this area through some arrangements. I do not think we can afford to be dogmatic in this, and say that because the experts say this, we are going to do it exactly the way the experts want it. I think we should consider the other element, that is, the part this industry plays from day to day, and the very essential and vital needs of the people in this area.

It is on this note that I would particularly like to appeal to the Minister, to reconsider his decision to oppose this Motion as a whole. If it is not possible for the Government to accept complete withdrawal of restrictions, there is a case for Government to insist on some amount of restrictions: I do see that there is room for Government to allow a certain amount of flexibility in these restrictions to allow the people in these areas to continue to derive their livelihood from this particular industry.

[Mr. Mboya]

I think one Member when speaking, the hon. Nominated Member, referred to the practice in certain parts of the Lake of some people going so far as to use mosquito nets; really that raises only one problem, that is, how far, in fact, we are sure that these restrictions are being adhered to by all the people in these areas. It raises the question of how far the inspectorate service is efficient and sufficient. It is not enough just to say that if we have the restrictions—neither do I think the Member would say—that because we have the restrictions, nobody is fishing, or that because we have the restrictions, nobody is going to use mosquito nets. They are using them in spite of the restrictions and, consequently, what we should now do is to seek for some way whereby we could have a degree of certainty that people will see the sense in the restriction, to respect the restrictions; that people will be so educated that they will see the need for preserving the fishing industry. As it is at the moment, the people are frustrated because they know no reason why the restrictions must be upheld. I think that in this respect there are ways and means that could be suggested in addition to the inspectorate service, such as the development and encouragement in the areas of co-operatives for fishermen which would help, I think, in bringing about that education, and also in working with the Government services to preserve the fishing industry.

Mr. Speaker, I feel very strongly that Government can meet our point, and that we too can meet the Government's point by agreeing to work on some agreeable solution that will meet both sides.

Sir, I beg to support.

3.30 p.m.

THE PARLIAMENTARY SECRETARY TO THE MINISTER FOR FOREST DEVELOPMENT, GAME AND FISHERIES (Sheikh Mohamed Ali Said el Mandry): Mr. Speaker, Sir, a lot has already been said for and against the Motion, and I do not think there is anything more one could add to what has already been said. It has already been pointed out, Sir, that Kavirondo Gulf is the breeding place for fish. It has also been pointed out that overfishing in this area will not be in

the interest of the fishermen of the country. Again, it has been pointed out by quite a number of hon. Members, including myself at one time, that the continued restrictions of seine nets in the Kavirondo Gulf are very necessary. I mean, if we are going to lift these restrictions, there is no doubt that the incidence of breeding fish will greatly be reduced and I think the best thing we can do is to leave the position as it is.

As a matter of fact, we are not altering anything but we are continuing what has already been done. I do not think I can say anything further, Mr. Speaker, but to oppose the Motion.

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

MR. ODINGA: Mr. Speaker, Sir, having heard the opposition to the Motion, and also some views from the supporters of the Motion, I should only like to say one thing: that I think that many of the Members who have opposed the Motion had in actual sense not followed the Motion, because the Motion said that since the Government of Tanganyika and Uganda had removed restrictions from their territorial waters, Kenya Government should be urged to follow suit. So many Members talked about the Kavirondo Gulf, and dwelled only on the Kavirondo Gulf, and they do not know that the Kenya territorial waters extend beyond the Kavirondo Gulf.

Mr. Speaker, I would only say one thing: that since Lake Victoria was put under the East Africa High Commission—and I am glad that one of my colleagues who has just spoken explained it very concisely that I need not add any more—the services are all unified, it is one service, and the Lake Victoria Fisheries Board is the sole authority to look after the fisheries in this Lake. I do not see the reason why Kenya Government should again interfere in the management of the Lake. They have, of course (the Lake Victoria Fisheries Board), seen fit that if they allowed free fishing throughout, there will not be any harm at all; and they have advanced reasons for that. How the Kenya Government again, after leaving these services to the East Africa High Commission, stealthily went back to it again

[Mr. Odinga]

to interfere with it—that is the problem which is causing all this trouble. There is another side of this question which they have failed to explain. I have all the time maintained that the movement of fish in the Lake is universal. The fish which are in Kavirondo Gulf move to Tanganyika, they move to Uganda—the fish does not know any territorial boundaries. The boundaries are just official boundaries which the fish does not know. To support my claim, here is what an expert wrote here, this is a report, the Lake Victoria Fisheries Service Annual Report, 1955-56: "In March, 1956, a summary of all fish returned since the commencement of the marking programme was sent to the East African Fisheries Research Organization for analysis, and was examined by one of their officers with many years' experience of *Tilapia*."

Her comments were as follow:—

"So I have only examined the 'interesting returns'. That is to say:

(i) Fish which have moved a long way.

(ii) Fish which have moved very fast.

(iii) Fish which have been recaptured, after a long period, in the same place where they were marked.

On the whole, I think that it is very encouraging that you are getting so many fish returned after marking. Building up a picture from mark returns is always a slow job in a large area of water, and your returns have already shown:—

(i) That there is a considerable amount of movement away from the Kavirondo Gulf.

(A very important point from the fisheries point of view.)

(ii) That the fish can travel surprisingly rapidly. I also think that it is highly probable that marking is affecting the rate of growth. It also seems highly probable that the fish which have been caught again after a long period in the spot where they were marked have been away and have subsequently returned to that place."

You can see from this report which I did not actually write, nor was I a party

to it, is also supporting my case; that the fish is moving rapidly from the Lake. I quite admit; and I quite agree that the Kavirondo Gulf may be a breeding ground, just as any other place. It is not the only breeding ground in the Lake itself.

Let me again turn to the other side of it. I have also tried to measure the Kenya boundary of the Lake and I found that it ran to something like 100 miles long. If you go from Sio Port to just beyond Mohuru Bay it is something like 100 miles. Measuring just along the coast line it is something over 130 miles. So between those lines there is a big area in which the people can also just fish on the open Lake itself. Well, the Uganda people are also fishing on the other side. Mind you, these lines are imaginary lines, because you could never measure them accurately on water.

I think what is creating all this problem is that Kenya is bent on these restrictions which makes it seem as if Kenya is the only Government which is trying to be responsible, and that Uganda Government and the Tanganyika Government are not really responsible Governments, who are also as much interested to see that fish in the Lake are preserved. Well, formerly, these fishermen used to fish, they could move to Uganda, they could even move to Tanganyika, and fish freely throughout the Lake. But since the Kenya Government "stick" to the restrictions, those people, the Uganda people, cannot allow them to go on to the other side. The Tanganyika Government will not allow them to do so, because if their people move to this side, they will also be caught. I say, and I have made it perfectly clear here, that as the Lake has been put under the East Africa High Commission, I think we should leave it to these people who are looking after the whole Lake to see if they find that the Gulf itself is the breeding place; then, of course, they will allow our people to go to fish even in the Uganda territorial waters, or in the Tanganyika territorial waters. Let them arrange all that themselves, but the Kenya Government should not interfere with their work.

Some people have also advanced here Mr. Speaker, that we should restrict the sale of nets. Here is another work which

[Mr. Odinga]

will also be impossible. How on earth can you restrict the sale of nets in Nyanza Province, or even in Kenya, when in Uganda they are being bought freely, and they are stocked in the shops. In Tanganyika, they are being bought freely and they are stocked there. How on earth can you stop them? That is another problem, and that is why I said that this could only be done by a unified service, and with the administration which actually deals with the whole matter on an East African basis.

I have probably only one or two small points, Mr. Speaker, to raise. The Minister, in opposing the Motion, also informed us here that he thought he understood the Kavirondo Gulf itself to be about nine-tenths of the Kenya territorial waters, but I would contend that, and say that it does not seem to be so. In measuring the coast line, along the Gulf itself all round, I found that it would only be something like 100 miles; whereas the coast line outside that would be much more, about 130 or more. At the same time, he gave me another interesting piece of information; that was that with a five-inch net, the fishermen are only able to catch at a time about two fish. Well, imagine two fish at a time. That is even more absurd than what I told this Council some other time of four to seven.

In closing to-day, he also quoted what I said about restriction on the Lake. I am pretty sure that if the restrictions were to be carried out on the Lake, and if they are for the preservation of the fish, if they are done throughout let us say the Lake itself, I am sure our people would not have any objection; but at the moment, they have the objection and it was put very clearly by the last supporter of the Motion who said that these people who live on the border of Uganda see for themselves that on this side of Kenya, they are being so severely punished and being harassed about, whilst on the other side, the people are fishing freely. Well, this is something really very absurd. It is something absurd to them. Also going to the other side, they see the same thing: if there was going to be a restriction, it should have been a uniform restriction. The reasons advanced by the Minister that he

cannot allow one part of the Lake to have some other regulation different from the other parts of it—certainly as the whole of the Lake is under the East Africa High Commission—they should not allow the other side to fish freely, and the other side to have restrictions carried on. It looks really pitiful. If they can allow them to carry on in that way, it is better to allow these fishermen to move wherever they can in the whole Lake itself.

So, Mr. Speaker, I would only request the Kenya Government—I know they have already opposed my Motion, but as I feel, I am not convinced and I know that even the people outside will not be convinced; but I would only ask them to reconsider and see if they cannot do something to rectify all these grievances.

Thank you, Mr. Speaker.

The question was put and negatived.

4.0 p.m.

#### MOTION

#### ABOLITION OF MINISTRY OF AFRICAN AFFAIRS

MR. MULIRO: Mr. Speaker, Sir, I beg to move:—

THAT this Council, being of the opinion that the Ministry of African Affairs has outlived its purpose and usefulness, recommends its immediate abolition.

Mr. Speaker, Sir, I think this is the most appropriate time for me to pay tribute to the hon. Minister for African Affairs who has served very well this Ministry, and who has been honoured to be given the governorship of Gambia. I hope the devotion he has given to Kenya will be transferred to West Africa, and Kenya should be very proud for having supplied a governor to West Africa who is very competent as the hon. Minister is. I know it is not the first time, but it is the first time in my history as a Member of Legislative Council.

Hon. Members in this Council should not at all form any impression that this Motion is aimed at any personality at all in the Ministry for African Affairs. The Minister should rest assured that it is not at all directed to him or any of his predecessors or successors. What we aim at is the principle that we are tackling, Mr. Speaker, and not any personalities.

[Mr. Muliro]

This Ministry was known from time immemorial probably; I would say, as the department of the chief native commissioner. The head of this department was known as the chief native commissioner because there were other native commissioners, district commissioners and the provincial commissioners; and above them they had a chief native commissioner. The work of the chief native commissioner which is being carried on by the same Minister at present was to control and supervise all matters affecting Africans. That, Mr. Speaker, is the main issue which the Africans are challenging, and that is the principle which we challenge very, very strongly; that this Ministry embraces the entire life of the African community. It looks after the African from the cradle I would say to the grave. There is nothing African which is not at all included in this Ministry. I would say it is an amorphous Ministry, in that it has no form or shape, but wherever the African is found, he is always taken out and given to this Ministry to be dealt with.

Now, this Ministry, Mr. Speaker, regards the African as a department of State. To regard citizens as a department of State is a very grievous offence against the citizen as such, because a department of State can be a liability, and an asset at the same time. Therefore, the African is considered in the same category as fisheries which the hon. Member for Nyanza Central has been very busy over the last two days or so.

This is heart-breaking, Mr. Speaker, to think of myself as a part of the department of State, to think of myself as a liability or an asset; and when the Africans look upon very many controlling measures, including the points which are going to be raised by my colleagues and some supporters on this side, Mr. Speaker; we find that it is very serious. This Ministry sort of revitalizes tribalism. One of the main cries in the attitudes of officers in this Ministry is that of fighting against disintegration in tribal life. They find the African is becoming a bad man; he is going to towns; he is becoming a mimic of European ways of life, but that cry is very wrong. Furthermore, the same Ministry, Mr. Speaker, plays against

tribal sentiments. In the past, one could hear, "Well, all the tribes of Kenya are being governed by the Kikuyu—the Kikuyu are a very bad tribe; the Luos are good, the Akamba are good, good boys of the Government. But the Kikuyu are naughty boys who should be put in their places." Now, that sentiment is very, very predominant among the officers of that Ministry. During the Emergency, the declaration was that the Kenya African Union, for instance, was a Kikuyu organization which was to rule other primitive tribes in Kenya so that tribal law of the Kikuyu was to be taken over to other tribes through Kikuyu force.

Now, one finds, Mr. Speaker, that this same talk goes on as if Nyanza tribesmen are now dominating the political scene in Kenya. The Luos are dominating Kenya. The other day my hon. friend, the Member for Central Nyanza, heard a retort, and I heard it very well, too, from across the floor: "do you want to gain the Kikuyu seats?" The hon. Member said that the Kikuyu is an African, and I am defending his rights which are my rights. These tribal sentiments, I do not know where they are taking us. Those who have been the untouchables in the past, the Kikuyu, because they were naughty in the past, now they are becoming good boys. Some hon. Members on this side tell them: "Look, if the African Members had accepted these four seats, the Kikuyu have no representatives in the Legislative Council"—those are the tribal emotions and sentiments which are played upon by the officers working in this particular Ministry.

Mr. Speaker, tribalism which is revitalized by this Ministry, is the opposite of nationalism. People in this country, Mr. Speaker, speak very glibly that we are to build one nation, we are all Kenyans, we are all here to stay, and yet they encourage things which are not conducive to our staying together happily. National life cannot be so easy if the tribal life, as such, is one of an enclosed case. A national outlook is a broad outlook. One does not, only go outside his own tribal group, but one has to go outside his own race in Kenya at present. That is what we want—we want the Africans to get out of the tribal shells into the national shell so that he reckons with the Asian

[Mr. Muliro] and European and whoever is prepared to live in this country as its co-citizen. If we want that, we cannot at the same time, Mr. Speaker, go on encouraging tribalism. The movement away from tribalism, Mr. Speaker, is greatly lamented by the officers serving in this Ministry. I would draw the attention of hon. Members to the problems which face, now, places like South Africa, for instance; we hear daily events from the papers, riots in Johannesburg—but what are these riots for? They are riots on the altar of tribalism. Now, I do not think that hon. Members in this Council are interested in establishing the same altar here for us, we do not want them at all, we do not want any of that nonsense which is down South to come to Kenya. If we do not want it, we should not encourage these tribal sentiments.

Another point I would like to raise, Mr. Speaker, briefly again, Sir, is the place for the urbanized African, and tribalism. The African, when he moves away from his village in the countryside, goes to town and, normally, when one leaves one's own native surroundings, one's outlook is broadened, one accepts other groups as one's own, one shares views with other tribes and other races—that is the whole movement of African life at present. The African who comes to town, and the African who has lived in town for years is entirely different from the one who has lived in the reserves for all his years.

Mr. Speaker, I have lived in the countryside for years—I have lived in towns for some six or seven years when I was studying out of this country. I have seen very, very marked differences between the country African and the urbanized African. These Africans, in most cases, have no tribal liking, and, therefore, putting them in a case of tribalism actually aggravates them more. I have known people who have lived in towns throughout their lives. I have a wife, Mr. Speaker, who was born and bred in town. Now, one cannot ask her, "What is your tribal?" because she has none. You find hundreds and thousands of Africans at present in that category. That should be quite clear, that the Ministry for African Affairs should never make the mistake that when the African goes to town, he goes with his customs,

his mode of behaviour—his behaviour in towns, Mr. Speaker, is determined by the environment which he finds in the town.

This theory of the African all the time with his own way of life and his own behaviour is what underlies the so-called apartheid system in South Africa because the African there is regarded as having his law to carry in his breast. It is the crude theory of Calvinism, that man carries his own law in his own breast, and therefore wherever he goes he goes with his own law, and his law must be African. That theory, I think, Mr. Speaker, is a false theory, that environment very, very much determines what one can be.

The treatment of Africans in towns is taking him out again from the life of the ordinary citizen of Kenya in the normal course of life, so that citizens in towns are a specific problem. In town, the African is looked upon as a problem which ought to be solved as such, and therefore there has got to be a Municipal African Affairs Board, or the City African Affairs Officer, finds that in all these towns like Nairobi, Mombasa, Nakuru, Kisumu and others, The African is not a problem; the African cannot be looked upon as anything other than a citizen who ought to enjoy his rights and the privileges of all the inhabitants of towns.

Therefore, I think that bringing tribal laws or tribal customs to a tribalized African in towns is quite out of place. I say this because, for instance, we have got now chiefs in townships. These chiefs in townships are not tribal chiefs as will be seen very soon when I discuss the place of the chief. The history of the chief was different, but now a tribal chief is an administrator of some kind who is completely a Government servant. I do not want to dwell very much on chiefs in towns as most of this will be brought up by my colleagues; I want to go on to the place of the chief so that I can show exactly how this is very opposed to the former idea of an African chief.

The whole background of the African chief at present—and it is something that has worked for a very long time—was the enlightened policy of Lord Lugard of indirect rule. Lord Lugard proclaimed and advanced the very able theory that

[Mr. Muliro] in order that Africans should be governed properly, their legitimate and accepted leaders, who are chiefs, should be used so that according to Lord Lugard the African chief had two functions; firstly, that he was an accepted leader of his tribe and secondly, he was a Government servant. But he was only a Government servant in the second place; firstly, any chief was a tribal leader, accepted by the particular tribe as their leader.

Now, are the present African chiefs within that definition? I know my hon. friend, the hon. Minister for African Affairs, will get up and say, "The hon. Member for Nyanza North has been harping on his old theme: the African chiefs have no power". But I have to re-emphasize it here again that these African chiefs at present are no longer our tribal leaders as they always have been. They are no longer leaders of their people as they have been in the past. So actually the theory which has been advanced by Lord Lugard has been surpassed. The chiefs now are in the rank of Government servants which was only the secondary and not the primary duty of a chief.

That the primary function of the African chief at present is that of a Government servant. If African chiefs, who are looked upon as tribal leaders, are no longer chiefs, what is their place? The place of the African chief at present, Mr. Speaker, is that of giving orders from the district commissioner and district officers. Their place has been made still worse by the present close administration, because with the present close administration over every two or three chiefs one has got another chief on top who is called a district assistant. Actually the district assistants at the moment are the real chiefs because the chief in a location must give report to this district assistant all the time, and they have told me themselves the position is becoming untenable.

I think this is the appropriate time and place for me to emphasize strongly that the African chief at present is worried about his status. The African chief is actually not a chief at present; he has been reduced to a position of a tribal askari. Now if these men are leaders of their people, should not they be the real leaders of their people? If an

African chief is a competent man, why should he not be promoted to the rank of a divisional chief? In Uganda, for instance, one finds *saza* chiefs or county chiefs, a rank which is made higher than that of the Kenya chief. Why is that not introduced in Kenya?

Instead we have got this young man called a district assistant who is, actually, the chief at present. We want the African chief to be accorded his right place. I know in my own tribe we had a paramount chief, Mumia. First of all, when the Arabs came here, they used Mumia as a friend to go on to Uganda. When the British East Africa Company came to this country the Arabs introduced the Europeans to Mumia. The grand old man was given the title of Paramount Chief. Now, my people up to now have had a paramount chief, but what have they been told? They have been told it was an honour to Mumia and when he went the title went with him. This means, Mr. Speaker, that chiefs now are no longer chiefs.

The paramount chief who was used to bring the Luhya-speaking tribes under the British Crown was only used at that time in order to be liquidated from his own power. That is hurting very many of my tribesmen.

Furthermore, the African chiefs in the past have been in the district teams which plan the policy of the district as such. At present, to the greatest sorrow of the Africans, we do not find any African chiefs, because I know there are district assistants who sit on that body, and there are African district assistants, and there are hardly any African chiefs at present, at least in the districts which I represent. There are no Africans in the district teams.

Now, the Africans would like to be fully associated with the problems of their development. The district team organizes and plans all the developments of that particular district. Now, since the district is predominantly African, the African should be allowed to have a definite say in the running of their district. But, Mr. Speaker, I think the present policy of close administration which has increased the number of district assistants so that they have swallowed up the district team and

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[Mr. Muliro]

delayed the African probably has something sinister behind it. I hope there is nothing very sinister behind it.

Yet, there are Africans, Mr. Speaker, very responsible, very responsible chiefs, who could, in fact, tender very good advice for the development of the district, much more than any of these young children of 18 who are district assistants. They are experienced, they know what their people want, they know what are the problems of each location. Mr. Speaker, could we ever find better people than those people to put across what the African wants in African administration?

I am going to be asked by the hon. Minister for African Affairs: "What does he want? Who is going to carry out the functions of this Ministry?" As I have said, Mr. Speaker, the Ministry of African Affairs is the most amorphous Ministry in Kenya at present, whose functions are most unknown but which takes out everything African from every department. This includes even education. Some time this year a young man in England wrote to the Director of Education asking for a loan. From whom did he get the reply, Mr. Speaker? He got the reply from the Secretary for African Affairs. Their reply said: "Sorry, we find giving loans to Africans in Britain studying law is not beneficial. Law is not useful to Kenya at this present time." And the very letter said that "the Department is finding it increasingly difficult to place the Africans qualified in law in Britain in suitable positions".

That, Mr. Speaker, amazed me greatly and that is actually something which motivated me even more strongly to move this Motion, to see that even education, which ought to be in the hands of the Minister of Education, Labour and Lands, is actually dealt with by the Minister for African Affairs. Is this Ministry more competent, so specialized in the African? I do not know where that university is, where people go and specialize in the all-round activities of the African. Mr. Speaker, if there was a university like that, I would be most grateful; in fact, I would leave this Council to go to that university, so that I could specialize in the all-

embracing activities of the African people in this country.

Mr. Speaker, I think the present complex problem arises mainly from the misconception that the African is a different creature, very unique, and his case can be dealt with by a specialized department which actually is unspecialized. This uniqueness, Mr. Speaker, is actually, and has become, a form of escapism. It is an escape, because we in Kenya, think that the Kenya Government has refused to see the national issues and place them in their proper perspective, Mr. Speaker. If that would be so, then this uniqueness would go off, because what we are all interested in is to establish one happy nation of all Kenyans. Therefore a department of State which deals with a section of the community as such is, Mr. Speaker, most unwelcome in this country.

I, therefore, move that this Motion be adopted and that the abolition of this Ministry be effected as soon as possible.

I beg to move.

MR. MATE: Mr. Speaker, Sir, before I make my remarks in supporting this Motion, may I join the hon. Mover and the other Members of the Council in congratulating the present Minister for African Affairs on his appointment as Governor of Gambia. May I stress, Sir, that this Motion is in no way personal to the Minister, but rather to the organization called the Ministry of African Affairs.

With your permission, Sir, I would like to start by quoting from the Code of Regulations for officers of the Kenya Government, section A12, paragraph 4, where it says: "The Minister for African Affairs may, on reference to him or of his own Motion, advise on any subject concerning Africans, and in the event of disagreement between himself and any other Minister may take the matter to the Governor".

Mr. Speaker, Sir, it would be very difficult to see how a Minister could be in a position as a human being to advise, on any matter concerning the Africans, so as to have the power of vetoing the points of view of other Ministers who have their ideas about a particular subject concerning the African. His power

[Mr. Mate]

includes any advice concerning education, medicine, agriculture, commerce or anything else that concerns the African. Sir, I submit that the needs of an African as regards education, medicine, agriculture or anything else are the same as those of any other citizen in the country. Where the expert in the way of medicine or commerce or anything else feels that this is the right thing to do at this time, no single officer of the Government should have the power, if he so chooses, to veto that advice of the expert.

Here, Sir, I feel anything that affects the African should come under the appropriate Ministry as it is with the other races in Kenya. I do not know whether, of the other racial groups in Kenya, any race would like to have a Ministry to deal with specifically their affairs, having one officer with the power to veto another Minister.

Sir, it would give the wrong impression to think that the Ministry of African Affairs always advised on African affairs in a negative way. There is the positive side where the Ministry and its Department could be very useful to the African community, when they had officers who knew exactly what was the right thing at the particular time and used their influence for the cause of the African. Many such cases have taken place up to now, so it would be altogether wrong to think that the Ministry is a negative one.

However, Sir, if it is a question of advice on African affairs, I feel that there is a different way of doing it, a much better way, and one which just now the African is able to utilize with advantage. I feel an elective machinery with effective representation at the local government level would do very good work in making sure that Government is aware of the African needs. I feel that if we strengthen our district councils they could supply all the advice required regarding their own districts, and thereby Government would not have to rely on a single man like the district commissioner to advise them on African affairs, whether as regards health, education, roads or whatever it may be, in a district. At present, the district commissioner is in charge of a district and he can veto a medical officer on a project or he can veto any other department on

a matter which is good for a district, just because he has the power.

I do feel, Sir, here that a departmental officer working with the advice of these local bodies would be in a position to get the funds and the support from the African district councils, and that we should not have a single man to veto what the council felt was the right thing.

Here, I feel that African district councils should be very representative by having the members there elected properly by the people themselves and having areas that they can manage because they would then supply the advice at the local level which is required. Up the scale, I feel with African representation at the Legislative Council level, the advice or the opinions of the African that are required would be met through the Members so that the Minister would be relieved of the necessity of having to advise on African matters where, perhaps, it may not be what the Africans themselves want.

Therefore, Sir, regarding the side of advice, and using his influence to tell Government what the African wants, if we had this proper elective machinery, with effective representation at the local and higher levels, that side would be met. This is because, Sir, I feel the African knows his own needs or his own troubles better than other people.

Sir, coming to the negative side, as at present, the Ministry of African Affairs, with their last word about African progress, can give the advice, whether it would be as the experts feel, whether in matters of education, directing over schools or the opening of a hospital, on their own grounds they can give advice to Government about the other Ministers, and that advice would be taken because they have the extra power over African affairs.

Now, at the same time, the more we continue with this kind of set-up, if may, in a way, slow down the progress of these local bodies which, in the long run, ought to take up their proper work of advising and making rules about a district. So I feel it could smother the aspirations of the Africans, and here I feel it is time, as an hon. Member has said from this side, to have African presidents of the African district councils

[Mr. Mate] so that they can begin learning this job, in order that the district commissioner will not be required to become president, and he can look after his other duties; he will give more and more of his duties to the African president and his staff.

The other point that I call negative, Sir, is for this Ministry to overlap quite a lot with other departments, in that if the Ministry has a word on everything it means it would veto perhaps the Ministry of Commerce or the Judicial Department over a point of view regarding the way things should go; I have in mind co-operative societies. Sir, I do not see why co-operative societies should not properly belong to the Department of Commerce and Industry, why it should come under the Ministry of African Affairs. Also, it seems to me unnecessary, when we can trust the officers concerned with these other departments, why we have to refer matters to him. I except perhaps matters where the particular officers are specialists regarding African land tenure or African customs; I feel there they should give advice. But I do not feel that they should have any veto or say beyond any other departments on strictly specialist matters.

Sir, in the long run I feel that the break-up of this Ministry so that the things done by them go to other departments like the police or the Judicial Department would be the solution.

The other aspect is that, in my opinion, this Ministry has a discriminatory effect, in that, as the hon. Mover pointed out, the African citizen is regarded as a department of State. We have examples of such words as "native"; such words as "African". From the dictionary, the word "native" is a very good one; an Englishman is a native of England, a Scotsman is a native of Scotland, an African is a native of this country. But when it comes to talking about natives as if there is such a class, after that and above that called "natives", then the term becomes offensive. This Ministry has a lot to do with this separation of African affairs from one general affairs of the country, so relegating African affairs to the side. I do feel, Sir, it does become offensive to the African especially when one hears an officer say, "Now, this is good for the

native, this is good for the African". This is as if the African is a different human being. I submit, Sir, that the needs of the African, with regard to medicine, education, jobs, anything one can think of, are the same as those of any citizen of Kenya. So that I feel the devolution of this Ministry and the breaking up of the Ministry, to give the various jobs done by it to these other departments, would be a very good thing for Kenya, that it would bring that sense of oneness, that sense of equality, that we so much need in Kenya.

Sir, here it will be argued that after all the Ministry of African Affairs does defend the African rights; Sir, there I would like to know what particular African rights are defended by the Ministry which could not be defended by another arrangement, where a particular department looks after the specific affairs which concern it. If we take education, to the Ministry of Education at present are able to manage all the education of all the races in Kenya without any difficulty. If we take justice, law and order, the Police Department can look after the law and order in the whole country. But now what do we find? We find two forces in the same district, forces of the Kenya Police and the tribal police. In the case of the tribal police, they are really tribal in the narrow sense of the word. They limit their activities to a particular group of people and do not think of law and order in the wider sense. Therefore, I do feel, Sir, that that section could come under the Police Department without any difficulty at all, because it so seems now that because there is so much talk on parochial affairs and narrow tribal attitude that the African in Kenya is divided; not only that, the races in Kenya become so divided, we spend so much time thinking of natives and thinking of these differences which I feel are not necessary.

Sir, I submit, in supporting this Motion, that the African needs are not in any way different from those of other people in Kenya, and we should aim at having Ministries for all the people in Kenya without regard to this group or the other group; but within the Ministry there is room for adjustment regarding the needs of a particular locality or a

[Mr. Mate]— particular section of the community, if there is a need for that kind of thing. Mr. Speaker, I beg to support.

Question proposed.

4.30 p.m.

THE CHIEF SECRETARY (Mr. Turnbull): Let me say how grateful I am to the hon. Mover and Secondor for their very graceful tribute to my hon. colleague the Minister for African Affairs. It gives me great pleasure to hear what they said. I would like to take this opportunity of expressing the Government's very warm appreciation of the splendid services rendered to this colony both in the field and in the Central Government, by the present Minister who is soon, I am sorry to say, to leave us.

Sir, I have done my utmost to find some logical connexion between what the hon. Mover said and the terms of this Motion, but so far I have failed. We had a good deal about it being a most amorphous Ministry; from this it proceeded to argue that it was too closely knit. He then compared it with Fisheries, a point which escaped me; and went on to criticize tribalism. I think perhaps, Sir, it would serve a useful purpose if I reminded hon. Members of the position and the functions and the responsibilities of the officers of the Provincial Administration. The executive government of the colony is responsible for law and order and for peace and good government; and in addition, for the efficient and harmonious working of the machinery of the Government in conformity with the policies which are laid down by the Governor and endorsed by this Council. It is a responsibility of the Central Government—it is not a responsibility which has been delegated to any local Government—and in the Provinces the Provincial Administration are the principal executive officers of the Central Government. This is a point which I cannot overemphasize or mention too often. The Provincial Commissioner, within the limits of his Province, is the principal executive officer of the Central Government of the colony. He is personally and directly responsible to the Governor for the peace and good order of his Province and for the efficient conduct of all public business in his Province, and it is his duty to supervise not

only the work of his administrative staff but to be aware of what is being done in his Province by the officers of all departments. The senior officer of the Provincial Administration has therefore an important dual responsibility, first of all for the general maintenance of law and order, and secondly for the co-ordination of the work that is being done by the departments of Government in the field.

I should like to mention here that the Provincial Commissioner's position as the general guardian of law and order does not in any way conflict with the special constitutional responsibilities of the Attorney General. As I think all hon. Members know, the police in Kenya, as in most colonial territories, have a dual function. Its first function is the general maintenance of law and order; and its second function is the detection of crime and bringing offenders to justice. In the discharge of their first function the police are responsible to the Government and, subject to the general direction of the Government, but in the discharge of their second functions—that is to say the detection of crime and bringing offenders to justice—they are responsible to the law only.

They are under the sole authority of the Attorney-General. They are completely independent of any other authority, and are not subject to interference or direction from any other branch of the Government. I have been at pains to make that point clear because it is an important distinction. With this exception the officers of the Provincial Administration are, as I have said, responsible for the maintenance of law and order and for peace and good government. A district commissioner's duties in this connexion may range from taking precautionary measures against armed raiders from Ethiopia, a task which I feel a district council would perform with indifferent success, from thwarting the unsocial activities of organized bands of stock thieves right down to tidying up those family and clan feuds which, if allowed to smoulder on, might adversely affect the peace of a district. In a district commissioner's other capacity, as a co-ordinating authority, it is his duty to ensure that there is the fullest co-ordination and the fullest cooperation in respect of every branch of the Government's activities. It is the

[The Chief Secretary] declared policy of the Government that all local arrangements for dealing with matters such as public health, education, forestry, water supplies, agricultural and veterinary development, and so on, should be worked out by mutual consultation under the general supervision of the Provincial Commissioner; that is to say, the Provincial Commissioner would be responsible in a Province, and a district commissioner in a district. When any schemes are launched, whether for the advancement of adult education or the eradication of insect pests, or even for a baby show, there are bound to be minor conflicts of view and small differences of opinion between those who are concerned; and it is the responsibility of the Provincial Administration to see that these conflicts are resolved in the general interest, and that no obstacle is allowed to stand in the way of the overall progress and welfare of the people concerned. I hope hon. Members will not get the impression that differences of opinion are a common occurrence—they are not, but it is only natural that technical officers pursuing technical projects should do so with all the enthusiasm they can muster, and from time to time it is the duty of the administration to ensure that this conflict of technicians is suitably resolved and that the ground—the human ground—is, as it were, prepared, is prepared to take the seeds of technical advice.

The hon. Member referred to the structure of the Ministry. As I think he knows, the officers of the Provincial Administration are responsible to the Governor through the Ministry and through the Chief Native Commissioner as head of the Ministry. I know it has been said that the title of the Ministry for African Affairs has, if I may use rather a legal phrase, a pejorative connotation, but I regard that, personally, as complete nonsense. It may be in the future we shall call it the Ministry of Home Affairs, of Internal Affairs, of Cultural Enlightenment, but it will all boil down to the same thing. But whatever we call the Ministry I should be most reluctant to see the title of the head of the Ministry changed.

For the designation of Chief Native Commissioners has a very long and honourable association with one of the

most splendid services to the Colony, particularly to the Africans of the Colony. I have no doubt that some hon. Members opposite will find some derogatory implication in it, but it is a fact that any number of Chief Native Commissioners have served this country with a disinterestedness which is a credit to the Ministry, and to the whole of the Government service.

As I explained in the Budget debate, the main purpose of the Ministry is to care for and promote the interests of Africans in the Colony. I am aware that the Member is of the opinion that there is no reason why African affairs should be dealt with in any way differently from those of other communities, and I agree entirely that very often it is possible for all to be dealt with in precisely the same way. But we should be deluding ourselves if we thought that there were not in Kenya a very great number of African communities who are extremely backward. I know that the hon. Member for Nyanza Central continually stresses that they have ceased to be backward.

MR. ODINGA: What about backward people in Great Britain?

THE CHIEF SECRETARY (Mr. Turnbull): This is a debate concerned with Kenya. If we wanted to talk about the state of education in the United Kingdom, and if the hon. Member liked to put down a Motion, we could do that. The more backward areas do require special treatment, attention and care. To help the Minister in his responsibilities in this connexion, he has at his command a group of specialist officers who deal with such matters as land tenure, African courts, African customs, African local government, and so on, and to my mind it is inconceivable that at this time, when so many changes are thrusting themselves upon us, that there should not be some organization in the Central Government properly qualified and equipped to assess the impact of all these social, economic and agrarian changes; and it is the Ministry for African Affairs that carries this responsibility. I would like to repeat what I said in the Budget debate: "It is the Ministry for African Affairs which has been and still is responsible for making certain that the relatively rapid changes of the past 50 years have been brought about with the greatest possible

[The Chief Secretary]

consideration of human values, and greatest possible understanding of human enthusiasm and human foibles." The reason why the Ministry has been able to supervise these changes with so little friction, lies in the quality of its men—the quality of its individual men, for these are men who bear a personal individual responsibility. The Provincial Administration is the branch of the Government which is the most difficult to get into. It calls for the highest standards of education, impartiality, courage and character it can point to a record of impartiality, integrity and hard work, which can be rivalled by no other service in the world. The poorest African can rely upon the impartiality of the district officer, and I rather see the time coming when he will more and more require the protection of the Administration against the tyranny of political pressure. In communities which are not always distinguished by a very high standard of public morality in matters such as extortion and corruption, there is no more essential institution than the district officer. I do not think I exaggerate when I say he is looked up to by everybody. He is solid, approachable and incorruptible, and completely above all those tribal and clan feuds and jealousies which, as especially the hon. Members from Nyanza know, often make life in that area rather more complicated than it would otherwise be.

The hon. Member was dealing with possible alternatives. He suggested that African district councils should replace the Minister himself in his advisory capacity. Quite apart from the inherent difficulties of a local government body taking over responsibilities which must be borne by the Central Government, there are, of course, mechanical difficulties. There must be some central channel of advice to the Government. It would be illogical and exceedingly inconvenient to bring a deputation from every African district council to the Inner Councils of the Government in order to give advice about particular problems. The present method is simple, fair and successful, and its replacement by a local government body, or by a committee of any sort, would be a complete negation of good government.

MR. SPEAKER, Sir, I have not dealt with a number of points, especially those in connexion with the functions and qualities of chiefs; my hon. friend, the Minister for African Affairs, will handle those matters. But I think I have said enough to indicate that the Government cannot possibly accept this Motion, and I beg to oppose.

4.47 p.m.

MR. ODINGA: Mr. Speaker, Sir, in supporting this Motion, I stand first of all to congratulate the Mover for an able explanation, full of such reasonable logic, and I hope that Members on the opposite side will see and properly consider those reasons which he has put forward on this Motion.

Well, the Chief Secretary, in opposing the Motion, gave a very interesting reason for retaining the position of the Chief Native Commissioner, who is now the Minister for African Affairs. He says that that office and all those directly under him are responsible, and that the Africans at the moment—many Africans—are still a little bit backward in many areas. As such they need guidance and protection from such Ministries. It is surprising to find, I think, that backwardness is only something which is characteristic to Africa alone. In Great Britain you will certainly find there are backward and there are highly developed people, but there is no different treatment for those who are backward. In all the countries of the world you will certainly have most backward people and most highly developed people, but you do not generally have different rules for these people, or you do not generally have different people exclusively to deal with them. It is a pity that he should have considered that, and that is why I am sorry I interrupted him a little bit, generally when I heard the words "backward natives"—it generally cuts me to the quick.

To prove to you simply, and even geometrically, that the Minister for African Affairs is just something superfluous which should not be in the Government—we have got the Governor who is in charge of the whole Colony, and he is responsible to this Legislature. You are worried maybe.

THE CHIEF SECRETARY (Mr. Turnbull): I am not worried. You are wrong!



Mr. ODINGA: I will then say that he is Her Majesty's Government representative here. I think now that I have put it properly you are satisfied.

THE MINISTER FOR COMMERCE AND INDUSTRY (Mr. Hope-Jones): On a point of order, Sir, is the hon. Member entitled to say that the Governor is responsible to the Legislature?

Mr. ODINGA: I have put it properly the second time. On the other hand, Mr. Speaker, I say that the whole Colony is divided into Provinces and there we have Provincial Commissioners who are the Governors' representatives in the provinces. In the second turn we have got to the district commissioners who are also the representatives of the Provincial Commissioners in the districts. So in that line from the top up to the bottom I do not see where this Ministry for African Affairs comes in. I have just gone from the top to the bottom and I can see that if I was going to the Ministry for African Affairs I would have to go sideways from the direct line of the Government, which means that probably if he is also being the Queen's representative on the side of Africans in the whole Colony then that is a different matter; but he is not. He is directly under the Governor and as such I thought that this Ministry is a little bit unnecessary. It is not actually required.

Now, the Chief Secretary made it quite clear. He said that we might have a Ministry for Home Affairs or something like that—which I consider should be the Minister for Local Government. If we had somebody like that it would embrace all the local governments throughout the Colony and all the affairs of local governments will be under him. I thought that that would have been a better arrangement than the present arrangement that we have.

Now, I know this Ministry and if you will allow me, Mr. Speaker, I will begin with its history. It was in 1920 when this Ministry was inaugurated, and at that time Kenya was proclaimed a Colony. It was divided into two parts: one part was Crown land and the other side was called the African reserve. The Crown land was left to be under the magistrates—to be administered by magistrates—which meant that the magistrates were to administer the law in those areas; and

probably somehow, or, other, it was thought that in the African areas there must be somebody who could deal with them in a special way. So the Chief Native Commissioner was appointed and he was given other officers like the Provincial Commissioners and the district commissioners—the people who were directly concerned with the administration of the Africans; and as such I think the Chief Secretary will find it very difficult to convince we, the Africans, to believe that the Chief Native Commissioner has to deal with everyone throughout Kenya and that as such he is directly responsible to the Governor in advising him on all matters concerning all people in Kenya. I accept his explanation with regard to the Provincial Commissioners and the district commissioners.

But all the claims of the Chief Native Commissioner, or the Minister for African Affairs, I am quite glad because he actually also saw that the point in trying to alter the name, or something like that but I should have thought that he should have supported us altogether. That Ministry was good in the old days, probably, because at that time maybe those who created it thought that it could do something useful for the Africans. But at the moment we feel that it has outlived its usefulness; and so if it is done away with I do not think that there would be any harm at all. Mr. Speaker, to this country, but it will only help improve the race relationships and also the good government of this country.

I am sorry that I did not begin by making it publicly clear to the present Minister for African Affairs, who is just about to go away, and he should take it from me that we have nothing at all of a grudge with him, but we only feel that the arrangements and the policy which is actually followed in that department is what we feel should be done away with. But we are not at all in any way against any personalities.

Mr. Speaker, if I may be allowed to say just a little because I will not say very much in this Motion as I felt that my hon. colleague the Mover has put the case very ably and in such a manner that I could not have actually done so. We feel that the present arrangement of the Ministry the district commissioner is

[Mr. Odinga:] ... happening in the reserves which I feel are unnecessary and should not happen to a good citizen of the country. If you would like me to go back again I think it would take me a long time because to-day we are dealing only with the Ministry for African Affairs which I was trying to see if we can get rid of; but not the other things.

I have only one or two things, Mr. Speaker, to mention. I know that with the abolition of the Ministry for African Affairs we shall have direct contact with the Minister for Local Government. We shall have direct contact with all other Ministers, like the Minister for Agriculture and so on. At the present moment if the Minister for Agriculture wants to deal with the African affairs, then, well, of course, he need not go into the African areas to study the problems. At the moment he goes to the Minister for African Affairs to find out what the plans are for the African areas.

At the moment the Minister for Local Government, Health and Housing would not need to come to the Africans directly; he needs to consult the Minister for African Affairs on any problems affecting the Africans.

The Chief Secretary asked me whether it was different. It is quite different because the Minister for Local Government, Health and Housing would deal with the European affairs direct. He will deal with the local governments direct. He will not go to somebody else to deal with their affairs. Therefore it is quite plain and obvious that the laws dealing with the Africans must be a little bit different from theirs.

So, Mr. Speaker, I think, in making it quite plain and saying that the Governor is the Queen's representative here, we have the Provincial Commissioners who are his representatives; and in the districts we have the district commissioners. If this line were followed properly by all Ministries dealing with the Africans directly I hope that the better race relationships and more unified services throughout Kenya will affect everyone wherever they are. I think by that we would be better able to discuss our problems with the Member for Nairobi South and the Member for Nairobi West quite clearly and that we come to clear conclusions.

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THE CHIEF SECRETARY (Mr. Turnbull): I thank the hon. Member for giving way. Does the hon. Member suggest that the law as it runs in the African areas is different from the law, as it runs, in other areas of the country?

Mr. ODINGA: Certainly, Yes.

AN HON. MEMBER: In what way?

Mr. ODINGA: If you will give me time I will—and in any case I was going to explain.

There are so many things that we have complained about here, especially about the behaviour of the district officers in the African reserves. I do not think that they behave badly in the European areas or in the other areas. It is the things which they do to the Africans and to no one else.

AN HON. MEMBER: What things?

Mr. ODINGA: I thought that speaker who is asking me had been here. If he had been listening to me carefully he would have known that I dealt with so many things especially concerning the administration of the reserves and I have mentioned a number of things which are

[Mr. Odling]

With these few remarks, Mr. Speaker, I beg to support strongly the Motion.

MR. CONROY: Mr. Speaker, if I might just correct one misapprehension which arose in the earlier part of the hon. Member for Central Nyanza's speech. He said that the Chief Native Commissioner's office was established in 1920, that Kenya was then declared a Crown Colony, that it was divided into two parts (which were native reserves and Crown lands) and that in the Crown lands, magistrates were established, and that in the native reserves, there were district commissioners or native commissioners.

He then went on, Sir, to develop the argument that a different kind of law prevailed in one part of the Colony from the law which prevailed in the other. I cannot strictly see its relevance to the issue which is contained in this Motion, Sir, but in view of the fact that that argument was wrong I thought it was right to correct it at the earliest opportunity.

Mr. Speaker, what happened in 1920 was that—

MR. ODINGA: I said I thought that the administration of law was different in different places.

MR. CONROY: Mr. Speaker, I understood him in reply to an interjection by the Chief Secretary to say that the law was different. What happened in fact, Mr. Speaker, was this. In 1920 that part of what was hitherto called the East African Protectorate, which was not under any sovereignty, was declared a Colony. That part of the East African Protectorate which had been formerly under the sovereignty of the Sultan of Zanzibar was declared a Protectorate. Throughout the Protectorate and Colony, and throughout the native reserve and throughout the Crown lands exactly the same law prevails. The Queen's Writ runs from one end of the Colony to the other. There is no difference between persons, between the types of land; we have the same courts, the same law, and we have the same administration of justice. I did want to correct that point which the hon. Member for Central Nyanza has made because I think it is based upon a fallacy.

Mr. Speaker, there is no discrimination in law between different areas of Kenya. There are, of course, the African courts in which African personal law is dealt with and certain minor criminal matters. Those are the courts which deal with land cases, marriage cases, succession, property and certain minor criminal matters—breaches of African district council by-laws and so on. But surely those form part of our system of courts in the Colony and it cannot be said that because they are set up to the advantage of the people whose custom and law they administer that that is a discriminatory system of law.

Mr. Speaker, I think I have spoken enough on this point. But I am not sorry to have taken part in this debate because it has given me an opportunity to ask a question of the hon. Members opposite which has been worrying me during this debate. I listened with great care to the arguments which were advanced on the evils of tribalism. I am no person, Mr. Speaker, to be in a position to judge on that issue, but what I should like to know is, if tribalism is a bad thing, why the hon. Member for Central Nyanza wears such a charming hat?

THE PARLIAMENTARY SECRETARY FOR EDUCATION, LABOUR AND LANDS (Mr. Wanyutu Waweru): It would be wrong for me in this debate not to say a few words against the Motion.

The wording of the Motion says: "That this Council being of the opinion—"

I am sorry to say that I am not of that opinion at all: I am against it. My reason for being against the Motion, Mr. Speaker, is that I have been brought up by one of the first chiefs of this Colony from the time the British Administration took over the governing of the country, and I have seen the changes which have taken place throughout the Colony for the Africans and for the Colony as a whole, through the Ministry of African Affairs. Before I go very far Mr. Speaker I would pay personal tribute to what has been done by our present Minister for African Affairs from the time he was district commissioner of my own district, a Provincial Commissioner of my own province, and now the head of all

[The Parliamentary Secretary for Education, Labour and Lands] African affairs throughout the Colony. It is a good thing that Her Majesty's Government has had the choice of his name to go to succeed one of the able former Commander-in-Chiefs, Sir Wynn Harris, who also did so much for us during his short stay in Kenya. I would on behalf of other Africans who are outside this Council, as well as those who are in Council, wish the Minister for African Affairs a very happy and successful time during his services in Gambia, serving the African community there.

I am sorry to say, Mr. Speaker, that I was not able to follow the hon. Mover's argument. At one point he said that the African chiefs are not given the chance of being promoted. Another point, he did not, as far as I remember, suggest any replacement if the Minister for African Affairs was to be abolished, and if he did I am only too sorry that I was not able to follow him. What is worrying me, Mr. Speaker, is how the African ordinary man in the street and in the rural areas will interpret the Motion. This is I think the interpretation some of them will have, that from now on there will be no chiefs, headmen, district officers, district commissioners—all their offices will be closed down. If they have this opinion the result will be that the ignorant people—by people I mean Africans—will start committing all sorts of crimes, and the result will be that they will be troubled, fined, etc.

MR. MUMBI: Only the Africans are the people.

THE PARLIAMENTARY SECRETARY FOR EDUCATION, LABOUR AND LANDS (Mr. Wanyutu Waweru): They will start committing all sorts of crimes and the result would be that the African people will have to suffer. That statement reminds me of the time when there was a very big meeting at Kaloleni Hall, before the Emergency, where it was said, by one of the Members, that *kipande* had to be burnt down.

Some among the Africans did burn their *kipandes* and when they were arrested they were prosecuted. The same thing, I think, would apply to those who

have no knowledge of who are to make the laws, but do commit the offence.

Going back to what has been done by the District and Provincial Administration, I remember the year 1926 and before them, when we did not have roads of access. In the case of my own district, I remember one of the district commissioners, called Major Gray, at the time. He came and marked the road of access from the District Office to very near my own home. At the time he was doing so, he was walking from the Office and sometimes he was using a horse. Since then, so many more major and primary roads have been made, and transport is quite easy. This could not have been done without the desire and willingness of the administrative authority. I have been a member of our African district council, and I have seen what a big problem it has to run a district.

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

[Mr. Deputy Speaker (Mr. Conroy) took the Chair]

When looking to the time when there was only a district commissioner and a district officer and no more than that in the district, I cannot forget the very hard time they experienced when they had to deal with everything. They had to deal with health, education, roads, administering the country in the place of the police force, and so on. In the case of Nyanza, for example, I have been to the district of the hon. Mover of the Motion and I have seen how much has been done there by the Administration, as far as the health centres are concerned. If what has been done should be to kick the person who has done so in good heart by telling him, "Well done, good and faithful servant; thank you; go away"—nothing is so disheartening as to see someone who has spent all his life in serving a particular person or community, and the reward of his service is to be told: "Thank you, go away."

MR. MULLIRO: I thank the hon. Member for giving way. It is away from the point. I never attacked any personality in the African Affairs Department, but I was talking about the Ministry, and now he is misrepresenting that.

THE PARLIAMENTARY SECRETARY TO THE MINISTER FOR EDUCATION, LABOUR AND LANDS (Mr. Wanyutu Waweru): That, Mr. Deputy Speaker, does not take me away from my point.

I have known the hon. Mover and the hon. Seconder of the Motion for a time, and if I am right—and I would ask them to correct me if I am wrong—this is the third year since they left school. I am going to ask them a question. Since when did the hon. Members find that the Ministry for African Affairs was not serving the aims for which it was established? I would say, if I am right, since the African General Election took place; and I would say that if we were to go and consider ourselves what the Ministry for African Affairs has done for us—we would see that we did not have any other Ministry which had done so much for the Africans as the Ministry for African Affairs. I would further say that it was suggested by the hon. Mover that in the districts there are no African members in the district teams.

I remember lately I read in the paper about the organization of a Nyanza District, where they had Africans in their district teams. As a member of the African district council I have seen—as it was suggested by the hon. Seconder of the Motion—that all the district commissioners had been doing what should be done by various Government departments—law and order, he suggested—I remember it correctly—that the police should be doing it; health—the medical authority; agriculture by the Department of Agriculture. I have seen that every department of the district had been asking for this or that from the African district council and I can see that we cannot fail to have the help of all the Government departments in one particular district and, as I see it, there would be a Minister for Finance in every district; that would mean that we would have as many Ministers for Finance as there are districts in the Colony. Any department that may be wanting to build this or that building, would have to go to the head of the district and the head of the district would have to be under the head of the province.

I am not interested in the name of the Minister for African Affairs or any other name. All that I am interested in is

that the machinery is not disturbed. I would here pay tribute to the headmen, chiefs, district officers, district commissioners and the Provincial Commissioners for what they have done for the Africans, and I would say that they should not be disheartened by some of the speeches which have been delivered in this Council, but to work hard for the future of the Africans and for the country. The fact remains that a lot has been done by this Ministry and the officers, from the highest to the lowest, and a lot, I am sure, still remains to be done and it can be done well by someone who is serving and whose service is recognized by those who are being served.

Mr. Deputy Speaker, I strongly oppose the Motion.

5.27 p.m.

MR. MUMI: Mr. Deputy Speaker, from what I have heard from the opposite side, I speak on this Motion with a rather confused mind, because I do not understand the speaker who has just spoken and what he has been talking about.

Well, if I understand rightly the interpretation—the liberal interpretation—of the Ministry of African Affairs—I understand that it is the Ministry which has to do with—which should be doing—everything that is African. Probably the gentleman who has just spoken—if he had told us that the Ministry of African Affairs as it is, is the same or means the same as the Ministry without a Portfollo, probably we would understand him.

Well, then, before I advance on my other points, I would first of all like to clear off completely an impression that the previous speaker seemed to have gained, that we are concerned with any personality at all. As a matter of fact, I would like to join my friends in congratulating the present Minister for African Affairs on his new appointment and also to thank him very sincerely for what he has done as district officer, as district commissioner, as Provincial Commissioner and, last of all before his present title, as the Chief Native Commissioner of this country.

But what I do not understand—as many of my colleagues may not—I do not know whether the Ministry of

[Mr. Mumi] African Affairs is a mediator between the other Ministries or what, because there are matters which affect the land hunger.

The African has cried for more land, and then he is told: "Refer your case to the Minister for Agriculture". The African has cried for more education and better education; he has been told: "Refer your case to the Minister for Education, Labour and Lands". The African has complained of the behaviour of the police in the African reserves; I do not know to what Ministry he has been referred to lodge his complaints. The African has complained of the disorder in the African reserves as a result of activities and actions of officers in the field, including chiefs and headmen. Well, I do not know whether he should also appeal to the Ministry of African Affairs.

I may quote such matters which greatly affect the African. I may as well go back to the question of land. When an African has lodged a case before a native court, his appeal goes to the African Appeal Court first and then to the district commissioner and last to the Provincial Commissioner. Why is it that he has no last appeal to the Minister for African Affairs who is, we assume, the person directly responsible for African affairs?

May I conclude, Sir, by saying I do not quite see what purpose the Ministry of African Affairs as it is serving in as far as the African is concerned. What I believe my colleagues and those sound thinking people have in mind, is a Ministry which can be made directly answerable to matters affecting the Africans, and it is not in any way an attack on any department of Government.

Therefore, Sir, I beg to support.

MR. NGALA: Sir, I stand to support the Motion very sincerely. Now I must join hands with my colleagues on this side who have congratulated the Minister for African Affairs. I very much appreciate the excellent work that he has done for all people in Kenya, and particularly for Africans. We feel that we shall miss him, both as a personality and as a very useful person in Kenya. I also must say that the part that has been played by Mrs. Windley

in the scouting movement has been very much appreciated by all those who know her efforts and her hard-working attitude.

But I feel that my hon. friend, the Nominated Member, has not read the Motion very carefully and has not understood the purpose of the Motion very clearly. Here we are not saying that there is not any good work that has not been done by the Ministry in the past. We realize that the Ministry has been in charge of roads and made roads and has made a real effort and caused real progress in many African locations and districts, but the whole point of the Motion is that the Ministry has now outlived its purpose and its usefulness. This is a Motion which is not dealing with the past or what has been done so far, but it is a Motion which is dealing with the present. I can see why the Ministry has outlived its purpose. In my own mind I see that the Ministry has outlived its purpose and its usefulness because Government has provided other channels through which the same functions that have been done by the Ministry in the past could be done now without the necessity or the existence of the Ministry. If these other departments have come in we feel that a department or a Ministry which is unnecessary like this should be done away with, so that we can avoid redundancy in matters of the Ministry and also in officers.

The question of law and order; I feel that if the Police Department is standing for the administration of law and order, surely it is time that the district officers and any other officers attached to this Ministry should be relieved of the functions of administering law and order. This has been given as the first function of most of the administration officers by the Chief Secretary, or functions that could be performed by the different Provincial Commissioners. I feel that the time has come where the proper department or Ministry which should deal with law and order should be given a clear run so that it can deal with law and order in the usual way. What makes it a bit worse still, Sir, is the fact that the officers of this Department are very much mixed up when it comes to law and order. You find, Sir, that the district officer acts as a person who can arrest a person who has broken the law, and the

[Mr. Ngala] same officer acts as the judge. When it comes to the administration we find that an officer of that kind—the sooner he is relieved from such a situation; the better, and the sooner the citizens will get confidence in the law and order. We feel that not having such an officer would not in any way make the administration of law and order suffer to any extent, because there has been some provision made in the present Government whereby law and order can be dealt with effectively.

As far as the co-ordination is concerned, Sir, I feel that there is much that can be said about co-ordination in Kenya. I will quote an example of a place I know of fairly well. In Mombasa, for example, we find that there is what is called the Mombasa African Advisory Council and also there is the Municipal Board of Mombasa. Both these bodies are local bodies. They are co-ordinated. First they have committees and these committees are co-ordinated in the sense that there is the Chairman of the Board and the Town Clerk who is executive and can deal with all the affairs of the town, whether they are affairs concerning the Asians or affairs concerning the Africans or Arabs. All these affairs are dealt with by the Municipal Board as a whole and if it is a question of co-ordinating, surely the Town Clerk could co-ordinate the Housing Committee with the Planning Committee and whatever committee there in—in that particular Board; and if it is a question of forming what is called a central body which can advise Government, I am quite aware, Sir, that occasionally there are meetings—or regularly there are meetings—of Town Clerks who come to Nairobi and hold meetings and in such meetings these Ministers that are concerned with law and order or concerned with local government could attend those meetings, and in such places they could get the right advice. So I feel that even the co-ordinating aspect is dealt with in the present machinery or in the present arrangement of the whole country.

Now, the other point, Sir, I fail to understand what are these African affairs which are so unique to the African, as to justify special attention being given or as to justify the existence of a special department. I quite appre-

ciate the comment that has been made, that in some areas the Africans are still backward and they require special treatment, but I must say that I have seen some other areas with Asians or Arabs in Kenya, who are almost as backward as Africans in Kenya, but they do not have any Ministry of their own. So I feel that that point does not arise at all, because it is not backwardness which is the gauge for the existence of this Ministry.

Another example in Mombasa—in one post in the Municipality of Mombasa, there is a person who is called African Affairs Officer. Now at one time I said it was time that this African Affairs post was taken up by an African. We have got Africans who are capable enough, with sufficient education and the calibre that is right for this work. Now I was very bitterly opposed, and when I went into it, some person—a very responsible Government officer—said: "Why really want somebody who can keep his eye on the Africans?" Now if it is a matter of keeping an eye on the Africans, I fail to understand why it is not necessary to keep an eye on the Asians or on the Arabs or on the Europeans, and if this Department is so necessary for the establishment of Kenya—why is it not spread throughout; so that we can have a share really in the functions and in the virtues of the Department. I feel, Sir, that the time has come when all these provisions for different channels—where African affairs can be attended to—where we have all these provisions—I feel that the Department should be done away with so that affairs like education, which is common to all races, can be effectively dealt with by the Minister for Education; affairs of law and order can be dealt effectively with by the Minister for Legal Affairs; affairs requiring the police—they can be dealt with effectively by the Minister for Defence. It looks as if every aspect of life that has to do with the African has some connexion with other races as well. As, in fact, we are all citizens of Kenya, I feel that such a racial gesture should be removed from the system of the Government.

Sir, perhaps many people may say that, as has been pointed out by my hon. friend the Nominated Member who said that the ordinary person will interpret this as the removal of all the

[Mr. Ngala] headmen and all the chiefs and all the district officers and all the Provincial Commissioners and so on

I feel that he has misunderstood the issue altogether. The ordinary person is very much interested in what is being done for him. He is not interested in the fact that there is a district officer or a headman or a chief. Surely if the other departments do their work properly, then when the ordinary person wants a dispensary, the Minister for Health will look after that. When the ordinary person wants a piece of land, the Minister for Agriculture or the Minister for Lands will look after that. Where the ordinary person wants safety, the Minister concerned will look after that. It is not a question of personalities being there, it is a question of the work which wants to be done to be done, and to be done by the proper department which is established for that purpose. It is really for that reason that we feel that the Ministry of African Affairs, which cannot identify or tell us the exact affairs that are unique to Africans so that it can justify its existence, we feel that it is mainly for that reason that the Ministry should be done away with.

5.40 p.m.

[Mr. Deputy Speaker (Mr. Conroy) left the Chair]

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

Another point, Sir, I have seen in my own Province that in this Ministry there is a lot of discrimination. The law is one as has been mentioned by my hon. friend on the other side, but I must say that the administration is completely different although the law is one. I will give you one small example, Mr. Speaker, as far as poll tax collection is concerned and I hope this will not apply next year when we have personal tax which is non-racial, but as far as the poll tax collection is concerned to-day, the African is followed to his house at night and he is disturbed and asked for tax in many areas. This is done by officers of this Ministry and the question that the ordinary African asks is why is this Ministry doing this. Is it because this Ministry has not got sufficient work

to do other than disturbing me at night when it is clearly known where I live, where my house is and the number of my house. This is done only to Africans as far as I know, it is not done to the other racial groups. Now, it is there where the functions of the Ministry are not understood and they are probably abused by the officers who are given the responsibility. But it is such things that give an entirely wrong impression to the Africans.

Another thing, Sir, even in great progressive places like Mombasa and Nairobi, very progressive and can be compared with very many parts of England that I have seen as far as progress is concerned, you find that this Ministry has produced closer administration and where the local government system can work even more effectively, there we find the closer administration and more officers are employed from this Ministry. In a small place like Mombasa, Sir, there are eight chiefs. These are officers of this Department. Now, we feel that in a place where the local government is so well developed in matters of health, in matters of education and even in social services. We feel that in such places there is no real need for such officers. It is a complete redundancy and a completely unnecessary establishment in the Government. If all the affairs concerning all races are dealt with effectively in such places, why have these unnecessary officers? Probably their fear is that someone should have their eyes on the Africans. But I feel that that idea should not lead us to spending money unnecessarily when the other affairs which are not really African affairs, but the affairs of all citizens, if they are already dealt with, I feel that we should do away with these officers.

My hon. friend, the Nominated Member, who spoke before the hon. Member for Nyanza North said that the ordinary Africans will feel very much annoyed or will miss the chiefs. Now, under the present situation, I feel that the ordinary man would feel very happy without the present chiefs. They would feel very happy without the present chiefs because the first function of the chief being a leader of his own people has died away and that function has died away, but the chief has remained as a servant of the Government and an agent of the

[Mr. Ngala]

Government and as such he has lost his stand and his prestige among the African tribes. In fact, in many areas Africans have told me that they would like to elect the chiefs. They would like to elect the chiefs because they are fed up with the present chiefs who are entirely Government servants and have nothing to put across to their people other than orders from the district commissioners. I do not want the Council to get the impression that orders from the Government, or the district officer or of the district commissioner are always contrary to the progress of the Africans. Far from that, but I would like to make it quite clear that the function of the chief in Kenya has very much lost taste amongst the Africans.

Another point, Sir, which I would like to mention is that I know that this Ministry has been very useful in the past to the Africans and I know that this Ministry has had some functions given or directed by the Government. We are not after removing the Government which is the source of the instructions, but we are after the Government distributing the functions that are done by this Ministry, for example co-operative societies. In fact, a little while ago when I was trying to apply for co-operative societies, Sir, I wondered which Ministry it would belong to and I applied to the Ministry of Agriculture because naturally I thought co-operative societies should be the baby of the Ministry of Agriculture or the Ministry of Commerce. But afterwards I received a reply from the Minister for African Affairs. I thought I was in a dream or mixed up so I went to my Provincial Commissioner and asked him to make sure whether the reply was coming from the right Ministry. Well, I was cleared on that point, but I feel there is great confusion to the right things should be put in the right Portfolio. That is mainly why I feel that the Ministry should be done away with and its functions should be taken up by other Ministries. Already the functions that it is pretending to be doing are already done, and very effectively done by other Ministries.

Therefore, Sir, with that I would very much like to support the Motion.

MR. MBOYA: Mr. Speaker, Sir, I was waiting for the Minister for African

Affairs to speak. Apparently he was waiting for me to speak.

Now, I think that a few points ought to be clarified in this debate before we get completely confused: We are, I think, seeking, and by this I refer to hon. Members opposite, to depart from the terms of the Motion in that even matters that have been very definitely and clearly acknowledged are being referred to by some hon. Members as "grounds to defend an indefensible position". The hon. Member right at the back has made one of his very usual speeches. To us, not in the least surprising but, probably to him, only a matter of the normal course of his day-to-day activities. He has tried to bring in the question of whether the Africans appreciate the services of the Ministry of African Affairs. Sir, if he sat there and listened carefully to both the Mover and the Seconder of this Motion and for a moment forgot the terms of the written speech, or the memorized speech, he would have carefully noted that they did pay particular tribute, not only to the Minister, but also to the various other officers in that Ministry and its relevant departments. In this I wish to join hands with them because this is not a case where we are saying that nothing has been done for the Africans, nor that the personality of the Minister is objectionable nor, indeed, that the personality of anyone else is particularly objectionable. My colleagues have very carefully outlined the reasons and the principles underlying the motive behind this move, and I think that any person who is only concerned with the arguments and the points developed by the Mover and the subsequent speakers supporting this Motion will see very clearly that we have tried to put forward, I think, very logical arguments for demanding that the time has come when this Ministry should be abolished.

Now, Sir, let us refer for a moment to history in this particular connexion. I do not claim to be a historian myself, and I do not want to go into any question of when they did start or what happened then. But I think that I would be right in saying that one of the main reasons underlying the motives of those who saw fit to create a department such as this was of mixed purposes and one could interpret it as either motivated by

[Mr. Mboya]

a desire to put the African in a special category where he could be either looked after, safeguarded, protected or just exploited. I want to suggest that it is very likely that in the minds of many people it was the desire to see if they could not devise a means, in the circumstances that then existed, of protecting the Africans. This I think is the argument that we have very often been given. We see this kind of development in our own set up of the Labour Department and various other departments where, as a result of the history of this country, it became necessary sometimes in the early days to take certain measures that were defended on terms of protection of the African.

I think that when we speak on this Motion and when we consider the question of whether or not the time had come for this Ministry to be abolished, we have to take into account this particular background. We have to treat this subject on that background and ask ourselves whether indeed the same argument would obtain to-day and whether indeed the same position would be defensible to-day.

When the Chief Secretary spoke on behalf of the Government, he made some remarks that brought out somehow clearly some of the motives of the Government and I noted in particular that giving his third point he referred to the backwardness of the African community and the backwardness of certain areas and wondered whether it was not true that in fact for them, the district officer was the only protection they had. This, I think, is the argument that the Government would advance to defend this Ministry to-day and I think in proving our case we should try to bring out arguments to meet this particular point. Some of my colleagues have, of course, answered this particular question. If the Government's case is defended in terms of the backwardness of the Africans in certain areas and the need for these people to have some protection and, therefore, the justification of the existence of the Ministry of African Affairs, then, Sir, I think we should, only in fairness to the African community, look at not only Kenya but also other territories, our neighbouring territories, for example, and territories elsewhere,

how much and what kind of protection the more backward elements in those territories have and what form it takes. We should ask ourselves too, where do we find these so-called protective Ministries of African Affairs? How far have they gone really to protect the interests of the African community and how far have they eliminated the racial conflicts? How far have they been appreciated, and if they have not been appreciated, we should ask ourselves why?

Something certainly must be wrong some place.

THE CHIEF SECRETARY (Mr. Turnbull): Where?

MR. MBOYA: That is a very interesting question. Really where is it? I think it is in Kenya, Central Africa and South Africa. These are the areas of Ministries of African Affairs and it is in these areas, unhappily, most unhappily, that we find the worst possible race relations; the most frustrated type of African and the least possible appreciation by the African community of the services rendered to it by the Government and its own community's part in the governing of the country and in the society of the country. Why does he feel so isolated from his own? Why does he feel that he is an outsider in his own country in all these areas? And let us look at the other areas. We do not have to look very far. Uganda and Tanganyika. Surely they have some underdeveloped, backward African elements in those areas. They need as much protection as we do. If there is a case for an African Affairs Ministry in every area where the African is backward and undeveloped, there is a very big case to defend some of the districts in our neighbouring territories. I do not think that anyone would advance the argument that the absence of a Ministry of African Affairs in these territories means the absence of protection for the backward elements in those countries.

Let us look at it from a different point or a different angle, the development of local government machinery in the various territories. Let us study particularly those areas where you have a Ministry or a department of African Affairs and those areas where you have none. What is the contrast? It is not just a matter of how long these people have

[Mr. Mboya] been in contact with Europeans because nobody is going to say that in itself has been the determining factor in terms of the stages of advancement, or in terms of the pace of advancement. But again we find a similar picture that local government developments and the African participation full and effective participation in the local government machinery in the various territories shows a similar contrast to the one that I have just outlined.

The Chief Secretary asked me, when I said, "something was wrong somewhere"—he said, "Where?". Well, I do not think that it is difficult to guess where. If there is the least racial harmony in Kenya as against her neighbouring territories; if there is the least appreciation, recognition and acceptance by the Africans of the Government in Kenya, of their Government than there is in her neighbouring territories, and if there is the least development in African local governments in Kenya than in her neighbouring territories, then certainly we do not need to ask ourselves where there is something wrong. Something is wrong where there is the least development and the question we have to ask is why there should be the least development in Kenya as against these other territories.

The Chief Secretary referred to the word "native" and somehow regretted that it should be resented. I would join issue with him: I said I would join issue with him so he sits down.

THE CHIEF SECRETARY (Mr. Turnbull): I thank the hon. Member for giving way. What I said, Sir, was the expression Chief Native Commissioner had a long and honourable association. I was not referring to the expression "native" but to the expression "Chief Native Commissioner", that is the designation Chief Native Commissioner.

MR. MBOYA: Thank you very much. Well, let us take the three words together then. Yes, indeed, I would like to agree with the Chief Secretary that the designation Chief Native Commissioner has a long honoured place in this country, as much as we have stated that we have appreciated some of what has been achieved and done by the Department of African Affairs and by, not only the

present Minister, but some of his predecessors. This is not the point at issue. The point at issue is, whether or not it is not time now that this Ministry was abolished.

The terms of the Motion are: "This Council, being of the opinion that the Ministry of African Affairs has outlived its purpose and usefulness, recommends its immediate abolition".

Sir, in this Motion it is inherent the acknowledgment that at some time it had some usefulness; that at some time it had some purpose, but that now it no longer has that usefulness and purpose, and consequently it should be abolished.

Those are the terms of the Motion. It is irrelevant, therefore, for us to try to bring in issues and matters that are not really the subject of the Motion and do not in themselves defend the position of the Government or of the existence of the Ministry.

I come back to our friend again on the Back Bench. Now, he seemed to recollect very clearly some meeting prior to the Emergency where he said speeches were made about the *kipande*, and that some illiterate Africans misunderstanding the speech, I do not know why he should say "misunderstanding" because at the same time he says that somebody said they should burn the *kipande*. If they burnt the *kipande*, they understood the speech. He said that in fact any African reading the terms of this Motion and the debate in this Council will be left with the idea that as from to-morrow there will be no more chiefs, no more district commissioners and no more Provincial Commissioners.

#### ADJOURNMENT

THE SPEAKER (Sir Ferdinand Cavendish-Bentinck): It is time for the interruption of business. Council will stand adjourned until 9.30 a.m. to-morrow, Friday, 8th November.

*Council rose at fifteen minutes past six o'clock.*

Friday, 8th November, 1957

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

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

#### PRAYERS

#### MOTION

THANKS FOR EXPOSITION OF POLICY BY HIS EXCELLENCY THE GOVERNOR

(Debate interrupted on 6th November, 1957, resumed).

MR. SWYNNERTON: Mr. Speaker, Sir, on the adjournment I had been dealing with the case for productive farming arising from land consolidation and the case for developing cash crops as fast as we can within the limits of sound farming. That was in answer to the request that cash crop development should be unrestricted.

I should just like, Sir, to deal with the other aspect, and that is the restriction of cash crop growing which was raised by the hon. Member for Nairobi South. In the Plan to Intensify the Development of African Agriculture, certain targets were put down but those targets were subject to certain qualifications. One was that "where there are already in Kenya established industries and processing and central-marketing facilities, they must be fully consulted and those facilities used to the best advantage of the country as a whole". Another was "where a big increase in production is likely to affect the limited, sensitive markets, for instance, pyrethrum, the market must be fully explored and increases in production and the quality thereof so regulated as to avoid the collapse of the market, while at the same time ensuring that the African receives his fair share from the production".

If I might deal with this, Sir, the hon. Member, Sir, mentioned two crops, pyrethrum and pine-apples. I would like to deal briefly with pyrethrum. Pyrethrum production is controlled by a statutory board which is responsible for allocating acreages and tonnage to producers. That Board, therefore, can regulate the increase or decrease in the production of pyrethrum. Over the last 2½ years there has been a big increase in

pyrethrum production, something of the order of 1,000 tons of flowers. Of that increase, the African-increased production has been 158 tons, a very small fraction of that increase, and I therefore suggest that, so far as pyrethrum is concerned, both the Board and the Government—in so far as the Director of Agriculture is within that Board—have taken a responsible view. The Board, in fact did allocate to African members a production of 600 tons by 1958, and last season—that is the season to the end of last March—Africans had only reached a figure of 329 tons. Therefore, Africans have been very much within the allocation granted them by the Pyrethrum Board; in fact, until the last season, they had only produced half their allocation.

If I might go on now to pine-apples, there has been a lot of blame put on Government for encouraging pine-apple production when, in fact, Government has not encouraged pine-apple production although under very, very strong pressure from canners to increase it. I am not talking about recent pressure but pressure in the years 1952, 1953 and 1954. I want to be brief on this and I will not, therefore, quote correspondence on the matter, but I am quite happy to show the hon. Member correspondence which has taken place. The Government took the advice of the Colonial Office and the Colonial Products Laboratory in 1953 and 1954 and the advice received was that, because of the big and expanding production in other countries, Kenya could not expect to achieve a big share of world pine-apple markets. If it was to do so, it would have to get its plantings in within a year. At that time there was limited planting material and the Emergency had begun and, therefore, so far as the African areas were concerned, it was very difficult to get any substantial increase in planting at that time. These reports were presented to the canners—in particular, Kenya Canneries Limited—and the Managing Director of that firm made a number of firm statements that he saw no reason why 40,000 or 50,000 tons of pine-apple could not readily be absorbed. He maintained that statement and he came to see my predecessor and myself on numerous occasions, asking us why we were not pressing the production of pine-apples in African areas, extending it to other areas

[Mr. Swynnerton] such as Fort Hall and in a much more rapid manner.

In the event it has proved that the caution on the part of Government was justified. That caution, I admit, was imposed on Government to some extent, partly because of the Emergency, partly because it was undesirable to expand production unduly with land consolidation where a man might have his pineapples eventually five miles from his ultimate holding. Nevertheless, Government took advice, it was advice to be cautious, and it has been cautious. There was quite a big increase in production in 1956, due to the planting stimulated by the canners. In that year, however, there was no increase whatever in planting in the Central Province by Africans. I just want to make that quite clear. Sir, if the hon. Member wants to see the information that I have on the matter I am quite willing to show it to him.

The other matters raised by hon. African Members, who are not present at the moment, I will not deal with just now because there is a Motion on the Order Paper to be debated probably next Thursday on Government agricultural policy in the African areas; and the points raised can be dealt with just as well then as to-day, Sir.

Mr. Speaker, Sir, I beg to support.

DR. WALKER: Mr. Speaker, Sir, I wish I had been in the Chamber when the hon. Member for Nairobi paid tribute to the doctors and the nursing sisters in the poliomyelitis unit. We are very proud of this unit and I must thank the hon. Member for his informed interest and encouragement with regard to the working of the unit.

I would like the Council to know that the ward at the South Hill Hospital was designed, built and equipped especially for the treatment of poliomyelitis. During the time we have been using the ward—especially in this last year—we have found the need for improvements, and of course replacements have had to be made. One of the improvements we have put in hand concerns the auxiliary electric supply. The hon. Member was quite correct when he said that it might have taken three minutes to change over from the public supply to the auxiliary

supply. We have, however, adopted another system which is automatic and the delay now in changing over is represented by the time it takes the nursing sister to press the button and change the switch over.

With regard to equipment, the hon. Member mentioned the rocking bed. This originally was presented to the Department by the East Africa Women's League and has done sterling service; but it is now coming towards the end of its useful life. I would like to record my appreciation of the spontaneous public generosity which we have just recently witnessed, and say that money has now been collected for another rocking bed. But, Sir, the Government is responsible for supplying the apparatus necessary for the treatment of poliomyelitis. We do not refuse gifts, but we have always to see that there is a sufficiency of apparatus for the treatment of those cases. There is a need for further apparatus, I know, but of a research nature and I feel it is fair—we should go to those other sources of money for buying apparatus which is essential for research into the disease.

The hon. Member asked what we were going to do about making plans for the treatment of poliomyelitis and after-care. Sir, we have given this a very considerable amount of thought, and I can say now that as a result of our thought we shall have to readjust priorities in our development programme in order that we can find the accommodation for the extra staff that will be needed for the care of these patients for a long time to come.

Quite clearly we will be involved in some extra expense which cannot be carried by the Department, and the time will come when I shall have to be asking for more provision, and I hope I can depend upon the support of the hon. Member in my request.

There is one other question, Sir, which the hon. Member raised in his speech. He wished to know what was the disposal of the revenue that accrued from the payment of fees. The money does go into revenue and appears in the departmental estimates at an Appropriation-in-Aid. As such, the Appropriation-in-Aid goes directly towards meeting departmental expenses.

[Dr. Walker]

Finally, Sir, there is just one other question that was raised by the hon. Member for Eastern Electoral Area; he complained that the cost of the treatment of tuberculosis was high. Under the system that we have adopted in the Medical Department for domiciliary treatment and supervision, the cost of the drugs at the moment is 25 cents a day—between Sh. 90 and Sh. 100 a year.

I admit that can be quite a burden on the private purse, or the public purse, and we are doing our best to reduce the cost of drug treatment. We are co-operating with the High Commission and the Medical Research Council of Great Britain, and some trials have been in progress for a little while giving most encouraging results. I think it may not be long before we can reduce the cost of treatment for tuberculosis to a quarter of what it is now. I hope, Sir, that the information I have been able to give will have been of use and interest to Members.

Sir, I beg to support.

THE MINISTER FOR LEGAL AFFAIRS (Mr. Griffith-Jones): Mr. Speaker, Sir, I wish first to deal with a number of matters which have been raised in connexion with the Emergency and which have legal implications.

The Government has been urged to bring the Emergency to an end, and to relax what have been described as the restrictive and punitive measures in force under Emergency legislation. Now, Sir, the European Minister without Portfolio has already told the Council that it is not possible at the present stage to bring the Emergency to an end, nor to forecast when it will be possible to do so. There are still several thousands of people still held in detention under powers derived from Emergency legislation; there is still a not inconsiderable number of armed terrorists at large in the country and presenting an immediate and continuing menace to public safety and the maintenance of law and order.

Now, Sir, this number, which was mentioned in His Excellency's speech at about 150, may seem small in relation to the several thousands of armed terrorists who confronted the Security Forces at the height of the Emergency;

and indeed, this relatively small number which remains is a measure of the progress which we have made, towards finally eliminating the threat of the most violent and murderous manifestations of the *Mau Mau* rebellion. Nevertheless, it is to be remembered that these remaining terrorists are the survivors of a much greater number, and that their survival and continued adherence to the practice of terrorism indicates that they are determined and fanatical. While their number may seem small in relative terms, when they are divorced from a comparison with the earlier days of the Emergency, they represent a threat to security which no Government could afford to regard with complacency. As their numbers have diminished, so they have become more elusive, more difficult to eliminate, and we need our Emergency powers to deal with them effectively. Similarly, Sir, we need our Emergency powers to deal with the remaining detainees in detention while the work of rehabilitation and release—which has achieved such remarkable success—continues with all the drive and energy which we can put into it, and which is being put into it. We need, too, Sir, our Emergency powers to secure the public safety and ensure the maintenance of law and order in those areas to which released detainees are returning in their thousands and in which they are being reabsorbed into the life of the community.

Now, Sir, in this gigantic task of rehabilitation, release and reabsorption of thousands of detainees, we have had to take calculated risks. In these risks, we have been vindicated by events, by the lack of recidivism on the part of released detainees. But this success has not been achieved without the additional powers available under Emergency legislation to enable us to hold the precarious balance of security in conditions of risk and potential danger. As the work of rehabilitation has progressed, so have we passed through the pipeline to release the less deeply infected, the less fanatical and the more responsive detainees, that is to say, those who are more responsive to rehabilitative treatment, and so have we come down to deal with the most difficult, the most fanatical, and the most unresponsive type of detainees. Progress and success in dealing with these most difficult types have exceeded our most

**[The Minister for Legal Affairs]**

anguine expectations; but, Sir, the task grows progressively more difficult, and it would be idle to suppose that the flow of releases and of reabsorption of the remaining detainees can be maintained at its present rate without any diminution. It would be unrealistic, too, Sir, to suppose that in continuing to take calculated, and perhaps, even greater, risks in the release of these most difficult types of detainees, we can afford to relinquish our powers of control under Emergency legislation for the preservation of security in the areas to which these released detainees return; or that we can afford to relinquish those powers during the period necessary to consolidate security and to re-establish in the fullest sense public order after the violent upheaval which this country has undergone.

The Government, Sir, has nevertheless pursued a consistent policy of revocation and relaxation of Emergency legislation whenever the paramount interests of security have permitted. Again, in pursuing this policy of relaxation, we have had to take calculated risks; but the fact that our progressive measures of relaxation have been carried through successfully and without disastrous consequences has been due to our determination not to act prematurely in this exercise, but only when the conditions prevailing and the prospects and portents for the future have warranted our relaxations with sufficient assurance that the risks entailed have been justified and acceptable.

In carrying out this policy of relaxation, we have revoked a large part of the main body of Emergency legislation and we have introduced relaxations by way of modification of a large part of the remainder. I would remind the Council in particular that, having over the last two to three years abolished a number of criminal offences under Emergency legislation, and having reduced the penalties for others, we did in the early part of this year finally remove the death penalty from the last three remaining Emergency offences which had up to then been capital.

Our policy of relaxation continues, Sir, and the remaining Emergency legislation is subject to constant and continu-

ing review with the purpose and intent of further revocation and relaxation whenever and in whichever respects improving conditions allow, without, however, jeopardizing the very improvement and success which we have achieved to date.

Some Members have suggested that we should not continue to hold persons in detention; that we are being complacent about the deprivation of their liberty without trial, and that we should speedily end all detention, and, in the case of the Member for Western Area, that we should appoint a select committee to assess the inhibitions of security in this regard.

Let me at once, Sir, refute the charge of complacency. Let me also refute the implication that the Government is resorting to continued detention unnecessarily and unconscionably. Detention without trial is distasteful to us all; it is repugnant to our principles of justice and to our concepts of law and individual liberty. We resorted to it, and continue to resort to it, only under the compulsion of necessity, and for the preservation of the public safety: in those very circumstances, in fact, and for those most cogent reasons, which have from time immemorial been recognized and accepted as justifying the deprivation of the liberty and safety of the community at large. The most firmly and deeply rooted principle in our common law is *salus populi suprema lex*.

The record of releases over the last three years in excess of 50,000 speaks for itself in refuting the charge that the Government uses its powers of detention as a convenience or expedient or without the most anxious and responsible concern. Its concentration of energy and resources, both of men and of money, on rehabilitation and the passage of detainees through the pipeline to release and to a resumption of normal life in the community, and the remarkable successes which have been achieved, and which are being achieved, in this task, resulting in a flow of releases at the rate of many hundreds a month, and many thousands a year—all these factors combine to refute the charge of complacency.

**[The Minister for Legal Affairs]**

Now, Sir, it has been suggested that confessions to *Mau Mau* activities and association is an essential prerequisite to progress in rehabilitation towards release. Confession certainly plays a large part in the system of rehabilitation. But, Sir, this is because it has been found, as a psychological fact by experience, that before a *Mau Mau* adherent can become receptive to reformatory processes, he must rid himself of the incubus of the *Mau Mau* oaths and of the fears and superstitious hold which those bestial oaths have on him.

10 a.m.

He sees others who have not been struck down by the power of the oath on renunciation; and when he himself survives the forswearing of his oaths by confession, he is then relieved—this is a psychological fact—he is then relieved and conditioned to make progress in rehabilitation and to extricate himself completely from the evil bonds which have been holding him. No man, however, Sir, is expected or encouraged to confess falsely to activities or associations which never in fact took place. False confessions in the context of this psychological phenomenon which I have just described would be quite useless. They would serve none of the psychological purposes for which we require confession as a means towards rehabilitation. So let there be no suggestion that persons are expected or encouraged to confess falsely to *Mau Mau* activities or associations. It is the last thing that we require, that we want, in the rehabilitation processes, because it would defeat the very purposes and the very ends which confession serves in the rehabilitation system.

Sir, we have over the years built up a system of information, of checking, cross-checking, referencing and cross-referencing, such that the risks of a detainee being held on false information are virtually negligible. Moreover, Sir, there is the procedure for review and examination of the grounds for detention by the Review Committee. This affords yet a further safeguard against injustice; and, Sir, the Review Committee is not inhibited from reopening and re-examining any case of its own motion, and in fact it can do and does and is doing that. It is re-examining cases—notwithstanding that the previous objections and

appeals by the detainees concerned have been rejected in the past and notwithstanding the fact that there has been no fresh appeal awaiting its consideration.

Now, Sir, I come to the suggestion of the hon. Member for Western Area, that this Council should appoint a select committee to assess the requirements of security in relation to continued detention. Sir, no responsible Government could accept such a suggestion, which is founded on a misconception of the functions of a legislature. Legislative Council and its committees are not policy-making bodies. Their functions are legislative and critical. In relation to Government policy—and I stress the words "Government policy"—Legislative Council provides a forum for discussion, for criticism and for justification by the Government of its policies; and of the financial ways and means of implementing those policies. But, Sir, the Government has the function of governing, and it will continue to do so, and, in the performance of that function, the Government is the policy-making body. With its vast experience over the last five years, with its mass of knowledge and information on all aspects of the Emergency and of the needs and requirements of security, and above all, with its responsibilities for public order and public safety, the Government is the only appropriate, competent and fully informed judge of these matters.

We shall continue, Sir, to apply all our energies and resources to reducing as rapidly as possible, consistently with the safety of the community, the numbers still held in detention. But it would be criminal folly, and a disgraceful abdication of responsibility, were the Government now to relinquish its powers of detention and subject society to an invasion of several thousands of the most dangerous and fanatical *Mau Mau* adherents still in custody.

So much, Sir, for the points arising from the Emergency.

I want to deal very briefly with one or two points which were raised in this debate with regard to law reform. I would like to assure my hon. and learned friend the Member for Aberdare that his work on testamentary succession, and the report which he said has been pigeon-holed over the last 23 years, is now "de-pigeon-holed", and that



## [The Minister for Legal Affairs]

it will be taken into very careful consideration by and will be most valuable to the Law Reform Committee and the sub-committee which that body has established for the consideration of the law of testamentary succession.

Now, Sir, I always enjoy listening to my hon. and learned friend from the Central Area. His enthusiasm for language and his dexterity with words appeal to me. Usually he uses his oratory as a conveyance of wisdom or, if not always of wisdom, at any rate of forthright and reasoned common sense; not that we always agree with him! On this occasion, however, I have the feeling that he has tended to shed the rather graceful mantle of the seer and has adopted the rather less becoming cloak of the cynic. Perhaps that is an inevitable characteristic of the odd-man-out. However, I would merely say that I personally prefer the seer and feel that the cynic does his talents less than justice.

He referred to the Hindu marriage and divorce legislative reform which he sought last year and he berated me for not having produced a Bill. Sir, it has been for no indifference to his proposal that the Bill has not been introduced and I will set his mind at rest at once by saying that a Bill will be introduced during this Session; but he must realize that the legislative programme with which I and my draftsmen are confronted is truly formidable. There are on our current programme over 70 Bills in course of drafting or awaiting drafting. Our Reform Bills seldom have that degree of necessitous urgency which entitled them to top priority; but we have introduced—and let there be credit for the fact—a considerable number of reform measures, particularly over the last two years. We had some eight Bills in the last Session which were passed by this Council and which were either wholly measures of reform or which had in certain parts the characteristics of reform; and we have embarked on a policy of reform, but, as I say, any project for legislation, and particularly for legislative reform, must take its place in the queue. However, his particular hobby is getting very near the head of the queue at the moment.

He referred to the subject of the transfer of property; but I am quite sure that

he would not expect me to produce Bills out of a hat on that most complex and wide subject. Let me tell him, however, that the subject of transfer of property is engaging the attention of the Law Reform Committee and that an exploratory working party is being established to investigate the extent of the problem and the manner in which it can best be tackled. It is an enormous undertaking, as I am sure he will concede, and I think it is likely that we shall have to have a Commission—and possibly a Commission sitting over a number of years—before we can achieve a suitable answer.

On the subject of the Law of Contract, which he also observed had not been reformed, I would observe that there is, as I have discovered on canvassing this subject with my counterparts in the other territories, a considerable divergence of opinion, not only between the territories but between the various branches of the legal world in the sense of the Judiciary, the Law Officers and the practising profession. The subject is on the agenda for a Law Officers' Conference which I shall be attending in a week or two's time and I hope we may be able to make some progress in that regard.

In regard to land consolidation, Sir, I do not wish to say a great deal, but I feel that I should mention one or two points which were raised in this context by the hon. Member for Nyanza North. In the first place he talked about the land of the remaining 18,000 detainees having been confiscated. Land consolidation itself does not import any confiscation or forfeiture. He may have in mind the forfeiture or confiscation orders made under the Forfeiture of Land Ordinance. There are about 3,000 of such orders extant, but many of the persons concerned in those orders—the persons against whom those orders were made—were never detained; they merely disappeared into the forests and some of them have never returned. There are many persons whose rights have been forfeited but who are in prison or in detention and whose land which has been forfeited from them has in fact been passed to their families and is being farmed by their families. I think it is important that we should clearly understand that land consolidation in itself does not involve any forfeiture or confiscation.

## [The Minister for Legal Affairs]

The hon. Member also made the point that African farmers should get magnanimous loans for a longer period. Now, Sir, the powers of the Land and Agricultural Bank to lend money to African farmers are unfettered in point of time or in point of amount, and the security can be any security approved by the Governor. There is, however, the limitation that these loans require the approval of the African district council concerned; and of course there is a necessary limitation in regard to the security which can be offered for loans.

Now, the hon. Member for Nyanza North on the one hand recommends that there should be a wider and more generous loans policy and then in the next breath he goes on to suggest that the very process of providing the African farmer with the form of security on which he could most conveniently raise money should not be pursued—in other words that there should not be any issue of individual titles but that the tribal concept of tenure of land should be left undisturbed. That is a complete contradiction and confusion of thought. The one is dependent on the other.

It also should be observed, that the legislation for individual titles, if and when this is enacted by this Council, will not apply automatically to all the native lands; it will only be applied to those areas which want to be or have been consolidated and/or enclosed, and in which the local inhabitants want to have individual titles to their land. His point was that if the African farmer is given an individual title to his own property he will dissipate it by selling his property to Asians or to others. That possibility, as I have said when I intervened at the time, is being guarded against; and the manner in which it is likely to be guarded against in the legislation is by way of a provision that any transaction in land—not only sale, but any transaction—will not be registrable and, therefore, will not become effective—it will only become effective on registration—it will not be registrable unless specifically approved by a committee of local elders. This will enable the local elders—the wise men—to exercise control and to prevent and safeguard the individual African farmer from the conse-

quences of his own stupidity and prodigality.

Now, Sir, there were one or two other small points in respect of which I must ask the indulgence of my hon. friends on the other side of the Council if I do not reply to them expressly, because I do not wish to take up too much of the time of the Council and I do want, before I sit down, to deal with one other matter which has arisen during the course of this debate.

Sir, I refer to the reference to the paramountcy of African interests in this country. Sir, this subject is, I fear, open to, and in fact is a matter of, misunderstanding, and I think it is probably right and useful if I attempt to set it in its proper historical perspective. I do not propose to present personal views to the Council, neither do I wish to take up the time of the Council with a long and detailed account of the historical developments from 1923 to 1931 which affected this particular subject; but I do want to bring out the salient historical facts so that there can be no room for misunderstanding.

It will be remembered that in 1923 the Devonshire White Paper contained a paragraph which has been much quoted and which I propose, with your permission, Sir, to read out:—

"Primarily, Kenya is an African territory and His Majesty's Government think it necessary definitely to record their considered opinion that the interests of the African natives must be paramount, and that if, and when, those interests and the interests of the immigrant races should conflict, the former should prevail."

Pausing here, Sir, that is the statement in the Devonshire White Paper which is commonly invoked as proclaiming a doctrine of paramountcy. Now, Sir, as will be seen from subsequent historical documents which I shall quote, that statement cannot be divorced from its context. I now propose to read on, and the next statement is this:—

"Obviously the interests of the other communities, European, Indian and Arab, must severally be safeguarded. Whatever the circumstances in which members of these communities have entered Kenya, there will be no drastic

[The Minister for Legal Affairs] action or reversal of measures already introduced, such as may have been contemplated in some quarters, the result of which might be to destroy or impair the existing interests of those who have already settled in Kenya.

Pausing there, Sir, that is undoubtedly a qualification and a reservation on the previous sentence.

Continuing to the end of the paragraph so that I shall not leave anything out which is relevant, it goes on:—

"But in the administration of Kenya His Majesty's Government regard themselves as exercising a trust on behalf of the African population, and they are unable to delegate or share this trust, the object of which may be defined as the protection and advancement of the natives races. It is not necessary to attempt to elaborate this position; the lines of development are as yet in certain directions undetermined, and many difficult problems arise which require time for their solution. But there can be no room for doubt that it is the mission of Great Britain to work continuously for the training and education of the Africans towards a higher intellectual, moral and economic level than that which they had reached when the Crown assumed the responsibility for the administration of this territory. At present"—this was in 1922—"special consideration is being given to economic development within the native reserves, and within the limits imposed by the finances of the Colony all that is possible for the advancement and development of the Africans, both inside and outside the native reserves, will be done."

Now, Sir, that is the paragraph which, as I say, is commonly quoted—or rather the first sentence of which is commonly quoted, as representing a declaration of the doctrine of paramountcy. But, of course, as I have pointed out, it must be read as a whole and one sentence cannot be extracted from its context.

Sir, in 1924 there was a Parliamentary Commission under the then Mr. Ormsby-Gore, and that Commission, and also the Conference of East African Governors, recommended what came to be known as the "dual policy", which has been

described concisely and succinctly as "the complementary development of native and non-native communities". In 1927, the Hilton Young Commission visited this country and in its report, published in 1929, the following passages occur:

"The general principles of native policy were ably reviewed in the Report of the Parliamentary Commission"—that is, the Ormsby-Gore Commission of 1924. "In chapter 3 of that Report it was pointed out that the obligation resting on those responsible for the government of these territories"—the East African territories—"should properly be regarded as a three-fold trusteeship:—First, for the moral and material development of the native inhabitants; secondly, for humanity as a whole (the duty here being to develop the vast economic resources of these territories for the benefit of the whole world—a duty the conception of which has been made familiar by Lord Lugard in his doctrine of the 'Dual Mandate'); Thirdly, for the immigrant communities, whose initiative, knowledge and material resources are necessary instruments in the fulfilment of the first two tasks.

These three obligations, as the Commission pointed out, are not necessarily in conflict. Properly interpreted they are complementary parts of a single obligation which cannot be fully performed if any of those parts is neglected.

"The Commission maintained that 'East Africa can only progress economically and socially on the basis of full and complete co-operation between all races'. They therefore advocated what has come to be known as the Dual Policy" which is defined in our terms of reference as "the complementary development of native and non-native communities".

In our terms of reference this dual policy is referred to as that "recommended by the East African Conference of Governors"; but we may also assume that it is the policy accepted by His Majesty's Government. In fact, no other policy is practically possible at the present stage. By permitting immigration and the alienation of land to non-natives on the one hand, and on the other hand

[The Minister for Legal Affairs] by declaring itself a trustee for native interests, His Majesty's Government has already accepted a 'Dual Policy'. There is an obligation to the natives and there is also an obligation to the immigrant community, neither of which can be ignored."

Now, Sir, the Hilton Young Commission in its report dilated at considerable length on the interpretation of the paragraph which I read from the 1923 Devonshire White Paper relating to paramountcy, and I do not propose to read the whole passage in its report—it would be far too long. I propose to read a summary or paraphrase from a Memorandum on Native Policy in East Africa which was subsequently issued in 1930 by His Majesty's Government—as it then was—in the United Kingdom:—

"This aspect of the question"—that is to say, paramountcy—"is discussed at length in the Report of the Commission on Closer Union"—which was the Hilton Young Commission—"where the view is expressed that the 'paramountcy' of native interests is to be interpreted in the sense that the creation and preservation of a field for the full development of native life is a first charge on any territory, and that the Government having created this field—in—the establishment of an organized governmental administration of the modern type—has a duty to devote its energies to assisting the natives to make the best possible use of the opportunities open to them. This obligation, which is plainly involved in the trusteeship, must be regarded as in no way incompatible with the common duty of any Government to promote the development of the resources of its territory and the prosperity of its inhabitants, including the immigrant communities within it."

Now, Sir, in 1930 also, the Government of the United Kingdom decided to refer the whole subject, of which this matter of paramountcy was a part, to a joint select committee of both Houses of Parliament. That joint select committee was a very high-powered one. Among its members were three former Secretaries of State for the Colonies and two former Under Secretaries of State

for the Colonies. I wish to quote a few passages from the report of that joint select committee.

It first of all quoted the first sentence of the paragraph in the 1923 Devonshire White Paper which referred to the paramountcy of African interest, and its comments:

"The Committee desire to point out that the declaration of 1923 must be discussed as a whole and not treated as though the sentence quoted above were the only operative part. . . . It must be noted that the declaration in its subsequent paragraphs profoundly qualifies this broad statement of native rights in the following sentence."

And it then went on to quote the next sentence:—

"Obviously the interests of the other communities, European, Indian or Arab, must severally be safeguarded." and the succeeding sentence, which I have already read out.

Then it reaches its conclusion:—

"The Committee consider that the matter may be summed up briefly by saying that the doctrine of paramountcy means no more than that the interests of the overwhelming majority of the indigenous population should not be subordinated to those of a minority belonging to another race, however important in itself. The Committee would observe—in this connexion, that while discrimination by means of subsidies or other privileges, customs duties, railway rates or otherwise, designed to favour unduly any one community, is of necessity open to serious criticism, at the same time it is most important to give adequate security to those Europeans and other non-natives who have settled in the country and who have made a permanent home there, often under very difficult and trying conditions."

Sir, that is historically the last word on the subject, and I have given this very brief historical outline in order, as I say, to ensure that there shall be no illusion as to the extent and confines of this particular declaration. Having done that, Sir, there is nothing further, I think, that I need detain the Council with.

I accordingly beg to support.

10.24 a.m.

THE MINISTER—FOR FINANCE AND DEVELOPMENT (Mr. Vasey): Mr. Speaker, as I listened to this debate and as I have read through its many, many words, I have been reminded very much, Sir, of the Shakespearean soliloquy:

“All the world’s a stage and all the men and women

Merely players; one man in his time plays many parts.”

Of course, Sir, I would connect the hon. Members with all the parts, especially that little bit which reads:—

“And then the schoolboy with his satchel and shining morning face creeping like a snail unwillingly to school.”

For, of course, Sir, with the dawn of political ambition there is no creeping like a snail. But, Sir, to some extent this Council is a school: all of us—and I repeat, all of us—as Members learning to be responsible to deal with the country’s problems on an objective basis, free from personal prejudices or prejudices against personalities.

I must say, Sir, reading some of the speeches, I was reminded of those words of Dryden’s:—

“Doeg, without knowing how or why,  
Made still a blundering kind of melody,

Spurred boldly on and dashed through thick and thin,

Through sense and nonsense never out nor in.

Free from all meaning, whether good or bad,

And, in one word, heroically mad.”

I must say, Sir, that at times it appeared to me to be rather apt.

Now, Sir, a long time ago, on 25th October, the hon. Corporate Member for Commerce and Industry, speaking early in this debate, raised a point about local government finance; and I would like to say to him that the Government is keenly aware of the point that he raised. Perhaps it is so long ago he himself may almost forgotten it, Sir, but it dealt with the fact that local government could draw also heavily upon the pockets of the taxpayer.

Sir, we are well aware, as a Government, that revenue and capital for local

government have all to come from the same source, and in many cases from the same pocket, from the Colony’s wealth or from available loan funds. And we have this problem, as have all responsible governments, of trying to strike a reasonable division between what a local authority can be allowed to do and what a Central Government must perform. We have also in this country the need to make sure that the weaker authorities get their share of the available capital. The Government has to, and tries to, at all times, keep in mind all these points, despite its appreciation of the strength of local pragmatism and of local difficulties.

Now, Sir, my hon. friend, the Member for Ukamba, also speaking, I think, on 25th October, raised the point of write-offs and the question of tax certificates on exit from the Colony to prevent one or two of the deplorable happenings which have recently, thanks to the financial system we now have, received publicity in this Council. The matter, Sir, is under discussion by all the people concerned. I am sure the hon. Member will agree that the system, if not carefully thought out, might cause considerable inconvenience to the citizen going about his legitimate business. In discussions with many people, also, I have found differences of opinion as to whether this should be applied. For myself, I hope for some solution to the problem, and I would like to say that in so far as I personally am concerned I hope it will be possible to institute some measure of this kind. I am sure the hon. Member will realize—that with the discussions going on; and the particular circumstances of East Africa, I can say little more at present.

Now, Sir, my hon. friend, the Member for Mau, also spoke very early in the debate and he raised the question of the increase in the local bank rate and its effect upon development. Well, Sir, the problem has to be borne in mind in a world aspect, and I would like to quote to the hon. Member an extract from the *Financial Times* of Friday, 25th October, which happens to be the very day, I think, on which a number of Members were speaking. It is from the *Financial Times*, under “Banking and Finance”. “South Africa has second thoughts. There seems little doubt that this

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“deterioration”—that is, the deterioration in the capital situation in South Africa—is due, in some measure, to the pressures that have been imposed on the capital side of the Union’s external payments by the tightening of monetary policy in the United Kingdom. South Africa is within the sterling area and as the authorities there have not been willing to harmonize local interest rates with the new British levels there has been a marked tendency for funds to leave the country to seek investment at the more favourable rates ruling in the London market”.

Our approach to the question of the local bank rate has to be with that particular factor in mind. A decision has to be made, having regard to the external and internal effect. For if you are not, as that extract showed very clearly, prepared to adjust your local rates to meet the challenge of the London monetary rate, then you must expect the capital and your money to drift away, unless you are prepared to move to the alternative which was, of course, tried by South Africa, of the restriction of the export and movement of capital. This, I suggest, would be very undesirable when one is dealing with a territory of this kind. I am making no criticism of the South African policy. But in the circumstances of this country, to think of the alternative of applying restrictive movement on the export of capital would be, I think, a disastrous policy.

Here the maintenance of free flow is an attractive feature to capital and so far every one of the past few years we have been able to say that the capital inflow has been satisfactory in view of general conditions. As I said, Sir, in a speech to the Indian Chamber of Commerce recently, talking on this problem: “Of that world”—of this financial world—“Kenya is but a tiny part, dependent for the strength of its currency on the support of the British Government, and unable of itself to influence the events and trends in this regard which have an effect upon the economic life of the country and its people. Thus the measures taken to defend the pound must and do have their repercussions upon our own activities, whilst we, as a

Government, have as a main task the cushioning of the blows where they seem likely to hurt the economy most. But unpleasant though these imposed consequences may be, they are not so unpleasant as would be our fate if the sterling pound were to fall.”

I also said at the same time, Sir, that I recognized that the local commercial banks must take their decisions in the light of the circumstances outlined. But I did express the hope that they, like the Government, would do their utmost possible to cushion the economy from too drastic a shock. Last it should be thought, Sir, that we are as attractive in the financial sense—to the outside world, as we ourselves would like to think we are, let me also read an extract from the *Financial Times* of Saturday, 26th October, under “Notes for Investors”.

“East Africa 5½ per cent 1977-83, which has a first dividend of £2 17s. 6d. per cent due on 15th December, remains at 494 per cent, the highest current interest yield in the Dominion market.” I would like to emphasize that. “The highest current interest yield in the Dominion market, with an interest yield of about 6.5 per cent, and a gross redemption yield of about £6 7s. 6d. per cent. This is a trustee investment.” Now, Sir, what is worth noting and remembering—and it is not the Finance Minister of Kenya speaking, which might under-rate its value to some hon. Members, it is the *Financial Times*—“Investment in East Africa is not everyone’s fancy, which is the main reason for the high return.” I do beg hon. Members sometimes, when they are talking politics, all hon. Members, to remember those lines: “Investment in East Africa is not everyone’s fancy”. Our task is to create the situation where it could so become.

Now, Sir, from the 25th to the 5th the debate went steadily forward, and then, Sir, came Tuesday, 5th November, Guy Fawkes Day, the right day, Sir, for young men to scatter crackers and enjoy themselves listening to bangs. Indeed, Sir, the right day for the hon. Member for Nairobi West to enter the debate. Mostly, one ignores the Catherine wheels or jumping crackers which delight the young so much; one only interferes when the explosions are likely to burn down

[The Minister for Finance and Development] the house or hurt the people around. And the hon. gentleman from Nairobi West must forgive me my persistent refusal to be the 'guy' at his particular bonfire.

Now, Sir, my task is, unfortunately, not pyrotechnical. I cannot indulge in the luxury of fireworks under the present circumstances. My job is the humble and prosaic one of finding the fuel to keep the home fires burning and finding the money to buy that fuel, at a time when money is very short and merchants' stocks are very low. If I might for a moment change the metaphor, Sir, I would like to remind one or two hon. Members opposite that there are some ethics in the hunt when it is a question of a country's welfare.

Now, Sir, the hon. Member for Nairobi West referred to the Coates Commission and the question of whether it should be treated as a whole or in parts. These are his words; he will forgive me if I adopt a slightly slow and thunderous attitude—it is automatic when you are reading these words. "I quote: We are told by our Minister for Finance that recommendations on tax reform—and here I quote—will have to wait for the consideration of any suggestions until the future budgets of the country. Later on the same day the Minister for Finance also said, and I quote: The Coates Commission Report, if it is to be dealt with, must surely be dealt with as a whole. Here, Mr. Speaker, there seems to be a serious contradiction. In the first statement the inference is that suggestions on tax reform would be dealt with from time to time. But later on we are told, No, they will be dealt with as a whole".

My return to my ordinary natural manner indicates that the quotation is finished.

Of course, Sir, the Report must be dealt with as a whole. The consideration of reliefs, balanced by extra impositions which are recommended in the Report, is a matter which must be dealt with as a whole. But the implementation of those decisions will be made when and as possible in the light of the financial position of future budgets. That, Sir, is only natural. There are certain proposals for

reliefs. It might be possible, when the financial situation is better, to allow some of those reliefs, without of necessity imposing some of the extra burden. It might well be necessary, if the situation arose, to impose some of the extra burdens without giving the reliefs.

My hon. colleague says, "God forbid", and so do I, but those are things which may be necessary. And it would be entirely wrong to lead this Council to believe that the whole of the report when the Government has made up its mind on what can be done, will be implemented except in the light of the financial position of future Budgets.

Now, Sir, my hon. friend, the Member for Nairobi West, also referred to the clauses of the legal and administrative recommendations of the Commission, and he said: "I trust that we shall hear something about this from the Central Legislative Assembly in December". Now, Sir, the hon. Member is well aware that that is the position because I told him so in the lobby of this building.

Sir, my hon. friend also quoted figures, the tax figures, of Central Africa, and he quoted the individual figures. I admit, Sir, that they are much more beneficial to the individual than ours. Of course, Sir, Central Africa has not had an Emergency, Central Africa is independent in the full sense of the word financially, and Central Africa has not, to use the words once thrown at me by the hon. Member for Nairobi West, "had in pander to the United Kingdom for financial aid". That may have something to do with this particular position.

However, if the hon. Member was going to quote the figures, why did he not quote the figures of the whole tax position? Why did he not point out that when he is dealing with Central Africa he is dealing with three units in federation, not with one country? And why did he not complete the figures, when he came on to the question of not increasing the company tax, stating the position in the Central African Federation, for there the company tax is 7s. 6d. in the pound, not Sh. 5, there they have large and massive mineral companies from which wealth can be drawn. Why did the hon. gentleman not complete the position by saying that the Federation was in the fortunate position of being able to draw

[The Minister for Finance and Development] only £5,680,000 in the year ending June, 1956, from its individual taxation, but that from company taxation it had drawn £23,920,000, not including super tax, surcharges and undistributed profits?

Is the hon. Member suggesting that that is a possible policy in a country of this kind, where we have no large companies of mineral wealth? Is he suggesting that we should put our ratio of individual and company taxation on that basis? Because if we are about to do that, Sir, I can see an awful lot of hopes of development disappearing overnight.

I do suggest that the hon. gentleman should at any rate complete the picture.

But, Sir, having said that the report must be dealt with as a whole, the hon. Member then comes on to his argument about company tax. Now, this must be "thought" over; this must not be dealt with as a whole. This must be "delayed"; we must not implement this. And then he went on to give his arguments about individuals and the effects of the company tax increase on taxation. Here again, Sir, his arguments were far from complete. The hon. gentleman is well aware that there are many companies who are non-resident in Kenya, and indeed our latest estimated return from company tax from non-resident companies is estimated at about £1,000,000.

I am sorry, Sir, the hon. gentleman has had his heyday of bonfires; he must now, I think, compose himself in peace.

*Mr. Alexander rose.*

Well, HANSARD is there if the hon. gentleman wants to check. But he did say that we should not put up the company tax because he did think that if we put up the company tax it would have this effect and would not bring us the money we thought. Indeed, there are a large number of big companies who do not have Kenya shareholders at all. The ratio in this country of individual tax to company tax in our latest figures, so as to complete the comparison that was embarked upon, is 6:4.

Now, Sir, the hon. gentleman then went on with another jumping cracker. Here he said, Sir—I quote: "So far, it has proved more economical than convenient, from the point of view of the operation of the Board, to operate in

London where the majority of its work takes place". (I am speaking.) Next he said, and I quote: "People who are paid are merely four people who are members of the Board".

Then he goes on to say, Sir, that he would like to turn to the accounts of the East African Currency Board and I quote from his speech, Sir: "Unfortunately, I have only the copy for the year, to June, 1956. I have been trying to get the copy to June, 1957, but I am quite sure that the figures I am going to quote will be extremely significant to Members. Remember, Sir, that he said—that is I—"the people paid are merely four people".

Now, the hon. Member goes on: "I notice, Sir, that the salaries and allowances for these are £27,520". Now, Sir, I was mistaken—I really thought the hon. Member was referring to the operations of the Board. I never imagined for one moment that he was talking about the ordinary staff which operates and does the day-to-day work. I must say, Sir, that I took it for granted in view of the hon. Member's deep research into this problem that he knew that there were in existence currency officers, deputy currency officers, assistant currency officers in the six territories of Kenya, Uganda, Tanganyika, Zanzibar, Aden, and British Somaliland; that there are clerical staff here, and this figure includes the salaries of clerical staff, reimbursement to the parent Government for leave pay, passages, pensions, etc., counting boards, and subordinate staff. This figure of salaries and allowances which he quotes is largely spent in the territories on the day-to-day staff, and Kenya's figure from that is already £12,165. Surely nobody imagines that £27,000 was merely to pay members of a Board, or that a Board operating in London really carried out the day-to-day work in the territory. That is something, Sir, that I am afraid I took for granted that the hon. Member knew. And when I said it was more economic for the Board to operate in London, it was because all the members of the Board live in London, and that if they had to come out here to make their decisions four times a year, we should have to pay their fares. Then the hon. Member went on: "Other expenses"—and he quotes me then—and remember he said it was

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more economical for the Board to operate in London—other expenses and rent charges, £15,970". And I quote from him again: "Sir, even in Nairobi with high rents, we could hire a very big building at that price".

Well, Sir, the rent of £15,970 includes the rent for the operation and the buildings necessary to operate the day-to-day work in the territories of Kenya, Uganda, Tanganyika, Zanzibar, Aden and British Somaliland. Of that already, £7,392 is paid to the Kenya Government for the rent of the Nairobi Strong Room which is operating in the basement of the Kenya Treasury. But, Sir, I never imagined that the hon. Member thought that the Board could possibly operate its day-to-day work without people in the country. I am afraid, Sir, that I took it for granted that these were the things which the hon. Member knew. Then he goes on, Sir: "Agency fees, £6,000". Well, of course, the position, Sir, is that in some territories, the banks act as agents of the East African Currency Board under the direction of the local Currency Board Officer; and those banks, because it is found to be cheaper to engage them, are paid an all-in fee for their services. In this country, for instance, the National Bank of India acts as the agency of the Currency Board under the direction of the local currency officer.

The next one, I think, Sir, was "Travelling expenses, £596. I find it very difficult to know where they travel unless they are paid a commuter's fee". Now, travelling expenses cover travelling in the territories by the currency officers and their staffs; but on this particular occasion there was included the return air fare of Mr. Fisher, a member of the East African Currency Board, who visited Kenya in July, 1955, to discuss the future staffing of the Currency Office in Nairobi, and to see what could be done to assist in the operation of the Currency Board. I apologize to the hon. Member, Sir, if I overestimated his knowledge of this particular subject, but I took it for granted that these facts were known to him.

Then, Sir, the hon. Member went on to quote from an authoritative book on

Colonial banking by two authors, one of whom was a Mr. W. T. Newlyn—well, Sir, that is the book, of course, which has been on our tables for some time. I do not know whether the hon. Member is aware that Mr. Newlyn, that particular Mr. Newlyn, is now economic adviser to the Uganda Government, and we have the benefit of his advice. The hon. Member raised a question of the formula of profits division, because he felt that Kenya should have a bigger share. I always feel that Kenya should have the biggest possible share, but it might interest the hon. Member to know in the light of the information I have just given him that there are certain other people who might claim to be very authoritative on this matter; they have put forward ideas in direct contradiction to the hon. Member which would not have been so much in Kenya's favour as the agreement we did secure. Now, Sir, when you are dealing with a situation like East Africa, which really is an economic unit and three individual governments, you have, Sir, to negotiate; and to think you can negotiate between governments at the end of a blunderbuss is an entirely wrong conception of what negotiation should be. There is a Committee for Economic Co-ordination which sits; it is an important part of the machinery. It is essential that there should be give and take and the East African economic co-ordination achieved, as far as possible, through that process of give and take; because that East African economic co-ordination, Sir, is most important and vital to Kenya, particularly to Kenya agriculture. Then the hon. Member said, Sir, that he had asked many questions about this Currency Board in order to arrive at this conclusion; well, what a pity, Sir, to waste public time and money when one frank letter or interview would have given him all the information he wanted, and prevented my having to put on record now the true facts, instead of the facts which he wrongly interpreted.

Then he went on, Sir, "Indeed, if allowance is made for the ability of Government to borrow in a country. . . . And, Sir, I would interject here that in fact that was the situation in the late 1920's, and early 1930's, but it was never resorted to".

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Again, Sir, I do not know where the hon. Member got his information from.

MR. ALEXANDER: From you!

THE MINISTER FOR FINANCE AND DEVELOPMENT (MR. VASEY):—but I would like to read the title of the Ordinance of 1933, No. 16, which was passed by the Legislative Council in Kenya on that day: "An Ordinance to authorize the raising of loans to enable the East African Currency Board to provide funds to meet further redemptions of currency." So by 1933, the position had become so deperate that Kenya had to seriously consider and pass the Bill to enable it to borrow in London to meet redemptions of currency, because the reserves had sunk so low. Now, let me say, Sir—and if the hon. Member likes to read the debate, here it is—let me say, Sir, that fortunately, the tide swung in favour of Kenya just in time, and they were able to scrape through; but, Sir, the situation was there, the Bill, the Ordinance was on the Statute Book, ready for resorting to at any moment; and I trust that no hon. Member thinks we must bring ourselves down to that particular thing. That, Sir, with the currency at the very low level it was in those days of under £4,000,000.

Now, Sir, I would suggest to the hon. Member that these problems must be looked at as a whole, and not in myopic isolation. Now, Sir, the hon. Member also raised the question of the lack of local loans policy. Well, Sir, I made a statement on 17th April; I do not propose to tire the Chamber by going all over that again; I do remember then the hon. Member said it would be £1,000,000 a year that was not taken up in the local loan market.

The hon. Member will forgive me if I speak from just a little older platform, almost before the hon. Member's political birth or at least before the dawn of the hon. Member's political career.

The Nairobi Town Council, in which my friend, the Nominated Member, Mr. Tyson, and myself and quite a number of people who have been through this Council were taking part, pressed on the Government the need for local loans. Whilst I was Member for Local Govern-

ment myself, I had the honour to institute the first local government loans authority instituted in any colonial territory. It is sad to say that when somebody who was associated with that and with the first entry of direct access into the London market of Nairobi, the only place in the Commonwealth that has that privilege, is not anxious to see a local loans policy in operation, the hon. Member is either foolish or viewing it from one particular angle of the telescope.

The hon. Member, too, asked a question and he referred to this in his speech on 29th October, about £50,000 for the Nairobi City Council which it had wanted to borrow for staff housing. And my hon. colleague—I am not certain, Sir, whether I should say my colleague or my temporary colleague—the Minister for Local Government, replied: "The Government is aware that the Nairobi City Council recently attempted to negotiate a loan which it proposed to use for staff housing over and above the approved capital programme of the City. Sanction was not given as it was considered that to do so would prejudice current negotiations by the Council and the Government for a major loan on the London market." A little later on, the hon. Member said, "wasn't it a paltry reason" that my hon. colleague had given for refusing this amount.

Now, Sir, I hate going into these details, but perhaps we had better have the position on paper. For some time, there has been a struggle going on to maintain Nairobi's position as the only local government authority in the Commonwealth with free access to the London market. Now, at the time when the Loans Conference was held about which the hon. Member complimented the Administrator of the High Commission to such great extent, that conference had due regard to the Nairobi position. It was agreed that we would support, and I may say that it was agreed after very deep thought that we would support, this Kenya Government, Nairobi going on the market with £500,000 of local money in to supplement what they would get on the London market. Then, Sir, the situation changed when the Nairobi City Council said to London that it could not raise the money locally, and could it go on to

[The Minister for Finance and Development] the London market for the whole of the amount and not be forced to come back to Kenya for £500,000. Well, of course, Sir, doing all we can to support the Nairobi City Council, we supported them in their suggestion that they should be allowed to go to the London market for the extra money in view of their plea that none was available locally.

Now, Sir, what was I to do when I was faced with the request to raise £50,000 having supported them on the grounds that money was not available locally? To raise £50,000 to add to their capital programme, at a time when I was supporting them in London and on that statement? And to have accepted that position at this stage in addition to the capital programme would have rendered the situation of supporting Nairobi in direct access impossible to continue. The Government believes, and I know that responsible people on the City Council agree, that the most vital thing in Nairobi's interest is to maintain that direct access which they have been, quite rightly, so proud of.

Now, Sir, I come, I think, to almost the last phase of the hon. Member's remarks. This was on the question of loan money. The hon. Member referred several times to the amount of money Kenya was going to raise for development as, I think he said, "fiddling", then said that New Zealand was embarking on a "bold loan programme of some £1,000,000,000". I hope the hon. Member agrees that figure is correct—£1,000,000,000, because my hon. friend, the Secretary to the Treasury, when he said "£100,000,000" was corrected. I would like to know the source of the report, Sir, and confirmation of it because I can see nothing of that kind outstanding, certainly as a Government programme. The New Zealand Minister for Finance, the Hon. J. T. Watts, when introducing the 1956/57 Budget into the House of Representatives last year said "the Budget would not announce any increases in benefits or any further tax concessions, it would be a 'hold-fast' budget", but what he did go on to say was most interesting: "Despite", and I quote from the summary: "Despite hard cutting of estimates for capital expenditure, the capital programme for 1956/57

was £78,700,000 compared with £73,900,000 last year, the main increase being larger advances to the State Advances Corporation to enable it to finance loans for houses and farms". I am sure, Sir, that the hon. Member for Nairobi West is well aware, of course, that for many years New Zealand was under a Socialist Government and they set up this type of corporation. The figure is £78,700,000.

Now, Sir, what is the Budget of New Zealand? A total Government expenditure during 1955/56—£337,300,000. New Zealand has been an independent territory for over 100 years, and what is the public debt that she has accumulated in the whole of that period? It is under £750,000,000 after a century. Indeed, their 1956 figures show only £12,703,000 for debt redemption and I cannot believe they are embarking on a programme which within four years in an expenditure Budget of £193,000,000 contained only £12,000,000 for debt redemption, they would embark upon a policy which would lift that figure by £60,000,000.

Sir, I would like, though I know the hon. Member cannot produce it at short notice, and I would not expect him to, but I would like very much to have the figures confirmed.

Now, Sir, I would also like, so that it should be seen that our effort is not as bad as the hon. Member would make out, and this particularly from the point of view of its effect outside these territories, to deal with the other place that he quoted on another matter and that is the Federation. Now, the Federation, Sir, as we have heard, is a very strong economic unit. Its true comparison in the country would be with Kenya, Uganda and Tanganyika as one, not any territory in isolation, and it has a four-year development plan covering the period 1957 to 1961 presented on 27th June this year of £137,660,000. Sir, we only have, as one territory, £23,000,000. But, if the hon. Member will go back and look at the Loans Conference statement, on which, as I have said, he was so complimentary before, and place that figure against the figure of the Federation, he will see that with comparative small mineral resources, and that with a dependence on agriculture, we have embarked upon a programme almost

[The Minister for Finance and Development] equivalent to this, particularly, Sir, if he will look at the fact that in that £137,000,000, £60,000,000 was for Kariba—for one project alone; and £38,750,000 was for Rhodesian railways; things which do not come in the competence of the Kenya Government. Development Plan at all, because the one is on the East Africa High Commission and the other is in the hands of private enterprise; and some £7,500,000 for Posts and Telecommunications. So that I think the hon. gentleman, when he studies the figures properly, may feel that his reference to the "fiddling" programme of the Kenya Government could be slightly altered and brought nearer to the comparative truth of the Kenya Government's policy of pressing forward despite the Emergency.

And, Sir, the Minister for Finance of the Federation of Rhodesia and Nyasaland, which has such great mineral resources said only a fortnight ago: "It will be seen, therefore, that the Federation, in common with most other parts of the Commonwealth, has a very real interest in the state of the United Kingdom economy and the London market. The present weakness of that market is a source of great anxiety and unless it recovers its health fairly soon, these development plans may well be largely frustrated." "These" being the level that I have just mentioned. So that, Sir, I think the assessment of the position of Kenya shows that the Kenya Government has not hesitated to go forward with development, quite apart from the point made by my hon. friend the Secretary to the Treasury on the limits of the loans available; an argument recognized by my hon. friend the Member for Nairobi North as being factual and effective.

Then, Sir, the hon. gentleman said that "We are entitled to know what the British Government was going to do about our seeking other sources of loans". Sir, I cannot know what source the hon. gentleman has had from the City of London, but I can say this, in the period of some years of negotiation in these matters, it has not been the City of London, it has not been Her Majesty's Government which has stood

in the way of our borrowing from other sources; it has been the sad economic and political facts of this country; and I remember a time when the Railways borrowed money, and we guaranteed it, from the World Bank and still then a guarantee was necessary from Her Majesty's Government. That is something, Sir, in the present position of the British people and the British Government, we should be loath to ask unless we can prove that it is absolutely impossible to get the money from ordinary sources. But, Sir, of course I have negotiated, and you do not negotiate with people from whom you are going to borrow money, you do not attempt to negotiate with them at the end of a blunderbuss. They are the people who have the money and it is no good thundering; you have to go about with slow, cautious, patient reasoning, because that is the only thing that they will accept. So I was a little surprised to hear the hon. Member say that it was not "asking too much; when the ultimate responsibility for Kenya lies in Britain, for Britain to guarantee capital from abroad, if such guarantees are necessary". To go back to what he said, Sir, on 15th May this year where the question of assistance from Great Britain was concerned, when we were, I think, generously, granted £3,000,000 by the Government of Great Britain which saved an increase in taxation, the hon. Member looked at me across the floor of the Council and said: "I am sure that it distresses all true Kenyans to be humiliated by the financial panderings of our Government towards Britain". But that, I take it, is a different matter and a different point of view when it comes to saying: "Will you please guarantee our loans policy?"

Sir, I would like to summarize the hon. gentleman's policy and message, if this really reflects it, as follows: people who pay or guarantee loans expect the right to say for what the purpose, for how much, and how the money should be directed. That is the basis of a grant-in-aid policy from which the Kenya Government has been saved so far, by the understanding of the British Government and the British Treasury. The hon. Member's policy seems to me to be "through boldness to bankruptcy" instead of, what I suggest is the proper

[The Minister for Finance and Development] policy, the policy which the Kenya Government has followed at this time with courage and with caution".

Now, Sir, I turn to a more pleasant aspect. The hon. Member for Akamba raised the point of the tax on the lower-paid groups. Sir, in the Budget speech, I did try to make it perfectly clear that we would endeavour to bring in relief on those who were hard pressed as and when the financial circumstances allow, and I can assure the hon. Member that we shall keep that in mind. I believe the Bill to be presented next week shows that to a large proportion of the population we have already begun the relieving of that pressure.

Now, Sir, to my hon. friend the Member for Mombasa, whom I would like to thank for his usual thoughtful and constructive speech. Sir, it is so nice, when things are constructive, to be able to reason and argue.

The hon. Member, Sir, spoke about the Plewman Report and he quite rightly, as he was fully entitled to, quoted some words of mine many years ago from the other side of the Council. He himself read a little extract that said: "The Plewman Committee said 'a fair and just measure of fiscal efficiency is likely to be achieved for the present'". That was 10 years ago, Sir. Now, the laws of economics, like politics, do not stand still; they move forward, and we have moved forward considerably in those 10 years. Whilst I have tried from time to time in this Council, in Budgets, to keep the balance level, it has to be adjusted according to the circumstances of the time.

There are times, when to increase indirect taxation, Sir, is to bring about a process of inflation, and the Government must be the judge of the correct time. But, Sir, I take the point and keep it in mind.

The only other point, Sir, that I have to deal with is the hon. Member's question of estate duties: their omission or their capital use or their abolition. The hon. Member will, I think, be well aware that one of the first things I did as Member for Finance was to place the first £5,000 free of estate and death duties and start the process. Since that time we

have been in an Emergency and we have had to look for a great deal of assistance and we have had to make every effort that we can to help ourselves in the way of revenue. Now, whatever the value of estate duties in a developed country are, I am not going to argue, but would say there is a great deal of sympathy in my own heart for the argument put forward by the hon. Member that in a country like this, estate duties should, either be directed towards capital purposes or, indeed, if the financial position ever allows it, be abolished altogether. They are not the type of taxes which, at this stage, of a young developing country, whatever the changes of the future may be, should be imposed.

But when we are in the financial position that we are in at the present moment, and have been for the last few years, what we think what we would like to do and what lies within our capacity to do are unfortunately very different things.

A lot has been said about the constitution and I am not going to say anything about it except this: I would say to my hon. African colleagues that I am a Kenyan even by the definition of the hon. Member for Nyanza North. I have both feet on Kenya ground; my home is here; my all is invested here. The position has now arisen where a great gesture has wiped, I hope, the plate clean of all the bickerings of the past few months. I would say to them "as a Kenyan, as I would say to all hon. Members, opposite, do not let anybody's pride, do not let anybody's prejudices stand in the way of the fulfilling of the great need of this country, which is a rest from political strife for some years to come, a period of political stability, so that the real job of this country—which is to do away with poverty and to lift the standard of living of the people—can be properly fulfilled.

Mr. COOKE: Mr. Speaker, on a point of order, I did not like to interrupt my friend, but I think he made a serious misquotation from Shakespeare. He should have said, "creeping like snail" and not "creeping like a snail".

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): On a point of explanation, Sir, may I also point out that quotation was not exactly correct because in an endeavour not to

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be too hurtful or offensive I left out the words "like a whining schoolboy".

Mr. ALEXANDER: Mr. Speaker, Sir, on a point of explanation for the correctness of the record I understood the Minister to say that I had asked for the Coates Report to be dealt with as a whole. Just for the correctness of the record, those were his words, Sir, that I quoted when he said—"The Coates Commission Report, if it is to be dealt with, must surely be dealt with as a whole." What I did say—and this I quote—was "This Council is entitled to know, Mr. Speaker, just what Government does intend to do about all the mass of recommendations on taxation reform."

11.30 a.m.

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): Can I now take it, Sir, that the hon. Member is really saying that he does not want the report to be dealt with as a whole? I thank him.

THE CHIEF SECRETARY (Mr. Turnbull): Mr. Speaker, may I first express my gratitude to the hon. the Mover for his courtesy in ceding to me the right to reply.

After all, we have suffered and endured during the past fortnight I do not think it will come amiss if I remind hon. Members what this debate is intended to achieve. The purpose of the Communication from the Chair is to explain to hon. Members what policies the Government intends to pursue in the coming year in the many fields of Government responsibility and to set before the Council the action that the Government proposes to take in order to put those policies into effect. In the debate hon. Members on the other side of the Council have an opportunity to approve or to condemn those policies or to criticize the Communication for failing to mention any subject or for failing to give proper weight to any subject. On this side of the Council the Ministers of the Government have an opportunity of amplifying what is said in the Communication, of defending their policies and of replying to any specific inquiries or criticisms. It is primarily a policy debate and is not intended for pressing

parochial requirements or for the airing of parochial grievances. Therefore, when I come to gather up a few loose ends I shall make no references to demands for a dispensary here or a school there. Such matters can more properly be dealt with either by a question or, more simply still, by a letter to the head of department concerned to ask him what is going on.

Now, this year, Sir, although we have spent a total of seven days on the debate we have, I think, covered the ground rather less thoroughly than in previous years; the reason is that for many laborious hours we have had to listen to dreary explanations as to why the recent constitutional talks have not been brought to a successful conclusion.

We have had to listen to accusation and counter-accusation, and recrimination and counter-recrimination and, from the African Members in particular, to such a frenzy of justification that one rather gained the impression that they were bent on exonerating themselves rather than explaining themselves.

Then, to add to our burden, we have had to listen to a long post-mortem from the hon. Member for the Western Area in the acidulous, rather peevish manner which we have come to expect from him on the exchanges which took place between the various racial groups earlier this year. As for his own position which he has been at such pains to explain and justify, who cares whether the Africans sought his advice, or whether he gave them advice gratuitously, or whether he just avoided them: it really is a matter of no importance in this Council. I do hope that the next time he wishes to indulge in one of his fretful apologies he will address himself in writing to the people he is trying to convince.

In the course of his speech, the hon. Member for the Western Area accused the Secretary of State of identifying himself with one party to the dispute and of adopting and maintaining a stance which caused him to prejudge a cardinal matter in issue. The hon. Member went on to say that in this way the Secretary of State had disqualified himself or greatly prejudiced his work in playing any effective role as mediator. If I may borrow a telling phrase from the hon. Member for Nairobi Area, the hon.

[The Chief Secretary] Member for the Western Area's criticism is unfortunate, unwise, uncalled for, and unrealistic.

I do not take this matter as seriously as did the hon. Member for Nairobi West, for I have come to realize that accusations of racialism, discrimination, injustice and bias, when made by the hon. Member for the Western Area, are nothing more than a conventional device of political rhetoric, and without them his speeches would be as unclotted as he himself would be without his trousers.

If I may return to my comments, Sir, on these very unfortunate post-mortems, I would like to say how much I wish that hon. Members had followed the wise counsel given to them by the hon. Member for Mau when he spoke on the first day of this debate. He said that to debate this matter in detail at the present time would not be to the advantage of the happy solution which we are all seeking, and that discussions in detail, and certainly recriminations, would not be in the best interests of all. It seems to me, Sir, that at a time when we are all concerned with discussions of which the outcome will be of the most vital importance to this country we should, on all grounds of prudence and good will and common sense, refrain from saying anything which might prejudice or make more difficult what is going on in the conference room. I would commend the attention of all hon. Members to an admirable little French proverb; a rough translation of which is this: never lose an opportunity of keeping your trap shut.

In spite of this injunction I am in duty bound to devote a few minutes to this matter. The hon. Member for Nairobi South asked me if I could confirm that the statement issued on 17th October last year was a result of an agreement freely entered into by representatives of all the racial groups. This I readily do, and I confirm that the details of the agreement were substantially as he has said. I must emphasize that this agreement was arrived at within the framework of the Lyttelton Constitution. I recognize that this may be somewhat academic, but in order that the record may be complete, I must ask the hon. Member to be patient with me while I explain what did in fact happen.

Paragraph 11 of the 1954 proposals for a reconstruction of the Government said that subject to certain conditions "there would be no further changes in the proportion of Members of either the Legislative Council or the Council of Ministers, either as between the main racial groups or as between Officials and Unofficials before 1960". So any changes advocated in the 1956 proposals would, subject of course any general agreement to the contrary, have to be within the limits laid down by that overriding principle.

Now, in relation to the extra seats, which for the sake of brevity and convenience I will refer to as regional seats (although I appreciate the reservations made at the time by the African Members), the agreed statement said:—

"Extra seats should be created in the Legislative Council within the framework of the Lyttelton Plan with the object of (a) correcting the disbalance in numbers between the Government and non-Government Benches, and (b) providing an opportunity for Ministers to represent a wider section of the community than a single constituency as at present. An examination should be made of the total number of seats required and the method of selection. These seats will be created after the African elections to be held in March and April, during 1957."

Hon. Members will note the expression used: "These seats will be created." The statement went on to make the following agreed recommendation:—

"Whatever the outcome may be of the talks concerning the creation of extra seats in the Legislative Council to be held after the Arab and African elections next March, an additional Arab seat in the Legislative Council will be created."

The agreement, therefore, envisaged further discussions as to the number of these regional seats and the most suitable method of filling them; since the agreement was within the context of the Lyttelton Plan it is clear that the addition of one Arab seat would entail a minimum overall addition of ten seats. I will not go into the details but let me say that I have no fault to find with that little arithmetical exercise which

[The Chief Secretary] was so ably conducted by the hon. Member for Nairobi South.

In the event, these further discussions on the number and the precise method of filling the regional seats did not take place. If they had taken place the talks would, I imagine, have started off on the basis of the Lyttelton formula. But there would have been nothing to prevent those concerned from reaching a settlement on any other formula that might have been agreed between them. There was—and there is—no reason why the parties to this agreement should not have decided by common consent on any modification or any variation which would be acceptable to everybody. These further discussions can, I suppose, take place now. If they do they can still, by common consent, be based on any formula which, after discussion and negotiation, is acceptable to all. But if those further discussions do not take place—I now, for the sake of argument, assume the continued validity of that agreement—or if they take place without any agreement being reached on what I might call a non-Lyttelton basis then the Lyttelton proportions would have to stand.

I do not want to comment on the variety turn put on by that distinguished knock-about comic, the hon. Member for Nyanza South, when he entertained us with a facetious monologue on when is an agreement not an agreement. There was an agreement; and there's an end on't.

As regards his contention that the Government was wrong to have organized that 1956 meeting which led to the agreement, or in taking cognisance of that meeting, I would say this. If he has the courage of his convictions and if he was not play-acting then he had better resign from this Council forthwith. For it was as a result of the agreement which he now denies that the seats were created which made it possible for himself and the hon. Member for Akamba to sit in this Council. So, if he sincerely meant what he said, he will leave this Council Chamber until the wrong which he so strongly objects has been righted.

I can well recognize that the African Members may disapprove of the agreement. Indeed, in view of all they have

said about the Lyttelton Constitution both before the elections and after the elections, it would be surprising if they did not. I concede that it would have been most embarrassing for them to take part in talks on that basis. But this does not alter the fact that an agreement was made. I would like to say again that I am certain as I stand here that an agreement was made. It was not a final agreement in so far as the regional seats were concerned; otherwise it was. When the hon. Member for Nyanza North bases his argument that there was no agreement on the fact that it was not signed he really is embarking on a very perilous sea: for if one denies that that a man's word is his bond every kind of human relationship from politics upwards will certainly come to a standstill. May I say that if he adopted at the conference table that same attitude of hectoring mistrust that he displayed in this Council it is no surprise to me that no agreement was reached.

It is with great relief, Sir, that I now turn from these constitutional wrangles to various matters related to law and order. The hon. Corporate Member for Commerce and Industry asked me for an assurance that the Government was doing its utmost to create and retain the confidence of loyal citizens and that it would ensure that the good solid loyal people of the country, especially Africans, should feel able to express their opinions free from any kind of intimidation. This assurance I am most happy to give.

A good deal has been said in this debate about the subject of law and order and I am compelled to add a little to it. What I am going to say does not concern the Emergency areas or the Emergency regulations or the functions and responsibilities of the police in the Emergency areas. It concerns the duty of the individual citizen in relation to the preservation of the Queen's peace in everyday circumstances. The law exists for everybody and it must be obeyed by everybody; and everyone has a certain responsibility for making certain that the law is obeyed. There are a score of yardsticks which can be used to measure the degree of advancement of any society, and generally speaking the truest guide is the extent to which members of that



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society will freely and voluntarily undertake their responsibility for ensuring that the law is not violated and for co-operating with the officers of the law when the law is violated. When we are dealing with people by whom this primary responsibility is accepted we can manage with a small and unobtrusive police force. When the bystanders can be counted upon to help the constable and the ordinary citizen to play a full part in preventing and reporting crime we can get along with very few police; for when that happens the public are the guardians of the law. But when we are dealing with a community whose members are not prepared to exert themselves to prevent the law from being defied, when bystanders can turn into an ugly mob bent on rescuing the wrongdoer from the officers of the law, there is no alternative—if the law is to be preserved and if decent citizens are to be protected—but for a larger force to be kept in being.

If I may put this in a different way—it is the primary duty of any person living in a civilized society to support the law and to co-operate with the officers of the law; and the size of the police force the Government has to maintain will depend on the extent to which this duty is accepted and practised. As for the Government it has a first duty to protect decent men from the lawbreaker; and this duty comes before the Government's responsibility to provide schools and hospitals and social services. I scarcely need to point out that if a lot of money is needed for the primary duty of preserving the law there will be less available for the secondary responsibility of providing services.

I apologize for dilating upon the A.B.C. of this matter, but I am most anxious to drive home the fact that not only the creation of civilized standards but the expansion of social services depends on the acceptance by the citizen of a personal and individual responsibility towards the law. I thought yesterday that things had come to a pretty pass when an hon. Member of this Council condoned what I thought was a brutal murder because he said the murderer had been aggravated. It would lead to a fine state of affairs if we accepted this principle. If the housebreaker and stock thief were

to be allowed to ignore the laws relating to property on the grounds that he personally found them irksome; or if the man pursuing a blood feud were to be allowed to take the line that the law relating to murder was an undemocratic curb on his natural aspirations. It just will not do.

This matter very closely concerns the hon. African Members opposite, and I do hope that at their public meetings they will come out with a full-blooded and unequivocal adjuration to their audiences about the duty of the public not only to respect the law but to support the police in its enforcement. I can assure them that once this is accepted they will find their relations with the police improve overnight.

If I might expand a little on this business of relations with the police, I am unhappily aware that the standard of conduct of a number of individuals has from time to time left a good deal to be desired, and I support the hon. Member for the Rift Valley Province to the hilt when he says that constables should treat all citizens alike. That is a most important principle, that constables should treat all citizens alike. I know that cases of bullying and extortion have happened and are still happening and, as my hon. friend the Minister for Defence has told the Council, we have in the past five years redoubled our efforts both in the training school and in the field to prevent such things and to ensure that a better relationship is established between the police and the public; but I do sincerely call upon the public to play their part.

To get back to a previous theme on the subject of law and order, the hon. Member for Central Nyanza is constantly reminding us that Africans of to-day are to be regarded as mature and responsible people. Well, Sir, I'm prepared to agree that this is so. But in this case they cannot go on having it both ways. The Masai, for instance, cannot go on being jolly fellows covered with red paint, bent on proving their manhood by stock raiding and at the same time expect a full programme of secondary schools. The Government has a duty to protect those who get raided or who may get raided; and to exercise its duty means the expenditure of money which

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would otherwise be available for education and medical services. I mention this matter because the Government only the other day had to arrange for a special levy force to be imposed on one of the Masai borders (I feel rather hypocritical in speaking as I do because were I a young Masai my one aim would be to boast that I had come home with the rearguard). In just the same way the urban African must recognize that unless he is prepared to give active support—and fully active support—to the rule of law he will not get all those benefits by way of social services which quite naturally and quite properly he is so anxious to be provided with.

May I now, Sir, turn to various points made concerning the Civil Service. The hon. Member for Aberdare advanced two criticisms. The first concerned recruitment to the service from local sources; and the second concerned inducement pay. Now his allegation that the Government is only paying lip service to its declared policy that the public service should be staffed to the greatest extent possible by local people is completely unfounded. Every effort is made to recruit local men for vacancies in the public service and every head of department has been told in unequivocal terms that it is his duty to refrain from seeking authority to recruit from overseas until he is personally satisfied that the local field has been exhaustively searched and that no local candidates of adequate qualification are available, or likely to become available in the near future.

MR. SLADE: At no stage, Mr. Speaker, did I criticize the efforts of our Administration here to draw on our local people for the Civil Service. My complaint, as will appear clearly from a fresh perusal of my speech, was that by reason of the existence of inducement pay and the low rate of pay for those who were not privileged to receive inducement pay, the Civil Service was not sufficiently attractive: it was that inducement pay represented lip service rather than the activities of our respected Administration here.

THE CHIEF SECRETARY (MR. TURNBULL): I will come to inducement pay in a moment.

I think that I might dilate for a moment upon this subject for it does explain the policy which the Government is pursuing in regard to local recruitment. The Civil Service Commission will not advise that authority should be granted to recruit overseas until it has the most precise and definite evidence that no local candidate is available or likely to become available within a reasonable time.

Turning to the question of inducement pay, I think I should perhaps refer to the professional and administrative grades which contain the majority of the recipients of that allowance. There are 1,200 posts in these grades which have to be kept filled. We hope ultimately to fill nearly all of them with local men—Europeans, Africans, Asians and Arabs. But we are a small country and we are a poor country. Even if we assume the most favourable development of our institutions for higher education and for training it will be a dozen years or more before we can achieve this aim.

Last week when the Secretary of State's Appointments Board was sitting in Nairobi they considered 35 applications for posts in the Provincial Administration and as assistant secretaries. Of these 35 applicants only seven were local men. Now, I confess that I may have been wrong in the past when I said that local men were hanging back; I think the answer is that there are just not enough of them. To listen to the hon. Member for Aberdare one rather gets the impression that qualified local candidates are being ignored or wantonly rejected, but I assure him that this is not the case. At the present moment there are not enough trained men in the country to fill more than a proportion of these more senior posts. When the Royal Technical College is working to schedule, and if we ever have another institution for higher education here, I have no doubt that the major part of our problem will be solved. I agree that it is disappointing not to be able to get a quart of beer out of a pint pot but it is just a natural limitation which we have got to accept as patiently as we can.

The second criticism of the hon. Member for Aberdare concerned inducement pay. He was supported by the hon. Member for the Rift Valley Province and by the hon. Member for Nairobi West.

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I was delighted to hear him say that the principle of inducement pay was a masterpiece of *non sequitur*, and when the hon. Member for Nairobi West described it as farcical—my spirits rose even higher. For what can be more illogical or more irrational than to pay a local man, whether he is a European or an African or an Asian, what amounts to a special allowance to persuade him to take up employment in his own country. But I must make it quite clear that if it had not been for the pressure exerted by hon. Members on the other side of the Council the Government would never have adopted the principles which at present govern the payment of inducement pay—that is to say they would not have adopted the principles in their present form. If the Legislative Council would agree to the abolition of inducement pay for locally domiciled recruits nobody would rejoice more than my hon. friend the Minister for Finance, and myself. In order to allay any misapprehensions that may be created in Civil Service breasts by what I have said I must of course make it clear that the Government is under a contractual obligation to officers already on inducement terms, and that it would not vary their terms of service without compensation or some kind of agreed adjustment, such as is usually brought about when one has a salary revision. Further, the Government has also given an undertaking that officers recruited from overseas and through the local projection of the Secretary of State's Appointments Board will be eligible for inducement pay, and although this undertaking is, as far as I know, unsigned, the Government will continue to honour it until some variation is authorized by this Council.

12 noon.

As for the overseas officer while we need his services as badly as we do at present—and four-fifths of the Administration are still found from overseas—we shall have no alternative but to pay the market rate. There is a world-wide demand for doctors, engineers and efficient administrators and a panic demand for science masters. If we are to obtain the services of these qualified men then we have got to pay the proper price for them.

The hon. Member for Aberdare suggests that it is a fallacy that people need inducement to come and serve in this country. Well, Sir, the hard economic facts, and our experience of recruitment, leads to quite a different conclusion. I need hardly say that if we could recruit from overseas without any kind of expatriation allowance we should be extremely happy to do so. On the subject of recruiting young men from overseas, I would like to say what a blessing it is that young men of the type we are trying to recruit are not accustomed to reading HANSARD. Before I leave this subject I might add that I am considering an addition to inducement pay to overseas officers to compensate them for the many derogatory remarks made about them in this Council.

The hon. Member for Nairobi West suggested that there should be an inquiry into the operation of the whole of the Lidbury arrangements. The Government could not agree to an overall salaries revision so soon after that major exercise of 1954. All the same it will be happy to examine specific aspects of the Lidbury recommendations. The Government has already announced its intention in relation to the housing of civil servants. Hon. Members will find them contained in Appendix "C". I think it is, to the Sessional Paper on the recent Development Programme. As for inducement pay, may I suggest that the two hon. Members opposite might care to put down a Motion on the subject; they will find the Government prepared to give most sympathetic consideration to the changes they advocate.

The whole of the Lidbury scheme is, as hon. Members will have gathered, under continuous review, but if there are any particular aspects which require a more intensive scrutiny the Government will be very happy to undertake it.

It gives me very great pleasure to turn now to the speech of the hon. Member for Central Area. It was said of Dr. Johnson that although he tended to dress up his utterances with altogether too much decoration and embroidery the views he expressed were never negligible. I think the same can be said of the hon. Member for the Central Area. Dr. Johnson also suffered, as does the hon. Member for the Central Area, with

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what I might call a slightly vulgar itch to astonish. All the same, although his speech called forth fairly sharp reactions from his colleagues, it requires very little comment from me. I am not certain that I am not guilty of a misnomer in calling it a speech. It was more of a rival communication from the chair—a communication from the chair of Rhadamantus; and open to the criticism which is commonly made of orthodox communications that it left out a good deal more than it said.

When the hon. Member adopted his captivating air of more than human presence and took up the attitude of a visiting anthropologist, inquiring into the almost inexplicable mental processes of the inhabitants of Kenya's political jungle, I did hope for a moment that some brilliant, obvious, yet unaccountably overlooked solution would be presented to us. But, Sir, it was not to be. True to the tradition of all anthropologists, the hon. Member dissected the problem and described it in different words; then with a deft under-arm flick sent the ball back into the Government court. Then, Sir, having so neatly passed the buck he resumed his air of aloof Olympian detachment and retired to his great barracoon of silence.

I now, Sir, have to tie up one or two loose ends. The hon. Member for Akamba complained about the arrangements in Ukambani in connexion with the construction of dams and for the people working on those dams. He said that girls were largely lodged in camps and that their morals were thereby endangered. Let me make it quite clear that this project is largely financed and controlled by the local African District Council. Two aspects deserve comment. First, should girls be employed for manual tasks on projects of this sort.

Now, this is a matter I regard as one for local opinion. To my personal knowledge, Akamba girls have worked on dams in Kitui for more than 30 years—not the same girls of course, but generation by generation. The work is not unlike the work they perform in the fields in the everyday life of the district; and I personally can see no reason why if they can wield a *jembe* or carry a *kari* in their own *shambas* they should not do similar jobs on work designed

for the benefit of all. But if the hon. Member thinks the arrangement a bad one, and he referred to it in his speech as an evil thing, then the answer lies in his hands and in the hands of his fellow councillors of the Kitui African District Council. If he thinks it is evil and wrong to employ these girls he can do one or more of four things. He can organize a gang of volunteer male labour to replace this disgraceful imposition on their wives and daughters; or the people concerned can rate themselves to raise enough money to engage a paid male labour force; or they can raise money by selling cattle and buy some suitable machinery; or they can do without dams. Those are the four things they can do. The second point is this; if it is decided that there is no alternative but to continue to use Akamba girls on this work I must assure him that the responsibility for their morals and for their welfare lies firmly on the shoulder of the local African authorities. If they suspect the girls of having a roving eye it is up to them to see that the camp is controlled by sufficient staff of aunts, mothers and grandmothers to prevent any funny business. Let me say again that if an unsatisfactory situation exists—and the hon. Member called it an "evil thing"—the responsibility for it lies firmly on his shoulders and on the shoulders of his colleagues of the District Council. I am amazed that he should have the simplicity to make a political speech based on the acquiescence of himself and his fellow district councillors in what he called "this evil thing". If he wants it stopped, then, as he seems to have started it, let him go home and stop it.

The hon. Member for Mombasa, Sir, chided the Government concerning three matters on which he said there has been a most inordinate delay on the part of the Government. The first concerns the registration of domestic servants, and I apologize for the apparent pomposity with which the matter is referred to. He has had a more genial kind of answer from my hon. friend, the Minister for Education, Labour and Lands.

The second concerns the condition of urban Africans. The hon. Member is quite right in saying that this matter was referred to a working party. It was; and the working party has reported and its recommendations have been accepted;

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they will be reflected in an amendment to the Vagrancy Ordinance which, before very long, will come before this Council.

The third point concerns the social survey in Mombasa. My hon. friend, the Minister for Local Government tells me that the figures produced by the survey are now being collated in one of those mechanical devices used by the statistical people and as soon as they are available they will be shown to all those interested.

The hon. Member for Nairobi North referred to the amount of money spent on rents and house allowances and pointed out that the sum is now £670,000 a year—an increase of £180,000 over the expenditure in 1956/1957. Now, Sir, I share the hon. Member's concern at the size of this sum. It is true that although during the past five or six years we have constructed a number of new Government offices we are still faced with this very large commitment for rents and for house allowances. There are a number of factors contributing to this increase. The most important of them is that in a number of cases old leases have expired and we have been compelled to renew them on far less favourable terms. Secondly, it has happened that a number of Government offices in temporary buildings have had to be moved in order not to hold up the development plan for the city or simply because they have become so dilapidated as to be uninhabitable even by Government servants. This has entailed additional renting. Thirdly, in a number of cases rentings which were previously made from the Emergency Vote have been transferred to the Colony Vote. Finally there has been this very great expansion in the past few years in the overall activities of the Government; and this expansion has entailed the renting of both additional offices and additional houses.

Mr. Speaker, before I come to my concluding words, I would like to inform hon. Members, in case they did not have the good fortune to hear the broadcast of an announcement made this morning over the British Broadcasting Corporation network. It concerns the setting up of a strategic reserve in Kenya. The news item said that the Defence Minister, Mr. Sandys, had announced that a new British Forces Command will be set up

at Aden next April. It will cover land and air forces in the Arabian Peninsula and British Somaliland, and naval forces in the Persian Gulf. Mr. Sandys said that a part of Kenya's Strategic Reserve would be stationed in Kenya and could be used as reinforcements either in the Arabian Peninsula or in the Far East. I am sure, Sir, that this announcement will be received with great and unalloyed pleasure by all those who have the interests of the Colony at heart.

In conclusion, Sir, I propose to turn to a problem which must be a matter of concern to every thinking man in this country. I refer to the carrying capacity of the African lands and to the emergence of an African landless class. The hon. African Members are, I know, most disturbed in mind about this matter, and I propose, therefore, to give a general picture of the future as I foresee it within the next 20, 30 or 40 years. The hon. Minister for Community Development has explained that the Government's policy on land consolidation will not in itself produce a landless class. This is perfectly true, but let no one close his eyes to the fact that whether we introduce land consolidation or whether we do not we are not going to dodge the problem of the landless. To explain why this is so I need only quote the words which appeared in the Government's Sestonal Paper on Immigration Policy. "The African population is estimated to be increasing at the rate of one and a half per cent per annum, at which rate it will double itself in about 47 years. There is already heavy pressure on some of the native land units, and even after taking into account the greater manpower which will probably be needed for the more intensive development of holdings it is certain that an increasing number of Africans will have to seek a living outside the traditional occupation of the reserves". At the turn of the century this number will be very considerable.

The Government is well aware of the probable extent of this problem, and is taking steps to deal with it, and the most important of these steps is land consolidation. Let us consider the facts. In 1900 the African population of these territories was reckoned to be 1,500,000. It is now 6,000,000. It is estimated that in forty-five years' time it will be 12,000,000. On the assumption that

[The Chief Secretary] present trends continue, there will be a similar increase in Tanganyika and in Uganda. By the turn of the century, therefore, even if every cultivable acre in Kenya, including the Highlands and the country now occupied by the Masai were to have been put under the plough, there would still not be enough land to go round. I do not think I need enlarge on this very simple arithmetical problem. Whether we like it or not, we have got to face the fact that, before long, the pressure of population, the sheer weight of numbers, will be such that an enormous number of men will have no land. What are we going to do about it?

First, Sir, we must recognize that we can no longer afford the luxury of five or six wives and a dozen children. I was really appalled when I heard the hon. Member for Central Province plead for special consideration for those with five or six wives, and then in almost the same breath express concern about population pressure on the land. He can have it one way or the other, but not both.

Secondly, we have got to accept that by the end of the century the social and economic pattern of the country is going to be very different from what it is now. This change will be the result of what I might call a natural process, but it will be neither an imperialistic plot to exploit the African and drive him from his land, nor an African device to chase out the European and Asian by pressure of numbers. It will be a problem which is going to concern every one of us, and which if we try to resolve it on a basis of racial bickering will lead us into disaster.

Thirdly, we must bend every effort to ensure that the land we have is farmed in the best possible way, for it is from agricultural production that we have got to create the wealth which will be needed to maintain the economy and to keep our standard of living as high as possible. Kenya is primarily an agricultural country, and the solution to the population problem which was open to the great industrial countries of Europe is not available to us. In this country we have to depend on good husbandry and skilful agricultural marketing to produce the wealth we need to provide a

good life for those who live off the land as well as those on the land. Economic expansion, and the development of secondary industries and the provision of services will all play their part, and we sincerely hope that it will be a large part, but first and foremost we have to look to agriculture.

I said we had to farm our land in the best possible way, and the Government is convinced that the best possible farming can only be brought about by the formation of farms of economic size and by proper farm planning. Whether we let African agriculture run on a quarter acre unplanned subsistence basis, or whether we introduce planned agriculture, proper rotations and properly marketed exportable cash crops, we are still going to have this problem of the landless. The question is: Is the economy we need to maintain our estimated population of 12,000,000 going to be based on planned husbandry and planned marketing, or are we going to depend upon the un-co-ordinated efforts of a population of peasants cultivating eroded, work-out plots of about a square rod each? I need not tell hon. Members where the answer to that question lies.

We rely primarily on agriculture now, and we have to look ahead to the time when an infinitely greater population is still going to be relying upon agriculture. To achieve, and maintain the standard of living on which we have set our sights is going to demand from everybody, not only a good deal of sacrifice and tremendous effort, but the recognition of two rather uncomfortable requirements. These requirements are imposed upon us by our climatic and our economic circumstances; they are free from any kind of racial impact whatsoever. They are these:—

The first is the need to preserve our water supplies by the protection of forest catchments, and to accept the fact that this is a matter in which long-term and Colony interests must prevail over short-term and local interests. I cannot pretend to speak on this matter with the knowledge and eloquence of the hon. and noble Corporate Member or the two Nominated Members who have spoken with such force from the Government side, but I do implore hon. Members

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to read what they have said and to take it to heart.

The second requirement is to ensure that in our anxiety to export more, and more of our crops, we do not destroy the structure of our soils and drain them of their fertility. There will be a temptation, especially in hard times, to apply to our soil all those modern devices by way of machines and chemicals, which will increase production to the uttermost and wring the last pennyworth out of the soil. If we yield to this temptation the result sooner or later will be to turn what are now flourishing farms and plantations, both African and European, into barren waste. Unless we exercise every care, our light, tropical soils will be washed away by rain and blown away by wind; and the desert will move in. You can see it happening now, further north. It happened in the Valley of the Indus; it happened in Carthage; it happened in the prairie states of America, not so long ago. It can easily happen here; if it does, it will be the end of us all. It will not matter how the racial groups are represented in this chamber, for this city will be buried under a million tons of wind-blown top soil; and the lion and the lizard will keep the courts where so many politicians have gloried and drunk deep.

The question was put and carried.

### ADJOURNMENT

[THE CHIEF SECRETARY (Mr. Turnbull):

There are very cogent reasons why further business on the Order Paper should be deferred, and with your consent, Sir, I would recommend that this be done.

THE SPEAKER (Sir Ferdinand Cavendish-Bentinck): I understand that that is the general wish of hon. Members that the Council should rise earlier than usual—I, therefore, propose to interrupt business now and adjourn Council until 2.30 p.m. on Tuesday next, 12th November.

*Council rose at fifteen minutes past Twelve o'clock.*

Tuesday, 12th November, 1957

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 Royal National Parks of Kenya, 1956.

(BY THE MINISTER FOR FORESTS, GAME AND FISHERIES (Mr. Blunt))

### ORAL ANSWER TO QUESTION

QUESTION No. 39

MR. NGALA asked the Chief Secretary:—

(a) Whether he intends to appoint any Africans to serve on the *Sauti ya Mvita* Committee?

(b) Why is there no African Programme in *Sauti ya Mvita*?

THE CHIEF SECRETARY (Mr. Turnbull): With your permission, Sir, I will deal with the second part of the question first. *Sauti ya Mvita* is primarily intended to be a service for Arabs and Coast Africans. To meet a popular demand the Government has decided to include a programme for up-country Africans living in the coast area. The first of these programmes was transmitted on 11th November.

(2) It is the intention to appoint Africans to serve on an Advisory Committee, and the first meeting of the committee will be held very shortly.

MR. NGALA: Arising from the reply to section (b), could the Chief Secretary state what African vernaculars will be incorporated in the programmes?

THE CHIEF SECRETARY (Mr. Turnbull): Sir, at present, none. There is very keen competition for the listening time, and we have to divide it as equitably as we can between Arabic, Ki-Mvita and the ordinary programme, in what I would call up-country Swahili.

MR. NGALA: Mr. Speaker, Sir, arising from the second answer, I do not think I have been answered. I asked for African vernaculars.

THE CHIEF SECRETARY: Sir, there are no African vernaculars. We would very much like to broadcast in Giriama and Digo but the medium-wave transmitter is only half-kilowatt strength and has therefore a very limited range. It would not be possible to broadcast a medium-wave signal of any reliable strength to the Giriama and Digo areas.

### BILL

#### FIRST READING

*The British Standard Portland Cement Company Limited (Bamburi Factory) Ordinance, 1951 (Amendment Bill)*

Private Bill—Order for First Reading under Standing Order 100 of the Standing Orders relating to Private Bills read.

THE SPEAKER (Sir Ferdinand Cavendish-Bentinck): Mr. Purvis, have I your assurance that the provisions of Standing Orders Nos. 94 to 97 of the Standing Orders relating to Private Bills, have been complied with.

(The Clerk signified assent.)

Question put and carried.

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

### MOTION

#### LIMITATION OF DEBATE ON PERSONAL TAX BILL

THE CHIEF SECRETARY (Mr. Turnbull): Mr. Speaker, I beg to move that the debate on the Second Reading of the Personal Tax Bill, Bill No. 10, be limited to Tuesday, 12th November, 1957, and Wednesday, 13th November, 1957, and that if the debate is still in progress at the time for the interruption of business on Wednesday, 13th November, 1957, Mr. Speaker shall then put all questions necessary for the business on the Second Reading of the Bill to be concluded.

Sir, this Motion is presented on the advice of the Sessional Committee. The Committee has felt some concern at the tendency to prolixity and repetition which manifested itself during the recent debate on the Communication from the Chair; and in order that the time of the Council may be more economically and more effectively used, the Committee has unanimously agreed that some limit should be imposed on the length of time

of the debate on the Second Reading of the Personal Tax Bill. The Committee has accordingly decided to apply the provisions of Standing Order No. 65. The first part of the Standing Order reads as follows:—

"The Council may, on a Motion made in accordance with the provisions of this Standing Order, impose a limit in respect of the debate on any particular Motion by allotting a limited period of time for such debate or by limiting the time during which Members may speak in such debate or by imposing both such limitations."

The purpose of this Motion, Sir, is to restrict the duration of the debate on the Second Reading of the Personal Tax Bill to two days. It is not proposed that there should be any limitation upon the time during which Members may speak. I would like to emphasize that this is not a Government edict; it is a procedure which has been agreed upon unanimously by the Sessional Committee and, as I think all hon. Members know, the Sessional Committee is fully representative of all the groups.

The Sessional Committee hopes that in this debate on the Second Reading, it will be possible to adopt the convention whereby hon. Members who are selected by their various groups to wind up on behalf of those groups will arrange to speak in some mutually agreed order; and that they will be the last speakers from the other side of the Council. When this winding-up process has been completed, the Mover or the person authorized by the Mover will then reply on behalf of the Government; but hon. Members should note that if the winding-up process from the other side of the Council is not completed by 5.30 on Wednesday afternoon, it will be necessary to move under Standing Order No. 64 that the Mover be now called upon to reply. I hasten to add that this is not an invitation to extend the debate until 5.30 to-morrow. But, on the assumption that there will be three "winder-uppers" on the other side, and that each "winder-upper" will require 30 minutes, the first of them should arrange to go into bat not later than 4 o'clock on Wednesday afternoon!

Sir, I beg to move.

MR. HARRIS seconded.

THE SPEAKER (Sir Ferdinand Cavendish-Bentley): No notice is required for this Motion under Standing Order 65.

Question proposed.

The question was put and carried.

#### BILL

##### SECOND READING

##### The Personal Tax Bill, 1957

Order for Second Reading read.

THE MINISTER FOR AFRICAN AFFAIRS (Mr. Windley): Mr. Speaker, Sir, I beg to move that the Personal Tax Bill, 1957, be now read a Second Time.

In moving this Bill, Sir, I think I should perhaps say that I would have been the first to appreciate it if by any chance any hon. Member opposite should think it surprising that the Minister for African Affairs should be implicated to the extent of moving a Bill concerned solely with a non-racial tax measure; but they will no doubt take heart when I tell them that I propose to cede my right of reply to my hon. friend, the Minister for Finance, because, Sir, I feel, Sir, his financial acumen and his mastery in debate will be the better to parry the probes of hon. Members opposite which always tend to be the sharper where taxation is concerned.

It will, however, Sir, be clear from the content of this Bill that the provincial administration must shoulder the responsibility for the operation of these proposals, and that really is the reason why my Ministry must also therefore take on the Central Government control although, of course, in close consultation with the Treasury.

This Bill to a large extent has followed the relevant legislation provided under the present Personal Tax Ordinance and the African Poll Tax Ordinance. If approved, it will provide for one graduated personal tax for all races and the existing Personal Tax Ordinance, African Poll Tax Ordinance, and ancillary Ordinances will disappear. The details of this Bill are, I think, very adequately described in the Memorandum of Objects and Reasons. I will, however, enlarge later on various clauses.

I would like to comment at this stage on the proposed rates of this tax which are set out in clause 3 of the Bill.

During the Budget debate in May, the Minister for Finance proposed that the

rate should be Sh. 150 on incomes of over £200; Sh. 100 on incomes of £120 to £200; Sh. 50 on incomes of £60 to £120; and Sh. 25 on incomes of less than £60. A number of Members then expressed the view that the bottom graduation was too low and would bear harshly on the poorer taxpayers. Since then, Sir, much consideration has been given to this, and the following rates have now been included in the Bill. Those with incomes below £120: Sh. 25 or the minimum rate; between £120 and £160: Sh. 50; between £160 and £200: Sh. 100; and over £200: Sh. 150.

These rates show a substantial reduction on the present rates under the Personal Tax Ordinance, but nevertheless it is hoped that this legislation will ultimately result in an increase of revenue, if not in the initial year, at any rate in succeeding years.

I must, however, sound a note of warning, lest any one should be unduly disappointed by the yield in the first year of operation. This Bill has been introduced rather too late this year to be fully effective in 1958, and under the circumstances district commissioners have very little time left in which to set up the machinery and obtain information for the assessment of this tax. We have been at pains to study the problems and administrative difficulties which were encountered in Tanganyika, with a similar legislation. There they introduced a similar Ordinance in May, 1955, which came into operation in January, 1956, so there they did indeed allow themselves very much more time to get the machinery working in advance of the collection of the tax.

As I have already said, the provincial administration will have to carry the burden of implementing the provisions of this Ordinance and of collecting the tax. It will impose a very heavy burden on them particularly owing to the late introduction of this legislation, and in the first year will entail a good deal of experiment, as it will be obvious that the methods to be adopted for assessment present a number of very thorny problems and indeed imponderables.

There should be no difficulty over the collection and assessment of non-Africans as records for these already exist. The initial assessment of Africans,

[The Minister for African Affairs] however, is another matter and methods of carrying this out will, of course, vary considerably throughout the Colony, according to the nature of the district and the density and type of the population. Much will depend on the ingenuity of the various district commissioners as to how this is done in practice, although general instructions for their guidance have already been issued. But, broadly speaking, it is proposed to rely largely on the native authority in African areas and the co-operation of employers in urban and settled areas.

In African areas it is proposed that the initial assessment should be done by a panel of elders at sub-locational level, and the present tax registers will be amended to show the rate that each taxpayer is liable to pay under the new rates. These will be subject to confirmation by the chief and the district officer to whom anyone aggrieved by his assessment may appeal in the first instance. If agreement cannot be reached at that level, the taxpayer will then be at liberty to lodge a formal appeal to a magistrate, as provided under clause 12 of the Bill.

In settled and urban areas, each taxpayer will have to be assessed by a district officer, but it is hoped that this task will be made easier by the co-operation of employers, who will be asked to furnish returns of their employees' incomes from employment. It is hoped that by the build-up of records, as has been done for Europeans and Asians, this heavy task will be made easier in future years.

There is still much preliminary work to be done after this legislation has been passed, such as the printing of receipts and the prescribed forms, the drafting of rules and the very necessary instructional propaganda concerning the operation of the tax.

In addition to the points made in the Memorandum of Objects and Reasons, I would like to draw attention to certain clauses in the Bill and to expand on them. As I said earlier, this Bill has been drafted mainly on the relevant legislation under the existing Personal Tax Ordinance and the African Poll Tax Ordinance. In clause 2, however, "chargeable income" has been defined in detail, thereby replacing the interpretation provided in the Personal Tax Ordinance,

which defines total income in the same way as the Income Tax Ordinance. The new definition has been taken largely from that given in the Tanganyika Personal Tax Ordinance, with certain minor additions and amendments.

In the last proviso to clause 3, it will be noted that the Minister may, by notice in the Gazette prescribe lower rates for certain areas or districts. The intention is to keep these down to a minimum and in all probability to impose only two such lower rates, that is Sh. 20 and Sh. 16. As an example, the Turkana pay only Sh. 6 under the Northern Frontier Poll Tax Ordinance, and in view of the barrenness of the area it is my intention to prescribe a lower rate for them. It should be borne in mind that any lower rates imposed will only apply to individuals who are earning the minimum income for this tax, that is under £120 per annum.

Clause 5 states that the tax shall be payable not later than 30th April, after which date non-payment becomes an offence. The 30th April is the date by which personal tax is payable under the present Ordinance as compared with 31st January, which is the date laid down under the African Poll Tax Ordinance. In clause 8 a penalty of 50 per cent is imposed on taxes not paid by 15th June. This date is a compromise between the penalty dates laid down in the present Personal Tax Ordinance and the African Poll Tax Ordinance, which are 30th April and 30th September, respectively. The date of 15th June is also designed with the object of encouraging payment within the financial year.

The proviso to this clause allows the Minister, by notice in the Gazette, to appoint a day other than 15th June for the penalty date in any specified district or area or for any class of persons. In certain areas, this is due to late harvesting of crops by which the community may not have the money to pay this tax until they have sold their crops, and it is to this class of person that this sort of proviso would apply.

The 50 per cent penalty is the same amount as is provided under the African Poll Tax Ordinance and compares with the 25 per cent penalty under the Personal Tax Ordinance. Originally the Personal Tax Ordinance had a 50 per cent

[The Minister for African Affairs] penalty but this was reduced to 25 per cent when the rates under this Ordinance were increased.

In clause 10 of the Bill certain powers are given to the collector to demand tax and to require defaulters to appear before him. Under certain circumstances he may also cause the arrest of a defaulter. This provision, I believe, is most necessary in cases when individuals may have no permanent place of residence or address.

In clause 11, the tax will normally be recovered from defaulters by civil action and distress. Provision has, however, been made for penal sanctions against a defaulter in the minimum grade where distress will obviously achieve nothing, and imprisonment in such cases will operate in satisfaction of the tax and penalty. I do, Sir, regard the provision of this clause as being absolutely essential if we are to collect this tax without large-scale evasion. I have discussed this with the provincial administration and both provincial and district commissioners are also quite unanimous on this point.

In clause 18, fairly wide powers are given to district commissioners to remit or exempt the tax and/or penalty in cases of hardship, as has been the practice under the African Poll Tax Ordinance. Normally, such exemptions or remissions are only granted on grounds of old age and poverty or illness. Clause 19 sets out the class of person who is specifically exempted under the Ordinance and gives power to the Minister to extend this to other classes of persons.

Clause 21 sets out the legislation which will be repealed as a result of the new Bill. The repeal of these Ordinances will, however, not extinguish any liabilities which may have been incurred while they were in force. There is, however, one amendment which I propose to move to this clause which is necessary in respect of the Special Tax Temporary Provisions (Amendment) Bill, which is shortly to be laid before this Council. In this Bill reference is made to certain provisions in the African Poll Tax Ordinance which will have to be retained so far as the special tax legislation is concerned. I therefore propose to move the following addition at the end of clause 21:

"provided that the repeal of the African Poll Tax Ordinance shall have effect without prejudice to the provisions of sections 8 (c) and 9 of the Special Tax Temporary Provisions Ordinance, 1953.

Now, Sir, I think that I need not enlarge on this Bill further but, indeed, leave my hon. friends opposite to the tender mercies of my hon. friend, the Minister for Finance in dealing with their points. I would, however, Sir, like to remind hon. Members that I believe they have in the past all been agreed on the principles behind this tax, even though, in detail, they may have points to raise, or differ in their opinions. But I do believe the time has come to give a fair trial and a fair run to proposals of this nature.

I therefore, Sir, beg to move the Second Reading of this Bill, subject to the amendment I have just proposed.

MR. CONROY seconded.

Question proposed.

MR. TYSON: Mr. Speaker, Sir, I am a little concerned about clause 3, particularly in regard to the lower income groups. What I would like the Minister to consider is whether a further class could not be introduced to take the place of the very low type of rural worker earning Sh. 30 and Sh. 40 a month, bringing a lower rate of tax than the Sh. 25 which applies to incomes up to £120 per annum.

I do not think that the tax imposed under this Bill will be harmful so far as the urban worker is concerned, but I do think it will cause hardship to the rural worker, particularly the type to which I have referred, earning, we will say, Sh. 30 and Sh. 40 a month. When the Minister replies, I would like him to say whether he would be willing to introduce an amendment to clause 3 to make provision on the lines I have indicated for these lower paid groups, below the £120 per annum limit.

2.59 p.m.

MR. MULIRO: Mr. Speaker, Sir, I was not very prepared to talk now but seeing that my colleagues on this side have all kept silent, I will try to say something about this Bill.

As has already been expressed by the Minister for African Affairs, the principles of this Bill have already been

[Mr. Muliro:] accepted by us on this side, but then there are details which we will discuss to-day; I will discuss them very broadly and my colleagues will raise more detailed objections to certain clauses. Mr. Speaker.

One of the main reasons why the African community, and we, as their leaders, accept this Bill in principle is the fact that it treats the African in this country like any other citizen and by putting him into a position where he is regarded as a first-grade citizen. So the going of the poll tax, which was definitely discriminatory to the Africans, is welcomed by us. But we have definite fears.

One very, very important point which we raised during the Budget debate is the lack of insight on the part of the Minister to see that all citizens below a certain minimum income should be relieved from paying these taxes. We registered very big objections at that time, Mr. Speaker, and I think it is very appropriate again, since this same Bill is before us, to reiterate the feelings that we had at that time, that certain groups of the African community should definitely be exempted from paying the taxes.

Now the minimum demand or requirement has been fixed at £120 per annum. That, Mr. Speaker, is very much the salary which every African, with a K.A.P.E. certificate gets. But how many Africans have K.A.P.E. certificates and are being employed? As the hon. Nominated Member, Mr. Tyson, has just mentioned, the rural African is at a very great disadvantage, in that his income at this stage is not actually known; it is not known at all. I know everywhere in the rural areas, the chiefs and district assistants have been going out and telling the people that we shall be paying such and such amounts next year. For instance, in the two districts which I represent, everybody has been told that we are either going to pay Sh. 51, say, in North Nyanza where they are paying Sh. 46 now, or Sh. 50 in Elgon Nyanza, where they are now paying Sh. 45.

Now I know the Minister for Finance is going to say: "Well, the Government only wants Sh. 25 for the person whose minimum assessment is £120". But that

is not true, because what the African actually pays is not merely the Government tax; he has various African district council rates and locational council rates, which he has to pay. Therefore, in assessing the African tax, one must reckon on both points. I still make the plea that it declared very, very categorically that Africans whose assessed income goes below a certain amount should not pay any taxes at all. After all the exemption of certain classes of people from paying taxes because of hardship is very, very characteristic of any civilized community, and I regard this non-racial tax Bill as a very civilized step that the Kenya Government has taken.

If it is a civilized step, therefore, we should also take the civilized step of exempting or relieving certain people of these hardships. And they definitely exist. I think if we could go forward and pass this Bill without knowing these real fears it would be very bad of us because those who are able to pay the taxes, Mr. Speaker, should not pay taxes which are going to be used for feeding people who will be behind barbed wire or in jail, simply because they failed to pay the taxes.

Now I think this Bill, if it is passed without recognizing the fears which I have always put forward, is going to push more people in jail than before. Those people who are in jail are going to be fed by the money which many of us are going to pay. Therefore, Mr. Speaker, if we want money for the development of this country, we should not pay money to keep people in jail who have not got the money to pay. I think that is a very legitimate fear, Mr. Speaker.

Another point which I would like to draw attention to is the position of the district commissioners and the district assistants or district officers. The exemption of the Africans who are unable to pay these taxes very much depends on the district commissioner. I know, Mr. Speaker, very many district commissioners are involved in very many of the local feuds, and when one is not on good terms with the district commissioner, one might be forced into paying the taxes, by the district commissioner even if he is unable to pay.

**THE CHIEF SECRETARY** (Mr. Turnbull): Mr. Speaker, Sir, the hon. Member says that very many district commissioners are involved in local feuds. I wonder if he would like to substantiate that by giving me one example of a district commissioner being involved in a local feud.

**MR. MULIRO**: Mr. Speaker, I will withdraw the statement "very many district commissioners", but I know of some district commissioners who are involved in such enmities with the people. I would not very much like to mention that here because on one occasion I was told here that I could never bring a district commissioner into question because he had nobody to defend him here.

**THE CHIEF SECRETARY** (Mr. Turnbull): Mr. Speaker, Sir, the hon. Member must either withdraw or not withdraw. He cannot have a qualified withdrawal.

**MR. MULIRO**: I will continue, Mr. Speaker, and say that there is a district commissioner in my own place, if the Chief Secretary wishes to know that, who is involved in a number of feuds.

**THE SPEAKER** (Sir Ferdinand Cavenish-Bentick): If you make an accusation of that kind you must supply the Chief Secretary with the name of the person against whom these allegations are made. You can do it privately if you like.

**MR. MULIRO**: Mr. Speaker, I never in fact wished to bring anyone into question, but I have been challenged by the Chief Secretary, so I had to say something about it, Mr. Speaker.

**THE SPEAKER** (Sir Ferdinand Cavenish-Bentick): The hon. Member must understand that he cannot make accusations against public servants in the Council without being able to substantiate them. You are responsible for the statements you make here.

**MR. MULIRO**: I will give the name to the Chief Secretary in private.

**THE SPEAKER** (Sir Ferdinand Cavenish-Bentick): Very well.

**MR. MULIRO**: I was going on to make the point, Mr. Speaker, that the work laid upon the district commissioner,

however good he might be, is definitely rather too much because the district commissioner looks after a very big area and I know very many districts are very large in Kenya at present.

Now, a big area like that with one district commissioner would mean that it would be very difficult for the district commissioner actually to know the abilities of various people in his district. What I would make a plea for here is that the Minister or the Government should make some provision so that there is some sort of a court which would go around the districts; and one would make sure that it was able to go around the districts within a given time before the time when the taxes are due to be collected. So that if this court goes around, it will listen to the problems of these rural Africans who are unable to meet the district commissioner in order to satisfy their grievances. At this stage, Mr. Speaker, I have to say to the Minister for African Affairs who has moved the Motion that that there will be investigations at the sub-locality levels, so that they could assess the disability of various Africans in that particular location who are unable to pay such and such taxes. I would like further to say to the Minister that that should be adhered to, at least as far as the coming year is concerned. That should definitely be investigated, and be finalized before these taxes are applied to the African community. Otherwise, if we go through very quickly we will find that many people will be hard hit next year.

Another point I would like to mention in connexion with this, Mr. Speaker, is the fact that the Government in fixing the lower rate for the Africans who pay these taxes, or the people who pay these taxes, has actually not taken into consideration various taxes which the Africans are at present paying. I find these taxes are going to bear very, very harshly on the Africans in the lower income group. The Africans of all kinds, those who are not living in towns, and even those who are living in towns now—I have been having representations from people in my constituency who have been in Nairobi for some two, three, four years and when they go back they always have to pay the African district council rates and locational council rates.

[Mr. Muliro:]

Therefore, Mr. Speaker, what I think is that the African on the average is going to pay at least Sh. 30 according to the very lowest figure on which the Minister for African Affairs has been talking. I think that in the Northern Frontier district that is a district where they pay only six shillings. Now those six shillings plus probably, if they pay any taxes at all, the African district council rates, I do not know. In the average provinces like the Nyanza Province and the Central Province, the African is going to pay on the average Sh. 65 or Sh. 60, in the case of the Central Province because the special taxes are there and the African district council rates are also there.

I feel, Mr. Speaker, that the African in the lower income group is going to be heavily taxed. Furthermore, we have not got any assurance from the Minister for Local Government, Health and Housing that he is not also going to introduce a graduated local rate. Now if this Minister of Local Government, Health and Housing is also going to introduce a graduated tax, one will see that according to position one, say 50-50 probably, the whole thing will come to about Sh. 100 being paid by the lowest African in this country.

Mr. Speaker, with these few reservations, I beg to support the Bill and more will be brought out by my colleagues.  
3.15 p.m.

**MR. ALEXANDER**: Mr. Speaker, Sir, when the Minister for African Affairs was making his explanations very early on, he did warn us that we should not be over optimistic about the results that might be shown, the financial results, which might be shown by these measures in the period of six months to 30th June next year. That being so, Mr. Speaker, and having in mind his remarks about the great amount of printing work and organization that has got to be done before this tax can be implemented, I do suggest that it would be wise if we passed this Ordinance—undoubtedly we will—but any rate have the implementation deferred to the 1st July next year. I do believe, Mr. Speaker, that that will give the Ministry of African Affairs the time in which to deal with what is administratively a very complex subject.

And of course, Mr. Speaker, we are all aware that in the last few days another very great burden has been thrust upon this administration, and that is, arranging the six extra seats for the constituencies to be elected. We shall also place a tremendous burden on this administration because it will be their responsibility undoubtedly to do the detailed work. I think it is far more important to us to have six Africans elected here than to have this implemented perhaps prematurely on 1st January next, and I do suggest, and I hope it will be accepted from the other side, that they will defer implementation to 1st July.

The hon. Nominated Member opposite who spoke made a plea for this tax to be reduced on the lower income groups, the income groups below what is provided in this Bill, of £120 a year. On this I would like to just read to him what was said by the Minister for Finance in his Budget speech, which I trust that the Government will not now move away from because it was a most excellent exposition on just this point, and I quote:—

"It also means that we can, I hope, look forward to the day when the rate levied on the poorer members of the community can be reduced and finally eliminated, so that in the end there will be one tax structure under which all citizens with income above a certain figure will contribute on a rising scale towards the cost of the general and essential services; those below that figure being exempted because of the level of incomes. It is not possible to make this move at once, nor to forecast the date at which it can happen, since at present it is essential that the Government should have the money represented by the bottom level of the new tax in order to help to meet our increasing commitments, including indeed those for African education. All I can do at the present is to express what I believe must be the intention and purpose of the future."

Mr. Speaker, I do hope that there is no wavering and no variation whatsoever in the Government's attitude from the day when those words were spoken.

This, Mr. Speaker, does give me an opportunity just to deal with a remark by the Member for Akamba when speaking

[Mr. Alexander] on 6th November, and this is what he said, and I quote:—

"May I end by saying that the hon. Member for Nairobi West has consistently and continuously shown some anxiety for relief from tax for the top men. This Bill has come in to determine the standard of the African—I mean the ability of the African to pay tax, and if he is a true Kenyan as he claims, I hope that he will join us in trying to exert any pressure we can on the Minister for Finance to give relief in taxes for the small man."

The inference there, Mr. Speaker, is that I am quite incapable of being impartial, particularly in a matter of taxation, and to reply to my hon. friend I would like to quote to him what I did say when this subject was raised in the Budget debate, and I am very pleased to say that as a result of those words, and of the words of many other Members on this side, we melted the humble heart of the Minister for Finance and moved him to bring in the rates that are now produced in the existing Bill. This is what I said:—

"I admire the courage of the Minister for Finance for at last having taken the plunge into these, at the moment, rather murky waters, but the increase over the current poll tax does clearly start at too low a level of income, and here I am in agreement with what the Member for Nairobi yesterday was conveying in his speech. Clearly this type of taxation must be linked with an ability to pay and I consider it is fairer to start the increase at £100, or I think the figure of £120 was suggested."

That is the end of the quote, and I trust my friend, the Member for Akamba, is now satisfied that I am prepared to look at these matters quite objectively.

Sir, turning now to more details of this Bill before us, it does seem that there is no provision for persons who have been long in Kenya to be relieved of this tax if they leave early in the year, although the opposite of it—that is the man entering the Colony for the first time—is given a certain relief if he comes after June and after September, and I

do suggest, Mr. Speaker, that in fairness to the person who has perhaps been here a very long time and been paying this for a great many years, he should have the same type of sympathetic treatment as the person who comes into Kenya for the first time.

Mr. Speaker, I am worried (and this relates to a point made by my friend the Member for Ukamba the other day relating to income tax), that in his case, there does not seem to be any provision in this Bill, to make certain that the persons leaving the country before 20th April in each year have in fact paid their liability under this Bill.

Now, Sir, section 13 (2) which gives the right of a collector to demand does not seem to make any provision for a tie-up with the income tax authorities. For example, we do know that the record of the income tax authorities now and in the future will be a very valuable assistance to those who have to operate this Bill and I do urge upon the Minister to bring some provision in here that will enable his administration to co-ordinate its efforts with those of the Income Tax Department. What I have to say later on this, the Minister will, I think, appreciate even more clearly, as to why it is necessary to have this close co-ordination with the income tax authorities. I am aware, Mr. Speaker, that the law does provide that the income tax authorities should divulge no information to anybody, but I do think, in an instance like this, that it would only need a fairly simple provision that they would provide the lists of names of people who they have discovered have got incomes that should be under this Bill.

I am concerned regarding section 18 (1) which deals with the steps for remission, and my worry, Mr. Speaker, is that there may be wholesale demands under this provision on the grounds of hardship, and I am just wondering whether the Government, when they reply, can tell us precisely what briefing they are going to hand out to officers in the administration as to just how they should treat and administer this particular section, because it does rely on a great deal of discretion.

Mr. Speaker, the Minister will remember that as a result of a question directed

[Mr. Alexander] at him on 24th October regarding persons who visit this country for very short periods, and are required to pay under this Bill, he did invite me to bring the matter in this debate, and this is what he said, Mr. Speaker, after some exchanges, and I quote:—

"I would suggest to the hon. Member that as we have a Bill coming up before this Council in this connexion very shortly, he might raise such matters at that time."

Hon. Members may not recollect exactly what the point was, but in order to refresh their memories it was the case of particularly the investor abroad in this country investing in this country, or the casual visitor to this country who may be here for a short time, sometimes perhaps under a week, who under the provisions as at present is required to pay this personal tax and, as I read it, to pay it in fact for a full year. There is also a weakness in the exemptions clause, that is clause 19, in that persons who have a pecuniary interest but no income (that is, an investor who is not deriving income), is required to pay, whereas, for example, in the case of a woman the Ordinance is prepared to set a limit of an income under which she shall not pay, and that is £60 per annum. In fairness to persons who may have assets but no income, there should be afforded exactly the same sort of treatment.

A most unfortunate provision of the Bill is to have excluded now all types of learners who are in receipt of a chargeable income. Members may appreciate that in the old Ordinance such people, although they had an income, were exempted; and I say it is unfortunate, Mr. Speaker, because we are all aware of the tremendous enthusiasm which our Government is putting behind it at the moment in any schemes of training within industry, apprenticeship schemes and the like, and it is a great pity that in introducing this Bill they have slipped out those few words and it appears in section 19 (1) (g) that they now bring into this tax all learner clerks, apprentices, all those learning within industry who happen to have an income that is chargeable. Such persons, Mr. Speaker, have a claim for special treatment because they are involved in expenses which normally ordinary

youths might not be involved in—for textbooks, or perhaps in many cases living in "digs" away from home and the like, and I would ask the Government to consider seriously bringing back into this Bill the words that were in the old Ordinance.

Now another serious anomaly seems to be in the case of persons who were previously in the Colony and go away and return; because on the reading of the Bill it seems quite clear that whenever they return, they must pay the tax for the full year. This is related particularly to clause 3 at the bottom of page 2, where it says:—

"provided that any individual who first arrives in the Colony or returns to the Colony for the first time since ceasing to be exempt from tax", etc., and that clearly only relates to new arrivals or people who happen to be here after they have ceased to be exempt. For example, those under 18 years of age or, another example, a resident who becomes liable, such as a widow—a person who is widowed; but the person who has been here perhaps for a long time and comes back is subject to pay this tax for the whole year. As an example, a person who returns from long leave, say, in January—we are going to deal with leave later on in this session, Mr. Speaker—but nevertheless, if he is transferred to Uganda in February and he is there for two years and come back in December, he is subject to pay the whole tax for the whole year. This, Mr. Speaker, is clearly an unfairness, and I ask the Government to make provision in their amendments to alter this.

I now come, Mr. Speaker, to the other part of the co-ordination that is so necessary with the income tax authorities and the income tax laws, and I refer particularly to the definition of "chargeable income", and most particularly to the manner in which it deviates or is different in this Bill from what it is in the Income Tax Management Act. It is very difficult for me to appreciate why these definitions cannot be the same, because surely if one goodness is to come out of this Bill, it is to trace people who should be subject to income tax, and having got their income clearly established under this Bill in terms that will bring them into income tax, it



(Mr. Alexander)

leaves no argument whatsoever when they come to be dealt with by the income tax authorities.

Now, as an example of the sort of difficulties that there might be, are those concerning particularly tax free benefits. You will remember, Mr. Speaker, that the other day I was having an exchange of questions with the Minister for Finance on this question of the taxability of leave travel in relation to overseas passages in that instance, but the principle is the same because many of those who will be subject to this Bill—this Ordinance—when it is law, are people who receive annually free travel. Now it is important that we get it perfectly clear as to whether that is taxable under this Bill, and if so, how is it to be measured. You will remember, Mr. Speaker, the Minister for Finance in replying to me on this subject said—and I quote: "Income tax is not payable on the cost of these passages". Then in a supplementary I quoted to him what the law was on this, and I said that the law provided for a taxation on any other allowance, whether in money or otherwise, and the Minister replied to me—and I quote: "Sir, I do not think that arises out of this particular question, but I have no doubt that the income tax people are using their discretion and interpreting the law as they have been advised".

Well, now, Sir, this is a subject on which there must be no doubts whatsoever, and particularly in the minds of those who are going to be subjected to this tax. There must be no interpretations by third parties; there must be something quite definite. The words in this Bill also talk about, in respect of employment or services, whether in money or otherwise, and that, Mr. Speaker, must extend itself not only to leave travel, but also medical benefits, uniforms, housing. Can we be told, perhaps in reply, how housing under this is to be assessed—how the millions of huts in the African reserves are to be assessed—because by this they all come within the words of this Bill.

Now, another feature on which there is to be a close co-ordination with income tax is in respect of the procedure and the administrative practice in the ascertainment of income, and here I do

urge upon Government to make this just as simple as possible. Here is one of those instances where I would beg Government to keep away from the complexities of the Income Tax Management Act. As hon. Members know, that Act is filled with all the refinements of modern income tax practice and legislation—complicated subjects like capital deductions and balancing charges and annual allowances—and I believe here that a lesson can be taken from the Coates Report for the administration of this Bill; it appears in paragraph 469 of the Coates Report where there was a recommendation put to the Coates Committee on the need for simplicity in the ascertainment of income.

Hon. Members may wonder why I am relating this to these, what might appear, petty incomes, but the peasant farmer—and here our Minister for Agriculture has given us encouraging news over the past months of the advance in this respect—wants to know how he is to be assessed on his buildings and pigsties. The newspaper vendor who buys ten bicycles to conduct a reasonably profitable newspaper delivery service—he wants to know how he is going to be assessed and how his assets are going to be dealt with in the terms of this Ordinance.

I just wish to quote, Mr. Speaker, from the Coates Report, and commend to my friends opposite that somehow they bring into practice in the administration of this Bill these very words—and I quote, from paragraph 469. It says:—

"We turn now to consider the second object which we have suggested that the Gill Committee had in view in framing their ninth recommendation. In this connexion it is desirable to consider their twenty-third recommendation in conjunction with their ninth. We have set out the ninth recommendation in paragraph 463 above.

Recommendation No. 23 was that—'the provisions of the Act relating to deductions in respect of capital expenditure should be recast in simpler form than at present, and so as to permit deductions in respect of expenditure on all assets, including all buildings and premiums paid for leaseholds, where such assets are used in earning the income.'

(Mr. Alexander)

We deduce from Recommendations 9 and 23 together a conviction on the part of the members of the Gill Committee that a trader's profits should not be computed for tax purposes without adequate allowance being made for all the capital consumed in producing them and that the proper way to achieve this object is by the enunciation of a general principle that profits should be computed by deduction not only of annually recurring expenditure but also of a due proportion of long-term expenditure and by leaving the application of this principle to particular cases to negotiation—or, if necessary, decision on appeal—on their merits. The Gill Committee would, as we see it, like the Act to be drawn in this way and not to contain, as it does, a general prohibition of capital expenditure subject to specific exceptions, followed by detailed and complicated rules for computing allowances in respect of various kinds of assets admitted to allowance.

470. Representations specifically supporting the ninth recommendation of the Gill Committee were made to us by the Association of Accountants in East Africa, a body of exceptional experience in taxation matters. Their support was qualified by the desire to delete the words 'and to the extent that the benefits of such outgoings and expenses are fairly attributable to the year of income' on the ground that the rule would then be more in accord with commercial principles."

That, Sir, is my point. Let this administration of this Ordinance get far nearer to commercial principles. I believe the people subject to tax under it will understand it more—far more clearly—in that way, and know far better where they stand.

My last point, Mr. Speaker, concerns the proposal although it does not appear in this Bill—nevertheless, I do not think it can be ignored at this stage that the proposal by the Minister for Finance to arrange, in the future, for there to be set off personal tax against income tax was enunciated, and I would give notice to-day, Mr. Speaker, that unless I can get an assurance from the Government that when that move is made there will

be an opportunity to alter the present rates or scales of imposition under this Ordinance, then I will have to, when the time comes for the Committee stage, move one or two amendments, which I explain in this way, Mr. Speaker.

The present rate of income tax, for a married person with no children at £350 is nil; and at £400 is Sh. 75; £450 is Sh. 150. Now, Sir, if this proposal goes ahead without our having the opportunity to alter the scale of imposition, then the person to-day who is paying income tax of Sh. 150 for £450 will, under this proposal, pay nothing; pay no more income tax other than the Sh. 150 he has paid under the personal tax imposition.

Dealing now with the married person with two children, for example, it is somewhere around £600 that he pays income tax of Sh. 105 a year. With the set-off of his personal tax, he would be paying no income tax at £600 a year. The married person with two children and education makes it even more clear; and at £700 at the moment, the married person with two children and education begins to pay Sh. 30 a year. Under that proposal, of course, he would have his Sh. 150 set-off, and perhaps be entitled to a refund. I am not quite clear how it will work. But I hope, Mr. Speaker, that has made by point, because unless we are given assurance that we can come back to the rates of imposition, then I must make proposals. I must move so that we now put into this Bill scales that will cope for this very serious anomaly that will arise unless we are given the opportunity to do it later on.

That, Mr. Speaker, covers all my points, and I beg to support the Motion, subject to all those points being satisfied. 3.48 p.m.

MR. ROBINSON (Nominated Member, Government): Mr. Speaker, Sir, the agricultural worker does indeed enjoy lower wages than his urban counterpart; but hon. Members must not forget that he enjoys many simple benefits in the way of hidden emoluments in housing, rations and so on; and that many in the high rainfall areas receive a high cash return from the *shambas* and gardens which are allocated to him. I have no particular worries for these people. However, I do, Sir, share my hon.

[Mr. Robinson] friend's anxiety for those agricultural workers who have not got the benefits, for some reason or other, of *shambas*. They are being asked, Sir, to pay about one-twentieth of their income, which is rather higher than any other class which has been proposed under the new scale. I hope that my hon. friend the Minister can give us an assurance that the district commissioners, when considering appeals from this particular class of taxpayer, will be given wide latitude.

Sir, I beg to support.

MR. HASSAN: I thank the Minister responsible, Sir, for bringing about considerable improvements in the personal tax to what it was last year. We all know, Sir, that this personal tax was introduced in this country when we did not have other taxes to get enough money for the Government to pay for the expenditure urgently needed for running this country.

Now, Sir, in the last 20 years, we find we have direct taxation, indirect taxation, local government taxation, and the revenue which used to amount to about £3,000,000 when this tax was introduced to-day has risen to over £23,000,000. This tax was not based on income, and even to-day, no consideration is given to the income of the person. As a matter of fact, it appears to me that the Minister wanted to collect a certain amount to meet certain expenditure, and he had to collect according to the number of people from whom the tax was payable in this country. For instance, persons drawing up to £120 per annum will be called upon to pay Sh. 25; and if the person's income is £40 more, he will be called upon to pay 100 per cent more, that will mean Sh. 50. And if he gets another £40, he will be called upon to pay Sh. 100.

What one feels after seeing this imposition, the imposition of this tax, is that it is not based on income. According to the statement of the Minister, it is quite clear that it is temporary, and he has very kindly brought about a great deal of reduction to the people this year, and he has promised that he will eliminate this temporary tax at a later stage. The time has come now, Sir, that serious consideration should have been given to

finding out some means of reasonable taxation from those according to their income to do away with this tax altogether.

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): I am sorry to interrupt the hon. Member, Mr. Speaker, but I am not aware at any time of having made a promise that this was a temporary tax and would be removed—I just do not want to leave the hon. Member, Sir, under any misapprehension—I am not aware of that promise.

MR. HASSAN: The mere fact that it is called the personal tax and was brought into existence when there was no income tax and was not based on income—it could not possibly have been a permanent tax. Had it been a permanent tax I do not think the Minister would have given us any reduction this year.

Sir, there are clauses given here of remission; I would like to bring to the notice of the Minister, if the remission is very liberally exercised for those people whose income is less than £60. Certain individuals are offered exemption, and I see there is anomaly for women having less than £60 so that they will not be paying any taxes at all. I do not like to object to their good luck for getting this exemption, but I would like the Minister to tell us why some of the men having an income less than £60 are not included in this exemption.

In the exemption column, no mention is made of old people. Age limit should have been one of the reasons for exemption included in this category so that certain people over 70 should have been exempted from the burden.

There is a very large number of Asians in towns, in major towns, whose incomes are not anywhere near £60 a year, and they have large families. In the past a great deal of help and assistance has been given to them by the administrative officers whenever applications have been made for remission; and I hope that they will exercise their powers of remission very liberally for this class of people.

I believe this Sh. 25 for those having an income less than £120 will certainly bring great hardship, particularly on the

[Mr. Hassan] African community, and I associate myself with the Nominated Member, Mr. Tyson, in that regard must be given to those not residing in these major towns, but particularly in the rural areas, and that there should be a class of tax to help and assist these people.

As I said in my previous speech when this Bill was first suggested, there should be a class of people paying Sh. 10 or Sh. 15 tax and those people drawing less than £60 should fall under this category.

With these few points, Sir, I support the Motion.

MR. MATE: Mr. Speaker, Sir, I would like to make a special plea for a class of people whom I think could fairly be described as poor. Before I do so, may I say that there are many Africans—some of them have coffee or some other produce—who do earn some income from their property and who can pay, and for these people I would say I have no tear to shed because I feel it is justified; also for people employed in offices, or in other jobs, who have the money, I feel that this is a very good step towards having a kind of equality in taxation in our country.

But, Sir, already there is one big class of African below the Sh. 200 a month level who cannot be regarded as in any way able to pay the taxes because of the peculiar circumstances in which they find themselves. I would here, Sir, like to give an example of an ordinary man—like an area like Tharaka in the Central Province where you find a man owning about five goats or ten goats, and he has a family of wife and children, and lives a very simple way of life.

He may have his hut in which he lives and he lives a very simple way of life. Sir, if you look at such a man, and analyse his wealth, his so-called chargeable income from his assets of, say, five goats, and perhaps his wife, who digs a little garden somewhere for enough to eat, I do not think these assets of his give him any income beyond that little sum to buy a blanket or to buy a few very simple goods for his own life. Sir, I feel this type of man is in a position where we could regard him as a man who could not pay. I do not know what my friend, the Member for Nairobi West, meant when he talked about assessing

the property of such an individual, because it is already very little and it is not used for production.

Sir, I feel there is a very strong case here for the Government to consider, not only in the area I gave, but in Kenya as a whole this ordinary African who lives a very simple life. He does not refuse to pay the taxes, but to-day Government has to remind him that he must pay his taxes and he is obliged to pay them by some method or other. Already, Sir, there are people who cannot even find the Sh. 17 or even lower rates below the Sh. 25 rate here, and have to go to prison or borrow money from people in order to pay.

I would like here, Sir, to refer to what is quite common in some areas where chiefs do go round and insist that every man pays his taxes and they find that people cannot pay Sh. 17 or a lower rate and have to go to a lot of difficulty to find the money. Not only that, they have to pay their African district council rates and in the case of the Central Province these ordinary people have to pay their special tax, which I am glad to say is Sh. 15 next year. But, Sir, this class of man is very, very common and I feel at this stage the rule should be rather, who can pay. I am sure there are many Africans who will be able to pay their personal tax at these higher rates, those people who have some business or coffee or some income, but there is this other class of people who are definitely poor. I am thinking of people who spend the whole year wearing just a ragged coat and perhaps living on the charity of their friends for their food. They may be forced to pay the tax, in default of which they may have to serve, say, a fortnight or so in a small prison somewhere near their homes. I do feel, Sir, this class of man needs to be looked at as a special case, and I would join with the hon. Nominated Member opposite who talked about the rural wage. We ought to have another level for this ordinary man so that he can have a rate that he can afford to pay. Later on I hope those of them who become prosperous will come up and pay the other rates.

Sir, at the same time the personal tax includes both men and women. Sir, there are many unmarried women, African women, who do not earn income and

[Mr. Mate] who stay at home with their parents, and I do see a danger here, Sir, when a member of the Administration, a chief or a district officer, insists that everyone in a location must pay their taxes, and because the law says they must pay they are obliged to pay. I feel here, Sir, that the Administration should approach the problem very cautiously and give as much margin as possible to these men and women in the question of proving that they are poor or that they should be exempted. Because I feel if it comes to a question of everyone being required to pay, these people cannot pay and then they may have to go to prison, and we will land ourselves with a very difficult problem, which my hon. friend the Member for Nyanza North referred to as having to pay money to maintain people in prison just because they generally cannot afford to pay.

Sir, I would here particularly plead with Government rather to ask themselves in these cases of very ordinary, poor people, "Who can pay?", rather than saying, "Everyone must pay and those who cannot pay must prove that they cannot" because there are many ordinary people who find that they cannot, who find it difficult to face the district officer or even the chief to argue their case. And for them to prove that their assets are so many goods or a hut, or because they have a wife and family they are poor, is a very difficult thing. I feel Government should do all they can to make sure that these people have free access to the chiefs and the district officers and explain their situation, rather than expecting them to pay automatically and then be obliged to pay.

I feel that as the country progresses and people earn more, and there is more prosperity in the Central Province, people will automatically pay their taxes, but at this stage I feel it is important to discriminate rather carefully.

The other difficulty is in assessing the so-called chargeable income of a person and his assets. Not many Africans, even members of the tribal police or chiefs, would understand a distinction between chargeable income and assets. They will look at someone and see that he has a cow or a cow and two goats, and he has a little garden; but they forget that he maybe has five or six children to feed,

and these are his expenses which he must meet in any case. They forget he has to pay fees for his children or he has to pay hospital fees somewhere, so that automatically on his gross property he seems able to pay; but he cannot pay.

Sir, I feel, because of the relative backwardness of some of these people, it is very important to approach the whole problem rather cautiously to make sure that unnecessary hardship is not caused to some of these people. I feel they would like to pay the taxes, but conditions for some of them are such that they find themselves unable to pay.

With these remarks, Mr. Speaker, I beg to support.

MR. PANDYA: Mr. Speaker, Sir, I think it is quite well known that this tax is peculiar to East Africa and it is equally well known that the Asian community has always maintained that this tax should be abolished at the earliest opportunity. However, Sir, I know that this is not to be and so, subject to what I have said, I would like to say that I welcome and accept the Bill in principle as it does for the first time apply to all races. I think it is a move in the right direction, to move away from the many racial approaches to problems that we are having in this country.

With regard to rates, Mr. Speaker, in view of what has been said, that the people with the lowest incomes will be hit very badly, and that it would be a great hardship on them, I think the Minister, when replying, might consider creating a new category of people to whom a lower rate may apply. Sir, those with incomes under £60 for which we charge a nominal Sh. 10. I think that might, in view of what has been said with regard to rural workers and various people with incomes of the lower scale, do away with the high rate that has been suggested, the minimum of Sh. 25.

Now, Sir, with regard to clause 8 which deals with penalties, the Minister did say that he had made a compromise with regard to dates and that 15th June was a date that he would like to see being introduced. But I feel, Sir, that he has maintained a high rate of penalty, 50 per cent, instead of a reasonable rate of 25 per cent, which existed in the case of those paying personal tax as distinct

[Mr. Pandya] from poll tax. I hope, Sir, he will consider that 25 per cent is a reasonable figure and that to penalize people to the extent of 50 per cent, in addition to paying this fairly substantial rate, would be an additional hardship on these people.

Now, Sir, with regard to clause 18, which deals with remission, I am inclined to support a point that was made by my hon. friend, the Member for Mombasa, while he was speaking in the debate on the Communication from the Chair, with regard to the advisability of setting up local committees to deal with this question, instead of leaving the discretionary powers to the district commissioner. In addition to the fact that such officers are very busy, I think it would be better if local people dealt with these cases of hardship, and I think they would probably arrive at a better judgment than one person sitting on such decisions. The committee would be able to deal with such matters with a more human approach and with a bit more latitude than probably some of the officials might be inclined to display.

I agree, Sir, with my friend, the hon. Member for the East Electoral Area when he suggested that in the clause for exemptions an age limit might be introduced, say, up to 70, and that the people over that age might be given a legal exemption from paying this tax, rather than has been the case hitherto.

With those few points, Mr. Speaker, I beg to support the Bill.

MR. ODINGA: Mr. Speaker, Sir, in going through the Bill itself I have just got a few points which I had noted down, but I am glad that my colleague, the Member for the Central Province, has mentioned many of them. The Minister, in introducing the Bill, made a point that the district commissioner would be assisted by a panel of elders in the African areas, in assessing the wealth of the people. This is where I thought he was a little bit vague, because actually, going through the Bill itself, I have not got the provision where this panel of elders is provided for. I think that things which are just left outside a Bill and left to the discretion of the district commissioner or someone like that, to fix them-

selves, is not the right way to go about such important matters as taxation.

It would have been better if these elders had been provided for in the Bill and their duties also assigned and known, and at the same time I would have requested the Minister to consider a great deal, if it would not have been better to have a group of some experts who could move round the districts and meet these panel of elders and asking them questions referring to the points, as laid down in chargeable income. They would note down what the man himself says and what the elders also say and they would consider, because being experts they would be the people who really understand what net income means. At the same time, they would understand the allowances which should also be given to a man before the taxation is charged.

In reading clause 2, which is about chargeable income and all the explanations, we have been given what would be included in the chargeable income. And at the end in the last paragraph we are told that "after deduction of all outgoing expenses, wholly and exclusively incurred by that individual in the production of the income and in the case of a married man living with his wife includes such income of his wife as would have been, but for the exemptions contained in section 19 of this Ordinance, chargeable income". I thought, Mr. Speaker, here that it was quite vague. It is quite vague to me, because I do not know whether the children also are included in this clause, whether their upkeep are also taken to be the expenses this man will consider. I do not know whether the wife's income was left out intentionally and that the wife's income would be considered to make up for the children. If that was the case, I thought it would only be advantageous to those women who can also earn their living in other ways. But as to the present arrangement, many African women are women who actually look after their children at home and I do not think that there is any other way whereby they would be earning any other income to maintain the children. The children will depend exclusively on the earnings of their fathers. So I took it that this should have been considered a great deal because the children cause a great deal of expense to the fathers in the

(Mr. Odinga)

way of their day-to-day expenses at home and their schooling; when they reach the appropriate age, and other things. So I take a great exception to the fact that that has not been clarified, as I think it ought to have been, and made publicly clear to us.

Now, Mr. Speaker, when I turn to clause 3, I am glad that the Minister found it possible to increase the starting point for the lower groups to be £120 as against what it was, £60; but still, as I said during the Budget debate, I would have liked it to have been raised to something like £150, because I felt that at £150 you would get people who are able to, and understand how to, argue their case fairly well. Below that you will not find people who will be able to argue their case well, as it has been provided for. Recently, when moving round the country, it was the first time that so many Africans came to me; they were loud in the praise of their district officer, saying: "Our district officer had been very unreasonable but this time we think a man is never bad all round. He is now very good to us; he has exempted so many of us from taxation."

Well, I doubted whether these people really understood that there is a new system of taxation this time, and I thought it would be better to explain it thoroughly to them, so that they would understand exactly what it would mean.

I felt that instead of £120 laid down as the minimum I would have liked it raised to £150 and then instead of £160, as I thought there was too small a gap between the two, it should have been raised to £180. Instead of £200 we should—I know that will also affect the income taxation—have raised it to £240, in order to relieve the people in the lower income group from taxation.

Turning to clause 5, Sir, it is established that the paying of the tax would commence from 1st January in each year—and shall be paid not later than the thirtieth day of April in that year". But this is a complaint which so many Africans have because they say that in January the tax is demanded forthwith, and then there are the school fees which are also demanded immediately, and the licences for those people who have shops, rents are also required; nearly

everything is required at that time. It really throws a great burden on the lower income group in the country. I would have liked the Minister to have found it fit to extend the time, the last day for the payment of that tax to the end of June. I know it has also been put down that 15th June would be last day to qualify for the penalty, but even that one I should have liked to be extended. I wonder if it would not have been better to extend it to 30th September, as it was before under the African system of taxation. It would have relieved so many people.

Now, Mr. Speaker, just before I come to the end I would say that, as other people have also said, it would be better in the remission and refund of costs to have a committee. I think the district commissioners have been really reasonable in the past with so many of the people, but I thought at this stage it would have been better to define and set aside, as the Member for East Electoral Area has also said, a committee who would deal with these particular cases. It is a very important case. There are so many old men, and you know, with many Africans; their duties are mostly the manual labour and as such there comes a time when you find an old man is not able to do very much. At that age he really needs a lot of relief from taxation. I thought that if there was a committee which goes round it will help those people who are probably unfortunate and may possibly be in disagreement with some officials. If there was a committee which was impartial it would help a great deal.

Mr. Speaker, before I sit down I would also just confirm what my colleague, the Member for North Nyanza, said, and that is that the time for the introduction of the Bill is really very short, and it will throw a great burden on the people; the assessment will not be done properly. I think that if we deferred it until a year later, or until the beginning of 1959 it would help both the officials and the public themselves, and the assessment would be more or less reasonable because such a thing, if it is started badly, will probably also end badly. It will not be serving the purpose which we would like it to serve.

Mr. Speaker, with these few remarks I beg to support the Bill.

4.24 p.m.

Mr. NGALA: Mr. Speaker, Sir, when we were discussing this question when it first came up in a speech of the hon. Minister for Finance, we supported in principle the idea of personal tax. But we pointed out to the Council, Sir, that there was a great deal of investigation to be carried out as far as the Africans were concerned; the assessment and all the complications about quarters and the difference between property and what would be termed as profits or losses. So it is because of these difficulties and these many implications that I personally feel that the question of personal tax should be treated with care so that the administration is given sufficient time to go into it very carefully without being rushed over as to when it should start.

With that, Sir, I would like to support the hon. Member for Nairobi West and my hon. friend who has just sat down in that the introduction of such tax should be postponed until 1st July, 1958, so as to give time to the administration to undertake various points of detail; this would mean that they could bring it into effect when it was really appropriate and when every African or every person for that matter has been considered and put in the right place.

We again said, Sir, that we feel that the system of taxation is going to hit hard the lower-earning groups. We said that because we knew that there was the African district council rate to be paid and in many localities there is also the locational council rate to be paid. And also the special tax, as you know, Sir, although it has been reduced to Sh. 15 a year now. But with all these side taxes that the African has to pay we feel that the present personal tax is still going to hit the lower income group hard.

Here I would like to support my hon. Nominated friend in the idea that the rural person who earns Sh. 40 or Sh. 45 a month should be considered very carefully. I feel, Sir, that it is quite wrong to tax a person who is earning Sh. 45 a month and the same Government exempting a person who is earning £60 a year. Here I would like to point out that the sort of person that my hon. Nominated friend has in mind and the sort of person that my hon. friend, the

Member for the Central Province, has in mind, is really having so many expenses: he has to feed his children, he has to look after their fees, he has to pay for many other things. Whereas where we exempt a woman who is earning £60, that is Sh. 100 a month, Sir, I feel that probably the principle is wrong somewhere. I am not saying that the women should not be considered, but I feel that in a country like this, where we have a new system of taxation, all the people should be considered on the merits of what they earn and what they have and what they spend their money on.

In brief, I feel that the exemption aspect of it should be looked into very carefully, so that a woman who is earning £60 a year is not necessarily exempted when a man who is poor is taxed, even taxed Sh. 16 a month or Sh. 10 a month; still I feel he should not be taxed when a certain person who is earning £60 a year is exempted.

Another point, Sir, which has also been touched upon by my hon. friend, the Member for Nairobi West, is the question of assessment as far as Africans are concerned. I would like to know from the Minister concerned exactly how they are going to assess the value of the African quarters, the ordinary huts that the Africans have, and how they are going to tax those huts or how they are going to put the value on most huts.

Also I would like to be told exactly what the word "rations" means here, particularly as it concerns the Africans: whether it means the ordinary food that the African grows and how it is going to be valued and taxed, and I would like to know exactly what the Minister has in mind.

Another point, Sir, which must be very clear in the directions that the administration will give to the chiefs is the difference between profit on property and property itself. Many Africans, Sir, may have a few head of cattle, or a few goats, but they hardly get any profit out of those few animals, particularly if you take into account the cost of looking after them. You can hardly see any profit that they get out of that, I have also seen a few Africans who have coconut plantations in the Coast Province,

[Mr. Ngala]

who hardly get any profit out of the coco-nut plantations, sometimes due to the failure of the rains and sometimes due to reasons beyond their own control. Now, in any particular year I would like to know how the Administration is going to deal with such things so that the collectors will not go about just looking at trees and saying: "These trees should have such a tax placed on them" because they feel very strongly that there is profit arising from such property. I would like that made clear to the servants of the Administration while assessing the property of Africans and the profit arising from that property.

So far as penalties are concerned, Sir, under the present law concerning poll tax, I think that any person who goes into prison for failing to pay poll tax is automatically exempted from poll tax in that year. I am not quite sure here, but if I am wrong then probably the Minister will put me right. Now, the Bill says that this tax is recoverable. I would like to know exactly what the position of the African will be—I mean those who fail to pay personal tax—and who will probably have to go into prison for it, and when they come out—what happens? The poorer class, particularly, who cannot make good any tax that they have failed to pay, and they have no means at all of getting the recoverable amount for any past year—I would like to know what the position of such Africans would be.

My last point is the question of objection and appeal. I think that the Bill says that any person who feels that he has been greatly misrepresented as far as his income is concerned can appeal to the collector. As far as Africans are concerned, I think it would be very helpful to them if they are given the first opportunity of appealing to their locational councils and the appeal be submitted to the collector through their locational councils; because I feel that the collectors, or the district officers, will have such enormous areas to look after, and it will be such a difficulty for individual Africans to go to the collector and make their appeal. I feel that a slight change on the method of appealing would be very helpful to the Africans. I feel that if they were allowed to go

through their locational councils; they would be in a position to assess exactly what the value is because in the locational councils they have their chiefs and they have their local men who know them best and probably they can argue the case and put it in a way that would be understandable to the collector. So here I would like the Minister to consider allowing the appeals to go through the locational councils where these exist so as to make the whole thing easy and understandable to the collector.

The method of assessing every African property, I feel, Sir, should be left very much in the hands of the local people. Here I know that the district officers and the chiefs will have to be concerned, but I would like to know from the Minister exactly how far the local people will be given a chance of looking into the valuations concerning different people in one location or in one district so that we get the confidence of the local people as to how their property is being assessed and how their profits are being assessed.

Mr. Speaker, we would like to get away from the position where a district officer or a chief will be blamed for assessing things wrongly or for not understanding exactly how much, or the value for each taxpayer. Therefore I would like it to be arranged so that it is possible that the local people or a local committee can act in an advisory capacity to the district officers, the collectors, or the chiefs, so that people know exactly how to go about the thing.

Finally, Sir, I would like to know whether the gist of this Bill, if it is approved, could be translated into very simple language and into the local vernacular so that the people can read this Bill and understand exactly what it is. I feel, Sir, that such a statement or such a pamphlet could be sent to the chiefs' centres, and be distributed to the people, and would give the people an understanding of the whole thing so that when it comes to introducing it the people know, and if they have any questions before the introduction they can ask their local chiefs or locational councils so that they may understand it before the whole thing is introduced.

Sir, although I support the whole thing in principle I would say that the details that have been pointed out by Members

[Mr. Ngala]

should be borne in mind and should be gone into so that this does not bring a real hardship, particularly to the people with very low incomes.

I beg to support, Sir.

MR. MANGAT: Mr. Speaker, Sir, be for the "winders-up" come down with their chariots and smother me in the dust or run me over. I would like to make one submission to the Minister for Finance if he will take it into consideration. It seems to me that it is nothing more than an oversight.

Under the clause concerning exemptions, married women with an income of £60 have been exempted, and then the next clause exempts women living with their husbands; but unfortunately widows have not been exempted. I think that is a class of person which could have, if for no other reason than on compassionate grounds, been given proper consideration.

I do not need to press the point because I am sure that it will be appreciated at once that although some other classes of persons have been pointed out, like men above 70 years; there might be many others like the deaf and dumb, Legislative Councillors, or lawyers; but this is a class of person—the widow class—which should receive some sympathy from the framers of this legislation.

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): Could I ask the hon. Member to amplify that slightly. Does he mean that the present exemption—which says that every woman whose income does not exceed £60 a year—does not include widows? I would like to ascertain the legal point so that my hon. friend can answer.

MR. MANGAT: Even if it does include widows it would include only those persons with that limit of income. There might not be many cases where the income would be affected but there might be cases where women are clerks or teachers or in some other occupation getting much more than the limit laid down here; and if a married woman living with her husband is excluded I think it is only fair that widows who have not got any protection over them should be excluded in respect of this irrespective of any limit of income.

AN HON. MEMBER: and divorcees! 4.41 p.m.

MR. USHER: There is one point which I should like to clear up; I am referring now to the case of people whose incomes exceed £200, and I made an allusion to them when speaking in the general debate the other day. Now it is perfectly clear that under clause 18, the district commissioner can remit on grounds of poverty or for any other good cause. Now in his opening speech the hon. Mover did say that normally this power of revision would be exercised in cases of old age, poverty, and illness. The point I was on the other day is the point I am on to-day, that it might well be exercised, and very properly exercised, in the case of young people, particularly those cases where a young person of perhaps under 21 years of age has a heavy family responsibility owing to the loss of a father or such like, and I did suggest then, Sir, that such cases might be dealt with, and I had the towns particularly in mind, by local committees of the communities concerned. Now I think that would be valuable and I am not quite sure whether, if the principle were accepted by the Government, it would be a question for a rule under section 20 or whether it would be an administrative act or whether it is indeed open to the district commissioner to set up such committees if he thinks fit. If those matters could be elucidated I should be much obliged.

I beg to support.

MR. CROSSKILL: I rise to support the Motion, but with very considerable qualms. I think I do so because on several occasions in the past we have on this side of Council supported the introduction of this form of graduated personal tax. I think we did so because hitherto the taxation pattern in this country has been such a patchwork that any step towards making the pattern more homogeneous is an advance. But I feel that there is a very considerable danger that collection of small sums of taxation in a direct manner may well cost more than it is worth, and I think really we should have considered increasing indirect taxation rather than apply this further step in direct taxation. I believe the Minister for Finance himself feels rather that way when he says

[Mr. Crosskill] that he hopes some time in the future that those who are earning very small sums of money such as under £100 a year may be exempted from taxation, and that the requirements of the State will be provided by those more fortunate than they. I think to a very great extent we agree with him. I support it because perhaps I am exaggerating the difficulty in collecting this, because after all there is very little difference, Mr. Speaker, from what is proposed, to what is the present method of collection throughout the country, whereby the Administration do collect the *Kodi* tax. But where I feel this is not meeting the requirements of the country, Mr. Speaker, is that I cannot yet see how it will be equitable in collecting from those in the middle range of income a fair proportion of their subscription to the needs of the country.

I was apprehensive many years ago when I first read the Marchant Report and saw that they anticipated that the revenue to the country would be £3,500 at a cost of £2,500 in collection, but that the £3,500 would be increased to £10,000. If it would include the Masai. Well, now, Mr. Speaker, conditions are very different from what they were in those days long ago when the Marchant Report was prepared, and I am not apprehensive that things will be so bad as the picture they have painted, but I am apprehensive in that I believe it is not going to make our tax structure any more equitable than it is at the present time, and leaves uncovered the very large range of incomes in the middle income range group. As I said, Mr. Speaker, I feel still that we should be more wise to consider increasing our indirect taxation and leaving the direct taxation at the lower levels it is to-day, as I believe we could get the revenue required by the country at far less cost. We believe at the present time that the ratio of direct to indirect is 55, but we fear it may be lowered even on the side of direct as against indirect, which is quite contrary to the advice given by Mr. Plewman not very long ago, when he recommended, Sir, that it should be as one to one and three-quarters, or one to two, loaded on the side of indirect taxation. Well, Sir, I think we are flying too fast fiscally by trying to adopt direct taxation systems

which are suitably applicable to more mature countries than our own, and I think that we should do better even to take a step backwards and increase that ratio, or rather stop the advance to parity which we believe is the present condition—

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

[Mr. Deputy Speaker (Mr. Conroy) took the Chair]

—and remain there, or even go back a step or two, for a few years. I believe, Sir, that the main criterion of any tax structure should be that it should apply pressure gradually from the very beginning, from the lowest incomes in the country right up to the top, a gradually increasing pressure. But we do not get that even with the introduction of this new system of taxation proposed to-day.

My hon. friend, the Member for Nairobi West, has pointed out that a married man with two children in this country, earning, I think, £120 a year, will pay the same tax as a married man with two children earning £700 a year—that is approximate—assuming that the Sh. 150 personal tax which would be paid by both would be offset against the income tax paid by the married man with two children who has £700 a year; and therefore there is a large block of earning people with incomes between £120 and £700 a year who pay the same, and therefore the whole system, Mr. Deputy Speaker, to my mind falls in that it inequitably touches and charges the people in that income tax range.

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): Did the hon. Member say "who would pay the same" or "who does pay the same"?

MR. CROSSKILL: If this Bill becomes law, Mr. Deputy Speaker, what I mean is that a man earning £121 a year, be he married with two children, would pay Sh. 150 personal tax, but he does not come into the range in which he would pay income tax. At the other end of the scale, to which I have made reference, a married man with two children earning £700 a year, that income being subject to allowances of £350 for marriage, £120 for the first child and £60 for

[Mr. Crosskill] the second, is left with a taxable income of £170, on which he would be charged approximately Sh. 150; 14; then, the offsetting of personal tax had been allowed against income he would then pay nothing. Therefore I was wrong in my earlier statement, Mr. Deputy Speaker, that a married man with two children, as I see it, earning £700 a year might pay less than a man with two children earning £121 a year.

Not only is that inequitable on the individual, Mr. Deputy Speaker, but it is, as I have said, leaving a very large range of people in this country very undertaxed to the detriment and disadvantage of the lower income tax groups in which most of the Africans are and also to the disadvantage of the higher tax-paying groups as well.

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): To be certain, for the purposes of the record, I understood the hon. Member to say that a man with £120 a year would pay Sh. 150 in personal tax. A man with £120 a year, as I understand it, will only pay Sh. 25. Only if he gets to £121 will he pay Sh. 50, not Sh. 150. There seems to be some mistake.

MR. CROSSKILL: Mr. Deputy Speaker, I beg the Minister's pardon. I meant to say that a man earning £201 would be paying perhaps more than a married man with two children earning £700 a year.

I think that great thing we must and should aim at: Mr. Deputy Speaker, in our taxation must be, as my hon. friend from Nairobi West said also, simplicity. We must not have the structure and method of collection too complex or else it becomes too costly to collect and is not worth what the country gains.

Now, as regards the question as to whether or not the personal tax, Mr. Deputy Speaker, should be offset against income tax, to my mind it depends entirely on the structure. To my mind it would be far simpler if income tax were to start at a point where personal tax left off—that is, that income tax would not be charged on the first £200 or £300 of one's income. It would then not be necessary to offset the personal tax against income tax because there would

be no double taxation, and I think it would be far simpler again moving towards simplicity—that it should not be charged and should therefore not be eligible for offsetting, rather than to have double charging and offsetting.

I think, Mr. Deputy Speaker, that it would be preferable also if this proposed tax were taken up to a much higher level of, say, £500 or £600 income. We would then retain the simplicity and would not have the complications and difficulties of collecting income tax at these lower levels. We should be able to concentrate more our efforts on the collection of income tax at the more profitable levels. At the same time we should cover the gap to which I have referred which is under-taxed; and therefore to-morrow, or when the Committee stage is reached, I propose to move an amendment to that effect.

Mr. Deputy Speaker, with those comments and with qualms, I support the Motion.

SIR CHARLES MAREHAM: Mr. Deputy Speaker, I find myself in some difficulty. Having heard the hon. Member for Mau speaking, and having seen to-day's paper, I find that he is also Minister for Game, Forests and Fisheries, so I wonder what he is doing on this side of Council at all! I presume, Sir, that his remarks must have the support of the Government and be their collective responsibility. I hope I am not wrong on that.

I have only one or two things to say on this Bill. I have just one or two points which I would like the Minister for Finance, or whoever replies, to clear up in my mind.

First of all, Sir, the question of the tax due by 30th April in each year, under clause 5. That seems to me, Sir, perhaps in my slight ignorance, rather a contradiction, especially when 15th June is quoted. What happens in this gap between 30th April and 15th June regarding penalties? According to how I read this Bill, you are liable by 30th April, but if you have not paid by 15th June you are then liable for the penalty of 50 per cent. Perhaps, Sir, the Minister might like to clear that matter up.

My second point, Sir, and which is a more major one, concerns the point

[Sir Charles Markham] made by my hon. friend, the Member for Mau, about increasing the level of personal tax on incomes of, say, £500 or £600 a year in order to avoid the difficulty of collecting income tax, and, incidentally, to widen the net of people who should be paying and who are probably not paying at the moment. I do not know how that would work, Sir, but except that it does mean that if you are going to start a register in the offices of the district commissioners of all people—you are assessing what their incomes are, etc.—I can see no difficulty in changing your scale to try to bring in the higher rate up to, say, £500 a year, as the hon. Member suggested. The fact is that under clause 13 this register has to be maintained. It is therefore a very simple matter, under those circumstances, to widen the scope of this particular Bill.

Sir, I was somewhat surprised that the first rebellion against this Bill came from the Back Benches of the Government side of the Council, which has been, Sir, perhaps the first time this has come for many a year; and it is encouraging that they are not always going to be supporting blindly the moves from the Front Bench of the Government. Nevertheless, I suppose, Sir, that as soon as we adjourn this evening, they will be taken upstairs and told not to be naughty boys again.

CAPT. HAMLEY: Quite uncalled for.

SIR CHARLES MARKHAM: I should think, Sir, that the Chief Whip will use his whip again.

AN HON. MEMBER: How do you know?

SIR CHARLES MARKHAM: I do not know, Sir, but this is the first time anybody on the Government side has been allowed to criticize anything for the last six months.

AN HON. MEMBER: Question!

SIR CHARLES MARKHAM: I am not going to withdraw that remark, Sir.

Now, Sir, I want to query the remark made by the hon. Nominated Member, Mr. Tyson, which was supported by my hon. Nominated friend, Mr. Robinson, about farm wages being so very low. I think it would be fatal if that remark

went unchallenged in this Council. All sorts of people seem to have alleged that farm workers are being paid a pathetically low wage. I want to know some more facts on this. So far as I am concerned in Ukamba we did a survey the other day for another committee and we worked out that with the benefits of medical facilities; housing, food, and all the other things added up—including hidden emoluments; to wages of nearly Sh. 95, as opposed to Sh. 40 mentioned by the hon. Member. I think, Sir, it might create a false impression abroad and in this Council if it was thought that it was common practice that workers were not earning these wages. The fact that there is a *shamba* on top of it, mentioned by the hon. Nominated Member, Mr. Robinson, makes that wage even more, but I do not believe Africans working on European farms are getting the wage mentioned by my hon. friend, the Nominated Member, Mr. Tyson. As far as I know, the wages in kind virtually amount to double what is paid in cash, and I think, Sir, although I have sympathy with hardships, as mentioned by many of my hon. friends on this side of the Council, the African Members, I do not think it is universal, and I do not think, Sir, that we need worry quite so much about the poverty mentioned.

I was interested the other day, Sir, to see that at Nairobi Racecourse we had a crowd of over 5,000, or 4,000, of which over 3,000 had come from the Kikuyu Reserve, all of whom are alleged to be unable to pay their taxes. I was interested to note that the first three sweeps on the African enclosures were extremely profitable to both the people who won them and to us in the Jockey Club. Now, I agree, Sir, that if your expenses include your gambling losses nobody can afford to pay taxes, but I wonder very much whether we are not laying too much stress on the actual value of what the man has in cash, when his assets in the way of property, goats or chickens are quite considerable.

Now, Sir, I know very well from my own experience—and I have been in this country quite a long time—that whatever you pay your African staff, by the third day following payment nothing is left at all. It is quite an amazing thing—it either goes into the bank or, alternatively, it does not. It is either gambled

[Sir Charles Markham] or used for some other purpose. Now, Sir, I believe that this method of taxation is a fair one provided the person who is well off gets hit a bit harder. I have no objection to Sh. 150 for somebody who has got £200 a year, but I have every objection to that same person earning £500 or £600 a year who is still only going to pay Sh. 150. You have only got to see the amount of wealth available for distribution to the *Mau Mau* terrorists at the start of the Emergency to realize that wealth does exist, and particularly I remember as well certain lorry drivers who converted their lorries into rather doubtful buses running between Nairobi and Fort Hall, Nairobi and Nyeri. They paid nothing at all except the common or garden poll tax and perhaps a bit of the locational tax. I hope that somehow we can extend the net to include those sort of people, to make them pay more, and then, Sir, if that net was extended then I would be the first to support the idea of the total abolition of any tax payable by the genuine poor of all races.

Mr. Speaker, I beg to support the Motion.

5.03 p.m.

MR. MACKENZIE: Mr. Deputy Speaker, I would first of all like to thank my hon. friend the Member for Ukamba for answering one point that has been made about the bottom rate of tax. He has dealt with one aspect of it and apparently there is no agreement that the bottom level is too high, provided it is administered reasonably, as I am sure the Council can be content that it will be administered. In this connexion, Sir, mention has been made of exemptions and remissions, and the Government has been asked what arrangements will be made to ensure that these are dealt with fairly. Well, Sir, I think that one of the points that we should bear in mind is that the exemption and remission is only effective at the bottom level. It is not a new thing that is being introduced. The Provincial Administration has been used to granting exemptions and remissions when necessary in connexion with the African poll tax and also in connexion with the old personal tax. They have got plenty of experience of this, and they are able to use their normal

advisers in the locations and sub-locations, and to find out whether a man really can or cannot pay. I think anybody who knows the methods by which the Provincial Administration carries out its duties will realize that the powers of remission and exemption will be used with the same humanity, if this Bill becomes law, as they have always been in the past in connexion with the African poll tax and personal tax.

Now, Sir, as regards the level of tax, I think it is probably useful to look at the bottom level not so much in terms of the Sh. 25 that has to be paid in a year, but in terms of shillings a month. If hon. Members, Sir, do a little sum and convert the bottom level of Sh. 25 a year into shillings a month the result is Sh. 2/08, which a man has to pay each month. Of course there is provision for payment by means of stamps, and I must say that I think the wise man who pays regularly each month by stamps should not feel that the burden of this is in any way intolerable. As a matter of fact the level of Sh. 25 only represents an increase of between Sh. 4 and Sh. 6, I think is the figure above the rate that is applicable in most of the districts at the present time, and that again works out at an extra 10 cents a week. That, Sir, is the additional burden that will be imposed at the lowest level; and the lowest level, as a result of the concessions which my hon. friend the Minister for Finance and the Government generally have made, goes up to £120 a year. Above that, people will have to pay more, and I think that everybody accepts that it is reasonable that the people who can afford to pay more should do so. It is certainly a principle that has applied to the non-African members of the community in the personal tax for a very considerable period, and now what is happening is that we are all being put into the same net, and we are all going to have this particular privilege of paying according to our means.

There are, Sir, a number of points raised by hon. Members opposite in the debate which I would like to deal with. One which has I think exercised the minds of many Members has been what the method of assessment will be, and whether there will not be a great deal

[Mr. Mackenzie] of difficulty over deciding what is chargeable income, and so on and so forth. Well, Sir, the definition of chargeable income has been kept as simple as possible for this type of tax, and it is intended that the administration of the tax will not be allowed to become unduly complicated. There is no intention, so far as I know, of turning this into something on the lines of the income tax with large numbers of schedules to be filled up, and all that kind of thing.

What will obviously happen in the first years when the tax becomes law is that the new personal taxpayers—that is the African personal taxpayer, who has just been brought into this particular net—the majority will quite obviously pay at the bottom level, and the others will be gradually brought in. Quite obviously the people who are receiving regular monthly salaries will be amongst the first to be caught, and as regards the rest they will be taxed at sub-local level, where committees will assist the Provincial Administration in the assessment. It is not expected that everybody will be caught at once, and for that reason my hon. friend, the Minister for African Affairs, warned the Council that in the first year we do not expect to get very spectacular results in an increased total level of receipts, but the sooner we begin the sooner we are likely to reap the benefits which I believe will come from the introduction of this tax, and I feel for that reason it is desirable that we should start dealing with it with as little delay as possible. It will be a heavy task for the Provincial Administration, but fortunately the Provincial Administration are used to having heavy tasks thrown on them, and I am quite sure that they will deal with this with the same resilience that they normally deal with the thousand and one things that the Government—the Central Government—is always throwing at them.

Now, Sir, as regards one or two detailed points: my hon. friend the Member for Ukamba said that clause 5, which states that the tax will be due and payable by 30th April, appeared to be inconsistent with clause 8, which is the penalty clause. Well, Sir, to a certain extent that is quite correct. The 30th April is, as hon. Members are aware,

the date on which the existing personal tax becomes due and payable. The date in the African poll tax was 31st January. Now both taxes become due and payable on 30th April, but in addition to that there was the question of when the penalty should be imposed, and it was felt that to impose the penalty on 30th April would be too early, and would cause hardship. For that reason a compromise was reached, and as a compromise it was moved back to 15th June, which is nearer the date when the penalty clause under the African Poll Tax Ordinance comes into force.

Then, Sir, I think it was my hon. friend, the Member for Nyanza Central who also mentioned clause 5, and he said, I think, that there were often complaints from Africans at being compelled to pay the tax as soon as January was out. Well, he will, I think, realize that the changing of the date on which the tax is due and payable to 30th April represents a considerable concession.

The hon. Member for the Eastern Electoral Area mentioned the increase in the rate of penalty from 25 per cent to 50 per cent. Well, of course, that increase only affects those people who previously paid the personal tax. The penalty under the African poll tax at the present time is already 50 per cent and, until a few years ago, the penalty under the personal tax was also 50 per cent. The penalty was reduced when the rates were considerably increased two or three years ago. The penalty rate was reduced at that time from 50 per cent to 25 per cent, but it is not considered that there is really any case for maintaining it at that level, and it is therefore proposed that it should be restored to the original level of 50 per cent which, as I say, is also the level applicable at present to the African poll tax.

The hon. Member also made a plea on behalf of people who are on very low rates of income—with less than £60 a year, and suggested that they might be allowed to pay a nominal rate of Sh. 10. Well, Sir, the objection to that would be that it would involve a very considerable loss of revenue and, at the present time, a loss of revenue of that order cannot be afforded. There is the further point, of course, that under the law as it stands at the moment all non-Africans are, and

[Mr. Mackenzie] have been liable to pay tax at the rate of Sh. 40 a year on incomes of £60 a year and under, and I think that to reduce the tax to Sh. 10 at the present time would certainly be more than the country could afford. As, however, my hon. friend, the Member for Nairobi West mentioned, my hon. friend, the Minister for Finance, said in his Budget Speech that he would like to see the day come when it would not be necessary to collect tax from people at the very bottom of the scale, and I have no doubt that he will bear that in mind as time goes on and the financial position improves: but it cannot be said too often that at the present time the financial position would just not allow the Government to take a step which would involve very considerable loss of revenue.

As regards, Sir, the point which was made by the hon. Member for Nairobi West about chargeable income, I have already said that an attempt has been made to keep the definition as simple as possible, while being as comprehensive as necessary. A further point that he made, Sir, was regarding students with chargeable incomes. He pointed out that they were being brought into the net. Well, Sir, it is understood that there are a considerable number of students who have quite considerable chargeable incomes, and it really is not seen why people who have got chargeable incomes of a considerable amount—whether they are students or not—should not make their contribution towards the expenses of running the Colony, provided, of course, that their age is such as to bring them within the scope of the Ordinance.

This, Sir, I think, is also really the answer to the point which was made about clause 19, which deals with the point about the people with a pecuniary interest—yes, the people with a pecuniary interest. Well, Sir, if they come to the Colony to look at their assets, and they are considerable ones—it is obvious that if they can afford to come here on a visit it is most unlikely that their interest will not be quite a considerable one—and they can presumably afford to make their small contribution towards the cost of running the Colony.

Finally, Sir—or almost finally, there is the question of the tie-up with income

tax. Well, as regards that, I am glad to be able to tell the Council that the income tax people are given—have got the benefit of having the records of the personal tax collection. The records kept by the people who collect personal tax are, of course, put at the disposal of the income tax authorities. So far it has not been proved possible to have a reciprocal arrangement, and I think my hon. friend realizes that there have been difficulties, and whether it will be possible to overcome them, I would not like to say at this particular stage.

There was a point, Sir, about people who have lived in the Colony for a very considerable period, and who leave finally or temporarily early in the year; and the suggestion is that it is really not fair that they should have to pay tax for the full year, whereas people who come in for the first time after 1st July get certain remissions. I think the answer to that, Sir, is that if somebody comes to the Colony for the first time there is no doubt about the fact that they are coming for the first time, and they have not been here before, and it is reasonable that they should be excused from a certain amount of the tax for the period of the year when they were not here: but somebody who leaves in, shall we say, January, February or March—there is no telling that, in fact, he is not going to come back. Nobody can tell whether, in fact, he is going for good at that time of the year or not, and I think it is quite reasonable that he should pay for a full year, and I do not think that the Government would be justified in introducing a remission system which, in order to be really effective, and to avoid a good deal of evasion of tax—and abuse generally—would have to have a pretty effective set of checks and safeguards.

I have already dealt, Sir, with the points which were made by the hon. Member for North Nyanza about relief for citizens below a certain—

MR. MULIRO: On a point of order, Sir, the Member for Nyanza, not North Nyanza.

MR. MACKENZIE: I thank the hon. gentleman for putting me right on that very important point. I trust, Sir, he will forgive me for my error.



[Mr. Mackenzie]

I have, Sir, dealt already with the point—and I think it is a very important point—that he made about relief for citizens whose incomes do not reach a certain level, but I have said—and I would like to repeat it now—that although this is something that can be looked at possibly in the future when the financial position is better, at the present moment it would involve a considerable loss of revenue, and that is something which I am afraid the Government would not feel able to face.

With those remarks, Sir, I beg to support.

MR. KIRPAL SINGH SAGOO: Mr. Speaker, one man's meat is another man's poison. That is a familiar saying. Some hon. Members on the opposite side of the Council have complained that the tax position is too high for low income groups, while others have complained that it is not high enough in the upper brackets. Well, Sir, I am in a very fortunate position in that my community falls in the middle income group. Without in the least trying to introduce any racial or discriminatory bias into this debate, I would like to say, Sir, that that community has provided both the skilled and semi-skilled needs of this Colony, and that their incomes range anything from £150 to £500 per year. There are very few exceptions which probably exceed that limit, and therefore, Sir, I am particularly pleased to see that, for the first time, an attempt is being made in this Bill to relate the personal tax paid by an individual to his earning capacity, be he in the lower income group or in the middle income group. The rich, of course, have been able to afford the luxury of taxation in the past, and I do hope they will continue to enjoy that privilege in the future.

Mr. Speaker, Sir, I beg to support.

MR. SLADE: Mr. Speaker, Sir, in supporting this Motion I have only one point—and that is by way of emphasizing one point made by the hon. Member for the Coast Province. He urged, Sir, that this particular law should be published in a very simple form, in the vernacular, for the information of all taxpayers; and I think, Sir, that is a very sound proposition. I know that ignorance of the law

is no excuse, but it can sometimes be very hard luck and it is particularly hard luck when people are ignorant of the law concerning the taxes they have to pay. It may be said that they will come to know this particular law through *barazas*; but it is not very easy to put across in *baraza*, through the medium of chief, exactly: what this law implies, and I think it would be well worth while to put it across in an authoritative form, in the brief and simple language of the vernacular—the main ingredients of this law. Hon. Members opposite may say that is a dangerous thing to do; because if it is an authoritative statement the taxpayer may rely on it and complain if it is not strictly accurate; but we have a precedent for that in the Emergency Regulations. Hon. Members will remember that in one or two of the more intricate Emergency Regulations there were some very helpful brief explanatory summaries that made it clear that, although they were summaries, and authoritative, they were not to be taken as being the final statement of the law. They were simply there to help. Some statements in the vernacular, with the same reservations, Sir, I think would meet the case.

Sir, I beg to support.

5.31 p.m.

MR. MBOYA: Mr. Speaker, Sir, a lot has been said on the Bill, and I do not wish to repeat what we have said to-day, and also I think in the past in the debate in June, except I do wish to reaffirm our statement that we—the African Members and the African community as a whole—are very happy to see the introduction of a non-racial tax system. I would urge that, in regard to the question of exemptions, and particularly considerations for the lower income groups, the Minister do consider the possibility not only of waiting until such time as we are able to wipe off completely taxation on certain elements, but probably progressively to introduce this process by reducing—or by removing completely—the tax on people below a certain income. I was glad to see that he has raised the floor to £120. It would have been considerable of him to consider eliminating taxation for people, say, below £60 or £40. After all, it is provided that there is going to be some amount of exemption, and I think it would tidy up the process a bit more

[Mr. Mboya]

if we had some specific determining point on which, or by which, the district commissioners and various people concerned will determine the capacity of the people to pay.

As it is at the moment, the onus seems to rest on the individual to come forward and complain of the burden, or wait before he can actually be considered. Now, this is difficult in a country such as this, where not all the people have easy access to the authorities concerned, and I think, on these grounds, that it is not too late for the Minister to consider this particular aspect. I am not sure how much revenue will be involved, but I think that, in view of the fact that we have agreed in principle there are anyway going to be exemptions, that we might take action on this particular line.

Now, there is just one other point that worries me, and that is the question of assessment. I think the Mover made some reference to some procedure being adopted. As my colleague, the Member for Central Nyanza, has pointed out, in the Bill itself this procedure is not very definitely determined or clearly shown. This leaves us in a rather fluid position in that a lot will depend on the people on the spot. This, I think, is a dangerous position as far as we are concerned. The African Members, naturally, will be influenced by past experience on this question of taxation. We have complained not only in this Council, but there have been complaints outside the Council as to the manner in which people are sometimes treated on these issues. It does not arise with the lack of understanding at the top of the Government machinery, but very often at the bottom. The chiefs and headmen and their *askaris*, I would suggest, are as ignorant of these provisions—sometimes even more ignorant—than the ordinary man in their own areas. It is not unknown that they misunderstand the provisions of these Regulations, and try to apply something quite to the contrary.

Now, I know that the Government will say "why do you not bring forward these cases and they will be examined on their own merits?" But I do not think we can take the risk that is involved that will result in frustrations, misunderstand-

ing and the rest of it, and I think it would have been fairer for Government to have outlined completely and very fully the type of procedure they will use. I am not myself very satisfied that reference to elders and then to the chiefs and district officers is enough. We are told that if a man is dissatisfied with his assessment he may appeal to the magistrate. Now, who is the magistrate in the district? I suppose he is referring to the district commissioner. Without trying to throw any aspect of doubt on the district commissioner's ability to be impartial, it is only fair to question this particular point—namely, that if the district commissioner has himself, with the district officers, determined the policy administratively that should be applied in assessing the capacity of the people to pay, with reference to him later on, as magistrate, by the appellant, it rather puts the appellant in a very difficult and awkward position, and raises doubts as to the impartiality of the whole system, and I think this ought to be looked into rather more carefully. It may be necessary that we should create—

THE MINISTER FOR AFRICAN AFFAIRS (Mr. Windley): I should be grateful to the hon. Member if he would give way. I would like to clear one point rather touching on the question of impartiality, and to give him a firm assurance that no district commissioner who has had a hand in hearing appeals lower down in these cases, will ever take a case as a magistrate.

MR. MBOYA: I am very grateful to the Minister for giving me this assurance, but I think this is not a case where we can rely on assurances in this Council. I think it is a case where we want to make it perfectly clear outside this Council that there can be no doubts whatsoever on the impartiality of the machinery involved, and I do not think that the people outside this Council are going to rely on the particular assurance that we have been given.

[Mr. Deputy Speaker (Mr. Conroy) left the Chair]

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

I think everyone in the district will closely identify the district commissioner with the orders that the chief gives, and

[Mr. Mboya] with the orders that the district officer gives, and consequently he will identify the whole machinery with this line of people. I do not think we can afford to overlook this particular question, because I think it is going to be an important one in determining whether or not people are going to be happy with the system, and whether or not it is going to result in frustration in the African areas. So I think and I would suggest that the Government do consider some other machinery that would be applied in cases of people wanting to appeal against assessment. I also think, Sir, that unless we are careful—and we have said this before—we may get confused in terms of assessing people's incomes, unless there is some sort of guide as to what constitutes incomes, particularly among the peasants in the African reserves.

I do not wish to go into the details of the complicated structure, economic and social structure, of the African in the reserve because I think this is very well known to Members in this Council, but unless we give a guide that will be used by the elders or whoever is going to do the assessment there is a danger that what someone calls an income, particularly a person who is relatively uneducated in these matters of income and the rest of it, that he might call a person's assets his income and so on. Now, maybe Government will tell me that he in fact has that sort of guidance: if they do I think it is only right and fair that we Members in this Council should be given this information, particularly during this debate. We should be informed as to what this guide is going to be, because after all we are here to represent these people and it is our duty to find out whether we think this sort of guide that the Government has in mind is the best kind in this particular matter. If the Government has any guide then I think they should give it and the Minister should, in his reply, let us know what guide they have in mind.

I think this is going to be a very important question in this whole process.

Another point that I wish to raise is that relating to certain of the powers that are given to collectors and various other people. Again speaking very much from past experience and from what I know the African community has complained

of in the past, I think we have to be very cautious as to how much power will be given to the collectors. Just now, as I speak, I am not quite sure of who the collectors will be, but if they are the type of people that I think everybody has in mind, then the powers that they will have should be determined in terms of how far they are capable of interpreting those powers and capable of using them properly. Abuse of power may lead to people disliking the system or losing confidence in the system, not so much because of the principles involved but because of the manner in which it is applied.

I know that all my colleagues will agree with me when I say that in the past the African has particularly complained of the manner in which he has been handled by those people who have the responsibility of collecting, and checking whether or not he has paid taxes.

I think there is an important element in this—that we are introducing a non-racial tax system—and if it is non-racial then there should, in fairness, to everyone, be a uniform system of carrying out the various processes, not necessarily completely identical—because I appreciate that there is a difference between the various categories of our peoples—but I think the principles involved should be as much as possible the same. I know—I would quote examples of what I mean, Sir—that Africans in their residential areas in a town like Nairobi or in the villages to-day can be woken up in the middle of the night and asked to produce tax receipts or asked to produce their tax at that time of the night. It is this sort of use of power that leads people to a great deal of frustration, and it is not so much because the district commissioner has said it should be done, but because the people lower down just do not know what their powers are, or just think they have so much power they can do precisely what they like, and we have to appreciate that most of the people who are involved are not in the position to understand the law, are not in a position to understand what their own rights are—to challenge the tax collector or the headman or someone else—and consequently they often end up frustrated, but unable to do anything about it. These are, I think, Sir, certain features of whatever we are planning

[Mr. Mboya] to do, that must be looked into very, very carefully. It is these aspects that one would criticize in the Bill, as such and not the principles that are involved in it.

Whilst talking about these powers, I think it is provided for powers for tax collectors for the production of receipts and also powers for tax collectors to approach any person whom they think is due for payment of tax and has not paid, or something to that effect. Anyway, I have seen in Nairobi very often a lot of people being stopped at the rush hour when they should be going to work, to produce tax receipts, and that sort of thing. We have also seen that during week-ends when offices are closed and so on, some people are busy in the African residential areas, asking the people to produce tax receipts or asking whether they have paid their tax, and people arrested on a Saturday are kept in the cell until Monday when they can be sent to the court. Now this sort of thing very often results in a great deal of frustration, because people just tend to think that they are subject to some sort of indiscriminate conditions, unnecessary in their view because it can be done some other time, or just unreasonably being applied without any particular, or any real justification.

Now I want, if I may, to refer to a speech made by the hon. Member for Ukamba. I was not in the Council and so I am not quite sure whether I am quoting him correctly, but I understand that he said that Africans should pay taxes and referred to some money paid by Africans for *Mau Mau* collections and some Africans who spent their money at the racetrack and so on. Well, I think, with due respect to the hon. Member, that I hope he is not really trying to imply here that this is a general feature among the African community. If he did, I would be very sorry indeed, because I would have expected him to know better. I do not think that the hon. Member could make such a generalized statement, particularly with reference to whatever money anybody might have paid to *Mau Mau* collections and so on. This, I think, is an irrelevant question if, indeed, the statement was made. I also understand that the Member referred to African lorry owners and so so, whom

he thought should pay. Of course, that is quite true, and I agree with him. The African Members have not said no African-should-pay taxes. We have, in fact, endorsed the principles of graduated taxation on the basis of income, and so the question does not really arise, and I hope the Member fully accepts the position that we have taken in the matter. He is quite free to challenge that; I was not in the Council, as I said.

SIR CHARLES MARCHANT: Mr. Speaker, all I said was advocating higher taxation to these lorry drivers earning big incomes; I was using it to say that if they earn big incomes, they should pay more.

MR. MBOYA: Thank you very much. All the same, I think my comments still apply.

I would like, Sir, in conclusion, to support a point made by the hon. Member for Central Area regarding widows, except that there would be the question of that rich widow who had a large income, I think, who should pay. I do not see why a rich widow should not pay tax anyway. I think within those bounds there is some case for considering the position of widows probably more sympathetically, but I would not completely go for the complete exemption of all people in this category. There are quite a few other deserving cases, but I think the whole thing should be determined on the merits.

With these observations, I beg to support.

LT.-COL. GHERSIE: Mr. Speaker, Sir, in welcoming this proposed legislation, I feel almost on this occasion as one who is here to champion Government, because we have, year after year, in every Budget debate, asked that something of this nature be introduced—something of this type of legislation. Well, Sir, I would hate to appear to be at variance with any of my hon. colleagues on this side, but I do think there has been a certain amount of misunderstanding, if I have interpreted their remarks correctly. Sir, as we are all aware, this is really culminating in a report which took place under the chairmanship of Mr. Plewman in 1947 and it was due to a recommendation of his that a further committee was set up under the late Colonel Marchant, and I

[Lt.-Col. Gherrie] think it sat in 1950 or 1951; and my hon. friend, the Member for the Coast, and I happened to be privileged members of that committee. Now, Sir, recommendations were made, and I will say on that occasion that the African members of that committee—the hon. African Members as they were then—subscribed to the principle, and I am very glad, Sir, to hear to-day without exception that the hon. African Members again accept the principle.

Now, Sir, since then a few years have elapsed and Government have been unable to introduce this legislation, mainly due to the mechanics. I mean—we have had a few years of *Mau Mau* where administrative staff were employed on other duties and it was quite impossible to provide the people who would be necessary to carry out the administration of the proposed legislation. Now a number of people have suggested, on the one hand, the Administration must see that the method is as simplified as possible. Other people have talked of different gradations. Now, Sir, I must say in fairness to my hon. friend, the hon. Member for the Coast, he was the one who wanted additional gradations. Now, Sir, in its infancy, the introduction of this legislation, it must be in the simplest possible form—hence the reason why there are limited gradations; but once the thing has got into its swing and the wheels are turning round properly, no doubt additional gradations will be introduced, but I must say that, Sir, in fairness to the Government side, because the recommendations came from a committee of which I was a member.

I would, on that account, Sir, also appeal to the hon. African Members not to confuse any taxes which may be raised by their African district councils, because it really has nothing to do with the issue at all. The object of this Bill is to try to bring into the net a number of people who do not subscribe to the cost of the administration of this Colony. Now your African district councils provide money for certain services in that particular area, just as in the city council or a county council so the same thing applies there, and there are certain taxes raised for specific purposes in those areas.

Now, Sir, one hon. Member suggested that the cost of collection might be infinitely greater, or very near approaching, the amount of revenue that might accrue. Well, Sir, that is quite possible, but one has got to commence legislation of this sort. If one were to go back to 1937 or 1938—I forget the actual year when income tax was introduced—the net revenue per year amounted to a few hundred thousand pounds. To-day, as we all know, it runs into millions, and once this machinery is properly working, I suggest that in years to come it will be paying a considerable dividend to this Colony and a considerable contribution to central revenue.

There is one thing that does worry me slightly, and it is this: I do agree with hon. Members on this side of Council, and it was mentioned by one or two of our hon. African friends here, and that is with regard to the mechanics. It has been left rather late in the year. I should imagine—November—to introduce a tax which will become operative from 1st January next year. I suppose it will mean the building up of additional staff, although Mr. MacKenzie did point out that the provincial administration usually have those things thrown at them and they are very resilient—I think he said—and will be able to tackle the problem; but I would suggest there is a good deal more than that in it. There is the question of educating the people on African district councils as to what their particular function is, because I would suggest a great deal of this work is going to be the actual assessment of a person's income. It is a simple matter, of course, where you have an employee and the employer can inform Government the net amount he is receiving, but I believe the biggest problem will be in the African reserves, where you must rely on your African district council advisers and there, I think, a good deal of education will be required and I think the time is fairly limited.

Sir, there was one point here, again on the mechanics of the thing: I do not wish to pose as a bush lawyer, but no one else seems to have raised this point. It is this—that in section 10 (2) there is provision—"if he has reasonable grounds for believing that such requirement will not be obeyed, he may cause such individual to be arrested

[Lt.-Col. Gherrie] without warrant and to be taken without due delay before a court". Sir, I do not know if that will really be workable, because I visualize a number of people perhaps being picked up or arrested and it might not be convenient to take them before a court. As I see it, there is no provisions here to arrest and hold over until they can appear before a magistrate. There may be a number of arrest in the evening; what happens then? As I say, I am not attempting to be a bush lawyer, but I do believe there is a loophole there that perhaps one of our legal friends will look into.

Now, Sir, my final point, and it is this. I do hope that the Minister for Finance will not misunderstand the remarks of my hon. friend, the Member for Nairobi West, when he referred to the personal tax perhaps exceeding the amount of what one might pay in income tax, and that personal tax—I hope he will interrupt me if I am wrong—that personal tax might be claimed as a set-off against the income tax because it might be in excess of the amount of income tax paid. I do hope that the Minister still has in mind the setting-off of the amount paid in respect of personal tax against that amount paid in respect of income tax. There is no provision for it here—we appreciate that—but he has on every occasion said they have the matter in mind. I think he sees the equity of the set-off, because otherwise it means double taxation, and I do hope that he will not misunderstand—as I quite frankly may have done—that my hon. friend, the Member for Nairobi West, said—that we are still, Sir, hoping that there will be an amendment at some later stage when that provision is made whereby personal tax, where a person pays income tax, becomes a set-off.

Sir, I beg to support.

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

6.04 p.m.

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): Mr. Speaker, Sir, the best laid plans of sessional committees—"gang aft aghley". When I think of the time we had this morning discussing the limitation of this

debate, I must say how delighted I am to see that even the threat of that limitation seems to have dried up the fountains of all-wisdom.

Sir, if I may deal first of all with the point raised by the last speaker, the hon. Member for Nairobi North, with regard to 10 (2). I am told by my colleague that this particular point is covered by the Penal Code. I hope that covers the point that the hon. Member raised.

Now, Sir, to preface the position before I turn to detail, I would like to say, Sir, that the sacrifice to revenue which has been made by the alterations in the grades, at the bottom level in particular, has meant a sacrifice of some £175,000, and in our present financial position that £175,000 has to be made good in some way or other, because I shall not be entitled—the Government will not be entitled—to expect Her Majesty's Government to cover this particular concession in revenue. So I would like first of all to make it perfectly clear, Sir, that we have gone a considerable way in trying to meet the arguments raised by hon. Members opposite during the Budget debate in lifting the level from £60 to £120. But beyond that, at the present moment, it is impossible for us to go and, although I have listened with considerable interest to the plea that the lower levels should be exempted or that there should be a lower scale brought in, I am afraid that it is impossible, at this stage of our financial position and against the background of the continual pressure for services which we have, to make any further sacrifice of revenue, at any rate at present.

Now, Sir, that does not depart in any way from the quotation which was made by my hon. friend, the Member for Nairobi West, as to what I said in the Budget debate; that is the intention of the Government, as and when circumstances permit. Nor, to satisfy my hon. friend, the Member for Nairobi North, nor have I changed my own opinion that the most equitable way of dealing with the situation of income tax and personal tax would be to offset the personal tax against income tax when that becomes possible also. I think, Sir, that clears the main point of principle which has been raised in this debate. Now, Sir, I would

[The Minister for Finance and Development] like to deal with some of the other points, and hon. Members will forgive me if I skip from point to point in this particular reply, because I have not had time to write them out in the order that I would like to have dealt with them.

I would like, first of all, to get rid of the point made by my hon. friend, the Member for Central Electoral Area, on the question of exemptions for widows. I, like my hon. friend, the Member for Nairobi Area, can see no reason why a rich widow should not pay the tax. The whole basis at which we have been aiming in this particular Bill has been that the tax shall be related to income and to no other circumstance and that where relief or remission is given, it shall be given for some particular purpose—of hardship or because it is felt that the imposition of the tax on that particular person would be unjust; but I am afraid I cannot see why a widow who has an income of £120 or £200 a year should not pay exactly the same as anyone else, but, of course, if her personal income does not exceed £60 per annum then she will be exempted.

When I am asked, Sir, why every woman whose personal income does not exceed £60 per annum should be exempted and no man exempted, I can only say, Sir, that this is a case when it must have been due to softness of heart. There is, indeed, no logical reason except one's belief that what used to be called the weaker sex; Sir, needs just a little more care and protection from the hardship of the tax man; but that, Sir, is about the only reason that I can logically give for that particular aspect.

Now, Sir, to turn, I think, first of all to my hon. friend, the Member for Nairobi West, and the points that he made, some of which have been covered by my hon. friend, the Secretary to the Treasury. I will certainly, Sir, have a look at the point that he raised with regard to 19 (1), but as my hon. friend, the Secretary to the Treasury, has said, it has been felt, indeed, that where the young individuals concerned, who will, after all, be over the age of 18, have got a chargeable income, there is no reason why they should not pay the tax; whereas if they have not got a chargeable

income and are therefore relying on their parents to assist them in the receipt of full-time instruction, then there is good reason for exempting them from this particular tax.

Now, my hon. friend did suggest—and I would like to thank him very much for the reasonable approach and the argument on this particular Bill because I believe that that is the real atmosphere that should exist between us—and I know that he appreciates the arguments thrown across the Floor of Council in this respect—he did suggest that the Bill might be put off for a period of six months before it was operated. The difficulty that I would find, I think, in that one, is that these rates do suggest a considerable amount of relief in taxation for a large number of people. So many people have referred—once again forgetting this is a non-racial Bill or whatever you care to call it—multi-racial—so many people have spoken as if it were only the Africans who were affected by this Bill, and I would repeat, Sir, the figures I gave in the final speech on the Budget debate. In 1956, 118 Europeans and 6,934 Asians including Arabs, with an income of between nought and £60, paid tax of Sh. 40. Between £60 and £120, paying Sh. 80, 422 Europeans and 2,375 Asians. Between the next class—£120—paying Sh. 120, 117 Europeans and the Asians, always including Arabs, 2,109. Over £200, paying—if the present position were allowed to stand, Sh. 200, there were 23,042 Europeans and 42,000 Asians. Now it is not often that one is able, under present difficult circumstances, to bring some measure of tax relief, and the amount involved in that relief is probably something in the nature of £250,000. If this Bill were postponed until July, all those people would have to pay the old rate of tax, and I suggest that it would be an injustice to deprive them of the relief which they have been entitled to expect for the year 1958 since the time of the Budget debate. Quite apart from the fact that we have always known, with this particular type of Bill, that we should have to take a plunge or we should never go forward at all, we have always felt that there would be some argument that this was not the time or the machine was not ready. My

[The Minister for Finance and Development] hon. friend, the Minister for African Affairs, in consultation with the Treasury and the Government in general, decided that although we might find a lot of difficulties in the first year of implementation, we must go ahead with it in order to get the principle established and have at least behind us a year's experience by 1959. So that I think my hon. friend will see that there are several grounds upon which a postponement would be undesirable.

The question, Sir, of the set-off of income tax—I would like to turn from him to deal with the point raised by my hon. friend, the Member for Mau. If I understood the hon. Member's argument correctly, it was that a situation could arise where a man worth £201, who had no children, would pay Sh. 150, and somebody who had an income of £700 might pay less. Of course, that is impossible, Sir, because the basic rate will be Sh. 150. He might pay exactly the same. But, Sir, I listened with considerable interest—and although he may not believe it, a certain amount of personal sympathy—to the hon. Member for Nairobi West when he referred to certain places where up to a certain income you were tax free. That would be a very nice state to get to and if we do arrive at the off-set against income tax it is intended to lighten the burden on the income tax payer.

Now the hon. Member put forward some suggestion that we might indeed step up the grades of this and have, say, £500 and £600 and have a heavier grade of personal tax upon those people. I think that might be a point to consider in the bringing in of a full homogeneous tax structure, when we have established the principle of set-off, but not, I think, until then.

Mr. ALEXANDER: I am grateful to the hon. Minister for giving way. Mr. Speaker. What I asked for was the assurance we would have that opportunity when those proposals are brought in, otherwise I was going to move an amendment at the Committee Stage to cope with them.

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): I was not, at that point, referring to the hon. Member

for Nairobi West; I was referring to the hon. Member for Mau. Now that the hon. Member for Nairobi West has raised that point, perhaps I could deal with it straight away. Whilst I could not give him the assurance that the scales would be reviewed, the assurance I could give him is, that of course any step of that kind would be brought before the Council. Any measure of off-set against income tax, to make it law, would have to be brought before the Council, and at that point, because it would need to be an amendment to the Ordinance, the hon. Member would have full opportunity to place forward his arguments about the reviewing of the scales.

Mr. ALEXANDER: I am grateful again, Mr. Speaker, just to get this quite clear—when the proposals are brought in we will be dealing with income tax; we will not be able to go back to this Ordinance.

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): No, Sir, I would suggest that they must be complementary in both cases, and that therefore the hon. Member would have the chance to deal with the personal tax position. That is as far as I can go in the way of an assurance that he would have the opportunity to refer to this matter, although I would say that having listened to him, unless like the hon. Member for Nairobi North I have somewhat misunderstood the implication, I am not sure that I would agree with the argument at this particular stage.

The hon. Member, too, Sir, said we must keep to simplicity. Well, that is really the idea in the present Bill—to render it as simple as possible, particularly during these first years of operation. I have no doubt that after it has been going for some time we shall have to review the position and look at the mechanism, but at this stage I think we agree that the simpler the better. Therefore, I do not think that the people who are going to have to deal with the assessment of this Bill would go into very great detail about what is the value of a hut or what is the value of a pig sty put up in wattle or brushwood. The procedure of assessment which has been proposed by my hon. friend, the Minister of African Affairs and the administration, and which has been laid out in

[The Minister for Finance and Development] some detail and circulated, as suggestions as to how the matter should be dealt with, to the administration in general, does attempt to give a guide as to simplicity. To quote from the guide: "It is obviously impossible to lay down hard and fast procedures and rules capable of application throughout the Colony in order to solve this problem"—that is, the problem of assessment of African, in particular, incomes.

I have a considerable way to go yet, Mr. Speaker.

### ADJOURNMENT

THE SPEAKER (Sir Ferdinand Cavendish-Bentinck): It is time for interruption of business. Council will stand adjourned till 2.30 p.m. to-morrow, 13th November.

*Council rose at fifteen minutes past six o'clock*

**Wednesday, 13th November, 1957**

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

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

### PRAYERS

### ORAL NOTICES OF MOTIONS

THE EXTENSION OF INCREASE OF RENT (RESTRICTION) ORDINANCE

THE ASIAN MINISTER WITHOUT PORTFOLIO (Mr. Madan): Mr. Speaker, Sir, I beg to give notice of the following Motion:—

THAT the Increase of Rent (Restriction) Ordinance, 1949, be extended for a further period of three years as from the 1st day of January, 1958, subject, nevertheless to the provisions of the proviso to sub-section (2) of section 1 thereof.

MODIFICATION OF CONDITIONS OF EMPLOYMENT OF CIVIL SERVICE

MR. SLADE: Mr. Speaker, I beg to give notice of the following Motion:—

THAT a select committee be appointed to consider and advise this Council upon possible modifications of inducement pay, overseas leave, and other conditions of Employment of the Civil Service in this Colony.

### BUSINESS OF THE COUNCIL

THE CHIEF SECRETARY (Mr. Turnbull): Mr. Speaker, Sir, it will come as no surprise to hon. Members that after the Motion which was moved in this Council yesterday the business of the Government has proceeded with such expedition that we are now slightly ahead of schedule.

AN HON. MEMBER: HURRAH.

THE CHIEF SECRETARY (Mr. Turnbull): The position is that we have not got a full day's business both for the morning of Friday, the 15th, and the for the afternoon of Tuesday, the 19th. It is therefore suggested, Sir, that the Council should not meet in the morning of Friday, the 15th.

I understand, Sir, that this suggestion is generally acceptable.

THE SPEAKER (Sir Ferdinand Cavendish-Bentinck): If that arrangement is generally acceptable to Members, I will so order.

### BILL

#### SECOND READING

*The Personal Tax Bill.*

Order for Second Reading read.

(Continuation of debate interrupted on 12th November, 1957)

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): Mr. Speaker, when Council rose last night I had given certain figures with regard to the effect of, if I may call it so, the non-African concession in the rates of this Bill as being one-quarter of a million pounds or £250,000. I would like to correct those figures; I read my own figures rather badly. It was actually £150,000.

Now, Sir, I would like to deal with the point raised by my hon. friend, the Member for the East Electoral Area, in which he referred to this measure as a "temporary" measure. I would like to recall to the hon. Member's mind the fact that the original Bills—the Personal Tax Bill and the African Poll Tax Bill—were introduced as far back as 1941 and 1943. I think that, if they have been part of the tax structure for some 16 or 17 years it is a bit optimistic to refer to them as temporary. Quite apart from that, Sir, I believe that the Bill which we are now putting forward, if carried, on this system will be part of the permanent basis of our tax structure, in a community like Kenya at any rate, for many years to come.

Now, Sir, my hon. friend also asked for consideration and sympathy for, to use his own words: "many Asians whose incomes are under £60, who have large families". He will forgive me, I am sure, if I say that if people have incomes of under £60 they have no right to have large families. However, in so far as that situation has arisen, I am sure they will get just the same sympathy and consideration they have had before.

The hon. Member for the Aberdare and the hon. Member for the Coast Province both spoke about the question of getting information across to the people about this law, I think, my hon. friend,

the Member for the Coast, asked for a translation into the vernacular of the law. Sir, we have been told time and time again that it is extremely difficult, if not impossible, to translate a complicated law in English into the vernacular. But what my hon. friend, the Minister for African Affairs, assures me will be done is that explanatory pamphlets, setting out the position in great detail, and printed in the vernacular, will be issued in an attempt to give the people as much information as possible.

Now, Sir, several Members referred to the machinery of this particular Bill and I would like to say, Sir, that we are of the opinion that it is unwise at this stage to lay down too rigidly and in too much detail the machinery that will be used. But, as my hon. friend, the Minister for African Affairs, explained when moving this Bill, we have tried already to set out the main guide to assessment and collection. Perhaps I may be forgiven if I explain for the satisfaction of hon. Members some of the procedure so that they will have it fully in front of them. The suggestion is that a small advisory committee—I am now dealing with the African areas—should be selected for each sub-location, consisting of three or four members with the sub-chief as its chairman. This committee should have the task of doing the initial assessment of all the taxpayers within its sub-location. When it has done that, and it should, if necessary, call individuals before it for discussion of their circumstances, the sub-headman would report the committee's findings to his chief. The chief would then amend any assessments which he considers have been wrongly made. All the taxpayers above the minimum rate would then be notified of the assessments decided upon and of the tax they would in consequence be called upon to pay.

If any taxpayer wishes to object to the assessment at that stage he would be called before the assessment committee and the chief so that his case may be discussed, that is, if he refers the point to appeal. After he has objected, the taxpayer would then know whether his assessment was confirmed or not, and he would also be told that if he wished he could object again and appear before an administrative officer. He would then be asked to fill in a form and at that

[The Minister for Finance and Development] the administrative officer and the chief concerned would consider the case. The taxpayer would be told what his assessment was and he would then be advised that if he wished to appeal he could do so further, in accordance with the provisions of the Act, to a magistrate.

I think, therefore, it will be made perfectly clear that in the minds of the Administration there is every desire to enable the taxpayer to have ample opportunity to appeal against the assessment and to see that the assessment has the full benefit of local advice. I trust that that will set at rest a number of the fears of my hon. friends opposite.

I think it is obvious that when we are moving into a tax system of this kind it would be dangerous and unwise to set down at the very beginning in law a procedure which might, indeed, prove then to be harmful to the taxpayer because the law would have to be followed and enforced. I imagine the law in this respect will grow very much out of administrative general practice and experience, better than if it had been imposed in law at the very beginning.

Now, Sir, the hon. Member for Nyanza North stated yesterday that Africans in Nairobi and villages were awakened in the middle of the night and asked to produce tax receipts; and I think he implied that this waking up was indeed a tax measure. Now, Sir, that is not correct. If the hon. Member for the Coast will wait a moment he will find the result of the investigation and inquiries we have made which, strangely enough, tend to show no such evil machination on the part of the Administration.

There are, Sir, in places like Nairobi, a number of Africans, a number of people who are what we would call evil men. House-to-house checks by the Administration and the police are certainly carried out from time to time at night in the African areas of Nairobi and in the dormitory villages in Kiambu District, but the primary purpose of these operations is to maintain security and not any other reason, and, in Nairobi, to combat the overcrowding which we know does take place. The checks are necessary to discover the presence of people who have illegally entered the

city or the villages, as indeed many may do, and without those checks it would be impossible to maintain the high standards of security which have been established in these areas.

Now, occasionally, obviously, tax receipts are demanded because they provide an additional form of identification, and certainly if then people are found not to have paid their tax they are required to do so. But I must say that the collection of tax in this manner is purely incidental to the operations which are essentially for the maintenance of security.

I could say, Sir, in the same way as one could say of any tax evader, that the best way of preventing inconvenience to one's self is to pay tax when it falls due; that applies to all communities and not only to the Africans whom my hon. friend represents.

However, Sir, the points have been noted and I can assure the Council that the objective of the Administration will be to make certain that the pressure does not fall harshly on those who try to obey the law, but we cannot prevent it falling harshly on those who do not obey the law.

My hon. friend, the Member for Nyanza North, spoke about the position of the African, as did other Members, with regard to the imposition of this tax and also the fact that they had to pay African district council rates. Now, Sir, this is a non-racial Bill, and when I look across the floor of the Council, I can see a whole collection of Members who have to pay tax to the Central Government, all of whom have to pay rates to the local government authority for those services which the local government authority carries out specifically on behalf of the local inhabitants. Well, I am afraid, Sir, that I could not accept, for instance, from the hon. Corporate Member for Commerce and Industry the fact that he should pay less personal tax because the Nairobi County Council insists on his paying rates on his house, any more than indeed I can accept that argument from the hon. Member for Nyanza North. The fact is that as you move into a system where there are tiers of authorities providing services either of local, semi-national or national benefit, the position arises where the services of local benefit have to be

[The Minister for Finance and Development]

paid for through a system of local rates, and that has nothing to do with the Central Government—the taxpayer who has to contribute towards these services in many cases and in certain categories has to bear the whole of the cost. He made a peculiar remark, I think, when he said he hoped my hon. friend, the Minister for Local Government, would not impose a graduated local rate, which shows, I suggest, an ignorance of the function and powers of my hon. friend. If a graduated local rate is imposed by anybody, it will be imposed by the African district council; and if he does not like the idea of the African district council imposing too high a rate or moving over to the graduated local rate, it is to the African district council, Sir, that his representations must be made. That would not be a matter for Government. I said if a graduated local rate is imposed, because that is a matter of some doubt and argument; but this I would say with the full concurrence of my hon. friend, the Minister for Local Government: that the African district councils must move at the earliest possible moment to some basis of finance and raising of revenue more suited to a local government authority than a great deal of their present rating situation involves.

To turn to my hon. friend, the Member for Mombasa, I noted his point about the young people between 18 and 21 who had had the misfortune to have to carry a heavy family responsibility because of the death of a father or parent, and this will be taken into consideration; I am sure, by the Administration. On the question of remission, Sir, I would say that I am sure the local revenue officer concerned will seek, as I believe he always has done in the past, local advice. But I would suggest it would be inadvisable in starting a Bill of this kind to think of local committees on a community basis. The whole of the effort in this particular connexion must be the moulding together of taxpayers contributing to a service according to their means, and I would suggest that it would be better for the responsibility for remission to be placed fairly and squarely on the shoulders of the officers directly concerned.

Now, Sir, the hon. Member for Mau spoke about this question of direct taxation. I did try to point out the other day, Sir, that the Plewman Committee considered the matter some many years ago in the light of the then position, and that the present position may well be different. Now, I agree that the balance between direct and indirect taxation should always be kept in mind, but it must, I think, be adjusted according to circumstances, particularly in a country like ours, where we have to import so many of our vital needs. We must watch closely the varied effects of the different types of taxation, and, in some cases, it may well be that indirect taxation may be a greater inflationary cause than anything in the nature of direct taxation. He referred, Sir, to the cost of collection. Now, there will be a slight increase in the cost of collection because obviously the Ministry concerned will need additional staff to assess and collect this revenue. But our hope is that even in the very early stages, this will be compensated at least ten times over by additional revenue. Now, Sir, the hon. Member for Mau, like one or two other European Elected Members, referred to the need for increased pressure on what he called the middle ranges—about £700 a year; and I presume he means somewhere between £500 and £700. He also referred to direct taxation systems which are more suitably applicable to more mature countries than our own.

Now, Sir, I do not think that the particular type of system we are imposing in this particular Bill could be regarded as being applicable to a more mature country than our own; the reason for this particular system is because this country in its economic and social system has not anything like reached maturity, and, therefore, we must adopt this kind of taxation structure in order to make certain that the burden is as far as possible, fairly spread. I must repeat, Sir, my own opinion that the introduction of a basic rate of this kind to higher ranges, say, of the £500 to £700 or £800 groups must depend upon the possibility of offset against income tax or the danger will arise that some taxpayers may be penalized too heavily by the very basic system that we are introducing, which is something we wish to avoid.

[The Minister for Finance and Development]

Now, Sir, in conclusion, I would like to thank the Council for the general acceptance in principle of this Bill, and also for its approach to this problem, and particularly in this debate. We are well aware that there will be many mistakes and difficulties in the first one or two years of its application; but the Government feels that it must now take the step of making certain that every citizen who has the capacity to pay makes some contribution to the cost of the services in the country, and becomes aware of the cost of those services.

And in conclusion, I would like to repeat what I said, Sir, when introducing the Budget:—

"We have replaced the primitive flat rate poll tax and merged it with personal tax on a graduated basis, thus moving away from the racial basis of taxation. This means that members of the community who are capable of paying more will contribute more to the cost of general services. It also means that we can, I hope, look forward to the day when the rate levied on the poorer members of the community can be reduced and finally eliminated, so that in the end there will be one tax structure under which all citizens with incomes above a certain figure will contribute on a rising scale towards the cost of the general and essential services, those below that figure being exempted because of the level of income. It is not possible to make this move at once, nor to forecast the date at which it can happen, since at present it is essential that the Government should have the money represented by the 'bottom' level of the new tax, in order to help to meet our increasing commitments, including indeed those for African education. All I can do at the present is to express what I believe must be the intention and purpose of the future. . . . I have long felt that it is not right that people who pay income tax have also to pay personal tax, for there is to my mind in this an element of double taxation. We feel that here is a strong case for rectifying this position and, as soon as the financial position permits, creating a single direct tax system by allowing income tax payers to set off their personal tax against income tax payments."

This Bill we are now dealing with, Sir, is merely, I think, the first of a number of steps which will have to be taken before that position is finally achieved where all men pay according to their means, contributing to the needs of the community, without regard to race or any other such fact.

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.

### BILL

#### SECOND READING

#### The Canning Crops Bill

Order for Second Reading read.

2.59 p.m.

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): Mr. Speaker, I beg to move that the Canning Crops Bill, 1957, be now read a second time.

Mr. Speaker, in bringing this Bill before the Council I should like to give a brief history of the reasons for having the Bill. Some two years ago the canning industry approached me with the request that we should introduce legislation to control and organize the industry itself. I set up a committee in conjunction with the officers of my department, persons of commercial experience, and canners, to examine and make recommendations as to the best form in which that control and organization would take place. The results of that committee were a number of recommendations which were incorporated in this Bill which is now before hon. Members.

Taking the Bill, Mr. Speaker, clause by clause, Clause 1 is merely the title. Clause 2 is the interpretation, and I would like to draw hon. Members' attention to one point in it where it allows either the Director of Agriculture or his representative to be a member of the Board. It will be my intention to make a representative of the Director of Agriculture a member of the Board, as the Director of Agriculture in another capacity sits in a judicial way upon the matter of licences, and I think it is

[The Minister for Agriculture, Animal Husbandry and Water Resources]

therefore, desirable, that he should not be too closely associated with the work of the Board. Clause 3 lays down those crops which will be scheduled under the Bill and to which the provisions of the Bill will apply. At the present moment the only crop included in the Bill, in the second schedule, is pine-apples, but I should make it clear to hon. Members that other crops can be added by the Minister in consultation with the Minister for Commerce and Industry. There is throughout this Bill a number of clauses where the Ministry of Agriculture and the Ministry of Commerce and Industry are closely related, and the reason for that is that whereas the growing of the crops is a matter for my Ministry, the canning industry, *per se*, is largely a matter for the Ministry of Commerce and Industry.

Clause 4 lays down the establishment and constitution of the Board. I do not think there is any particular point to which I need draw attention: it is perfectly clearly indicated for hon. Members. Clause 5 is the incorporation of the Board, and clause 6 is the appointment and functions of consultative committees. The reason for that clause is to allow a committee to be set up to deal with any crop, over which the Board exercises jurisdiction. If we were to create membership of the Board on so wide a front that it was possible to embrace every crop that might be added to the schedule, the Board would become unwieldy, and it is the intention that the Board, whilst organizing the industry, will only do so in regard to the detailed administration of any particular section of the industry after working in close consultation with a consultative committee which would be set up under clause 6.

Clause 7 indicates the functions and powers of the Board which include the licensing of growers and of canning factories, the promotion of research, and fixing of prices to be paid for any scheduled crops sold for canning purposes. It is to be noted that the Board is not concerned with crops grown for ordinary retail sale and not for canning purposes. The fixing of prices requires prior consultation with the consultative

committee concerned and the approval of the Minister.

Clause 8 deals with the control of the growing of scheduled crops and I would like to emphasize that that control only rests with the crops which are being grown for canning and not those crops being grown for ordinary consumption and sale.

Clause 10 deals with the granting of licences which may be refused by the Director of Agriculture or referred back by him to the Board. It is for this particular reason that it is my intention to put a representative of the Director of Agriculture on the Board and not the Director himself.

Clause 11 deals with the form of growers' licences, and I would draw attention to sub-clause 3 (b) which is designed to enable co-operative societies with large numbers of growers each producing a small quantity of the crop concerned, to take out a grower's licence without involving a separate licence for each individual grower. In other words, it would give an overall licence for a co-operative association. Sub-clause 4 lays down that a licence shall be valid for such period as may be prescribed. Now, I think, Sir, in the initial stages the licences must obviously be conditioned by two factors: one is the life of the crop, grower, so as to give the grower a reasonable amount of security, and the other is the assessment of the sales possibilities which the canning representatives on the Board are able to make, so that there is a relationship between the acreage being grown and the market potential which the canners anticipate they will be able to meet.

Clause 12 allows the transfer of growers' licences. Clause 13 allows the cancellation of licences, and clause 14 allows appeals, which are made to the Minister. Clause 15 allows for inspection of land and buildings by officers of the Department of Agriculture; it is the initial intention for them to carry out these inspections, although it may be that later, if the canning industry develops, the industry itself will want to organize its own inspections.

Clause 17 is an important clause which I am sure hon. Members will draw my attention to—it is really the crux of

[The Minister for Agriculture, Animal Husbandry and Water Resources] the whole Bill. It is designed to check both the grower and the canner, who in the terms of the licence, have entered into a form of contract, and particularly I would like to draw attention to clause 17 (d), which compels the factory to buy up to the maximum quantities specified in the grower's licence. Now, I would like to stress, Mr. Speaker, that this Bill has been brought forward in close conjunction with both the growers and the canners, and the object of the Bill is to ensure that the organization of the growing side is in tune with the requirements and needs and estimates of sales made by the canners. That is centred on this particular clause 17. It will not be the intention of the Board to licence more of any individual crop than the Board itself advises can be marketed. Therefore, clause 17 is an important clause in that it really is the crux of the Bill before Council.

Clause 18 deals with price and makes it an offence for anyone to sell a scheduled crop for canning at a price other than that which is fixed under clause 7, and it also makes it an offence to buy other than at that price.

Clauses 19, 20, 21, 22 and 23 are clauses, I think, of no great controversial moment, to which I need not refer.

Clause 24 allows for the inspection of canning factories and allows any person authorized by the Board to act as an inspector. Now, it may well be that, at some time in the future the industry will have grown to a size where it organizes its own inspection services. In the earlier stages I think this might well be done either under the Factories Ordinance or under local government rules and health regulations, according to the particular subject of the moment.

Clauses 25, 26 and 27 are self-evident, and clause 28 is a clause which indicates the way in which the Board may use the funds. Now, the proceeds of both forms of cess, i.e. on the growers and on the canners, are payable into the Scheduled Crops Fund which can be used for the purposes laid down in clause 28. This includes promotion of research, which is one of the Board's functions, and also a most important point of view of clause 17 (d), the subsidization of growers,

e.g. by stabilizing the prices from year to year and preventing undue fluctuation.

Clauses 29, 30 and 31 give the Board power to borrow and invest, and indicate the way in which books of account should be kept.

Clause 34 departs in some measure from the normal clauses put before this Council. It lays down the making of rules by the Board and this Ordinance differs from many other Ordinances in that rules under this section must be referred not to the Minister but to the Council of Ministers. That is because this Bill does give the Board considerable powers both in regard to growers and in regard to individual canners, and we, as Government, thought that it was wise for the rules therefore to go back to the Council of Ministers rather than to the Minister himself.

Clause 35 deals with "penalties", and the penalty clause might appear to be light, but the main sanction, of course, will be the power to cancel a licence.

The First Schedule deals with the membership of the Board, and I have only one comment on this. We shall have to see how things develop. The Board as at present constituted has, I think, a chairman and ten other members, the ten members being appointed by the Minister—11 people. I think, Sir, that is probably sufficient, but depending on how the consultative committees work and the magnitude of the industry, it may be necessary for us "lightly" to increase the size of the Board by amendments at a later date. I think, however, Members would agree with me that it is wise to start off with as small a Board as possible, bearing it in mind to meet the various problems of the industry rather than to have a large and cumbersome Board which will indulge in more talking than action.

The other points under the First Schedule merely deal with remuneration, the Chairman and Vice-chairman, meetings, common seal, documents and staff.

The Second Schedule I have already referred to, and has only got incorporated in it, at this juncture, pine-apples. It may be that very shortly we shall add other fruits to this Schedule but at the present moment there is no necessity to do so.

[The Minister for Agriculture, Animal Husbandry and Water Resources]

In conclusion, I would like to emphasize that this Bill is a Bill asked for by the industry itself, especially by the canners, in an attempt to relate what is being grown to what can be sold. It has no intention whatsoever of going outside that field and interfering with what people may grow for purposes other than canning, and in that regard I commend it to hon. Members opposite. I beg to move.

DR. WALKER seconded.

Question proposed.

SIR ALFRED VINCENT: Mr. Speaker, Sir, I have made the point before regarding the encouragement of Africans to grow pine-apples. I heard the other day from the Director of Agriculture that official discouragement had been given to prevent the position becoming overbalanced, but I take it that the Government is aware of their responsibility, whether it exists or not to-day, where African growers have not been able to cease growing pine-apples.

Now Sir, I accept the very clear introduction to this Bill and the statement made by the Minister, but I find that I am mystified as to the financial implications. He has stated more than once that this Bill had been agreed by the canning industry itself and I may have missed something in this Bill, but briefly it appears that the Board can fix a price under 7; and then under 17 (d), no matter what has happened to the market, no matter how the price has gone down world over, the canner here is expected to fulfil an obligation without apparently any escalator clause cover governed by the known rise or fall in the market itself, and I believe the industry asked the Minister whether he would be prepared to give an undertaking during this debate that financial assistance would be given to the canning industry if the market went against them, by an advance on stocks, or other means which may be decided by the Treasury.

Now I would like to ask both the Minister who introduced this Bill and also the Minister for Finance, how they as canners, under 17 (d), would act in the face of an adverse market, other-

wise in other respects this Bill seems to meet the case. But if I were a canner—and maybe there are much greater profits in canning than I personally envisage—I would be very sceptical about accepting 17 (d) with the powers under clause 7. I do think that when you are starting to assist the industry you should try at the same time to prevent yourself from jeopardizing the industry.

I would like the Mover to answer those questions, which would be of very great interest to both the Members of Legislative Council and myself.

LT.-COL. GHERSIE: Mr. Speaker, I would just like to make a few remarks, and I can assure the Council I have no interest to declare in this matter.

I understand that the Bill is acceptable to the canning industry. But I am concerned with clause 17 (d), which presupposes that the operators of the canning industry have unlimited finance: it is obligatory for them to purchase up to the maximum quantity of the licensed scheduled crop specified in the grower's licence, unless they have consent of the Board in writing to do otherwise. Now, Sir, surely Government would appreciate the equity of making provision so that the Board could be responsible for making available short-term finance to the canning industry for the purpose of stockpiling; if, for instance, the market goes against them overseas and there is a flooding of this particular type of export. Sir, one is not quoting or arguing on hypothetical cases, because experience tells us that only a short while ago this industry got into the most frightful financial position due to supply exceeding demand; and I do suggest, Sir, that if Government are going to insist that an industry must accept everything that is grown, then they must be there to protect that industry if they find that the production is greater than they anticipated. After all, it is Government who are encouraging people to grow the product. The canning people are therefore compelled to accept it willy-nilly, and I do suggest that it is a question that the Board should be empowered to embark on short-term finance to assist the canning industry to stockpile, should the necessity arise. After all, Part V. of the Bill does provide



[Lt.-Col. Gherrie]

for the finances of the Board, and surely that section could be used for this particular purpose.

I suggest that Government cannot have it both ways, they are merely shelving their responsibility if they do not accept this suggestion. On the one hand they encourage people to grow pine-apples and other fruits for the purpose of canning, and then they expect the industry to carry on if the market goes awry.

With those reservations—in fact, I am not supporting the Bill.

MR. HASSAN: I associate myself fully with the previous speaker, Sir, and, in addition, I would like to ask if authorities have the proper experts in this country to deal in a commercial way with the canning of pine-apples. We have had some entering into this business of growing pine-apples at the Coast for canning, and all of them did not meet with success. I made inquiries from one of the farmers as to why pine-apple juice is not being marketed in this country when such large acreages of pine-apples are allowed to be wasted, and I was informed that the juice prepared by us is not finding a market locally because the consumer finds it has not the same quality and the same taste which is obtained from the imported juice. The same complaint applies, in that the imported pine-apples canned in California and other places, appear to be of a far higher quality than Kenya can produce. Another thing is that the best quality pine-apples imported into Kenya are cheaper than those being offered by the Kenya pine-apple grower. One grower informed me that they are unable to lay hands on the proper quality pine-apple to grow in Kenya which would compare favourably in quality with those grown in California.

AN HON. MEMBER: Question

MR. HASSAN: One firm informed me in Kilifi that they failed to find the market and make a success of the venture because pine-apples of a certain size are only commercially beneficial for canning, and those that grow above this size are considered a complete waste.

Now, all this information I have received from those people concerned has

been questioned from the opposite Bench. I received information from those who actually invested their capital and lost it, so I think I must admit that they were right, and the people questioning did not have that information. I welcome this Bill and that the Government is coming forward to help the canning industry, but I would like to know from the Minister whether there are experts to lead and safeguard the growers and to help them to make a success in the canning industry.

MR. MULIRO: Mr. Speaker, Sir, I must associate myself with my three colleagues who have spoken on this side, and at the same time I must give my thanks to the Government for having introduced this Bill for the canning industry in Kenya. In the past, Mr. Speaker, in this Council we have spoken a good deal on the growth of industry in Kenya, and as far as the canning industry in Kenya is concerned, I must say to the Minister and the Government that I am very pleased about it, provided they will take a few points that I have put down here.

If we want to establish our industry and encourage the growth of industrialization in Kenya, I think the Government should be prepared to subsidize the canning industry as such. If the Government can subsidize the industry I think it is going to be a success. Otherwise the growers would be growing pine-apples for canning and would not be sure whether the price was going down or not. It will go into waste, which my hon. friend the Member for the Eastern Electoral Area has been putting across. I think it is very good for the Government of this country to try to subsidize our industries, so as to encourage the growth of industrialization in Kenya. I have known of countries, Mr. Speaker, where the Government of the country has definitely taken a very strong and keen interest in industrialization of the country so that in fact they have forbidden importation of some goods from overseas in the best interests of their own people. Now if we go all out to start the canning industry in Kenya, and allow many of these other highly advanced countries to bring in their pine-apple juice, we are going to find that our people in Kenya are no longer buying our own pine-apple juice which is canned

[Mr. Muliro] in our own factories, which will be a great loss to us. Let us drink Kenya juice so that we can subsidize Kenya produce.

Now, in his reply, I think the Minister will assure us on this side that the Government is prepared to subsidize our canning industry.

Another thing which I was pleased to see again, is that the Government has decided to start the canning industry in this country so that the waste in pine-apples which has been dominant for the last two years or so will not be there, because many of the farmers who were growing pine-apples felt that it was no use growing them any more, and this pine-apple glut in Kenya was so great that in fact the farmers were not prepared to grow them any more. But if we want to start the canning industry so that farmers who were becoming discouraged in the growing of pine-apples would be encouraged, I think we have already pointed out on this side that the Government must subsidize these farmers.

I was also pleased to note that co-operative societies which are very, very prominent in African areas, are going to be allowed licences as growers. Now, if these co-operative societies are going to be allowed to get licences for growing pine-apples for canning purposes, this will be quite good, because in my own constituency I am trying to establish a co-operative society of pine-apple growers.

With these few points, Mr. Speaker, I beg to support the Bill.

MR. COWIE: Mr. Speaker, the Minister, I know, is aware I had some troubles in certain sections in this Bill, but I wish only to deal with one which has not, I think, been dealt with by other speakers. It is the comparison between the position of the grower and the position of the canner.

Under clause 17, it is quite clear that the canner has to accept the produce tendered to him within the limits of the licence, but the preamble to clause 17 states that it shall be an offence against this Ordinance, etc., without the prior consent in writing of the Board. Well now it is, therefore, the Board that makes

the decision as to whether or not the canner must accept the produce.

Comparing that, Sir, with clause 11, it is an offence for a grower to grow a scheduled crop without getting a licence for canning purposes, but I cannot see any obligation on the grower to produce that crop to the canner. In other words, he is not compelled to do so by statute. It has not the same weight. In other words, unless granted permission by the Board in writing, if it were an offence not to produce the crop to the canner, it would then be of equal weight.

If this is to be covered by the terms of the licence the only sanction I can see that can be imposed is that he could have his licence cancelled. From the point of view of the canner, therefore, Sir, I cannot see how he is altogether aware of what crop is going to be tendered to him because the grower might well try to sell his produce in the ordinary open market, not for canning. If he is not compelled to sell his crop to the canner for canning purposes, how can the canner estimate what the crop is going to be?

I do hope, Sir, the Minister will cover this point in his reply, otherwise I beg to support.

3.31 P.M.

MR. SLADE: Mr. Speaker, Sir, the hon. Member, who has just spoken, has outlined very clearly the position which leads up to what I want to say. It does appear to be the position under this Bill, as it stands, that the canner has an unlimited responsibility under clause 17 to take as much produce as the grower cares to send to him, provided only that this particular canner is the canner mentioned in the grower's licence; whereas there is no corresponding obligation on the grower to provide any specified quantity, though there is a maximum to what he can provide.

That being so, Sir, it does appear to me very hard on the canner that his inability to handle all that is brought to him from the grower, in whose licence he appears, constitutes an offence. Now that is the position under clause 17 as it stands. True enough, it is only an offence if the Board has not consented in writing to his taking a lesser quantity,

[Mr. Slade]

but Boards have been known to be unreasonable, and it is rather a hazardous position for the canning factory to be in, that they are so much at the mercy of the Board when it comes to the question of actually committing an offence.

The hon. Member for Nairobi North has suggested one remedy, which is to see the canning factory through by temporary finance; and I would suggest also another possible alternative, for consideration as an amendment at the Committee stage. I am afraid it would involve one or two consequential amendments of the Bill elsewhere. That is, in effect, the canning factory is given a quota, because it will appear in a certain number of growers' licences, each with a specified maximum of produce to go to that factory. The most usual and the fairest remedy for anyone who falls down on his quota, whether he is grower, canner or anybody else, is to reduce his quota, if he is not able to measure up to the supplies of the grower. Well, then, it is questionable whether he should be held guilty of an offence, as opposed to be entitled to receive less in future.

As a parallel, Sir, this has worked pretty well, I think, in the dairy industry where, in the matter of supplying whole milk for consumption, such a system of quotas is instituted, and the penalty of the producer who fails to keep up with his quota is not nowadays a fine, as it used to be a little time ago, but simply a discretionary power (in the Co-operative Society in this case) to reduce his quota for the future. If the Government were to adopt that suggestion, as an alternative to making it an offence by the canning factory, then, Sir, it would mean certain amendments of clauses 11 and 13, but I would suggest that those amendments may be desirable anyhow. Clause 11, as I pointed out, deals with the quantity that the grower is entitled to supply, and the canning factory or factories which are authorized to purchase his supply. Clause 13 provides for cancellation of the grower's licence; but nowhere is there provision, I see, for modification of the grower's licence, so as to alter the canning factories with whom he is to deal. Now, if there were this particular provision it would be

desirable in a number of ways, I suggest, Mr. Speaker, but not least for this particular purpose that I have suggested.

The only other point I want to make, Sir, is with reference to the quality of sugar available to canning factories. Now, the object of this Bill is to further the export of canned fruits, and canned pine-apples is one of the particular examples we have in mind at the moment. I understand, Sir, that that particular industry has suffered in the past, as against overseas competitors because of the quality and price of sugar available. Now, I do ask an assurance that Government is going to try to help the industry in this matter, by seeing that better qualities of sugar are available and, if possible, at more competitive prices. In this respect, I would join with the hon. Member for East Electoral Area and, I think, possibly other Members who spoke in the same vein, in saying that it is not quite enough to pass this Bill into law and leave it to the canning factories to get on with it. The Government has still got a pretty big responsibility in this matter, and must positively help the industry.

Subject to those comments, Sir, I support the Bill.

MR. SWYNNERTON: Mr. Speaker, Sir, I just want to say a word on section 11 (2) (d). The last speaker has drawn attention to the fact that the grower may sell his licensed pine-apples in this particular case to the cannery, not must. There is a good reason for that, and that is crop failure. These pine-apples are grown in areas which are often liable to drought, and although he may have down on his licence the quantity of pine-apples, which he is required to deliver to the canner, he may not be able to deliver it for a perfectly good reason. The hon. Nominated Member who spoke behind me suggested that growers might withhold their pine-apples and sell them on the local market. The local market is an extremely small market—the fresh pine-apple market—and can be very easily saturated. If the grower tries to dispose of large surpluses there, he will find that he cannot do so, and that he will only have two alternatives: one is to let them rot in his *shamba*; the other is to deliver them to the cannery as provided for in his licence.

[Mr. Swynnerton]

The hon. Member for the East Electoral Area raised the question of experts and quality. There is provision in the Ordinance for rules to provide for grading of pine-apples, and that can be covered in rules; in fact, as soon as the Ordinance comes into operation, those rules will be brought out. The quality of Kenya pine-apples, as pine-apples, is extremely good; he talked about our having the wrong variety; in fact, we have got the Smooth Cayenne variety, which is the world's best. He compared them with California—in fact, the country to compare them with is Hawaii, and not California, if one wants to be up to date. So far as quality is concerned, the Kenya pine-apple compares extremely favourably with either the South African or the Australian or the Hawaiian pine-apple if it is brought in for canning in the right state and if it is well canned. The Malayan pine-apple is of a lower quality and is a different colour, but it commands what is known as a bread-and-butter market at home, the rather industrial market in the United Kingdom and in Europe. So it also has its place, although of a lower quality than the Kenya pine-apple.

In regard to experts, we have got expert canners in this country—there are at least two or three canneries in this country which are extremely *au fait* with the canning of a lot of produce, and pine-apples in particular. Also, our senior horticultural officer in the Agricultural Department has been round a number of the pine-apple-growing countries in the world, including Hawaii, and is fully familiar with the requirements for growing pine-apples in the field, for grading them for canning, and with the canning aspect as well. So that, with all due respect, I should say that we have a number of people in this country who have a reasonable knowledge of canning.

There is one omission from this Ordinance which I should just like to mention, Sir: that is that there is no provision for the control of growing pine-apples. That was considered when the Ordinance was being drafted but there are perfectly good powers under the Crop Production and Livestock Ordinance and, in due course, rules will be brought in under that Ordinance to control the growing of pine-apples and

to assure that pine-apples are not grown at altitudes which are quite unsuitable for the purposes for which they are grown.

With those words, Sir, I beg to support.

MR. ROBINSON: Mr. Speaker, Sir, clause 16 deals with the control of supply. I think it is going to be extremely difficult to enforce the conditions which are included in clause 16 practically. I think it is going to be almost impossible to ensure that supplies which go to the canning factory do, in fact, emanate from licensed areas; and I think that there is going to be a very grave danger, particularly as far as native growers are concerned who deliver small quantities, of an exchange between licensed growers and unlicensed growers. This is particularly important, I believe, because good quality eating pine-apples can be grown at a variety of altitudes; but those suitable for canning, owing to their high sugar content, only come from a fairly restricted altitude.

The hon. Director of Agriculture has just pointed out that there is a very small market for fresh eating pine-apples and I think that there will be a grave danger of supplies from the unlicensed areas finding their way to the canning factories; and that it will be very difficult on this account for canners to maintain the quality which is so necessary on the export market.

Sir, there is one final point which deals with the composition of the Board. I see that arrangements have been made to include at least one representative from the can manufacturers. Sir, it seems to be the fashion these days to give commercial interests a statutory say in the direction of producer organizations. Sir, I think that there is a tendency once these interests are established, that what I might call a privileged position is assumed sometimes to the detriment of efficiency; and that the role of the commercial firm is reversed from being the servant to the master of the industry. I think, Sir, in this case that there is possibly a strong reason why the can manufacturers should be represented on the Board because I believe that they more or less have got a monopoly of the business—but I do think that it is a tendency that should be carefully watched.

[Mr. Robinson]

"Sir, this Bill embodies the recommendations of the industry, and with that knowledge, Sir, I am happy to support it.

MR. ODINGA:—Mr. Speaker, Sir, naturally I would not be a supporter of this Bill, as I at this stage oppose any form of control which comes in the way of free business organizations.

The Minister, in his explanation, tried to mention that the local grower who grows for the local consumption of course will not be required to be licensed. At the same time, he said that those who will be supplying the canning factory will have to be licensed. Now, something has been worrying me as to how will these local growers who will not be supplying the factories be identified from those people who will be supplying the factories.

I know what will happen in the end, after only a short while it may be that the factory owners and even those suppliers to the factories will come with the complaint that they would like the movement of those people to be controlled, just as it is now happening with the Kenya Meat Commission, simply because they supply Uganda. Well, the ordinary man who does not supply them with animals is controlled not to move with his cattle to Uganda, in the same way I feel that this particular Board will definitely interfere in a short time with the local growers who would also want to move their pine-apples and supply to any other market where they can get reasonable prices.

Well, since the principle underlying the whole scheme is objectionable to me, Sir, I thought I should just mention these few remarks, and with only these, Sir, I beg to oppose.

MR. TYSON: Mr. Speaker, Sir, the Objects and Reasons make it clear that the underlying motive behind this Bill is the control of production and processing, but as the Minister has, I think, already mentioned, increased production—and it does not matter whether it is scheduled crops, or pyrethrum or pigs—unless it is accompanied by a comparable selling organization can be an absolute menace. It is for that reason that I would like to see a little more emphasis placed upon the marketing side in the relative clause.

I particularly refer to clause 7 which sets out the functions and powers of the Board; and what I would like to suggest to the Minister is that this clause should be amended in such a way as to emphasize the duty of the Board to investigate the marketing side in carrying out their programme. I think the Minister would have no objection to that. I think he realizes it is very important, but as the Bill stands at the moment, Sir, I think far too much emphasis is placed on the production side without corresponding emphasis on the need for the marketing side.

LT.-COL. MCKENZIE: Mr. Speaker, Sir, the backbenchers seem to be battling pretty freely to-day, so I hope you will not mind if I say a word on this. Sir, we in the dairy industry have experienced that if you leave the blackleg out of it and do not have a method or a law whereby you can control him, he can at times do a lot of harm to your industry. In the pine-apple industry, the one in question, the blackleg would be the grower who is not a licensed grower and so I hope, when the Minister does reply he will let us know how he hopes to control the blackleg. Sir, I feel if the blackleg is not controlled this industry will run into trouble.

Sir, with that, I would like to support.

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

3.49 p.m.

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): Mr. Speaker, hon. Members have raised a great number of points in regard to this Bill. I would say only this, that much of the background of this Bill is the result of the remarks the hon. Members have made from time to time on the necessity for organized marketing, for more attention by Government to the administration of the industry and to the relationship between production and growing.

I would like to deal with the two points raised by the hon. Corporate Member for Commerce and Industry and the hon. Member for Nairobi North first. The real substance of what they

[The Minister for Agriculture, Animal Husbandry and Water Resources] put forward is that in clause 17: pine-apple canners can be compelled to buy crops at a time when there is no market whatsoever and thus even place themselves in a position of bankruptcy.

Now I have looked at this very carefully. As I said earlier this Bill was prepared and was circulated to all canners. I think I am correct in saying that the canners wish the Ordinance to go forward and all that we need really to devote our minds to is whether there is substance in what the two hon. Members have put forward on this matter. I do not think there is substance in it and I propose to indicate why.

First of all, the Board is very carefully created to give a good combination of all the elements in the industry. There are on the Board only four growers. There are three canners' representatives and a representative of the can manufacturers who must be closely associated with the canners because the success of one means the success of the other business. There is also a representative of the Minister for Commerce and Industry, together with an element which I would say was completely impartial in the representative of the Director of Agriculture. This means that the Board will have very fully available to it the individual opinions of canners and also an opinion which I would say was completely impartial in this matter.

Now, it would be the intention of the Board—and this is the whole substance of the Ordinance and why I am not very susceptible to amendment of this clause—and it would be essential for the Board to estimate by taking advice from the canners on their ideas on marketing what can be handled. And the Board should not advance more licences to growers than the Board itself, in close consultation with the canners, understands can be marketed. That is necessary to avoid the situation to which the hon. Member for Nairobi North referred in his speech the recent case in the canning industry. At that time the people who pressed most strongly for legislation were the canners, because had we had a system of the licensing of growers at that time we would not have got into the position of mounting stocks.

Secondly, in that particular element I have reason to believe that one of the errors was the marketing organization of one of the canning companies themselves. Now, Sir, the first principle of this Bill is that the licensing is done by a very close and, I would hope, harmonious association of the canners, who are responsible for canning and selling, and the growers who are responsible for producing; and there would be no more licences given than the canners envisaged would be sold. Therefore I think one can say in normal times the particular fears which the two hon. Members raised would not arise because the Board would not licence more than it estimated would be sold.

In so far as an escalator clause is concerned, which would at this juncture apply in normal or abnormal times, it is covered by clause 7 which allows the Board to vary the price to the licensed growers from time to time, and that is specifically designed to enable the Board to alter the price in accordance with market fluctuations. Where I think the canners in putting forward their view are fearful is that when one meets abnormal crises in the industry, the estimates on which the licences were issued cannot be fulfilled because of a collapse of overseas marketing of that product. I believe the Bill provides ample provision for a situation of that sort. For instance, the Board can raise money by borrowing or from cesses under clause 28. It is the intention under the Bill that the Board by agreement between the growers and the canners shall build up a stabilization fund which could be used to help the industry if a period of unexpected and abnormal recession took place.

LT.-COL. GHERSIE: Why not incorporate that in the Bill?

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): Sir, does the hon. Member wish me to give way?

SIR ALFRED VINCENT: Yes.

LT.-COL. GHERSIE: There is no provision to assist canners in this particular clause.

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): Sir, if the hon. Member would wait, there is provision

[The Minister for Agriculture, Animal Husbandry and Water Resources] for the Board to borrow or to use cesses as a stabilization fund for growers, and if the hon. Member will cast his eye over clause 17 he will see there it is possible for the Board to exempt canners from their obligations to purchase fruit supplied under the licensing system. In a crisis of that nature, therefore, it would be possible for the Board, by using the stabilization fund or its borrowing powers, to take over the obligations of the canners in so far as the licences to growers are concerned.

Secondly, Sir, I have consulted with the Minister for Finance and we do appreciate the fears of the canning companies. I want to state that in the event of an abnormal crisis in the industry which, because of the provisions of clause 17 (d), make it difficult or impossible for the canning companies to undertake the whole of their obligations, the Government would do what they could to assist the canners to carry, for a period of crisis, the stock which might accrue through such a position arising. In the event of a crisis in the sales market, the Government would do its best to assist the canners to carry the stocks which would build up during that period. We feel that it is unlikely that the Government would produce direct finance for that; that might well come by assistance to the Board through the provisions on borrowing or by cess. But we do feel it would be possible for us to come to some arrangement with the canners whereby they were helped by having facilities relating to percentage of stock value and a specific period of time.

Therefore, Sir, it would be the intention of Government, as far as lay within its power, and if a moment of crisis of this nature came, to do its utmost to assist the industry.

I think in view of the fact that that is the intention of the Board, in view of the powers of the Board to borrow and to create a stabilization fund—very important—the powers of the Board to lift the obligation from the canning factory to purchase under the licences granted in moments of crisis, that the particular fears which the hon. Members have put forward are covered.

That being so, Sir, I do not wish to have alterations to this clause.

SIR ALFRED VINCENT: Sir, will the hon. Minister give way? Despite what the hon. Minister has said, Sir, I made these representations at the specific request of the canning industry itself, Sir; they are not our ideas.

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): Sir, I realized that the hon. Member's detailed knowledge of the industry was not such as would enable him to put his case without his being very fully briefed by interested parties. But I believe that if any clause is allowed here, which allows the canners arbitrarily to withdraw from their obligations—

SIR ALFRED VINCENT: I never suggested that.

LT.-COL. GHERSIE: Oh, come, come.

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): Mr. Speaker, I believe that if any amendments to this clause are made which allow the canners to withdraw from their obligations, then, indeed, I might as well withdraw the whole Bill. The object of this Bill is, through a Board, to unite the canning industry and their estimate of their marketing capacity with the growers, and I do not believe that one can really allow withdrawal on a unilateral basis by any one participant.

LT.-COL. GHERSIE: Will the hon. Minister give way? Mr. Speaker, Sir, that is an incorrect statement and it must be corrected on the record. Nobody asked for the withdrawal of their obligations at all. All we asked for was assistance in the shape of short-term finance. That is not a correct statement and, therefore, I must have it corrected on the record.

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): Mr. Speaker, I would suggest that the hon. Member should bob up and down like this easily in the Committee stage when clause 17 arises.

However, Mr. Speaker, I may have been anticipating an amendment which I thought an hon. Member opposite might move. I have already said, Sir,

[The Minister for Agriculture, Animal Husbandry and Water Resources] that within its capacity the Government would do its utmost to assist the industry in a moment of crisis of this sort; and I do feel that with the other provisions in the Bill the points the hon. Member has put forward—if he would only listen—have been met.

Now, Mr. Speaker, if I may go on. I do not think, Sir, I need deal with the points made by the hon. Member for the Eastern Area because they have been covered by the Director of Agriculture, except to say that I would agree entirely with him, that there is great danger in entering these rather difficult, technical industries without adequate technical background. But I think in the particular case of the pine-apple industry we have been lucky.

Now, Sir, the point made by the hon. Member for Nyanza North, who has left the Council—he asked me whether I would agree to the subsidization of the industry. And I think, Sir, I can only answer that by giving him my general view on subsidization of the industry. First of all, if we are really going to subsidize the industry by paying the grower a higher price, for instance, than can be secured in competitive marketing overseas, that money can only be found from somewhere—and that must mean, therefore, an apportionment of the revenues available to the Government to the pine-apple growers. Now, that immediately presents problems and I do not think that is wise. I do not know whether the hon. Member would agree to, for instance, a reduction in the Education Vote in order that we should subsidize the amount available to pine-apple growers. I do not think he would. But that, in effect, is what subsidy means.

The second point I would like to make, Sir, from my own farming background, is on the whole it is better for industry, especially industry which has to meet world prices, and has only a very limited local market to rely on, to cut its coat according to its cloth. In other words, if it cannot be efficient, if it cannot meet world competition, it is no good subsidizing it. I think we can only use subsidies possibly in the very early and initial stages to get the industry under way.

The hon. Member for Aberdare, Sir, raised the question of the quality of sugar. It is true that in the early stages of one of these canning factories dealing with pine-apple, a local sugar, apparently of good quality, was used which had within it a chemical preparation which discoloured the pineapples in the can. But, largely due to the efforts of my hon. friend, the Minister for Commerce and Industry, I can assure the hon. Member, that we have met that to-day. He not only has provided the necessary amount of fine quality sugar from imports for that purpose, but he has done his best to help the canning industry with a price structure which enables them to can in competition with other parts of the world.

Now, Sir, in regard to quotas, that is covered and we can meet the point he raised on quotas in clause 11 (2). It is perfectly possible for us to prescribe and specify quotas in the licence granted under clause 11 (2).

Now, Sir, the hon. Nominated Member who spoke last but two—and who comes from the Elmenteita area—raised the question of the difficulty of, really deciding as between licensed areas and growers and unlicensed growers; and I think, Sir, I would agree with him; there is a difficulty there. I think, however, we have got to have these provisions with the Ordinance, and I think his point is best met by pointing out that no grower can supply more to the factory than his allocation. That allocation will depend upon what the canners consider they can sell after canning. If a grower, therefore, exceeds his allocation it need not be accepted by the canners. I feel, therefore, that no grower who is licensed will take in produce from another grower who is not licensed unless he is likely to fall below his quota. If he then does so, illegally, again he cannot embarrass the position because he cannot deliver more than has already been licensed. In so far as he may take in bad quality pineapples from an area not suitable for their growth, that is easily met because the canning factory and the Board can reject any pine-apple which is not of a reasonable and proper quality for canning.

Therefore, although there is substance in the hon. Member's remarks on the difficulty of control, I feel that the results

[The Minister for Agriculture, Animal Husbandry and Water Resources]. of lack of control will not be as dangerous as the hon. Member anticipates.

Now the hon. Member for Nyanza Central objected in principle, Sir, to the whole Bill and the organization and control. All I can really say on that is that the hon. Member in that case had better say "No" at every stage when he is required to vote on the Bill. It is the view of the Government, and it is certainly my view, that experience in the past shows that we do need a relationship between what the grower is growing and what the canner can can and sell, if we are not to cause, first of all, great embarrassment to the growers, because they will grow more than can be sold; and secondly, to the canners because they may well advance greater substance into the industry than is available to them for canning. In other words, there is a relationship between them; this Bill attempts to encourage this.

I do not see for one moment any reason whatsoever why the control in this Bill, which is solely related to what a man grows and sells to the canning factory, should spread its tentacles about any wider than that particular arena.

Mr. Speaker, the hon. Nominated Member who spoke last but one, who has a long and earnest connexion with the insurance industry, raised with me the question of emphasis on the marketing side. There, Sir, I feel that the Board which has got the canners on it, together with a representative of the Minister for Commerce and Industry, and the can manufacturers, will have far better commercial advice and selling experience available to it than almost any other Board which has been set up in the agricultural industry. And I do not really believe it is necessary to bring out those particular points in this Bill, because in effect the whole basis of licensing, the whole basis of the expansion of the industry and the profits which will accrue to the canners, will depend on their own efficiency in getting the marketing side of the industry organized.

The hon. Nominated Member who spoke last, Sir, raised the question of blackleg, and I know he will forgive my saying so: we had many remarks from the backbenchers behind us. I would

only say this, Sir, that I do not think that the blackleg in this particular industry, under this particular Bill, can be the menace which he envisages because it is an offence for any canner to buy produce from an unlicensed grower. I think we must assume—and I do certainly assume—that the canners who will be operating with this Board will be operating genuinely to organize the industry; if they themselves indulge in wide-scale blackleg buying, they will be undermining the confidence of the licensed growers in their own Board. And as the canners themselves are interested in this Board I do not believe for one moment that they would do so. In any case, even if they did, there are penalties provided to prevent their doing it for long.

The question was put and carried.

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

#### BILL

#### SECOND READING

#### The Reinstatement in Civil Employment (Amendment) Bill

Order for Second Reading read.

MR. CONROY: Mr. Speaker, Sir, I beg to move that the Reinstatement in Civil Employment (Amendment) Bill be now read a Second Time.

Sir, this Bill seeks to do two things; the first is to right an error that crept into the original, principal Ordinance—a slip of the pen; and the second thing it seeks to do is to close a loophole through which unscrupulous employers managed to crawl. I do not think it is necessary for me to explain the first slip. Perhaps I might say a few words to the Council, Sir, about the loophole.

When a person is called up for National Service, it is obviously desirable that his civilian employment should be safeguarded, so that when his National Service ends he can go back safely to his civilian employment. I think all agree with that principle. The principal Ordinance provides that when a man is called up he has a right to go back to the employment he was in at the time of his call-up. What happens in practice, of course, is that a man who is called up gets his papers some little time before

[Mr. Conroy] the actual call-up, and unscrupulous employers were sacking employees immediately they got their call-up papers and then when the man was called up he was not in their employment and so got no protection. And the purpose of the second part of this Bill, that is clause 3, is to close that loophole.

Sir, it is a rather paradoxical situation we find ourselves in, that this Bill is going to make no immediate amendment to the law because the law has already been amended by Emergency regulations. They will, of course, eventually disappear and it is therefore sought in this Bill to make a permanent amendment to the law; that is the reason why it is introduced to-day.

I accordingly beg to move that it be now read a Second Time.

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

#### 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]

#### The Colt Fibre Industry (Repeal) Bill, 1957

Clause 2 agreed to.

Clause 1 agreed to.

Title agreed to.

#### The Criminal Justice Bill, 1957

Clauses 2 and 3 agreed to.

#### Clause 4

THE MINISTER FOR INTERNAL SECURITY AND DEFENCE (Mr. Cusack): Mr. Chairman, I beg to move the following amendment to clause 4:—

THAT the words "in any employment which may be prescribed" which appear in the new sub-section (1) be left out of paragraph (a) of clause 4.

The question that the words "in any employment which may be prescribed" be omitted was put and carried.

Clause 4, as amended, agreed to.

Clause 5, as amended, agreed to.

Clause 1 agreed to.

Title agreed to.

#### The Northern Province Livestock Improvement Bill

Clauses 2, 3, 4, 5, 6, 7, 8, 9, 10 and 11 agreed to.

Clause 1 agreed to.

Title agreed to.

#### The Use of Poisonous Substances Bill

Clauses 2, 3, 4, 5, 6, 7, 8, 9, 10 and 11 agreed to.

Clause 1 agreed to.

Title agreed to.

#### The Water (Amendment) Bill

Clauses 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14 and 15 agreed to.

#### Clause 16

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): Mr. Chairman, I shall be moving an amendment to clause 16, but under our new procedure it will appear as a new clause at the end of the Bill, and I am only serving notice now on hon. Members. I will then deal with the reasons for the amendment at that stage.

THE CHAIRMAN (Mr. Conroy): Your amendment is proposed to insert a new clause which will eventually be 16A. That will be dealt with when we have finished with all the existing clauses to the Bill.

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): Yes, but I thought I should warn hon. Members that I shall be doing it at that stage of the Bill.

Clause 16 agreed to.

#### Clause 17

LT-COL. MCKENZIE: Mr. Chairman, I should like to move an amendment that clause 17 be left out of the Bill and that the following clause be inserted thereof:—

17. Section 124 of the principal Ordinance is amended—

(a) by substituting for the words "within the period of one month from the

[Lt.-Col. McKenzie]

date of such publication, the right to use, vary or dispose of such works will be assumed by the Crown without payment of compensation therefor", which appear in sub-section (3) thereof, the words "within the period of one month from the date of such publication or within such longer period as the Minister may decide, the right to use, vary, or dispose of such works will be assumed by the Minister without payment of compensation therefor and the Minister may destroy or remove such works at the cost of the licensee or sanction or permit holder";

(b) by inserting immediately after the words "within such period of one month", which appear in sub-section (4) thereof, the words "or within such longer period as the Minister may have decided"; and

(c) by adding, immediately after sub-section (4) thereof, a new sub-section as follows:—

(5) Where any works are deemed to have been abandoned in accordance with the provisions of this section, and the Minister has thereafter destroyed or removed such works, the cost reasonably incurred in such destruction or removal, or so much thereof as the Minister may determine, may be recovered from the licensee or sanction or permit holder concerned as a civil debt.

Sir, I think the reason is self-explanatory. The present length of time I think is far from adequate.

#### Question proposed.

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): Mr. Chairman, the Government would accept the amendment.

The question that clause 17 be omitted from the Bill was put and carried.

The question that the proposed clause 17 be inserted in lieu of the clause 17 which has been omitted was put and carried.

Clause 17, as amended, agreed to. Clauses 18 and 19 agreed to.

#### Clause 20

MR. MAXWELL: Mr. Chairman, Sir, I beg to move an amendment to clause 20 by adding to new sub-section (4) contained in paragraph (b) of that clause a new proviso as follows—Sir, this has been circulated; is it necessary to read it out?

THE CHAIRMAN (Mr. Conroy): It has been circulated in the Order Paper—hon. Members are, I assume, aware of it. I do not think it is necessary to read it out unless you wish to do so. You can, of course, now speak to the reasons for the amendment.

MR. MAXWELL: I think, Sir, the reasons are quite clearly stated in the actual amendment. I will read it:—

"Provided, however, that the provisions of this sub-section shall not apply in respect of the supply of water by any person to his employees, or in respect of the supply of water on the premises of any hospital, factory, school, hotel, brewery, research station or institution to the occupants thereof, in cases where the source of supply is under the control of such person, hospital, factory, school, hotel, brewery, research station or institution, or where the water is supplied in bulk to such person, hospital, factory, school, hotel, brewery, research station or institution by a water undertaker."

#### Question proposed.

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): Mr. Chairman, the Government would accept this.

The question (that clause 20 be amended by adding to the proposed sub-section (4) a new proviso was put and carried.

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): Mr. Chairman, the hon. Member for Nairobi South, I believe, wishes to move an amendment to clause 16.

Now, Sir, I would not accept the amendment which the hon. Member wishes to move, but I was prepared to give the Member an assurance which I think would have helped the particular point which he wishes to put forward; and I do not know whether it would be in order, Sir, for the hon. Member now to intervene and put the point he wants to make on clause 16 when I could give

[The Minister for Agriculture, Animal Husbandry and Water Resources] him an assurance which I think would be of value to public utilities in this country.

THE CHAIRMAN (Mr. Conroy): I do not think it is possible for us to go back on the Bill. The hon. Member, Mr. Harris, can, of course, raise this on the Report stage, if he so wishes, and the Minister for Agriculture can give his undertaking then; when the Bill is reported and we come to deal with the Report stage on this amended Bill, Mr. Harris can raise it then.

MR. HARRIS: Thank you, Sir.

THE CHAIRMAN (Mr. Conroy): Mr. Alexander had given notice of an amendment, to clause 20. Is anyone moving it?

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): Mr. Chairman, I am quite happy that clause 20 now being disposed of, the Bill should proceed.

THE CHAIRMAN (Mr. Conroy): Well, we have not disposed of clause 20 yet. We have not yet put the question that clause 20, as amended, stand part of the Bill. We have moved and agreed one amendment to clause 20 of which Mr. Maxwell gave notice. There is another amendment of which Mr. Alexander gave notice. We are now—Mr. Alexander—we are now about to deal further with clause 20, of which you have given notice of an amendment in the Water Bill. We have dealt with Mr. Maxwell's amendment and your amendment is now about to be moved—I hope.

MR. ALEXANDER: Mr. Chairman, I beg to move the following amendment to clause 20 by adding to paragraph (b) of the clause a new sub-section as follows:—

(b) The Minister may before appointing any water undertaker under this section require him to give and execute a bond, with or without sureties approved by the Minister, in such sum as the Minister may require, conditioned that he shall—

(a) install and maintain a water supply system to such specifications as may be approved by the Water Apportionment Board;

(b) so far as possible provide an adequate supply of water to his area of supply, both as regards quantity and quality, and make adequate provision for ensuring the continuity of such supply;

(c) not at any time wilfully or negligently cease to provide such supply or for any reason whatsoever abandon his undertaking without first making arrangements to the satisfaction of the Minister for the continuance of the supply or the transfer of his undertaking, as the case may require;

(d) discharge the duties imposed upon him under the provisions of this Ordinance.

Mr. Chairman, you may remember that in the Second Reading of the Bill, I did mention the failings of water undertakers who, when subdivision of land has been completed, go into liquidation and leave the property owners with an inadequate water supply and—there have been instances of this—there often is required considerable capital expenditure in order to bring the reticulation system up to a proper standard. The purpose of this amendment is to enable the Ministry to so pin down these people that they are unable to leave situations such as I have described. I do realize, Mr. Chairman, that there are several departments of Government—several Ministries of Government—who come into this and that it may be necessary for a variety of departments to be consulted. But I do urge upon the Minister to agree to the inclusion of this amendment to-day so that, at any rate so far as his Ministry is concerned, we can have the matter out of the way and notice properly given by the inclusion of this amendment to all water undertakers of the future; and perhaps there may be opportunity also to review those who have been authorized in the past to be water undertakers.

#### Question proposed.

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): Mr. Chairman, the hon. Member was good enough to make clear to me outside the point which he raised in the debate on the Second Reading, and I would like to say this right away: the Government has much

[The Minister for Agriculture, Animal Husbandry and Water Resources] sympathy with the points the hon. Member is advancing. On the question of bonds and guarantees, there is already some provision in Crown Lands Ordinance, Cap. 155. The Commissioner of Lands is, by virtue of section 7 of the Crown Lands Ordinance, empowered to attach conditions to his consent to the subdivision of plots which form the subject matter of leases of both town plots or agricultural plots, as provided in sections 21 to 39 of the Crown Lands Ordinance.

As to the types of conditions permissible, I am advised by my hon. and learned friend that the Commissioner can competently make it a condition of his consent to subdivide that the lessee—that is, the subdivider shall install proper waterworks and that he enter into a bond conditioning that he does so. Now, Sir, I tell you the present position, but I am in agreement with the hon. Member, that it is not entirely satisfactory, and we think that the whole problem of control of water undertakers needs review and we have already set in motion a review of this problem. It is a highly complicated one. It does not only affect the Ministry for which I am responsible, but also the Ministry for Local Government and the Ministry for Lands. What I would like to ask the hon. Member is this: either to withdraw his amendment, or I would feel that the Government could not accept it, on an assurance from myself that we will examine this matter at once through the organizations of the Water Ordinance and bring a suitable amendment forward as soon as possible, when our next Amendment Bill is before Council. Why I say that, Mr. Chairman, is this. I know the hon. Member for Nairobi West will agree with me, that this is a very complicated subject and, although he was good enough to circulate this amendment, I think that we need to look at the particular problem which he has raised in much greater detail in conjunction with the other Ministries than we have been able to do at the present moment. Therefore I would ask the hon. Member to withdraw his amendment, on the assurance by myself that we will examine the point and bring forward an amendment suitably designed after proper examina-

tion to achieve the purpose which he has in mind.

MR. HARRIS: Before my hon. friend, the Member for Nairobi West, has an opportunity of withdrawing, if he intends to, I would like to say to the Minister that I know, as a member of the Land Board for many years, this is a perpetual problem and we have never yet been able to find the right sanction against a subdivider although a condition has been imposed by the Commissioner of Lands for subdivision, to ensure that he maintains that condition after he has sold the plots. It is a problem, as I am sure the Attorney General will appreciate—the Minister for Legal Affairs—we have also had with roads, which comes in exactly the same category as a condition for subdivision. But once the plots are sold, it seems impossible under the present law for the Commissioner of Lands adequately to be able to deal with a defaulting subdivider. Therefore I would ask him, Sir, to consult with his colleague, the Minister for Local Government, as urgently as possible, to make sure that this rat-hole is blocked up satisfactorily.

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): Mr. Chairman, may I make it clear that the Government does sympathize with the point which the hon. Member for Nairobi West has made. Our object in not accepting the amendment, or asking him to withdraw, is not because we are out of tune with the hon. Member's intention; it is that we want to make quite sure that what we finally bring forward has not been hurriedly accepted in this Council and that we have looked at the problem in so far as it affects the very point made by the hon. Member for Nairobi South. We have got to find a form of imposition which means that a subdivider will be required to carry on his obligation afterwards.

MR. ALEXANDER: Mr. Chairman, I am very grateful to the Minister for having firstly expressed the sympathy of Government for the intention behind this amendment, and for assuring me that the various departments are going to co-ordinate their efforts on this in order to produce legislation that will meet this point and will also tie up with all the

[Mr. Alexander] various Ministries. Nevertheless, Mr. Chairman, before I do agree to withdraw, I wonder if the Minister could give me this assurance, and that is that until Government are in a position to introduce legislation, they will administratively make it known to all the departments of Government concerned that this is their intention, and that for all outstanding land subdivisions and authorizations for water undertakers, they will make it known that this is the type of legislation that they would wish to introduce. I ask that, Mr. Chairman, because I know in legislation as complex as this, concerning so many Ministries, that it may take a considerable time before this has been tied up within the massive machine of Government. But I believe, if it could go out from this Council and go out from Government in administrative form for the moment that this is the intention, that it would have a salutary effect on many of those people who might be thinking of letting the public down in the way that I have described. If I can have that assurance, certainly, Mr. Chairman, I will withdraw.

Before I sit down I would like to say how grateful I am to you for your latitude in allowing me to walk in the door and get on my feet, but the business proceeded so fast, Mr. Chairman, that I had to go and find my papers on this one. I apologize.

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): Mr. Chairman, I think the hon. Member for Nairobi West should thank me for his being able to speak like this, because had I not been so kind to the hon. Member for Nairobi South we should have passed over this clause and the Member would not have been able to introduce it.

Sir, I am prepared to give the hon. Member an assurance that we will circularize the departments mainly concerned in this matter to the effect that Government is deeply concerned over past happenings, and draw their attention to the fact that Government will be introducing an amendment to the water legislation designed to prevent this in the future.

THE CHAIRMAN (Mr. Conroy): The amendment which is in the possession of the Committee, can only be withdrawn by the Committee's leave. Mr. Alexander wishes to withdraw it—is it your wish that it be withdrawn?

The amendment, by leave, was withdrawn.

Clause 20, as amended, agreed to.

Clauses 21, 22, 23, 24, 25, 26 and 27 agreed to.

#### New Clause

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): Mr. Chairman, I beg to move that the new clause of which notice has been circulated and which it is proposed to add to the Bill, be now read the Second Time.

The clause, Mr. Chairman, has been circulated on the Order Paper and I do not propose, unless hon. Members wish it, to read it out. It deals, in effect, with the point raised by the hon. Member for Nairobi West, which I have been able to examine and bring into the Bill to meet his point. It deals with the question of natural or unauthorized obstructions to natural flow of water as determined by the Water Apportionment Board, and enables sanctions to be invoked causing those obstructions or unauthorized impediments to the flow to be removed.

I beg to move.

#### Question proposed

LT.-COL. GHERSIE: Mr. Chairman, I also raised this matter during the course of the main debate and I think this amendment creates rather cumbersome machinery, quite frankly. Sir, an obstruction is either reported or detected by the Water Apportionment Board and is reported to the Minister and he is asked to issue an order. Now, Sir, according to this amendment, he will now also have to consult the Water Resources Authority. I suggest, Sir, that the Water Resources Authority deals more with policy and I believe it only meets about once in six months. I suggest that an obstruction of this nature is a matter of urgency. I would like to move an amendment, Sir, that certain words be deleted. It is the words "and on the advice of the Water Resources Authority". I think it would speed up the machinery of issuing an

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order when an obstruction of this nature arises. I think the inclusion of those words is quite unnecessary and I would like to move this amendment to the amendment.

**THE CHAIRMAN (Mr. Conroy):** Col. Gherisie, we are in this difficulty, that under the new Standing Orders it is necessary for notice of an amendment to be handed to the Clerk by the time Council sat to-day. If the Minister for Agriculture wishes to accept this amendment, he can move it as his own, because the Minister in charge of the Bill need not give notice of the amendment before the Council sits.

**LT.-COL. GHERISIE:** I am sorry, Mr. Chairman, I have had this amendment ready for two or three days, but we have gone so fast with the business of Council—I did not think we would get to this stage to-day.

**THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell):** Mr. Chairman, I am in some difficulty in accepting the amendment. I would like to explain to the hon. Member why. I have got some sympathy with him and I am going to ask my hon. and learned friend, whilst I am speaking, to think out if he can meet this particular point.

**The issue, Mr. Chairman, is this:** that some obstructions in the water which are natural, although onerous to the landowner, may be beneficial to the community. In other words, it is not to the benefit of the community as a whole, in every case, that the flow of a river should be accelerated by the removal of certain obstructions which are natural ones in it. That is because the flow of the water, especially in flood times, would travel very much faster and the general water table in the surrounding area would be lowered. In other words, some of these natural obstructions in rivers are advantageous to our general water conservation, and I would not like to be in a position where an application to remove a natural obstruction caused its removal to the detriment of our general water assets, without seeking the advice of the Water Resources Authority who are the body charged with that responsibility. I think there may be a way out of this. I

cannot say the hon. Member sprang this on me; he did say something about it the other day in the corridor—but I think there may be a way out of this by speeding up the procedure where there is an unauthorized obstruction; because obviously if it is not a natural obstruction but is an unauthorized one, at any rate it cannot be doing what some of the natural ones do, that is, improve our water conservation. I think it might be possible for me to accept an amendment which dealt solely with unauthorized obstructions.

But I am not quite sure of my authority in regard to the Water Resources Authority. I will just get my hon. and learned friend to check that for me.

**LT.-COL. GHERISIE:** Mr. Chairman, if I could make one comment on what the Minister has said—and I appreciate his point—but, Sir, surely he must agree that the Water Apportionment Board is a responsible authority and they are not going to ask for an order to remove an obstruction which is not in the best interests of the Water Resources Board as a whole to remove. They obviously would only be asking for an order where there was an obstruction which they considered was unnecessary and was due to the fault of the landowner in not carrying out his normal duties.

**THE MINISTER FOR LEGAL AFFAIRS (Mr. Griffith-Jones):** Mr. Chairman, Sir, the formula adopted in this suggested new sub-section is the same as that which appears in the present sub-section (1) of this same section, which deals with the clearing of swamps and the like. I think it has some foundation in the relationship between the Water Apportionment Board and the Water Resources Authority and in the relationships between those respective bodies and the Minister. The one is, I understand, an executive authority and the other is an advisory authority. I understand that if these words were retained in the section, it would be possible for the Water Resources Authority to be convened *ad hoc* in a case of urgency. I do not know if that satisfies the hon. Member.

**LT.-COL. GHERISIE:** Mr. Chairman, it is simply a question of the machinery. It seems so unnecessary to me, Sir, that a body of that description should have to

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be called together for something of a minor nature. Surely if the Water Apportionment Board make representation to the Minister, it is not necessary to get another Board in to consult them as to the bona fides of the issuing of the order? It is just creating cumbersome machinery.

**MR. ALEXANDER:** Mr. Chairman, I understood the Minister to be making the point that in the case of natural obstructions there might be a benefit to the community as a whole, but even here I question whether there might not be some responsibility on landowners in respect of even natural obstructions, because the type of difficulty we are envisaging—in fact the type of difficulty which has arisen—is in respect of rivers that have been allowed to overgrow too freely with natural growth—weeds and the like. Now, that is a natural obstruction, but if the landowner has maintained the clearance up to what should be normal the difficulty would never arise. I am wondering whether even in respect of natural obstructions his argument does apply in total. The times when this is likely to arise—the use of this clause—are few, but normally extremely urgent. It is in times of heavy rains. That is when the trouble arises. It is at that time that urgent action is needed and I am wondering whether even the Water Apportionment Board is the right person to deal with what is an urgent matter when it does arise. I would like to suggest that the Minister might consider this authority being delegated down as far as water-bailiffs, and subject to what he says—and he might accept another amendment—that in place of these words we put “authorized water bailiffs”. Those are the people who can take the urgent action that is necessary when heavy rains do occur.

**\* THE CHAIRMAN (Mr. Conroy):** I think it might be convenient if I were to clarify what we are doing. I have purposely not proposed the amendment which has been moved to the amendment. I have not proposed Colonel Gherisie's amendment because Standing Order 90 provides that no amendment shall be moved to any part of a Bill by any Member other than the Member in charge of the Bill, unless written notification thereof shall

have been given to the Clerk before the commencement of the Sitting at which that part of the Bill is considered in Committee. That, in other words, means that no amendment, other than an amendment moved by the Member in charge of the Bill, may be moved unless written notification of the amendment is handed to the Clerk by 2.30 of that day. The purpose of that is to stop what we are doing now, which is trying to consider an amendment “off the cuff”. The only way in which Colonel Gherisie's amendment may be moved is if the Minister is prepared to accept it and move it himself. Otherwise I am powerless; I am bound by the Standing Orders and I cannot propose the question.

**THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell):** Mr. Chairman, I would like to put my difficulties to hon. Members. I do live in a district where water is a major problem and I would think that probably amongst hon. Members here, apart from being the Minister in charge of water, I have a great deal of practical knowledge.

Now, Sir, I think myself that there is a great deal of substance in what the hon. Member for Nairobi North has put forward. He seeks to cover the point of urgency and he seeks to do that by limiting the amount of advice which the Minister must, compulsorily, take. I think, Mr. Chairman, that that is a reasonable point which I can meet. I must impress upon hon. Members that the removal of obstructions, especially natural obstructions, is a matter of some technical competence, as in many cases they augment the water available to us or diminish it. But I made that point earlier.

Now, Sir, I am perfectly happy to try to meet the hon. Member as follows. I will move the amendment myself, which meets the procedural difficulty that we are in, and in so doing I will make it clear to the hon. Member that, whenever time allows, it will be my intention to consult the Water Resources Authority. The position that would then arise would be that in matters of urgency I would not need to do so. But where there is no obvious urgency I would be able to seek that little bit of extra



[The Minister for Agriculture, Animal Husbandry and Water-Resources] advice which is the proper function of the Water Resources Authority, and that is what I would like to do.

Now, Sir, if the hon. Member will hand me his amendment—

THE CHAIRMAN (Mr. Conroy): I think it is unnecessary to do that—otherwise we get into the paradoxical situation of you moving an amendment to your own amendment. A simpler way to do it would be for your amendment, which is to add a new sub-section (3) to section 120, to omit the words in question. I have proposed the question on the moving of the addition of the new sub-section (3). It might be convenient for clarity at this stage of the debate if I were to propose it again, leaving those objectionable words out.

MR. HARRIS: On a point of order, are we on a Second Reading?

THE CHAIRMAN (Mr. Conroy): We are in Committee on a Second Reading of a new section, and during such a Second Reading, under our Standing Orders, you can move an amendment on a new clause.

MR. ALEXANDER: On a point of order, for clarity, this amendment put in by the Minister himself is one that, other than the fact that it did get into our hands, we might not have known about. Now, Sir, that being so, how is it possible for us to put in writing an amendment to an amendment which we do not know anything about?

THE CHAIRMAN (Mr. Conroy): That can be dealt with on the Report stage or on the Third Reading. You can always move on the Report stage that the Bill be recommitted and then give notice of the amendment. The simplest way of clarifying where we are is for me to propose the question.

Question proposed.

LT.-COL. GHERSIE: I thank the Minister for solving the problem by deleting these offending words. As I say, Sir, it was not entirely off the cuff. I do apologize and it is quite my fault for not having handed the paper in earlier. This was due to the rapid disposal of business by the Council. I am, however, very grateful to the Minister.

SIR ALFRED VINCENT: If I might raise a point here, Sir, supposing the Minister had not been accommodating, would it not have been possible to have proposed that the debate be adjourned so that the necessary amendments could be put in writing? Because, sometimes Ministers want a little time to think things over and we may pass a Bill which was completely wrong in the spirit merely because we have decided on a certain procedure in the Standing Orders.

THE CHAIRMAN (Mr. Conroy): Technically speaking, the Committee cannot adjourn. You could, however, move that the Committee do report progress and ask leave to sit again.

MR. MAXWELL: Does this include the amendments made by Lt.-Col. Gheris?

THE CHAIRMAN (Mr. Conroy): Yes.

MR. MAXWELL: I am opposed to it, Sir, for this reason. I quite agree that if it is an unauthorized obstruction then notice can be served on the owner of the land to remove that obstruction. I will quote possibly my own case. I have a farm with a stream running through it which is probably three miles long. For a greater part of its length it runs through a swamp. If I were served with an order to drain that swamp, who would pay for it?

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): I am unable to answer off the cuff the question of payment. That is clearly defined in the Ordinance, and if the hon. Member would refresh his memory with the Ordinance he would find the answer himself. On the particular point which he has raised, however, I believe that there is no substance in it, and I propose to say why. I made it clear to the hon. Member for Nairobi North that in putting forward—or agreeing to the amendment which he wished to have incorporated and put into my own amendment—I made it clear it would be my own intention in all normal cases to consult the Water Resources Authority. Now in the case of natural obstacles, I believe that that gives the hon. Member for Trans Nzoia a very adequate consideration of whether it is necessary to remove this swamp or not. The point which the hon. Member for

[The Minister for Agriculture, Animal Husbandry and Water Resources] Nairobi North advocated, and I think correctly, was not obviously natural obstructions. If there are natural obstructions they have been there a considerable amount of time and, therefore, there is no urgency in the matter. The particular point which the hon. Member for Nairobi North wanted to bring out, was where an unauthorized obstruction in the river was causing either illegal extraction to the detriment of other people, or grievous flooding, also to the detriment of other people.

In that case he felt that I should be able to add more urgency by the particular amendment advanced, and I have accepted that view. I think the point the hon. Member for Trans Nzoia has put forward is left, because in the case of a natural obstruction there would be no urgency on the Minister that I can see, and he would be able to consult the various bodies put there to advise him.

LT.-COL. MCKENZIE: I rise to speak as a member of the Water Resources Authority, Sir, one Board that has not been mentioned is the Regional Water Board. Now we have of late found great difficulty in obtaining water bailiffs at all, so giving the power mentioned in the amendment to the water bailiffs does not cover it. Time and time again those vacancies are not filled. Also, Sir, I would like to correct one point made, that the Water Resources Authority only meets every six months. In fact it meets five to six times a year with its executives meeting more often. The executives of the Water Apportionment Board meet, I should say, every three or four weeks. Some local Regional Water Boards usually meet monthly, so that all these bodies, Mr. Chairman, are meeting regularly.

Now the only aspect it does not cover is in times of flood, that is emergency, and if one has a flood the obstruction wants to be moved pretty quickly, and what has happened previously, and what I think will happen in the future, is that the chairman of the Regional Water Board usually gets in communication with the chairman of the Water Authority and they then decide the actual course to be taken irrespective of whether a water bailiff is employed or

not. Thereafter an executive meeting is called, and I cannot force any difficulties arising at all out of the original amendment put forward by the Minister. In fact I see no necessity for the amendment as now accepted. I am afraid I must oppose it.

MR. MAXWELL: I support the original amendment put forward by the Minister for Agriculture, but I do object to the words "natural obstruction".

THE MINISTER FOR LEGAL AFFAIRS (Mr. Griffith-Jones): The word "natural" has been in the amendment from the start. The words that are being omitted are the words requiring the Minister before he takes action under this new sub-section to obtain the advice of the Water Resources Authority. Now, Sir, it might help if I try to explain why I think the hon. Member for Nairobi North sought this amendment. He did discuss it with me after the Second Reading of the Bill. Under sub-section (1)—I am speaking off the cuff—of this section 120, there are powers to order persons to clear swamps. These provisions already exist for the purpose of ensuring that the flow from swamps down the stream is not impeded to the detriment of water-users lower down the stream. But it is very doubtful, to say the least, whether those powers extend—and they probably do not extend—to the clearance of obstructions in other than swamps and the like, which in sudden heavy rains cause flooding back up the stream and flooding, in effect, the land of riparian owners further up the stream. It happened, I understand, to the hon. Member for Nairobi himself recently, and it was not an unnatural obstruction but a natural obstruction in that one landowner through whose land the stream passes allowed the accumulation of weeds and other growths to reach such proportions that when there is any heavy rain the stream does flood back on to the land of higher landowners. And it was to cover that lacuna in the present section, which is all that this sub-section does, to cover that particular lacuna, to protect the landowner from a thoughtless or negligent landowner lower down the stream, that this sub-section has been proposed. I do not think it has any of the sinister potentialities which the hon. Member for Trans Nzoia sees in it.

LT.-COL. GHERSIE: I am grateful to the Minister who has just spoken. I would like to make it perfectly clear that I am not advocating this purely in my own interests. Sir, this has affected a large number of people, and in the area in which I reside it has been absolutely impossible for the Water Apportionment Board or the bailiffs to act under any legal authority. That is why I have raised this matter.

New clause agreed to.

Clause 1 agreed to.

Title agreed to.

Bill to be reported with amendments.

THE CHIEF SECRETARY (Mr. Turnbull): I beg to move that this Committee do report to Council its consideration of the following Bills and its approval thereof without amendments: the Coir Fibre Industry (Repeal) Bill, the Northern Province Livestock Improvement Bill, the Use of Poisonous Substances Bill. Also its consideration of the following Bills and its approval thereof, with amendments: the Criminal Justice Bill, the Water Amendment Bill.

The question was put and carried.

Council resumed.

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

#### REPORT AND THIRD READING

##### *The Coir Fibre Industry (Repeal) Bill*

MR. CONROY: Mr. Speaker, I beg to report that a Committee of the whole Council has considered the Coir Fibre Industry (Repeal) Bill and has approved the same without amendments.

THE SPEAKER (Sir Ferdinand Cavendish-Bentinck): That being so and no Member objecting we can proceed to the Third Reading if the Minister responsible so desires.

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): Mr. Speaker, Sir, I beg to move that the Coir Fibre Industry (Repeal) Bill be now read a Third Time.

Question proposed.

The question was put and carried.

The Bill was accordingly read the Third Time and passed.

#### REPORT

##### *The Criminal Justice Bill*

MR. CONROY: I beg to report that a Committee of the whole Council has considered the Criminal Justice Bill and has approved the same with amendments.

Report ordered to be considered to-morrow.

#### REPORT AND THIRD READING

##### *The Northern Province Livestock Improvement Bill*

MR. CONROY: Mr. Speaker, I beg to report that a Committee of the whole Council has considered the Northern Province Livestock Improvement Bill and has approved the same without amendment.

THE SPEAKER: Hon. Members being in agreement, when do you wish to proceed to the Third Reading?

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): Now, Sir, Mr. Speaker, I beg to move that the Northern Province Livestock Improvement Bill be now read a Third Time.

Question proposed.

The question was put and carried.

The Bill was accordingly read the Third Time and passed.

MR. CROSSKILL: On a point of order, Mr. Speaker, I thought it was customary for the Council to agree with the Committee.

THE SPEAKER (Sir Ferdinand Cavendish-Bentinck): I suppose technically yes. But this is the procedure I have always adopted in the case of all contentious Bills which have been both subject to a Second Reading and through the Committee stage. I give any Member ample opportunity to rise and object and ask for a recomittal.

#### REPORT AND THIRD READING

##### *The Use of Poisonous Substances Bill*

MR. CONROY: Mr. Speaker, I beg to report that a Committee of the whole Council has considered the Use of Poisonous Substances Bill and has approved the same without amendment.

THE SPEAKER (Sir Ferdinand Cavendish-Bentinck): That being so and there being no objection when do we proceed to the Third Reading?

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): Now, Sir, Mr. Speaker, I beg to move that the Use of Poisonous Substances Bill be now read a Third Time.

Question proposed.

The question was put and carried.

The Bill was accordingly read the Third Time and passed.

#### REPORT

##### *The Water (Amendment) Bill*

MR. CONROY: Mr. Speaker, I beg to report that a Committee of the Whole Council has considered the Water (Amendment) Bill and has approved the same subject to amendments.

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): I would like to make a point about the Report stage. It would really make no difference to me, Sir, except that I would like to get the Bill out of my papers, Sir. All the amendments were circulated well in advance and they merely proceeded according to schedule. A slight deletion of three or four words took place after the suggestion was made by the hon. Member for Nairobi North. I cannot see why the Report stage should be delayed.

THE SPEAKER (Sir Ferdinand Cavendish-Bentinck): I think you will find that under our new Standing Orders the decision as to the date for the Third Reading of a Bill rests with me. As two points of order have been raised in connexion with the Report stage of this Bill let me clarify the procedure which I adopt in this regard. Where a Bill having passed through its Second Reading stage, has been examined by a Committee of the Whole Council and is reported back without amendment, I proceed to the Third Reading stage with the minimum formality possible. Although I do not always put any question on the Report, I always give opportunity for Members to raise the question of possible recomittal: and thereafter always both propose and put the question of the Third Reading in

order that anybody has a chance to move postponement or raise further matters. On the other hand, where a Bill is reported back to Council with amendment, no matter how small that amendment may be, I will never take the Third Reading on the same day as the Report stage, because, in my opinion, every Member of the Council, although some may possibly have been unavoidably absent during the Committee stage or the Report stage, should in my opinion be given ample opportunity of appreciating and seeing precisely what they are passing. In other words, what detailed amendments have been made; indeed in some cases where amendments are considerable I insist on the Bill being reprinted.

Report ordered to be considered to-morrow.

#### PRIVATE BILL

##### SECOND READING

##### *The British Standard Portland Cement Company Limited (Bamburi Factory) (Amendment) Bill*

Order for Second Reading read.

MR. USHER: Mr. Speaker, as the Member in charge of this Bill I have to inform you and hon. Members that although it is ripe—indeed overripe—for its Second Reading I have been made aware of certain difficulties between the company and its neighbours and I believe that those difficulties are now likely to be resolved within the next day or two. In those circumstances I would ask your indulgence, and that of the Council, to adjourn the Moving of the Second Reading. I have spoken to the Leader of the Council and I gather that that course of action would be agreeable to the Government.

By order of the Council consideration of the Second Reading was adjourned to a date to be arranged by the promoters of the Bill.

#### ADJOURNMENT

THE SPEAKER (Sir Ferdinand Cavendish-Bentinck): That completes the business on the Order Paper. I will therefore adjourn Council until 2.30 p.m. to-morrow, Thursday, 14th November. Council rose at twenty-five minutes past five o'clock.

Thursday, 14th November, 1957

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

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

### PRAYERS

### PAPERS LAID

The following Paper was laid on the Table:—

The Seeds Rules, 1957.

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

### NOTICES OF MOTIONS

#### REVIEW OF NATIVE AUTHORITY.—ORDINANCE

MR. MATE: Mr. Speaker, Sir, I beg to give notice of the following Motion:—

THAT this Council being aware of the anomalies in the Native Authority Ordinance (Cap. 97) in the light of changing conditions in African progress urges Government to have it reviewed and readjusted to bring it up to date.

#### INQUIRY INTO LOANS FUND

MR. ALEXANDER: Mr. Speaker, Sir, I beg to give notice of the following Motion:—

THAT this Council urges Government to secure the services of an acknowledged authority on banking, financial and economic matters who would be invited to inquire into and make recommendations on policy in regard to the raising of loans and attracting capital to Kenya, the banking system, and the sterling exchange system operating under the East African Currency Board as affecting Kenya in this regard.

### ORAL ANSWERS TO QUESTIONS

#### QUESTION No. 33

MR. MBOYA asked the Chief Secretary whether the views expressed in a speech by the European Minister without Portfolio to cadets at the Duke of York School on 19th October, 1957, reflect Government policy on the rela-

tionship of Europeans to other races in Kenya and for the future of Kenya?

THE CHIEF SECRETARY (Mr. Turnbull): I have read my ministerial colleague's speech with close attention and I can find nothing in it which departs from the Government's declared policy.

It is a fact that the Government looks to young Europeans such as those addressed by the Minister to take up the responsibilities of leadership in the economic and social fields, and in the armed forces. The Government also looks to young educated Africans and Asians to shoulder similar responsibilities.

MR. MBOYA: Arising from the reply, would the Minister confirm that this is Government policy—I quote: "I believe the position in Kenya to-day is that we urgently need more Europeans to continue to provide that leadership which is so important to the progress of the African people".

THE CHIEF SECRETARY (Mr. Turnbull): Sir, it is not the practice for Ministers of the Government to make exact policy statements when inspecting cadet corps; but if the hon. Member will study what was said by my hon. colleague in relation to the declared policy of Government in the Sessional Paper on Immigration of 1956, he will find there is a complete accord between the two.

MR. MBOYA: Arising out of the reply, would the Chief Secretary state whether the Minister on this occasion was addressing the cadets as Minister of the Government, and as Member for the War Council.

THE CHIEF SECRETARY (Mr. Turnbull): When Ministers speak in public, they speak as Ministers.

MR. MBOYA: All the time.

#### QUESTION No. 41

LT.-COL. MCKENZIE asked the Minister for Finance and Development:—

(a) How many claims for compensation were received by the Compensation Committee since October, 1957?

(b) What was the total amount of payments made on the recommendations of the Committee?

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey):—

(a) Since its inception in October, 1952, the Compensation Committee has dealt with 6,300 claims.

(b) The total amount of payments made on the recommendations of the Committee during the same period is £444,174.

LT.-COL. MCKENZIE: Arising out of the original reply, can the Minister state how many of the Committee's recommendations were rejected.

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): Mr. Speaker, Sir, none of the Committee's recommendations were rejected.

LT.-COL. MCKENZIE: Sir, to complete the reply, could the Minister state how many cases have been dealt with in recent months, as the number of incidents giving rise to these claims must have been very few.

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): Mr. Speaker, at first the Committee met once a fortnight, but recently it has only met once every two months. This is a result of the improved Emergency situation which has resulted in a very great diminution in the number of incidents giving rise to claims for compensation. As a result of this reduction in work, the Committee has suggested that it should be dissolved and that all future claims should be dealt with by the Treasury direct. The Treasury has accepted this recommendation, Sir, and I would like to take this opportunity of thanking the Committee for its excellent carrying out of a very arduous and difficult task.

### MOTION

#### ABOLITION OF MINISTRY OF AFRICAN AFFAIRS

(Resumption of debate interrupted on 7th November, 1957)

MR. MBOYA: Mr. Speaker, Sir, when Council adjourned a week ago, I had just outlined some aspects of the reasons why we feel that a Ministry of African Affairs should be abolished. The Mover of the Motion, I may remind hon. Members, made it perfectly clear that in moving this Motion, we were not in any way motivated by any personality

issues; it was not moved against any particular individual, and I hasten to add at least not the present Minister.

I see that since then, things have moved quite a bit, and that we are at least to expect quite a bit of monkey games in the future.

AN HON. MEMBER: Who are the monkeys?

MR. MBOYA: I notice that despite the fact that we have, I think, made quite a strong case for the abolition of this Ministry, it is the intention of the Government to continue to have the Ministry. Sir, I said last time that it was necessary in trying to assess the situation not only to confine ourselves to the conditions in Kenya, but also to look at our neighbouring territories; because arguments have been used to defend the existence of this Ministry that really could equally be used in the other territories, but we have seen that in those other territories where the same conditions obtain, it has not been seen fit to have a Ministry for African Affairs, and to treat the African as a separate department of Government.

We have also seen that in the areas where you find this treatment of the African as a special Government department, we find two very interesting aspects of development. We find in these areas a greater degree of resentment, frustration and general un-co-operativeness from the African community to the Government of the day. We also find the worst possible race relations in those areas. I am referring, Sir, to South Africa, Central Africa and Kenya. These are the areas where you have the African treated as a special department of the State, and these are the areas where we have the worst possible race problems.

Another feature—question?—Well, the hon. Member has only got to take a short flight to Uganda or Tanganyika to see the difference.

AN HON. MEMBER: Utter rot!

MR. MBOYA: The other feature, Sir, is the question of the development of local government. The treatment of the African as a special department of the State has not made it possible for the development of local government in most of the African areas, and particularly in

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Kenya, there has been so much interference from the Administration under this Ministry that in fact the logical development of local government has been hindered; whereas we have been told time and again that the greatest school for the Africans to develop in democratic practice and to fully appreciate democratic machinery is through the local government system. One would, therefore, expect to find that our policies would be consistent on this line, and that every possible effort would be made to remove any possible obstacle in the way of local government development. Instead, what do we find? We find a duplicity of various people doing the same thing in the same area, and the whole essence of the elected machinery of the African people on the local or district level is made almost unworkable because of the existing machinery through the Administration. You have the chiefs at the local government level who are normally the chairmen of local councils who in that capacity have a dual responsibility; one to the local council which we are informed should be an elected body; and another to the district officer and the district commissioner right through to the Ministry of African Affairs where he must take orders.

The position of chiefs as a consequence has become one of the most awkward and embarrassing positions in this country.

They are neither leaders of their people nor are they, strictly speaking, civil servants, and the question is: What are they? They must be something and it is high time we decided what they were: Are they gazetted headmen? If that is the case, we should remove the title "chiefs". We have on several occasions been told of the position of chiefs and indeed, Sir, I want to make this point very sincerely, The African Members are not saying: "Let's have no chiefs". The African Members are saying: "If we have chiefs, let them be chiefs". By that we mean that they have a definite position and status which is not, as at present, a double status.

On the one hand, when they are to be used by the Government for other purposes they are called leaders of the

people, as against the actual leaders of the people, and when it suits the Government, they are termed civil servants to take orders from the Government. The question is, "What are they?" The Government is disturbed sometimes that the African is not respecting the chiefs as much as he did in the past. Well, the Government should not be disturbed; the Government, in fact, should blame itself for creating this situation, where respect has now changed to distrust and indeed, if I may say so, a lot of chiefs to-day have little, if any, influence in their own areas.

I think it is necessary that we decide if they are going to be civil servants then they should be in the line of promotion and advancement within the Civil Service machinery so that those who are capable and educationally qualified can advance beyond the status of a chief. If they are not civil servants, and they are to be regarded as leaders of the people, then they must be elected by the people and not just appointed or nominated by the Administration. I know that in some areas some sort of machinery of an elective type exists. It is not fully elective, however, and I think it is high time that we decided very definitely on the position of these people.

It is an important point and one on which I may dwell for quite some time, because this is the contact between the Government and the people. And if the Ministry of African Affairs is to be looked upon as the expert on African matters or African affairs, then it is only necessary that the people of this country should be assured that the machinery that exists, the contact that exists between the Government and the people, is a genuine contact, one which will warn us in advance of what is going on in the African areas and one which will keep the people informed and educated on Government policy. It should not be the purpose of this machinery merely to carry down orders from above; it should be to ensure that people feel they are a part of the Government, that they have a place in society and a place in the Government.

As at present, I am afraid that a lot of people feel left out because the only person they see and with whom they have day-to-day contact is suspect and

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is not very often understood, because he himself sometimes does not understand the nature of the orders which are handed down to him to hand over to the African people.

Now, within this set-up we have above the chiefs, the district officers and the district commissioners. In the last five years, under the State of Emergency, of course a lot of things have changed. There has been closer administration, there have been measures taken as a result of security necessities. But things are going back to normal and one would expect, therefore, that the machinery would be immediately reviewed to suit the normal conditions. Instead what is happening to-day in the African areas? Closer administration, more chiefs being appointed even in the urban areas where the purpose or the structure of this kind of elder or chieftain to a large extent is unknown to those who are becoming more and more urbanized. We have got to decide whether in the urban areas we are going to encourage urbanization or whether we are trying to discourage it and implant some sort of tribal African system.

I suggest, and I submit this very strongly to the Government, that the two systems cannot work together harmoniously and that in the urban areas the introduction or importation of the tribal system from the tribal areas is unsuited to the very differently changed circumstances of the people in those areas. This, I think, must be considered seriously.

But apart from this closer administration in itself and the multiplicity of district officers in most areas has even rendered the position of chiefs more awkward than it could ever be. One of my colleagues, I think, said once that they had become almost the office boys for district officers. I think it is not far from the truth to say that the chief really has no position in this machinery with more and more districts having European district officers brought in as a result of closer administration.

The situation ought to be looked at from this particular angle; and even looking at it from the point of view of local government development, the introduction of more district officers or rather the intensification of the adminis-

trative machinery in the African areas, renders completely impossible the development of a sound local government system in the African areas. Where these systems were developing and were getting to a level where the Africans should take more and more responsibility, as a result of introducing more district officers in sub-locations and in smaller units in the districts, the whole system is almost disintegrating, it is falling down.

Now I think it is very important that we should particularly examine this question when we are discussing whether or not this Ministry is still serving a useful purpose. I think that it is the general view of Members in this Council that Africans should take more and more part in, particularly, the local government machinery within their districts. It is not possible for them to take that active part and to develop this machinery if, at the same time, we insist on the Government machinery going further below, and in this case even much further, than it did in the pre-Emergency days. And I am very doubtful whether one can really claim that the Government is serving this purpose, or is acting in accordance with this accepted policy, when it pursues its policy of closer administration.

I think that it is necessary to repeat once more the fact that the Ministry for African Affairs has a discriminatory connotation in that the African has been made to feel that he is a special personality, and not only a special personality, but something very special that must be dealt with completely outside the normal Government machinery. Now we are living in a country with racial groups and with a great many racial problems. The fact that our problems, educational, economic, social and so on, must be passed through this Ministry, when the problems of the Europeans and the Asians are dealt with by the respective Ministers, is not only confusing to the ordinary man but suggestive of the fact that we are receiving special treatment. And the question we must always ask is: "What kind of special treatment?" Special treatment can be either for the good of the community, or for purposes other than for the good of the community. In these circumstances, therefore, it is open to question whether

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the ordinary man will not see in this a sinister motive, and indeed I dare say that in the majority of cases the peoples read in it a sinister motive, one which is aimed at, particularly, placing certain limits, certain controls, in disguise and very generally and frequently referred to as "safeguards", when they are in fact controls.

Surely, if it was necessary in the early days of the colonization of this country to have certain safeguards, or to have certain specialised agencies to deal with African problems, one cannot advance the same argument in 1957, when, for 50 years, the African must have been developing, the African must have gradually been getting to understand the Government machinery, educating himself in the processes of it, and also understanding his own part in the local government machinery.

The Chief Secretary made the point—and I dealt with this point last time—that there was the question of the backwardness of certain areas. This is a very interesting question, because, as I said, the same conditions exist in our neighbouring territories and so far they have no Ministry of African Affairs. Does this suggest that in those areas the more backward elements are not in fact safeguarded, not looked after, or not even cared for? I suggest that they are very much cared for and looked after—and they are safeguarded, and that there is no need to have this Ministry in order to safeguard the more backward elements.

One could from this draw the analogy that maybe the more backward elements in the Indian community are not at all considered in this country. Of course, we know they are and we know that they receive whatever safeguards, whatever rights any other citizen of this country enjoys.

In conclusion, I would like to say that in seeking the abolition of this Ministry, we are trying to assert the fact that the African is as much a citizen of this country as anyone else and that he need not be treated as a sub-citizen or a second-class or third-class citizen in this country. There is no need—and we say this most emphatically—to-day for this Ministry and I suggest it is a very definite waste of our public funds to con-

tinue to have this duplicity. I would suggest, Sir, that the more logical set-up would be to fuse the functions of the Provincial Administration in the Ministry of Local Government, since I think it is agreed that eventually it is the aim to develop the local government machinery in the African areas so that they perform their proper functions, and take their proper place as is the case with the county councils and various other local government bodies in the country. Now if that is the aim accepted by all, I think the more logical arrangement would be for the Minister for Local Government to be responsible for Provincial Administration.

I am not suggesting that I am happy that local government should be under an Elected Minister. In fact, I would go further and suggest that it should be passed on to the public service. However, that is not a point for this debate. But I would suggest that if the Local Government and Provincial Administration were under the same Minister, then there would be a logical development in local government, because the same person would be responsible for policy making, and also for seeing to it that this policy was carried out; as local government develops so would the functions of the Provincial Administration diminish until the time when you have your local government taking over completely the functions of the present Provincial Administration. I can see no problem at all in transferring these responsibilities, and I know that I may well be told that this is only trying to change the name of the Minister or trying to transfer the responsibilities into another Ministry. Well, it may appear like a change, but I do not think it will be a change in practice, because I think once the same person is responsible for the two functions he will be much more capable of determining when and how the move should be made in developing or in advising the local government structure in the African areas. With these words I beg to support the Motion.

3.07 p.m.

**THE MINISTER FOR AFRICAN AFFAIRS** (Mr. Windley): Mr. Speaker, Sir, during this debate we seem to have covered a fairly wide field and to have pranced on a large number of political moonbeams, but I do think most hon. Members on

[The Minister for African Affairs] both sides of the Council would probably agree in opposing this Motion. I can claim to have reached the stage in my career when I could claim to be rather objective about the abolition of my Ministry. When I think of my successor who is sitting here, possibly cogitating on his own future, wondering what may be in store for him, and I know only too well what it means to be Chief Native Commissioner in this country, he may well have a desire to support this Motion.

To be more serious, Sir, I would like to express my grateful thanks to the hon. Members for the compliments that they paid to me in speaking on this Motion, and more particularly because I felt that the appreciation they kindly expressed does reflect credit directly on the officers of my Ministry who have given me such staunch and solid support during the years of my tenure.

The hon. Mover and his Seconder, in expressing their views, drew attention to a number of worries, doubts, and I think misapprehensions that exist in their minds, which I can well understand, although of course I am not obviously always in agreement with them. They do also—and I must stress this—show considerable and even blatant ignorance of the real nature of the work and duties performed by my Ministry and also of its functions. The Chief Secretary very ably outlined the position and the work of the Provincial Administration and in particular its relationship with the position of Chief Native Commissioner and the Ministry of African Affairs. I do not see, Sir, any need to dot his 'i's and 'o's or whatever they are, but I must say with some diffidence that the way in which he spoke of the Provincial Administration did give me a feeling of great pride and satisfaction.

As I have said, Sir, in speaking on the Budget debate I did notice a remarkable similarity between large chunks of this debate and the last Budget debate on the Estimates of my Ministry that I did there stress that one of the main functions of my Ministry is to equip this country with a Provincial Administration it both needs and deserves, in quality and numbers and in training. I say this, Sir, because much of the criticism that certain Members

have levelled at my Ministry in this debate has been linked with the Provincial Administration. Now, Sir, the hon. Mover in this respect even went so far—as I think did the hon. Member for the Nairobi Area—as to suggest that the Administration is discriminating in its operation. I assume they must have been referring to some form of racial discrimination, because the Administration certainly does need to show great discrimination and it certainly is discriminating in the variety of problems which require a different type of handling and a discriminatory handler, particularly in methods of handling the various problems that they have on their plate, with which hon. Members in this Council I should say are all too familiar. But it is, Sir, most certainly not discriminatory in any racial sense.

Various hon. Members made the assertion that the Administration interferes with the direct contact between the various Government departments and the people; this seems to me a complete absurdity, although, as the Chief Secretary described, the Administration does—and it is the policy of Government that they should—co-ordinate at will the activities of the various Government departments in their areas into one coherent Government policy; to the benefit of the people, and, in the public interest, and they are, Sir, particularly concerned to ensure that the background of the various African peoples, with their different stages of development, different customs and ideas, is given due consideration. They do also in many instances act as the agents and I think this is an important thing to remember—the agents for other Ministries in the Central Government. They thereby effect considerable savings in the overhead expenses: they are in fact obviously, as has been said before in this Council, jacks of all trades, and they do indeed get a lot put on them in this respect, as hon. Members will have realized in the debate on graduated poll tax.

The hon. Seconder and other hon. Members have tended to depict both the Provincial Administration and myself in a rather false light, if I may say so—as one Member put it—"exercising the veto"—which seemed to his mind to be rather connecting us as a lot of little Molotovs sabotaging the United Nations.

[The Minister for African Affairs]

Well, I never had the opportunity of sabotaging the United Nations, Sir; but we certainly do not perpetuate sabotage in the Administration. This, needless to say, Sir, is a very false impression, although on occasion, as hon. Members know, we do ask for greater consideration to be given to particular problems that arise in the African areas and indeed in other areas as well, where we think that a particular African background has perhaps been given insufficient consideration, either in relation to a technical problem or perhaps, shall we say, even in relation to a county council by-law.

The hon. Member described my Ministry repeatedly as "amorphous", a word several other speakers also used, and I certainly can see that it may be in the minds of hon. Members opposite. There is a certain amount of truth in this, but it is any more amorphous than many other ministries in many other countries? Let us say the Secretary of State for Scotland.

The hon. Members will appreciate that my colleague does feel strongly on this point, particularly in the House of Commons when Scottish affairs are debated: with the stubborn persistence that members of that tribe have there is a tendency for the rest of the House to walk out. Unfortunately, Sir, I do not seem to suffer that fate here, otherwise my task might be easier! But it is certainly true, joking apart, that the relationship between my Ministry and other Ministries does frequently demand a high degree of tact and understanding in pressing for consideration of certain aspects of certain problems which we do on occasion; but I do assure this Council that I believe it really works very satisfactorily. There are certainly, I think, no grounds at all for using the word "amorphous" in any derogatory sense nor, if I may say so, are there any grounds for trying to create the flimsy of imagination that the words "African Affairs" in relation to my Ministry can be in any way offensive to the ordinary citizen, as has been alleged, even though the hon. Member did try to suggest that this name was rather like having a ministry for fish: I may say, Sir, that I do not doubt the piscatorial ability of district commissioners—or even myself—in fishing in troubled waters, but I do reject

any suggestion that Africans and fish may in any way be confused in the minds of this Government.

Hon. Members seem to suffer from a constant string of fears and suspicions that really must, I think cloud their outlook to a disastrous extent. I would also like to dispel the suggestion by the hon. Member that the predominant thought in my Ministry is that the Kikuyu are all bad or, as he expressed it—perhaps fatally—"naughty boys". I have, as I think this Council well knows, consistently praised and expressed my admiration, both in this Council and outside it, for the Kikuyu who fought against *Mau Mau*. There can be no doubt about it, and equally I think there can be no doubt in the minds of any one that no Ministry of this Government, certainly not the Ministry for African Affairs, could possibly feel that *Mau Mau* or those associated with it, was anything but bad. Nevertheless, we have always been careful and insistent on drawing the distinction between the two groups among the Kikuyu people.

As regards tribalism, Sir, on which much has been said, I must insist that there is really no logic at all in the suggestion that my Ministry encourages tribalism, but we must be realistic in recognizing that tribalism does exist and indeed it is far too strong to ignore. I do wish to emphasize, Sir, that it is a belief—I should think shared by most hon. Members in this Council—that it is only by the development of a common system of Government in general throughout the tribal areas that the tribes themselves grow together in a common interest and development over the years. It is one of the main objects of my Ministry to ensure that this process should proceed in a reasonable manner.

With regard to the approach of district commissioners in this matter, which was mentioned, I do agree that it is inherent in the qualities of a good district commissioner that he should be a partisan to the tribe for which he happens to be working. I see nothing particularly sinister or evil in that, Sir, but of course it is necessary for the Provincial Commissioner and for the Chief Native Commissioner on occasion to provide correctives where this attitude may on occasion go too far, but it is certainly

[The Minister for African Affairs]

not contrary to the interests of the people for which they work.

Various hon. Members have touched on the urban African and suggested that bringing tribal customs into urban life was out of place. I do again ask hon. Members to be realistic in recognizing that the establishment of various tribal associations, such as are well known to hon. Members, the Luo Association and the Akamba Association, and various others: one could even mention the Northumberland Association and other associations in Nairobi. These institutions have grown up among the people themselves and at the initiative of the people themselves. They are certainly nothing to do with the activities or the functions of my Ministry, which certain hon. Members have alleged. I make this point, Sir, to try to clear up the type of distortion that has crept into this debate. I agree, as hon. Members have mentioned also, that we are trying on an experimental basis to use chiefs, supported by tribal police, in various townships, and, in Nairobi notably. This has proceeded with some success, I believe, although it has been rather misrepresented. It is possible that the name "chief" is a misnomer and they should perhaps be wardens or perhaps I could think of some better term, which I have so far failed to do, and the word chief has certain connotations to the African which are rather more easily understandable. Their main function, Sir, is to assist and to guide the problems of the rural African coming into the towns to seek work as well as to assist in controlling the difficult problems of adjustment for these people who come into the urban areas. The position of the chief is obviously not the same as it is in their own districts where they play a rather different part in the tribal system and the tribal set-up, but they do nevertheless play a considerable part in conveying and explaining Government policy, and indeed in giving us advice on African problems in the town. I hope I have stressed the fact that their functions are experimental, and I do not quite know, am not quite able to foresee at present, how this development will proceed in the years with the changing times, but at the moment I do main-

tain that they play a very important part in the Government machine and also in support of African-local-authorities in Nairobi and Mombasa.

To go on, Sir, I have in the past discussed the all too familiar theme of the hon. Member concerning what he is pleased to depict as the denigration of chiefs. This seems also his familiar hobby horse, which appears to be shared by the hon. Member for Nairobi Area. In closer administration they all seem to be determined to read some sinister motive of Government policy. I would say this, Sir, that there is certainly nothing sinister unless the hon. Members consider it in any way sinister to take steps to strengthen the Government machinery on the ground, which is precisely what this form of administration is designed to do, not only to strengthen for control but to strengthen for development purposes, the control of development schemes and the development and handling thereof. I have mentioned this before but there is certainly nothing sinister in that. I do agree, also, on occasion, when one considers the political developments, the type of thing that has to be countered by chiefs, headmen and Government officers on the ground, which have become all too familiar in the reports I have received of various political meetings in the districts, of which I can only say that all too often the theme is one of misrepresentation, distortion and calumny of Government and its officers. This type of thing, Sir, is certainly one of the functions of closer administration to try to counter and it will continue to do so and I must be successful, because it is an extremely important element in the work of chiefs and headmen to provide leadership among their people for that type of activity, which I deplore.

The hon. Member, again having a go at chiefs and their denigration, tried to depict them as having been relegated to the post of tribal *askaris*. Well, Sir, this is completely and utterly untrue and a total misrepresentation. The Government still attaches the greatest importance to chiefs and to their views and the work they do in conveying Government policy to their people, and also in conveying the views of their people and problems to Government. They are an integral and indispensable part of our

[The Minister for African Affairs] system. We have covered their position repeatedly in this Council, Sir, and I do not propose to take this theme further, as hon. Members well know what Government policy is in this matter.

One hon. Member also raised the question of district teams and said why were not chiefs represented on district teams. I think perhaps he has misunderstood the constitution and functions of the teams, which are to bring the heads of the departments of Government in a district together into a team under the chairmanship of the district commissioner: that is their function, so that Government policy can be thrashed out and co-ordinated. The views of chiefs have naturally been sought on occasion but I see no reason to suggest they should be represented on a team of that sort, although in their own areas similar teams at a lower level are also brought together and generally with a chief in the team. There is certainly absolutely no reason for any hon. Member to suggest that Government belittles the chief or that their position in the eyes of their own people is any the less. I do appreciate that this appears to be a seed that certain hon. Members opposite are anxious to plant in the minds of their constituents. All I can say is that I hope they do not sprout.

One hon. Member professed not to understand why a letter concerning an educational loan was signed by an official in my Ministry. Well, Sir, I think this probably was so, although it is not quite clear to which letter he referred. It would, however, be quite clearly because as Chief Native Commissioner I am Chairman of the Committee which allocates bursaries for higher African education. On that Committee there are a number of representatives of the Education Department, educational interests and African representation. It is a wide and experienced Committee, but I happen to be Chairman of it, and that is why this letter would have been so signed. This is the type of thing hon. Members do not seem to understand my Ministry is connected with.

Many hon. Members, including the last speaker, have commented on local government and the African district councils, and the position of the Admini-

stration with regard to them. I would like to remind him and other hon. Members that African district councils or local native councils as they were originally called, were started long before there was a Minister for Local Government in this country. They were started, Sir, and have been developed ever since by the guidance and the wise and firm handling of the district commissioners, who have developed this form of local government and the representation on it. As hon. Members know, I think, in all African district councils in this country there is an elected majority. It is entirely due to these Government officers on the ground and their devotion to the cause of the people they administer that these bodies have grown up and grown to the position of strength that they are now in. They are constantly developing, Sir, and as I have said and my hon. friend the Minister for Local Government has said in this Council, it is our policy to appoint African presidents for these councils where possible, when that particular stage of development has been reached. But even now, Sir, there are African vice-presidents who are frequently left in the chair and conduct the business themselves in the absence of the president. As has been said in this Council, we have still a long way to go in training the staffs on these councils. As anyone who is familiar with local government knows, the whole performance of a particular local government is very much related to the training and the soundness of its staff.

Various executive officers—as I am sure hon. Members on the other side of Council are familiar with the Nairobi City Council are aware—could perhaps receive instruction.

Co-operative societies were also picked on. One hon. Member could not understand why that should be under my Ministry. Well, Sir, the Co-operative Societies Department is a complete departmental entity which works in very close co-operation with the Administration and with the Agricultural Department on the ground, and the Registrar himself happens to be an experienced administrative officer. That is the reason, Sir, why they started under the umbrella of my Ministry and why they are still there. I do not in any way wish to suggest that this will continue in the future, or

[The Minister for African Affairs] with the changing circumstances in some future reshuffle among the portfolios that this particular thing may not go elsewhere.

The hon. Member for Akamba launched a not very clear diatribe on the subject of appeals from African courts. I was not very clear how this really was relevant to the subject of the abolition of my Ministry; nevertheless it is a fairly long subject and I do not propose to go into any great detail on the province of the African Courts Ordinance, but there is—as he should know and could well read up—a thing called the Court of Review, with a gentleman of some legal experience and considerable prestige in the legal profession as chairman of it. I am represented on it, but there is certainly an avenue of appeal, which he seems to be unaware of.

I do not feel, Sir, that I can go on struggling with the points that the hon. Member for the Coast Province brings up fairly frequently—the judicial functions of the Administration. All I can say is, Sir, as has been said repeatedly in the past, that it is necessary for it to be equipped with these powers, and we cannot have resident magistrates dotted about this country, particularly in some of the remote areas. It would be much too expensive, and it is the intention of Government to continue with this for—I should think—a long time; so I trust that he will perhaps grow accustomed to the idea.

The hon. Member for the Nairobi Area, Sir, when speaking last week, delved into—as he did again to-day—what he described as history, and by deft implication suggested that Government maintained my Ministry through some curious motive operating against the true interests of the African. In an endeavour to link this as he did to-day, to the absence of similar Ministries in Uganda and Tanganyika—well I must say this, Sir—that if he was familiar with the Governments of those territories he would find that almost precisely similar Ministries do exist there. I agree they are called the Ministries of Local Government, but their functions are the same, and the functions of the heads of the Ministries are virtually the same as my functions here. There may of course

be minor differences between the three territories, but I do submit that conditions are different in these three territories, and that Kenya is in many ways a long way ahead in economic development and the background to government, and indeed in constitutional development. If there are minor differences, there is a very good reason for them.

Sir, I would like here to repudiate the hon. Member for the Nairobi Area's attack on race relations in the Central African Federation. I had the great pleasure of spending the month of July touring round Nyasaland and in both Rhodesias, and I can only say that among the large number of people I met and the large number of places I went to, and the close study I gave to these problems, his assertions are totally untrue. I must press that in my view, the hon. Member's argument in this respect to my Ministry and its name, on the ground of Kenya being different from these other places, does really fall to the ground. Even though he has created round this point a sort of web of legal argument, which in the light of rigid test has been "what is in a name", this cannot be regarded as very logical.

As a debating point the hon. Member also created for himself the idea that the only argument for the retention of my Ministry from the Government point of view, is that the district officer is the only protection the people have in backward areas. I do suggest, Sir, that this is an over-simplification, and it cannot be accepted. The hon. Member when speaking to-day, Sir, seemed to have a very hairy idea of the machinery of Government, and he again was creating for himself curious figments of his imagination—puppets which I think he creates in his mind and then persuades himself, and persuades us, that they are real. To-day it was a third-class citizen and the rest, which really, Sir, is a completely false misrepresentation. As I say, I think it is a figment of his imagination.

I think I have really dealt with most of the points made by hon. Members. As I have said, we seem to have ranged far and wide over many hobby horses during this debate, but hon. Members will have noted, Sir, that the Chief Secretary gave clear and cogent reasons

[The Minister for African Affairs.] Why Government cannot accept this Motion, I would then urge the hon. Mover not to press this matter for purely political reasons, which, Sir, I do suggest seems to be the case. Hon. Members have expressed their various views; they have touched on a very wide range of points, political and otherwise, and I feel that while at the appropriate time it might be desirable to consider changing the name of my Ministry to reflect changing responsibilities—in a changing time and changing constitution—but there is absolutely no sort of case, contrary to the hon. Member for Nairobi Area's suggestion—no sort of case and no legal grounds whatever for pressing for its abolition.

In the machinery of Government, Sir, the volume of practical work and the wide range of duties and responsibilities carried by a Ministry such as mine cannot be just erased by a stroke of the pen, as they seem to think. Nor would this be possible in the interests of the African people themselves. I therefore, Sir, would finally urge once more the hon. Mover and the hon. Seconder and those who supported them to reconsider the desirability of pressing this Motion for the abolition of my Ministry, and I do, Sir, ask them to resist if they can the temptation to besmirch the issue by the myopia of a political manoeuvre.

I beg to oppose.

3.54 p.m.

MR. MULIRO: Mr. Speaker, Sir, as Thursday afternoon is a very good day for mental gymnastics, I am not going to deal very much with this point, but I will have to draw certain conclusions or make certain answers to the allegations or the speeches of certain Members before I consider moving another Motion again, Mr. Speaker.

I am not going to answer this in a very detailed form because whatever has been spoken by the Members across the Floor has been very adequately dealt with by my colleagues on this side.

The hon. Chief Secretary: I will say very little about him except give a little bit of advice to him—that a Government can learn a lot from the criticisms of its ardent opponents; more than from the eulogy of its ardent supporters. I think I will leave that, because the Chief Secre-

tary had a lot to say about his Provincial Administration and that is all I can tell him.

The next point I would deal with, Mr. Speaker, is the point raised by the hon. Nominated Member Mr. Wanyutu Waweru. This hon. Member, Mr. Speaker, has defeated me and his logic I cannot understand. He seems to have a certain disease, Mr. Speaker, and whenever he gets up in this Council he always talks of something which is very out of place. The hon. Member said that both the Mover and Seconder had been in this country, if I remember his exact words, only for three years, and he thinks we do not know therefore the evils of this Ministry or the evils of being regarded as a department of State. Mr. Speaker, anyone alleging as the hon. Member has done is deceiving himself. I am 36 years old and my hon. colleague is very near that, too. All these years we have lived in Kenya, Mr. Speaker. We have been out of it for some four and six years respectively, and therefore most of our time has been spent in this country and we know the disabilities under which our people are labouring. Furthermore, as elected representatives of our people we are far more in touch with the problems of the Africans than the hon. Member seems to think.

The hon. Member seems to be very worried about this Ministry. He feels that if it goes then everything will go wrong. I think that is a very serious misconception, because everywhere where there is success we do not always find a Ministry for African Affairs, and therefore this Ministry's going in fact will change nothing at all. So the hon. Assistant Minister of Labour and Lands should not worry very much about that.

The next point, Mr. Speaker, which I would like to deal with—or the next person—is the hon. Minister for African Affairs, who spoke for a long time saying that he is directly affected by this Ministry, and the main move is that we want to give him a good farewell by abolishing the Ministry. Now, before I start with the Ministry I would like only to draw the attention of the Council as far as dealing with Africans is concerned to what went on at Mombasa on Sunday. There we had very many chiefs—about five African chiefs—in Mombasa. We had a provincial commissioner there and

[Mr. Muliro]—a district commissioner, with the police.

MR. HARRIS: Mr. Speaker, on a point of order, is not what happened at Mombasa on Sunday entirely a new matter in this debate to which the hon. Member is replying?

THE SPEAKER (Sir Ferdinand Caven-dish-Bentick): I think the hon. Member is moving rather outside the terms of this debate and his reply also to this matter to some extent *sub judice*.

MR. MULIRO: I think the hon. Member should have left me to conclude what I was going to say before he jumped on his feet to say what he did.

THE SPEAKER (Sir Ferdinand Caven-dish-Bentick): I have said it now.

MR. MULIRO: Many other chiefs have been a failure as far as the State is concerned, but I am thankful that the who's station was put under control by my two colleagues on this side. That is what I want to draw the attention of the Minister for African Affairs to, Mr. Speaker, without talking very much about what the hon. Member objected to.

One point that is very important—in dealing with the Minister for African Affairs' speech—is that he said that the district commissioner in most cases deals with all the problems of the district. He co-ordinates everything in the district, as the Chief Secretary has said. The problem is that sometimes one finds that a district wants someone specializing in commerce and industry, but the district commissioner, however, ignorant, he might be—and not all of them are ignorant, they are very competent, but they are not competent in every field at all. But what I find is that they are given responsibilities—say in charge of commerce and industry—and the people contended with that answer from the district commissioner. Now I think those specialized departments require people who are specialized in that.

The Minister again was worried about our criticism saying that the African group in this country is regarded as a department of State; he thinks that is a figment of our own imagination. Mr. Speaker, it is not a figment of our

imagination at all. It is very, very true that many things are applied to Africans which are not applied to other people. The other day when the hon. Minister for Legal Affairs was quoting he said the laws are not discriminatory. I have a list of laws—about ten of them—here, Mr. Speaker, which concern communal labour, tribal police, chiefs and many like that which are discriminatory. They discriminate against the African, but they always say that discrimination is not in the best interests of the African. Discrimination is discrimination and is never in the best interests of anybody at all.

Another point which I want to clarify again as far as the Minister for African Affairs is concerned—he has been saying now Mr. Speaker that we said very much; we were bad people and the Minister was saying that. I do not think the hon. Member—and particularly myself, too, in my debate during last Thursday—I said in the past that the Wakikuyu have been regarded as bad boys, but the Luo were the good boys; I said that, Mr. Speaker, and I still repeat it, that the resentments are actually there. The Minister cannot cancel them. The Ministry tries to play on tribal emotions; and not to go very far back, you will find that the so-called current Kikuyu seats represent tribalism.

MR. HARRIS: Like blazers and beads!

MR. MULIRO: We accuse the Ministry for tribalism; and that is very true, Mr. Speaker, again, because we have known of various divisions in the districts where tribal elements have been actually played upon by some officials of the Ministry. I can quote an example in my own district. It was divided into two districts by playing on the emotions of the tribal sentiments.

Another point I would like to raise is about close administration. The Minister feels that we are hammering too much on close administration. However, I will give him this advice, that the Government can learn from our experience that close administration definitely is not all that we look for. In close administration, Mr. Speaker, one finds that definitely no European can understand it—only put yourself in the boots of the African and



[Mr. Muliro] you will understand it better. I have known of cases where I have been stopped by the district commissioner from holding meetings in the location which I come from. Now, that is so and it is a fact—it is due to close administration. Some time back, Mr. Speaker, you heard that I complained about it to the police about some people there—that is the effect of close administration.

It may be nonsense—the hon. Member may say it is nonsense. That, Mr. Speaker, is our fear about that, and the hon. Minister also has said that due to political development, the African Members probably try to distort the political picture of this country when addressing their areas. But I think, Mr. Speaker, we are very, very honest indeed, and the Government cannot challenge us on this. If the C.L.D. and Special Branch Officers are always there at our meetings and they find that we are undermining the Government somehow, let them file the case and we shall be able to be prosecuted in a court of law and not accuse us of an offence. African Members would be the last people to think of unrest in African areas. The African Members are deeply interested in the development of the African areas as such. We want peaceful progress, but where we become very critical is where we find the Administration is actually going out of place. The Administration is being too much for the African in the areas to stomach.

One point which is very, very clear is that some young district assistants at times—this is where the hon. Minister for African Affairs says that I am harping on my old harp of the district commissioners, district assistants and chiefs having no powers: that is very true, but I only advise the hon. Minister to examine that. Since he is not black in skin, he can never realize it. I know of an old man in my constituency who is about 70, and this old man is being ordered by a young man of 18. I say a district assistant is a district assistant, whether European or not—he can be black or brown or white. But these young people usually are ordering old men, and it is a headache to an old man. There was one here yesterday—if he had been here now, I would have shown him to the hon. Members to-day.

Now, that is one of these headaches, that the Administration—and I have a very high regard for it, I have thanked the Minister for what he has done, and what this Ministry has done in the past; but the most I have asked and others with me, what we have asked, and are pressing for still, is that this Ministry has outlived its purpose and usefulness—no more than that. The Minister has just said that the ministries in Uganda, Tanganyika, are being worked very much the same, but the Minister forgets that in Uganda and Tanganyika too, the work of the provincial administration is being carried on by local government administration. Now, here we want to save some money, Mr. Speaker. Why have two people when we ought to have only one, Mr. Speaker? Also, the hon. Minister accused my hon. colleague about racialism in the Central African Federation, but that is a very clear case, Mr. Speaker; everybody in the world knows that. We need not kid ourselves that all is happy in Central Africa. The hon. Minister says he has been there during the month of July; but I think my hon. colleague was also at about the same time in Central Africa—whom shall we believe then? Or we should believe the story as narrated by both? That, Mr. Speaker, is for hon. Members to decide.

The hon. Minister also is very fond of this word "figment" of his own imagination—figment, always. Mr. Speaker, whenever he criticizes African Members on this side, particularly the hon. Member for Nairobi Area and myself—always he uses this word "figment" of our own imagination. I think the hon. Minister could have the same word applied to him.

The last point, Mr. Speaker, I would only say that as far as the sentiments of the Minister are concerned as to the changing of the name; that is all very well but that is not what we want, we do not want the name to be changed. The name can be changed and the functions remain the same. The name has been changed—it was known as Chief Native Commissioner—the chief commissioner of all the native commissioners. But the functions have remained the same. What we want is an entire abolition of the Ministry and the functions should be transferred to the Ministry of

[Mr. Muliro] Local Government. If that Ministry is amalgamated with the Ministry of Local Government, then the co-operative societies, a matter which ought to be in the hands of the Minister for Commerce and Industry, goes there; then provincial administration would go on, under the Ministry of Local Government because the matter of local government in this country demands that there should be no autocratic rulers above elected councils. At present, this Ministry is perpetuating local councils and African district councils with an autocratic ruler or the district commissioner; Mr. Speaker, this cannot conduce the growth of local government.

With these reservations, I beg to move that this Council being of the opinion the opinion that the Ministry of African Affairs has outlived its purpose and usefulness recommends its immediate abolition.

The question was put and negatived.

#### MOTION

#### GOVERNMENT AGRICULTURAL POLICY IN AFRICAN AREAS

MR. MULIRO: Mr. Speaker, Sir, it seems that this Council is not interested in agriculture at all—they are all ridding out.

SIR CHARLES MARKHAM: That is because of you!

MR. MULIRO: Mr. Speaker, I beg to move the Motion that this Council has no confidence in the present Government agricultural policy being pursued in the African areas.

After having had a bit of mental disturbance already, Mr. Speaker, now I do not think I will talk very long about this Motion—and I hope my hon. friend, the hon. Member for Uziambani, will talk quite a lot about it.

SIR CHARLES MARKHAM: My word!

MR. MULIRO: There are a few points, Mr. Speaker, that I have to raise on this policy of Government as far as agricultural policy is concerned in the African areas. The first point, Mr. Speaker, is that the principle itself of taking this Ministry, important as it is, into the hands of a racial representative is very, very dangerous to good agricultural policy in this country. The

Africans have from time to time opposed the fact that this Ministry should be in the hands of a person who is responsible to a racial group. The evils which we think at present, Mr. Speaker, are contained in this Ministry have very much taken fruit from this first premise.

I am making a plea to the Government that if the Government of this country is interested in better agriculture in this country, in a better policy which would be fully acceptable to the Africans to a very high degree or measure, there should be some African assistant directors of agriculture at provincial levels, who would be able to disseminate the ideas of new or latest agricultural developments to the African community. At present, where people who are engaged in this Ministry are mainly Europeans in high positions, and there are very few African agricultural officers—in fact, only one in charge of a station, we find that it is very, very difficult for Africans at least at present to see eye to eye with the demands of this Ministry. If there were African assistant directors of agriculture at provincial levels, Mr. Speaker, I think these people would explain to the African communities very much better than even if they could see the assistant director of agriculture, who is a European probably imported from the head office here to the Nyanza Province or the Coast Province, trying to preach land consolidation to people who do not understand it.

Whereas if we could find people who are from the areas, the people who have their own land to consolidate and give examples, those people would be very much better than the present assistant directors of agriculture. I do not want to talk very much about that as I am going to advance my arguments later on under land consolidation.

The provincial and district agricultural teams should be heavily weighted with the Africans, so that the Africans definitely understand the policy of the Agricultural Department and its aims and objects. Therefore, when they are expounding their latest theories, as they are, to their people, they will be put into proper perspective, by the African in the languages which they themselves understand. Without that, I do not think it would be possible.

[Mr. Muliro]

Another point I would like to raise on this Motion again is that of land consolidation. Here I have to say—to my great disappointment—that the hon. Minister for Education, Education and Lands, is not here, because he seems to be mistaking my own stand as far as land consolidation is concerned. This has been accepted in principle by all African Elected Members, but we have expressed certain fears; and these fears should be reckoned upon, and not dismissed summarily and very easily as they are being dismissed. That is all I can say about the principle.

But as far as land consolidation is concerned, we have said that there should be no direct or indirect forcing the people to consolidate their land. However good the change may be, the people must have a changed attitude towards that change. If they are well disposed towards the change, it will be possible, Mr. Speaker, to change their minds; but if they are opposed to the change, it will be very difficult to bring about that change. I know there are indirect methods where some administrators probably or agricultural instructors, very eager, wanting to get promotion, Mr. Speaker, use certain language, probably, say in the Central Province, they will say: "If you don't consolidate your land, you're *Mau Mau*". Everybody is so afraid of the words "*Mau Mau*", Mr. Speaker, and will go out and consolidate his land.

SIR CHARLES MARKHAM: Mr. Speaker, on a point of order, the hon. Member has alleged that agricultural officers, if the person will not co-operate, accuse him of being *Mau Mau*. Would he like to substantiate that remark?

THE SPEAKER (Sir Ferdinand Cavenish-Bentick): I did not hear the hon. Member making a definite allegation. He was making allegations in somewhat general terms and which are not so far out of order.

MR. MULIRO: Mr. Speaker, I never made a definite statement that people in the Central Province are being told: "You are *Mau Mau* unless you consolidate your land". Thank you very much, Mr. Speaker, for your ruling.

I was only drawing the attention of the Minister and the Director of Agri-

culture, and the Council to the fact that such indirect moves like that, for instance, say, in my own locality, people are very afraid of the word *Msammbwa* that notorious *Msammbwa* now if someone is told: "If you don't consolidate your land, then you belong to the *Jini ya Msammbwa*, then he is very worried". That is all I was saying, Mr. Speaker; I was not making allegations that they were being told like that.

Another point, Mr. Speaker, that I want to raise under this land consolidation is this case of the Central Province, and I believe that the hon. advocate of land consolidation is across listening to me. The hon. Member in this Council is very specialised in that talk: "Everything in the Central Province is all right—in the Central Province"—but what we have said is only that we do not oppose what is being done in the Central Province. What we say is that as far as the Central Province is concerned, it should never be taken as a classical example of land consolidation, because the situation in the Central Province is not a normal situation. The Central Province case is more that of the Emergency, and under the State of Emergency, these things have been introduced in the Central Province. Therefore, any person talking of land consolidation from the Department of Agriculture, or any Government officer should not so much go on quoting this case of Central Province. This is only a second year probably in our land consolidation; but, Mr. Speaker, let us wait for another five or six years before we can take such a stride; let us take time, and let the Emergency be completely over, then we shall know exactly where the fruits are coming from.

The hon. Member might have a piece of land himself which he has, because of his status probably, that he has been able to buy. An hon. Member of that category can invite hon. Members of this Council to go and look at his farm; but I would never, Mr. Speaker, accept an invitation from the same hon. Member. If an ordinary man in Klambu District, or Fort Hall or Nyeri came to me and said: "Look, come and see what I have done with land consolidation in my area, and see the benefits I am getting out of this land consolidation", I should be too willing to see the efforts of this poor

[Mr. Muliro]

man, struggling on to be rich, but not someone who is financially well off who can do whatever he likes with his money and say: "Oh, come and have a look at my farm"—well, you have the money to improve that. And that was the exact example I was going on.

I oppose land consolidation not in principle, but as I have said the follow up of land consolidation is very much more important.

Another point I would like to raise under this, Mr. Speaker, is that of contours which are very, very predominant in agricultural policy at present. This is a headache particularly in my own constituency. People with very small pieces of land are told to fragment it with contours to such a degree that it is actually impossible for them to plough that land. They are so close together—I will give way to the hon. Minister.

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): I rise just to make sure that the hon. Member uses the right word. Mr. Speaker, he said that people in his area were told to fragment their land to such a small degree—did he mean the word fragment, or consolidate?

MR. MULIRO: I mean fragmenting the land, Mr. Speaker, with contours. When one has a small piece of land, he is told to terrace his land in such a way that the terraces are too close to each other so that it is even impossible to plough, and many people in my constituency have been fined on that. Now, these terraces are known as *Oyo* methods, others are called *Fanya* methods. Now, this terminology is very characteristic in North Nyanza. These methods have made the people poorer than they were, Mr. Speaker, they are being told that unless they have finished the contours or terraces of land, they cannot plant. They have told the people that, Now, when a person is stopped from planting the crop that he is going to eat, what is he expected to eat? When a person is told that unless he finishes these terraces—very deep—about three feet deep, and those have to be dug, Mr. Speaker, within a fortnight. If they are not finished within a fortnight, he is sent to the tribunal, and is fined about Sh. 50.

Then they go on again—if they come back after a fortnight, and one has not finished the contours, one will be taken to the tribunal again, and will be fined furthermore.

Now if, Mr. Speaker, they have stopped a man from planting the crops from which he will get money, is this man going to be able to pay the fine? I think men like that will be going to jail straightaway.

There is another point, Mr. Speaker, that I should like to raise: it is that of irrigation schemes, and dam construction. I have already said in this Council, Mr. Speaker, that as far as irrigation schemes and dam construction are concerned, the more dry areas, the areas with far less rainfall, should be the main areas where the Government should direct its efforts, very, very strongly as far as dam construction and irrigation schemes are concerned. I think it is a very big mistake which the Government is trying to make in insisting in the areas of high potential. Mr. Speaker, I feel that the future of this country depends very much on the general wealth of the country. If we are to attain general wealth in this country, we should direct the money we have got in constructing dams and providing irrigation schemes in those areas where they are absolutely necessary. This I have always said in the past that there are drier provinces, like the Coast Province, like the Northern Frontier Province, and the Southern Province. Now, these areas are very badly in need of water, and as such, they require irrigation schemes.

Mr. Speaker, I would also raise on this Motion a few points regarding animal husbandry—it seems they are under the same Ministry of Agriculture. One very characteristic policy of this Ministry at present is destocking in African areas.

This destocking in some parts is accepted by the Africans, and in others it is not. The practice as such, Mr. Speaker, is not what I object to—I do not say that the Africans should not destock their cattle. But what I say is that they should never be forced to sell whatever *ngombes* they are told to sell. They should get rid of probably the lean ones which are not having enough value to sell and not to drive so many by force to destock. The idea which is

[Mr. Muliro] very predominant is that if an African has got five cattle replaced by one European cattle, it is all right. But the Minister must bear in mind that the Africans are at different stages and levels of development. I would probably, Mr. Speaker, understand it, that having one good cow is very much better than having five or six lean ones which are not giving milk. I understand that very well, and I think all Africans of sense do understand that, and I assure you, Mr. Speaker, there are very many Africans and these old people are probably in cans with good sense.

But one finds that they are old people, and these old people are probably in some more backward areas who are forced to sell their stock; they say: "Oh! *Mzungu* has just taken my cattle, leaving me only five"—that is too bad. And they become disappointed like that. I think a few accept that principle should go on, and if they do it, others will look to them as an example. If one has spent all on his grazing land, another will see what he has done, and how good his cattle are looking; then others probably will follow. The African learns more by example than by being forced to do something by sheer force.

Another point, Mr. Speaker, is that the African in some areas who wants to fence his land for the purposes of cattle ranching should be allowed to do that. If I am mistaken on this, I think in the reply the Minister for Agriculture will tell me.

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): I will tell you now, you are.

MR. MULIRO: There are many Africans who want to carry on cattle ranching as a definite undertaking who are told: "Look, you should go on to mixed farming". That will be given to me in the reply by the hon. Minister.

A point I would like to raise again is on loans. I have said, Sir, that irrigation schemes and dam constructions should be mainly in areas with less rain. Now I am going to advance the theory that the African in the areas of high agricultural potential should be given more magnanimous loans and for longer periods. Mr. Speaker, than at present.

The policy at present varies from three years to five years; but I think these loans on such a short-term basis are not very beneficial. Within five years, if one has borrowed, say Sh. 3,000, one has hardly achieved anything. I will give an example of a man probably in Embu or Meru or Elgon Nyanza or Kisii who is planting coffee. Now this coffee man, who gets probably Sh. 2,000 from the Government to plant coffee, will find that within five years he will probably only have harvested twice or once; and at the beginning the yield is not very high in coffee.

Therefore I think if people like that could be given loans of, say, Sh. 5,000 upwards for ten years or more the African would be very, very highly appreciative.

LT.-COL. GHERSIE: So would I!

MR. MULIRO: The hon. Member is right, talking on this side and shouting like that so clearly. Most of them are not even farmers at all, Mr. Speaker. If they all cheer me like that, Mr. Speaker, I think this Motion is going to be much better than the first one, and hon. Members will talk about it much more.

So, Mr. Speaker, I feel very strongly that these loans should be for longer periods than at present because, as far as the present loans are concerned, I regard them as sort of business on the part of the Government. The Government, in getting loans from overseas, gets loans on a very long-term basis, but when it loans out in this country to the African farmer it is on a very short-term basis. They require interest, so if one borrows, say Sh. 2,000, with an average interest of about 4 per cent per annum the farmer will be required to pay a lot of money in return after five years. That, Mr. Speaker, is what the African is looking for, that this Ministry should be improved as far as loans are concerned to the African farmers.

Another point I would like to raise in this Motion again is the money which was known in the past as the Agricultural Development Fund. This money in the past was given to the African farmers, for instance, in my own area who were known as good farmers. It was with this

[Mr. Muliro] will find, Mr. Speaker, I have no doubts about that anywhere as in Coast Province.

Then there is the money which is known under the name of the hon. Director of Agriculture as Swynnerton money. Now, again this has been incorporated in ALDEV. This money, Mr. Speaker, is going exactly in the same way in which the other money went, in most cases. Well, if the Government has not been warned of this before, I am warning them that the money has done no useful purpose. The Minister for Agriculture will get up and say: "We have so many men in the field". Well, that is very easy to say, and it is so good to say. Mr. Speaker, that without good teachers you cannot have children well educated. But I have also to say that without children whose stomachs are satisfied the teacher can be useless. You can have the most brilliant teacher in the classroom, teaching the children, and then these children will be yawning all the time and will be doing nothing at all. I think that is what is happening in the African areas. More money is being wasted on such and such.

Another point I would like to raise in this Motion is concerned with schemes, Mr. Speaker. The Africans are baffled with agricultural schemes. They do not know where they are getting at. There was money some time back which was obtained from the Colonial Development and Welfare Corporation, passed under the Colonial Development Act of 1944 or 1945 or something like that. That money was known as the African Land Utilisation Board. The African feels that up to now that money has probably never achieved the purpose which the Colonial Office had in mind because what was in the mind of the Colonial Office, according to the short-sightedness of the Africans, was to improve African agriculture in African areas, to carry out schemes, elaborate as they were, for irrigation, dam construction and all those things. Now we do not see anything. Even in my own area we have hardly any dams at all except for one or two which the African district council constructed.

THE MINISTER FOR AGRICULTURE (Mr. Blundell): Would the hon Member give way?

Mr. Speaker, I understood the hon. Member to say earlier that he did not think we should put dams in areas of high rainfall. Is not the hon. Member's area a high rainfall area?

MR. MULIRO: Mr. Speaker, I was only giving an example. And as my hon. colleagues are going to bear me out, you

will find, Mr. Speaker, I have no doubts about that anywhere as in Coast Province.

Then there is the money which is known under the name of the hon. Director of Agriculture as Swynnerton money. Now, again this has been incorporated in ALDEV. This money, Mr. Speaker, is going exactly in the same way in which the other money went, in most cases. Well, if the Government has not been warned of this before, I am warning them that the money has done no useful purpose. The Minister for Agriculture will get up and say: "We have so many men in the field". Well, that is very easy to say, and it is so good to say. Mr. Speaker, that without good teachers you cannot have children well educated. But I have also to say that without children whose stomachs are satisfied the teacher can be useless. You can have the most brilliant teacher in the classroom, teaching the children, and then these children will be yawning all the time and will be doing nothing at all. I think that is what is happening in the African areas. More money is being wasted on such and such.

It is buying Land-Rovers, building good houses, giving good salaries to officers, and that is agriculture in the African areas. We are told by the Government that we have so many dam construction units, we have so many irrigation schemes going on, we have so many officers for farm planning, also for land consolidation, they are getting so much money, they are having so many Land-Rovers; that is the explanation the Government is always giving us, Mr. Speaker.

Yet I think that Land-Rovers, officers, good houses and good salaries are never going to make this country rich. The money should be given to the farmers, both European and African. Let them put it in the soil and then it will produce. Money given in the form of salary for one individual or used to buy a Land-Rover for one person only, you will find it is a waste. But if the money which is used to buy the one new Land-Rover could be given to, say, three African families, each one getting Sh. 6,000 for ten years, would not that money produce far more money than buying one Land-Rover for Sh. 18,000.

[Mr. Muliro]

I think we have enough officers in the field already; there are too many of them. The Africans are confused; you do not know who is an Agriculture officer of the Government, whether he is a district assistant, whether he is a chief, whether he is an agricultural instructor or an agricultural officer. The staff on the African side at present is too much and in fact they are making Africans too busy for nothing.

Well, if this country, and the Government of this country, is going to deceive itself always that when we make the people very busy, employing all this staff in African agricultural pursuits we are going to get anywhere, they will find that we are not going to get anywhere. I am very, very serious on this point because I have seen it in my own area; people are highly confused because of the policy of this Department.

Another point I would like to drive very much home to the Government is on the growing of cash crops. We all realize that at present the needs of Kenya in getting the money for various social services require money and this money, Mr. Speaker, as I have said before, requires hard work. I have told Africans in my own constituency, throughout my tour, that they must be prepared to work hard. They must be prepared to sweat—I told them that, Mr. Speaker. But they cannot sweat over nothing. At present the main issue is that they are sweating over nothing. That is what is wrong.

MR. SWINERTON: Mr. Speaker, Sir, did the hon. Member not say just now that the Africans were made to be too busy? Is he not contradicting what he said just now, Sir?

MR. MULIRO: Mr. Speaker, I think that the hon. Director of Agriculture is mixed up in his own mind. I was saying that the African should be busy for something, not for nothing. I have said that they are at present being busy for nothing, but I would like them to be busy for something.

AN HON. MEMBER: You are being busy for nothing!

MR. MULIRO: Mr. Speaker, I think my being busy this afternoon on this side probably might drive some sense in the

hon. Minister, seeing that he has got to go to my constituency soon to see more of my problems probably than he has ever seen before. Cash crops, Mr. Speaker, are what the people are looking for and yesterday, the hon. Minister will bear me out, I supported him on that Bill on the canning industry.

Now, I want the Africans to grow cash crops like pine-apples, coffee, tea, sisal, cotton and other allied crops. They should be given money to put in the ground for all these particular cash crops so that Kenya will be able to get some revenue. I have known, particularly in Elgon Nyanza, where coffee is being grown, and in North Nyanza also at present. But the acreage is very small. They have told the Africans: "You can plant so much and no more than that." I have known of some very competent farmers who have proved to me that they are actually good farmers, and they are looking after the crops which they have got at present very, very well. Now, I feel people like that should be given the right to increase the acreage, because without more cash crops I think a very big danger will arise in future where the African development and the general progress of this country will be very stultified.

The European Members in this Council have said many a time that the African is living on the European and that the African is producing nothing. Now, I am giving a challenge to the Government to let the African do something for his country. The African must contribute very greatly, as a large community in this country, to the output of this country so that we can get riches.

So the ideas of this Ministry on the limitation of acreage as far as the growing of coffee and tea are concerned should be reviewed to some extent. I know this problem is very, very acute, particularly in North Nyanza. Mr. Speaker, where some locations like Maragoli and others are very small and one has only two acres; and the problem which faces the district commissioner of the district and myself is that of greater productivity. We are worried how to increase the agricultural output of this district so that we can get the revenue necessary to maintain the services which at present we are maintaining. I am

[Mr. Muliro]

making a definite plea to the Government about that particular district because its separation from Elgon Nyanza has crippled it very greatly financially. And unless the Government is prepared to a very high degree to accept a more liberal policy in the growing of cash crops in North Nyanza I just look ahead and see dark clouds over the future of my people.

I have made this plea already to the hon. Minister for Agriculture outside this Council. I want to say this very freely again, what I have said in private, in public so that the Government will know exactly what my feelings are on this; that even someone who has got only two acres of land should be allowed to plant, say, 200 coffee plants.

Now, 200 coffee plants will cover roughly half an acre of land Mr. Speaker. Therefore, that will leave one and a half acres for other produce like maize, beans, cassava and potatoes. He can do that until his coffee is yielding something, so that when it is marketable he can now, after that, try to increase the acreage. I know the fears of the Agricultural Department and these fears are very well accommodated in the heart of the district commissioner and myself. We know that coffee diseases are never determined until at least the coffee in that particular area has been harvested some seven or eight years. But, Mr. Speaker, the only plea I am making is not that the whole land should be under coffee cultivation but that a good bit, say, of an acre or half an acre; if someone has two acres, should be under cultivation of coffee so that even if the disease comes in in some year or other, he will definitely have something to fall back upon. I know this can come, Mr. Speaker, because the missionaries' coffee at Kakamega dried up and we saw that; that is very much alive in our minds, Mr. Speaker.

With those few points, Mr. Speaker, I beg to move this Motion and I hope the Minister for Agriculture and the Government will consider the Motion sympathetically. I beg to move.

4.36 p.m.

MR. MULIRO: Mr. Speaker, Sir, I beg to second the Motion, and in so doing I would like to say that much of what I

had to say has already been covered by the hon. Mover. However, I feel that I have a few points which I would like to bring forward.

I would like to abide very strictly by the terms of the Motion as tabled if I can; and that is that the African, especially does not feel confidence in the present policy of agriculture in the African areas.

As a teacher, I have always thought that the achievements of a teacher and his ability as such are judged by the results of examinations, by good passes shown by his students. Well, when we come to this question of agriculture, I am rather wondering whether the teachers of agriculture in this country are achieving as much as we see in a teacher in a classroom, in so far as African agriculture is concerned in the African areas. Well, again, anyone listening to the speeches made last week on the Governor's Speech would have had the impression that the policy of the Department is to concentrate all its efforts on areas of high potential and forget that in order to save this country we must also take a very keen interest in the other areas, in the areas of lower potential.

One would also be amazed by the way any development in these lower areas was summarily dismissed in the planning. Well, we do not want to have to deceive ourselves that "very much" is being done in these lower potential areas; and I believe that the Minister when he replies will tell me: "It is done in your own area; much money has been put into the construction of dams, in such things as bush clearing, etc." But I would first of all like to deal with a question which is a very important one in regard to these lower potential areas, and that is the question of water. I think water is one of the biggest problems in this country, and more especially in the areas mentioned by the Mover, such as Ukamba, the Coast Province, the Northern Province and certain parts of the Rift Valley Province.

Now what is the policy of the Agricultural Department in providing water in these areas? Well, I must say I am grateful that an example is shown in assisting these people in these areas to

[Mr. Muimi] construct dams. But one would ask one's self, what purpose have these dams to serve? Well, it is very encouraging when the Minister for Agriculture receives a report from his officers-in-the-field, that they have constructed so many dams. In some cases, this year one district has constructed fifty dams, capable of holding so many millions of gallons of water. But then one wonders, when one goes to these dams to see all these millions of gallons of water, instead we find millions of bucketfuls of sand or earth.

Well, I do realise that a few of these dams do hold water for some part of the year, but in order that we may have water at all times in these areas, I fail to understand why the Agricultural Department or the Ministry should not, for example, provide a scheme whereby the water of the rivers of this country—the big rivers, and I have in mind particularly rivers like the Tana and the Athi—could be used and this water used for irrigation or pumped out from these rivers into the areas where water is required. But instead, I am surprised that money which could be used to pump out this water or use it for irrigation in these areas where it is required is spent, as the hon. Mover said, buying Land-Rovers for numerous agricultural officers, employing agricultural instructors, who have very little to do in the reserves. Well, instead of buying Land-Rovers and employing so many agricultural officers who not employ machinery to bring out water from these rivers?

Again it has been said that the sinking of boreholes sometimes results in drying up any under-surface water which may be in the land, and although I know an effort is made to provide boreholes, you find in a large area, where water is a big problem and especially I am referring to these dry areas, that one borehole serves an area, if I may say so, of not less than 10 square miles. But if you go to these so-called high potential areas, you find that for every one mile they have a borehole. Why not spend this money on the areas where water is required?

Again I would like to touch on the question of grazing areas which is very important in these areas I am referring to. Now what is happening is that the

people are told to clear the bush so that grass may grow, which is quite true. But instead, what they do is they go about cutting the bush, tearing down the big trees and in a few months the bush returns and then they go back again and clear it. And the process will go on indefinitely; until when, I do not know. Well, instead of this effort being wasted, why not spend such money as is available in providing machinery to uproot entirely the big trees and the bush and so have no more clearing from time to time? So, I think these are matters which the Minister should take into account.

Another point I would like to touch upon is the question which the hon. Mover has mentioned, and that is the question of terracing. I do not know the purpose of terracing, especially in the open country, which is done in most cases. If you go to a reserve you find that the people employed in such work as terracing are in most cases women and old men.

SIR CHARLES MARKHAM: What about your young girls?

MR. MUIMI: Well, I must tell the Minister that a discontented man, however keen he may be, will do the least that he could do if he were contented because the difficulty is that these people are, as I said the other day, forced to do this kind of work. They are doing it reluctantly and the result is that instead of having proper terracing they are just encouraging denudation, because as soon as the heavy rains come these terraces, which they have dug, are washed away. I have seen this with my own eyes. Why not, instead of having people doing this work, employ machinery in these areas to do the work properly so that there will be no need of employing these old men and young women and girls, if I may say so?

Now, Sir, I come to my last point, which is land shortage: and I think one has a right to refer to this subject. I think there is a shortage of land in the African areas, and it is a fact that it will be much worse in the years to come. What must we therefore do? I have always said that whatever we do or whatever we say there will come a time when we shall not be able to create any land from the clouds. I have in mind always that in order to meet this

[Mr. Muimi] land shortage the land that we have must be properly developed, and I must stress this point. But I am wondering whether we are going to develop in the proper way under the present circumstances. Again, I have from time to time said that if we want to develop the African areas and reserves, and I am more especially referring to the areas where destocking is taking place very seriously, then in order to help these areas to develop properly we must release the Crown lands so that the people could rest the reserves and use these Crown lands for grazing purposes: and if the Minister would consider that question as I put it to him then I am sure that the aim we all have—and that is saving this country and improving the African farming—will come true. But I am afraid that as it is to-day very little can be looked to so far as African farming is concerned.

With these few points, Sir, I beg to second the Motion.

THE SPEAKER (Sir Ferdinand Cavendish-Bentley): Before proposing the question I would draw hon. Members' attention to Standing Order No. 71. All the arguments so far put forward in proposing and seconding this Motion were put forward last week in another debate. I am not empowered to prevent this Motion taking place, as last week's debate led to no resolution, but I would ask hon. Members not to be unduly repetitive.

Question proposed.

LORD PORTSMOUTH: When listening to the hon. Mover of this Motion I was in some doubt as to whether I considered it a Motion, as expressed by him, to be really worth while. From what I could hear—and it is always difficult to hear speakers when one is sitting behind them—I wondered whether it was really worth replying to. But I am moved to reply, Sir, for reasons which will be clear later.

[Mr. Speaker (Sir Ferdinand Cavendish-Bentley) left the Chair.]

[Mr. Deputy Speaker (Mr. Conroy) took the Chair.]

Now, Sir, as Corporate Member for Agriculture, I do in a sense, Mr. Deputy Speaker, represent what they call the

settled areas. But I have never taken it as part of my job in being a Nominated Member—as it were for the settled areas—if I can describe myself that way—to find myself representing that part of Kenya alone. I have always felt, long before I came into this Council, that anything I could do for the agriculture of this country as a whole, whether it was in the native areas or whether it was in the settled areas, I would do. It did not matter; provided we could get an advance of prosperity along the whole line, because I am certain that you will not get European farming prosperous unless African farming is equally prosperous.

I read this Motion and I thought not that it was an ungrateful Motion—because nobody in his senses in any part of the world would ever ask for gratitude—but that it was an ungenerous Motion, because—and I feel very certain that most of my African friends are as full of ordinary decent generosity as anybody else—I did think that this was a Motion which was truly ungenerous, considering the efforts made by my hon. friend opposite, the Minister—whom I have often had enough occasion to criticize myself, in public and in private—and not only the work he and his Department have done, and not only the devoted work of the field officers, but the most amazing and striking results which have been achieved.

I do not know his part of the country as well as the hon. Mover of this Motion, but perhaps I can look upon it with a more expert agricultural eye than he can himself, because it has been part of my job for the past 35 years to look at land in this way.

Ten years ago when I first came to this country I was deeply perturbed about the state of the land in Nyanza, especially Elgon Nyanza. To-day, flying over it, motoring through it, or seeing individual farms and seeing the progress in coffee growing and so forth, the revolution is not complete, but it is a revolution that is quite staggering.

Lord Milverton, who was Governor of Nigeria among other places which he governed very well, was once as a young man (a new Provincial Commissioner or district commissioner) taken to the

[Lord Portsmouth] borders of the Dependency of another Colonial power; and he looked across the river and there he saw rolling land full of grass, well cultivated plots at intervals and well forested in the valleys. He looked on his own side and there he saw erosion, grass overgrazed, trees cut down; and he turned, to the chief who was beside him and said: "Chief, what is the difference between these two countries?" The chief looked round and said to Lord Milverton: "Sir, it is this. That . . . pointing to the land of another Dependency . . . is the land of 'you must'. This . . . pointing to his own country he was administering . . . is the land of 'if you please'." Sir, I think it is most remarkable that on the basis of "if you please"—and it has been on that basis, the perpetual persuasion and encouragement to understand, that you have had the results you have had.

Last Monday I spent some three or four hours in a reserve adjacent to me as a member of a farmers' committee. We were discussing just the problems of how much coffee to grow and how to try to relieve the strain on this bit of grazing, how to clear that bit of African district council forest so that it should not be destroyed, how to encourage and give loans to smallholdings; and I am afraid that, in general, the picture drawn, as I saw it—and I have some considerable experience in that area—was the very opposite of what the hon. Mover would have led us to believe is the general appearance of the country.

Sir, I have also flown and gone into a good many parts of the dry country. I have flown over and looked at the great many agricultural and forest schemes in the native areas throughout Kenya. I do not pretend to have any expert or any intimate knowledge but I do know with my uttermost conviction that though there may be grievances—there are bound to be—and though there may be mistakes—and there are bound to be—and though there may be the occasional poor, bad or tactless officer, the general work and devotion of the field officers in this country is as fine as anything you can find in the world.

Now, I say this, Sir, because I think everybody wants to produce a new heaven in a new earth overnight. Centuries of inexperience, as well as past

periods of bad neglect, must be overcome, and you cannot expect it all in a few minutes.

Now, Sir, why I rose, apart from these remarks, to reply to my hon. friend the Mover of this Motion, was occasioned by what I can only call a certain symbolism about this building. If you go to the entrance just outside you will see a lot of extremely prickly succulents. If you go in by another door you will see a couple of inflated bullfrogs. If you go, Mr. Deputy Speaker, into the garden for a little quiet relief, you will see what is even more symbolic—a couple of fever trees. Now, Sir, I think those symbols are not confined to any one race, but I do think that we have them all very apparent from time to time within this Council.

Sir, agriculture is something which we should remove from the fever, the prickly and the bullfrogishness of politics. It is something where we can all work together for the common interests of each other as friends and not only friends in a vague way of cocktail parties but with a mutual object of trying to get something really done to make this country worth while.

5 p.m.

SIR CHARLES MARKHAM: Mr. Speaker, I was intrigued this afternoon that the Mover of this Motion first of all, early in the afternoon wound up the debate in which he attacked one Ministry, he then switched very quickly to the next Ministry and it looked as though on every Thursday afternoon in future each Ministry in turn will come under the fire of the hon. Member. Sir, he did say, when he opened his remarks that he was not going to speak very long; that I am afraid was his first inaccuracy as he spoke then for 45 minutes. Then, first of all, Sir, he attacked the fact that the present Minister for Agriculture was elected, the elected representative of a European constituency. Sir, I have said in this Council before, sometimes the Member for the Rift Valley and I have not always seen eye to eye on many problems, but nevertheless, Sir, I think it is perhaps unfortunate that the hon. Mover of this Motion should have attacked the personal status of the Minister because, although some of us may doubt his political sagacity, all of us

[Sir Charles Markham] certainly appreciate the work he is doing for agriculture. Now, Sir, I am not going to speak for very long—I will at least be accurate, I will be up about another five minutes and that will be a relief to everybody—but there are, Sir, two items of the Mover's speech, which I would like to take up; first of all there was this question of his loan policy. I am not going into the details, as other speakers will be doing that later on this evening, but his arguments, Sir, were perhaps almost back to the old days of my old friend, the Member for Nairobi South who mentioned that great epic scheme, because his idea—the hon. Mover of the Motion—would be that "everything is wonderful, draw as much money as you like and let's carry on". Well, Sir, we will all agree with that, it is a heavenly idea of Utopia but unfortunately Kenya has not qualified to be that sort of country.

I was also intrigued by his criticism of dams because a genuine criticism could be made by some of the European farmers that the dam construction units have been so busy in the native land units they have not had time to get round to the European farms. Indeed, Sir, they must have been pretty busy or we would not have had this funny business going on at Kitui mentioned by the Chief Secretary the other day. Yet, Sir, when the hon. Member who seconded the Motion criticized the fact that twenty-odd dams had been built and had no water, I do not believe you can blame the Kenya Government for the rain situation; it's not a bad idea but nevertheless the elements are, as yet, uncontrollable by man.

Sir, I do not want to say much more on this Motion, except to support what the noble lord who has just sat down said. He did well to forget, Sir, when he gave the animals that existed inside the grounds of this Council, one thing—there are also some goldfish in the pond outside.

Sir, I wonder what are the motives behind this Motion. I cannot, Sir, impute any motives that might perhaps be ruled against the hon. Members, but I am surprised that my hon. friend the Member for Akamba should have seconded this Motion, as I am wondering if the

hon. Member has realized the progress which has been made in Ukambani in the last five or six years; and to anybody who went over that country in 1948 or 1950 and who has seen it now, it is a complete eye-opener. But, Sir, if the hon. Member suggests that they do not want any further money spent there or if he suggests that those schemes are wrong, I suggest he says so openly at meetings in Machakos and Kitui. I shall look forward to hearing the comments from the hon. Nominated friend who comes from Kangundo, to see what he thinks about the agricultural policy of the Government.

Sir, I do hope that my hon. friends will realize that this Motion can be misinterpreted, especially after the speech of the hon. Mover of the Motion; I must admit I did have difficulty in following most of it, and I do hope, Sir, they will withdraw this Motion now or alternatively, if they are going on speaking to it, they will remember exactly what it says.

There is only one part I would like to query; it says that this Council has no confidence in the present Government agricultural policy being pursued in the African areas. Sir, that places Members on this side side of the Council in the position that we have either got to vote for it or against it, or we can take the weak course of abstaining, but, Sir, I could not possibly myself do anything else but oppose this Motion in the strongest possible terms; because I believe the one thing the Kenya Government has done in the last ten years since the war is make fantastic progress in the African areas in agriculture. In fact, Sir, I believe for all its faults—and there have been plenty of them in the past, we have all made them—one thing has happened, agriculture has gone ahead.

Sir, I beg to oppose the Motion.

MR. ALEXANDER: Mr. Deputy Speaker, Sir, it occurs to me that the reasons which may have prompted this Motion arise from the inhibitions from which the Ministry of Agriculture suffers as the result of Government's financial policy in two respects, firstly regarding the repayments by those who benefit from its expenditure on African agriculture and secondly in respect of the search or lack of search for capital for

[Mr. Alexander] development. I have in mind two aspects of this.

Firstly, Mr. Deputy Speaker, there are the substantial sums spent under the Swynnerton Plan which are not recovered from those who benefit from such expenditure, and I was greatly surprised to hear the hon. Mover of the Motion refer to a lack of capital—I think he said—into African agriculture and I called out “£10,000,000 that is not recovered”, but I notice he did not come back to it. What worries me here is that all of us never really benefit entirely from what we get for nothing.

We are all the better for having to pay for whatever benefits we may receive as we go through life, and here I question whether there is not, in fact, a weakness in the Swynnerton Plan in this particular respect; in respect of the many millions of pounds that are being spent on African agriculture which the beneficiaries are not expected or not asked to refund. The figures on this, Mr. Deputy Speaker, are really quite formidable. I get them from the question and answer that went on between me and the Minister for Agriculture some few weeks ago and these are what they are: the total in the period 1954-60, the development period, that is some six years, is £11,800,000 and of that, and this is the important point of what I am trying to say, of that, just on £10,000,000 is not recovered from those who benefit from it. Another interesting figure is that £2,600,000 is carried by the loans borrowed by this Colony and is repaid out of the general revenue, and the general taxation of this Colony. I must here, Mr. Deputy Speaker, draw on my experience in the urban areas to ask why it is not possible for there to be some scheme whereby most of this money, at any rate, could be recovered and I am thinking of how in the urban areas, when we have land that has to be subdivided and developed, into which must go roads, sewers and lighting, we have methods and formulas on which the money spent on that is recovered from those who benefit; and so turning the comparison to the agricultural areas, in my ignorance, I ask why it is not possible, when an area is being contoured and having irrigation and dams put into it, why it is not possible, through the local African

district councils and locational councils to spread the repayment of that development expenditure over those who benefit from it?

The second aspect arises from the extent to which agricultural policy is arrested and strangled as the result of the lack of capital which would be influenced or attracted to Kenya, because of course, we know that the major party of it does go into agriculture, and rightly so, I am not questioning the proportion that goes to agriculture in the Development Programme, the Development Programme we have just considered for 1957-60, what I am questioning is the capital which we do not obtain and which we might otherwise obtain, and here I must refer, as I did the other day in a speech, to the example of New Zealand and I do so, Mr. Deputy Speaker, because that is a country, like ourselves, substantially relying on agriculture for its economic progress. In referring to New Zealand I am also able at the same time to answer a query that was put to me by the Minister of Finance when I spoke on this. What he said, when I quoted New Zealand, these are his remarks, and I quote:—

“The hon. Member referred several times to the amount of money Kenya was going to raise for development, as I think he said ‘fiddling’, then he said that New Zealand was embarking on a bold loan programme of some £1,000,000,000. I hope the hon. Member agrees that figure is correct, £1,000,000,000, because my hon. friend, the Secretary to the Treasury, when he said £100,000,000, was corrected. I would like to know the source of the report, Sir, and confirmation of it because I can see nothing of that kind outstanding, certainly, as a Government programme.”

Then he went on later and said:—

“Sir, I would like, though I know the hon. Member cannot produce it at short notice, and I would not expect him to, but I would like very much to have the figures confirmed.”

Now, I quote these, Mr. Deputy Speaker, because if our Minister for Agriculture had available to him the same financial, or proportionately the same financial resources, as is attracted to New Zealand as the result of their bold

[Mr. Alexander] financial policy, then much of the reasons that may have prompted this Motion would be removed. The report Mr. Deputy Speaker, was in the *East African Standard* of 29th October, and this is what it said. I quote:—

“Expansion of capital development involving an estimated £1,000,000,000 within the next four years was predicted by the New Zealand Prime Minister, Mr. Holyoake. Mr. Holyoake, who said the country must ‘think big, estimated that private enterprise would spend more than half this amount while local and Central Government and farmers would spend the rest. New Zealand, which has a population of more than 2,000,000 people and was on her way to the third million, must build for it. Mr. Holyoake added ‘this is not one of those grandiose plans in which the Central Government is going to seize an inordinate amount of people’s money and direct development of the country along some theoretical lines which have nothing to do with what the people want. The expenditure of £1,000,000,000 was a sober estimate of the needs of almost the immediate future, based on the trends of the last few years.”

I am happy to be able to say, Mr. Deputy Speaker, that I asked the *East African Standard* to confirm that information. It was Reuter news and they have confirmed it, and they have gone even further to give me the other bit of news that was in the same Reuter message, which I would like to read to emphasize this point: I quote:—

“A £1,000,000,000 sterling is not a flight of imagination or an invitation to squander mania, it is a sober estimate of the needs of almost the immediate future based on the trends of the last few years. The £1,000,000,000 estimate, nearly as much as New Zealand spent in the last eight years, represented only a stepping-up of the pace. The country would not have to go far to achieve the figure; it would take only a couple of years at the rate the country was expanding its economy.”

I do wish, Mr. Deputy Speaker, that our Minister of Agriculture was in the

same happy position as they are with an imaginative financial policy in New Zealand and he would be able to tell his African friends opposite just how much more he would be able to do for them and how much he would be able to deplore a Motion of this nature.

The Minister for Finance did go on to say, and I quote:—

“Now, Sir, what is the Budget of New Zealand? A total Government expenditure during 1955/56 ‘of £337,300,000.”

He later went on, which rather confused that figure, and he said:—

“I cannot believe they are embarking on a programme which within four years shows an expenditure Budget of £193,000,000.”

Perhaps he too would check on the sources of his information and get right whichever of these two figures it is meant to be. But working on the £337,000,000 figure, it relates to our expenditure Budget for 1957/58 which is approximately £34,000,000.

Although they are talking about four years, and we are talking about three years, the £34,000,000 is just about 10 per cent of the New Zealand expenditure Budget for 1955/56 and if there is any validity in the association between public debt and annual expenditure which was submitted by our Minister for Finance in respect of New Zealand, then our Development Programme could run at something like £100,000,000 for four years, as against New Zealand’s £1,000,000,000 for the same period and thus show up our £23,000,000 in the three years as fiddling, as I described it before, as a fiddling amount. If we could move to that sort of a figure of £100,000,000 in three years and make available to our Minister for Agriculture the same sort of proportions as he has now, he would certainly be in the position of being able to place happier faces on those of not only the people in the African agricultural areas, but also in the European agricultural areas.

I have, Mr. Deputy Speaker, both privately and publicly, had differences with my friend the Minister for Agriculture, but I would like to-day to say how fortunate I consider Kenya is, and

[Mr. Alexander] how fortunate the Africans of Kenya are, in their agricultural areas, to have available to them the initiative, the energy and the imagination of our present Minister for Agriculture. He is doing, for Kenya, a magnificent job and I, like my noble friend on my left, consider it extremely ungenerous that our Hyde Park Corner friends on the left here should bring this Motion.

Sir, I beg to oppose.

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): I, too, have very great pleasure in opposing this particular Motion. I, too, have the very greatest respect for the work which my hon. colleague has personally put into the cause of African agriculture over the past two years. Having been associated with him in discussions as to the financial basis necessary for that work I know how hard he is put to make certain that as much as possible could be done for African agriculture.

On the question raised by the hon. Member for Nairobi West, about loan repayment, that of course I will have great pleasure in leaving to my hon. colleague to answer, for it is much more within his portfolio and scope. But, Sir, it gives me the greatest pain once again to have to rise to correct the hon. gentleman from Nairobi West.

Now, Sir, I have in front of me the HANSARD of Firework's Day—5th November—in which the hon. Member spoke. He compared in that speech the £23,000,000 of Government expenditure with a figure of £1,000,000,000 for New Zealand which I asked him to confirm. I was delighted indeed to hear him confirm it. But, Sir, the hon. Member in one case was talking about £23,000,000 which was a purely Kenya Government figure, and in the other case he was speaking about £1,000,000,000 which, to use Mr. Hollyoake's own words from the report which he has just read out, included the fact that "private enterprise would spend more than half this amount, while local and Central Government and farmers would spend the rest". I suggest, Sir, that if he does not want to mislead the Council he must include in the comparative figure for Kenya in that period the amount of money that private enterprise will spend, the amount of money that

local governments will spend, and the amount of money that farmers will spend. Then the hon. gentleman will get somewhere near the true comparison. I am surprised that the hon. gentleman in reading this out himself has not referred to this—I will not call it weakness—but this kink which shatters the whole armour of his case.

Now, Sir, let us look, too, at the figures on which this is based. The gross capital formation in New Zealand has been running at about £240,000,000 per annum—the gross capital formation. Now, in 1955/56 the analysis of gross capital formation in New Zealand gave private gross capital formation at 64 per cent of the total, or £165,000,000. It gave general Government capital formation at 26 per cent, or £67,000,000; local authorities at 10 per cent, or £25,000,000. Now, Sir, if the hon. gentleman will continue his arguments on this basis and look at what private enterprise will provide in capital formation, we hope, during these years, if he will have regard to what local authorities, like the Nairobi City Council, and borrowings from banks will provide during those years, and if he will have a look at, for instance, the East Africa High Commission, the self-contained services, which have, of course, to operate in Kenya but which in New Zealand come under the Central Government and if he will add all these together he will find that far from being disgraced by this position Kenya comes out of it remarkably well; particularly, Sir—and the hon. gentleman should carry his arguments to conclusions and should not choose every petty chance of attack without carrying them completely to their conclusion—the gross national product of New Zealand in 1956/57 is estimated to be £1,024,000,000 as against a Kenya expected national income of about £150,000,000. Thus, Sir, all you have to do is to add together all the particles of the sum: local government, Central Government, the Railways, Posts and Telegraphs, farmers, and all, and then it will be seen that the efforts of Kenya, far from being a "fiddling effort", is one which is something that the Colony can be proud of.

As I understand the gentleman, he is saying that our effort as a Government compared unfavourably with that of

[The Minister for Finance and Development]

New Zealand. If we take the figures of Mr. Hollyoake and the figures I have just quoted, which show that on this basis the general Government will be 26 per cent of the total, he will see the 26 per cent of £1,000,000,000 is something like £260,000,000. He will also see that if you balance that against our national income—and remember, as I have said, those things which in New Zealand are carried by the Central Government and which are not carried by the Government of Kenya, but are carried by the High Commission Services—that there is nothing to be ashamed of and that far from being fiddling the figure represents on behalf of the people of this country an amazing effort under extremely difficult circumstances.

Sir, I beg to oppose.

[The Deputy Speaker (Mr. Conroy) left the Chair]

[The Speaker (Sir Ferdinand Cavenish-Bentinck) resumed the Chair]

MR. CROSSKILL: Mr. Speaker, my hon. friend, the Member for Nairobi West, seems to have drawn a red herring across the country which the Minister for Finance is pursuing most ardently. I think we are in danger of prolonging one of the most unprofitable debates that I have heard in this Council in the last five years.

I believe, Sir, that no charge has been substantiated against the Government and that therefore no answer is required. I believe that the arguments put forward by my hon. friend, the African Member, who moved this debate were uninformed and, to some degree, incoherent. I believe that none of the problems raised could not be solved more easily and much more cheaply to the country than by one hour's meeting in a committee room attended by several African agricultural officers and the Director of Agriculture. I do submit—and I urge them to withdraw this Motion. If they insist that it should be taken to its conclusion I hope we shall insist upon a division because I would like to see which African Members feel honestly in their consciences that they can support.

Sir, I beg to oppose.

MR. NZIOKA: I would like to speak about what the African community has achieved through the Minister for Agriculture. One is settlement: in Makueni, the area where we know there was nobody, we have now Africans living there. We have just over 2,000 families living in Makueni. Not even that, Sir: we have Lumbwa, where we have something like 635—or there may be more than that. Sarara, 61; Gedi, something like 504. Therefore, Mr. Speaker, you can see that the African community have achieved a lot from this Ministry and I am afraid I believe the hon. Mover is a little bit ashamed and I think he will withdraw his Motion, because this is not really what the Africans are feeling. They have achieved a lot from this Ministry.

Coming to water supplies, Sir, over 2,000 dams have been built in the African land units, and all these have been built by the Minister for Agriculture.

MR. HARRIS: What, personally?

MR. NZIOKA: Coming to boreholes, a lot have been dug, about 372 have been dug in 1955, and a lot more has been done in African land units. Now if I refer the hon. Mover to Machakos District, in the district where we know round 1930 to 1935 it was known as a land of blood because of toll erosion. I am happy the Member for Central Nyanza has just paid a short visit to that district recently, and he has seen the progress which the Akamba have made. Mr. Speaker, the Akamba achieved that progress through this Ministry which we hear to-day the African has no confidence in. Loans to African farmers—Mr. Speaker, a lot of money has been given to African farmers, and I wonder, Mr. Speaker, whether these farmers will say that they have no confidence in this Ministry? We know a lot of people are now growing cash crops. A lot of money is now going back to the Africans, for example the people of Meru, growers in the area which I visited recently. Will you tell me, Mr. Speaker, these people have no confidence in the Ministry of Agriculture. Prices for what the African can produce in his own reserve: before this Ministry, Mr. Speaker, the prices of African produce were very low. A bag of maize used to be Sh. 2 to Sh. 12: what about to-day? A bag of maize is now



[Mr. Nzioka]

Sh. 30 to Sh. 40 or Sh. 50, and it is only through this Ministry, Sir, which has achieved all this for the Africans, and I am sure the real African, the proper farmers in the Reserve, they are very thankful to the Minister for Agriculture.

I oppose this Motion.

Mrs. SHAW: Mr. Speaker, I rise to oppose this Motion in the strongest possible manner. First of all I should like to say that I join with my hon. friend, the Member for Wakamba, and several other Members who have spoken from this side in hoping that the hon. Mover will withdraw it, for it does not do him credit.

I deprecate, Mr. Speaker, the growing tendency in this Council to introduce Motions which I consider are completely irresponsible. I think you have only got to look at the Order Paper for Private Members' Day for the last two or three Thursdays to see what I mean. I think that a great many—the great majority of the Motions we have seen latterly—certainly from my hon. friends on my left—have been irresponsible. Private Members' Day is designed to give Members the opportunity of bringing in Motions for righting a wrong, or bringing a wrong to the notice of Government, and thereby righting it; but not of bringing in imagined wrongs.

As to this Motion, anyone who has eyes to see can see, if they wish to see, the quite remarkable strides made in the past ten years by the Agricultural Department's policy and planning in the African land units. The introduction of contour terracing, farm planning, etc., has changed areas which were rapidly becoming eroded wastes through overstocking of communal land into areas which look—certainly in my part of the world—like Somerset and Devon—well-farmed, well-planned areas, with small holdings producing a good living for their owners. I might suggest, Mr. Speaker, that this transformation has taken place in many, many hundreds of acres of the African land units, but I would suggest that in those areas where it has not taken place, it is largely due to the backward attitude of the inhabitants. Here I would very much like to quote Mr. Bernard Shaw, who says: "People are always blaming their cir-

cumstances for what they are", and I would hope hon. Members on my left who brought this Motion, will remember that.

I should like to pay a very high tribute, and join my colleagues in doing so, to the Minister for Agriculture and all officers of his Department, who have worked this transformation and have, in many cases, had a very uphill job in convincing the inhabitants that what they were doing in teaching farm planning and agriculture—and I may say they often have to do this in the European area—is in the best interests of the farmers and, therefore, should be accepted willingly, and I hope to see my hon. friend withdraw this Motion, which does not do him credit and which I feel has really just been wasting the time of this Council.

I beg to oppose.

Mr. ROGERS: Mr. Speaker, I think one is always rather fortunate to speak with personal knowledge on this subject, for an undertaking with which I have, in my spare time, some connexion actually grows tobacco in three of these African areas. Now this tobacco is grown under somewhat unique conditions, in that it is grown under a partnership method. We ourselves provide the capital and the buildings and the experienced "know-how"; the farmers mostly to-day have not sufficient experience to handle more of the crop than the actual field work. The Government provide—and provide very ably indeed—the scientific side and, above all, a benevolent encouragement to all. I think they do this in a truly excellent way. We ourselves have had our grumbles at them; that would only be human; but in general we are more than satisfied, and I, myself, have never heard of a case or heard of the Africans themselves—those farmers—being dissatisfied.

In case anyone should think that the Government might perhaps be leaning towards one particular side of this three-sided partnership, I would give an illustration of just one experience I had to disprove this. Government very rightly wished to expand the tobacco-growing areas in the African parts of Kenya, and much as we ourselves wanted it, for technical reasons—climatic mostly—I am afraid we were unable to

[Mr. Rogers]

agree. Government were not satisfied and very rightly they brought out an expert from Rhodesia. Now, alas for Kenya, this expert agreed with us, and I am giving this illustration merely to show that Government is entirely disinterested in any particular side of the land of Kenya or any particular nationality; all they wish to do is to develop the agricultural land of Kenya to the best of their ability and to the best of the amount of money we, as a Legislative Council, are able to vote for them.

I also suggest that this Motion is not only ungenerous; but perhaps unworthy, and I also hope that the hon. Mover and his Secondor will withdraw it.

THE PARLIAMENTARY SECRETARY TO THE MINISTER FOR EDUCATION, LABOUR AND LANDS (Mr. Wanyutu Waweru): Mr. Speaker, I am sure that the hon. Mover of the Motion would not expect me to keep quiet when he has attacked the subject I like so much, and that is land consolidation. I was very happy when he qualified me as an advocate of land consolidation.

When I listened to him when he was moving the Motion, Mr. Speaker, Sir, I was wondering as to whether he was against land consolidation or whether he was in favour. He alleged that any member of the Kikuyu, Embu or Meru who did not want to consolidate his land was called *Mau Mau*.

Mr. MULIRO: On a point of order, Mr. Speaker, I actually never said that; the Member for Ukambani made the same point and I corrected him. I never said that.

THE PARLIAMENTARY SECRETARY TO THE MINISTER FOR EDUCATION, LABOUR AND LANDS (Mr. Wanyutu Waweru): That is how I understood him. Unfortunately I was not in the Council when the Member for Akamba seconded the Motion. However, I would say that if that is what he really meant, he should bring a specific case to the authorities, which will be investigated, and I am sure that anyone who had ever said so would be dealt with accordingly, because in the Central Province I know no area where the majority of the inhabitants of one particular sub-location has ever been forced by the Government or by the

Agriculture Department to consolidate their land, if they were not in favour.

Mr. Speaker, Sir, I have been travelling in the country and I have seen what has been done by the Minister for Agriculture for the Africans and for the country as a whole. In the Coast Province I have seen the Teita Hills—the development they have achieved there through the guidance of the agricultural authority in the field—and this has enabled them to supply fresh vegetables to the public of Mombasa Island. I would like to get the honest opinion of the hon. African Elected Member for the Coast Province whether the people of that area, who have been getting a lot of money from their small land which is so fertile, as a result of good guidance from the agricultural authority in the field—if he would say honestly that they have no confidence in the Minister for Agriculture.

In the Ukambani, I happened to tour the Makueni area, which has been referred to by my hon. colleague, Mr. Nzioka. I was rather amazed when I saw how many dams the agricultural people are busy constructing for the Wakamba. I saw that they do have tractors with which they do plough the African lands, and I said to myself and to my friends who were touring the district with me that I wish this could be done in my area. I do not know what the hon. Member for the Akamba said, but I would like to know from him honestly if he would say that in view of what has been achieved in the Makueni area by the Minister for Agriculture it is not worth while their being thanked for what they have done.

I toured the Kangundo area recently and I was greatly impressed by what they have achieved. In the Central Province a lot has been achieved by the officers of the Ministry in the field within a very, very short time, and I would like the hon. Member for the Central Province to be honest and say whether what has been achieved in his own district, as far as coffee-growing is concerned and also the scheme which has been started at Kimbo—whether that would discredit the activities of the Minister for Agriculture. At Kimbo, Mr. Speaker, Sir, I happened to stop there. I do not remember the month, but it was just recently, when I saw one Meru farmer who had

[The Parliamentary Secretary to the Minister for Education, Labour and Lands]

filled his house with potatoes—English potatoes—and outside his house; and when I questioned him—how much he harvested, he told me he harvested 600 bags of English potatoes. Would that be a thing that the Ministry of Agriculture should be ashamed of?

I happened to visit Nyanza some time ago and I was informed by the chairman of the organization which the Nyanza people then called the Egg Circles, that there was a time before the organization was arranged by the officers of the Department of Agriculture, when they were selling an egg at the rate of three cents each; at the time we were there the prices were more than four or five times.

Just recently I met the members of the African District Council of Central Nyanza and they said to me that what had been achieved in the area which they were touring—they wished that could be achieved in their own area because it had been a wonderful piece of work that had been done by the Ministry of Agriculture and his staff.

It was said by the hon. Mover that he would not accept my invitation to visit the area where the land is being consolidated. An invitation, Mr. Speaker, is either accepted or rejected. I would not be at all disappointed if he does not accept my invitation, but I would inform the hon. Member that I have never mentioned in this Council or outside this Council that I wanted the hon. Members to come and look at my land, which has been consolidated. In fact my land is not one of the best where I could take visitors to—distinguished visitors like the hon. Members of this Council. There are better lands where I could arrange for the Members to go to, and I am sure the hon. Director of Agriculture knows which land I am referring to because he himself and also the Minister for Agriculture have visited that area. That invitation is still open, if you wish to go and see what they saw—and they were very impressed—I still offer that invitation.

I think, Mr. Speaker, Sir, that this kind of a Motion would no nothing but discredit the Mover of the Motion and I would appeal to him to withdraw the

Motion, as I am convinced that in the way the Motion has been worded, it does not represent the opinion of all Africans, but I believe that it represents the opinion probably of the hon. Member who moved the Motion and a few others.

During the Budget debate, Mr. Speaker, I did complain that I would be the last person to say that what has been allocated to the Minister for Agriculture for the land consolidation was enough. What I think is lacking within the Ministry is sufficient money to enable them to do what their plans are for the good of the African, and I am sure that the question of soil conservation and land consolidation would not discredit the Department of Agriculture. What I know the Africans are saying outside, is that the Agricultural Department is not moving fast enough to cope with their demands, and I am one of those who believe that that can only be achieved if they get money and qualified staff available to cope with the demand.

With these remarks, Mr. Speaker, Sir, I do oppose this Motion with the strongest terms I can get.

THE SPEAKER (Sir Ferdinand Cavendish-Bentinck): Before we continue this debate, I would draw the attention of Council to the fact that we are not discussing the Minister, but the policy of the Ministry.

5.55 p.m.

MR. SWYNNERTON: Mr. Speaker, Sir, I rise more in sorrow than in anger to oppose this Motion, because I believe it has been brought in in a fit of jealousy. I believe at the present time the Nyanza tribes, and to a certain extent the Akamba, are jealous of the Kikuyu tribes—the Central Province tribes. At the present time progress in the Central Province is going ahead so fast that it is going to leave the Nyanza tribes behind by something of the order of 10, 15 or even 20 years. On land consolidation the Central Province tribes will complete their land consolidation within two, three or four years, an operation which we originally envisaged would take 15 or 20. In Nyanza Province it has been necessary to go through the whole rigmarole and gamut of pilot schemes, of abandoning pilot schemes and of being asked to come back to them again. I

[Mr. Swynnerton]

am quite certain that the Nyanza tribes, if they carry on as suggested by certain Members in this Council, will certainly take probably more than 20 years to get to the level that the Kikuyu tribes and the Embu and the Meru will reach within the next 5 or 10 years. Whether it is on land consolidation, whether it is on planned farming, whether it is on productivity from the land or whether it is from the development of cash crops, it will be those tribes, Sir, that will get the highest position in this country. They will become the wealthy tribes and they will be the people who will look around to employ the labour from elsewhere.

I say that Sir, with the utmost conviction, having been round very thoroughly, over many years, all these areas, and I am quite certain that the object of this Motion is one of jealousy to distract the people from the progress that can be made or that is being made by Africans who wish to make that progress.

The hon. Mover, Sir, wishes to throw away all the money voted for the areas of high potential to the semi-arid pastoral areas, the denuded land, the overstocked land; he says: "We do not want the money; if you like to lend it to us, well and good; but we do not want to be taught how to farm; we do not want to be lent money to develop our holdings; we do not want progress."

MR. MULIRO: I think the hon. Director of Agriculture is misinterpreting me. I said as far as dam construction and irrigation schemes are concerned, more money should be spent in the areas which have lower rainfall, whereas more loans should be devoted to these areas of high potential. That is what I said.

MR. SWYNNERTON: I think nevertheless, Sir, what I have suggested, was very fully understood by Members of this Council. I think that the tendency amongst the hon. Members who are supporting this Motion is not to have read some of the papers connected with agricultural development. I do not think the hon. Mover can possibly have read the report of the Royal Commission. There are in this country, in round figures, roughly a population of 6,000,000 people. Of those 6,000,000, 5,000,000 live

and have to live on lands of high potential. Now the Royal Commission recognized that when it toured East Africa and it made a very strong recommendation that if the wealth of East Africa was to be raised in order to produce the money required for social services, the Governments concerned should concentrate on the development of areas of high potential in order to create wealth for the countries. Now it is quite clear from the way the Mover of the Motion has spoken, that he is either not in sympathy with the Royal Commission—that is, he does not wish to increase the wealth of the country—or perhaps he has not even read its report.

The Secunder of the Motion, I should say, is quite out of sympathy with the people whom he represents. He has told us virtually, in so many words, that what is wanted in his part of the world is increased erosion, increased stocking; he does not want improvement to the pastures by clearing bush; he does not want scratch ploughing of denuded areas and the seeding of grass; he does not want water supplies; and, as I say, Sir, it must quite obviously be an opinion contrary to the opinion of his people.

MR. MUMI: Would the hon. Member give way? On a point of explanation, I think the point I was trying to make was that in clearing the bush and constructing the dams, machinery should be used.

MR. SWYNNERTON: I was going to quote a memorandum of the Akamba tribe recently submitted to the Colonial Secretary, which was printed in the *East African Standard* on 25th October this year. The extract read: "Dealing with agriculture, the memorandum stated it was encouraging to see the concerted efforts of Kenya Government advisers who had helped to improve farming methods and convert the once arid areas into fertile arable lands." Those are representatives of the Akamba tribe, not representatives in this Council who feel like that.

Perhaps, Sir, I could move on to the implications or statements of the Member for Nairobi West, because in doing so I think I can deal with many of the other points which have been raised. The Member for Nairobi West feels that all

[Mr. Swynnerton] agricultural development should be put on a loan basis. Again, I think he probably has not read certain documents. I would suggest that he reads the Plan to Intensify the Development of African Agriculture, particularly paragraphs 91, 92, 104 and 105. I am not going to adopt the hon. Member's procedure of reading these quotations in detail, but if he would take a note of the paragraphs I think he would see what is the policy in regard to grants and loans for the development of the African areas.

It is a policy which has been developed by the African Land Development Board—earlier, as one hon. Member said, it used to be called A.L.U.S.—that is, so far as possible where a scheme or an African district council or a co-operative society or a board can do so, it will carry loans and not grants, but where it is necessary to apply an activator in the form of a grant, it will allocate a grant together with a loan attached to the scheme. Now it is quite obvious, Sir, that there are some measures which it is the duty of the State to finance on a grant basis. One of those duties is the technical advisory services—the people who, hon. Members tell us, go about in Land-Rovers. When I was young, Sir, during the rains—that is, the agricultural period of the year—when Land-Rovers had not been invented, I used to go round with porters, and at that time one was entitled, I believe, to 25 porters. I am quite sure the hon. Member would prefer these officers to use Land-Rovers than to engage porters for their *safari*. As I say, Sir, it is Government's duty to provide technical advisory services.

The hon. Chief Secretary in his speech on agriculture the other day, I think, stressed very strongly the need to develop the potential of our African lands, and I think he stressed very strongly that the people who were living on those lands required an enormous amount of encouragement and an enormous amount of teaching in how to handle those lands if they were to support the population at the end of the century, which would be double the present population. Those staff can be looked on as teachers—comparable to teachers in primary schools, teachers in secondary schools and so, but they are doing an adult

education job in going round to all the holdings and all the farmers to teach them anti-erosion measures, to teach them rotations, to teach them how to manage new crops and so on.

It is also a Government responsibility to train African staff. There is constant argument and requests that more and more Africans shall be moved up into the higher posts, and that is an essential policy, as Members have been told, of Government and particularly of the Ministry of Agriculture. If Africans come forward with degrees in agriculture they will certainly be appointed to the posts which qualify for degrees. In the case of the qualified agricultural officer he has to undergo certain post-graduate training and if Africans or Europeans or Asians with the necessary diplomas come in, they will certainly be given preference to the overseas employee in employment, as assistant agricultural officers. But it is necessary, Sir, to have these training schools; to have your Makerere, where people can at present get a diploma in agriculture and very shortly will be able to get a degree in agriculture; to have the agricultural training centres at Siriba, at Embu and Matuga to train the instructor staffs; to have the farm institutes to which the improving farmers can go to be taught how to manage their planned holdings, how to manage their improved livestock; if they are bringing in exotic animals such as Guernseys, to go and work with those cattle at the farm institute before they go back on to their holdings. Those services, Sir, in general, must be services which Government provides for the people.

Similarly with research and investigation. The individuals cannot be expected to pay for experiments, whether on cropping methods, on new crops and so on. It is the duty of Government to find out the answers. It is the duty of Government to make the mistakes and to tell the cultivators, the farmers, what not to do as well as what to do.

Against that, Sir, there are the items which it is reasonable to expect the African farmer to pay for. There is the development of cash crops. The African farmer, within a very few years of starting his cash crops, will be getting a very substantial income from them. Now with

[Mr. Swynnerton] permanent cash crops, such as coffee and tea, it is necessary to plant nurseries and then to distribute seedlings. I can assure all hon. Members that all coffee seedlings that go out from nurseries are paid for. The price varies somewhat from district to district, but it is of the order of 20 to 25 cents per seedling. The same, Sir, with tea nurseries. Tea is being developed in Embu, in Nyeri, in Kericho, in Kisii, and now in Naandi, and those seedlings will go out to potential-growers on payment.

The same applies to factories for the processing of cash crops. When the cash crop develops, the growers or co-operative societies have not got very much money until they start to get the bigger harvests. It is necessary, therefore, to make loans, either to the African district councils or to co-operative societies, to build factories. In the case of a coffee factory it costs about £2,000 to build a pulping station and store to cope with the surrounding two or three hundred acres of coffee. Large number of those have been put up in Meru, Embu, Nyeri, Kisii, Elgon Nyanza and, increasingly, in Fort Hall, Kiambu and North Nyanza, and all those factories, where the growers themselves cannot find the money, are being developed on loans which will be repaid in full.

The same applies to the tea factory which has been built and opened on Mount Kenya. The money in that case had been loaned to a cash crop board, the Central Province African Grown Tea Marketing Board.

Individual farmers are able to get loans for the development of their holdings; it may be to purchase seedlings or other seeds; it may be to purchase fencing to enclose their land so that they can keep better cattle; it may be to purchase improved livestock; it may be to put in better housing; it may be to put in water supplies. In these areas of high potential it is very essential ultimately to get water on to each individual holding. Loans, then, are available to individuals.

Now, the hon. Member, I think, complained in the last debate and complained again in this debate that the term of those loans was too short, that they had to be repaid before the productive life

of the loan was finished. That is a matter, Sir, which could well be gone into if specific cases are brought up. The object of the loan is to activate development.

In the case of the development of water supplies, Sir, the position is a little more complicated. Where loans are made to individual farmers, for instance to develop individual water supplies, it is necessary to repay the loan in full. Where money is issued for the developing of water schemes benefitting a community, the repayments are made in various proportions. In some cases in the smaller water supplies, the loans are made on the basis of half-loan and half-grant to the appropriate body, generally the African district council. In some cases the African Land Development Board issues loans and grants on a basis of pound for pound with the African district council; that is, where the African district council is prepared to put up £500 or £1,000, provided the African Land Development Board is satisfied that the scheme is for the benefit of the people, it will advance an equivalent amount, that is, the people are paying half and the African Land Development Board is contributing half. In the case of the biggest dams, the proportion may be as high as two-thirds grant and one-third loan, because those very big dams are put in as an insurance, as a rule, against dry years—a major insurance to ensure that water is carried over, not for one year but for two years; as we have known in this country—and the hon. Member for Akamba is obviously referring to it—we have known dams dry up and not fill until the second or third year because of the extremely droughty conditions which prevail in some areas.

The hon. Member for Akamba, Sir, was very derogatory in his comments on the work which has been done by the African Land Development Board on the development of dams in the African areas, and particularly in the semi-arid pastoral areas. Up to 1956, as I think the hon. Nominated Member behind me said, some 2,000 dams have been developed in these African areas, with a capacity of 1,500,000,000 gallons. In Machakos District alone, 404 dams have been constructed, and of those 190 are of a permanent nature; by permanent, I mean that they will carry water at least for one year and probably for two years

[Mr. Swynnerton]  
to tide over the droughts that that district gets.

Now, Sir, I should like to refer to some developments that are taking place in the Nandi District. I said just now that it was extremely important in the areas of high potential, eventually to get water on to each individual holding or on to small groups of holdings. In the Nandi District, a number of schemes have been developed whereby the water is pumped by pump or ram to main tanks, it is piped from those tanks into the heart of a number of developing holdings, and from those main pipes, it is piped by subsidiary pipes to individual holdings. The people themselves refer to *baba na mama na intoto*. The pipe to the main tank is called the *baba*; the pipe down the centre of the holdings is called the *mama*; and the subsidiary to the individual holding is called the *intoto*. There would appear to be some sympathy towards it among the Nandi if they are prepared to give them these nicknames.

I would quote three instances. At Kaptumo a 10,000 gallons a day scheme will supply water to 1,000 acres. At Kaplamur 16,000 gallons are being pumped up to supply 1,600 acres. At Ndalat the scheme is only partly developed but will ultimately supply 20,000 gallons a day to 2,000 acres. Those three schemes alone are bringing individual water supplies to 4,600 acres at a cost of £1 an acre. I do not think we can grumble at that.

The general development in Nandi covers many other lines. There are 559 boxed-in springs; 100 hand-rig boreholes; 105 wells and so on. The people of Nandi—an area of good rainfall and high potential—quite obviously appreciate the development of water supplies in their areas. They do not want to cast that water away to the semi-arid dry areas, as the hon. Mover has suggested.

The hon. Member for Nairobi West suggested that payment might be made for soil conservation work. It has also been suggested that more mechanical units might be used on soil conservation. In Machakos there has been a mechanical terracing unit operating for the last five or six years, and it has terraced

16,000 acres in that country. In the Elgeyo country—Chepkorio—the people themselves have gone to the Soil Conservation Service of the Agricultural Department working in the European district and asked for the unit to come out and terrace their land and they have undertaken to pay the full charge for that terracing. So far 13,000 acres have been terraced and the people have paid for it. They have now asked for another 17,000 acres of terracing, to be paid for. Those people are quite prepared to pay for it.

#### ADJOURNMENT

THE SPEAKER (Sir Ferdinand Cavendish-Bentinck): It is time for the termination of business. In accord with the desires of hon. Members as expressed yesterday, Council will stand adjourned until 2.30 p.m. on Tuesday next, 19th November.

*Council rose at fifteen minutes past Six o'clock.*

Tuesday, 19th November, 1957

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

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

#### PRAYERS

#### PERSONAL STATEMENT

Mr. MULIRO: Mr. Speaker, Sir, I wish to withdraw my statement I made to this Council on the 12th of this month regarding the district commissioners' being involved in local feuds, and I wish to withdraw completely any implications which were cast upon the particular officers.

#### BILLS

##### FIRST READINGS

*The Tribal Police Bill*—(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 Pyrethrum (Amendment) Bill*—(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 Town Planning (Procedure) Regulations (Validation) Bill*—(Minister for Local Government, Health and Housing (Mr. Havelock))—Order for First Reading read—Read the First Time—Ordered to be read the Second Time to-morrow.

*The Provident Funds and Contributory Pensions (Repeal) Bill*—(Mr. Mackenzie (Secretary to the Treasury))—Order for First Reading read—Read the First Time—Ordered to be read the Second Time to-morrow.

#### 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]

#### The Personal Tax Bill

##### Clause 2

MR. ALEXANDER: Mr. Chairman, Sir, I beg to move that the definition of "chargeable income" in clause 2 be left out of the Bill and that the following definition be inserted in place thereof: "chargeable income", subject to the provisions of this Ordinance, means that part of an individual's income on which income tax is chargeable by virtue of the East African Income Tax (Management) Act, 1952.

The purpose, Mr. Chairman, of this amendment is to seek a far closer co-ordination between income tax and this personal tax. You will remember perhaps, Mr. Chairman, in the general debate, how I emphasized how important it was that we should make the greatest use of this Personal Tax Bill in order at the same time to establish the names of those who are liable to income tax. We were told that the personal tax records are available to the income tax authorities; unfortunately, we were unable to receive the assurance that the income tax records are available to the personal tax authorities. But as it is going one way, that is, from the personal tax to the income tax authorities, it is important, Mr. Chairman, that when the income tax authorities receive those figures, they are figures upon which they can act; and that is why I believe that if we bring this definition of "chargeable income" into line with the income tax definition, it will avoid a duplication of work.

I agree that way down in the small incomes, this may sound quite academic; but if we are to bring into the income tax net what I believe to be a mass of people who are not yet in it, then the use of the definition of "chargeable income" in the Personal Tax Ordinance will help the income tax authorities. I am thinking of people like bus operators, of peasant farmers who are perhaps getting as much as net profits of £600, £700 and £800, of small businessmen. And that, Mr. Chairman, is why I believe it is wise that we bring these two Ordinances into line, or the Act and the Ordinance.

If hon. Members have got the Income Tax Act, they will find that in fact there

(Mr. Alexander)

are not many more words in it than there are in this Personal Tax Bill, and I believe it will tidy it up for the good and the convenience of everybody.

*Question proposed.*

MR. MACKENZIE: Mr. Chairman, Sir, I was interested to hear the grounds on which the hon. Member for Nairobi West moved this amendment, and I fully appreciate the reasons why he did so. It is very desirable that the income tax people should obtain as much information as possible from the personal tax records.

But, Sir, I hardly think that it is necessary, even if it were desirable, to amend the definition of "chargeable income" which has been put into this Bill and which has deliberately been made more simple than the definition to which the income tax legislation might appear.

There is, however, Sir, one particular point which I would like to deal with first; and that is that if, as I see it, this particular amendment were to be accepted, the Council would be accepting a definition of "chargeable income" under the Personal Tax Bill which would then become exactly the same as the definition of "chargeable income" under the Income Tax Act. Well, Sir, the definition of "chargeable income" under the East African Income Tax (Management) Act, No. 8 of 1952, is in section 25 of that Act and it is there stated: "that chargeable income of any person for any year of income shall be his total income for that year, less any personal allowances to which he is entitled at the rates specified in respect of that year in the appropriate territorial Income Tax Ordinance", and there are a number of provisos, Sir, but that is the principal part of the section. As I see it, if we accept this particular amendment, we should be introducing the principle of personal allowances into the personal tax law which is something that we would not wish to do since the whole intention is that it shall be a simple law.

But, Sir, it may be that what the hon. gentleman had in mind was not "chargeable income", but income which is liable to tax and which is dealt with under section 8 (1) of the Management Act, under the sub-title "Marginal note—charge of tax". There, Sir, there is a

definition of "total income" which runs to rather more than a page and it covers broadly the same ground as is covered by the simplified definition contained in the Ordinance.

Now, Sir, it would have been possible to have taken the full definition but it is not intended that the administration of this particular tax should attain to anything like the complicated nature of income tax administration. I think that the important thing is that we should know what is the income which will be subject to tax, and so long as that is defined, as it is defined in the Bill now before the Council, that, Sir, is all that is required.

As regards the list of names, that, so far as I can see, will be just the same and, therefore, the Income Tax Department will be able to obtain just as much information with the present definition as it would under an amended definition. Of course, what they will be looking for chiefly are the people who are in the Sh. 150 class, people with incomes of over £200 a year. But even for those people, Sir, this definition in the Bill covers all that is likely to be required, and in the circumstances, I do not think that any useful purpose would be served by accepting the more complicated definition contained in the Income Tax (Management) Act.

MR. ALEXANDER: Mr. Chairman, I am grateful to the Secretary to the Treasury for his explanation. His second assumption was quite right: I was referring to section 8 (1) of the Income Tax (Management) Act, in which the marginal note is "Charge of Tax". What I would like to ask, Mr. Chairman, is this—and I would like to illustrate it by a hypothetical case. If for example, those administering this Ordinance state or establish in their minds, under section 10 of the Ordinance, I think, that a man has got an income of £800 a year, they say: "You have got an income of £800 a year; you pay us personal tax on the maximum of Sh. 150". They then pass those records over to the income tax authorities. Are the income tax authorities enabled to start from this figure of £800 a year without any argument whatsoever? If I could have that confirmed clearly, Mr. Chairman, then I would not pursue this amendment any further.

MR. MACKENZIE: I think, Sir, that if the personal tax people had the information that Personal Taxpayer X, let us call him, had an income of £800 a year, if that information were available to the personal tax people, it would automatically become available to the income tax people.

But, Sir, there is one difficulty about that, and that is that under the Personal Tax Ordinance the requirement is that persons with incomes over £200 a year will pay tax at Sh. 150. It is not intended, and it would be quite impossible to administer the law if we were to have returns of the type that are obtained for income tax purposes. And as I see it, the way in which this law will be administered is that the average taxpayer who is due to pay over £200 a year will be merely noted in the register as someone who normally pays over £200 a year, and once that is established, of course, provided he pays up there is really no need to call for any more elaborate return.

I think that is the difficulty in this particular case, but, as I say, I am quite sure that everything possible will be done to furnish the income tax administration with as much information as is forthcoming.

MR. ALEXANDER: Mr. Chairman, do I understand from this that under section 10 where it says, "Where it appears to a collector that any individual, who in the opinion of the collector is liable to tax under this Ordinance" he is not going to, in his opinion, state what the figure is, an estimate, that he is merely going to say, "I think it is more than £200 a year, therefore you pay Sh. 150". This is my whole point, Mr. Chairman, because I think we are losing valuable use of this Ordinance unless some attempt is made to help the income tax authorities. Are they merely going to say, "This man has got five buses; we have guessed that his income is more than £200 a year, now you find out what the rest of it is"? Is that the intention of the working of this?

MR. MACKENZIE: Yes, Mr. Chairman.

MR. ALEXANDER: I do not want to press this any further, Mr. Chairman.

THE CHAIRMAN (Mr. Conroy): Do you wish to withdraw the amendment?

MR. ALEXANDER: Yes, Sir.

THE CHAIRMAN (Mr. Conroy): The amendment is in the possession of the Committee. Is it the Committee's wish that the Motion to amend be withdrawn?

(The Committee signified its assent.)

Clause 2 agreed to.

Clause 3

MR. ALEXANDER: Mr. Chairman, I beg to move the amendment to clause 3 as stated on the Order Paper. Do you want me to read the whole thing out?

THE CHAIRMAN (Mr. Conroy): No, I do not think that it is necessary for two reasons. The first is that it has been circulated to all Members of Council with the Order Paper to-day. The second is that I am afraid that I cannot allow the amendment to be moved, unless the Governor's consent for it is signified by a Minister, for the following reasons. The effect of the proviso to the proposed new section 3 is contingently to impose personal tax on two new groups of persons. Those persons may or may not be able to set off that tax against income tax, according to whether they pay income tax or not. Standing Order 105 (1) provides that Council, which in this context, must include Committees of the whole Council, cannot proceed upon a Motion for imposing or altering any tax "except with the recommendation or consent of the Governor signified thereto by a Minister". The same provision is contained in the Royal Instructions, Article XXVIII.

Our practice in this matter is exactly the same as in the House of Commons, and that is that the initiative of the Government to impose taxation must be preserved, that no one other than a member of the Government can move a Motion or move an amendment to impose taxation, unless there is a recommendation by the Governor to the introduction of this Motion proposing the amendment to clause 3 made by a Minister. I am afraid I cannot accept the Motion to amend.

You may, of course, Mr. Alexander, if you wish to do so, seek any information on the effect and working of clause 3 from the Government.

MR. ALEXANDER: Thank you very much, Mr. Chairman.

[Mr. Alexander]

Could I ask something further? Of course, this amendment is all-embracing; your ruling only applies to a part of it. There are other parts which I believe are valid, and will bring useful amendments into the Ordinance to improve it. What do I do about the parts that are good?

THE CHAIRMAN (Mr. Conroy): There is this difficulty. You are proposing to move an amendment of which you have not given notice. You have given notice of the whole amendment here, and it is difficult to see how you can chop bits out now and move new amendments.

MR. ALEXANDER: Mr. Chairman, I look the finest legal advice available; I would hate to have it completely lost.

SIR ALFRED VINCENT: Mr. Chairman, can we not adopt the measure which you said was allowable the other day, to report progress and ask to sit again on this particular Bill? If the legal nonsense, if I may so call it, does destroy something which is constructive and blatantly constructive?

THE MINISTER FOR LEGAL AFFAIRS (Mr. Griffith-Jones): Mr. Chairman, Sir, is there not possibly a solution in the hon. Member who proposed the amendment proposing it, omitting that part of the proviso which is out of order?

MR. HARRIS: Mr. Chairman, would you be good enough to give a ruling on this? Under our new Standing Orders, it is necessary to give notice of Motion before two-thirty. What happens if Members, having seen an amendment, wish to amend the amendment? Have they still got to give notice before two-thirty? Because how can we do it, if we have not seen it until we arrive in the Council?

THE CHAIRMAN (Mr. Conroy): This case should not give rise to any difficulty, because the supplementary Order Paper was published this morning.

MR. HARRIS: Yes, but what I am getting at, Sir, is had you permitted the hon. Member for Nairobi West to move his amendment would I then have been in a position to amend that amendment, to bring it in line with what the Government wishes?

THE MINISTER FOR LEGAL AFFAIRS (Mr. Griffith-Jones): Is the answer to that question not that any amendment to a Motion before the Committee or the Council may be moved without notice?

THE CHAIRMAN (Mr. Conroy): It is not a question of giving written notification of amendments to a Bill to the Clerk before two-thirty.

THE MINISTER FOR LEGAL AFFAIRS (Mr. Griffith-Jones): That I would agree with, Mr. Chairman, but surely when a Member moves a Motion that a Bill be amended in a certain way, it is open to another Member without notice to move an amendment to that Motion, in that an amendment may be moved to Motions as distinct from Bills.

SIR ALFRED VINCENT: But was it not ruled the other day, Sir, that such an amendment must come from the introducer of the Bill on the Government side? He accepted the amendment and he moved it and we got over the difficulty in that way.

THE CHAIRMAN (Mr. Conroy): I think if hon. Members would refer to the appropriate Standing Order they would find the answer there. Standing Order 90, which is on page 24, Paragraph (2) says this:

"No amendment shall be moved to any part of a Bill, by any Member, other than the Member in charge of the Bill, unless written notification thereof shall have been given to the Clerk before the commencement of the sitting at which that part of the Bill is considered in Committee."

If, therefore, we have a Bill before the Committee and notice of an amendment to clause "x" in that Bill is given, then a Member wishes to move an amendment to the amendment in clause "x", that further amendment is an amendment to the Bill. It is an amendment to a part of the Bill, and accordingly notice must be given of it; it cannot be an amendment to anything else.

MR. HARRIS: Sir, would you agree that it is impossible to amend an amendment which one only gets on arrival in the Council Chamber?

THE CHAIRMAN (Mr. Conroy): Unless the Member in charge of the Bill accepts it or unless the consideration of the Committee stage is deferred.

The purpose of the Standing Order is, of course, quite clear and that is to stop *ad hoc* amendments being produced without an opportunity for consideration.

MR. ALEXANDER: Mr. Chairman, surely we have got it here, because we had this the other day. I am quoting from the HANSARD of 13th November, I said, "On a point of order, for clarity, this amendment put in by the Minister himself is one that, other than the fact that it did get into our hands, we might not have known about. Now, Sir, that being so, how is it possible for us to put in writing an amendment to an amendment which we do not know anything about?" And your ruling, Sir, was that, "That can be dealt with on the Report stage or on the Third Reading. You can always move on the Report stage that the Bill be re-committed and then give notice of the amendment".

I take it that still applies, Mr. Chairman?

THE CHAIRMAN (Mr. Conroy): There is a second way in which it can be done and that is the way suggested by Sir Alfred Vincent, that the Committee report progress and ask leave to sit again, which is the equivalent of adjourning the debate on the Committee stage of a Bill.

Might we come back to the specific difficulty with which we are dealing—3.00 p.m.

THE MINISTER FOR LEGAL AFFAIRS (Mr. Griffith-Jones): Mr. Chairman, this is a point which is likely to arise from time to time; whilst I do not in any way question your ruling in the matter I am frankly not entirely satisfied in my own mind as to whether I support it or not; but I certainly do not question it. However, it does occur to me that it might be a matter in respect of which you might feel disposed to reserve your ruling because I think there is, if I may suggest it a counter argument: and that is that under Standing Order 32 (c) a Motion by way of an amendment to a question already proposed from the Chair may be moved without notice. Now,

then, admittedly Order 90, Rule 2 of that Order, provides that no amendment may be made to a Bill, but similarly elsewhere in the Standing Orders—it is provided that normally no Motion may be moved without notice. At the same time it does provide that once a Motion has been moved and a question has been proposed from the Chair an amendment may be moved without notice.

Now, an amendment to a Bill is moved by way of a Motion, of which notice must be given by 2.30 p.m. It is arguable I suggest—at any rate it may be worth consideration—that Order 32 (c) enables an amendment to that question to be moved without notice.

I think it is a matter possibly which you might care to reserve for consideration.

THE CHAIRMAN (Mr. Conroy): You say that Order 32 applies, but that is, of course, irrelevant because it relates to Notices of Motion. Order 90 (2) does not relate to Notices of Motion—it requires written notification of an amendment to be handed to the Clerk; and that is an entirely different thing.

My difficulty is that if you have an amendment on an amendment then the further amendment must of necessity be to amend a part of a Bill: it could not be anything else. That being so, it is debarred by Standing Order 90, paragraph (2) unless written notification is given to the Clerk.

MR. HARRIS: Mr. Chairman, I think the Committee would agree that we are liable to make some very bad laws if we only have the alternative at five minutes past three in the afternoon of voting upon original Bill, as published or an amended Bill, of which due notification has been given, and which we are unable to amend in debate, as a result of arguments adduced on either side of the Council, with an amendment of which notice has been given.

I would like to move, Sir, that the Committee now adjourns and asks leave to sit again, because I do not think we should proceed with this matter until this point has been decided.

SIR ALFRED VINCENT: If this amendment as a whole is not in order could you have ruled that a portion is out of

[Sir Alfred Vincent] order and that a portion of it is in order? If you could rule that a portion of it is out of order, then surely it would be common sense for us to proceed with the portion of the amendment which is in order and which has no relation to the other portion.

MR. HARRIS: Does that not mean an amendment to an amendment?

THE CHAIRMAN (Mr. Conroy): I have not ruled that the amendment is out of order. I have ruled that it requires the consent of the Governor. That, apparently, is not forthcoming, and, therefore, the Motion amending the Bill may not be moved because of the proposal in the amendment that the rate of tax be altered.

I think that the suggestion made by Sir Alfred Vincent may well help us here, and that is that if Mr. Alexander cares to move the amendment without the proviso then it would not offend. The difficulty is, however, that the proviso is the amendment, and if we delete the proviso, the proposed new section is the same as the section it seeks to replace.

MR. ALEXANDER: Mr. Chairman, if I omit all that part at the bottom of the page does that help? That is the part that is applicable to your ruling. However, regarding what you said, namely, that I could ask a question on it, I would still like to do so.

THE CHAIRMAN (Mr. Conroy): Does not the proviso (iii) remove the incidence of tax from certain people and is it not, therefore, equally objectionable, without the Governor's consent? Proviso (iv) also affects the incidence of taxation, does it not?

SIR CHARLES MARKHAM: With great respect, Sir, when we had an amendment to the Personal Tax Ordinance it was accepted in this Council. Surely, what was good for the goose a year or two ago should be similar now.

THE CHAIRMAN (Mr. Conroy): A precisely similar ruling was given in respect of the Special Tax Ordinance when Mr. Crosskill, I think it was, tried to move an amendment. That met with the same difficulty.

MR. ALEXANDER: I do assure you, Sir, that proviso (iii) merely removes a

very unfortunate anomaly which I pointed out in my speech in the general debate and which Government took no heed of and which I have therefore had to come back to. It was my only alternative.

THE CHAIRMAN (Mr. Conroy): It has the effect of removing a certain category of person, however small, from the liability for tax.

MR. ALEXANDER: If you leave it in it will have the effect of very serious victimization.

THE CHAIRMAN (Mr. Conroy): We are not concerned with its merits or demerits but we are concerned as to whether or not it affects the incidence of taxation.

SIR CHARLES MARKHAM: You allowed it the last time on the question of personal tax. The Secretary to the Treasury accepted an amendment concerning the alteration of the conditions. There was some doubt from the other side as to whether it was allowed under our Standing Orders but you allowed it because the Government said they did not object. That happened a year ago and I cannot see why the circumstances have changed.

THE CHAIRMAN (Mr. Conroy): What ever happened a year ago it is quite clear now that Standing Orders preclude an amendment being moved without the permission of the Governor.

THE CHIEF SECRETARY (Mr. Turnbull): If I may remove a little doubt, the Governor's authority has not been sought for this amendment, nor does the Government intend to seek the Governor's authority.

Question proposed.

THE CHAIRMAN (Mr. Conroy): No debate is allowed on that question, so I will put it now.

#### DIVISION

The question was put and Council divided.

The question was negatived by 31 votes to 13.

AYES: Messrs. Alexander and Cook, Lt.-Col. Gheris, Mr. Harris, Mrs. Hughes, Mr. Mangat, Sir Charles Markham, Mr. Maxwell, Mrs. Shaw, Messrs.

Slade and Usher, Sir Alfred Vincent, Tellers for the ayes, Mrs. Hughes and Mr. Waweru.

NOES: Messrs. Blundell and Blunt, Group Captain Briggs, Messrs. Coutts, Cowie, Gregg, Griffith-Jones, Captain Hamley, Dr. Hassan, Messrs. Havelock and Johnston, Sheikh Mahfood Mackawi, Mr. Mackenzie, Lt.-Col. McKenzie, Mr. Madan, Sheikh Mohamed El Mandry, Messrs. Mate, arap Moi, Muliro, Nazareth, Nzioka Odinga, Oguda, Pandya, Rogers, Sagoo, Swynnerton, Turnbull, Tyson, Wanyutu Waweru, Windley, Tellers for the noes, Sir Charles Markham and Mr. Sagoo.

THE CHAIRMAN (Mr. Conroy): Draw the bar, please, and unlock the door.

Clause 3 is still in the possession of the Committee.

MR. CROSSKILL: Mr. Chairman, it appears that Government is either fearful of being over-persuaded against their better judgment—or what they consider to be better judgment—or wish to bulldoze this through without an opportunity to debate it. In the present circumstances, therefore, Mr. Chairman, I propose to ask if the Secretary to the Treasury will give an assurance that he will, when the time comes for off-setting this tax against income tax, co-ordinate more closely and more equitably income tax and personal tax.

The object of this amendment was in order to make taxation more equitable. At the present time if one compares the incidence of the taxation under this proposed Bill and the Income Tax Ordinance, as we on this side of Council have pointed out during the Second Reading, there is inequity in a certain stage or a certain range of taxation and that is between, approximately, incomes of £200 and £500. In particular it is inequitable when the taxpayer is married with one or more children. The object of this is to dovetail the two points of taxation more closely together and to obtain, as we have explained during the Second Reading, a more gradual, continual and gradually increasing pressure right from the very start of taxation up to the very top levels. At the present moment that is not obtained for various reasons and therefore we ask that the Secretary to the Treasury will give us an assurance

that he will take steps, such as those which have been suggested in the amendment which has been ruled out of order, or such other steps as will make it more equitable.

The Minister, the other day during the Second Reading, said that one of his objects was to get as fair a spread of the burden of taxation as possible. Unless some steps are taken in the nature of what we have suggested, the Minister will not be carrying out what he has promised to do and what we all wish to have and that is a fairer spread—as fair as possible a spread—of the burden of taxation. Mr. Chairman, I would ask the Secretary to the Treasury to give us that assurance.

MR. ALEXANDER: Mr. Chairman, just to supplement the remarks of my friend the Member for Mau, I think it will bring it home to hon. Members, more of what we are trying to get at, if I just give a few illustrations. When off-set comes in it will mean that a single man on £300 a year will only pay Sh. 37 tax; it will mean that a married person with no children on £450 a year will pay no income tax; that a married person with two children on approximately £650 a year will pay no income tax; that a married man with two children with education allowance on something like £750 a year will pay no income tax. That, Mr. Chairman, was the whole idea of my putting in these amendments to-day. When I asked the Minister for Finance for the same assurances as my friend the Member for Mau has done, the answers were somewhat meek: If I may quote, he said on 12th November, "While I would not give him the assurance that the scales would be reviewed, the assurance I could give him is that of course any step of that kind would be brought before the Council. Any matter of set-off against income tax to make it law would have to be brought before the Council and on that point, because it would need to be an amendment to the Ordinance, the hon. Member would have full opportunity to place forward his arguments about the reviewing of the scales." I interrupted and this is what I said: "I am grateful again, Mr. Speaker, but just to get this quite clear, when the proposals are brought in we are dealing with income tax. We will not be able to go back to this Ordinance."

[Mr. Alexander]

Now, that is the whole point. Mr. Chairman, and we would like a very clear assurance to-day from the Secretary to the Treasury that when the Kenya Rates and Allowances Ordinance is amended to bring in set-off simultaneously we will have before us consideration of this particular Personal Tax Bill. I wish to talk later, Mr. Chairman, on this clause 3 at the bottom of page 2 but it is another subject so I will deal with it later.

MR. MACKENZIE: Mr. Chairman, the Government is always ready to consider suggestions which are made to it from any corner of the Council, and every year when the Budget is being prepared all questions affecting taxation naturally come under review. I have no doubt, Sir, that when the time comes when it may be possible—if it becomes possible—to set-off this tax against income tax, I have no doubt that at that time what has been said in the Council to-day and what was said during the Second Reading, will be brought to the notice of whoever is dealing with the matter at that time. I cannot really go any further than that, Sir, in that it is quite impossible at this stage to give any assurance that the Government will necessarily seek to impose a higher level of taxation on any section of the community at some unforeseeable date when one does not know what the general financial position is going to be at that time. All I can say, Sir, is that what has been said is on the record and I am certain that it will be brought up, in the event to which this amendment would have looked forward, should it take place. At that time I have no doubt that whoever is responsible will take note of what has been said to-day.

MR. HARRIS: The Secretary to the Treasury says the Government is always willing to listen to advice from whatever quarter it comes. I am sorry we have not had a better demonstration of that this afternoon because Members on this side are trying to assist Government in introducing legislation which is workable. Members, Sir, on this side of the Council, have a certain amount of accounting experience and taxation experience and they are trying to make suggestions to Government which, unfortunately, Sir, through your absolutely correct ruling,

they have not been able to air on the amendment in which the Member for Nairobi-West would have moved had he been allowed to. It is for that reason, Sir, that I move that we report progress and ask leave to sit again in order that Government might consider, by to-morrow the advice which is being given and allow the hon. Member to give due notice of an amendment to-morrow. It would not make the slightest bit of difference to Government whether it went through the Committee stage to-day or to-morrow, and, Sir, I intend, after every clause is moved, this afternoon to move the same Motion, to report progress and ask leave to sit again.

SIR ALFRED VINCENT: Mr. Chairman, I hope the Government, on the grounds of reason and expedition, will agree to this Motion because there is no doubt that some confusion does exist and that we are in a very difficult position on it, but, of course, we are entirely in the hands of the Government and this, I think, surely is an occasion where reason should prevail.

MR. ALEXANDER: Mr. Chairman, could I talk to the other part of clause 3 at this stage or would you like to dispose of this first?

THE CHAIRMAN (Mr. Conroy): I am not really sure what we are trying to dispose of. The last Member has spoken of a Motion, but there is no Motion before the Council. What we are doing is considering clause 3 of the Bill so that any Member who wishes to do so may seek information from the Government on that clause.

MR. ALEXANDER: Mr. Chairman, I understood that the Secretary to the Treasury said that this was going to impose extra taxation on certain individuals. Would he agree that, in point of fact, the amendment which I had down which we have not been able to discuss was to deal with people who would thereby not be paying income tax, would he agree that that number of people is substantial and the income tax which will be lost to this Colony will go into many hundreds of thousands of pounds?

MR. MACKENZIE: Since, Sir, I have no idea what the economic conditions will be when this hypothetical event takes

[Mr. Mackenzie]—I am afraid that I would not know whether the people who might at that stage be affected by this amendment would or would not be people who would otherwise be paying income tax.

MR. HARRIS: Sir, I see that the Chief Secretary has now had an opportunity of having a committee meeting with the Secretary to the Treasury and I am wondering whether he would give an indication whether we might get support if I again move that we report progress and ask leave to sit again.

3.30 p.m.

THE CHIEF SECRETARY (Mr. Turnbull): Mr. Chairman, Sir, as the Government has no intention whatsoever of accepting this amendment, the feeling of the Government is that it would be wasting the time of the Council by asking leave to sit again.

MR. HARRIS: Mr. Chairman, I would like to add a rejoinder to that. I think the Government will be wasting far greater time if they allow this principle to pass, that we have, I think quite reasonably, suggested that in order to conform with our Standing Orders we should adjourn debate until to-morrow, that is really what it means. If the Government uses its majority to prevent us taking that course, then, Sir, I can promise the Chief Secretary he is going to waste hours and hours and hours in every Committee stage of every Bill that we pass.

MR. SLADE: Mr. Chairman, I think it is a sorry position when the Leader of this Council suggests that just because Government is determined to defeat a Motion, any discussion is a waste of time of this Council.

THE CHIEF SECRETARY (Mr. Turnbull): It seems to me that we are obviously in danger of getting into a "yah hoo" match which will do nothing to enhance the dignity of this Council or to get through the business which is now before us. I would like to ask for a five-minute adjournment in which I can discuss this matter with my colleagues on this side of the Council and opposite.

THE CHAIRMAN (Mr. Conroy): I think it might be of assistance to the Committee to point out that so far from this

being a sudden ruling which caught Mr. Alexander on the hop, I told him of this difficulty this morning. So if he wished to move any other amendment he had up to two-thirds to do so. If it is the wish of the Council that we should interrupt business for five minutes then I shall do so.

MR. ODINGA: Mr. Chairman, Sir, I am listening with great interest to the deliberations of this Committee.

THE CHAIRMAN (Mr. Conroy): We will interrupt business until twenty minutes to Four.

*The Committee suspended business at thirty-five minutes past Three o'clock and resumed at forty-five minutes past Three o'clock.*

THE CHAIRMAN (Mr. Conroy): We are still dealing with clause 3. Does anyone wish to speak?

THE CHIEF SECRETARY (Mr. Turnbull): Mr. Chairman, Sir, we appear to have been arguing on different premises, that is to say we have been completely at cross purposes. The Government is prepared to adjourn the Committee and ask leave to sit again but on the basis of the interpretation of the Standing Order, not on the basis of the merits of the particular point which has been raised.

MR. HARRIS: Mr. Chairman, with your permission, I beg to move that the decision of the Committee on the Motion that the Committee do report progress and ask leave to sit again be rescinded.

THE CHAIRMAN (Mr. Conroy): I will put the question that the decision on the Motion that the Committee do report progress and ask leave to sit again in respect of the Personal Tax Bill be rescinded—I assume that you wish to go on with the other two Bills?

THE CHIEF SECRETARY (Mr. Turnbull): Yes, Sir, I agree that the Committee should report progress and ask leave to sit again in respect of the Personal Tax Bill only.

The question was put and carried.

*Canning Crops Bill*  
Clauses 2, 3, 4, 5, 6, 7, 8, 9, 10 agreed to.



## Clause 11

Mr. SLADE: Mr. Chairman, Sir, I beg to move that clause 11 be amended by substitution of a semicolon for the full stop at the end of sub-clause (4) and by the addition immediately thereafter of the words following: "but may, from time to time, within that period be modified by the Board in respect of any of the matters mentioned in sub-section (2) of this section".

The effect of that amendment would be, Sir, that during the currency of a licence, the Board could alter either the location of land to which the licence relates—that is not very important, or the proprietor, lessee or occupier of the land to which it relates—that is not very important either because of other provisions for transfer of licences; but could also alter the variety or varieties of the scheduled crops to which the licence relates, the quantity of such scheduled crop, or the variety or varieties that may be sold for canning, the canning factory or factories concerned, and any other particulars as the Board has chosen to insert as conditions of the licence. I do recommend, Sir, that that elasticity may be found desirable for many purposes. It is often found that circumstances change, while a licence is current, which would call for variation of the licence, without necessarily taking it away altogether.

The particular example I have in mind, Sir, and it is only one example, is the matter which I mentioned on the Second Reading; that is, where the canning factory, whether through its own fault or through matters beyond its control, falls down in its purchase of produce. Now, the canning factory with which each grower is to deal is prescribed by licence. If the canning factory starts to default, what is the grower to do? If he is bound to that factory for the currency of the licence, he is in a bad way. There must be some power of the Board to divert his produce, during the currency of the licence, to another canning factory that is not defaulting; and it has another advantage from the point of view of the canning factory, in my opinion, Sir, in that it provides alternative penalty where the canning factory fails. The only penalty at present is prosecution, unless the Board has con-

sented to the default—we have it under clause 17. Now, it may not be reasonable to prosecute the canning factory; but it may be very reasonable to cut down its quota of produce for the future, and therefore, to delete it from one or two growers' licences.

Again, Sir, under clause 17, there is the reservation that there will be no prosecution if the Board has consented in writing to the canning factory's default; but I do not know of any power for the Board to consent in writing to a partial default to the canning factory not stopping altogether, but taking less produce than was originally required of it by the terms of a number of growers' licences.

For those reasons, Sir, I do suggest that this power of the Board to modify licences can only be desirable; and when we come to clause 14, Sir, I will suggest a consequential amendment, if this one is passed, which provides that if the grower does not like an amendment to his licence, he has a right of appeal.

## Question proposed.

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): Mr. Chairman, the amendment is acceptable to the Government, and I do not propose to speak at length on it. I believe that really much of it would be covered as clause 11 is already drafted, in 11 (2); but the amendment put forward by the Mover makes it more clear, and certainly indicates that the Board should have flexibility, and I am perfectly happy to accept it.

The question that clause 11 be amended by the substitution of a semicolon for the full stop at the end of sub-clause (4) thereof, and by the addition immediately thereafter of the words of which notice was given, was put and carried.

Clause 11, as amended, agreed to.

Clauses 12 and 13 agreed to.

## Clause 14

Mr. SLADE: Mr. Chairman, I beg to move that clause 14 be amended by substitution for the present wording of sub-clause (1) thereof of the words following: "Any decision of the Board

(Mr. Slade) of the Director of Agriculture in respect of an application for a grower's licence, or in respect of modification of a grower's licence, shall, within 21 days thereof, be notified by the Board to the applicant or to the licensee, as the case may be, who may, within 30 days of notification, appeal to the Minister against such decision".

Sir, that is consequential on the amendment of clause 11; to enable the grower who is dissatisfied with the modification of his licence to appeal, in the same way as an applicant who is dissatisfied with the rejection of his application. It seems reasonable, Sir, that the grower should have that protection, though I do anticipate that, in most circumstances, the modification of the licence will be in the grower's interest.

## Question proposed.

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): Mr. Chairman, the amendment is acceptable to Government.

The question that clause 14 be amended by leaving out sub-section (1) thereof was put and carried.

The question that clause 14 be amended by the insertion of the new sub-section (1) of which notice was given was put and carried.

Clause 14, as amended, agreed to.

Clauses 15 and 16 agreed to.

4.00 p.m.

## Clause 17

SIR CHARLES MARKHAM: Mr. Chairman, I must apologize to the Minister in charge of this Bill for having been absent when he gave the Second Reading — I had to go away to Donyo Sabuk on that day.

Sir, I understand my hon. friend, the Member for Aberdare, did raise certain issues under this clause as also did my hon. Corporate friend, the Minister for Commerce and Industry, and the hon. Member for Nairobi North. I have also, Sir, read the HANSARD and seen the assurance given by the Minister in replying.

Now just, Sir, for the sake of the record could we have that assurance

again, Sir, that in the event of the canning factory getting into financial trouble and/or credit squeeze resulting in the fact that they cannot buy the crop which has been specified in the licence, that they will not be committing an offence which is indictable. The reason I say that, Sir, is that only days ago, a factory which has been receiving — not actually pine-apples — some other goods, has been receiving credit facilities from a bank, but owing to the credit squeeze and the fact that the bank rate is now at a fairly high figure, they found out themselves that it would be cheaper to close down the business than it would be to carry on canning.

Sir, all of us upon this country be dependent upon the whims of the finances of Great Britain, and I think it would be unfair to have that clause in unless there were some let-out for the canning factory in this particular Bill. At the same time, Sir, this Bill is a very one-sided arrangement; at the moment, there is no obligation even though he may have a licence, for the grower to have to sell to the factory, although the obligation is for the factory to have to buy off the grower. I think, Sir, if the Minister could give that assurance — there is no amendment going to be moved, Sir, there is no question of reporting progress — if we could just have the assurance again, Sir, from the Minister, it would satisfy me.

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): Mr. Chairman, I will certainly repeat what I said in the Second Reading, although, Sir, I do feel that repeating and having it reported in HANSARD twice will neither make or mar its value.

SIR CHARLES MARKHAM: (Inaudible).

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): I am aware of the position that the hon. Member has raised, and we did have some considerable debate on it during the Second Reading, and I will not repeat the arguments which were then advanced. I would, however, like to read what I said then, because I detect in reading the HANSARD certainly a slight difference from the words I used which I think might cause trouble in the future; and I

[The Minister for Agriculture, Animal Husbandry and Water Resources]—would draw hon. Members' attention to them where I think they are—obviously I have failed to correct the HANSARD properly, so that we can have in the HANSARD a true record of what was the Government's suggestion.

Now, Sir, I said as follows, Sir: "Secondly, I have consulted with the Minister for Finance and we do appreciate the fears of the canning companies. I want to state that in the event of an abnormal crisis in the industry which, because of the provisions of clause 17 (d) make it difficult or impossible for the canning companies to undertake the whole of their obligations, the Government would do what they could to assist the cannery to carry, for a period of crisis, the stock which might accrue through such a position arising. In the event of a crisis in the sales market, the Government would do its best to assist the cannery to carry the stocks which would build up during that period. We feel it is unlikely that the Government would produce direct finance for that; that might well come by assistance to the Board through the provisions on borrowing or by cess. But we do feel it would be possible for us to come to some arrangement with the cannery whereby they were helped"—now, Sir, the actual wording here is—"by having facilities relating to percentage of stock value and a specific period of time". The words I used were—I have not got them exactly here—but they were: "by coming to some arrangement with the cannery whereby they would be helped with a guarantee to the banks enabling them to have facilities which would be related to the percentage of stock value and a specific period of time."

I do not think, Sir, there is anything else I need add. I do not agree with the hon. Member that the Bill is entirely one-sided. This was a Bill, as I explained at the time, which originated with the cannery; and although the growers can sell outside, the market available to them is extremely limited. Therefore, the only recourse open to them is to sell to the canning factory which is noted in their licence. I therefore feel that there is a compulsion on the grower because of the limitation on the market outside the canning factories.

SIR ALFRED VINCENT: Could I thank the hon. Minister for the courteous and dignified way in which he has dealt with this matter to date?

Clause 17 agreed to.

Clauses 18, 19, 20, 21, 22, 23 and 24 agreed to.

Clause 25

SIR CHARLES MARKHAM: Mr. Chairman, I do not know whether this was raised in the Second Reading by my hon. friend the Member for Aberdare. I do not believe, Sir, that this particular clause would actually work.

The majority of the growers of these scheduled crops, for instance, the pineapples, are Africans. I do not see how, Sir, you would work this in practice by asking Jerogi Njeroge Kamau, whoever he may be, who produces four pineapples for canning, later on to pay a cess as is laid down under this particular Bill. Surely, I would have thought, Sir—it should be the other way round: the canning factory accepting the pine-apple for canning purposes would tell Njeroge Kamau, or whoever he may be, the price is shillings so-and-so, and the cess was cents so-and-so, and they in turn will pass it on to Central Government. Otherwise, Sir, I feel—to perhaps steal the words of my hon. Corporate friend, the Member for Agriculture—the happy-go-lucky, and the lucky-go-happy, I cannot see how it would actually work in this instance, except those two were lucky would certainly remain happy.

I cannot move an amendment, Sir, but perhaps the Minister might consider an amendment here; he has the powers under our Standing Orders, Sir, to initiate legislation—we on this side, Sir, have the power of protesting at it.

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): I do not feel strongly at all about the question of who initiates amendments, because I really believe the Committee stage is primarily for that purpose. Although looking opposite me, I am sometimes a bit doubtful of this, I do wonder if all brain power entirely resides on this side of the Council.

But, Sir, I think the hon. Member, in clause 25 (2), is really not correct. If he

[The Minister for Agriculture, Animal Husbandry and Water Resources]

will look, he will see that "Any cess proposed under the provisions on this section shall be payable to the Board or its agents in that behalf by the person"; I think it would be perfectly possible for the Board to appoint the cannery as its agent in this regard so that when the peasant deliverer of pineapples hands into the factory, the factory itself can deduct from the bulk proceeds of the sale the amount of the cess, the cannery then being the agents to the Board for the purpose of collecting the cess.

SIR CHARLES MARKHAM: Sir, with the greatest respect to the Minister, is there not a contradiction later on—it says "shall be paid within fourteen days after such sale"; so if you canning factory says to Kamau, "Come on, fork out ten cents", he can say, "Oh, no, you can wait fourteen days". Then you have to have all the fun and games with the "civil debt recoverable summarily", whatever that means. But, seriously, Sir, does the Minister think that would work, just to make quite certain we have not got to amend this legislation in a short time. Is he quite happy—or perhaps the Attorney-General could tell us—that they would have powers if they were appointed to collect on the spot this cess rather than have to wait for it from the licence grower within the fourteen days, as is laid down in the Bill?

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): Yes, Mr. Chairman, I think the point the hon. Member is putting up to me is that this implies that from a peasant who has delivered his produce, it is permissive for him to pay within fourteen days, and he may well then have vanished. And you do not want the whole of the business of a civil debt, and all the proceedings thereof, merely to get the cess back which could have been taken off at the time of delivery. If the hon. Member will just bear with me for one minute, I will consult with my hon. and learned friend, and see whether we can meet the point that he is raising.

SIR CHARLES MARKHAM: Thank you very much.

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): I think, Mr. Chairman, it would meet the hon. Member's point if the Committee would accept an amendment "shall be paid with fourteen days after such sale or at such time as the Board may direct", and then we have got a latitude for the larger plantation who is presumably a good bank credit and the individual peasant deliverer. That would be perfectly all right, I think, as far as the Government is concerned, if that would meet the hon. Member's point.

SIR CHARLES MARKHAM: If the Minister would move that, Sir, that would, indeed, meet my objection, I would like, Sir, to thank him for it. I do not know whether that is the exact wording he wishes to move, Sir, I do not know whether he has moved that formally to you, yet, Sir.

Oh, I have my own legal advisor, Sir—he wants, Sir, however, a fee for giving such advice!

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): I think perhaps this wording would be better, Sir: to delete the words "within fourteen days after such sale"; and to insert "and shall be paid in such manner as the Board may direct". Now, that gives us perfect flexibility from one to thirty days, or immediately, and by cheque, cash, or banker's credit; or rather "in some manner and within such time as the Board may direct", Mr. Chairman.

MR. HARRIS: Is it in writing?

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): It is coming in writing now. Would that be all right, Mr. Chairman?

THE CHAIRMAN (Mr. Conroy): If it is handed in in writing, Mr. Blundell, might I have it in writing?

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): I thought, actually, Mr. Chairman, that the Clerk was doing it for me.

The question that sub-section (2) of clause 25 be amended by the omission of the words "within 14 days after such sale" was put and carried.

The question that sub-section (2) of clause 25 be amended by the substitution for the omitted words of the words "in such manner and within such time as the Board may direct" was put and carried.

Clause 25, as amended, agreed to.

Clauses 26, 27, 28, 29, 30, 31, 32 and 33 agreed to.

#### Clause 34

SIR CHARLES MARKHAM: Mr. Chairman, a very brief point, just to ask the Minister to elucidate; the difficulty, Sir, I understand in the past has been a little bit on the question of labelling of pineapple, particularly with regard to the grade on that label.

Now, Sir, there are, I believe, new rules, coming in under my hon. friend, the Minister for Health, concerning the labelling of food-stuffs. Does this particular clause, Sir, give the Board full powers on subjects which are not specifically mentioned in numbers 1, 2, right down to 9 to make regulations regarding the labelling of the tins. There is always the danger, Sir, that you may get misrepresentation, however, under- deliberate on that tin which can do a great deal of damage to the industry. All I want to know, Sir, is whether the clause 34 is wide enough to include all the powers necessary to avoid any danger in the future, particularly, Sir, as we all know, there have been cases in the past (not concerning pine-apples) where the word on the tin can be most misleading. I do hope, Sir, that the Board will have powers to control that particular point of the labelling of the cans.

AN HON. MEMBER: Scotch kippen!

SIR CHARLES MARKHAM: Scotch kippen, yes, made in the Isle of Man.

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): Mr. Chairman, I thank the hon. Member for the point he has raised. I am in agreement with him, that we do want to see that the product as labelled is the product as sold; and it would not be reasonable for reputable companies to be undersold by disreputable companies who purported to put something to the public

which in fact it was not. Now, the intention of this clause is to enable the Board to act in that manner.

I think it might possibly meet the hon. Member if we put in in (5) something like—subject to my hon. and learned friend here—"regulating and controlling the processing and canning and labelling for sale of any scheduled crop or variety of schedule crop". Then I think it would be quite clear. I think there is a loophole at the moment for argument as to whether labelling is part of canning. I would be quite happy, if that would meet the hon. Member, to put that forward as an amendment to the Committee.

Mr. Chairman, the position is that my hon. learned friend advises me that he thinks the point which the hon. Member is putting forward is met in the opening words of clause 34:—

"The Board may, with the approval of the Governor in Council of Ministers, make rules generally for the better carrying out of the purposes and provisions of this Ordinance."

I think it might be better if I were to indicate to the hon. Member that in preparing the rules I will look at the particular point he has brought up and see whether we can meet it. Particularly as the rules as I made clear, I think, in the Second Reading when the hon. Member was absent, go to the Governor in Council. There will therefore be an opportunity there for Commerce and Industry to advise in this matter as well as Agriculture.

I think that would perhaps be a better way of dealing with that if the hon. Member would accept that.

SIR CHARLES MARKHAM: I am quite happy to do that, Sir.

THE MINISTER FOR LEGAL AFFAIRS (Mr. Griffith-Jones): Mr. Chairman, may I just make one or two observations on these amendments? I appreciate that the hon. Member has only one motive and that is to be helpful and see that we get the Bill through the Committee stage in as good a form as possible. But it does make it very difficult for the Government—and for myself—on these Benches to have to advise off the cuff as to these amendments without any prior notice, without the Ministry having had opportunity to consider such amendments, and

[The Minister for Legal Affairs]

it was for that purpose that the new Standing Order was introduced so that we would have at least, from the time of the commencement of the sitting until the Committee stage to consider any such amendments. So if the hon. Member finds that the Government is somewhat hesitant to accept amendments which are proposed to it without notice, speaking for myself at any rate, it is for that reason, that, with the best will in the world it is not possible to give it the most complete consideration and perhaps to arrive at the most correct answer, without any prior notice.

SIR CHARLES MARKHAM: Sir, I must apologize to the Council for having raised these two. I came along, Sir, and I actually picked up last Tuesday's Order Paper and I thought that this was not coming up until to-morrow. It was only when I came this afternoon that I realized that I had been caught on the hop a bit myself, Sir.

I apologize to the Ministers concerned.

Clause 34 and clause 35 agreed to.

First Schedule agreed to.

Second Schedule agreed to.

Title agreed to.

Clause 1 agreed to.

Bill to be reported.

*The Reinstatement in Civil Employment (Amendment) Bill.*

Clause 2 and clause 3 agreed to.

Title agreed to.

Clause 1 agreed to.

Bill to be reported.

THE CHIEF SECRETARY (Mr. Turnbull): Mr. Chairman, I beg to move that this Committee do report to Council that it has considered the Canning Crops Bill and has approved the same with amendment, that it has considered the Reinstatement in Civil Employment Bill and has approved the same without amendment, and that it has considered a part of the Personal Tax Bill and has asked leave to report to Council to sit again upon that Bill.

The question was put and carried.  
Council resumed.

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

## REPORT AND RECOMMITTAL

### Personal Tax Bill

MR. CONROY: Mr. Speaker, in respect of the Personal Tax Bill I beg leave to report that a Committee of the whole Council reports progress and asks leave to sit again.

I beg to move that leave be given for the Personal Tax Bill to be recommitted to the Committee of the whole Council.  
Question proposed.

The question was put and carried.

The Bill was recommitted to a Committee of the whole Council to-morrow.

## REPORT

### Canning Crops Bill

MR. CONROY: Mr. Speaker, I beg to report that a Committee of the whole Council has been through the Canning Crops Bill and approved the same with amendments.

Report ordered to be considered to-morrow.

## REPORT AND THIRD READING

*The Reinstatement in Civil Employment (Amendment) Bill.*

MR. CONROY: Mr. Speaker, I beg to report that a Committee of the whole Council has considered and approved the Reinstatement in Civil Employment (Amendment) Bill without amendment.

THE SPEAKER: Third Reading?

MR. CONROY: Mr. Speaker, Sir, I beg to move that the Reinstatement in Civil Employment (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 a Third Time and passed.

## REPORT AND THIRD READING

### The Criminal Justice Bill

THE MINISTER FOR LEGAL AFFAIRS (Mr. Griffith-Jones): Mr. Speaker, Sir, I beg to move that the Council doth agree with the Committee in its report on the Criminal Justice Bill.

THE CHIEF SECRETARY (Mr. Turnbull) 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 Criminal Justice Bill be now read a Third Time.

MR. CONROY seconded.

*Question proposed.*

The question was put and carried.

The Bill was accordingly read the Third Time and passed.

## REPORT AND THIRD READING

*The Water (Amendment) Bill*

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): Mr. Speaker, Sir, I beg to move that the Council do agree with the Committee on the report of the Water (Amendment) Bill.

MR. CONROY seconded.

*Question proposed.*

The question was put and carried.

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): Mr. Speaker, Sir, I beg to move that the Water (Amendment) Bill be now read the Third Time.

MR. CONROY seconded.

*Question proposed.*

MR. HARRIS: Mr. Speaker, Sir, I had it in mind to move an amendment, delaying the Third Reading of this Bill. I think my objection can be met by an assurance from the Minister, which I understand that he is willing to give, and I would crave your indulgence, Sir, if I take up thirty seconds of the Council just to explain the undertaking which I would like of the Minister.

The position, Sir, is that in the Bill before this amending Bill it was necessary to give a water undertaker thirty days' notice before any action could be taken to vary the terms of his licence. Under the present Bill, that variation can take place in certain eventualities without notice. I appreciate, Sir, the reasons why this has been introduced into the Bill, but I feel sure that the Minister will appreciate that there are large undertakings, both public utilities and large companies, who are responsible, either for manufacturing processes or for sup-

plying a service to the public, where a known flow of water is essential in order to enable them to maintain that service.

I would have preferred, Sir, that at an earlier stage the Minister might have accepted an amendment that he would give thirty days' notice of intention to vary the terms of the licence rather than that this should be done without notice. The Minister for Commerce and Industry, Sir, is trying to entice a pulp industry into this country. I think we would all welcome it, but, as the Council will know, water is the very life-blood of pulp manufacture and if it were within the power of the Minister to be able to cut off or vary water supplies without notice, I am quite sure that the Minister for Commerce and Industry would find greater difficulty in encouraging the erection of a pulp mill than he would if the Minister agreed that he would give notice to large manufacturing undertakings and to public utilities before there was any variation in the terms of their licence.

4.30 p.m.

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): Mr. Speaker, I made it clear to the hon. Member in discussion that I could not accept the amendment which he had in mind. My reason was, Mr. Speaker, that the particular point to which he refers is one in which emergency only is concerned. I believe that in a country which is as subject as this one is to variations in water flow, the Minister must have discretion for immediate action in cases of emergency. To suggest that the Minister should then give notice over thirty days of intention in moments of emergency would, I believe, largely nullify the power to act due to the emergency.

Nevertheless, the point which the hon. Member has raised is an important one and I am prepared to give him this assurance, that before acting in a matter of this sort, that is a variation of a licence granted to a public utility or large industrial undertaking, I would consult with them before action was taken. I think that will largely remove the fears of the hon. Member and possibly any enterprises of that sort. It still leaves me, as the Minister, the discretion to act which I feel I must have, but it also gives the undertakings concerned the

[The Minister for Agriculture, Animal Husbandry and Water Resources:] opportunity of putting their particular difficulties to the Minister with the chance of finding a solution to them before the Minister acts.

The question was put and carried.

The Bill was accordingly read the Third Time and passed.

## MOTION

## THE EXTENSION OF INCREASE OF RENT (RESTRICTION) ORDINANCE, 1949

THE ASIAN MINISTER WITHOUT PORTFOLIO (Mr. Madan): Mr. Speaker, I beg to move:—

THAT the Increase of Rent (Restriction) Ordinance, 1949, be extended for a further period of three years as from the 1st day of January, 1958, subject, nevertheless, to the provisions of the proviso to sub-section (2) of section 1 thereof.

Sir, the consolidated edition of the Increase of Rent (Restriction) Ordinance which was published in 1949 was due to expire on the 31st day of December, 1954, but by a resolution of this Council, passed on the 1st day of December, 1954, its life was extended for a further period of three years, which will expire on 31st December of this year. The proposal now is that the life of this Ordinance be extended further by another three years, that is up to the 31st day of December, 1960.

The provisions of the proviso to which reference is made in the Motion refer to the exclusion of the application of the Ordinance to business premises. If the Motion now before the Council is approved, the Ordinance will in no way apply to business premises.

I should like to make it clear straight away that although the extension which is being asked for now is for a period of three years, it is quite likely that the Ordinance may not remain alive in its present form, and neither may it remain so extensively applicable during the whole of that period. The reason, Sir, is that both the Board of Commerce and Industry and the Minister for Commerce and Industry, whose concern this subject is, have kept under review new developments in this matter; and during the month of September of this year, after

consultation with, and on the advice of, the Board of Commerce and Industry, the Minister for Commerce and Industry appointed a Committee of Inquiry with the following terms of reference. I quote now, Sir, from Gazette Notice No. 3288, which was published in the *Official Gazette* of 24th September of this year:—

"The Minister for Commerce and Industry, having consulted the Board of Commerce and Industry, has appointed a Committee to examine the working of the Increase of Rent (Restriction) Ordinance, 1949, and to make any recommendations for amendments which appear desirable."

The Notice, Sir, also stated that the Committee would be glad to receive memoranda on this subject and that it would also be prepared to hear oral evidence.

Hon. Members will be interested to know the composition of this Committee, which consists of myself as the Chairman thereof, the hon. Member for Nairobi South, the hon. Nominated Member, Mr. Riddoch, Mr. B. C. Mohindra and Mr. E. J. Hand.

Hon. Members will note that the membership of the Committee is widely distributed. The Committee will have the benefit of the advice and guidance of Mr. Hand in so far as the cost is concerned. And at the other extreme, the hon. Mr. Riddoch will be with us to draw upon his experience and his acumen in such matters which is generally recognized. In the centre I will be very happy to have the profound knowledge of Mr. Mohindra, who is a well known business executive in Nairobi. And it is with pleasure, Sir, that I will be associated in this inquiry with the hon. Member for Nairobi South, whose astuteness and quickness of thought will also be of great benefit.

I might be permitted to say, Sir, that I am well satisfied with the composition of this Committee of Inquiry into the thorny subject of rent control, but the general public, and in particular landlords and tenants, may rest assured that the interests of both of them will receive the most careful consideration.

In this connexion it is pertinent to mention, Sir, that the Committee had

[The Asian Minister without Portfolio] received about three score memoranda and it has made arrangements to hear oral evidence at Mombasa, Nairobi, Nakuru, Kisumu and Eldoret. Every facility will be granted to those who wish to make oral representations to the Committee.

Now, Sir, I might mention the reason for my analysing the composition of the Committee at some length. I have dealt with the matter in this manner in order to answer a criticism which has been made that the membership of the Committee will be the poorer for the lack of the insight of a woman, and also because the housing of all races is involved why not also an African member? I feel enriched by the presence of a woman, but I also feel so scared of women that I would never dare deny their sagacity, their insight, sometimes even into imaginary problems, their persistence and their patience. I would like to make it clear that the Committee of Inquiry has not been constituted with a view to excluding any section or class of people, any race or sex. The aim was to obtain the advantage of people whose experience because of their contact with problems which arise because of the existence of rent control legislation would be most beneficial. I hasten to add, Sir, that I do not mean that the advice and the natural-born sense of maintaining a delicate balance which every woman seems to possess, and the practical experience of an African member on the Committee would not have been useful. But the very nature of the subject demanded that the Committee should be reasonably sized, and in my submission to this Council it is well constituted and well balanced.

I would like, Sir, to make a further brief reference to the terms of reference of the Committee, and to say that while I do not anticipate the recommendations which the Committee might make, it is possible, even likely, that the Committee will recommend large-scale amendments to the Ordinance, as well as the deletion of application of some, and in some cases all protective provisions of the Ordinance to certain types of residential premises, possibly on a zonal basis and possibly also on account of the nature or occupation and the user of the premises.

It is also possible, Sir, that the Committee might recommend that the provisions of the Ordinance should continue to apply *in toto* to certain areas of the Colony. Those are possibilities. But we must not also overlook that all important question of the standard rent which will require the most careful study, with a view to its adjustment in a manner which will be more consistent with the present-day conditions.

I mention only these items as an example. There are other important aspects of the Ordinance which will require careful consideration by the Committee, whose terms of reference are, I consider, wide enough to enable them to make their recommendations to the Minister for Commerce and Industry with a sense of full freedom in connexion with all aspects of rent control legislation. But in the matter of the interpretation of our terms of reference, I would naturally seek and be guided by the advice of the members of my Committee.

I am aware, Sir, that when rent control legislation was first introduced in this Colony, it was a war-time measure. The introduction of this legislation was an answer to meet special conditions which required a special remedy. Nevertheless, it was in the nature of control legislation. I am also aware, Sir, that it is distasteful and repugnant to human nature to accept control. The pattern of society, however, demands regulated conduct and hence the necessity of control legislation. I am further aware that the subject of rent control arouses strong, even belligerent, feelings and passions in the minds of some people. There are some who would like to see it abolished overnight, and there are others who regard it as a boon to be cherished; again some consider it as a necessary check upon avarice and a guard against unreasonableness. I consider, and I so submit to this Council, Sir, that our duty is to try to ensure that whatever decision we take is a well-balanced and reasoned decision in this matter.

Mr. Speaker, since the Council agreed to extend the operation of the Ordinance in 1954 for a period of three years, Government has not been idle in the matter. It has kept a close watch on its

[The Asian Minister without Portfolio] operation and hon. Members may be interested to know of the action taken by Government during the period. In 1955, Government consulted all Rent Control Boards in order to determine whether it would be possible to relax the application of the Ordinance in any way.

As a result of the detailed study made then the conclusion was reached that for the time being it would be inadvisable to relax the operation of the Ordinance in any way and this decision was endorsed by a meeting of the Board of Commerce and Industry in October, 1955. Secondly, the Government initiated a further inquiry during the current year which resulted in further and more expressions of opinion and information becoming available to the Minister for Commerce and Industry and now the Government has appointed my Committee, to which I have already referred, to investigate the whole problem. In the meantime the Government is satisfied, Sir, that it will not be justified in relaxing the application of the Ordinance.

In so far as my Committee is concerned I would like to assure hon. Members that there will be no unnecessary delay in presenting our report and our recommendations to the Minister for Commerce and Industry, but it will not be possible to prepare and present the report before the end of the current year which, as I have already said, is the date for the expiry of this Ordinance. It is, therefore, necessary that in the meantime the Ordinance be kept alive. It is for this reason, Sir, that to-day I would ask hon. Members to exercise forbearance and not to prejudge the issues. I would ask hon. Members to await the report of the Committee, its consideration by the Minister for Commerce and Industry, and the introduction of such amending legislation as he may decide as a result of the recommendations made in the report.

I am aware, Sir, that in the meantime there are many problems about which we could talk to-day, although I am inclined to think that not much useful purpose would be served to go into them in detail to-day. I could mention a few of these. We could, Sir, for example, refer to the usefulness or otherwise of

the rent control legislation. On behalf of the landlords one could quote the injustices, or alleged injustices, suffered by them. On the other side of the picture a person could make out a case on behalf of pathetic tenants. I have also heard it said that rent control legislation has retarded development, but those who say this are apt to forget that since February, 1954, all new residential accommodation has been entirely free from control. All these matters, and many others, are capable of argument, but to-day I would ask hon. Members not to enter upon a wide discussion of them and to accept the Motion as it stands.

Once again I hasten to add that all useful suggestions which we can use as a guide to impartial opinion will be welcomed by me as the Chairman of the Committee. In making these suggestions I would ask hon. Members to agree that we should aim at achieving progressive decontrol, which will be a measure of advancement without causing any serious dislocation in our social system and also without causing any undue hardship either to tenants or to landlords.

Mr. Speaker, I beg to move.

THE MINISTER FOR COMMERCE AND INDUSTRY (Mr. Hope-Jones) seconded.

Question proposed.

Mr. HARRIS: Mr. Speaker, Sir, the Asian Minister without Portfolio in presenting this Motion has, I think, made the position quite clear. I would like to put the matter beyond any doubt as to what this Motion really means.

So far as I, as a member of the Committee which he has mentioned, am concerned, I had thought of proposing an amendment by deleting the expression "three years" and inserting therefor "six months" because I thought that that would probably have made it clearer to the public that this Motion did not mean that the Rent Restriction Ordinance, 1949, as the public know it to-day, would be with us in June of next year. The position is, Sir, that the Committee which has been set up by the Minister for Commerce and Industry has pretty wide powers of reference to recommend to him suggested amendments, and the Asian Minister without Portfolio has indicated that those amendments may be

[Mr. Harris] a question of zoning or any other device which may relieve or accentuate restriction in particular areas or with particular classes or in particular places, and therefore, Sir, I want to make it quite clear that by passing this Motion it does not mean that any individual tenant who to-day is protected by rent restriction will necessarily be protected in six months' time. It may depend on circumstances or geography: it may depend on a lot of things.

Equally, Sir, this Motion, if it is passed, does not mean that any particular individual landlord may be restricted in the future as he is restricted to-day, regardless of the expression "three years" in the Motion. This is merely a method of ensuring continuity of the present legislation to enable the Committee to make recommendations to the Minister of Commerce and Industry and for the Minister for Commerce and Industry to consider those recommendations and introduce into this Council any legislation which he agrees should arise from the recommendations.

I have received representations from landlords—and that is why I am making these remarks now—who think they are going to be restricted for the next three years automatically, and from tenants who think they are going to get protection automatically for three years from this Council. All I want to do is to disabuse both the landlords and the tenants. All this means is that until the Committee has reported and the Minister in his wisdom has accepted or not their report, the Ordinance will continue to apply. But afterwards the Rent Restriction Ordinance may or may not apply in their own individual cases.

Sir, I beg to support.

MR. HASSAN: On hearing the explanations from the Member for Nairobi South, I am satisfied that the period of three years is not going to be imposed definitely. It is merely put down that the Committee's Report will make necessary changes and amendments as and when they will be needed. But I could not possibly understand the explanation of the Asian Minister without Portfolio as to why an African representative was not provided for on

this Committee. There are a great many problems affecting the African community all over the country regarding housing difficulties, and if such a member is not appointed I hope that suitable arrangements will be made so as to know the points of view of the Africans in all these towns. They are suffering considerable hardships with regard to the shortage of houses almost all over Kenya, and if the Committee has the power to add another person to their number I hope the Minister will give the assurance that he will not hesitate to appoint one to get first-hand information about the difficulties of African housing.

With these reservations, Sir, I support the Motion.

MR. MUIRO: Mr. Speaker, I think that in this country the Africans, as a majority, pay a lot of rent and, therefore, the hardships which they encounter are quite numerous. I, therefore, Mr. Speaker, do not see the reason why the Government did not include one African. Up to now, as I think the hon. Member for the East Electoral Area has pointed out, the Government could have put one African on that Committee, this will not make the Committee unwieldy. The arguments which have been advanced by the hon. Mover are not, in themselves, conclusive. The hon. Mover maintains that the Committee has been appointed from those people who have some contact with housing problems and who are, therefore, able to deal with the problems effectively. I hope that by saying that the hon. Mover does not imply that the Africans are not in contact with these problems. On the contrary, I think the African is more in contact with these problems now affecting them, particularly in the cities like Nairobi, Mombasa and Nakuru, and Kisumu, than any other person.

THE SPEAKER (Sir Ferdinand Cavendish-Bentinck): Mr. Muir, the Motion before the Council is merely quite simply the question as to whether the Increase of Rent (Restriction) Ordinance should or should not be extended. I did allow you a little latitude because the hon. Mover made some mention of this, but there is no reference whatever to any committee in this particular Motion. In any event you have made your point.

MR. MUIRO: I think, Mr. Speaker, my point having been made, I will beg to support the Motion.

MR. ODINGA: Mr. Speaker, since the Mover of the Motion has mentioned the Committee—and he talked for a long time about it—it would not be fair if I did not allow us, also, to mention it, particularly because we feel—

THE SPEAKER (Sir Ferdinand Cavendish-Bentinck): I am afraid that I cannot allow you to do so. I have just given a ruling and that ruling is that having allowed the point which you are about to reiterate, to be made, that must be an end of the matter. I must ask you to take my ruling.

MR. ODINGA: I will take your ruling, Mr. Speaker, but if I make some reference to it I trust you will not probably rule me out of order.

THE SPEAKER (Sir Ferdinand Cavendish-Bentinck): I have made my ruling. If you do not accept my ruling I shall have to take further measures.

MR. ODINGA: Mr. Speaker, Sir, I do have other things to mention.

THE SPEAKER (Sir Ferdinand Cavendish-Bentinck): Other things you may mention.

MR. ODINGA: In supporting the Motion itself I would only draw the attention of the Minister and of the hon. Mover of the Motion to what I said at the beginning when I first addressed this Council. I said that probably the Minister for Commerce and Industry is only Minister for the people of Nairobi and Mombasa—and that should be taken note of—that whenever such cases as rent and so forth are being considered the African must be considered in the first instance.

Sir, I beg to support.

5 p.m.

THE MINISTER FOR COMMERCE AND INDUSTRY (Mr. Hope-Jones): Mr. Speaker, I am in some difficulty but I will keep to the Motion, which is that the Ordinance should be extended for three years.

Deriving from that, Sir, it has been necessary to consider how the Ordinance should be extended over that period of three years, and that is why, Sir, with strict reference to that period, the Com-

mittee, described by my hon. friend, has been appointed.

Now, Sir, in considering how best to extend the Ordinance for that period, my hon. friend who last sat down made certain observations which, in the terms of the Motion; I think I can assure him, as my hon. friend can, that the African point of view will be taken fully into account. If I may so say, Mr. Speaker, it is not necessary for a person to be of a particular race to consider how best an Ordinance of this kind can be extended for three years, and in what way it should be extended. I can assure the hon. Member, as my hon. friend assured him, that ample opportunity will be given, and has already been taken, for all races to give their advice to the Committee how best to implement the Motion. I do not think it is necessary in appointing a Committee of Inquiry to think of it in terms of race. It is, however, necessary to think of it in terms of geography, and that has been done. The hon. Member and his friend and all those concerned in this matter will be given ample opportunity to put their views in writing, as many already have done and, indeed, to give evidence before the Committee. The matter would then, at a later stage, as my hon. friend, the Member for Nairobi South said, come back to this Council in the form of proposals. Again, Sir, there will be ample opportunity for discussion, amendment, opposition or agreement. I think my hon. friend can rest assured that the personnel of the Committee are such that this Motion to extend the operation of the Ordinance for three years will be the subject of the most careful consideration as to how best it should be implemented.

I beg to support.

MR. SAGOO: "Three square meals a day and a roof over the head" are the ideals aimed at by any welfare State, and whereas an individual might be able to tighten his belt and exist on one meal a day, I doubt very much if he can survive without a roof over his head: to come to the point, Sir, I am very happy to see that the Mover of the Motion has extended the period of the Rent (Restriction) Ordinance for a further period of three years, and has thus brought fresh hope to those people—those who are

[Mr. Sagoo] tenants and are really living on—shall I say, very meagre means—the hope that they can continue in their present position for a few years more.

The housing shortage is still prevalent in all the urban areas and principal cities of the Colony. I could quote instances, Sir, that whereas new housing has been put up in all these areas, the pace has not been fast enough or rapid enough to cope with the increasing demands of the population. I would also quote, Sir, the example of the land which was made available by the Crown in Nairobi in the South Estate. All plots have been allocated. There is a lot more land not only in the Asian but in the European and African residential areas, and I would like to urge upon the Minister for Lands, who is on my right, that he would, whenever the opportunity arises, make such land available so that this Rent (Restriction) Ordinance, which has been described by the Mover as a control which is repugnant and obnoxious, can be done away with.

I am, Sir, without prolonging the discussion, very happy once again to say that this timely measure has been adopted, and I have great pleasure in supporting it.

THE ASIAN MINISTER WITHOUT PORTFOLIO (Mr. Madan): I am grateful to the hon. Members who have supported this Motion. I should like to deal briefly with some of the points made.

First of all, the hon. Member for Nairobi South made this point in his remarks, and also the last speaker. I made it clear in moving the Motion that I would not anticipate the recommendations of the Committee, but I mentioned a few possibilities upon which the Committee might base its recommendations. I would not like to say at this stage what the recommendations of the Committee will be, neither would I like to say whether tenants will continue to be protected in six months' time or not, on the other side, whether landlords will continue to be restricted or not. Similarly, I would not like the hon. Member who has just sat down to go away in the belief that the operation of this Ordinance is being extended for a further three years. I thought I made it clear that it was possible that the Ordinance may not

remain alive in its present form, nor be applicable to the same extent as now.

In so far as my African friends are concerned, I would like to reaffirm the assurance given by the Minister for Commerce and Industry, and as Chairman of the Committee, I would like to assure them that no one will be denied the opportunity to present his case to the Committee, whether he wishes to do that by presenting a memorandum, or by giving evidence orally. But in neither case will opportunity of being heard be denied.

I do not think the Committee will deal with this matter on a racial basis; they are concerned with it as a problem which is economic as well as social, and I do not think it will occur to the members of the Committee to look upon it racially. I should like to refer to the point made by the hon. Member for the 1st Electoral Area, and also warn him that it is not strictly correct to say that the Ordinance will not be imposed for three years more. I thought I made it also clear during the moving of the Motion that it was possible that it might be recommended that the Ordinance should continue to apply *in toto* as it stands to some part of the Colony. I do not know that it will be so, however, because I do not wish to anticipate the recommendations of the Committee, but I can give him my assurance that all points of view will be carefully considered, and nobody's interests, whether landlords' or tenants' or the general public, will be overlooked.

Sir, I beg to move.

The question was put and carried.

#### PRIVATE BILL

#### SECOND READING

*The British Standard Portland Cement Company Limited (Bamburi Factory) (Amendment) Bill*

Order for the Second Reading read.

MR. USHER: Mr. Speaker, Sir, I beg to move that the British Standard Portland Cement Company Limited (Bamburi Factory) (Amendment) Bill be read the Second Time.

I think perhaps before I go into the details of the Bill, Sir, it might be as

[Mr. Usher] well to call the attention of hon. Members to the very great contribution this company has made to the economy of the country. The following figures will illustrate what I mean. For some time now the company has been producing at the rate of 150,000 tons a year. By the end of this year I understand it will have reached 200,000 tons. If this Bill passes, the company will then be in a position to increase production further by the end of 1958 to 250,000 with an ultimate potential of 300,000 tons.

Well, Sir, the considerations in the Bill are two-fold. The Bill is designed to grant additional lands to the company on which they have had what might be called an option. That is to say, the Minister for Lands has agreed that for ten years from the commencement of the substantive Ordinance—that is six years ago—they should be able to embrace further adjacent lands if they so wish. That is what they now wish and what they have expressed in their petition.

The two areas of land concerned are: one to the west which they propose to use for two purposes; one is agricultural—really gardening—to produce vegetables for the employees of the company. I may say, Sir, that the company employs 50 Europeans and some 450 Africans who are serving upon the most excellent terms and conditions. The other part of the land to which I am referring would be used for manufacturing other products; that is to say, in particular, concrete blocks, pipes, poles for carrying power and lighting, and perhaps concrete sleepers and other prefabricated parts. The first portion is about 83 acres. The second portion, which is 160 acres, lies to the north and provides the good coral which they will need for the expansion which is now projected. It is, of course, rather unfortunate that part of the land would also have been suitable for residential accommodation: it would have been possible to have had from 10 to 20 houses there, but in considering the nature of the expansion that is proposed, that should in my opinion give way to the more important economic consideration.

These matters, Sir, are dealt with in clause 2 of the Bill. Clause 3 deals with an entirely different question. It will be

within the memory of certain hon. Members in this Council that when the first Bill was moved here there was a select-committee which found that a certain area, about 200 yards by 800 yards, should be preserved and free from blasting or quarrying of any sort for 25 years.

It is the wish of the company that that provision should now be set aside, only six years after the condition was imposed. The fact is that it is very important that they should win this coral and the question is: what are the possible objections? Well, Sir, there are nine houses adjacent to this which might suffer some inconvenience. There is an hotel. Five of the houses have been acquired by the company and there remain three in private ownership. Of these three, one of the owners is absent, so that his opinion has not been obtained. For the rest, agreement has been secured that under certain conditions—which I do not propose to detail, Sir, unless the matter is raised, and in that case I will deal with it in my reply. Well, I have satisfied myself that the owners of land here and property here have been given reasonable assurances in regard to the blasting operations and to the question of indemnity: should they suffer any material damage to their property.

There is one other consideration when they are asking for the release of this prohibited area, and that is that there are about 30 acres of Crown land in between the prohibited area and the presently occupied seaside houses, and I understand that a layout exists for residential accommodation there. Perhaps there might be ten or twenty houses again in that portion.

Well, Sir, it is, I think, advantageous that all the blasting and quarrying operations to take place in the prohibited area should take place before, rather than after, these houses are built. Therefore I think that this matter, which is covered by clause 3 of the Bill, should commend itself to the Council as, indeed, Sir, I hope the whole Bill will so commend itself.

I beg to move.

MR. MAXWELL seconded.

Question proposed.

THE MINISTER FOR COMMERCE AND INDUSTRY (Mr. Hope-Jones): Mr. Speaker, I do not want to detain the Council long, but I would like to put two things on record. The first thing is that this enterprise represents a very great contribution to the economic life of the country. It is a most courageous effort. It is an effort that has been rewarded by success, and very well-deserved success. I think that we owe those who have had the enterprise and foresight to start this great industry a debt of gratitude, and here I would like to mention the very great pioneering efforts and great skill of Dr. Manley who has been responsible for this great factory from the drawing-board to the present realization of the company's plans. I think that every Member of this Council would like what I have said to be placed on record about him.

I do not think that I have anything else to add, I thought, if I may say so, the hon. Member for Mombasa spoke extremely clearly and succinctly about the Bill and dealt with the whole matter in a most admirable way.

I beg to support.

MR. SLADE: Mr. Speaker, Sir, in supporting this Bill, and in supporting the tributes paid to this Company, I should like to point out one particular feature; that is, that this Company has not only turned a completely useless bit of Africa into a very valuable asset, and is not only saving us something in the nature of £1,250,000 a year on the balance of payments, but it is a living—I might say concrete—example of what we are preaching in this Council—that is, the absolute necessity of injecting into this country capital and skill from other countries. Among the 40 Europeans that have been mentioned as employees, I believe they are all or nearly all newcomers, but now permanent residents, who have been brought in simply for this undertaking, and likewise the capital with which it has been financed. It deserves particular support for that reason, as being an example of what we want to do in many other cases.

I beg to support.

THE MINISTER FOR EDUCATION, LABOUR AND LANDS (Mr. Couits): Mr. Speaker, Sir, there is very little that I have to

add to this debate. It may seem rather peculiar that within a few years of putting on a prohibition of the kind which the hon. Member has mentioned, we should seek to remove it, but briefly this Company's submission is that it would be better to quarry this area, and therefore remove any form of nuisance which is going to take place in that particular area quickly, rather than do so in 20 to 25 years' time, when the nuisance may be much greater than it will be at the present moment.

There is just one point I would like the hon. Member to cover in his reply, and that is—is the Company likely to take advantage of this particular removal quickly; in other words, will the Company quarry in this area almost immediately, and if it does, how long does he think the Company will take to quarry the area completely, thereby removing any possible form of nuisance to pliotholders in the nearby area?

Apart from these two points, Sir, I beg to support this Bill.

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

MR. USHER: Mr. Speaker, Sir, I am very grateful to hon. Members who have paid tribute to the invaluable work of this Company and the great advantages it does afford to us. One might have added even the fact that it has caused a reduction in the cost of coral-blocks for building down there by 30 per cent. and that the Company is taking up the increased freight charges on the Railway which applied, I think, from 1st October last, without passing it on; and I might add something even more pleasant—that there is an almost immediate prospect of a reduction—and a substantial reduction—in the cost of cement locally.

In reply to the Minister, Sir, I omitted mentioning in opening, I think, that the Company, as I understand it, intends to start the quarrying operations almost immediately and that they reckon that it will all be over within six years.

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.

### MOTION.

#### REPORT OF THE PUBLIC ACCOUNTS COMMITTEE.

LT.-COL. GHERSIE: Mr. Speaker, Sir, I beg to move:—

THAT the Report of the Public Accounts Committee on the Colony's Accounts for the year ended 30th June, 1956, which was laid on the Table of this Council on 8th October, 1957, be adopted.

Sir, when moving a similar Motion in June last year on the Report of the Public Accounts Committee on the Colony's Accounts for the year ended 30th June, 1955, I stated on that occasion that it was hoped that the Public Accounts Committee Report would in future, where considered necessary, include various observations raised by the Controller and Auditor-General in his report, in order to simplify matters and perhaps assist hon. Members in following the comments and recommendations made in the Report of the Public Accounts Committee, and, Sir, it will be observed that on this occasion—in this instance—this procedure has been adopted.

Sir, I would also draw hon. Members' attention to the fact that a verbatim record of the evidence given by officers who appeared before the Public Accounts Committee is appended to the Report, also a copy of the Treasury memorandum on our Report on the Colony's Accounts for the year ended 30th June, 1955.

Sir, dealing firstly, very briefly, with the Treasury memorandum—while there may have been an improvement in accounting procedure and control of finance in certain Government departments, in others there has been very little improvement, with the result, Sir, that it has again been necessary for the Controller and Auditor-General to raise queries which were the subject of comment by him in previous years' reports.

Sir, as pointed out in our report, the Controller and Auditor-General has adopted a new procedure whereby audit reports have superseded audit queries. This may partly be responsible for the delay in answering queries; and, Sir, we have suggested that perhaps a breakdown of these reports might assist the account-

ing officers in answering specific queries with the least possible delay. Sir, I feel I cannot overemphasize the necessity of answering queries more promptly, as this has been a constant cause for complaint by the Controller and Auditor-General either in his annual reports or in giving evidence before the Public Accounts Committee. The attention of this Council has been drawn to this unsatisfactory state of affairs, certainly, on every occasion that I have had the privilege of speaking to this Motion.

Sir, as mentioned in paragraph 5 of the report, many of the points raised in our Report on the Colony's Accounts for the year ended June, 1955, have again been the subject of comment by the Controller and Auditor-General and ourselves in subsequent reports. Now, Sir, whereas it is recognized that in some cases this may be due to an overlap in the time of the report and the time of investigation, there are other cases where little or nothing has been done to implement the recommendations made by this Committee and accepted by Government. I will refer to this matter in greater detail later; meanwhile, I must emphasize that such disregard of the recommendations made by this Committee cannot be tolerated.

Sir, the Controller and Auditor-General, in a memorandum dated 5th November, 1953, proposed that as in the United Kingdom there should be the following types of audit:—

- (a) accuracy audits;
- (b) control and authorities audits;
- (c) financial audits; and
- (d) the audit of the quasi-Government undertakings.

Sir, the governing features of these respective types of audits are detailed in our report and, therefore, I do not propose to repeat them here, but, Sir, due to the fact that the report of the Controller and Auditor-General takes the form of an annual report, there is bound to occur an overlap between the time of the submission of the report and the actual investigation. Further, it is impossible for the Controller and Auditor-General to complete his report until some months have elapsed after the close of the financial year, and this is one reason, Sir, why we suggest that the



[Lt.-Col. Gherisc] Controller and Auditor-General should—if he thinks necessary, in fact, he should not hesitate to do so—on a case of sufficient importance render a special interim report to the Public Accounts Committee.

5.30 p.m.

Sir, it should be pointed out that whereas the introduction of the internal audit system into Government departments should help to reduce the work of the staff of the Controller and Auditor-General, the responsibility for ascertaining that proper financial control is maintained still remains that of the Controller and Auditor-General, and, Sir, unless his staff is brought up to strength and maintained at the agreed establishment, it is a physical impossibility for that department to carry out its duties effectively. In this connexion I would quote from the Controller and Auditor-General's report with reference to his own department. Sir, he states: "The general staff position of this Department to which reference was made in paragraph 13 of my 1954/55 report, did not improve during the year and it continues to be extremely difficult to carry out the responsibilities laid on me by the Chequer and Audit Ordinance".

Sir, the Public Accounts Committee has year after year stressed the importance of maintaining this particular department at full strength and also suggested that, as far as possible, there should be continuity of service in that department. We realize, of course, that promotion is often responsible for the transfer of officers, but, Sir, we are of the opinion—and more particularly having regard to the recommendations that we have made in the past and while we appreciate the ability and the conscientious manner in which the present officers of that department undertake their duties—we do feel that an unwarranted strain is placed on a department when, within a period of months, the Controller and Auditor-General retires and his deputy is transferred to another Colony.

Sir, in this connexion, it should be borne in mind that the staff of the Controller and Auditor-General is also responsible for the audit of the services operating under the High Commission,

and I refer in particular to the self-accounting services such as the East African Railways and Harbours and the East African Telecommunications Administration.

Sir, while considerable progress has been made in the introduction of an internal audit system, this as stated in our report, is still not satisfactory. Certain departments are still without internal auditors, although we are informed that further internal audit sections—I think they are called—are to be established and will be introduced this year. It must be borne in mind, Sir, of course, that the evidence contained in this report was taken in May of this year and, therefore, we understood that the further internal audit sections would be introduced early this year. Sir, I should like to stress a point in this connexion, and that is that in our opinion the internal auditor should be responsible to his accounting officer and not to the accountant or the chief accountant of any particular branch of the service.

Further, Sir, his reports should be made available to the Controller and Auditor-General and they should be made available, Sir, for very obvious reasons, in the first place, the Controller and Auditor-General should be in a position to know to what extent the internal audit has been undertaken in order that he may instruct his own staff to institute test checks. Perhaps, Sir, what is more important, he should be made aware of what section of the accounts had not been subject to audit, in order that his own staff might examine the records should he consider it desirable.

Sir, a further point is that whereas an internal auditor may discover errors and disclose them in his report to his accounting officer, this information should also be available to the Controller and Auditor-General in order that he may ascertain to what extent the errors disclosed have been remedied and, if he considers it necessary, bring the matter to the attention of the Public Accounts Committee.

Sir, a further matter which it is essential to guard against, is the possible suppression of the reporting of errors or the lack of proper financial control when discovered by an internal auditor and reported to his accounting officer, and

[Lt.-Col. Gherisc]— Sir, why an internal auditor should be absolutely free to report to his accounting officer without any possible fear of repercussions on himself.

Sir, the Public Accounts Committee attach considerable importance to the internal audit system and recommend the closest possible liaison between the internal auditors and the Controller and Auditor-General. Nevertheless the system will prove ineffective unless suitable officers are appointed to the post of internal auditor and there is as far as possible a measure of continuity of service in those appointments. Sir, in order to illustrate this point, I think it might be appropriate to quote from evidence given by Mr. Wedderspoon who, until June of this year, was responsible for the Inland Revenue Department, and as you all appreciate, the Inland Revenue Department is responsible for the collection of large sums of money.

Sir, I would like, in the first instance, to go back very briefly to 1955, and this is the Report on the Half-year Ending June, 1954, and the evidence was taken in September, 1955. Mr. Wedderspoon was really rather on the defensive, although it was not his fault. He states: "If I am asking the impossible, please let me know, and I shall then have to tell the Public Accounts Committee, if necessary, that I was unable to maintain the internal audit to the extent required by the Director". Again, he was asked when it was first agreed that he should have an internal auditor. "It was made in February, 1954, it having been agreed in November, 1953, that we should take on these additional duties from the Audit Department." Mr. Riddoch, who was a member of the Committee, asked a question: "Do you consider that you are losing much revenue through not having internal audit?" "Yes, we are." He says: "Of course, it is impossible to assess how much." "In other words, then, the filling of this post is a most urgent and necessary step?" "Yes."

Now, Sir, that is on the Colony's Accounts for the half-year ended 1954.

Now we arrive at 1957, Sir, where we have taken evidence and I must, in order to impress the necessity for these internal auditors, read this extract from the evidence. I do not know if many

Members have this report before them; I should think probably very few, and probably very few have read it. Therefore, it might be as well if I impress it upon their minds. "Sir, this is Mr. Wedderspoon, 'first of all I must agree that the standard of the internal auditor in this particular period was not what it ought to have been. Mr. Pembroke (?) I think made a proviso in his remarks last year which was to the effect that the degree and standard of internal audit depended upon the general staffing position. In February, 1956, we had a very efficient officer in charge of internal audit. But in that month he applied for and obtained a better post in the Immigration Department and was transferred. This, together with the transfer of another of the few efficient revenue officers in the department left me with two revenue officers Grade I as against an authorized complement of seven. Of these two, one had to be made a senior licensing officer while the substantive holder of that post went on leave, leaving me with one out of a complement of seven. This one was irreplaceable as accountant for the Department and we had to appoint a more junior officer to take charge of the internal audit—the only junior officer who had, in fact, experience of the various sections—personal tax, hospital fees and land rents—in which the major part of the internal audit work is carried out. I am afraid that in spite of Mr. Pedar watching the performance of this officer, it was quite apparent that he showed no capacity whatsoever and has since been dismissed on other grounds. I do not think that we can hope to carry out audit duties of the standard which the Controller and Auditor-General requires with the grade of officer which is available for this work, but I am hopeful that in the next year with an improvement in the grades of the Department we shall be able to hold sufficient officers".

He went on to say, Sir: "The best of our men have gone elsewhere to better jobs on longer scales". Again he states: "The point is that we have a man who proves himself to be efficient, we have him for a certain time and he is trained in the job. Then he gets a better job in another department and leaves us. We are faced with the task of recruiting

[Lt.-Col. Gherie] and training fresh officers". Mr. Riddoch, in his cross-examination drew attention to the possible loss of revenue as a result of this.

Now, Sir, as I have already stated this is a Department which is responsible for the collection of large sums of money and I quoted this evidence to illustrate an example of how the audit system may break down and may result in a loss of revenue to the Colony unless efficient staff are provided for these appointments.

Now, Sir—Financial Orders—Sir, in his report the Controller and Auditor-General made the following comment: "The Treasury memorandum on the report of the Public Accounts Committee on the accounts for the half-year ended 30th June, 1954, stated that owing to the introduction of the Exchequer system Financial Orders will need to be completely rewritten and that this work has been undertaken but will take some time. As far as I am aware, a review of Financial Orders has not yet been completed and difficulties continue to be experienced in determining whether or not certain of the orders are still applicable".

Sir, although we appreciate that Standing Orders do exist, it would appear that the amendments have been so numerous that they are causing considerable confusion in the minds of Accounting Officers and their staff as to their correct interpretation and in some instances Accounting Officers are endeavouring to issue their own departmental instructions. It is understood that the production of a new revised manual of Financial Orders is receiving the attention of the Treasury and it can be only hoped, Sir, that its publication will be expedited.

Now, Sir, on the subject of the Department of Information the audit comment was: "It was again necessary to bring to notice a number of instances of inadequate control of finance and purchasing and also an unsatisfactory state of stores and stores accounting."

Sir, our comment was: "A Committee of Inquiry was appointed by the Chief Secretary and a report, together with recommendations, have been submitted

and I understand that steps have been taken to improve the financial control and to ascertain by stocktaking the extent of any stores deficiencies and excesses".

Sir, it was suggested in evidence that a copy of this report would be submitted to the Public Accounts Committee but so far this has not been the case. On the other hand, I do understand that a copy was furnished to the Controller and Auditor-General and to the Treasury.

Now, Sir, the Public Accounts Committee had cause to be very critical of the Department of Information in its report on the Colony's Accounts for the year ending 30th June, 1955. We were given to understand that the control of finance and the Accounting Section had considerably improved. The Controller and Auditor-General, however, does not confirm the suggested improvement and has drawn attention to the unsatisfactory state of stores and stores accounting.

Now, Sir, on investigation, and as disclosed by evidence submitted to the Public Accounts Committee, we find the following facts. In the first place, Sir, it is apparent that efforts were made to conceal over-expenditure by delaying the payment of vouchers to the following financial year. Again, reference sheets show that there had been a failure to obtain authority of the Central Tender Board for local purchases exceeding £150. Again, it would also appear that to avoid reference to the Central Tender Board, more than one local purchase order form was used for a single purchase in order to camouflage the amount purchased and thus make it appear that the ceiling which necessitated reference to the Central Tender Board has not been reached. In another instance, there was indication that funds had been improperly re-voiced from a previous financial year, and again, Sir, it would also appear that falsification of entries took place with a view to covering up a breach of regulations.

Now, Sir, certain officers of this Department have since had their contracts terminated, and therefore I do not propose to dwell on any further detail, more particularly as evidence disclosed that a stores verifier was appointed in November last and an internal auditor in February this year, which should

[Lt.-Col. Gherie] will result in preventing recurrence of these irregularities or, should they occur, being brought to light very much earlier, and not, as in certain instances, eighteen months later.

Sir, arising out of the examination of this particular department, one matter that did appear rather odd to members of the Public Accounts Committee was the apparent difficulty which exists in the dismissal of an officer who is on the permanent and pensionable establishment even though he may appear or be considered inefficient by the head of his department.

On the subject of pensions and gratuities, I have nothing to add to the Commission's recommendations which urge that the proposed amended legislation be expedited.

Now, Sir, paragraph 12 of the report deals with income tax arrears of revenue. The auditor stated that he had not seen a statement of arrears of revenue in respect of the collection of income tax for years 1954/55 and 1955/56.

Now, Sir, whereas we appreciate that the Commissioner for Income Tax concentrates on priorities in the order of firstly collection, secondly accounts and thirdly audit, this Committee is strongly of the opinion that when adequate income tax staff is available, every effort should be made to furnish the Controller and Auditor-General with an analysis of figures appertaining to each year as requested by him. Sir, under the present system, the figures furnished to the Treasury as the expected collection of income tax in any given year would appear to be meaningless. For instance, the figure of £8,000,000, as shown as expected revenue for the year ended 30th June, 1956, is merely the amount of assessments outstanding which would include arrears of income tax, and a considerable sum in respect of penalties which may run into some hundreds of thousands of pounds and of which a large proportion may be subsequently written off.

Again, the very fact that provision exists whereby arrears of income tax may be paid by instalments over a period indicates that a large propor-

tion of the estimated revenue will only be collected during the following year. It is submitted, Sir, that under the present procedure, the figures shown in the Colony's Accounts as revenue from income tax in any given year does not represent the accrued or assessed figure in that particular year as it includes arrears. Neither does it represent the figure that will be collected due to the waiving of penalties on the one hand and the provision for payment by instalments over a lengthy period on the other.

Sir, it is most desirable that a breakdown of these figures be made available when possible in order that a more realistic position may be disclosed.

Sir, paragraph 13—Prisons. Recoverable detainees' wages: "Attention was drawn to the delay in collection of the recoverable detainee wages and the outstanding account amounting to £5,732 2/90 cents. I am informed that it is likely that one claim of Sh. 3,027/90 will have to be abandoned. All other sums have since been recovered".

Sir, this is a case of a verbal undertaking instead of a written contract being entered into for the supply of detainee labour for the quarrying of stone. The East African Railways and Harbours entered into a contract with a civilian firm, who they contend, on the other hand, negotiated with the Prisons Department. But the East African Railways and Harbours paid the contractor who has since gone into liquidation and, therefore, it would appear that the sum due to the Prisons Department is now irrecoverable. From the evidence, Sir, it would appear that the left hand did not know what the right hand was doing. One would have thought that the Railway Administration would have been aware that the Prisons Department could not hire out detainee labour except to a Government Department, or in any case they should have taken steps to ascertain the correct position. Sir, the evidence discloses that bills were submitted to the East African Railways and Harbours from November, 1954, to June, 1955, and it was only towards the end of that period that the East African Railways and Harbours returned the bills and said they were not concerned.

[Lt.-Col. Gherrie]

Again, it would also appear that the first indication that the Controller and Auditor-General received that the claim was repudiated was in a letter from the East African Railways and Harbours dated 2nd November, 1956—two years after the commencement of the supply of the detainee labour.

Sir, a number of Government departments were involved in these arrangements, but nobody took the trouble to ascertain that the financial aspect was properly taken care of. Nevertheless, the responsibility must rest with the Prisons Department for not having in the first instance obtained a written contract from the East African Railways and Harbours and secondly, Sir, for not having pressed the East African Railways and Harbours for payment in the earlier stages of the transaction.

Paragraph 14, Sir, Police—Emergency Expenditure: "Control over expenditure on which I commented adversely in paragraph 34 of my Report for 1954/55 continues to be unsatisfactory in 1955/56 and is illustrated by the following".

Well, Gentlemen, those of you who have read this report, must agree that it paints a rather lurid picture. "Claims on the department which, as far as can be ascertained, amounted to approximately £93,000 in respect of 1955/56, were not settled in that year and it was necessary to meet these claims in 1956/57. According to the accounting records, gross expenditure exceeded the amounts made available by the Treasury during 1955/56 in respect of the following: personal allowances—£9,211; travelling expenses—£61,193; capital—£6,502." Again, Sir, during 1955/56 the control continued to be unsatisfactory and it was found that expenditure had been incurred on the following items for which no funds had been released by the Treasury: band equipment—£1,158; uniforms—£4,002; tools and equipment—£7,129. Again, Sir, in the undermentioned cases expenditure exceeded the sums made available by the Treasury by the following amounts: radio equipment—£9,427; vehicles—£3,781; furniture—£1,672.

I will not go on, Sir, except just to quote this final paragraph which again has been a repetition year after year:

"The Police stores ledgers were ruled off in September, 1955, and the stock balances were carried forward in accordance with fiscal stocktaking. The following total surpluses and deficiencies have been reported: deficiencies—£61,329, and surpluses—£47,423".

Sir, I am afraid this is the old, old story—and a repetition of the criticism by this Committee during the last few years in regard to the lack of proper financial control and the unsatisfactory position disclosed in regard to stores, accounting and records. Each year, Sir, we are assured that there is every reason to believe that the position will have improved, but we find that the queries raised are practically identical with the queries raised in previous years.

Sir, I can only again repeat and quote what was stated by the Committee last year, namely: "That officers having responsibility for expending public funds, or who are in a position to commit such funds, should not create or incur liabilities without ensuring that they have the proper authority and that funds are available. It must be emphasized that the responsibility for seeing that junior officers know their duties with regard to finance rests with their immediate senior officers".

Sir, I am repeating that for the benefit of senior officers, and it is a repetition of what we said last year, but in some departments it does not appear to have sunk in.

Sir, on the question of maintenance of proper stores records, from the evidence given by the officers of the Police Department, it would appear that two factors which have been mentioned in previous years were still affecting the position adversely—namely the difficulty in obtaining efficient store clerks and the lack of proper stores buildings. Evidence disclosed that the stores were so alive or infested with rats that records and stock cards and internal indent forms were actually eaten by rats.

Now, Sir, I feel sure that the Treasury appreciate the difficulties and that steps will be taken as far as possible to remedy the position in regard to the proper control of stores.

Sir, this I regard as perhaps a more serious matter—paragraph 16—Police

[Lt.-Col. Gherrie]

£28 at the Police Training School at Kiganjo. In paragraph 49 of the report on the 1954/55 accounts—attention was drawn to the financial position of the Inspectors' Mess at the Police Training School, Kiganjo. I have been informed by the Secretary to the Treasury that the accounts prepared up to 31st May, 1956, show the deficit to be £6,343 18s. 4d. etc. I understand that a court of inquiry is to be appointed.

Sir, in our report on the Colony's Accounts for the year ended 30th June, 1955, we made the following comment: "The Committee is of the opinion that in this particular case it is deplorable that matters were allowed to come to such a pass before action was taken and are particularly disturbed that steps do not appear to have been taken to determine where the responsibility lay and to institute effective action at an earlier date".

Now, Sir, I consider that this discloses a most deplorable disregard of recommendations made by this Committee. As stated, this subject was referred to in our report on the Colony's Accounts for the year ended 30th June, 1955, and I should imagine that with the lapse of years that material witnesses have left the Colony, or it may be that they are unable to remember the particular circumstances which prevailed at the time. Again, there is always the possibility of records being lost or destroyed.

I think it must be impressed, Sir, on accounting officers that when this Committee makes a recommendation and that recommendation is accepted by Government, the accounting officers must regard it as an instruction and one to be implemented.

I have nothing to add on the subject of local government.

6.00 p.m.

The Medical Department, Sir, paragraph 19—Arrears of Revenue. Sir, it was necessary to invite the attention to the substantial arrears of revenue in respect of hospital and other medical fees as shown in the footnote to Revenue Head 27—arrears in medical revenue as at 3rd April, 1956—

uncollected as of 30th June, 1956—total £28,970 16s. 27c. of which Sh. 14,140 represented arrears brought forward from previous financial years. "Although there was a reduction of £8,761 for the year 1954/55 and earlier, some 40 per cent was due to abandonment of the revenue concerned". I understand that the position will improve through the introduction of cash collection at hospitals and the transfer of full responsibility for the collection of this revenue to the Director of Medical Services, which I am informed will take place in 1957/58.

Sir, I have very little to add to the comments made by the Committee except to emphasize that we do not consider that the introduction of a cash system will solve this problem. Of course, the placing of fees on a cash basis will eliminate any question of the Controller and Auditor-General commenting on the delay in the collection of arrears because arrears will cease to exist. But that is not the object of the exercise.

Now, Sir, quite apart from the admission of a patient who may be seriously ill, perhaps unconscious, and when admitted has no money on his person, and for whom a ledger record must be maintained, there is also the question of a record for the purpose of rendering an account to an employer of a patient who has received attention in hospital, for which provision exists at law. Sir, to suggest that a patient, being an employee, should first pay the fee and then recover it from his employer is, in my opinion, shelling the responsibility. I would submit that in many cases an employee would, if he recovered the amount at all, only do so after very considerable difficulty.

Now, Sir, paragraph 20, "The Director of Medical Services reported to the Treasury that building construction and alterations had taken place at Machakos without authority being obtained for the financial commitments involved. This matter is still under investigation."

Sir, this again, I think, emphasizes the necessity for Standing Financial Instructions being brought up to date for the benefit of all Government officers.

Education Department. Arrears of Revenue. Sir, this again is a hardy

[Lt. Col. Gherie] annual. We had reason to believe, Sir, that the transfer of responsibility for the collection of school fees from the Inland Revenue Department to the Education Department would result in more efficient collection. In fact, we understood that this was the object of the changed procedure, but I am afraid, Sir, that this has not been the case. We understand that again it is a question of staff and we do feel that every effort should be made to bring this position up to date even if it means the temporary loan of additional staff to the Education Department for that particular purpose.

**Lands Department.** I believe the Committee's comments on these items are self-explanatory and I do not think there is anything I can usefully add in this connexion.

**The Ministry of Community Development.** Sir, the Auditor's comment is "I was unable to satisfy myself in a number of instances that the salaries paid to certain officers in the Ministry and the Department of Community Development were at the correct rates and in accordance with the regulations and that all due deductions had been effected." I think the difficulty has arisen again, Sir, as a result of shortage of staff and the fact that staff and records are housed in buildings scattered all over the place. I feel the concern of the Controller and Auditor-General, quite apart from the difficulty which his staff experienced in obtaining records and answers to queries, was whether or not the officers in the Ministry were themselves in a position to undertake a proper control of their records. However, we were informed by the Accounting Officer that with the provision of additional staff the position should improve after June of this year. It will therefore be appreciated that as our report refers to the fiscal year ended 30th June, 1956, and that a further year will have elapsed before we can expect very much improvement in the position.

I turn now to our rather general recommendations. Sir, I do feel that I would be expressing the views of my colleagues on the Public Accounts Committee in stating that from the evidence submitted it would appear that a certain number, anyhow, of senior officers were harassed and overworked due to the

inefficiency of junior officers serving under them. We do hope, Sir, that the Establishments Branch and the Treasury will give this matter very careful consideration. On the other hand, it was also felt that certain senior officers were not entirely conversant with the financial orders under the Exchequer and Audit System, and the measure of financial control which is expected of them. This is a state of affairs to which we have drawn attention in paragraph 28 of our report and which we sincerely trust will be remedied in the near future.

Finally, Sir, paragraph 30 of our report is really a repetition of a recommendation made by the committee when reporting on the Colony's Accounts for the half-year ended 30th June, 1954, where it recommended that consideration might be given to amending our Standing Orders to enable the Public Accounts Committee to follow the practice adopted in the United Kingdom in regard to the method of the submission of our report. Sir, this matter has since been rectified by the adoption of our new Standing Orders which were approved by Council on 9th October last.

Sir, in conclusion, I think it would be appropriate to pay a tribute to the officers of the Controller and Auditor-General's Department and in particular to Mr. Wilkinson who for some time acted as Controller and Auditor-General but who has since left the Colony. I would also like to thank the officers of the Treasury who have always made their advice readily available to the Public Accounts Committee.

Sir, I beg to move.

**CAPTAIN HAMELY:** Mr. Speaker, Sir, in seconding this Motion I was proposing to say very little and to reserve that little until later on, but it looks to me as if, in the interests of everyone here, I had better play out time.

Sir, I hope there is no grain of truth in the Mover's facetious suggestion that Members of this Council have not read the report or the evidence because I should be most disappointed were that so, for this is a Committee of the Council and the Council is, of course, the strong right arm behind the Committee, and if

[Captain Hamley] people are not going to read the report and are not going to comment on the report, a lot of the effectiveness of this Committee disappears. I do ask members to really take this report seriously, because as a member of this Committee I was at times amazed at the things which are going on. I think Council should be fully aware of them.

Sir, I am not going to gild the lily; the Mover has gone with his usual thoroughness very deeply into this report and brought a lot of things to your notice, and here let me say how lucky I think Council is to have the hon. Member for Nairobi North as the chairman of this Committee. (Hear, hear) He is a very good chairman of the Committee; there is no doubt about that. He is a little *kali* with us Members at times—no doubt we deserve it—but he has delved into these matters; he has got the knack of delving into these matters and it is lucky for us that he has that knack.

There are only three matters which I want to mention here that impressed me most in these investigations. One, Sir, I felt that was that some of the gentlemen who came up before this Committee at times were far more interested in flogging the Committee into quietness than they were in putting the matters right that required to be put right. I, in the course of my various careers have had to listen to a lot of stories, a lot of wriggling about to get out of difficult positions and am used to it, but, Sir, it is not a thing one likes to see in a public committee. I think it is very much better if these gentlemen "come clean" and say: "Yes, such and such is unfortunately the case but we are taking immediate steps to put it right" rather than to wriggle out of a difficult situation by, putting it fairly mildly, trying to lull the Committee.

The second thing that I did not like on the Committee, although I realize there is in some cases some cause for it, is the way at times senior officers—I have mentioned this before in Council—blame deficiencies of their department on the junior staff. Now it may very well be, Sir, and I am sure it is the fact that the junior staff are, in many cases

inefficient or inexperienced. But nevertheless I do not like senior officers of the departments coming before a public committee and saying "Yes, the faults in my Department are many but they are due to the junior officers." That is linen which should not be washed in public committees; that should be done elsewhere. I sincerely hope, Sir, that people will take notice of that. The head of a department has got to stand the rub. If in the lower spheres of a department there is inefficiency, the head of that department has got to put it right without too much complaining in public about it.

The other thing, Sir, the last point which struck me here is a difficult one I do not want to flog against the Civil Service in any way, I was a member of the Civil Service for many years, but it is a fact that if there is an inefficient man in a department, as the Mover said, it is an extraordinarily difficult thing to get rid of him. The chances are far more likely that to avoid trouble he will be kicked upstairs or get a better post in another department, rather than somebody facing the unpleasant business of saying to him: "Out you go." In fact it is very difficult to say: "Out you go" because there are all sorts of manoeuvres available to the officer and I have found from practical experience that if you get a dud it is a very difficult thing indeed in the Civil Service to get rid of him. Commercial firms can say to a fellow: "You are no good, out you go", or at the worst give him three months' notice and out he goes. But it seems to me that the only thing that can be done to inefficient officers in a Government department is to stop their increments, and that is not a very effective way of bringing things home to them. The most effective thing I found was what is colloquially known as: "tearing him off a strip". But there again I found that some of these people were very impervious even to my strip! That is a thing which I think wants looking into. It is definitely a bad thing if an inefficient man just cannot be given the sack.

Sir, I support the Motion.

*Question proposed.*

## ADJOURNMENT

**THE SPEAKER** (Sir Ferdinand Cavendish-Bentinck): The time has come for the suspension of business. Council will stand adjourned until 2.30 p.m. tomorrow, Wednesday, 20th November, 1957.

*Council rose at fifteen minutes past Six o'clock.*

## Wednesday, 20th November, 1957

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:—

The East African Industrial Research Organization Annual Report, 1956-1957.

(By THE CHIEF SECRETARY  
(Mr. Turnbull))

Annual Report of the European Hospital Fund Authority for the year 1956.

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

**MR. TYSON:** Mr. Speaker, am I in order in asking why this report, which the Minister has just laid, in connexion with the European Hospital Fund, has only been laid 11 months after the year—

**THE SPEAKER** (Sir Ferdinand Cavendish-Bentinck): No, Mr. Tyson, you are not in order but you have the right to put down a Motion or ask a Question in respect of any Paper which has been laid at any time after it has been laid.

## ADJOURNMENT MOTION—NOTICE

**MR. SLADE:** Mr. Speaker, Sir, in the course of this afternoon's proceedings I wish to move the adjournment of the Council for the purpose of discussing a definite matter of urgent public importance, namely the apparent disinclination of Government to facilitate free discussion in this Council.

I call on those who support me to stand up.

More than ten Members then rose in their places.

**THE SPEAKER** (Sir Ferdinand Cavendish-Bentinck): Pray be seated.

I have been given previous notice that this Motion might come up. I have considered the subject and must give the ruling that it can come under section 12

[The Speaker]  
as a matter of urgent public importance. It is supported by a number of Members of the Council; and I propose to take this Motion at 5 o'clock.

May I, before business is continued, explain to hon. Members that the time taken in the discussion of this Motion will be added on to the time of sitting to-day. That is the practice in the House of Commons. So if this Motion takes half-an-hour to discuss and dispose of, we shall sit half-an-hour later to-night.

## COMMITTEE OF THE WHOLE COUNCIL

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 Personal Tax Bill

**THE CHAIRMAN** (Mr. Conroy): We were dealing with clause 3 yesterday.

**MR. CROSSKILL:** Mr. Chairman, with regard to clause 3, I do not wish to reiterate arguments which have been made from this side of Council during the Second Reading and also yesterday in the Committee stage, but I do hope the hon. Secretary to the Treasury will be able to give us a more positive assurance than he felt he could do yesterday, Sir, with regard to the constant review which we feel should be given to the position outlined by us yesterday.

I hope, Sir, that to-day he will be able to do so.

**MR. ALEXANDER:** Mr. Chairman, Sir, I beg to move the amendment to clause 3 as stated on the Order Paper. Is it your wish that I read it all out?

The first proviso, Mr. Chairman, is no alteration from what is already in the Bill. The only alterations are in respect of provisos number two and number three.

Proviso number two is to deal with the person who has been in Kenya and because of his work he finds he is posted away; as the Bill stands at the moment, when he comes back he would automatically have to pay this full tax for the full year. The Bill at the moment reads:

"Provided that any individual who first arrives in the Colony or returns to the Colony for the first time since ceasing to be exempt—"

That does not deal with the person who returns. As you will see, Mr. Chairman, it only deals with first arrivals, and I believe this amendment of mine will be of particular benefit—and of course they are always very close to my heart—to civil servants who, by the nature of their work, are moved around these territories and overseas; and of course people like them in commerce.

What this proviso two does is to make certain that they are treated in the same way as first arrivals when they return. The worst feature of this, of course, the Bill as it stands at the moment, could be the man who has been in Kenya, goes away to Uganda, is there for a year and happens to come back to Kenya, say, in the December or the November. As this Bill stands at the moment, that man would have to pay the full year's tax, and I seek to remedy what I consider to be an unfair imposition.

My proviso three, Mr. Chairman, is merely to deal with the man going away in exactly the same way as the man arriving. As the Bill stands at the moment, it requires a person who leaves the Colony, however early in the year, to pay the full tax for the full year; that is a man who leaves, say, in January or February would pay a full year. This amendment will put him in reverse in the same way as the new arrival. I beg to move.

## Question proposed.

**MR. MAXWELL:** Mr. Chairman, Sir, I wish to move an amendment to that; at what stage shall I move it? Can I do it now?

## Chairman indicated assent.

I beg to move, Sir—

THAT the amendment as proposed by Mr. Alexander on clause 2 be amended by deleting all words after (ii) and inserting in place thereof the words "no person shall be liable to pay personal tax during the calendar year in which he first arrives in the Colony".

Sir, might I be permitted to make a few general comments on this particular Bill? First, in my opinion it is essential

[Mr. Maxwell]

that it should be simple. That must be extremely obvious, and I think the Government is to be congratulated on the simplicity of this Bill. I do not feel that we should link it up too closely with the Income Tax Act or Ordinance, for this reason, that this Bill really replaces to a great extent the Poll Tax Bill and the Personal Tax Bill which have been in force hitherto. To the best of my knowledge an assessment under the Personal Tax Bill was based on a person's previous year's income. Therefore it is only logical that a person who first arrives in this Colony should not be taxed on income which he has not earned in this Colony. There are many people who arrive in this country, possibly from the United Kingdom, who have been called upon perhaps to pay towards health services or to pay in regard to taxation generally, and I think it is most unfair that that person should be called upon to pay tax on arrival in this Colony.

That is why, Sir, I am now moving this particular amendment.

I am also opposed to proviso three as proposed by Mr. Alexander, for that same reason. If a person has been here, say, during this particular year, 1957, and goes home on leave before 31st March, 1958, and stays away for nine months, I see no reason why he should be exempted from paying personal tax for that particular period.

Sir, I beg to move my amendment.

*Question on the amendment to the amendment proposed.*

MR. ALEXANDER: Mr. Chairman, here again I am in difficulty over the amendment, if there is any support for the amendment, because it deletes again—the Member for Trans Nzoia does not bring in my person who returns to the Colony.

THE CHAIRMAN (Mr. Conroy): The procedure is that we deal with the amendment to the amendment first, and if the amendment to the amendment is carried, then we put the question on the amendment as amended. The matter before the Committee now is the amendment to the amendment.

MR. MACKENZIE: Mr. Chairman, at the moment, I gather, we are dealing with the amendment to the amendment.

HON. MEMBERS: Well done!

MR. MACKENZIE: I would like to say that the hon. Member discussed this with me and I have a considerable amount of sympathy with the proposal that no one should pay tax in the year in which they first come to the Colony. Of course, a corollary to that would be that no one would pay tax in the year in which they attain the age of 18 years, the wording presumably being that tax would be first due on 1st January after a person arrives in the Colony for the first time, or attains the age of 18 years.

I would like to say that we on this side of the Council would like to consider the principle contained in the amendment to the amendment, and see whether there is something that could be introduced at a suitable opportunity. In the meantime, however, I am afraid that it would hold up the action on the Bill if that were to be done now; it would take some time to look into all the possible aspects of adopting a proposal of that kind. Therefore, I would hope that the amendment to the amendment would not be pressed at this particular time. As I say, I have a good deal of sympathy with the suggestion made, and it is one that I think it may be possible to go into at some future date.

MR. MAXWELL: Well, I thank the hon. Secretary to the Treasury for his remarks, and his assurance that he will give this particular amendment to the amendment consideration in due course.

In the circumstances, Sir, I withdraw the amendment.

THE CHAIRMAN (Mr. Conroy): This requires the assent of the Committee; is it your wish that the amendment to the amendment be withdrawn?

*The Committee signified assent.*

*The amendment to the amendment, by leave, was withdrawn.*

The question which has been proposed is therefore Mr. Alexander's amendment to clause 3, and with that we are now concerned.

MR. MACKENZIE: I am afraid, Sir, that it would not be possible to accept the amendment on the Order Paper.

[Mr. Mackenzie]

To deal first with clause 2 of the proviso: the insertion which is proposed would have the effect of exempting entirely from poll tax for the year in question anyone who went on leave for shall we say ten months during December of any year so that they came back in October of the following year—people of that type would be exempted, and I can see no reason for doing so, as equally people going for seven months, which I understand is not uncommon—

SIR CHARLES MARIHAM: In Government!

MR. MACKENZIE: —would be exempted for half a year. I can see no justification for doing that.

As regards the person who leaves the Colony permanently, or at least, thinks he is leaving permanently on transfer, one has a certain amount of sympathy with a person in that position. But, so far as I can see, it would be quite impossible to cover his case in the law unless we were to include a definition of first arrival which said that first arrival was something other than very first arrival. Any other method of dealing with it, particularly the one that is proposed, would have the effect of giving a quite unjustifiable benefit to people who take very long leave.

For that reason, Sir, I do not think that we can accept the amendment on the Order Paper. There is, however, one clause to which I would draw the attention of hon. Members, and I am sure it is one that would be used in cases where hardship was likely to be entailed through someone having been transferred away, and transferred back to Kenya. That, Sir, is clause 18(1) which says that a district commissioner, or any person authorized by him so to do may, in respect of any individual, remit the tax on the grounds of poverty or for any other good cause, and may also for like reason refund such tax and penalty or part thereof.

I am quite sure that if hardship were entailed or if someone moved away in the circumstances described by my hon. friend, the Member for Nairobi West, and came back in the middle of December; that is the sort of case that could well qualify for action under section 18

(1). I am, indeed, informed, Sir, that on suitable occasions action under the corresponding clause in the existing regulations has been used. As regards (iii) of the proviso, I am afraid that that, too, would be unacceptable; and I can hardly improve on the objections which have been put forward already by the Member for Trans Nzoia.

There is first the objection that the man is assessed on the income from the previous year, and there is the further point that there would be a considerable amount of administrative work involved in checking up on people who claimed exemption under this clause; and in any case, I can see no justification for exempting people who are leaving the Colony, having been here at the beginning of the year.

MR. ALEXANDER: Mr. Chairman, I understand on proviso two that the worry of my friend, the Secretary to the Treasury, is the person who goes on ten months' leave in December. I think his argument is legally invalid, because we are not talking about people who are going on leave in the same way as it is legally invalid in respect of proviso three. When he talks about people who go on leave, they are not leaving the Colony; and this argument applies in both cases. And in respect of proviso three, he has just rejected the argument of my friend, the Member for Trans Nzoia, who very rightly argued that as it is based on the previous year's income, a new arrival should not pay; and he now, having rejected that argument, uses it against me in this respect.

MR. MACKENZIE: On a point of explanation, Sir, I would like to say that I had agreed entirely with what the Member for Trans Nzoia said, which is that the tax is assessed on the income for the previous year. It is in the Ordinance, and that is one reason which I gave for rejecting sub-clause (iii) of the proviso.

The question that the proviso to clause 3 be left out was put and negatived.

Clause 3 agreed to.

Clause 4 agreed to.

Clause 5

MR. ALEXANDER: Mr. Chairman, clause 5: I beg to move the amendment that the following words be added at the

[Mr. Alexander]

and thereof: "and it shall be lawful for an immigration officer or other public officer to detain any individual attempting to leave the Colony, who is unable to furnish proof of such payment to the satisfaction of such officer".

The purpose of this amendment is quite obvious, I think, Mr. Chairman: it merely carries into this Personal Tax Bill an argument submitted by my friend, the Member for Ukamba the other day in regard to income tax. When he used that argument, I understood that it had received a certain amount of sympathy on the Government side. In fact, I think he was told that it would be considered. Here we have an opportunity, whilst we are dealing with this Personal Tax Bill to bring into it a proviso that will allow immigration officers to require those leaving the country to prove that they have paid their tax, and I hope, of course, that Government will soon consider the income tax aspect of it—and introduce an identical condition there.

It naturally is expected, Mr. Chairman, that in administering this, the immigration authorities will be mindful of genuine tourists and make certain that they are not irritated with this particular requirement.

Sir, I beg to move.

#### Question proposed.

MR. MANGAT: Mr. Chairman, I would like to move an amendment to this amendment, and that is that the words "or other public officer" be deleted.

I apologize to the hon. Mover for not having told him beforehand, but I think that it would be the extension of authority rather recklessly because the experience of the ordinary man is that the lower the rank of an officer, the more officious is his demeanour.

THE CHAIRMAN (Mr. Conroy): Mr. Mangat, we are in the same difficulty that we were in yesterday and that we were in, in the Water Bill: that is, that I have not received notice of this amendment.

MR. MANGAT: Can the Mover agree to draft his amendment leaving out the said words, Sir?

3.00 p.m.

THE CHAIRMAN (Mr. Conroy): Well, I would be prepared if the Mover wishes to move it leaving those words out so to consider it, but that is a matter for the Mover of the amendment to decide.

MR. ALEXANDER: Mr. Chairman, I quite agree—I am sorry I have not got the words. Perhaps he can repeat it for us.

THE CHAIRMAN (Mr. Conroy): I will propose the question again for the convenience of the Committee, which is that clause 5 be amended by adding the following words at the end thereof: "and it shall be lawful for an immigration officer to detain any individual attempting to leave the Colony who is unable to furnish proof of such payment to the satisfaction of such officer".

THE CHIEF SECRETARY (Mr. Turnbull): Mr. Chairman, Sir, the Government is as anxious as the hon. Member to close any of these loopholes by which those who have not paid their proper dues can leave the Colony, but it would entail, I think, the introduction of a full exit permit system. It would mean that before a man left the Colony he would have to apply to the Inland Revenue, or to whoever was concerned, for a clearance; and he would then have to present that clearance to the Immigration officer.

We did, during the war years, have an exit permit system here and it proved very far from successful. It put law-abiding tax-paying people to a good deal of inconvenience and even in the circumstances of the war years it did not impede a single debtor, deserter or column dodger. We felt then—and I think the argument still applies—that we were interfering with the convenience and liberty of a thousand respectable citizens in the hope of catching the one fellow who was trying to evade his obligations. It would only be applied, I imagine, in the case of the man who was leaving the Colony for good, for if a man were returning it would be quite simple for the Inland Revenue people to take proper action against him when he had come back to the Colony.

The Government, Sir, is in sympathy with this amendment but I fear it cannot be accepted at present. If experience or further investigations show that an exit permit system might be effective without

[The Chief Secretary]

causing more inconvenience to decent people than hardship to law-breakers we would be prepared to agree to it.

MR. ALEXANDER: I thank the Chief Secretary for his interest in this matter and for his sympathetic approach to it. That is most encouraging. But I do think he has somewhat confused the issue by introducing into it this rather complicated expression "exit permit". The operative words here are: "furnish proof" and if a man has paid his personal tax there is no better proof than the receipt he gets for having paid it: it is as simple as that—that is all he has to produce. He does not have to go running off to the Immigration authorities to get some other fancy document, as has been suggested by the Chief Secretary.

The other point I would make, Mr. Chairman, is that although the Chief Secretary has raised doubts about this and he wonders whether the liberty of the subject might be impaired, nevertheless I am sure that he realizes that in many parts of the world, and in many British parts of the world, this system does apply. One I can quote from personal experience, last year, is Australia, where it works extremely well.

SIR CHARLES MARKHAM: Mr. Chairman, in view of the Chief Secretary's remarks and the obvious reluctance of Government to accept this at this stage, could the Chief Secretary tell us whether the points raised by my hon. friend the Member for Nairobi West could be covered under clause 20 of the Rules? I can see the difficulty.

When you leave the country at the moment, Sir—that is, if you go by sea or by air—you fill in an immigration form which asks you to put a cross against the query of whether you are leaving temporarily, permanently, etc. I would have thought that it would have been very easy, for a person filling in a form, to have been asked: "Will you please produce your certificate?" It could be worked under the Rules. Perhaps the Chief Secretary could tell us.

THE CHIEF SECRETARY (Mr. Turnbull): I think it is unlikely that it can be dealt with under the Rules but no doubt the Secretary to the Treasury will be able to explain that point.

With regard to whether or not it means an exit permit system we must obviously give closer consideration to any machinery required. I think it would mean accepting the whole principle that when a man leaves the country he must be required to show that he has met all his dues. It would be illogical to apply this provision to the personal tax only and not apply it to matters such as hospital fees, income tax or hospital contributions.

MR. HARRIS: Mr. Chairman, I have always understood that Asian grocers in the town had a very good system at the Nairobi Railway Station for civil servants going on leave.

SIR ALFRED VINCENT: I feel that this rather gets at the root of a great loss of revenue, and surely if a clearance certificate for income tax and personal tax to be supplied together can be worked and worked very efficiently in Australia, there is no reason why it should not be done in these territories.

Now, I understood that in introducing this idea into another place there was support from one of the other territories. I do think in all seriousness that these territories lose an enormous amount of uncollected tax because people escape from this country and do not pay their just dues. I am certain of this, and the Commissioner of Income Tax is as well, and I believe that so far as personal tax is concerned we shall be in the same position. It will be an unpopular move I agree, but nevertheless although it may irritate the good citizen it may cause his income tax to be lowered by proper collections from the people who are at present evading payment.

THE MINISTER FOR LEGAL AFFAIRS (Mr. Griffith-Jones): Mr. Chairman, may I suggest that this point be left to consideration in its widest scope, because if we are going to give powers to detain a person they must of course be closely circumscribed in the sense that they must be limited in point of time and limited in point of the purpose for which they may be used. It is probable that if it were to be found possible and desirable to introduce a system of the nature recommended whereby a person seeking to leave the country must satisfy the authorities, before he is allowed to get on his ship, train or aircraft, that he had

[The Minister for Legal Affairs] paid all his dues, it might be that it might best be introduced into the Immigration Ordinance rather than into the law relating to one particular form of taxation. As the hon. Member will also appreciate there is considerable difficulty in applying any such provision in a territory such as ours with various land boundaries which can be, and are daily crossed with the greatest facility. In respect of any such exercise we would probably need the co-operation, certainly of the other East African territories. However, my main point is that if we are going to consider the introduction of this principle, then in my submission it would be best to consider it in its general scope rather than in the particular scope of this Bill.

MR. ALEXANDER: Those words having come from the Minister for Legal Affairs, if he is able to assure me that Government will give very early consideration to this, I am willing to withdraw this amendment. I have just one comment. Australia has the same problem, as there is a federal system of no defined obstacles between one state and another; and they have federal taxes there to be dealt with under this permit system. I would suggest, perhaps, that the Minister for Legal Affairs might have a look at the Australian system and see if his brains can be picked. I would like his assurance that it will be dealt with on an all-embracing basis in the very near future.

THE MINISTER FOR LEGAL AFFAIRS (Mr. Griffith-Jones): I will certainly give the assurance that this will be considered in its widest scope.

MR. ALEXANDER: In that case, Mr. Chairman, I withdraw.

*The amendment, by leave, was withdrawn.*

SIR CHARLES MARKHAM: Can I raise a point on clause 5? I raised this during the Second Reading of the Bill. What happens if somebody has not paid by 30th April? This is a complete contradiction to clause 8 which mentions the penalty after 15th June.

MR. MACKENZIE: My hon. friend the Member for Ukamba asked what happens to someone who leaves the Colony.

SIR CHARLES MARKHAM: No, somebody who has not paid by 30th April—not left the Colony—who has not paid.

MR. MACKENZIE: The person who has not paid becomes liable to certain penalties, and can be sued.

SIR CHARLES MARKHAM: Could I ask the Secretary to the Treasury to read the Bill? It says under clause 5:

"The tax shall be due and payable on the first day of January in each year, and shall be paid not later than the 30th day of April in that year."

Then clause 8 reads:—

"Any individual who fails to pay the whole of the tax due from him on or before the 15th day of June in the year in which the tax is due, or before the sixtieth day following his entry into the Colony or his ceasing to be exempt from tax, whichever is the later, shall be liable to pay, in addition, a penalty equal to one-half of the amount of the tax in respect of which he is in default."

There it gives another penalty. What happens in that gap?

MR. MACKENZIE: No penalty is imposed during the period of the gap, Sir.

SIR CHARLES MARKHAM: Much law and no order! If it is not for the penalty, why not change the date of clause 5 to the 30th day of June?

MR. MACKENZIE: That suggestion certainly be considered, although for the present it does not in fact make any particular difference. The intention, Sir—and whether effect has been given to the intention or not I would not know—but the intention was certainly that the 30th of April should continue to apply in respect of the higher levels of taxpayer, and the date, 15th June, should apply to the people who pay at the bottom level. That was certainly the intention when the Bill was drafted, but I think that the point raised by my hon. friend, the Member for Ukamba, certainly needs to be looked into and I will give him my assurance that it will be looked into.

MR. HARRIS: What is the procedure we are now adopting in the Committee stage? The Minister—or acting Minister—of Government says that he will look

[Mr. Harris] into a particular thing. Does that mean that he is going to look into it and no action is to be taken; or does it mean action will be taken? If action is going to be taken, except by amending this Bill, how?

THE MINISTER FOR LEGAL AFFAIRS (Mr. Griffith-Jones): Mr. Chairman, Sir, I think the explanation, as far as I understand it, of the different dates is to facilitate collection and to provide a date after which the various tax collectors have authority to collect the tax, although that may be in point of time precedent to the date on which the penalty becomes payable. It is a collection point rather than a penalty point.

SIR CHARLES MARKHAM: I understand now, Sir—I need not pay poll tax next year until 15th June. Is that correct?

THE MINISTER FOR LEGAL AFFAIRS (Mr. Griffith-Jones): The hon. Member ought to pay it not later than the 30th day of April and if he does not it will be open to a tax collector to collect it from him, but he will not become liable for penalty until 15th June.

SIR CHARLES MARKHAM: In other words, I need not pay until 15th June.

Clause 5 agree to.

Clauses 6, 7 and 8 agreed to.

Clause 9.

MR. CROSSKILL: Clause 9, Mr. Chairman: May I ask what the penalty is which is referred to in clause 9?

THE MINISTER FOR LEGAL AFFAIRS (Mr. Griffith-Jones): The penalty that arises from 15th June!

Clause 9 agree to.

Clauses 10, 11, 12, 13 and 14 agreed to.

Clause 15.

THE MINISTER FOR AFRICAN AFFAIRS (Mr. Windley): Mr. Chairman, Sir, I beg to move the amendment of which notice has already been given to clause 15 and that is that the words: "Within three days" in clause 15 (1) be deleted and at the end of clause 15 (2) the following proviso be added: "Provided that a person shall not be convicted of an offence under this section by reason only

of a failure to produce a receipt when required if within three days of the requirement he produces it to such collector as may have been specified to him at the time its production was required."

I think, Sir, this is really a legal draftsman cleaning up of this section and it is largely a technical alteration.

*Question proposed.*

MR. MBOYA: Mr. Chairman, on a point of explanation. Does the clause specify that there shall be detention of the person for three days?

THE MINISTER FOR LEGAL AFFAIRS (Mr. Griffith-Jones): No, Sir, this amendment is designed to ensure that a person who is stopped and asked for his receipt and who may not have his receipt on him will, in fact, have three days in which to produce it to a specified collector. But he will not be detained in the course of that period, unless of course, there is reason to believe that he is a defaulter. In which case he may be detained but if he can produce his receipt he will not be liable to be convicted under this section.

MR. MBOYA: The determination of whether he is a defaulter—who would do this?

THE MINISTER FOR LEGAL AFFAIRS (Mr. Griffith-Jones): Well, in the final analysis the Court would have to determine that, but if the police officer or tribal police officer who asked the individual to produce his receipt had reason to believe that he was a defaulter, he would then be entitled to hold him, subject to the individual producing his receipt, for such offence as he may have committed under the Ordinance.

MR. MBOYA: I am still not clear whether the police officer is entitled under this clause to hold a person in detention until he produces the receipt. I am told on the one hand that he will not be detained but on the other hand that he may be detained on suspicion. Would the Government explain whether the tribal policemen have powers of detention? In fact, what is going to happen to a person when he is detained by the tribal policeman or whoever else is concerned and given power under this clause to detain to failure to produce a receipt before three days are up?



THE MINISTER FOR LEGAL AFFAIRS (Mr. Griffith-Jones): Mr. Chairman, Sir, the tribal police officer does not have powers to detain under this clause. If he detained it would be under some other authority for some other offence. But what he is entitled to do is to obtain particulars from the individual whereby he could identify and find him subsequently if he does not produce his receipt within three days. But this clause itself does not give him powers of detention.

Clause 15 as amended agreed to.

Clauses 16, 17 and 18 agreed to.

#### Clause 19

SIR CHARLES MARKHAM: Mr. Chairman, I beg to move that clause 19, subparagraph (a) in the second line the word "18" be deleted and the word "21" be substituted in lieu thereof.

The point of that is, Sir, that I cannot see how this particular clause will be enforceable owing to the doubt that there is quite often, particularly with some of my African friends of knowing their exact age. And also, again, Sir, I think, it is unfair to penalize the person who has not managed to achieve entry into either a university or other establishment. I think, Sir, it would be a gesture on behalf of the Government to accept this amendment because at the age of 21 you are alleged to be a responsible person and I think in this instance, Sir, it would be kinder to start penalizing them by taxation when they reach the age of responsibility. I can see objections, Sir, to it, but, at the same time, if you look through the exceptions which are allowed, I would have thought the numbers involved are very small indeed. It might, Sir, well include those people who are doing their full-time National Service, and I think it would be a monstrous injustice to make them pay while they are serving their country.

Mr. Chairman, I beg to move the amendment.

#### Question proposed.

MR. MACKENZIE: Mr. Chairman, Sir, my hon. friend, the Member for Ukamba said that it would be a generous gesture to change the age at which people become liable to pay this tax from the age of 18 to 21. I agree, Sir, it would be a generous gesture and, al-

though I have not got the figures, I am rather afraid that it would be far too generous a gesture. For this reason, Sir, we on this side of the Council could not accept that particular amendment.

SIR CHARLES MARKHAM: Could I ask, Sir, the Secretary to the Treasury to give a reason? He has said "far too generous a gesture" will he tell the Council what he means by it, Sir? I have not understood a word of his argument, Sir, so far.

MR. MACKENZIE: It would have the effect, Sir, of exempting quite a considerable number of people from tax who at the present time pay tax. It would, therefore, be expensive from the point of view of the revenue.

SIR CHARLES MARKHAM: How many? What is the figure?

MR. MACKENZIE: I have no idea, Sir, how many. I do not think it would be a very fruitful exercise to attempt to find out, but I am quite certain that there must be a very considerable number of people—a very large number of people—between the ages of 18 and 21 who will be liable to pay tax and I can see no reason why the Government should forego revenue which is collected under the two existing taxes from people in the income tax category.

MR. MULIRO: Mr. Chairman, I think the Government is right out of line. The whole purpose of this personal tax was to remove inequities.

MR. MACKENZIE: Mr. Chairman, Sir, so far as I can see, there is nothing which prevents people of any race from being of the age of 18 or of any other age.

MR. HARRIS: There is nothing that I can see which prevents the Secretary to the Treasury from computing exactly what taxation is coming in from which groups. He comes here having imposed a new tax to say that he has not the slightest idea what the implication would be had they started the age for the payment of this tax at a different age from the one on which they decided. May I ask, Sir, on what grounds did they decide 18? Did they just pluck the figure out of the air? If they did then they might just as well have plucked 21!

MR. HASSAN: Probably it will help the Council to know the Asians between

[Mr. Hassan] but here, Sir, the proposal is to alter the age of 18 and 21. In 1954 the number was counted as 8,000.

THE CHIEF SECRETARY (Mr. Turnbull): Mr. Chairman, Sir, the reason that the age of 18 has been selected is that this Ordinance replaces the old Personal Tax Ordinance, the African Poll Tax Ordinance, the Poll Tax Northern Frontier District Ordinance, and the African Poll Tax (Urban Areas) Ordinance, 1950. In all those Ordinances the age was 18.

MR. MBOYA: Is the argument to say that such age is reasonable, if you lowered the age to 16 you might get more revenue?

THE CHIEF SECRETARY (Mr. Turnbull): Mr. Chairman, that is a very cogent point. We will think about it. 3.30 p.m.

#### DIVISION

The question that the word proposed to be omitted be omitted was put and on a division being demanded the Division Bells were rung.

THE CHIEF SECRETARY (Mr. Turnbull): Mr. Chairman, on a point of order—if I may make a point of order in the course of a division—you ruled yesterday that our practice in matters of legislation relating to the levying of taxes is the same as that of the House of Commons and said that Erskine May had pointed out that the Royal initiative in taxation implied the exclusive right to define "the incidence" as well as the amount of the burden to be placed upon the people, and that an amendment which transferred the burden to taxpayers not previously liable was an infringement of this initiative. Well, Sir, if the revenues of the Colony are to be sustained in the face of this loss it will mean an increase in income tax and I suggest, Sir, that in those circumstances the amendment is out of order.

MR. SLADE: Mr. Chairman, may I speak on this point of order? It is quite a nice point arising out of rule 105 but I would suggest that it is not a good point. Rule 105 says that "The Council shall not proceed upon any Motion for a grant or charge upon the public revenue or public funds or for imposing, altering or repealing any rate, tax or duty". That must be an existing rate tax or duty;

but here, Sir, the proposal is to alter the time of imposition of a proposed tax and, moreover, is not in any way increasing the tax, so it could not be called a motion for imposing the tax, because it is cutting down the incidence of that tax. Therefore, I would suggest, Sir, that this Motion is merely a motion to alter the effect of a proposed tax for the benefit of the taxpayer, and is in order under rule 105.

THE CHIEF SECRETARY (Mr. Turnbull): Mr. Chairman, Sir, I submit that what this amendment seeks to do is to repeal a tax which now exists. The African poll tax and the various other taxes mentioned in the last clause of the Bill require the taxpayer to start to pay tax at the age of 18, therefore the effect of this amendment will be to repeal that provision and to allow him not to pay tax until the age of 21.

MR. SLADE: Mr. Chairman, it is not the Mover who is proposing the repeal of those Ordinances. It is the Government. Government is repealing those; and this is a question of what new tax is to be put in their place.

SIR CHARLES MARKHAM: On a point of order, Sir, by the time you have had enough of these points of order, the Government will have their majority so I suggest you put the question.

THE CHAIRMAN (Mr. Conroy): Yes. Draw the bar and lock the door.

The provisions of Standing Order 105 repeat in substance the provisions of clause XXVIII of the Royal Instructions which substitutes a subjective test for the objective test applied by Standing Order 105. Article XXVIII of the Royal Instructions provides much the same as 105 and then it goes on with this proviso: "Provided that, except for the recommendation or consent of the Governor signified thereto, the Council shall not proceed upon any Bill, amendment, motion or petition, which in the opinion of the person presiding would dispose or charge any public revenue or public funds, or revoke or alter any disposition thereof, or impose, alter or repeal any rate, tax or duty".

Now, it seems to me that the repealing of the existing taxes mentioned in the final clause to the Bill is not being brought about by this amendment. What

[The Chairman] this amendment seeks to do is to alter the incidence to the new tax, it is not altering an existing tax, it is altering a tax which may or may not be imposed according to whether this Bill becomes an Ordinance. For that reason I must rule that the amendment is in order, that it does not infringe 105 (2) and it does not require the Governor's consent.

**THE MINISTER FOR LEGAL AFFAIRS (Mr. Griffith-Jones):** Mr. Chairman, while accepting that ruling, speaking to a point of order, I do ask, Sir, that it be considered whether this amendment is not in substance a proposal to impose a tax at 21 instead of the original 18. Whilst, of course, accepting your ruling, Sir, I humbly submit that this is, in fact, a Motion for an amendment to impose a tax at the age of 21.

**THE CHAIRMAN (Mr. Conroy):** No, I cannot accept that. If it were the other way round your argument would be right, if the amendment was to decrease from 21 to 18, it would be imposing a new tax on that group of people. But the proposal is to release a group of people from a proposed tax and that does not come within 105 (2).

The question was negatived by 29 votes to 19.

**AYES:** Messrs. Alexander and Harris, Mr. Hassan, Sheikh Mahfood Mackawi, Mr. Mangat, Sir Charles Markham, Messrs. Mate, Mboya, arap Moi, Mulimi, Muliro, Nazareth, Ngala Odunga, Oguda, Pandya, the Earl of Portsmouth, Mr. Slade, Sir Alfred Vincent. Tellers for the ayes: Mr. Alexander and Sheikh Mohamed el Mandry.

**NOES:** Messrs. Blundell, Blunt, Group Capt. Briggs, Messrs. Cooke, Coutis, Cusack, Lt.-Col. Gheria, Messrs. Gregg, Griffith-Jones, Captain Hamley, Messrs. Havelock, Hope-Jones, Mackenzie, Lt.-Col. Bruce McKenzie, Mr. Madan, Sheikh Mohamed el Mandry, Messrs. Maxwell, Nzioka, Robinson, Rogers, Sagoo, Mrs. Shaw, Messrs. Swynnerton, Turnbull, Tyson, Usher, Dr. Walker, Messrs. Wanyutu Waweru, Windley. Tellers for the noes: Messrs. Tyson and Mate.

**THE CHAIRMAN (Mr. Conroy):** The noes accordingly have it and the word "eighteen" accordingly stands part of

paragraph (c) of sub-section 1 of clause 19. The consequential question does not, therefore, arise.

**MR. MANGAT:** Mr. Chairman, Sir, I beg to propose an amendment that section 19 of the Personal Tax Bill be amended by the insertion of a new sub-clause, after sub-clause (c) of sub-section (1) thereof, reading as follows: "(d) every widow."

Now I beg to propose that the exemption under this section, that is, section 19, be made to extend to every widow. When I made this submission during the Second Reading of the Bill, Sir, I failed to realize that I had presumed a little bit too much. When the Minister interrupted me to inquire whether my point was not covered by the exemption of women having an income of £60 per annum, and I informed him that it did not, I thought that he would probably confess that it was an inadvertent error on his part to exclude every widow, and that he would rectify it in due course. But I think that was too good to expect, because it is very rare that a Minister condescends to confess to his errors.

In his reply, the Minister summarily rejected my suggestion. In doing so, what was surprising to me was that he seemed to have drawn his inspiration from the hon. Member for Nairobi Area; now, what a source of inspiration for a Minister, Sir, from a Member who knows very little about married women and much less about widows. (Laughter.)

Then the Minister, in mitigation of his attitude and to reconcile the anomaly which is apparent in this section, explained his decision as to why a woman and no man of small income had been exempted. He said it was due to softness of heart. He went on to say—and I quote: "There is, indeed, no logical reason for it except the belief that the weaker sex needed just a little more protection from the hardship of the tax man. But this is about the only reason that I can logically give for the particular aspect."

We are indeed progressing, Mr. Chairman. The other day we had an instance of a conditionally unconditional support and now we have a logically illogical reason.

I always had tremendous admiration for the uniformly strung pearls which we

[Mr. Mangat] get so often from the Minister for Finance, but I regret to say that in this case his reasoning is just a lump of paste.

Now, Sir, among the general public there is a presumption, of law and of fact, almost irrefutable and rarely permissive, that a Minister for Finance has no heart. Ours, however, has a reputation for possessing one, and I want to give him a chance to discharge that onus which the presumption holds against him. He said that he could not see any reason why a rich widow should not pay tax. Now we all know that a rich widow would certainly pay her income tax, but I was talking about personal tax. I would like the Minister, or the hon. Secretary to the Treasury, to tell me what he did not tell me before; during the Second Reading: why should a married woman living with her husband, even though she has unlimited income, be exempt from personal tax, while a widow has to pay it?

There is another aspect to this matter, Mr. Chairman. Perhaps among the African community the question of exemption of widows might not arise at all. As far as the European community is concerned, more often than not, if the breadwinner has the misfortune to die, then the survivors have had some sort of provision made for them. But among the Asian community, it is very rare that the widow re-marries, and even if she had had a married life of three and four years, she might have two or three children who will become a crushing liability on her. And then, Sir, Asian widows are content to dwell in decencies for the rest of their lives, and it may not be possible for any one of them to invoke section 18 for the purpose of remission of tax from the Commissioners. And even if that were possible, why should a woman be compelled to ask for charity, rather than have it as a matter of right that she is exempted.

Mr. Chairman, it is a small cause but it is a worthy cause, and I beg to commend it to the Government with deep, serious and, might I say, Swynnertonian earnestness.

*Question proposed.*

**MR. MACKENZIE:** Mr. Chairman, I am asked what is the difference, for tax purposes, between a married woman living

with her husband and a widow. The answer is that for all tax purposes, a household of a husband and wife is counted as one household and their incomes are amalgamated, and the tax is levied from them as though they were one person. A widow is one person, just in the same way as a widower is one person, and there is really no more justification for exempting a widow, who has an income of over the minimum amount from the payment of this tax than there is for the exemption of a widower.

In the circumstances, Sir, I can see no justification for accepting this particular amendment.

**MR. MBOYA:** Mr. Chairman, since the hon. Member for the Central Electoral Area has mentioned my statement during this debate, I, actually at the time did say that whereas I would agree that there are instances of difficulty where widows, particularly in the lower categories of income, are left without any support, are concerned, I could not agree that all widows are poor.

There is occasionally a rich widow who has, I think, as much capacity to pay as anyone else, and I did not see why such a person should be excluded. But I agree with the Member that there is some case for widows as such to be considered, and maybe we can find a solution through making it possible for the rich widows to pay, excluding widows in an ordinary, general sense.

*The question was put and negatived.*

**MR. ALEXANDER:** Mr. Chairman, Sir, I beg to move that the last seven words of sub-section (1) paragraph (c) be deleted—that is the deletion of the words "and is not in receipt of any chargeable income".

These words have been introduced into this Bill which were never in the old poll tax. And here I would use the argument of the Chief Secretary, when he was answering the amendment regarding 21 years; his argument was that in because 18 years had always been in every other Ordinance, it therefore was a good argument why it should remain like that. And I argue that because these words were never in the original Ordinance, the old Ordinance, equally, with as much emphasis as he used, they should not be in this particular Bill.

[Mr. Alexander]

Here I do not think we are in any difficulties, Mr. Chairman, as we were in over the matter of 18 and 21 years, because this is in fact bringing into charge a category of persons who were not previously liable.

If you remember, Mr. Chairman, my purpose in bringing in this amendment is particularly to deal with the large number of students, of learners and of apprentices that we are now encouraging in this Colony. In the past they were all exempt; but now if they have a chargeable income, that is, beginning at this level of £120 a year, they will be subjected to this tax.

I know the argument is, as we have just had over the widows, that there are a number of students or persons over 18 who are under instruction, who have got large incomes. But so are there a great many married women who have got large incomes, and they nevertheless are exempt. I would not like mention of them to suggest that in any way I would like them treated otherwise; we love 'em all dearly and far too much for that. But so far as concerns the students, learners and apprentices, who do have expenses which the normal youth does not have, it means that they should be exempt. Their expenses are, of course, their textbooks, sometimes their correspondence courses, their courses at places like the Royal Technical College or Makerere, and of course, those who are unable to be at home have the expense of accommodation in digs.

I believe, Mr. Chairman, and I submit with all earnestness, that what we are trying to encourage is a great influx into this learner category and it is wise that Government should agree that these people should continue to be exempt as they were in the past.

I beg to move.

*Question proposed.*

MR. MACKENZIE: I am sorry, Sir, always to be having to oppose amendments and I appreciate the reason which has prompted my hon. friend, the Member for Nairobi West to put forward this particular amendment. It is true that there is everything to be said for encouraging people who are receiving full-time education and, in fact, that is why

normally people who have attained the age at which they become liable to the tax are exempted from it, if they are undergoing full-time instruction.

The fact remains, Sir, that it is known that there are considerable numbers of students who have got quite substantial incomes, incomes, Sir, more substantial in many cases; I understand than those of the clerks who have to exempt them.

MR. ALEXANDER: How many?

4 p.m.

MR. MACKENZIE: I can see no reason whatsoever why these people should continue to be exempted and, therefore, Sir, I must ask the Council to reject this amendment.

I would add, Sir, that I am advised that this will have no effect whatsoever on people who are in receipt of scholarships, people whose incomes are derived from scholarships or bursaries.

MR. MULIRO: They are students, and particularly those students now who are doing training within industry. Now, these are the groups of students where we find that they should at least be left out of these taxes when they are in training, and I think the Secretary should actually in future take more pains in his Ministry to find out exactly how many people are being affected by the particular tax policy before it goes out to implement it. We were asking two minutes ago about the age eighteen clause, and the Government refused. Now they are refusing again. The students who are at university or training colleges, or who are working in Kenya as part-time students and sometimes studying, should be left out. Again, they are refusing to accept our humble request.

MR. ALEXANDER: Mr. Chairman, what the Secretary to the Treasury did not deal with is that this is a proviso that I would go so far as to say, has been sneaked in here by Government. They have taken the opportunity of this Bill to bring in this rather mean—I will describe it, as mean—proviso to tax individuals who were not taxed before. I realize that the Secretary to the Treasury has said that people who receive bursaries will be exempted, but there are a great number of people who are in apprenticeship schemes, students, who

[Mr. Alexander]

are receiving purely nominal salaries or wages from their principals, and because of that they have now got to pay this tax.

I do suggest, Mr. Chairman, that as the Secretary to the Treasury is quite unable to tell us really what amount is involved, and how many people are involved in this, this argument or the use of this argument merely to brush aside this amendment is an extremely weak and extremely futile one, and I do beg of him, like his master, the Minister for Finance, in relation to the women's tax, just to soften his heart a little bit towards these people too.

MRS. SHAW: Mr. Chairman, have you finished with this one?

THE CHAIRMAN (Mr. Conroy): We are still on the amendment moved by Mr. Alexander to section 19, sub-section (1), paragraph (d).

MRS. SHAW: I am sorry—sub-section (c).

MR. MBOYA: Mr. Chairman, I want to support the hon. Member for Nairobi West on this occasion.

The position, as I see it, is that, one, the Government will not tell us exactly what is involved in terms of how many such students there are, and probably in terms of what expansion they anticipate, which has led them to believe that there is a large amount of revenue involved. On the other hand, Government has said that people in receipt of bursaries shall be exempted. Now supposing we take the case of students who are not in receipt of bursaries, but whose total earnings, say, are the equivalent of bursaries received by some students. Now, I suggest that some bursaries are at the level that could be taxed. If that is the case, how would the Government justify the fact that, on the one hand, they give a chap a bursary, and they say that he should be exempt from taxation and, on the other hand, that a student receiving the equivalent of that bursary should be taxed, regardless of the fact that a person with a bursary is very often boarding at a school or college, where he has fewer expenses than the person in training or apprenticeship? Surely there is no argument to support the Government case.

THE MINISTER FOR LEGAL AFFAIRS (Mr. Griffith-Jones): Mr. Chairman, the Government will accept this amendment.

The question on the amendment was put and carried.

MR. ALEXANDER: Mr. Chairman, I beg to move that clause 19 be amended by adding the following paragraph to sub-section (1) thereof:—

(a) every individual visiting the Colony for a period not exceeding 30 days for the purpose of transacting business.

You may recollect, Mr. Chairman, that I first raised this particular matter in a question to the Minister for African Affairs, and he asked that this be brought up in this debate. The point is that under clause 194, sub-clause (d), every individual visiting the Colony for a period not exceeding six months in duration upon business is at the moment subjected to this tax for the full year, whether he is here for one day or for six months. The purpose of this amendment is to deal with the individual who is responsible for substantial business interests in Kenya which he has to come and look at from time to time, so that he may be relieved of the irritant—because that is what it is, Mr. Chairman, it is just an irritant, this is, to that sort of person who merely comes here, perhaps for a week or two weeks as a director, from London, perhaps, of a local company, or having some other managerial interests, to look after the particular interests.

A specific case of this did cause considerable annoyance to the person involved, and I know of other cases where people, having come here merely for two weeks to look after and into what are really very substantial interests, have to pay the tax for the whole year, and I think Government could agree with this one and remove what is, to these people coming in and out of the country on these very short visits, a most unfortunate irritant.

I beg to move.

*Question proposed.*

MR. MACKENZIE: Mr. Chairman, people who come to the Colony on ordinary business visits, and who do not have a stake in the country, but come

[Mr. Mackenzie] here purely in order to sell things or to do business generally, do not, of course, pay under this clause. The amendment which has been proposed would, however, exempt a class of people who have been liable to the tax, to the old personal tax, for a very long time, on the quite straightforward grounds that people who have considerable interests in the Colony and who are deriving income from these interests, if they come into the Colony, and come within the purview of the taxation laws, should pay the normal tax, in the same way as the resident custodian of his property would pay.

I can see no reason whatsoever for accepting this—there is no suggestion that there is any hardship and it cannot be suggested that it entails any undue inconvenience for anyone who comes here to pay the personal tax at the appropriate level.

In the circumstances, Sir, I should like the Council to reject the amendment.

MR. ALEXANDER: Mr. Chairman, what the Secretary to the Treasury forgets to say of these persons is that of course indirectly through their businesses a very substantial amount of taxation is paid to this Colony. I agree with him that this is not a hardship; it is just an ugly irritant and for people coming through Eastleigh by air to get bits of paper telling them that they should—or rather that they have not paid this personal tax; and the amount of money involved in collecting it; well frankly, I do not believe it is worth it, and I believe Government would be wise to agree to the removal of it.

The question that clause 19 be amended by the addition of a paragraph to sub-section (1) thereof was put and negatived.

Mrs. SHAW: I did not want to raise an amendment on this, Mr. Chairman, I just wanted to welcome (c) where it says: "every married woman living with her husband" which encourages morality, which the Government income tax policy does not.

Clause 19, as amended, agreed to.

SIR CHARLES MARKHAM: Mr. Chairman, I would like to take this opportunity, Sir, of apologizing to you, to the Leader of the Council, and to the Council as a whole for the remarks I

made, Sir, in attempted humour during the time in which the Chief Secretary rose on a point of order during the division on the Bill. I said, rather flippantly, Sir, that he was doing that in order that the Government should obtain the necessary majority on the other side of Council. So I would like to apologize to you, Sir, for any discourteous remarks I made, and to the Council.

Clause 20 agreed to.

#### Clause 21

THE MINISTER FOR AFRICAN AFFAIRS (Mr. Windley): Mr. Chairman, Sir, I beg to move an amendment of which notice has already been given, that at the end of clause 21 should be added the words: "provided that the repeal of the African Poll Tax Ordinance shall have effect without prejudice to the provisions of section 8 (a) and 9 of the Special Tax Temporary Provisions Ordinance, 1953".

The reason for this is, Sir, that the Special Tax Ordinance contains a number of references back to the African Poll Tax Ordinance which it is essential to retain.

#### Question proposed.

MR. MBOYA: What effects would the present provision as it stands have on the Special Tax?

THE MINISTER FOR AFRICAN AFFAIRS (Mr. Windley): Sir, I think the hon. Member is perhaps thinking of the Special Tax that ends at the end of this year where there is a Motion down for its extension at a reduced rate for last until the end of next year—this may well be its last year.

MR. MBOYA: I fully appreciate that. But an Ordinance was introduced when that special tax was introduced, I would like to know if the African Poll Tax Ordinance was amended accordingly; if not, then I suggest that in order to meet that situation the Special Tax Ordinance be amended.

THE MINISTER FOR AFRICAN AFFAIRS (Mr. Windley): It is important to retain reference back to the African Poll Tax Ordinance while the Special Tax Amendment Ordinance is in operation. When it dies, or is not renewed, this reference will cease automatically with it.

MR. MACKENZIE: The position is that in the Special Tax Ordinance there is reference to certain clauses of the African Poll Tax Ordinance; and if the African Poll Tax Ordinance were repealed without any qualification, it would invalidate the reference to that Ordinance in the Special Tax Ordinance.

In the Special Tax Ordinance, there is a reference to the African Poll Tax Ordinance, and without the qualification which is now introduced, it would be impossible next year to administer the Special Tax Ordinance.

MR. MBOYA: (Inaudible.)

MR. MACKENZIE: I think the answer to that, Sir, is that this is a very much more convenient way of dealing with the situation than it would be if the Special Tax Ordinance were to be amended.

MR. ODINGA: Mr. Chairman, we are still confused, because this Bill is rather permanent and if the amendment proposed is required for Special Tax, which is temporary in nature, then the Special Tax Ordinance should be amended accordingly to conform with the present Bill, but not this one at all.

The question was put and carried.

Clause 21, as amended, agreed to.

Schedule agreed to.

Title agreed to.

Clause 1 agreed to.

THE CHAIRMAN (Mr. Conroy): Mr. Windley, would you move that the Bill, as amended, be reported back to Council?

THE MINISTER FOR AFRICAN AFFAIRS (Mr. Windley): Mr. Chairman, I beg to move that the Personal Tax Bill, as amended, be reported back to Council.

#### Question proposed.

The question was put and carried.

Council resumed.

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

### REPORT

#### The Personal Tax Bill

MR. CONROY: Mr. Speaker, I beg to report that the Committee of the whole Council has considered the Personal Tax Bill and has approved the same with amendments.

Report ordered to be considered to-morrow.

### REPORT AND THIRD READING

#### Canning Crops Bill

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): Mr. Speaker, I beg to move that Council doth agree with the Committee in its report of the Canning Crops Bill.

#### Question proposed.

The question was put and carried.

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): Mr. Speaker, I beg to move that the Canning Crops 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.

### BILL

#### SECOND READING

#### The Tribal Police Bill

Order for Second Reading read.

4.28 p.m.

THE MINISTER FOR AFRICAN AFFAIRS (Mr. Windley): Mr. Speaker, Sir, I beg to move that the Tribal Police Bill, No. 12, be now read the Second Time.

Before speaking about the reasons for this Bill and explaining its provisions in detail, I would like, Sir, to say a little about the duties and functions of the tribal police. I believe that this subject is of the very greatest importance in that efficient and effective tribal police are an essential element in the good administration and indeed in the security of the country. I know that the opinion has from time to time been expressed by certain hon. Members opposite that the continued existence of the tribal police is an anomaly, and that the Kenya police should now take over all their work.

There are many reasons why this cannot happen. Of these, the most important is that the responsibilities of the two bodies are in fact complementary and not conflicting.

(The Minister for African Affairs)

Kenya police have specialist training and specialist duties. Tribal police have local knowledge. Kenya police are often strangers to the districts in which they work; indeed, they were first stationed in African areas about rather less than 10 years ago, and they have come into many areas far more recently. The tribal police on the other hand normally operate in the neighbourhood of their own homes. Moreover, the Kenya police are primarily responsible for the investigation and prosecution of offences against the substantive criminal law, whilst tribal police usually investigate and prosecute in African courts offences against native law and custom and African district council by-laws, or offences under the Native Authority Ordinance.

Notwithstanding all that I have said so far, I believe that the introduction of the present Bill is timely. Now that we are within sight of the end of the operational side of the Emergency, it is time to consider how the proper policing of the country is to be arranged in the future. It is therefore appropriate for us to legislate for the tribal police to perform the tasks of which I have spoken, whilst at the same time so defining their powers and duties that these overlap to as small an extent as is possible with those of the Kenya police. This new Bill seeks to do this. A great amount of careful and detailed study has been given to its preparation and I am satisfied that it will provide for what is required. It will replace an Ordinance which is almost 30 years old, and which is therefore, despite amendments, understandably inadequate in certain respects and out of date in others.

The details of this Bill are fully set out in the Memorandum of Objects and Reasons, but I would nevertheless like to enlarge on a few points.

Clause 6 provides for a district commissioner to administer the tribal police in his district which follows the present practice. Hon. Members will know that provincial administration have overall responsibility for good government, one ingredient of which is naturally law and order. It is therefore natural, indeed essential, that district commissioners should continue to control the tribal

police who are the executive arm of the local African administration.

Clause 8 lays down the duties of a tribal police officer, which do not differ materially from the duties prescribed in the existing 1929 Ordinance. Clauses 10 to 14 set out the powers of tribal police including powers of search and the arrest without warrant and powers to use firearms. These clauses are designed so to modify the powers previously enjoyed by the tribal police that they will correspond with all the powers possessed by the Kenya Police. This modification is being made primarily because it is undesirable in principle that there should be any difference in law between the powers of the two.

Hon. Members may wonder why this is so, if, as I explained earlier, their responsibilities do not normally overlap. The reason is, Sir, that the Kenya Police are necessarily thin on the ground in a number of areas. In consequence, it also often falls to the tribal police initially to deal with any incidents which occur. I am thinking, for example, of the Masai districts in which tribal police may be expected to follow up stock thieves, or of Kitui or the Tana River districts where they may help to prevent poaching. When such incidents involve offences which are serious or complicated, the function of the tribal police will in fact be limited to taking the immediate necessary action. They will then hand over any offenders who may be arrested to the Kenya Police for the latter to investigate the cases in detail and to prosecute. Thus the functions of the two will still be complementary although they will both have the same powers.

Clauses 16 to 18 confer upon the tribal police protection similar to that given to the Kenya Police, and clauses 19 and 20 deal with the question of their discipline.

I think, Sir, that I have now mentioned the more important provisions of this Bill, and I should like to end with a tribute to the work of the tribal police. I have spoken often in this Council and outside it of the courage and steadfastness of the officers who endured many of the most savage assaults made by the *Mau Mau*, and who continued gallantly working, often with very little personal

(The Minister for African Affairs)

protection throughout the bitterest time of danger and struggle during the Emergency.

I cannot praise their work too highly. But, Sir, I wish to mention to-day those other tribal police officers whose work is more routine. They have an enormous variety of tasks to perform, many of them monotonous jobs connected with grazing schemes, soil conservation, tax collection and the like. Some of these are tasks which necessarily make them unpopular, and perhaps it is generally true that a policeman's lot is not a happy one. But I believe that a substantial proportion of the progress now being made in so many of the African areas has been done and is due largely to the very creditable manner in which the tribal police have carried out their many duties. I also believe that the tribal policeman is regarded by most of the population both as a familiar and as a friendly figure.

Mr. Speaker, Sir, I beg to move the Second Reading of this Bill.

*Question proposed.*

THE MINISTER FOR SECURITY AND DEFENCE seconded.

MR. MATE: Mr. Speaker, Sir, in his remarks the Minister compared this new Bill with the ordinary powers vested in the police; but, Sir, there is a difference. In this new Bill, the tribal police are given power to detain any person, to arrest any person and to enter premises without a warrant.

Sir, this is a very important principle, when we consider the ordinary tribal policeman and the power given to him by this Bill where he has his own initiative and discretion whether or not to arrest an individual. This power placed in the hands of the tribal police can easily be abused, and can make the life of the ordinary citizen very difficult, because the citizen needs to be protected, not only from criminals but from any loopholes in a law that make his freedom and his liberty as a law-abiding citizen free from any arbitrary abuse.

Sir, the Minister quoted experiences, like the Masai country and examples of poaching as the things that prompt the need for this kind of power being given

to the tribal police. But, Sir, does that represent the whole African population in Kenya?

I say the whole population of Africans in Kenya, because this law is meant for the African in the tribal areas. This law makes it very easy for a tribal policeman to enter somebody's house on any excuse at all, and unscrupulous members of the force could easily avail themselves of this opportunity, and make themselves a nuisance to the citizens.

Sir, it can also be argued that when a tribal policeman finds himself so free, he can make use of this law to interfere with the liberty of the citizens because of family feuds or what is normally called *filina* in Swahili, and thereby cause a serious division between the Tribal Police and the citizens who themselves should have respect for law and support the Tribal Police, because they see the need and appreciate their work.

Sir, I feel that this freedom to arrest or enter somebody's house without a warrant is giving these people too much power and there is danger of the law being abused and the dividing line between the Tribal Police and the liberty of the citizens being lost sight of. I would support the other part where it deals very considerably with the ordinary police laws, but the question of arrest or detaining of people or doing exactly what they like—because, in effect, that is what it is going to do—is, as it were, pitting one group of people against another group because there is no safeguard whatsoever. The member of the Tribal Police himself is safeguarded; he is free from any attack by the citizens, and rightly so. But how is the citizen himself protected against the particular tribal policeman?

Sir, I would like to say here that it is very easy with Kenya Government officers, like district officers or district commissioners, to interpret the laws and apply them because they have understanding so that laws do not become abused. But how can we expect an ordinary, sometimes illiterate, sometimes unenlightened member of the Tribal Police to understand the finalities of this so as to be able to incorporate the willing assistance of the citizens if all he knows is that he has all the power and there is no safeguard for the citizen?

(Mr. Mute)

Sir, I feel that giving the members of the Tribal Police this power without a safeguard is a very important point, and I would ask the Minister to consider this very, very seriously because the idea is not only to have the force, but to train the citizens to respect the law and to work with the Tribal Police.

Sir, I would like to see the Minister point out where the safeguards are for the citizen, because it is no use assuming that, because in an area like the Masai, or in an area like those he referred to, poaching takes place automatically. He does not give us any explanation at all as to how the ordinary citizen can appeal against such treatment by these—what I might call—uninformed, unscrupulous type of tribal policemen. This, Sir, does not mean that of all the force everybody is like that; I am saying there is a very serious omission here and it gives the Tribal Police just a free hand, and the citizen is not at all protected.

Because of this, Sir, I feel I must oppose the Bill.

Mr. MBOYA: Mr. Speaker, Sir, I think that the most important aspects of the Africans' reactions to this Bill have been very adequately expressed by my colleague, the Member for Central Province. I think it should be recognized that in this particular case we are dealing with a Bill that seeks to introduce a type of person or a licence for a type of person who is going to deal mainly or primarily with the African community. Therefore, the question ought to be looked at with particular regard as to what experiences we have had in the past and also those experiences that we are having with the ordinary police force.

On the Floor of this Council, Sir, reference has been made more than once by people about the conduct of the police force. Now, it is well known that at least the police force to which the Minister has referred and to which I think many of us would look for a better and probably higher level of conduct has been criticized very, very greatly by various speakers in this Council. We are seeking in this particular case to introduce powers and complete licence, if I may call it that, for the lower type of police force, the less, shall I say, experienced, less trained and, to a large

extent, less enlightened. We would like to support the Minister very much in introducing some aspects of conditions under which these people may be employed that will be comparable with those of the ordinary police constables or police personnel. But I think we would be overlooking a very important point if we were to brush aside or treat very lightly the fact that there is already at the moment a lot to be desired in this general conduct and behaviour of the Tribal Police in the African areas.

The fact, Sir, that these people will live in day-to-day contact with the African community in the villages and in the other areas gives more weight to the argument that we should do everything possible to ensure that there is protection of the African from possible maltreatment by members of the tribal police.

The Minister, seeking to justify the need for introducing these particularly wide powers has seen fit to quote the incidence of, say, in the Masai area, people stealing cattle, or in certain areas where poaching may take place; but as my colleague has stated, this cannot be regarded as a sufficient argument to justify the introduction of so wide powers in areas which are not affected generally by incidents such as one would find in the Masai areas or by poaching in the game reserves. The question, I think, must be looked at from the point of view of what would happen normally and what is likely to happen in the African villages rather than what may happen in the Masai areas or what may happen in the case of poaching.

We are particularly disturbed that the tribal police will be given these powers, and particularly disturbed that this has not been based on their conduct in the past; on the efficiency or shall we say the better behaviour and conduct of the tribal policemen in the past. It is purely, I think, in this case based on the need to bring them to the level of the ordinary policeman; and I would suggest that, in view of the fact that we are extending a lot of the activities of the ordinary policeman in the African areas through closer administration and more police posts being built up all over the African areas, there is no need at the moment to extend the powers of the tribal policeman.

[Mr. Mboya]

I cannot see how the Minister will give us this assurance, apart from saying that the district commissioners and the district officers will ensure that these people behave and therefore that this assurance will form the only security that the African citizen will have. This assurance has been given many times before and all along complaints of this nature have been brought and we have been given a similar assurance. The African community is not going to rest on such assurances because very often the tribal policeman will act, if and when the district officer or the district commissioner is not around, under the general direction of the chief, and the problem with the mass of African people (who are not themselves aware of the law and who may not themselves understand their rights under the law) is that since the tribal policeman is directly under the chief and the chief is under the district officer sometimes the question of lodging complaints with the district officer or the chief, because the chief is the only man immediately in contact with the ordinary man in the location, is not understood; and very often there may be instances where people, because the tribal police are under the direct orders of the chief, find it impossible to approach the chief and complain against the same tribal policeman who is only carrying out an order from the chief.

I think these aspects have got to be taken into consideration, and the difficulty, in particular, of the people who are dissatisfied with the activities of the tribal policemen, to avail themselves of the opportunity to lodge complaints, should be taken into consideration.

Mr. Speaker, with these observations I strongly feel that the Council should take into consideration the difficulties Africans experience in this connexion; and I beg to oppose this Bill.

Mr. MUMBI: Mr. Speaker, I feel that it is particularly unfortunate that the Minister is introducing this Bill to give more powers to the tribal police while we, especially the Africans, on this side of the Council are trying to urge the Government to improve the relationship between the public and the tribal police and the police force, the regular police force.

I think also that the Minister forgets or overlooks the nature of these recruited tribal police. My understanding of the recruitment of these tribal police is the taking into the force in most cases—I think I might say in 99 per cent—people who are very ignorant of the duties of tribal police, people who are illiterate, people who take a great time to learn the duties and the functions of a policeman.

Probably the Minister will recall the treatment that the ordinary man was subjected to by the Tribal Police who, as I said, were in those days much more ignorant than they are to-day. As the Member for the Central Province has pointed out, these Tribal Police have abused the powers which they have to-day and the introduction of or the giving of more powers to them means, I think, the baptism of what powers they now have. I think the Minister is aware of an example which I will now quote and which has taken place in the last few days where a tribal policeman used this power given of using firearms in a case of arresting somebody in a very unbecoming way; and this resulted in the death of the person. Now, the case I am referring to happened when somebody complained to the chief, and I think the Minister is quite aware of this instance, in the Machakos District against his fiancé being misused in the construction of a dam, and then the tribal policeman who was assisting in the construction of the dam was trying to arrest this man, not because he had committed any offence but because he protested. Then, when the tribal policeman threatened to harm the man, he tried to escape. Well, the policeman used his powers of using firearms and he shot the man. The Minister will realize that these tribal policemen are very ignorant of the interpretation of the powers given to them and I feel there is no reason in the case I am referring to as to why the policeman should have had the power to use firearms in that case.

The Minister will also be aware of our complaints in the Council here of the mistreatment given to our people by these Tribal Police and the regular police; in that sometimes the Tribal Police and the regular police go into the reserves probably for such reasons, and then they get involved into other

[Mr. Muimi] affairs and go about arresting people without a warrant, arresting people for no definite offences. I feel that if the Tribal Police are given these powers of arresting people without warrants for entering these peoples' premises, without any notice or even without informing the chiefs, and using firearms, we are not in any way providing means of protecting the ordinary man in the African reserves and, therefore, Sir, I beg to oppose very strongly the introduction of any powers to the Tribal Police.

MR. ODINGA: Mr. Speaker, Sir, I rise to speak on this Bill which I regard to be highly controversial, because I think it is a pity that such a Bill should come in front of us at this stage. It has not been a long time since many people were agitating, and some of them criticizing the police, that the police should be independent of the Administration. I felt that, as a result of that, and as a result of some criticism, and probably because of Col. Young's effort, the police and the Administration at this time had been a little bit more and more independent of one another, and I think that they are working smoothly. But I take it that the introduction of this Bill means that again somebody is replacing the police with another kind of police, again with a duty; to be at his direction whenever he wishes and simply because of this kind of motive behind this Bill, Mr. Speaker, I have got so many points to raise.

It is established that the Minister for African Affairs will be the commandant of the force, and just as the Governor is the Commander-in-Chief of the Territorial Forces, he also on his own line again is going to be another commander of all the Tribal Police Force. That recalls to my mind my opposition to that Ministry because I said it was a very queer Ministry. Now, again you will find that the arrangement is that the line goes from the Minister for African Affairs—the commandant—direct to the district commissioner, who will be in charge of this force. The district commissioner is given powers by this Bill to appoint and to discharge anybody from that force; and then the man who will be in charge is the sergeant-major who will be directly responsible to him and who will be reporting to him on

matters concerning that force. That force will be entirely in the hands of the district commissioner, to use as he wishes.

THE MINISTER FOR AFRICAN AFFAIRS (Mr. Windley): I thank the hon. Member for giving way. The hon. Member has obviously been misreading or not reading part of this Bill. I do wish he would read the proviso to section 20 before he makes this assertion that the tribal police are entirely in the hands of the district commissioner. The proviso to that section does make it quite clear that disciplinary powers are subject to certain provisos.

5.00 p.m.

### ADJOURNMENT MOTION

#### THE APPARENT DISINCLINATION OF GOVERNMENT TO FACILITATE FREE DISCUSSION IN THE COUNCIL

THE SPEAKER (Sir Ferdinand Cavendish-Bentick): This is the time we appointed to take the Motion on the Adjournment under Standing Order No. 12. I will call upon the Mover, but before doing so I would say that the procedure is that in this case the Motion for the Adjournment is closed by the Member who has asked to air a matter of public importance. He has the right of reply when the matter has been discussed but the usual thing is that he withdraw the Motion; his object having been achieved in that the matter has been aired. Thereafter we resume the business of the Council and make up the time taken by this Motion after 6.15 p.m.

MR. SLADE: Mr. Speaker, I beg to move that Council do now adjourn. The purpose of this is to enable discussion of the apparent disinclination of Government to facilitate free discussion in this Council. Sir, this arises primarily from events which occurred yesterday in Committee of the whole Council. The Committee had under consideration the Personal Tax Bill. The hon. Member for Nairobi West moved an amendment of that Bill, which for certain procedural reasons was out of order and could not be corrected the same day. It was, therefore suggested that the Committee might report to Council and ask leave to sit again next day, in order to give the hon. Member an opportunity of amending his Motion and giving notice in due order;

[Mr. Slade] so that it could be discussed to-day instead of yesterday. After some discussion as to whether or not there should be an adjournment of the consideration of that Bill in Committee, and after a division of the Council in which the proposition was lost, the Chief Secretary said this:—

"As the Government has no intention whatsoever of accepting this amendment, the feeling of the Government is that it would be wasting the time of the Council by asking leave to sit again."

Mr. Speaker, the clear implication of that statement was that it would be a waste of time of the Council even to hear what the hon. Member for Nairobi West had to say in aid of his proposed amendment, simply because Government had already made up their minds to reject it. Apart from that being the clear implication, Sir, that was clearly understood, by many Members on both sides of this Council to be what in fact the Chief Secretary meant when he used those words. I regret to say, Mr. Speaker, that this is not the first occasion on which we have had the same sort of suggestion implied by remarks from hon. Members on the opposite side of this Council.

I do not want to go over old sores now and refer to particular instances, but there have been where we on this side of the Council have felt that that indeed is the attitude of Government, that it is a waste of the time of Council to discuss matters on which Government have already made up their minds. Sir, that would be a reasonable proposition if we were governed by a Star Chamber, if it really was the purpose of our constitution that Government should decide everything behind closed doors, and that there should be no serious discussion or criticism by the public of what they say or do. But as long as this Legislative Council has any meaning that cannot be true, and it cannot be a correct attitude on the part of Government.

Most Governments—even the very best governments—need advice and criticism from independent representatives of the public. They can only benefit

by such advice and criticism; and even if at the end of it they decide to adhere to their previous course, they do at least do so knowing that they have heard other points of view. It is to provide that independent advice that we on this side of the Council are in this Council. That being so, Sir, we must be heard patiently even if Government are sure before they hear us that they are 100 per cent wise in all they plan to do, and any suggestion from Government that there is no need to hear what hon. Members on this side have to say, or that what people on this side have to say is a waste of time, is, in my submission, an affront to the whole of this Council.

No doubt, Mr. Speaker, time is often wasted in this Council—certainly in the opinion of others. I can call to mind other occasions when hon. Members on the other side have seemed to me to be wasting the time of this Council. But it is not for Government to decree that it is a waste of time or for any hon. Member on this side to decree that any other Member is wasting the time of the Council. If there is fear in the minds of any, that time is likely to be wasted on any particular debate, then we have the particular remedy of Standing Order 65, under which the Sessional Committee—not Government—the Sessional Committee drawn from both sides of Council, can set a limit on the debate and the time taken by each speaker. On the other hand, if, during a debate a particular Member abuses his rights in this Council by wasting time in your opinion, then Sir, the remedy is in your hands. It is for Mr. Speaker to tell us that we are wasting the time of the Council, but not for Government. Sir, these principles are important at any time in any Council that purports to consist of representatives of the public; but they are particularly important, in my submission, in a Council of this kind in this Colony where we have an irremovable Government, a Government which can always have its own way in the long run, and all the public know that that is so. Therefore it is very much more necessary that that all powerful Government of civil servants should listen attentively to what the public representatives have to say, before finally deciding on any course of action.

(Mr. Slade)

Sir, what happened yesterday, has made me wonder whether the Government fully appreciates these principles. I am asking to-day for clear recognition that they are fundamental principles. I am asking for acknowledgment by the Government of the right of Members on this side of the Council to the opportunity of free discussion if there is anything to discuss, and the desirability of Government entertaining such discussion. I must ask for acknowledgment that Government does value advice and criticism from this side of the Council; and I am asking for an assurance that what was implied by the Chief Secretary, and what was understood by those remarks I have quoted, was not really intended and was not really the attitude of Government to this side of the Council.

THE CHIEF SECRETARY (Mr. Turnbull): Mr. Speaker, Sir, let me give the hon. Member a completely unreserved assurance that there is no disinclination on the part of the Government to facilitate free discussion by the Council. When I said the words of which the hon. Member complains, that the Government had no intention whatsoever of accepting this amendment, and the feeling of the Government was that it would be wasting the time of the Council by asking leave to sit again, I had in mind at that time the third proviso to the amendment to clause 3, which had been proposed by the hon. Member for Nairobi West. For it was this proviso, as hon. Members will recollect, which until that time had formed the subject of the debate. The point which I was trying to make when I said that we would be wasting the time of the Council was that as a result of the Chairman's earlier ruling the Committee could not proceed upon a Motion for imposing or altering taxation without the Governor's consent to that Motion, and as the Government had not sought that consent, it would be fruitless to discuss the matter. Then, Sir, as the hon. Member will recall, I had doubts about the point which had arisen and which was largely a procedural one, and I sought the consent of the Chairman to a suspension of business so that discussions could take place. I then discussed the issues with certain hon. Members opposite, and between us we clarified

certain points. The hon. Member will recall that I then said in the Council that we had been arguing from different premises and that I forthwith agreed to the Motion which had been moved, that we should ask leave to sit again. I assure you, Sir, that there is no disinclination to hear free discussion from the other side, that we do value independent advice and criticism, and that we do acknowledge the right of all Members to free and full discussion.

MR. ODINGA: Mr. Speaker, Sir. From what the Mover of this Motion has said here, I feel, although I have been out just for a short while, I heard enough of it, I was impressed because I also feel that Government is not considerate to our opinion from this side and that has worried me. Such a move is worrying to Members on this side because we feel that such attitudes generally put to us a disrespect for the Government, because if we feel we have put a point and a point which we got directly from the public, whom we represent, and those points are just taken very lightly, and they turn them down simply because they are numerically strong, I feel that is something which should be rectified. The Government, Mr. Speaker, as the other speaker has already said, is a Government which will go on permanently for years, and if our opinions are ignored unreasonably all the time how are we going to progress? We shall never get things done for the people, we are representing, at all. Mr. Speaker, with these few remarks—and I speak from the bottom of my heart—I support.

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

MR. SLADE: Mr. Speaker, I am grateful to the Chief Secretary for the way in which he has taken my remarks and the assurance he has given us. I do not think we could ask for any more, and the purpose of the Motion having been served by this discussion, Sir, I now ask leave to withdraw it.

The Motion, by leave, with withdrawn.

THE SPEAKER (Sir Ferdinand Cavendish-Bentick): We now resume business, then, on the Tribal Police Bill. Mr. Odinga, you were speaking.

## BILL

### SECOND READING

#### The Tribal Police Bill

Debate interrupted at 5.00 p.m. and resumed at 5.15 p.m.

MR. ODINGA: Mr. Speaker, I was going on with this Bill about the tribal police when the Council adjourned, but at that time the hon. Mover interrupted me and he drew my attention to certain parts of the Bill, like section 20, which he said made it perfectly clear that the district commissioner is not the sole authority. Well of course I have read this thing through thoroughly and I knew that it has been put vaguely there that everything will be confirmed by the Provincial Commissioner.

Mr. Speaker, as I put it, I felt that the purpose of this Bill is to give the administration, particularly the district commissioner, some police officers and some policemen, who have actually got the power in order to execute his own work—his own administrative work—in his own way as he would like it. If you could remember the last time I spoke here, Mr. Speaker, I said that the district commissioner is made a small detactor in his own district at this time, he will have this police force in his hands with all these powers which have already been expanded to be more or less the same as those of the Kenya police force—he will be the man who is to administer law, to execute law and to be again the judge and to be the interpreter of the law and to be nearly everything—and particularly this power will be extended to the district officers—the young district officers stationed in the various divisional centres all round. They will have the same powers as the district commissioner because the district commissioner will delegate his powers to these people.

I feel that the purposes for which the Tribal Police were established (and they were established maybe as early as 1929) first of all were to assist the district commissioner as messengers and as the link between him and the chiefs outside in the reserve, to act as messengers, to send letters to the chiefs and also to serve people with summonses in the country, because at that time, there were difficulties of communications. There

were no good roads and so on, and these people had to travel on foot around the district. I thought that with such duties—to which later on, were added such duties as assisting the tribunal, courts with summonses and also latterly, the chiefs were also provided with a few of them, to use as messengers all round and probably to send letters and summonses to people in various corners of the district—I thought these duties which these people have were enough. As such, I am glad the Minister who introduced the Motion has paid a tribute to them, that their work has been excellent and that they have carried on well. I quite agree that even the Africans themselves—have had any wrongs or any grudges. Very much in the past with the Tribal Police.

However I feel, with the present extension of their powers, we shall be, in the first instance, duplicating the duties which should not be duplicated because already we have the police in the country, and if we think that the police are not enough in the country it would have been better to increase the police force rather than have the Tribal Police, who are less educated and probably will have less training than the police. At the same time, in the African reserves at the moment there have already been overlapping of duties all round. You find to-day that some policemen have raided a place, probably looking for Nubian gin or even opium and all other things like that. Well, the people do complain thus—'The police came; they raided my place; they mistreated us; they beat us; they pushed us; they did all sorts of things'. You rush to the police station and ask them—'Did you send a force to such-and-such a place?'—and they say: 'No, I did not; probably the chief sent his people to that area'. So I think there is already enough confusion with them at the present moment. It would have been better if the police were left to do their duties, and even at this time we are still complaining that the police have not yet enough education. Many of them tend to mistreat the public. Many of them tend to go even beyond their duties or beyond their bounds. To add more powers to what we call the Tribal Police, particularly to break into somebody's house, arresting without a warrant, and another part—to detain anybody if he meets him and then he



[Mr. Odings]

suspects he is not the right type of man—well, I think this is going too far and the Government must also be worried about the public peace and also hear their views. If the police were needed more in the African reserves it should come from the public; the public should demand it, because they are there for the benefit of the public. Why increase them without asking or without hearing that the public are complaining that they want more police. That is why an elected Government is so different from a Government who is not elected and, therefore, not responsible to the people.

Mr. Speaker, I feel very strongly on this Motion. We state here in this Council that we need peace, stability and prosperity. Well, this should begin from the African areas, coming up. So long as the African areas are disturbed every now and then unnecessarily by the police roaming about, disturbing people at night, doing all sorts of things which are not even required or wanted, I do not think that you will have in this country the peace, stability and prosperity which we talk about. First of all we must see to the welfare of these people in the African reserves. They are the people who should be contented, the people who should be able to develop themselves in the proper way, but to say you are putting the police there with the sole reason that they are going to advance or promote progress—what progress can these tribal police promote? Even the Kenya Police—what progress could they promote? If these people wanted them to keep the peace, the people themselves will cry for them; they will say: "We want the police to come, but at the moment we feel that the Kenya Police Force itself is already too much in the area". Formerly in Central Nyanza alone we used to have police stationed in Kisumu only. Nowadays we have got them in more than seven places, probably ten places; and again going into the country in every location you have got the smaller aluminium huts—built about ten or twelve of them for the tribal police, also with the same work as the police force.

Well, I feel that the time has come, if the Government would consider the

the people and Government would also consider us to be the spokesmen of the people, they will know that what we are saying we are speaking with the voice of the people; what we know would do far more to advance the relationship and the good Government in this country is that the tribal police should just be left where they were. Let them go on with their services as messengers to the chiefs and they should also serve summonses when they are sent to do so, and no more powers should be given to them. But if other powers are needed or more police force is needed, then the Kenya Police should be used rather than the tribal police or increased in that way.

Now, Mr. Speaker, to go back again and to emphasize more what I said, I feel that now, somebody seeing that the police force is getting more and more out of the hands of the Administration and the police are gaining more and more prestige from the public—now the Administration probably feel that they should have another hand in the tribal police with the same powers as the Kenya Police, to use as they like and misuse wherever they can misuse them; and I think that this is too much for the country.

Mr. Speaker, with these few remarks, I beg to oppose strongly the Bill.

5.28 p.m.

MR. NGALA: Mr. Speaker, Sir, I rise to oppose the Bill and give a few of my own comments and experiences as far as my own contact goes with the tribal police.

Mr. Speaker, Sir, I think everybody in this country would like to see a better understanding and better relationship between the police and the people, and recently, I understand, the police force has been trying to get better people employed in the police force so that a better relationship might be achieved. Now we all hope that a better relationship will be achieved in so far as the police get better education to bring them to a proper sense of judgment and discretion in all circumstances.

Now the step that is about to be taken in this Bill, Sir, is, I feel, a step that will bring very irresponsible people or people who cannot use their judgement or discretion properly into the tribal police. If

[Mr. Ngala]

these people are given such powers I feel that the relationship that we wish to improve will be made even worse. As far as the use of firearms is concerned, I understood that the Minister has mentioned that in cases of illegal poaching such people probably could help. Now I was not here when the Minister was speaking, and if I am not entirely right in quoting him I hope he will put me right, but as far as the use of firearms is concerned, I have a concrete example in Tana River district where such powers were badly misused. I think, in 1955 in Tana River at a place called Ngas and recently I saw the district commissioner there and the district commissioner told me that the tribal police have a habit of slapping Africans anyhow. Now when I asked him about the use of firearms with the tribal police, he said: "Well, I have given them irresponsible, but I have given every gang a European officer to look after them and supervise them and see that they use their judgment properly". Well, there are the very people who at the moment cannot use the responsibility that they have, however small it is, and the very people we are trying to give more powers. I feel that unless better recruitment and training and standard of education are considered, this power is going to be misused very greatly in the African locations. I would be very much opposed to the idea of giving powers, particularly the use of firearms to these people.

Now in the same section where the use of firearms is mentioned, Sir, there is a question of the tribal police officer giving a warning to the person before he uses firearms. I am sure in many cases the warning will be very vague and may not be given at all, and that is where my fear lies.

As far as the road barriers are concerned, I should like to give you a personal experience. One tribal policeman in 1954, just near my home in a place called Kaloleni, stopped me from the use of the road. Now he had been placed there by the Administration to check lorries carrying goods and taking goods away from the area. I was in my vehicle, but I was held up there for about one hour. Finally I had to help myself to the chain and move it away, and when I reached home I had to ring

in the district commissioner and tell him that this tribal policeman had acted in that way.

Now, I feel that if we given them such powers, with the sense of judgment and discretion which they have now, there will be unnecessary detaining such as I have suffered myself and there is no doubt many people have suffered just as I have suffered. I feel that we should not give them power unless the Minister can assure us that he is going to see that the standard of the education is raised. At present most of the tribal police do not even know how to read and write. In some parts of the Bill we have been told that you can give your address and particulars to the tribal police. Now most of them cannot write and cannot read. How shall we give these particulars so that we can be freed. It is quite incomprehensible to me. I am sure that many areas will have to face that difficulty and unless the Minister can give us an assurance as to how that situation will be dealt with, I feel that unnecessary delay will be caused and there is bound to be very great misunderstanding between the people concerned and the tribal police.

As far as the responsibility of the tribal police is concerned, I should like to give you another example which happened just three days ago in Mombasa district, in one location where I am living, two of the tribal policemen went into a house and they arrested a person. They arrested him just because he had come out of his house and was having some fresh air. As you know, Sir, Mombasa is a hot place and he had come out to have a rest at night. He was arrested with just his towel around his waist.

Here in the Bill, we give these people power to lay information, but I was very much surprised in the way that the information was laid. There was quite an outstanding distortion; as far as the truth was concerned, I have had to take this up with the District Commissioner, Mombasa, and this matter is being looked into but I feel quite satisfied that if they had been people of better understanding, people who could use their judgment better, probably they would not have acted in that way. Therefore, giving them power of laying information or laying a complaint, as I

[Mr. Ngala]

know that they will not have any kind of training, I think is very dangerous. Even in the present police force or any good police force that may win the confidence of the people, it is necessary to train the people on how to lay information and how to put a complaint so that there is much accuracy.

The position is going to be made worse, according to what experience I have, of the low standard of the people, particularly in locations where the tribal police have to deal with less understanding individuals. In townships probably people can look after themselves much better, but in areas which are more backward, I feel that the relationship will be even more spoilt.

Arrests with no warrant, Sir; I think this question of arresting people with no warrant is a power which should not be given to the tribal police and also the power of these tribal police living in one district to go to another area is very dangerous. This year, Sir, at a place called Kakonen, I had an example. The tribal police had moved from one place to another place and they knocked into a house without any warning and I do not know what they were trying to do, but unfortunately they did not know that the house belonged to the chief. Fortunately the chief came out with a big stick, trying to hit these people. When they discovered they had gone into the wrong place, the chief had to call the officer who was in charge of that gang—the officer was at a distance—and he had to say that he was sorry it had happened. These are the sort of things the Africans are going to meet if we give these powers to irresponsible people and people who might have a small sense of judgment and discretion.

Therefore, Sir, I very much oppose the Bill and feel that this is not the time to introduce such a Bill, as far as the conditions are concerned in African areas.

Mr. MULIRO: Mr. Speaker, Sir, this Bill is the most unfortunate Bill that could have come to this Council at this period of the year. When one look at the Tribal Police one must place them against the background of the general police force of the Colony.

There have been definite quarrels by the public and complaints about the behaviour of the police force in Kenya; and the police force was being greatly improved, because the constables are being recruited from the Africans who have had a certain degree of education. This has had to go hand in hand with the improvement of the Colony police force, but when one looks at the Tribal Police and when one examines the composition and the type of people who are now being employed as tribal policemen and the people who are going to come forward to be employed in the Tribal Police, one cannot help lamenting that fact.

The Tribal Police will mainly be illiterate because at present they are all illiterate in most cases. I know in the location where I am living at present there are more than eight tribal policemen: of those eight, only one is able to read and write—very little, too—in the vernacular, and even this one does not understand good Swahili.

Now, Mr. Speaker, to think of the Tribal Police and the poor salaries they are going to get, one cannot help but say that they are likely, as they are at present, to be involved in bribery of some kind; because, if one does not get sufficient salary to live on, one resorts to other measures in order to supplement one's income; so that the Government is probably indirectly encouraging bribery in these lower classes.

THE CHIEF SECRETARY (Mr. Turnbull): Mr. Speaker, Sir, is the hon. Member in order in saying that the Government is deliberately encouraging bribery by laying down certain rates of pay?

Mr. MULIRO: Mr. Speaker, I said that probably the Government is indirectly—I did not say deliberately—encouraging bribery.

That is a very generous and a public criticism of the Government. The Chief Secretary should not be worried about that at all because this is going to affect the public, and we are speaking for the public.

The second point I should like to raise on this issue again, Mr. Speaker, is the powers which are placed in the hands of the Tribal Police, mainly in the locations where they live, and only to send messages around other locations or to the

[Mr. Muliro]

district commissioner; but in future, when this Bill becomes law these people are going to go round chasing the people, they suspect have committed an offence, to other districts. Suspicion, Mr. Speaker, is the basis of all this; and when that suspicion comes from someone whose sense of judgment is not very good because of his education, then I am very worried about that. They will go about without any order: now they move from one district to another in search of what they want. Furthermore, they are being insulated from any form of damages. If they, through that suspicion, inflict some pain on anybody or keep someone on suspicion for a certain period and it is proved later on that that person was only a suspect, and that there was nothing wrong at all, they cannot be made to pay any damages.

Now, Mr. Speaker, these people do not get any damages at all. The ordinary citizen is not being protected. Any good law must take cognisance of the fact that the ordinary citizens have rights, which ought to be protected, but according to this Bill there is nothing.

Another issue I would like to raise again, Mr. Speaker, is the definite discriminatory aspect of this Bill. I have from time to time accused that Ministry of being discriminatory, and this is one of the aspects again. There are laws which are made specifically for the Africans because the tribal police are not going to deal with anybody else in Kenya except the Africans. If we are always in very beautiful language saying that we want to create one society, one common loyalty, then we should also have only one law to be applied to our society. I think the hon. Minister should withdraw this Bill.

Mr. Speaker at this stage of the African progress I regard this Bill as a go-back from to where we are going. It is a go-back because when we are moving away from Chauvinistic tendencies and tribalism, going out to think of ourselves as one common society we find a Government enclosing us in tribal elements again.

Mr. Speaker, I think this Government must consider very seriously that this is not a progressive step but a retrogressive

step. It is not being called for by Africans because we on this side are speaking for the Africans. Anyway I have not asked for it. We want unity of all people in Kenya, not this discrimination.

Mr. Speaker, one of the aspects again which has been raised by many of my colleagues on this side, and, excuse me, Mr. Speaker, with your permission I will repeat because I find that many problems that affect Africans are so interwoven that Motion after Motion or Bill after Bill we shall be repeating the same language. That is very, very inherent in the present structure of Kenya life. The warrant is the ordinary decency, the ordinary formality where any civilized community is protected from bad Government. Here we see that the tribal police are not going to show any warrant to arrest anybody, to search anybody's premises. They will just come on suspicion and they will start doing what they want. Even the Kenya police, Mr. Speaker, at present have not got these powers. I regard the Kenya police at present as being very well improved, but I would never recommend them to do away with warrants.

Mr. CONROY: On a point of order, Sir, I think the hon. Member said the Kenya police had not got powers. Mr. Speaker, I think the hon. Member should either withdraw or substantiate that statement because my reading of the law is that they have precisely the same powers.

Mr. MULIRO: Mr. Speaker, I think this is slightly different. I have read the Kenya Laws, but the search warrants, the cases where search warrants are not required is where they suspect something serious and of urgency, but it is not defined even in this Bill. That so much of the privacy of the individual citizen is not there. Mr. Speaker, I feel that if this Bill is not withdrawn completely by the Government, then the reasons which the Government has put forward for this very Bill are not sufficient reasons to justify these powers. The Minister has said, when he was moving the Bill, that this probably will facilitate the arresting of the Maasai poachers of game. Well, if this Bill is to enable the tribal police to chase the poachers from one district to another, is that alone

[Mr. Muliro] sufficient to place the powers of a small dictator in the hands of the ignorant African masses at present?

When these people, Mr. Speaker, are merely going to use nothing but suspicion, well I suspect (inaudible) and as I have said usually the Government accuse the African Members that we are ignorant and suspicious, and then the very Government which knows we are ignorant and suspicious places the powers of a small dictator into the hands of these tribal police.

Mr. Speaker, I oppose this Motion in this Council on behalf of probably the million people I represent and I think it would be only fit at this stage for the Government to withdraw the Motion.

I beg to oppose.

MR. COOKE: Mr. Speaker, Sir, I unfortunately was not here when the hon. Minister made his opening remarks and I am ignorant as to whether he gave any reason for extending the powers of the tribal police and perhaps he has been requested by the local African councils, but if he has not been, I suggest that he should consult with the African authorities before he brings such a Bill in.

Sir, I have a great deal of sympathy with what has been said by the African Members and I find myself sharing their fears, that if you give these extensive powers to these rather, illiterate and untrained people there will be a great deal of trouble.

Now, the Commissioner of Police, in a broadcast which he made the other night, laid special emphasis on the need for training for the regular police, and surely the same emphasis must be put on the need for training of the tribal police, and I do not see how my friend the hon. Minister is going to provide the officers to implant that training into the tribal police.

I would request my hon. friend to withdraw this Bill until the African authorities themselves have been consulted and have given their approval.

MRS. SHAW: Mr. Speaker, Sir, I did not intend to speak to this Bill, but I would like to support the very well-reasoned objections put forward by the

hon. African Member for the Coast and also to commend him for his moderation in speaking.

I have lived for 30 years in a buffer state surrounded by four African reserves, and I have, therefore, a great deal of experience of the tribal police, and while some of them are quite excellent, I do think there is a great deal in what has been said from this side of the Council on the Motion.

I fully realize the need for arming the tribal police in certain areas, especially in regard to what has happened on our frontiers just this last week. But I do beg of Government to give very serious consideration to the objections that have been put up from this side, because they have only too often foundation in fact.

MR. USHER: Mr. Speaker, I do blame myself very much for not having studied this Bill more closely before speaking to it but, as an old administrative officer, I see dangers in it of the nature that have already been explained by my hon. friends on my left, and I know that my hon. friend, the Member for the Coast, shares my doubt, and I would plead the Government, Sir, at least to delay the matter so that there can be some mitigation of these powers, and particularly the powers of entry and use of firearms.

If there are serious incidents arising from these new powers, then it will be too late to invoke the disciplinary action that can be taken under section 20. I am most reluctant to intervene, Sir, but I really feel very strongly about this and I would reiterate my request for delay in the matter.

MR. ARAP MOI: Mr. Speaker, Sir, although I did register my confidence in the Tribal Police Force, in the last debate, under the 1939 Ordinance, I register now my protest or my disappointment at the present Bill which will probably come into force at some time soon if approved by this Council. I hope the Government will take into consideration the facts and points raised by the Members on this side.

I submit, Mr. Speaker, that if we have got to change from the fundamental approach to the whole development and construction of African life in Kenya, we must abolish certain Bills and things which hinder the relationship and the

[Mr. arap Moi] confidence of the people, and thus Government regains confidence among the African people.

Mr. Speaker, Sir, I suspect very much the present Bill because during a certain time last week, a certain officer of the Government asked whether the present Bill has been passed, because he had written a letter to a provincial commissioner asking him whether he could apply a certain section of this Bill. Therefore, Sir, I was convinced that there were certain evils in this Bill which did not exist in the previous Ordinance, and therefore, Mr. Speaker, how can we expect most of these tribal policemen to have powers vested in them while the majority of them are illiterate. They will certainly misuse these powers, and by so doing certain developments in the African reserves, certain schemes in the reserves, as I understood the Minister rightly, certain grazing schemes would be controlled by the Tribal Police. This force will automatically spoil the whole progress which is now going on in the reserves.

I do beg the Government to withdraw this Bill and, Mr. Speaker, I beg to oppose with no reservation.

MR. HASSAN: Mr. Speaker, I had no intention of intervening in this debate, but after hearing all these speeches, and my own experience of Tribal Police in the reserves, I feel that the powers that have been provided for these people in this Bill are not justified.

There is no doubt that during the Emergency they did a tremendous amount of good work to assist the authorities to do away with lawlessness and they do need some reward for that. I think that reward should be in the increase of their wages, even if they are doubled, that will help and assist them rather than give them powers which usually, under the law, are always invested in those who are fully trained, and properly trained people in the police and Administration.

I know I had chance to go to the reserve, where I camped for the night and I thought it might be possible to buy a chicken. I was informed that all the chickens had been commandeered by the Tribal Police and eaten.

Sir, such things are happening there, and I feel that their duties should comprise what they had before, to work under the direction of the chiefs and the district commissioners and do odd jobs, rather than be vested with the powers which allow them to arrest people and break into anyone's house and so on.

I fully agree with the Member for the Coast that the Minister should seriously consider whether he can postpone this Bill and bring it to the notice of the district councils in the country for their blessing.

MR. COOKE: Mr. Speaker, Sir, the alarm that has been expressed by the hon. Members opposite with regard to the wideness of the powers of arrest without warrant, and the wideness of the powers of entry without warrant, I can understand. I sympathize with the views that have been expressed by the hon. Members.

Mr. Speaker, it is always difficult to decide how wide powers of arrest without warrant and how wide powers of entry without warrant should be, and it is always desirable to try to restrict those powers in the interests of the liberty of the subject. One tends to forget, I think, that you have to balance against the liberty of the subject prevention and detection of crime, because unless you have prevention and detection of crime, then there is no liberty left to the subject which we are all so anxious to protect. You have to balance the one against the other.

Mr. Speaker, these powers, which are the same as the powers, not quite so wide as the powers enjoyed by the Kenya Police in this respect, have been built up over many years of practical experience under the Common Law of England. The powers of arrest of the constable without warrant, which the Kenya policeman enjoys, and which are contained in this Bill in respect of tribal policemen, and powers of entry without warrant in the same way, have been built up, I think it is fair to say, over hundreds of years in England. It is equally true, and the legitimate point was made by hon. Members opposite that the tribal policeman will be a simple fellow without much education. Mr. Speaker, your constable, until recent times in England, was a very simple

[Mr. Conroy] fellow and very often illiterate in days gone by.

AN HON. MEMBER: He was not dealing with simple people.

MR. CONROY: Mr. Speaker, he was indeed dealing with simple people, too.

Now, Mr. Speaker, I put this example to my friends opposite: supposing someone were to break into their house and steal their goods, I am sure that it would be very cold comfort for them to know that the liberty of the subject had been preserved and that a tribal policeman had been unable to enter a hut and re-take the goods which he knew had been put by the thief in that hut. You have to balance that practical consideration against the liberty of the subject.

Mr. Speaker, we then hear, I think it was from the Member for Nyanza North, that these powers of arrest were virtually unlimited. Mr. Speaker, they are not. They are very closely restricted. I would draw the attention of hon. Members to clause 13 of the Bill. Sir, the hon. Member for Nyanza North said they were not defined—I think those were the words he used—but if we look at the eight paragraphs of section 13 we will find that they are specifically defined.

There was also a criticism that power of arrest could be exercised on suspicion. Well, Mr. Speaker, I hear the hon. Member for Nyanza North say: "Yes". But if the hon. Member for Nyanza North had reasonable suspicion that I had committed any felony, he can come and arrest me. He does not want any law to give him that power. That is a power that every citizen possesses—to arrest on suspicion of the commission of a felony. If the hon. Member for Nyanza North or Central suspected reasonably that I had committed an offence, he could arrest me. I hasten to add—outside the precincts of this Council.

Mr. Speaker, I do ask the hon. Member to consider these points because like most British compromises, it is a compromise of common sense. It is a compromise between trying to protect the ordinary property owner in the enjoyment of his property against the wrong-

doing of the thief or other criminal on the one hand, and the protection of the liberty of the subject on the other hand.

AN HON. MEMBER: What are the police doing?

MR. CONROY: Mr. Speaker, the police are not all over this colony and the tribal police have to have these powers in order to protect the ordinary decent citizen. It is perfectly clear that in any body of men you have abuses, and I am sorry to hear of the hon. Member for the East Electoral Area, not being able to get a chicken. I do not know how long ago that incident occurred, but it may—

MR. HASSAN: Two months.

MR. CONROY: Two months—I am sorry, that he did not get his chicken.

Mr. Speaker, I would also ask the hon. Members opposite to remember the large number of cases of crimes which may have been prevented by the existence of this kind of power. Mr. Speaker, I am sure I can rely upon the hon. Members to give particular weight and to assess the advantages as well as the disadvantages of these powers.

Mr. Speaker, there was one other point on which I thought I might be of assistance and that was on the question of bribery. I think it was the hon. Member for Nyanza North who said that the salaries paid to tribal policemen were an encouragement to bribery. The way to stop crime, any crime and particularly the crime of bribery, is to raise the standard of honesty of the general population. The way to stop bribery of policeman is for people to stop offering them bribes, because the man who offers the bribe is more guilty morally than the man who accepts it. Mr. Speaker, I do not know what kind of level you would have to increase the salary to ensure that a bribe is not accepted. Personal tax, if I may go back to another debate, would have to be increased, I think, to astronomical levels in order to reach that happy state of affairs.

I would ask the hon. African Members to use the very considerable influence which I am sure they exercise among their own people in pointing out, whenever they can, the corrupting evils of bribery, and the way bribery can be

[Mr. Conroy]—been put forward by my colleagues and I think I will join hands with them and join hands with all Members on this side of the Council who have thought it fit that Government should withdraw the Bill.

MR. SPEAKER, beg to offer.

MR. COOKE: On a point of order, Mr. Speaker, I did not protest against the right of entry or the right of search, but against the right of entry by ignorant and untrained people. That is really the argument.

MR. CROSSKILL: Mr. Speaker, I arise with some diffidence to speak on a matter on which I am probably more uninformed than anyone else in this Council. I do so because I have been perhaps rather more impressed by the logic and reasonableness of my hon. friend on this side of Council representing the Coastal Area; than I was by the logic of the hon. Solicitor-General who has just spoken, Mr. Speaker, when he said that hundreds of years of experience in England, gave justification for giving powers of entry to tribal police in Kenya.

It does appear to me that my hon. friends on this side of Council, the African Members, who have unanimously opposed this Bill, have not taken advantage of the period since the publication of this Bill to discuss it in detail with Government and I think that it is possibly through inexperience in Parliamentary procedure. I would therefore ask Government whether they would allow sufficient time to elapse, between the Second Reading and the Committee stage of this Bill in order to allow them to do that.

I feel, Sir, that Government might in some respects modify the Bill and on the other hand the African Members on this side of Council might be persuaded to accept a great deal of it if that were made possible.

There cannot, I submit, Mr. Speaker, be any great urgency, and by that I mean only a question of a week or two might be permissible, because we have not yet repealed the law of 1929. Therefore, Sir, I feel that if Government could agree to do that, possibly a great deal of difficulty might be overcome.

MR. OUDA: Mr. Speaker, Sir, I do not have very much to say on this Bill, but I wish to endorse the views that have

been put forward by my colleagues and I think I will join hands with them and join hands with all Members on this side of the Council who have thought it fit that Government should withdraw the Bill.

I would like to point out Mr. Speaker, that according to Standing Orders 86 (2) a Motion to this Bill should be Moved, and instead of saying: "The Tribal Police Bill, 1957, be now read the Second Time" the word "now" be deleted and at the end of the Motion be inserted the words: "Upon this day in six months' time"; in which case, Mr. Speaker, the Bill will have to be delayed and further discussions opened six months from to-day.

I beg to Move.

MR. MANGAT: Mr. Speaker, Sir, I beg to second that amendment and I only wish to add this: that those Members on the Government side who are enamoured with this Bill should read the commentary in the Indian Evidence Act made by the committee which framed the provisions of that Act. They will find that even in a country like India, those learned people who sat on that committee warned the Judges, time after time, about the corruption which can permeate a police force in any country, and in this country especially, the temptations are really overwhelming for people of the particular level of society to which we are looking to make up the tribal police.

I beg to second the amendment.

Question proposed.

THE SPEAKER (Sir Ferdinand Cavendish-Bentinck): The amendment proposed and seconded is under Standing Order 86, sub-section 2 that the word "now" be deleted and that the Motion do read that the Bill be read the Second Time upon this day six months.

THE CHIEF SECRETARY (Mr. Turnbull): Mr. Speaker, Sir, I can see no particular merit in this amendment, but I can see merit in the suggestion made by the hon. Member for Mau that consideration be deferred for a short period in order to allow consultation to take place. I rather feel that the hon. Members opposite who have spoken so

[The Chief Secretary] strongly about this Bill are under some misapprehension. The tribal police have not been invested with wide and new powers.—This Bill is substantially the same as the older bill which is now being brought up to date in many respects. There is no enormous advance in powers and I suggest that the history of the tribal police from 1929 until the present day has been an honourable history.

Sir, I beg to oppose.

MR. MBOYA: Mr. Speaker, Sir, I think that—can I go on?

THE SPEAKER (Sir Ferdinand Cavenish-Bentinck): You have 15 minutes before the termination of to-day's business. The amendment is now before the Council.

MR. MBOYA: My colleagues on this side of the Council have expressed unanimous concern over the powers which are to be given under this Bill, but I think the most important point is that there has been that unanimous expression of concern as to what the possible implications are.

The Chief Secretary in opposing the amendment merely suggests that he does not see much merit in it because in his opinion there is not very much being added to the powers already enjoyed by the tribal police. Surely, by virtue of that argument alone, the Chief Secretary would be defeating his own argument because if there is not very much substantially involved, then the Government can certainly afford to wait for another six months, unless there is some other reason where the Government sees the need for hurrying this Bill and in this case, Sir, my colleague has only suggested that it should be delayed. Most of us have not been unanimous in asking that it should be completely withdrawn, all we are asking for now is that there should be enough time for all parties concerned to consider the possible implications and possibly the African local government to be very fully consulted on this issue, the district councils should be given the chance to study the implications and so on. I do not see that the Government particularly stands to lose by agreeing to our suggestion that they should wait for another six months

before bringing the Bill for its Second Reading.

MR. CONROY: Mr. Speaker, I beg to move an amendment to the amendment. For the words "six months" there be substituted the words "one month". Mr. Speaker, it appears to be playing with words, but it is not, because if this Bill goes over six months it will probably kill the Bill. The Council will probably be prorogued by the time the six months comes to an end and the Bill will then have to have its First and Second Readings again. Whereas if the Bill is delayed for one month, it will take us over the Christmas Recess, will give opportunity for discussion between all the interested parties and we will not have to go through the whole business of republishing the Bill and having the First and Second Readings again. I accordingly beg to move, Mr. Speaker, that the words "six months" be deleted from the amendment and the words "one month" be substituted therefor.

MR. COOKE: We shall meet again in February.

MR. HARRIS: Mr. Speaker, does not a delay of one month in fact mean a delay until February, which is a delay of three months? I think it is very reasonable of Government to propose the amendment to the amendment, it does give time for discussion and thought without necessarily delaying the Bill too long.

I second the amendment to the amendment.

Question proposed.

MR. OGUDA: Mr. Speaker, Sir, I accept the amendment to my amendment.

THE SPEAKER (Sir Ferdinand Cavenish-Bentinck): The amendment to the amendment becomes, therefore, the substantive question and is before the Council as a subject for discussion.

If no other hon. Member wishes to speak I will put the question.

The question was put and carried.

MR. HARRIS: On a point of order, Sir, could you rule now, those who have already spoken in the debate this afternoon, will they not be allowed to speak at the Second Reading in two months' time? On that point of order I maintain that they are not.

MR. CONROY: Mr. Speaker, is not what we have done now to substitute for the Motion on the Order Paper, which was that "This Bill be now read the Second Time" a new Motion that "This Bill be read the Second Time in one month hence"? We have not completed the Second Reading debate. Anyone who has not spoken in the Second Reading debate is still entitled to do so and the Mover is entitled to reply. The Second Reading takes place when the Clerk reads the Bill.

THE SPEAKER (Sir Ferdinand Cavenish-Bentinck): I would like to look at the House of Commons practice. It might mean the Bill coming back in a different form and we would have to discuss that. We may have to enter upon another Second Reading. I would like to reserve my judgment on that until another occasion when I have had time to look it up in Erskine May.

THE MINISTER FOR LEGAL AFFAIRS (Mr. Griffith-Jones): Mr. Speaker, on a point of order, the hon. Mover will no longer be with us in one month's or two months' time and so the question of a right of reply may give rise to certain difficulties because although his successor will be in this Council, his successor is already a Member of this Council in another capacity and I would suggest that my hon. friend might perhaps specifically, with your permission, Sir, relinquish his right of reply to his successor now.

THE MINISTER FOR AFRICAN AFFAIRS (Mr. Windley): If that is in order, Mr. Speaker, that is what I would like to do.

THE SPEAKER (Sir Ferdinand Cavenish-Bentinck): That is in order according to our Standing Orders.

BILL

SECOND READING

The Pyrethrum (Amendment) Bill

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): Mr. Speaker, I beg to move that the Pyrethrum (Amendment) Bill, 1957, be now read the Second Time.

The amendments before the Council, Mr. Speaker, are those which arise by

experience in the day-to-day working of the present Pyrethrum Ordinance. There is not any matter of major moment in these amendments and I would just briefly draw the attention of hon. Members to those which possibly matter.

Clause 2, Sir, is introduced because the law officers have advised us that there was a lacuna in the principal Ordinance which failed to lay down the method of disposal of money realized from the operation of the Board and its payment to growers.

Clause 3 amends section 20 of the principal Ordinance which provides a levy which may be paid by any pyrethrum grower outside the territory if he chooses and stock may be issued to any such person under the provisions of the existing section 25. The object of that, Mr. Speaker, is to enable Tanganyika growers to participate in the payment of the levy and the payment of stock after they have delivered flowers to a pool which is operated in this country on their behalf.

Clause 4 merely clarifies the purpose for which a levy is imposed.

Clause 5 amends section 25 of the principal Ordinance by deleting the word "licence" so that stock may be issued to any pyrethrum grower including those in Tanganyika who cannot, of course, be licensed by the Kenya Board itself.

Clause 6, Sir, is also in connexion with clause 5 (a) above, and deletes the word "licensed" from sections 26 and 27 of the principal Ordinance.

Clause 7 amends section 28 to make it clear that the decision as to whether money should be raised or borrowed to enable the Board to exercise its functions should rest with the Board after consultation with the Minister. There was some doubt in regard to the original wording whether that was, in fact, the position.

Clause 8 amends section 30 on the subject of keeping books of accounts and gives more appropriate wording.

Clause 9 amends section 31 by making the appointment of auditors come under the Minister and makes it obligatory on the Board to forward the balance sheet and accounts together with an auditor's

(The Minister for Agriculture, Animal Husbandry and Water Resources) report to the Minister as soon as possible after the end of each pool year. The two amendments above, Mr. Speaker, have been accepted by the Board.

Clause 10 merely makes it an offence in rendering returns subject to a lesser penalty than the general offence under the Ordinance and therefore is amelioratory and clause 11 introduces a consequential amendment in section 36 by inserting the words "for which such penalty is provided".

These are the sole amendments before the Council, Mr. Speaker, and as I have said, arise from the day-to-day working of the present Ordinance.

I beg to move.

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

*Question proposed.*

MR. HARRIS: Mr. Speaker, Sir, clause 7 of this Bill gives power to the Board to raise money from time to time, or borrow by mortgage, charge, overdraft from a bank, or in such other manner as may be convenient, such sums as it may consider to be necessary for or in connexion with the exercise of its powers or performance of its functions and duties under this Ordinance. Now, Sir, as we are giving powers to the Board to raise money under this Bill, I feel that we should look at the organization to whom we are giving that power. From the Annual Report of the Pyrethrum Board of Kenya, dated August, 1957, there are several illuminating factors.

Firstly, Sir, we find that the Hon. A. Hope-Jones and Messrs. Small and R. E. Anderson resigned from the Board in December, 1956. Now, Sir, they were at that time the commercial representatives appointed by the Minister to assist the Board in commercial affairs, and yet all of them in December, 1956, found it necessary for health or other reasons to resign. I would very much like to know, Sir, the reason for their resignation, because, Sir, it is very difficult to give powers to raise money and all those other things which I mentioned to a Board from which only seven or eight

months ago, the only three commercial representatives on that Board found it necessary to resign, and when one goes into the balance sheet and the annual report of this Board one feels it even more extraordinary that we should pass this amending Ordinance giving the Board power to raise money by various methods without a much closer scrutiny than I am able to give in the next 15 seconds.

#### ADJOURNMENT

THE SPEAKER (Sir Ferdinand Cavendish-Bentinck): That brings us to the time for the suspension of business. Council will stand adjourned until 2.30 p.m. to-morrow, Thursday, 21st November.

*Council rose at thirty minutes past Six o'clock.*

Thursday, 21st November, 1957

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

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

#### PRAYERS

#### COMMUNICATION FROM CHAIR

THE SPEAKER (Sir Ferdinand Cavendish-Bentinck): Yesterday evening in my submission a Motion was passed almost unanimously in this Council that the Tribal Police Bill be read the Second Time upon this day one month.

This Motion was an amendment to the amendment proposed by Mr. Oguda to the effect that the Tribal Police Bill be read the Second Time upon this day six months.

Thereafter, points of order were raised by Mr. Harris and Mr. Conroy, both of whom asked for my ruling as to whether those who had already spoken in the debate on the Second Reading would or would not be allowed to speak again if and when the Bill reappeared for Second Reading; and further, whether the Mover would be entitled to reply.

As I had in mind that the procedure of postponing the Second Reading for only one month was not in normal accord with the forms and usages of the Commons House of Parliament in Great Britain, though not debarred by the wording of our Standing Order 86 (2), I deferred giving a ruling and expressed my wish to look up the House of Commons practice. I added that in my opinion we might have to enter on another Second Reading, but I would look up the references to procedure on this point in Erskine May.

I have now had an opportunity of doing so and further of examining the procedure laid down in the Standing Orders of other Dominions and Colonies. I have as a result come to the conclusion that my intuition yesterday was well founded. A Motion that a Bill in the course of its Second Reading be rejected was formerly not uncommon, but nowadays is not consistent with established practice. The ordinary practice in opposing the Second Reading of a Bill is to move an amendment to the question, by leaving out the word "now" and adding the words "upon this day six or three months". The amendment upon this day

three months is usually employed. Our Standing Order 86, sub-section (2) is in this regard unusual and I venture to suggest not in conformity with the identical Standing Order as it appears in the Standing Orders of most other assemblies in which the words "upon this day (six or three) months" appear.

The postponement of a Bill in this manner is regarded as the most courteous method of dismissing a Bill as presented from further consideration, and in view of the fact that the Council has already ordered that the Bill be read the Second Time; and this formal amendment, instead of reversing that order, merely appoints a more distant day for the Second Reading. The acceptance by the Council of such an amendment is tantamount to a rejection of the Bill in the form in which it was presented, as even if the Session extends beyond the period of postponement, a Bill which has been ordered to be read the Second Time upon that day three or six months is not replaced on the Notice Paper of the Council.

Our Standing Order No. 1 provides that all matters not expressly provided for in our Standing Orders shall be decided by Mr. Speaker who shall take for his guide the Rules, Forms and Usages of the Commons House of Parliament of Great Britain in so far as the same can be applied to the proceedings of this Council.

I therefore rule in view of the very considerable opposition to the Bill as presented yesterday and the acceptance by the Council of the desirability that there be further discussion and elucidation which might well lead to alterations in the Bill as presented yesterday, that if and when after the lapse of the agreed month or longer, a Tribal Police Bill reappears, it will have to go through its First and Second Readings afresh. That procedure will, in my submission, conform to the proceedings, rules, forms and usages of the Commons House of Parliament of Great Britain on which we model our procedure; and to the usages of other Dominions and Colonial assemblies in so far as these can reasonably be applied to this Council.

If it also, in my submission, conforms to common sense in that after discussion

[The Speaker]

and the submission or otherwise of a possibly altered Bill, it is not impossible that those hon. Members who bitterly opposed the Bill yesterday might wish to contribute to a Second Reading debate in changed terms.

In future, however, I suggest that, subject to the wishes of the Council, we adhere, on the very rare occasions when a Second Reading is opposed, to the procedure of having a period of postponement proposed of not less than three months.

## ORAL ANSWER TO QUESTION

### QUESTION No. 3

Mr. MBOYA asked the Minister for Local Government, Health and Housing what steps are being taken to repeal discriminatory by-laws now operating in Nairobi?

THE MINISTER FOR LOCAL GOVERNMENT, HEALTH AND HOUSING (Mr. Havelock): In consequence of a review of such by-laws in 1956, it was accepted by the Nairobi City Council that certain by-laws with a discriminatory element should be replaced by similar by-laws applicable to all communities. I am advised that the City Council is faced with certain difficulties over the drafting of these by-laws, and that the matter is still being examined.

Other by-laws of this nature are now being examined as to the desirability of repeal or variation.

Mr. MBOYA: Arising out of the reply, would the Minister state whether he is aware that this consideration has been going on for quite a long time; and would he state how soon we should expect the repeal of these by-laws?

THE MINISTER FOR LOCAL GOVERNMENT, HEALTH AND HOUSING (Mr. Havelock): It depends, Sir, to which by-laws the hon. Member is referring. The repeal or variation of the first lot of by-laws to which I referred in my original answer should be quite soon, that is, when the City Council have been able to overcome their drafting difficulties.

The other by-laws which are being examined which, for the interest of the hon. Member, are by-laws from 560-564,

are being examined by the Government and are of considerable interest to other ministries than my own. Therefore, I cannot give any definite date, but I can assure the hon. Member that we are getting on with it as quickly as we can.

Mr. HARRIS: Mr. Speaker, arising out of the original reply, will the Minister state whether all discriminatory by-laws are being studied, including those which discriminate against Europeans and Asians for trading in the African locations?

## COMMUNICATION FROM CHAIR

THE SPEAKER (Sir Ferdinand Cavendish-Bentick): On a point of order, I venture, as this is Private Members' day and it does fall upon the Speaker to try to safeguard the interests of all Members, especially those in the minority groups, to merely make the suggestion that these Motions are the opportunity for individual Members or representatives of groups to bring forward subjects which they feel are important and in which they wish to extract answers from Government, or to bring to light.

Every Member who has put down a Motion is probably equally convinced that the matter is of considerable importance, either to him or to his group or to his constituents. Therefore, if individual Members who happen to be in possession of the Council for their Motion spend a very, very long time and everybody gets up and repeats the same arguments, I would draw your attention to the fact that you are depriving a colleague probably of his opportunity during this sitting or Session of getting his Motion discussed. I hope you will forgive my drawing your attention to that, but I felt that I ought to do so.

## MOTION

### GOVERNMENT AGRICULTURAL POLICY IN AFRICAN AREAS

(Continuation of debate interrupted on 14th November, 1957)

Mr. SWYNNERTON: Mr. Speaker, Sir, when we were debating this Motion last Thursday, a number of hon. Members suggested that the Mover might withdraw the Motion. I notice that the Mover himself has withdrawn from the Council at the present time. (Laughter.)

[Mr. Swynnerton]

When I finished speaking, Sir, last Thursday when the debate was interrupted, I was replying to the Member for Nairobi West in regard to loans and also points made by the hon. Mover. I was replying to a specific point made by the Member for Nairobi West, that was in respect of the many millions of pounds that are being spent on African agriculture which its beneficiaries are not expected or not asked to refund. I was pointing out, Sir, that in fact, in a lot of the schemes, the beneficiaries either directly or indirectly are being asked to contribute to the scheme or being asked to take loans and to refund them over a period. The hon. the Mover, Sir, said very, very much the same thing.

I was giving examples of development in the Nandi District and in the Elgeyo District where water supplies are being put into the holdings of individual farmers, where land planning, land conservation was taking place at the request of African farmers who were prepared to pay the full charges for those services. I feel quite sure—and again I do not see the hon. Member for Rift Valley Province here—that the hon. Member would not be prepared to go back to his people and say that he had opposed them in their wishes in this matter.

A number of Members, Sir, made what I should say, were misguided statements in regard to dams and dam construction.

The hon. Member for Ukamba made a gallant sortie into this debate, but I rather feel that his sortie is liable to backfire on him. He said that the dam construction units had been so busy in the native land units that they had not had time to get round to the European farms. The answer to that is, Sir, that in his own county—I will not say in his own constituency—one of the heavy Government dam construction units has been working for the last year, Number 1 Dam Construction Unit started off last December, at Ol Donyo Sabuk, and is at the present time in Kiambu.

But on top of that, Sir, every soil conservation service unit in each European district in this country has been equipped with dam-making machinery, so that they can make small dams up to a height of 15 or 20 ft. But this procedure, Sir, is symbiotic. Money from

the African areas has also been used to increase the dam-making equipment of these units in the European areas, and those units spend part of their time in the European areas and part in the African areas of Rift Valley Province.

In fact, in the years 1954 to 1956, 22 dams were made in the African areas by these soil conservation service units based on European districts, and 13 waterholes—a total of 35, at a cost—and this cost is paid for on the basis I have mentioned last Thursday, half loan and half grant—of £23,600. There I should say, in that respect, Sir, that the hon. Member was not entirely accurate in his statement.

Similarly, the Mover, Sir, made this statement on dams in his constituency: "Even in my own area", he said, "we have hardly any dams at all, except for one or two which the African district council constructed". Well, Sir, the African Land Development Board has a dam construction unit working in his constituency at this very time. I would suggest, therefore, Sir, that when hon. Members make statements of this sort, they should be certain of their facts.

The hon. Member for Nyanza South in the previous debate on the Communication from the Chair, referred to the dry areas of his constituency, along the Lake down to the Tanganyika border. In his case, in actual fact, he referred, I think, rather to irrigation than to dam construction, but he referred to the dry areas and what was Government doing for those areas. Well, again, Sir, I would point out to him that one of the heavy Government dam construction units—No. 2—was in that area for five years, from 1952 until 1957, and during that time it made a total—together with a contractor—of 41 dams, and the expenditure was £78,000. Again I would say to the Member for Nairobi West, most of that money came from local sources. The African district council contributed from agricultural betterment funds and the Cotton and Linsed Marketing Board contributed from cotton funds. So that I cannot agree that no work is being done for these dry areas, where water is required, or that the local people are not paying for it.

Now if I can return yet again to the hon. Member for Nairobi West, Sir, it

[Mr. Swynnerton]

is obvious that it is far better to administer these loan funds at the local level, rather than at the central level. It is a matter into which the African Land Development Board has gone carefully and it has started to set up various local loans organizations. By doing so, it encourages local African district councils to contribute to these funds, they assist in the recovery of the funds, and the local people, and particularly the African district councils, are likely to benefit from the revenue generated by the schemes in their areas.

In the first place the Joint Water Board has been set up in Kipsigis, with £20,000 as its capital—£10,000 from the African district council, £5,000 grant through Government, and £5,000 loan from Government; and that Joint Water Board within the district—it is joint between Government and the African district council—is settling about developing individual water supplies and communal water supplies to groups of people. In fact, the first group water supply has been constructed in that area.

In other districts, similar joint boards have been set up, not just on a water basis, but joint boards to administer the general loan funds being injected into African districts. In particular, Fort Hall and Elgon Nyanza have just finalized their set-up to administer those funds. All the Nyanza districts expect to get on the same basis within the next few months, and the remainder of the Central Province districts expect to follow suit fairly soon.

Another matter on which the African Land Development Board is seeing that money expended is recovered, or else if it starts a scheme, the money to run the scheme is being found locally, is in respect of a number of grazing control schemes. The initial investment may be for water supplies, dips, grazing yards, cutting terraces, bush clearing or tsetse clearing in those areas. The African district councils and the people benefiting from those schemes agree to put a charge on their stock, to pay so much per annum per head of cattle on the scheme. A number of these schemes have become self-supporting in this way; in Machakos and North Yatta—the Second of the Motion will be glad to

hear—which is under the Machakos African District Council, the people are paying Sh. 9 per head of cattle per annum; B2 Yatta and Kitui are the same—they are paying Sh. 10.

In Masailand in the Il Kisonjo section, which runs south of the railway line to Mount Kilimanjaro, the taxpayers are paying each Sh. 10 per annum for the development of water supplies in that area to introduce grazing management schemes. On the lower end of the Mwca plain in Embu, where again the Wakamba have been depasturing their stock, they are paying Sh. 10 per annum per head of cattle. At Esageri in the Rift Valley Province—most of these areas are Crown land, I may say—the people are paying Sh. 12 per animal from the beginning of this year. On Leroghi in Samburu a big grazing management scheme, which has received a loan of £19,000 and a grant of £24,000, is now self-supporting through a grazing fee of Sh. 3 per annum per head of cattle.

I think the hon. Member will agree, Sir, that the African Land Development Board, the Ministry and Government are taking a realistic view in the development of these schemes. Not only are they developing sound land management, but the people themselves are contributing to that development.

The same, Sir, is happening in a number of settlement schemes: In Nandi at Sarora, where the African District Council has taken a loan of £15,000 and £10,000 grant, the people are paying a rent of £6 per annum per holding until such time as the loan has been repaid. In Makueni, where settlement up to the present has been free to the settlers, new settlers going in will pay a settlement fee of £15. In the Shimba Hills, down in the Coast Province, where we had hoped that people from the Teita Hills would go and settle—in fact they have not done so, and settlers from the Machakos district, Wakamba, are going down to settle in that area—the scheme is aimed to settle 1,150 people by 1963 on 34,000 acres. The settlers are to be required to pay Sh. 40 per annum for their holding, which from 1963 will bring in a revenue of £2,300 a year, and will cover the general cost of administering the scheme, except for certain supervisory staff.

[Mr. Swynnerton]

I would like to go on, Sir, to afforestation. Again, the hon. noble and Corporate Member for Agriculture is a great advocate of protective forests, and he has himself detailed a number of these schemes which are going on to protect the denuded hillsides in the African districts, amongst them Lambe Valley, Maseno, Maragoli, West Suk, Perkerra catchment, Kitui, Machakos, Teita. In some, afforestation has taken place; in others preliminary investigation is taking place. An interesting one is the Lambe Valley, Sir, in South Nyanza which, so far as the African District Council is concerned, is self-supporting. The African District Council is providing £20,000, £10,000 of it grant and £10,000 of it loan. There is a project which is being done locally and which is not calling on Government for funds.

In Machakos the Wakamba have set aside for afforestation 30,000 acres of hilltops and denuded hillsides. Well, Sir, again I think that is contrary to the remarks of the Second of this Motion. He may be opposed to it but his fellow Wakamba do not appear to be opposed to it.

Other projects, Sir, which are absorbing Government money, and which, in due course, will repay at least some of that money, are irrigation schemes. Irrigation schemes are being developed in the main at Perkerra and Tebere, with a minor scheme with bigger possibilities at Hola on the Tana River, and possible development in later years on the Kano plains in Nyanza. In due course, it is hoped that a statutory board will be set up to administer those schemes, and when it is set up, Government will apportion to that board a proportion of the capital cost of those schemes. It will have to be negotiated at the time as to how much capital these schemes can carry and repay, because a lot of unproductive money may have gone into those schemes through the need to find employment for detainees, ahead of experimentation on crops and, in some cases, the schemes have pressed rather ahead of planning.

Settlers are already going into Perkerra and Tebere; the proposal is that they should pay a fee of £10 per acre per annum, that is, for two crops a year, as rent for their holdings, because of the

very great increase in crops that they will get as a result of irrigation, with the result of being able to crop twice a year.

On land consolidation, Sir, although I am not really the right person to speak on this, the Minister for African Affairs has given me the fees which will be charged for land consolidation. The survey of land consolidation, which ends in the granting of a title to his lands to the African farmer, costs a lot of money in the way of survey and adjudication. When the time comes to register the titles, there will be charges to cover the registration of titles, but also to cover the cost of the land consolidation and survey. The amount of the charges will depend on the degree of fragmentation, the nature of the country, the extent of enclosures, the suitability of the soil for planting hedges and so on. But the present proposal is that in Kiambu, Fort Hall and Nyeri, there shall be a charge for land consolidation and registration of title of Sh. 10 per acre, in Meru and Embu, where holdings are bigger and fragmentation is less, a charge of Sh. 5, and in Nandi, there is discussion of a charge of Sh. 4. There will also be provision, of course, for fees for re-registration of titles, if there is a change; if there is purchase and sale of land, if there is a lease of land, registration of heirs on death, and so on. But a substantial amount, if not all, of this money spent on surveys for land consolidation will over the period be recovered, Sir.

While I am on the subject of land consolidation, the hon. Mover said that in any land consolidation schemes the fears of the people must be studied. Well, I can assure everybody that that is very much in mind the whole time. But in his own constituency again, in the western locations of Elgon Nyanza, a voluntary consolidation scheme drawn up by the people themselves is going ahead, and the people in the eastern locations are studying the progress in the western locations and may well soon follow suit. Again, I feel, Sir, that is a case of the hon. Member perhaps turning a blind eye to what is going on in his own constituency.

As hon. Members have been told in previous debates, we hope that progressive farmers will get on with planning their farms and we are prepared to



[Mr. Swynnerton] offer them a service for that—a farm planning service. Again, for that there will be a charge; in the initial stages probably about Sh. 2 per acre, and as time goes on and there is a greater demand for it, it may well go up to four or five shillings per acre, so that it becomes an unsubsidized service.

I do not propose, Sir, to go into detail on the specific plans for the development of cash crops or of farm planning in this debate because I did so in the debate on the Speech from the Chair recently, and therefore I think it is advisable to observe Standing Order 71. I would say, however, to the hon. Mover, who questioned the development of cash crops, particularly in North Nyanza (and I presume he means North Nyanza as opposed to anywhere else in Nyanza), that we do propose to go ahead with coffee development steadily in that area and we have got a programme to get up 4,500 or 5,000 acres provided there is no major set-back due to disease, which I mentioned in a previous debate.

Similarly with tea, we have had a report on the African tea areas of the country, and it has been indicated to us by Dr. Eden that the Teriki area of North Nyanza would be suited to tea. We are at the present time having discussions with a neighbouring tea estate to see whether we cannot enter into an arrangement with them to take the tea should we develop tea in that area. Similarly, with one or two other crops in the western areas of North Nyanza, those areas are suitable for the cultivation of *Robusta* coffee and not *Arabica* coffee. We are going ahead with the development of *Robusta* coffee.

If I may say so, Sir, the hon. Mover made one or two loose statements. He pressed for assistant directors of agriculture in the provinces to be Africans. Well, Sir, it is very nice to press for that if one has the Africans to put in those posts. As soon as there are Africans of sufficient experience, qualifications and show ability, undoubtedly in the years to come they will be considered for those posts; but there are none at present. I should have thought that the hon. Mover would have been much sounder in the development of his argument if he had questioned Government, if he had asked

what Government was doing to foster the taking of degrees in agriculture by Africans; what Government was doing to foster the taking of post-graduate courses; that would have been constructive, Sir.

He referred to the withdrawal of what I think in the old days we called the rewards to 'better farmers', which came out of the Agricultural Betterment Fund and went to the farmer for improving, or who had shown he had improved, farms, that is, rotation of crops, and so on. The answer to that question is that that revenue no longer exists because the African district councils have taken over the agricultural betterment funds as cesses which go direct into the African district council general revenue. Therefore, he would do better to attend the next meeting of his African district council and ask that African district council that question.

I thought, Sir, that the Mover was irresponsible in his moving this Motion because at the present time we are trying to attract capital to the African reserves for the development of factories. As I think I mentioned in a previous debate, we have developed quite a lot of sugarcane in South and North Nyanza. Government at the present time has not got the capital to put into large factories in that area, but there are one or two commercial firms who are interested. Now, Sir, supposing those commercial firms lose confidence, as the hon. Member appears to have lost confidence in Government agricultural policy, is it likely that they will go on with this development? It may be that if the hon. Member for Nyanza South opposes this Motion and the hon. Member for Nyanza North supports it, this capital may go to Nyanza South and not to Nyanza North.

Similarly in the Kano plains there is an area in which there are European, African and Asian farms—which might be developed to sugar growing. We might get a reputable sugar company interested in the development of that part of the country. But again it needs the confidence of the people living in that area to attract commercial interest.

There has also been some talk of trying to attract a company to Kisumu to put a cotton mill to utilize some of

[Mr. Swynnerton] the cotton produced by the people of Nyanza. Again, Sir, if a company comes out here to study such a project and finds that there is no confidence in the agricultural policy of this country amongst the African Members or among the Africans themselves there may be suspicion as to whether it is worth while. I put that to hon. African Members in case they think they are doing the right thing in supporting this Motion.

The same, I should say, applies to tea. At the present time in a number of areas we are becoming dependent upon the good will of European-owned tea factories for the taking of green leaf from the African areas. The time may well come when we want to put factories in those African areas which have been developed in that way. The tea companies themselves may be asked to do it, but again they must have confidence in the agricultural development in that area before they will do it.

That leads me to a point made by the hon. Member for Mau. He suggested that rather than withdraw this Motion it should go to a division; and I personally, Sir, would support that, because I should like to see which Members of this Council—which African Elected Members—go into the division lobbies in support of the Motion, and, if they do so, whether they are prepared to go back to their constituencies and say to their people: "We oppose the agricultural development that has taken place in this country".

Perhaps I might just put one or two questions to some of the hon. African Members before I finish, Sir, just to see whether they are prepared to support the Motion. The hon. Member for Nyanza Central is always talking about the removal of controls. I wonder if he really means that the guaranteed price offered by the Government for maize should be withdrawn. During the depression the price of maize was around Sh. 4 per bag. Would he like maize to go on to a free market against competition from Uganda and competition from imports from overseas, and so on, and see what happens to the price? If he does feel so inclined then I suggest that he

votes for the Motion. The same applies to other crops. The Government gives a guaranteed price to certain crops and it gives a support price to certain crops. In the case of groundnuts, the crop which would develop South Nyanza to a much greater extent than it has, although the support price is only Sh. 54 the present price is Sh. 79. But if there was a slump, would it be more satisfactory to have a supported price of Sh. 54 per bag or a slump price of Sh. 20 per bag?

I wonder if the hon. Member for the Central Province is prepared to say that he does not want 150,000 holdings developed in the Central Province on a planned basis on the lines I mentioned in the recent debate? I wonder if he is prepared to say that he does not want the coffee acreage increased in his Province from 5,000 to 52,000 in the next 10 years, and more beyond that? I wonder if he is prepared to say that he does not want the present target of tea development of 5,000 acres to go ahead? I wonder if he says that the ultimate potential for tea in Central Province of 26,000 acres is undesirable?

The hon. Member for the Nairobi Area, although he does not represent an agricultural constituency, is the champion of the unemployed. He has mentioned this many times; but not only that, I have heard him support this development of the factories. I heard him say the other day that he supported the opening of the tea factory at Nyeri. In an earlier debate I heard him say that he strongly supported the proposal of the Minister for Commerce and Industry for the development of industrial sites in the African areas. Is he prepared to get up and say that he does not want a tea factory at Nyeri and that he does not want a sugar factory in Nyanza? If he is prepared to get up and say that he does not want the development of agricultural factories and planned farming to provide employment. If so, let him support the Motion, but it will not add confidence to our development at all.

I will not deal with the Member for the Rift Valley Province because I know that he does support quite a lot of the projects. He would not like to see the Perkerra Irrigation Scheme turned down

[Mr. Swynnerton] altogether and the settlement areas for the Tugen and the Njemps withdrawn.

Just to finish on the African Elected Members, Sir, I have one or two other points made by the Member for Akamba in a previous debate as well as the present one. He previously stated that he wanted the withdrawal of the bulk of the veterinary officers and veterinary scouts from his constituency. Well, Sir, if he wants to go back to the 1890's I wonder if he would like the rinderpest that ravaged the cattle herds rather than as now, Government controlled marketing of stock, and whether he would like the cattle reduced from 1,000,000 to 10,000 by disease? I ask him to reconsider whether he would really like the withdrawal of veterinary officers and the good those veterinary officers have done in those areas. They have done far more good than harm in keeping the cattle alive.

In a previous debate he also said there should be mechanical clearing of bush round his Province. Again he is showing an ignorance of what is taking place in his constituency. During the last year or two in the Athi-Tiwa area 22,900 acres of tsetse bush were cleared mechanically by bulldozers and by chaindozers which opened up many open glades so that the total area opened up became 54,000 acres. That took place at a cost of Sh. 30 an acre cleared or Sh. 15 an acre overall.

MR. MUNAT: Mr. Speaker, on a point of explanation, I was not referring to the clearing of tsetse bush, but clearing in the areas where it was intended that the land should be used for grazing only, with grazing fees, but I was referring to the African reserves where the people do this kind of clearing work and as to what effort the Government is making to help these people in the clearing and what machinery is employed in the African reserves—not in the development schemes.

MR. SWYNNERTON: I suggest that the answer lies with the hon. Member. I have already given instances in Elgeyo where the people of the country are prepared and have asked to hire machinery to do soil conservation work. If the hon. Member goes to his constituents and they agree to hire machinery we shall certainly consider the matter. Self-help,

as the hon. Member for Nairobi West has said, is very desirable.

To conclude, Sir, the hon. Member did ask that Government should give the money to the people to put it in the soil. Now, various things can happen to money in the soil. The white ants will get at the notes and veridgris can corrode the coins and so on. What I would suggest is needed in the country at the present time to develop its potential is sweat. Let us develop our land with all the vigour we have and, if we do so, not only will we create money but we will attract it. If we have a constructive policy in this country—and I think we have such a policy—we shall eventually bring wealth and prosperity to it and we shall be able to pay rather more for our social services and as much for our agricultural services as the hon. Member for Nairobi West would like.

I beg to oppose.

MR. ODINGA: Mr. Speaker, Sir, in supporting this Motion, I must first of all declare to the Council that I am one of those children who were brought up by the products of the soil, and I know no other product or any other thing. Therefore, I began to use the soil when I was only eight years old. I followed my mother to the *shamba* to dig and to get what we could. When I was just 15 years old I had my own granary.

When we talk about agriculture and what can be got from the soil I think we are speaking sincerely from what we know and what we believe is the only source of income from which we can also develop our children.

It is a pity, Mr. Speaker, that this Motion should have received the treatment which it has received from the Members of this side and the Members on the other side of the Council because I think they thought that we brought this Motion more or less on political grounds or with political motives; but sincerely, I assure the Council that in bringing this Motion we are sincerely talking about what we know and we are sincerely asking the Government if they could do something so that the agricultural policy should move in the direction where it could be useful to the African population. I know the Minister concerned is a political Minister and some people might have taken it that we pro-

[Mr. Odinga] bably brought the Motion to discredit him. But I should like to clear up that and take this opportunity to say that we have the greatest respect for the Minister and at one time we announced it here, when he said some of the things which we thought were really very useful. We shall always support him when we feel that the policy which he is pursuing adds to the progress of the African agriculture. We shall support him with all our strength, our hearts and everything that we represent.

Mr. Speaker, I should like to say to the Director of Agriculture who has just spoken that I have the greatest respect for him because I generally move in the country and I have come across so many senior instructors and so many other Africans working under him who have told me a lot of good things about him and they all have a high respect for him because they feel that he is really sincere in his intentions and that his plans are really sincere. But one thing that is happening is that he is being let down by his junior officers who are in the field in the country, for they lack the same zeal and enthusiasm.

Now, Mr. Speaker, if I would be allowed to inform the Council from what I know and what my elders have told me of the agricultural policy in this country from the very beginning. From the first introduction of the modern agricultural practice in this country they had the policy of teaching the Africans by force and punishment how to plant trees along the roadside. At the same time, they introduced clearing of swamps and planting them with trees or with white maize which, in former days, was not known to us. We had our own maize which was coloured.

Well, when they began they began by forcing people to go to dig holes along the roads and plant trees on those places and it was forced labour at that time. At the same time, clearing of the swamps also was a forced labour. The agricultural officer had to be on the spot and all his instructors, his chief, his headman and everybody under their jurisdiction. They had to clear the swamps and plant trees. If they found that the swamps were suitable for planting maize, they planted maize. This was the kind of

better agricultural training which the agricultural officers in the beginning started with the Africans.

I shall not dwell on this because we would waste a lot of time, Sir, and, therefore, I shall pass on very quickly, just mentioning the headings and so on.

This went on for some time and then later on they thought it was fit to introduce the cotton plant and, from the very beginning, instead of teaching people in their own gardens, they were forced to come to the roadside, clear the roadside and dig it and then plant it collectively with cotton. The agricultural officers thought it was quite easy for inspection when cotton is planted close to the road for they could see it very easily from the road. Anybody who failed to turn up had to be punished. It was the same with the swamp clearing, if you did not come you had to be punished. In the tree planting if you failed to go you had to be punished.

Then a little later on they thought it was again time for the introduction of the plough. The agricultural officers, probably together with some traders, introduced the plough into the country and, to my surprise, they did not as well train people that digging should be done across the hill. People went on using the ploughs and some of them used them down the hills and later on this brought in worse erosion. The land became eroded because people were so many.

After that it was found that the land was getting bad and the soil was getting poorer and poorer. There appeared certain weeds. The Africans knew these weeds from the very beginning and they are known by the name *striga* weeds.

THE EARL OF PORTSMOUTH: On a point of order, is the speaker in order in referring to past history when he is moving a Motion having no confidence in the present Government's policy?

THE SPEAKER (Sir Ferdinand-Cavendish-Bentick): I was waiting to hear what the hon. Member was leading up to.

MR. ODINGA: I think, Mr. Speaker, if my noble friend had known that by this history I am trying to prove that the agricultural policy has not changed ever since the beginning, it is just the same policy which was being pursued and is

[Mr. Odinga] still going on. If you had been a little bit more patient I was coming to this conclusion.

The eradication of these striga weeds came into force and the weed has been our headache for heavy fines up to the present moment. We know that this weed always thrives in poor soil or something like that. In the former days our people used to leave the soil to rest when they saw the weed coming out and would go on to plant in another *shamba*.

At the moment our headache in the country is that people should pull out this weed wherever it grows, it is everywhere, even in some European farms. It is all over the country. At the moment the officers' efforts what is and our big worry is this striga weed, striga weed to-day and striga weed the next day.

Recently another weed has been invented by the agricultural officers which they say is also spoiling the soil, the Africans call it the *obinju* weed. But all Africans know that *obinju* fertilizes the soil, wherever it is, is always very fertile. But somebody somewhere, or somehow, had condemned it to be a bad weed and now wherever you go people are punished if they do not pull it out. That has also added to the African farmers' headaches.

There is also another thing, the burning of maize and other cereal stalks after harvesting in the gardens. Well, African farmers know that burning of maize stalks and other things in the gardens after harvesting is killing the stalk-borer, but now anybody who is found burning the stalks is taken to the tribunal, court instead of being warned. That is the work of the agricultural instructors.

Again, the people in the country, know that during the dry season they have to burn the grass all around in order to kill animal and all other animal parasites such as ticks and then later on during the rainy seasons the grass will spring fresh and then they found that they could carry on with grazing.

Nowadays, if it is found that someone has burned the grass without damaging anything, the person is sued in the tribunal court where he is fined heavily.

Therefore, we think at the moment that the agricultural instructors have

nothing at all planned for them to do with the people, not even what to teach them or to show them, except to punish them. It is only punishing them if they do not do something, then they have to go to the tribunal court.

At one time I remember there was one very good agricultural officer in the country and, if you will allow me to mention his name, he was Mr. P. C. Chambers who was at Bukuru Agricultural Training School. At that time he saw fit that he should admit—ordinary men who had *shambas* in the country into the school—and train them on how to look after their own small-holdings, show them how to look after the animals, how to look after their *shambas* and come back to settle in their own homes practising what they had learnt. He did this for a time, but when he left that scheme also left with him.

So, Mr. Speaker, I think that at this time we are in another stage of development and as such it would have been better at this time if the agricultural officers or the agricultural staff had stopped being people who are here to impose fines and tell the Africans to do this and to do that without showing them anything practical. We should change to being more practical and showing these people how to do things rather than to go round telling them and when they do not understand and do not know what to do impose fines on them.

Now, Mr. Speaker, I shall pass on. I must ask my hon. friends on this side to be patient and learn, because they are very ignorant about African agriculture, let them be a little more patient and to listen to what I am saying because when I talk about African agriculture I know what it is. It is only a wise man who tries to learn from someone who lives there.

Mr. Speaker, when we turn to the marketing organization I must mention that the Minister for Agriculture and I say it sincerely, has not had time enough to go deeply into African agriculture and know it in and out. Naturally as a human being he is still busy with the European agriculture and he knows about that.

Mr. Speaker, you will remember another occasion on which I spoke about

[Mr. Odinga] controls—I hate statutory Boards and so on because I feel they are only developing the European farmers and the European producers at the moment. They are put in such a way that the African producer must wait until he develops his production to the same standard to come to the level of the Europeans in order to get benefits from these particular Boards. If he is asked to join the Kenya Meat Commission his animals are also expected to be of the same standard as the European animals and if they do not they are given a lower grading and a very poor price.

Now we come to the question of eggs control. Eggs should be in a free market for everyone to go wherever they like. I feel that eggs from European farms can compete equally with African eggs in free competition and some of the African eggs are even better than European eggs. But at the moment they are graded in such a way that many of the African eggs are disqualified.

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): I thank the hon. Member for giving way. May I ask the hon. Member, Mr. Speaker, is he advocating then that we should have bad eggs?

MR. ODINGA: It depends on the consumer, Sir, not on you. For example, if I had my eggs and I came to Nairobi to sell them. It is up to me and the consuming public, if they refuse my eggs I shall be unlucky and naturally I shall have to find other means of developing my business rather than allow somebody to impose control on me, I thought it would have been better at this time that the Africans should be left to go their way and leave the Europeans with their eggs to go their way. If they have a high quality, let them market their high quality in their own way and leave the also Africans to market theirs. If the Europeans have the high quality they will always get their priority in markets and the Africans will be at a disadvantage.

Now, Mr. Speaker, I think I have gone for some time and I would not like to tire the Council because there are so many to come. I am just getting to the end of this.

The Director of Agriculture has just mentioned that there are plans for the development of some African areas. Well, that we have not got the slightest objection to. For example there are so many swamps which are still lying idle in the African areas and there are some other suitable places where the industries could be developed. Recently it was proposed to develop the Kano Plain Irrigation Scheme but later on the Minister for Agriculture mentioned that he was reluctant about this and that it would be something rather expensive.

However, if we want to develop agriculture we must convince the Africans that you have new ways of development rather than going round and charging them in courts and draining money out of them every day. That I do not think is the best way. It would be better that we should have new ways and I am sure the African farmers will follow with interest and will go on with the work. They will not let you down in any way.

Mr. Speaker, with these few remarks, I support the Motion.

LT.-COL. MCKENZIE: Mr. Speaker, Sir, while appreciating that African agriculture covers a wide field, I think that every single aspect in African agriculture has been covered not once but at least two or three times and I would like to move, Sir, with your permission that the Mover be now called upon to reply under Standing Order No. 64.

MR. CONROY seconded.

THE SPEAKER (Sir Ferdinand Cavenish-Bentick): I think we have now heard 14 speakers and have had nearly two days of debate on this Private Member's Motion and I think, therefore, that the question should be proposed as it will, in my opinion, in no way constitute an infringement of the rights of Members or an abuse of the proceedings of Council.

The question was put and carried.

MR. MULIRO: Mr. Speaker, Sir, many Members have spoken on this Motion and have made quite a number of points with which I would have liked to deal at very full length but, Mr. Speaker, as there are many more Motions coming on and as my mind is very predominantly occupied with something else, I would

[Mr. Muliro] like to say a few words and close this matter.

The hon. Director of Agriculture and I think many of my colleagues on this side who have spoken on this Motion seem to be under the misapprehension that I moved this Motion to discredit the Minister for Agriculture. But that is not so at all. I have said many a time in this Council, Mr. Speaker, that constructive criticism from us on this side will help the Government more than just getting up and saying, "The Government is doing something very nice" and "The Government is being very good".

Now, the Director of Agriculture a few minutes ago said that if money is put into the soil it will be eaten by ants, but I think he displayed his own lack of knowledge of every-day economics. You can only get so much from the soil provided you put so much into the soil. Now, people who have got stretches of land, I know some have got quite a good bit of land; these people cannot make anything out of that land unless they are given money to develop that land, and that is all I was getting across. I never said, "Give the money to the Africans and let them bury it in the soil". Let it do some work in the soil, that is what I said.

Now, again, another aspect of the hon. Director of Agriculture is that of dividing Africans on a tribal basis and this is very characteristic of many Government officials.

Now, they were trying to tell me last week, and the Information Service also give it very wide publicity, that if I maintained the attitude I have maintained my people are going to be set back for the next 20 years. I think the hon. Director of Agriculture is highly mistaken in that.

Mr. SWYNERTON: On a point of order, Sir, I did not say the people were being kept back, I said that they were keeping themselves back through inattention.

Mr. MULIRO: I think that is very much the same thing. (Cries of "No".)

So, I think when you look at the Nyanza Marketing Board and you see that the people who bring maize to the Nyanza Marketing Board, mainly are my

own people; you see how advanced they are agriculturally. You will find that those arguments do not hold water at all. When you look at the coffee grown last year you see that the Elgon Nyanza coffee became grade one in Kenya. That is why I want more money to be put into these African areas.

The question of controls, the hon. Member for Central Nyanza has put the whole thing across very, very effectively.

With these few remarks, Mr. Speaker, I beg to move.

Question put and Mr. Speaker ruled that "the Noes" have it.

THE CHIEF SECRETARY (Mr. Turnbull): Divide.

More than five Members rose in support.

Mr. COOKE: Is it not possible, Mr. Speaker, for you to refuse a Division when the result is so patently obvious?

Mr. SPEAKER (Sir Ferdinand Cavenish-Bentick): Under the Standing Orders I have no option in the matter.

#### DIVISION

The question was put and Council divided.

THE SPEAKER (Sir Ferdinand Cavenish-Bentick): Will you draw the Bar? Mr. Robinson and Mr. Mutimi are tellers for the ayes; Mr. Ngala and Mr. Gregg, tellers for the noes. Ayes to the right, noes to the left.

The question was negatived by 32 votes to 8.

AYES: Messrs. Mate, Mboya, arap Moi, Muliro, Ngala, Odinga and Oguda. Tellers for the ayes: Mr. Robinson and Mr. Mutimi.

NOES: Messrs. Alexander, Blundell, Blunt, Group Captain Briggs, Messrs. Conroy, Cooke, Crosskill, Capt. Hamley, Messrs. Harris, Hassan, Havelock, Hope-Jones, Mrs. Hughes, Mr. Johnston, Lt.-Col. McKenzie, Sheikh Mohamed El Mandry, Mr. Mangat, Sir Charles Markham, Mr. Nzioka, the Earl of Portsmouth, Messrs. Robinson, Rogers, Sago, Slade, Swynnerton, Turnbull, Tyson, Usher, Sir Alfred Vincent, Dr. Walker, Messrs. Wanyutu, Waweru, Windley. Tellers for the noes: Mr. Ngala and Mr. Gregg.

THE SPEAKER (Sir Ferdinand Cavenish-Bentick): I would just like to clarify the point raised by Mr. Cooke. Under our old Standing Orders, I had some discretion in the matter of a division; under the new Standing Orders, if five Members stand to support a Member asking for a division, I have no discretion whatsoever.

#### MOTION

##### COMPENSATION FOR GAME DAMAGE

Mr. NGALA: Mr. Speaker, Sir, I beg to move:—

THAT in view of the loss caused to crop growers by wild game, this Council urges the Government to introduce legislation to enable compensation to be paid on crop damage or/and destruction caused by wild game.

Mr. Speaker, Sir, by wild game here, I mean all that game which is declared in Schedules 1 to 6 in the Game Ordinance, which covers almost every type of game except baboons and wild pigs.

Mr. Speaker, Sir, the wild game is the responsibility of Government; the wild game is the baby of the Government, and in my view, Sir, I submit that any damage done by the wild game should be the responsibility of Government. Mr. Speaker, Sir, all over the country African farmers and European farmers are suffering a lot of damage caused by this wild game, and I feel that these farmers, whether European or African, should be considered sympathetically so that they receive compensation for any damage that is done by the game.

I would like to point out, Sir, that the Minister's views, particularly when answering my hon. friend, the Member for Nyanza North, on the 6th of this month, were not very satisfactory to me on the point of compensation. The Minister indicated to the Council that the Government had no responsibility for this damage done by the game. He is the Minister for the Game, and I take it, Sir, that the game is his responsibility; and, therefore, he should look after the game. Now, the Minister also on the same day, did say that the Government cannot be responsible for elephants that have gone astray. The position is, Sir, that there is no attempt to try and control these elephants or even create a fencing system or even employ sufficient

game scouts or assist the African peasants and European farmers in protecting their farms. Therefore, when the Minister says that the game goes astray, I feel that that is a very misleading expression.

I feel, too, Sir, that the Minister has a very real responsibility in this, and when he shirks that responsibility, according to the statement that he made on the 6th of this month, I feel that the Minister is not really sympathizing with the damage that is going on in the areas.

Now, I would like here, Sir, to give a few examples of the damage done in the Coast Province. This is a small area but there is quite extensive damage done by animals. On 13th September I visited the Tana River district, and in one place called Ngao there were 13 African peasants who had lost their crops, they had lost crops planted over about 15 acres; and on the same day, I visited another place called Garsen in Tana River district, and seven people had lost their crops grown over about five acres; and in the same district I visited Kipini where five peasants had lost their crops, grown over six acres.

Sir, as you can see, the damage is extensive although quite small and can be compensated very easily. If the Minister had the sympathy that we would like him to have. Here, the acreage is not big, but the point that I would like to make clear is that in Tana River district for example the peasant depends largely on the river flood to grow his crops, and the river may flood once in two years. Now, if that crop which he can grow because of the flood is gone, the peasant may have to wait for about 18 months before he can get another crop. I agree that the acreage is not big, but it is that acreage which is supporting the poor African peasant and it is a pity to see that over 18 months, these poor African peasants may have to wait hungrily and no compensation is considered at all; and no effective system of protection either by the Game Department or the African is made possible. The position, Sir, is that the African is not really allowed any effective weapons with which he can protect his crops. The Minister has said that the African is quite free to protect his crops

[Mr. Ngala] another crop. Here another hardship in these areas; that is entirely true, but what has happened is that the African has been deprived of effective weapons that he could use to protect his crops. The poisonous arrow, for example, is taken away from the African. I doubt whether the African is expected to protect his crops against elephants by making a noise or beating about empty *deber*. This is not a very effective way by which the African can protect his crops.

The game scouts that the Minister has been mentioning throughout are so ineffective that I could very safely say that there is no protection at all as far as the game scout is concerned.

At Ngao, only one game scout for that area is about 25 miles from Ngao, and the orders that have been given to the African peasant are that if they see any crop being destroyed by elephants, they should run to the game scout, who is 25 miles away, as I have said. There is no communication, there is no proper transport, and it takes well over six hours on foot to go from Ngao to Garsen; and by that time, Sir, the crop would have all gone and be destroyed by the elephant. Therefore, the position is that a situation has been created whereby the African has to watch this game spilling or destroying his crop. I feel that if that is the policy of Government, that of creating a situation where Africans have to watch the animals spilling their crops, I feel that Government has a real responsibility to pay compensation for the damage.

Now, the effect on the African peasant as far as the Wapogomos are concerned, these poor African peasants have to wait 18 months after a crop has been destroyed. It is a small acreage of rice, in many cases, or beans or bananas, but it is the livelihood for the people. If they have to wait for 18 months like that, I feel that they are experiencing a real hardship to which the Government should pay attention.

In the Duruma area in the Kwale District, the farmers depend on the rain-water. It rains well once in about two years. Now, if the crop which is grown once in two years is damaged by elephants and rhinos and other wild game the Duruma people have to wait for about two years before they get

another crop. Here another hardship is being experienced; there is no compensation at all paid and there is no real effort made by the Game Ministry to protect or encourage the Africans by giving them effective weapons or letting them have poisonous arrows to protect their crops or even lending them some firearms, effective firearms, so that they can protect their crops particularly those many Africans that have been in the army recently; I feel that they could be of great assistance against game if they would lend these effective firearms to protect their crops.

Another thing which is not allowed is setting traps, so that these animals can be caught. Now, the Game Department says that if there is any setting of traps, the Africans must set traps on their *shambas*. Now, by the time that the animal reaches the *shamba*, by the time the animal is caught by the trap, it is already in the *shamba* and can do the damage. What the Africans have been doing in the past which is not now allowed by the Game Department is setting these traps away from the *shambas* so that any animal approaching their *shambas* can be caught before they reach or cause any damage in the *shamba*.

This policy, Sir, I feel is one that can never win any confidence of any African. Also, it gives the African an impression that the Agricultural Department in consultation or jointly with the Game Department have no sympathy over the damage that is being done.

The Minister has been telling us that the Africans are not co-operating because if they were co-operating, they would have their *shambas* together so that all the *shambas* are, as it were, consolidated together in order that protection can be made easy. Now, any person who has experience of the Tana River District must know that the Africans have to grow their crops all along the river. This is because they are able to grow crops depending on the flood; and the flood extends about 200 yards from the river bank. Therefore, the Pogomos have to grow their crops all along the river. They are not able to group their *shambas* in the way that the Minister thinks. Therefore, I feel that that natural circumstances which is imposed on the

[Mr. Ngala] Pogomos should not be put on the Pogomos as a blame on their non-co-operation. They have to grow their crops along the river, because nature has arranged it in that way. No Ministry can, I think, change that unless a very expensive irrigation system is arranged for the district which I understand is not possible now.

The Minister has also said that the Africans are not co-operating because they are not providing tracks for the animals to pass along. Now, I have visited these *shambas* personally, Sir, and according to what I have seen at Golbant in Tana River where tracks are provided by the African district council, and the animals have clear passages where they can pass along. Still, animals make deliberate efforts to visit these *shambas* with the purpose of feeding themselves. It is not a question of the African not providing passages for the animals; it is a question of the animals deliberately going over to the *shambas* to feed themselves. There are passages that have already been provided by the Africans in co-operation with the African district councils; but the animals go over to feed themselves.

I hope that the Minister will consider this point, and I hope the Minister will look into the damage more seriously than he has been doing in the past.

Now, the extension of the damage, Sir, although I have mentioned several areas, I could go mentioning areas in Malindi sub-district, and in Kilifi District; but despite the extension of the damage all over the place, the real expense is not very big. The real cost is not very big, and I believe that it is a cost or an expense which can be met by the Government.

As you have heard, Sir, I have given a few acres only, because these Africans cultivating over these areas are not very progressive farmers; but still they grow things that support them in their own home consumption. I feel that if Government were sympathetic over this, it is a compensation that would be well within the income and funds of the Government, and could quite easily be paid, particularly if the Ministry will pay attention to some ways or forms in which there can be stricter protection;

for example, I feel that in these areas the damage could be reduced very greatly if Government could lend effective firearms to the Africans, particularly those that have been in the army so that the game scouts can be helped. I also feel that if poisonous arrows were allowed to the Africans there, they would be in a position to protect their crops; and this damage would not be so extensive as not to be able to be compensated by the Government.

I feel it is a damage which is not so very expensive as the Minister has been given to understand in several debates. It is true that it is extensive, but according to what I have seen, it is also true that it is a damage that can easily be paid or compensated to the ordinary African peasant.

Now, I believe that European farmers may have similar damage to their crops; but I do not think that this would concern many European farmers, and possibly they would be in a position to protect their crops better. But even if any damage is done to European farmers, I feel that the damage would be little, and not so expensive; even in that case, Government would be able to meet the cost of the damage.

Here, I submit very strongly, Sir, that the damage should be paid for, compensation should be paid to the African peasant farmers, and also to the European farmers. The fear that the cost of the damage would be very large is not realistic because, as I have mentioned, the acreage is very small and the crops damaged are not covering a very wide area, and Government would be able to pay compensation quite easily.

Now, another fear with Government, Sir, is that the assessment of the damage would be difficult to reach; but I do not think that the assessment would be difficult at all. When I was in Tana River District, I saw that on the spot there is the agricultural instructor, who can easily assess the acreage and the damage which is done. Also, in some areas, the game scouts can be called to the spot to help in assessing the damage. There is another person, Sir, who could be called to help in assessing the damage, and that is the producer inspector. The producer inspector and the agricultural

[Mr. Ngala] instructor and the game scout—and on top of that there is the headman and the chief—all these people can assist in assessing the damage so that the real and true damage is presented to the officers concerned so that compensation can be paid accordingly.

Therefore, I think that we have no grounds to think or to be suspicious of unrealistic assessments being forwarded to the officers concerned.

Now, another fear of the Government, Sir, is where the money will come from. Now, Government has the game as their responsibility. I know that Government get a lot of money from this game industry. Tourists give in quite a bit of money to this country because they enjoy the industry, although the farmer is losing by this industry. Also, there is ivory and trophies that are obtained by Government, and they bring in quite a lot of money that could easily be used in paying compensation over the damage which is being done.

There is the licence aspect, which also brings in a lot of money to the Government and Government could spend a part of this money in giving these small compensations to the African peasants or any other farmers who are involved in the damage.

I feel, Sir, that the Game Department is very much interested in the tourists, more so than it is in the damage that the African has to undergo in the whole show. For this reason, Sir, the Game Department is losing the confidence of the Africans. With all due respect to the Minister, I feel that his officers are not getting the respect of the African peasants in these areas which I have mentioned. I am sure that the examples that I have mentioned only cover the Coast Province, but my colleagues, either on this side or on the other side, will give more extensive examples, so as to put the whole Council in the picture.

However, I would like to submit, Sir, that in view of what I have given as my observations, this Council should make legislation to enable compensation to be paid to all the people who lose their crops and who are put in real hardship by the game. And I submit very strongly

that it is the responsibility of Government, and Government should never shirk that responsibility just by saying that we have no control over the game. If they have no control over game, why do they not let free the Africans to kill the game as they like, and also drive the game away and trap them in the ordinary way, as the African has been doing in the past. At the moment, if a farmer kills any game he is imprisoned, and I understand that the charge is usually from one of the game officers. How is this Department responsible for charging farmers but not responsible for the game? I fail to understand, Sir, the logic of the Ministry, when it says that the game is not their responsibility.

I feel, Sir, that I would advise the Government to accept the Motion because the damage is something which is making the Africans lose confidence in the Game Department very rapidly and in many places I feel that if the Government accepts this Motion the cost of the compensation would not be as big as the Minister or the Government might think. It is true that many areas may be affected but the acreage, as I pointed out, is very small, and can easily be smaller if the Game Department is careful enough in increasing the strength in protection, and so it can be easy for the compensation to be within the scope of the Government.

I understand, Sir, that some of the African district councils, if this is accepted in principle, might be able to help the Government in paying the compensation, or look into the possibility of paying the compensation.

With these few words, Sir, I beg to move the Motion.

MR. HARRIS: Mr. Speaker, Sir, on a point of order, I did not want to interrupt because I realized the speaker was coming to the end of his speech; but did I understand him to say that the judges who sentenced people to prison come from the Game Department?

MR. NGALA: Charges.

MR. HARRIS: Charges! Oh, I am sorry.

MR. HASSAN: I will second this Motion, Sir, and I would like the Minister to give very sympathetic consideration to this Motion. In the Coast

[Mr. Hassan]

Province, I remember there was a time when the game was causing extensive damage to the crops in the Tana River District and I happened to go on safari with the then Governor of Kenya, and he camped at a place called Gulbanti and travelled in that area as far as Ngao mentioned by the Mover to-day. And during a baraza some of the Africans came and bitterly complained to the Governor—the Game Warden was with us—and the Governor said to him: "You had better satisfy these people". He tried to talk the matter over, but he could not satisfy the farmers there who had lost their shambas through hippos coming off the river.

The Governor was so upset that he said: "When I get back, I shall have to have a change made in the Ordinance, in the game laws, but in the meantime I order that the Africans shall be given permission from Gulbanti right up to Garsen to kill every hippo they can lay hands on". Because of this order the Africans cleared up the hippos from that part of the river, and they saved damage to their farms from the hippos for some time.

Now I would like to say this to the Minister: he has a game warden there, he has the game scouts there. It is only part of the year that the crops are ready. Why on earth is sole protection not given against the game in that area instead of game wardens and other men, hang somewhere round about Lamu or Kipini; why should they not be in certain areas frequented by the game and where the farms are in danger? The farms that are in danger in that area are usually in the Garsen area and the Ngao area and the Gulbanti area, a distance of about 25 miles. And they should particularly have their main camp at Ngao, when the crops are ready, and give the necessary protection to these Africans.

I further know that whenever the game comes down from the hinterland to the Tana River, the game warden always asks certain honorary wardens to thin out the game, to shoot them, and their number is reported to be every year over 100 or 200 elephants. If that is so why does the Government not take help from honorary game wardens or from other hunters, ask them to be in that

area to assist the farmers to protect their crops when the crop is ready to be harvested.

I do not think the beasts can do very much harm when the crop is just growing. The harm is always caused when the crops are just ready to be harvested. Game wardens in that area could easily help with the game scouts and assist these people to protect their farms.

I hope the Minister will visit that area and have a baraza at Ngao, as the Governor had at that time, and Gulbanti and Garsen, and study the views of those people and their difficulties, and also the season and the time when the game is trespassing on their small shambas and destroying them. I hope that with the help of the Administration and the district council baraza he will be able to devise a scheme by which effective protection can be given to the farmers in that area.

With these few points, Sir, I have great pleasure in seconding this Motion.

Question proposed.

MR. ODINGA: Mr. Speaker, Sir, I shall have only one point to raise in support of this Motion, and that is that just as people are troubled, Sir, in the Coast Area, I find exactly the same position also, on the coast of Lake Victoria. In so many locations many people approach us with this problem that they are controlled in fishing. They say to me: "We live in a very dry country and if we prepare the lake shore and plant crops, the hippos destroy it and we are again stopped from killing them. This is putting us in such a position of great embarrassment."

Therefore, I think in supporting this Motion that the Government should now consider if it cannot give compensation which we think is the right thing for them to do. There must be a means whereby the Government looks after these animals so that they do not destroy the crops.

Mr. Speaker, with these few remarks, I beg to support.

MR. PANDYA: Mr. Speaker, I would like to support this Motion very strongly because I believe, Sir, a case has been made out by the hon. Mover that

[Mr. Pandya] compensation should be paid to those people who suffer damage. I feel, Sir, that a human approach is necessary to this problem for the African peasants who are solely dependent on agriculture, and are very hardly hit by this calamity. If they are to survive at all and have some sort of existence, it is but necessary that compensation should be paid to them.

In my submission, Sir, the people are suffering hardship for the benefit of the country. Wild game is, of course, one of our great assets and it does bring in a large amount of revenue from the tourists from other countries. However, if people co-operate with the authorities, I think it is but fair that they should be given compensation where they have suffered this unfortunate damage.

I also feel, Sir, that assessment is possible in such cases if there is an intention on the part of the Government to help these poor and needy people. Sympathy alone will not cover the case. I think Government will have to go a little further than that and they must show them more constructive and material sympathy.

I believe, Sir, that it will not cost the Government much if they accept this Motion, because most of the claims that will arise in this case probably would come from the Coast Province, where the majority of the game exists, and, as has been said by the Mover, the acreage that is involved would not be so large as to entertain many claims. If, as might be feared by the Government, there are more claims forthwith, then they could put in motion machinery whereby such claims could be scrutinized by the officers on the spot and then they could pass on the report to the appropriate authorities.

I think, Sir, that it is a very reasonable request for the benefit of the poor people who suffer this damage, and who are particularly dependent on agricultural pursuits. The fact that they will not get this compensation would almost ruin them and they would not be able to carry on their pursuits for some time in the immediate future.

With these few remarks, Mr. Speaker, I beg to support the Motion.

MR. CONROY: Mr. Speaker, Sir, the hon. Member for the Coast Province, in

moving this Motion, said that if any farmer kills any game he is imprisoned and he went on to say, why cannot the African farmer trap and drive away game as in the old days?

MR. SPEAKER: I think I might perhaps assist the hon. Member with a little legal advice, if I might. The position is not, I think, widely known.

AN HON. MEMBER: Without charge!

MR. CONROY: My hon. friends say, "Without charge". I am delighted to be able so to help the hon. Member.

MR. SPEAKER: The hon. Mover of this Motion did make clear that the restrictions on game do not apply to vermin and vermin include those things such as pigs, baboon and porcupine, which do cause a lot of damage. Those are vermin and anyone can kill them. The animals which are protected are set out in the Second, Third and Fourth Schedules of the Ordinance, and they are game. Game include animals which do damage, such as elephant, hippopotamus and buffalo.

Now, Mr. Speaker, it is not true that a farmer is prevented by the game laws from killing game which are doing damage to his *shamba*, and I cannot do better than refer the hon. Member to the appropriate section of the Ordinance which reads as follows:

"Any occupier of land or his servant or any owner of crops or stock or his servant may, if necessary for the protection of his land, crops or stock, hunt and kill any game animal which is causing material damage or loss to his farm or to any crops or stock thereon."

That does not mean, of course, that I have got a small *shamba* and I can go out and kill an elephant two miles away or fifty miles away. If an elephant is doing damage in my *shamba*, I can shoot him; I do not want a licence, and I can drive him away. I do not want a licence for that, as there is no restriction on that under the law. But there is, of course, this provision, that I am not entitled to shoot an elephant and then say he was doing damage to my *shamba*, thank you very much, that pair of tusks is mine. I have to hand the tusks over to the Game Department; which is only fair.

[Mr. Conroy]

It is generally thought, I am afraid, that farmers are not entitled to shoot game which is actually doing damage and the answer is that they are. And they are entitled to drive away game that is doing damage. But they are not entitled to make use of this provision in the law as an excuse for free hunting.

I do hope that that helps the hon. Member in this Motion, to show that the Government in framing this law was not unsympathetic. And the hon. Member for East Electoral Area's recollection of the *baraza* he attended may well, of course, have been the genesis of this particular section.

MR. COOKE: I should like a committee to consider compensation.

I think that even an African on his *shamba* is permitted to kill marauding game. That is all my hon. friend is asking. But they are deprived of their old weapons, spears, bows and arrows.

I would suggest, Sir, that the Government do sympathetically consider compensation. After all, if an elephant is killed, at the present moment, by the game hunters, who are there for the purpose, one tusk, I think, goes to the hunter and one goes to Government. And I think it is only reasonable to ask that the tusks should be sold to compensate those whose *shambas* were damaged.

I can never quite understand the attitude of the Agricultural Department. It encourages Africans to plant and then does not take steps to deal with game.

I feel, Sir, that, as a great lover of game, if we ask too much we will lose everything. We have created parks where the game can roam and everybody can see them and so on, and I think we are asking too much and if we take steps to protect farmers we will lose everything.

I hope my hon. friend, the Minister for game, will approve of some means by which the poor man who suffers from marauding game is compensated.

Sir, I would like to support.

MR. NGALA: On a point of explanation, Sir, I did not say that the African peasant was not allowed to protect his crops. Far from it. I said that he was

deprived of effective weapons, for example, poisoned arrows or setting traps a little far from his *shamba* so that he can catch the harmful animals before they reach the *shamba*. I am quite aware that he is allowed, but I also say that the Minister has always said they are allowed to protect them by making a noise to drive away the game or to protect them by beating empty *debes*, which is not effective at all.

THE SPEAKER (Sir Ferdinand Cavendish-Bentick): I must again remind Members of the existence of Standing Order No. 71. This debate is becoming tediously repetitive.

MR. MUIHI: Yes, Mr. Speaker, Sir, in supporting this Motion, I would like first of all to ask the Minister for Forest Development, Game and Fisheries, when replying to the various points raised by the Mover and the other Members on this side, to be a little more patient and not merely to have in mind the bitter exchange of words which we have heard during the previous debates on the question of poachers. I would also like to state my concern over an expression which he used in replying to some of the points raised by the African Members, when he told the Member for the Coast to go and tell his people to go and engage themselves as labourers, if they had no other occupation. I think those are very discouraging words. And when the Africans bring a Motion of this kind to this Council for discussion, surely they have the sympathy of the people they represent and they do realize the hardship caused to these people whom they represent in such matters as we have under debate now.

The Member for the Coast Province has covered a great deal of what exactly is happening in those areas where damage of crops by wild animals is extensive, and I would like to refute some of the points which the Minister made in his replies to the points we made, when we complained of damage by wild animals. The hon. Mover has already mentioned some of the points, but I would like to tell the Minister that he may not be exactly aware of what is happening in our reserves when he says that the only peasants who are subjected to damage to crops by these wild ani-

[Mr. Muimii] surely it would be generous to the crop owners and to such people who receive damage, if the Ministry concerned or the Government gave a portion of the trophies to the families of the *shambas* damaged, or to the families of people who are killed by straying animals.

I would like to draw his attention, for example, to the damage caused by wild animals to crop owners on this side of the Athi River in the Machakos and the Kitui districts. You find that the animals which worry the African especially, the elephant and the rhino live on the Yatta. It is a good distance from the Yatta plateau to the African reserves. Nevertheless, these animals cross the Athi River into the Machakos District and cross the Thiva River into the African villages and cause a lot of damage to crops.

Well, the Minister will take to heart that the Africans on this side of the Council are not complaining of damage from small animals like baboons or porcupines or pigs, which the Africans can certainly deal with effectively. For example, the baboons raid the *shambas* in the day and it is easy for even children to frighten them away. You can probably prevent the porcupines by putting a strong fence round the *shamba*. The wild pigs can also be prevented in a way. But the African is worried about big game, like elephant and rhino, which in most cases are very much more dangerous than other game.

I remember, for example, and I did say this in a previous debate, a certain family was keeping watch over their *shamba* in the night, because of damage by elephant, when they heard a herd of elephant frightening them. They ran away, leaving the children—I think it was about three children. The herd of elephants helped themselves to one of the children and the child was never found. If the parents had a way of preventing the carrying-away of the child by elephants, they could use it, but that was beyond their reach. That is why we feel concerned when Government imposes strict orders for people to protect their crops, in spite of what the Solicitor-General says, that these peasants should be helped in some way, where they cannot do anything, by being paid compensation of some sort.

I did suggest—and I am glad to say that the Member for Mombasa mentioned the same thing—that if the game wardens killed any of these animals,

surely it would be generous to the crop owners and to such people who receive damage, if the Ministry concerned or the Government gave a portion of the trophies to the families of the *shambas* damaged, or to the families of people who are killed by straying animals.

May I end by saying let not the Minister have in mind that we, the African Members, are trying to introduce means of encouraging people to kill animals illegally. That is not our intention.

Our intention is to find a way of trying to help these people and make them feel that they have the confidence of the Government in them. All we are asking is for an effective means of preventing damage, and, where damage cannot be prevented, possible compensation to be paid to the people.

May I end by saying, Sir, that I personally do not feel that the game wardens in the reserves are doing very much to prevent damage by wild animals to crops. As the hon. Member for the Coast has stated, an animal cannot be shot immediately, even if it is in somebody's *shamba*: people have to report it to the district commissioner or to the authorities and then by the time they get permission to shoot the animal it is gone. I wonder if it is correct when the Solicitor-General says that they should not follow the animals beyond the *shamba* to shoot them. That is a difficult position for any body to understand, and what I would like to put across to the Minister is that where such wild game are a nuisance to the people an efficient officer should be available to be called upon to shoot the animals and not leave these affairs in the hands of the people who are, in most cases, inexperienced and who do very little.

With these few points, Sir, I beg to support the Motion.

MR. CROSSKILL: Mr. Speaker, I am sorry that the hon. and gracious Member for Nyanza is not here. She would undoubtedly have made a claim against Government since one of the Minister's zebra put its head through the wind-screen of her car the other day.

I have great sympathy for the Mover and supporters of this Motion and I do not feel we have yet a solution which could be implemented. I have great sympathy, as the Minister knows, because

[Mr. Crosskill] during the recent K.N.F.U. conference, European farmers also complained of the situation, that their farms were not only being invaded by buffalo but by giraffe, zebra and many other types of game. It is a real problem which must be faced but I feel that perhaps provision for damages is not a solution which, perhaps, could be accepted by the Minister because it might lead the country into tremendous expense: in fact, the provision for damages might result in abuse and being looked upon as a kind of guaranteed minimum return. I can see many claims being put in because crops perhaps were not as successful as they might have been.

I think, Sir, that the hon. Solicitor-General's contribution was not really helpful because, although he said that anyone is entitled to drive an elephant out of his *shamba*, he can, of course, only do that if he has a double-barrelled .470 in his hands at the time.

MR. CONROY: On a point of explanation, I was trying to meet the point made by the hon. Member for the Coast Province when he said: "Why can we not be allowed to hunt and trap game and drive them away as we were in the old days?"

MR. CROSSKILL: Thank you. I think they had snares or they had poisoned arrows which, I think, are illegal now, and although I do appreciate the Solicitor-General's point, I think there was some weakness also in the other point he made when he said that, of course, you cannot drive game away if they are one yard away from your *shamba*, but only if they happen to be in your *shamba*, by which time, as one hon. Member on this side of Council has said, the damage is done. I do think, Sir, that we must try to find some other solution.

With your permission, Mr. Speaker, I would therefore like to move an amendment which would read:—

"In view of the severe losses being caused by game to crop growers, this Council urges Government to decide in each district which are agricultural and which are game areas and to take effective steps to restrict big game which habitually damage crops in the former."

I think, Mr. Speaker, that that is a possible and practical means which could be adopted. It would not lend itself to abuse in the manner which I have suggested would be possible, and it should be acceptable to the Government. I therefore beg to move the amendment.

MR. MAXWELL seconded.

THE SPEAKER (Sir Ferdinand Cavenish-Bentinck): I fear that I cannot accept the hon. Member's amendment. The subject matter of the Motion before the Council is compensation for damage. This suggested amendment has no reference of any kind to compensation but raises a whole number of new and complicated issues that have nothing to do with compensation.

MR. CROSSKILL: Mr. Speaker, I leave my suggested amendment as a contribution to the debate which may be acceptable to the Minister.

MR. ARAP MOI: Mr. Speaker, Sir, I need not prolong the valuable time of this Council, but I would like to point out certain aspects which were raised when the Mover moved this Motion. Although the Member for Mau had great sympathy over this matter, I think I have another thing in mind, although I need not move any amendment. Thinking of pastoral tribes, particularly the Masai—they have great difficulty. The Solicitor-General pointed out that the animals which can be killed without asking permission from the district commissioner were porcupines, baboons and pigs. But what about lions? A Masai in the Narok area last week lost his two cattle and three donkeys. The Minister for African Affairs has already been informed about this. The man complained about the matter and took it to the game warden, but the game warden did not do anything; he said the money was not available for compensation.

To this effect, Mr. Speaker, I think the Minister should consider this point very sympathetically, because I do feel that the people in these areas are not sufficiently protected. I am considering the African people, because lions and leopards are the most dangerous animals in pastoral tribes' areas, and I should like to hear from the Minister for African Affairs what steps he has taken to protect the Africans in these



[Mr. arap Moi] particular areas. I have had complaints from the Masai and the Laitokitok areas, urging that Government should take steps to protect them and their stock from lions.

I should also like also to point out that most of the Masai people are very disappointed. I raised the same question two years ago in this Council that the Masai were not happy about the national parks within their areas, because Government is not protecting their animals. It would be a good thing if the hon. Minister for Forest Development, Game and Fisheries could send scouts to these areas and try to locate where these dangerous animals are, so that these people know exactly where they are, and at the same time inform the game warden whether it is necessary to shoot them.

THE SPEAKER (Sir Ferdinand Cavendish-Bentinck): I must point out that the subject matter of the Motion we are discussing is compensation for damage and not protection.

MR. MBOYA: A lot has been said on this Motion already, and I think that quite a few aspects—or practically all aspects—of the case that my colleagues have put forward cannot be over-emphasized. But I think we may be overlooking the most important aspect of it, namely, dividing between the type of destruction that we are likely to meet with in this case.

The restrictions that exist require that the Africans living in these areas, or even on the borders of the parks and forests, do not possess poisonous arrows or other types of weapons that they may use, either in self-defence or for other purposes. The Government's mind, I think, is exercised by the desire to eliminate the possibility of poaching, killing animals or game, anyhow by people living near the parks and forests. But in trying to eliminate poaching, I think the Government overlooks that its first responsibility is not to protect wild game but to protect human beings. Its first responsibility is to ensure that where it must do everything possible to preserve our game, it has an overriding responsibility to ensure that the safety of the people living in the proximity of these forests and game reserves is equally, if not more adequately protected.

Now my friend the Member for the Coast Province is asking that some sort of compensation be introduced whereby people who suffer loss of either stock or crops, and most of all, loss of life, shall have some compensation. This is not an unreasonable request, because if Government insists that game must be protected, then I think the Government is equally bound to ensure that those of its subjects who are thus denied their own protection or self-defence in the process of protecting game, shall have compensation for whatever loss they incur in crops, stock or life.

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

[Mr. Deputy Speaker (Mr. Conroy) took the Chair].

My friend, the hon. Member for Rift Valley, has pointed out that particularly for tribes like the Masai, there are lions, leopards, buffalo and various other wild game, and the Minister's contention the other day that these people frightened off the bigger game merely by making a noise is ridiculous, if I may say so. Frightening off wild game by itself is not good enough, especially when we know that some of these lions, once they come into an area, could easily decide to stay, particularly when they get cattle, sheep and so on, and no one is going to keep awake every night, hitting big *debes* here and there, to frighten off lions or other bigger game. If the Government insists that they must have game, then they must control the movement of that game, and it becomes their responsibility to ensure that they have enough wardens to go all over the country ensuring that people are protected.

I think there is a very definite case here for the Government to consider some type of compensation for people in case of loss of stock and in case of loss of crops, but I think it is more important that Government should acknowledge the fact that where loss of life is involved, they have a definite duty—a definite responsibility to the widow or the family of the deceased.

Now we have been told that in fact, a person who found wild game in his *shamba*, if he killed such game, he was

[Mr. Mboya] not actually prosecuted for it, and that is quite true. But there is the proviso that he could only kill this game, as I understand it, if he actually saw it eating or destroying his crops, and if he actually found the game in his *shamba*. Killing the game outside the *shamba* or within the vicinity of the *shamba* constitutes an offence. Now, Sir, with due respect to the Minister concerned and to the motives of the Government, I certainly cannot understand how they expect the person who has had game in his *shamba* and the game have run away from the *shamba*—how such a man should be expected, immediately the game goes off the boundary of the *shamba*, not to kill such game. I am not in any way saying that Africans should go around killing every animal they find; on the contrary, we appreciate the advantages that our national parks have for our national economy in terms of the tourist trade, and so on, but we cannot, I think, encourage this at the expense of our own people and expect that everyone will support us in the process of encouraging such a measure.

My friend, the Member for the Rift Valley, has pointed out this problem, particularly with relation to the Masai tribe, and particularly the objections—very strong objections—of the Masai tribe to the preservation of the game reserves in their areas. There is the question of the Mara area, on which the Masai have always expressed strong objections to such reservation of these areas. Bearing in mind the fact that at the most they cannot freely defend themselves or, for that matter, defend or protect their stock, or protect their crops—whatever crops they have, I think, Sir, that a very definite case has been made for some sort of compensation, and it would be very poor if the Government were on this occasion merely to suggest to us that compensation was impossible or that, whilst desiring to do everything possible to protect the people and their property, they could not, in fact, accept the responsibility of paying compensation. I repeat, it would be very poor indeed, because I think that the Government is sure that its first responsibility is to citizens, and particularly the protection and security of such citizens. Therefore, it is not my responsibility to

protect wild game, however much we may love wild game, and however much we want to attract our tourist friends. There is no question that from the income we derive from the tourist trade and various other incomes accruing from the preservations of our national parks, we could meet the sort of compensation that may be involved.

There is just one aspect that I want to mention before I sit down, and that is the fact that if an African killed wild game on his *shamba*, he must report such an incident, but in addition, this African, who will not be compensated for whatever damage that the wild game might have done to his crops, is required to hand over to the wardens the skin of the game, the tusks in the case of elephants, and so on. In other words, the Government wants to have everything that it can get out of the game, but give nothing at all to those who suffer the consequences of the desire on the part of the Government to preserve the game. I think there is a strong case that the Government should reconsider its attitude in this matter, and I hope when the Minister speaks on this occasion, he will do us the favour of considering more seriously the points that are put from this side of the Council.

I beg to support the Motion.

THE EARL OF PORTSMOUTH: Mr. Deputy Speaker, Sir, I only rise to say a very few words. I like a good many speakers on my left, have great sympathy with what they have in mind, even though the Motion is limited to compensation, which I think is a very impractical and difficult one, except on special occasions. Anybody who has ever been secretary to a pack of foxhounds knows how many chickens can be eaten in a night.

I will now turn to my hon. friend in his new clothes—asks about protection—I had not meant to say anything about it. I entirely agree that the innocent cultivator living on his *shamba*, who may have no means of defence, has need of protection. But how are the mighty fallen among the Masai! On my own farm in the last ten years we have had two instances of self-protection: one was a lion, and one was an eruption of buffaloes on to our football field. Nobody came and asked me or my manager

[The Earl of Portsmouth.] to protect them: my Nandi took their spears and got two out of three buffaloes, and they killed the lion by jumping on his back and spearing him in the old-fashioned way.

Mr. ROBINSON: Mr. Deputy Speaker, I appreciate the reasons which necessitated Government refusing to accept the Motion. That is finance, but I do feel that the hon. Mover underestimated this factor when he was speaking to the Council. However, Sir, it is a fact that compensation would inevitably be a costly matter, extremely difficult to administer and, in my opinion, open to considerable abuse. Nor do I think that payment of compensation is the answer to the problem. There is a much wider aspect which has to be faced sooner or later. At present you have got the game parks, national parks, and the controlled areas. These areas are not really uncontrolled, and to me the present policy is rather unrealistic, because by the prohibition of the destruction of game in what you might call the uncontrolled areas, you are establishing more or less secondary game parks. I feel, Sir, that a further survey of the country is necessary, and the possible enlargement of the national parks and game parks.

Sir, I do think it is unrealistic to allow game to exist uncontrolled in the farming areas, whether they are African or European, and I do think if Government faced the situation, other measures could be evolved other than those which have been suggested by the hon. Mover in the way of payment of compensation.

I beg to support.

Mr. COWIE: I do apologize for joining in this debate, not having listened to the first part of it, but I assure you, Sir, that it was by no wish of my own.

I would like to express my personal sympathy with the intentions that lie behind this Motion. It has been my duty for some years now to administer areas in which there is a conflict between game and other interests. I know full well the difficulties that are encountered. I do think, Sir, that it is a subject which is extremely difficult, mainly because a few people who have a very justifiable grievance, have to suffer

for the misdeeds of many. It is a field of activity where people can exploit particular privileges they might have or they might well take advantage of the situation without having paid a price for it.

Let me quote some examples. It so often happens that a wild animal is doing damage either to crops or livestock, and the owner thereof makes a complaint to someone in the National Parks. On investigation it is found that all that that particular complainant requires is meat. The animal was nowhere near his crops or livestock, and he merely wants something destroyed because he wants to make use of it. On the other hand, there are many cases where people try to take their own protective measures, but they do so not in accordance with the law. They might chase an animal all over the place and then kill it unlawfully. They cannot prove that it has done damage or inflicted injury to their property or family.

Now that is a complete exaggeration of the actual facts of each case. It is not so long ago that we received complaints that lion were killing a large number of cattle. This was very carefully investigated, and although admittedly five cattle were killed, presumably by lion, for a long period afterwards the complaints continued but no one could find any lions there, nor could they find any reason for the complaints, and the actual travelling involved was something over 1,200 miles. So one has to accept the good with the bad. If people make complaints or misuse the privileges they have under the law, then obviously it is not so easy for them to be assisted in protecting their own property or crops.

I would, Sir, like to commend this point to the hon. Mover. I think every person has a responsibility to protect his own property, crops, family and so on.

Mr. ARAP MOI: Defenceless?

Mr. COWIE: If white ants attack and destroy my house I can see no case for claiming compensation from the Government.

White ants are animals, Sir. They are not protected. Similarly pigs are animals.

[Mr. Cowie.] they are not protected by law. So if one carries that theory further—if pigs are damaging your crops, why should you then appeal to the Government for compensation? Admittedly pigs are more difficult to destroy than white ants, individually, but the principle is there—that animals do cause damage and it is up to the person to try and protect his own property from that damage.

It may already have been mentioned, Sir, but I would like to go back a good number of years, when even I can remember farmers in this country, and especially African farmers, taking considerable measures to protect their crops and livestock. It used to be the custom for someone to sit up in a platform in a tree all night. It used to be the custom to have fires round about. It used to be the custom to have more adequate bush fences round each *shamba*. Now those were the measures which people in this country took to protect themselves and their property, many years ago. To-day I travel about a great deal and I see very few of those measures. The inclination is to appeal to the benevolent Government to make good the losses which people are perhaps too lazy to make good for themselves.

On the other hand, Sir, I do agree that something must be done to prevent serious damage to farming areas, and I think that it might be possible sooner or later to zone this country into areas of preservation and areas in which preservation cannot be so effective. That, surely, is the eventual target of any game policy. It seems to be a little inopportune at this moment for the Government, either to accept or reject this Motion, because there is a committee, which I have just been attending, known as the Game Policy Committee. One of its terms of reference is to put forward recommendations on a subject such as this. I would think, Sir, this subject is almost *sub judice*, and for that reason it is well to have Members' views and for the Game Policy Committee to make reference to the HANSARD Report; but until they put forward their considered recommendations as to how Government should formulate a sound game preservation policy for this country, it is a little difficult to see exactly what one can do with the question of compensation.

It has been my experience, by examining this subject in other countries, that it has never worked, even in an advanced civilization like the United States of America. I found cases there where they used to pay compensation for damage to livestock by bears, but it was so misused and so exploited that they had to give it up. I have also examined the subject in South Africa, where they have also come to the conclusion that direct compensation is not a feasible means of dealing with this problem.

I think in the end, Sir, the solution lies probably in asking all those people who are aggrieved, and especially the African Members and the African farmers to play the game—if I may use that phrase. If people will comply with the law and only put in complaints where they are justifiable and accurate, it is very, very much easier for anyone in a position of authority to assist them. What makes it impossible is when the law is exploited, when complaints are frivolous and futile and one gets the impression that you are merely being used to compensate people putting in claims that are quite false.

I would, Sir, like to finish by saying as far as I am personally concerned I have a great deal of sympathy with the intentions behind this Motion, and I think it may be possible to find ways, certainly, of making it better. I hope that the hon. Mover will bear with me when I say that it is a subject which is receiving a tremendous amount of attention, not only in my sphere of activity, but also in the discussions of the Game Policy Committee, and therefore if he could perhaps wait for a short time it may be possible for this subject to be covered in a statement of policy.

Therefore, Sir, I am afraid I would wish to oppose the Motion.

Mrs. SHAW: Mr. Deputy Speaker, Sir, I should like to congratulate the hon. Member who has just spoken in support of his predatory constituents. However, I did not feel so kindly disposed towards him last Thursday when I was very nearly killed by one of his zebra on the main Langata road. I also have a great sympathy with my hon. friends on my left and should like to say I am very glad the insurance company have not taken the same line as

[Mrs. Shaw] Government with regard to damage by game as being an act of God.

There is also one other point—I should like to support what was said by the hon. and noble Corporate Member about the old days—people going out and killing game and taking measures to protect their property. I certainly did battle with the Volkswagen against the zebra single-handed.

MR. MULIRO: Mr. Deputy Speaker, I have a few points on this Motion. The hon. Nominated Member who has just sat down says that in the past it was the responsibility of the Africans to protect their lives, their property and their homes; they did so by fencing and other methods.

Now in the past the Africans were free to deal with animals, if they were a menace. They are not free to do so now unless they get the consent of the Government, and, as some hon. Members will know, in fact it is impossible for the African to stay out all night in order to chase the elephant or the buffalo which comes into his garden.

Mr. Deputy Speaker, I think it is the duty of the Government to see that their game behaves. It is not a joke. The Government wishes to see that the game is preserved, but also the Government should see that the game does not interfere with the lives and the property of ordinary citizens. That is all we are looking for under this. When one keeps a dog and this dog bites someone, the owner of the dog definitely has to compensate the person whom the dog has bitten. Now in this case the Government keeps the game. They get a lot of money from it. The Government gets money because when the tourists come from outside Kenya they go and see the game and they have to pay something.

THE DEPUTY SPEAKER (Mr. Conroy): Order, order. Mr. Muliro, Standing Order No. 71 provides that the Speaker can all attention to the conduct of a Member who persists in repetition of his own arguments or the arguments used by other Members in debate. The arguments that you have put forward so far, which are three, have all been expressed

by other Members before you and they are all in the possession of the Council. If you wish to express any new arguments, you are at liberty to do so. If you wish to underline the arguments that have been already made, you can say that you support them, but it is, I suggest, a waste of the time of this Council to repeat the same arguments again and again which have already been understood by other Members, and I must draw your attention to Standing Order No. 71, which requires you to comply with that ruling.

MR. MULIRO: Thank you very much, Mr. Deputy Speaker. The Nominated Member, whom I was also talking about, says the Africans would come forward with frivolous complaints. These complaints are not frivolous. They are genuine complaints.

MR. COWIE: Question!

MR. MULIRO: If they are genuine complaints they should be met.

MR. DEPUTY SPEAKER: With these few observations, I beg to support the Motion.

PARLIAMENTARY SECRETARY TO THE MINISTER FOR FOREST DEVELOPMENT, GAME AND FISHERIES (Sheikh Mohamed Ali El Mandry): Mr. Deputy Speaker, Sir, I think my hon. friend, the Nominated Member, Mr. Cowie, has put forward very constructive suggestions. We are all in sympathy, as he has suggested, with the motive behind this Motion, and I would also like to appeal to my hon. friends, the African Members, to wait until this matter has been examined by the Game Policy Committee, who I am sure will put their recommendations very shortly. This is a very sincere appeal and I do hope my hon. friend, the Mover, will accept it.

THE MINISTER FOR FOREST DEVELOPMENT, GAME AND FISHERIES (Mr. Blunt): Mr. Deputy Speaker, Sir, I should like first of all to congratulate the Mover on the way in which he put his Motion. He evidently feels deeply on the subject, and I should like to assure him in the beginning that I have a great deal of sympathy with the point of view he put forward. I can think of nothing worse than what may happen to a peasant cultivator when, in fact, he loses the whole of his year's labour and may well be left

[The Minister for Forest Development, Game and Fisheries] very nearly destitute owing to the depredations of game, and I think none of us, Sir, can fail to have sympathy with the idea underlying the hon. Mover's Motion. Nevertheless, I shall try to explain, Sir, why it is that I do not think that the solution that he has put forward is the correct one.

Now, he made the point carefully in introducing the Motion that we are dealing in this case only with game animals—and I do not want to bring the question of vermin into this discussion, although it has been mentioned, except to say this: that I believe that in the aggregate throughout this country, the damage done by vermin—such things as pigs and the porcupine and baboon—is in the aggregate very much greater than the damage that is done by game animals.

(Mr. Deputy Speaker (Mr. Conroy) left the Chair)

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

Now, 'Sir,' it is an accepted international principle that it is the responsibility of the landowner to defend his crops and stock against the wild animals. In illustration of that, Sir, I would like to quote from the proceedings of the Third International Conference for the Protection of Fauna and Flora in Africa held at Bukavu in 1953. The second sub-committee of that Conference, referring to problems of control, started off with these words: "Control is an essential aspect of conservation, for if it is not properly carried out the general public, whose property is damaged and whose lives may be endangered, will very soon lose all sympathy with those who try to defend wild fauna from extermination. Primarily it is the responsibility of land and stockowners to defend their property against the attacks of wild animals. The Conference recognizes this situation and the fauna conservation legislation of the British African territories makes provision for these animals to be killed legally without licence, but it is not within the power of the ordinary individual to deal with dangerous animals, nor is it generally desirable that he should

attempt to do so; such work is much better left to the trained staff of a game department."

Now, Sir, I think what I have quoted goes some way to support what the hon. Mover said, and it also gives support for the attitude that I have taken in this matter, on which I propose to enlarge. It has been made quite clear by my hon. friend, the Solicitor-General, that it is permitted for any owner or occupier of land to take such steps as are necessary to protect his crops or his stock, and this also applies in another section to himself or any of his servants—to protect them against the depredations of wild game. But it must be admitted—and it has been referred to already—that it is extremely difficult for the ordinary farmer occupier of a small *shamba* to deal with animals like the elephant and the buffalo, and it is very largely for that reason that it has been written into this International Convention that people shall be allowed to protect their property, but the recommendation is also made that game departments shall, as part of their functions, endeavour to protect the property particularly from these larger animals. That is, in fact, what this Government is endeavouring to carry out. Within the resources of the Game Department, we do endeavour to control in particular these larger animals, and I think it must be admitted that it is better that these larger animals should be controlled—as they have to be—by professionals who know something about it, rather than by the individual who probably may not be very successful and may not know very much about it.

Now, Sir, as an indication of what has been done in the hon. Mover's own area in the way of control of elephant, I would only mention that in 1956 we killed between 500 and 600 elephants for protection purposes. This year we did not kill so many. We killed 102, but I think that possibly the way in which we killed them was more effective in driving them back and preventing damage to *shambas* in that area than the rather wholesale slaughter in which we engaged during the previous year.

Now, Sir, in this matter we have to make up our minds in the first place whether we are going to preserve game

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or whether we are not. Our minds, I think, are fully made up and no hon. Member has suggested that we should get over this difficulty by doing away with wild animals; but when it comes to trying to control game, it has to be admitted that although some control is possible, and more control is possible if more staff are available to carry out that control, yet total control—total prevention of damage—is never likely to be possible. There is bound to be a risk of damage and after all we all run equal risks—many of us greater risks. I would suggest to hon. Members that the risk they run in walking about Nairobi of being run over by a motor-car, for which they will not be compensated, is very much greater than the risk they have of themselves or their families being injured by wild animals. The numbers, in any case, are very different—half-a-dozen in the year wild animals, and I think I saw that the figures were 60 deaths and some hundreds of injuries from motor-cars. We have to face up to this matter in a practical way and realize that there is a risk of damage and that that damage cannot be entirely prevented, and people who farm in areas where there is game must realize that they do run that risk.

Now, Sir, I would like to refer to some of the reasons why I believe we could not agree to compensate for damage.

The first reason, a very important one, is that I believe it would be quite impossible to administer such compensation without abuse and without the misuse of public funds. If everything were as described by the hon. Mover and it was only a matter of compensation for a few *shambas* that are genuinely damaged by elephants I would be the first to agree to compensate, but that would not, in my opinion, be the case, I have had some experience of compensation in dealing with locusts years ago. In those days we used to use arsenic poison which we spread around on bran in the form of bait to poison locusts.

We had one or two claims for stock which, it was said, had been poisoned by the arsenic laid down and we admitted those claims and we paid for that stock. Well now, that went on, on a

reasonable basis for a short period: but within a year we found that in fact any stock that died almost anywhere where we were either working or had worked on poisoning locusts, we got a claim for, and a great many of those claims, unfortunately, were bogus and the only thing we had to do to try to get back to a reasonable state of affairs was to cut out that compensation altogether.

I believe that if we were to give compensation for property destroyed by game we should, before long, find that we were giving compensation for many crops that had never been destroyed by game and cases where there had never been any crops at all or any crops worthwhile, and for that reason I believe it would not be fair to the general taxpayer to expect him to pay compensation.

Secondly, Sir, if it were agreed that compensation should be paid, then careful investigation has got to be made to ensure that there are not abuses or misuses of public funds and in order to do that I am afraid that a very large staff and a very great deal of time of the existing staff would have to be absorbed in ensuring that each claim was investigated and it would have to be investigated pretty quickly after the damage was done or it would not be possible to determine what the damage had resulted from.

In view of those two points, I think the sums which the taxpayer would have to find if we accepted compensation as a principle, would be very considerable and I do not think there is justification for the general taxpayer having to find it.

Sir, I think the most important reason why I cannot support this idea of compensation is that I believe it is wrong to shift responsibility in the event of damage from those who can possibly prevent it on to the shoulders of those who cannot possibly prevent it; that is the general taxpayer. The people who can prevent game damage are the people on the *shamba* itself—living by it. They cannot always prevent it and certainly they cannot prevent it in some of the places which hon. Members on that side of the Council have quoted, such as in the case of attacks by a herd of elephants; but by and large they can do a great deal to help themselves.

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The hon. Nominated Member who spoke last referred to the fact that the Game Policy Committee is now in session and in fact it is sitting this afternoon. The whole question of game was referred to that committee and they have been studying the questions for I think it is over a year or about a year at any rate, and they have made recommendations dealing with some of the more urgent matters concerning game about which I think Members are aware. I hope that we shall have, before long, a report from them, but I will assure Members that although I believe that they are making inquiries and will make recommendations on this particular aspect, I will refer it to them and ask them specifically if they will be so good as to do so in their final report and advise Government of what they think is the best method of dealing with this problem that has been placed before us.

I would refer to the fact that there is compensation paid in certain cases. During the past year or two, the African district councils of Kajiado and Narok have put in their estimates certain sums each year to pay compensation for damage to life and limb, not property, and I believe those sums are being used for that purpose. The money that they use is derived from money which is paid over to them which is collected in the form of licences to shoot and photograph. The money to be handed over to African district councils in game areas will now increase as Members are aware the fees have been increased in the last week or two. I think possibly a development of that form of compensation might be considered because there you have people who are much closer to the people concerned who are suffering damage, and it would be considerably more practicable for them to determine whether the case is a genuine case than it would in the case of a Central Government. But it is not for me to say how the African district councils shall spend their money, but I only say they are spending some of their money on compensation for damage to the person.

Now, Sir, I must refer to one or two particular points that were made by hon. Members during the course of the

debate. One or two Members pointed out that the damage is not great. That is perfectly true, I think, as far as the hon. Mover's area is concerned. There are a number of *shambas* there, not very large, which get destroyed and possibly the damage in the coast area might be met by a reasonable sum of money. But I think we should find ourselves in immediate difficulty if we start compensation for game damage—that we should then be required almost at once to compensate for other damage caused by animals—compensation for damage by pigs, porcupines and other animals which are not game at all, and which it is really the duty of the farmer to protect himself from and which he is allowed to protect himself from.

Therefore, although in the Mover's point of view the cost may not be very great, I believe that ultimately we would be faced with a very considerable loss and particularly if, as I suggest is likely to happen, claims for all sorts of damage that was not caused by game at all, were entertained.

The hon. Member also, in the course of his remarks, went on to suggest, and I think it was not the only time it was suggested, that the Game Department were more interested in the tourists than in the farmer. Now, Sir, I would like to join issue with him on that. The first function of the Game Department is the protection of game in this country in certain areas. The next job of the Game Department, and a job I believe they carry out as efficiently as is possible with the resources at their disposal is to try to control game and prevent damage to farmers and others. I admit, Sir, that that control is not complete, I admit that it never can be quite complete, but I believe that a good deal more could be done if we had the resources to do it and I believe that in the long term the proper means of dealing with this problem, which we are discussing now, is by the strengthening of the Game Department and putting them in a position where they have adequate numbers of trained staff and can control the game within such bounds as are reasonable and they will thereby be able to prevent anything but slight damage taking place.

The hon. Member for the East Electoral Area asked me to visit his area

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and study the views and the difficulties of the people there and try to devise a scheme for effective protection. Well, Sir, I have not done that but the Game Policy Committee have recently been in that area and I think they are well seized of what the position is there and they are, therefore, in as good a position as anybody to make recommendations as to what should be done.

The hon. Member for Akamba asked me to be patient and not bitter, and what he seemed to object to was the fact that in a previous discussion of this problem, when we were dealing with the Waliangu I suggested that rather than starve they should go and work. Well, Sir, I am quite unrepentant about that remark and I would like to reiterate it. I think it is a reasonable thing. It is what other people in other countries have to do when they get in that sad position of having no means of feeding themselves. He also, if I understood him right, accused me of saying that the only person who suffers damage are those with scattered *shambas*. I never said anything of the kind. I said that it was extremely difficult to protect scattered *shambas* from damage and it would be better if people were concentrated, but I did not suggest for a moment those were the only people who suffered damage and, in fact, I did go on to refer to the case referred to by the hon. Member, of the people along the river banks who suffered damage because the elephants could not get down to the water without going through their *shamba*.

Now, Sir, in all this discussion there has not been much reference to what happens on European farms, but the hon. Member for Mau was beginning to enlarge on that question and it is a fact there is very considerable damage from large game taking place in certain areas of the Colony on European farms and that damage, if it were estimated in pounds, shillings and pence, would, in fact, if compensation was paid, be a very considerable amount for the country to face. This damage is not confined to any particular area. There are many areas which suffer it and in the aggregate, as I said earlier, it amounts to a very considerable amount.

The hon. Member for Nairobi Area made the point which I think has not been made by other hon. Members who have spoken in the debate—the risk of loss of life or of damage to life. He suggested, if I understood him right, that one of the major difficulties now was that people were not allowed to use poisoned arrows. Well, I suggest, Sir, that in no case was the poisoned arrow an adequate defence against an attacking animal. The effect of the poison did not act immediately and the attacking animal has had to be beaten off by other means than that. Therefore, I cannot think that the forbidding of using poisoned arrows made very much difference to the safety of the people concerned.

Mr. MUMBI: On a point of explanation, Mr. Speaker, I think the point that the Africans are trying to make is this that if you shoot an elephant with an arrow without poison you only inflict pain on it, but if you shoot it with a poisoned arrow, eventually it dies and therefore it becomes less harmful to the people.

THE MINISTER FOR FOREST DEVELOPMENT, GAME AND FISHERIES (Mr. Benti): The hon. Member, I think, said it was ridiculous to suggest that you can frighten an animal by noise. It is not at all ridiculous. It is a fact. You can do great deal in the way of driving even the biggest game animals away by noise. An hon. Member was telling me only at lunch time how he came round a corner on a herd of elephants in the National Park and by mistake in pulling up quickly, he fell forward on to the horn ring on the car and blew the horn. With one accord the ten elephants set off in the opposite direction as hard as they could go. There is no question you can do a good deal with game, elephants in particular, with use of noise and in fact the Game Department do their elephant control work very largely by the use of characteristics which inflicted no wound but merely make a big bang.

Then the hon. Member went on to say that the Maasi in the Mara area were unhappy. I do not know exactly the word he used—because they could not defend their stock and themselves from game. Well, Sir, I do not know what he is talking about. I am not

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were that the Maasi in the Mara area are in any different position from that in which they have always been. They have always been able to look after themselves and I think they certainly are equally well able to look after themselves now.

Well, Sir, I think I have made it quite clear that Government cannot accept this particular Motion, but I hope I have made it equally clear that we have a great deal of sympathy with the motive underlying this Motion and that we will examine methods of trying to meet the difficulties which my hon. friend the Mover has put forward and that we will do that in the first place by requesting the Game Policy Committee to examine the position further and to make recommendations.

Sir, I beg to oppose.

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

MR. NGALA: Mr. Speaker, Sir, first I would like to make it quite clear that in moving this Motion I had African farmers as well as European farmers in mind. I could not say much about European farmers because I am not very knowledgeable of their difficulties. I hoped at one time that my hon. European colleagues would have been able to put the position clearly. I did not have any kind of discrimination in moving this Motion.

There are a few points that have come up that I think, Sir, I would like to make clear. The Minister has just told us that it is the duty of the *shamba* owner to protect his crops. I quite agree it is the duty of the *shamba* owner to protect his crops but the position, as I have already mentioned in moving, is that the present African is deprived of the effective weapons that he has been using in the past—poisoned arrows or effective traps set up away from his *shamba*. Now, the Minister has tried to say that poisoned arrows are not effective as protection, but I think they are very effective protection. One reason has already been given by my hon. friend the

Member for Akamba, but the other reason is that when you use poisoned arrows, these are so effective that the wild game are frightened of being frequent visitors to *shamba*; but not so when you do not use any poisonous arrows.

The Minister has also said that in protecting the crops he must use professional people because they are very knowledgeable in controlling and protecting the animals, but on the 6th of this month, Sir, the Minister agreed with me that the staff which he is employing in these areas is untrained and he has to employ it because it is the only available staff. Now, I do not understand, Sir, how these untrained people can be professionals and can be better protectors of crops than the ordinary people, given effective weapons.

I appreciate his remark on Kajiado and the compensation that is given on life by the African District Council of Kajiado. I hope that the Minister for Local Government, Health and Housing has noted that and probably will consider it when the Game Policy Committee is considering the whole thing.

Now, the Nominated Member has just said that some Africans do not make any effort to protect their crops or they are too lazy to protect their crops.

I would like to say that I disagree completely with him. In the Tana District much damage has been caused during the night and during the absence of the *shamba* owners and when the *shamba* owners were sleeping; and I do not see why the hon. Member accused them of being too lazy to protect their crops.

I would also like to oppose the point made by the Minister that people who cultivate or grow their crops in areas where there is game should be prepared to face the damage. I completely disagree with this because areas such as Duruma are called native land units; these are the areas of the people. The game should be controlled in their areas and the animals should not be allowed to interfere in the native land units where crops are grown. I do not see any sense in the Africans cultivating their areas and having to bear the damage or loss that results in their own areas.

[Mr. Ngals] and I would ask the Minister and his officers to try and keep the game in their own game reserve areas.

Another point which has been made Sir, concerned white ants. I made it quite clear in my Motion that I was not talking about white ants. If white ants caused any damage, then I think the African farmer would be in a position to protect his crops.

I think that the question of claims, which was mentioned by the hon. Member for Mau, is really unrealistic. He said that too many claims would be a pity and there I feel, Sir, that there is a proper way of assessing claims. I pointed out in my Motion that there is the agricultural instructor who, in many cases, can assess the damage more or less correctly, and also there is the sub-chief or the chief himself, or the produce inspector, who can also help in assessing all these things. Therefore it is not just a question of claims being submitted wrongly or exaggerated to any extent. I feel that with the close administration, which we have been talking so much about lately, these claims can be submitted in the right order.

So far as the point raised by the Member for the East Electoral Area is concerned quite appreciate what has been stated by the Minister that an officer went out to these areas, but he did not understand the difficulties of the people. He probably saw the district officers or the district commissioners in these areas but he never held meetings to get to know the grievances of the farmers as my hon. friend has suggested. What the farmers would like is a meeting with the officers concerned so that they can tell them what the difficulties are on the *shambas*. It is not a question of going round and asking the district officer whether there is anything going on but it is a question of holding meetings with farmers who are closely concerned with the whole thing.

Lastly, Sir, I would like to say that I very much appreciate the fact that the Game Policy Committee will be meeting and will be considering these things closely. I hope that the question of effective protection will be considered, and I hope that the question of keeping the

game in their own areas and keeping the African native land units free from game will also be considered. I also hope that the question of lending effective weapons or firearms to genuine farmers will be allowed, or that they should be able to set traps a long way from their *shambas*. I hope these questions will be considered.

In view of the creation of the Game Policy Committee I would like to withdraw this Motion, Sir.

*Motion, by leave of Council, withdrawn.*

### MOTION

#### REQUEST FOR SELECT COMMITTEE ON THE CIVIL SERVICE

MR. SLADE: Mr. Speaker, Sir, it now seems probable that if this Motion that is on the Order Paper is begun to-day, the debate will not be concluded before the end of this sitting. Moreover, Sir, I shall have the misfortune not to be able to be present in Council next week. These circumstances I should like to withdraw my notice of this Motion and ask leave, Sir, to give fresh notice in the next sitting.

THE SPEAKER (Sir Ferdinand Cavendish-Bentick): The Member has the right to do that under Order 31. Is it your wish that the Motion be withdrawn?

*(Council signified assent.)*

### MOTION

#### REVIEW OF THE NATIVE AUTHORITY ORDINANCE

MR. MATE: In view of the time available I would like to avail myself of the provisions of Order No. 31 and withdraw the Motion.

THE SPEAKER (Sir Ferdinand Cavendish-Bentick): Mr. Mate would like to withdraw this Motion under Order No. 31. Can I have your leave that it be withdrawn?

*(Council signified assent.)*

### MOTION

#### INQUIRY INTO LOANS AND CAPITAL POLICY

MR. ALEXANDER: Mr. Speaker, 1000 after I gave notice of this Motion the Minister for Finance departed for

[Mr. Alexander] London. I am informed that next week he intends to go to India. Mr. Speaker, I am bound to wonder, rather naturally whether in these peripatations, if he is perhaps searching for a suitable person for this Inquiry between London and New Delhi. It is, Mr. Speaker, right and important that the Minister should be here to deal with this Motion, and, therefore, Mr. Speaker I have to ask the permission of the Council for a postponement of the debate on this Motion until the Minister for Finance has had the opportunity to be in the Council to deal with it himself personally, and I ask the permission of the Council to withdraw it.

*(Council signified assent.)*

### REPORT AND THIRD READING

#### The Personal Tax Bill

MR. CONROY: Mr. Speaker, I beg to move that the Council doth agree with the report of the Committee of the whole Council on the Personal Tax Bill.

THE CHIEF SECRETARY (Mr. Turnbull): Mr. Speaker, Sir, I beg to move that the Personal Tax 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 SPEAKER (Sir Ferdinand Cavendish-Bentick): I am now inclined to interrupt business if hon. Members will allow me, as I sometimes do, to close proceedings a minute or two earlier (or later) to suit the convenience of Members. I hardly think that it is worth embarking on the next Bill as we have only three minutes to go.

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): Without in any way wishing to question your ruling, Sir, it would have given me great pleasure to have heard the hon. Member for Nairobi South speaking twice on this Bill, for two minutes only.

THE SPEAKER (Sir Ferdinand Cavendish-Bentick): I understand that it has

been agreed by the Sessional Committee that it will suit the convenience of Members if Council should now be adjourned until 2.30 p.m. on Tuesday, 26th November, and that we should not, as normal, sit to-morrow morning.

### ADJOURNMENT

THE SPEAKER (Sir Ferdinand Cavendish-Bentick): As it is now very near the moment for the termination of business and I propose to adjourn Council until 2.30 p.m. on Tuesday next, 26th November.

*Council rose at thirteen minutes past six o'clock.*

**Tuesday, 26th November, 1957**

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:—

The European Agricultural Settlement Board of Kenya Report for the period 1st January, 1956, to 31st March, 1957, and Annual Accounts.

The Native Lands Coffee (Amendment) Rules, 1957.

(By THE MINISTER FOR LOCAL GOVERNMENT, HEALTH AND HOUSING (Mr. Havelock) on behalf of the Minister for Agriculture, Animal Husbandry and Water Resources (Mr. Blundell))

The Public Health (Drainage and Latrine) Rules, 1957—Thomson's Falls Urban District Council.

The Public Health (Drainage and Latrine) Rules, 1957—Nakuru County and Lanet Planning Areas.

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

The Liquor Licensing Rules, 1957.

(By THE ASIAN MINISTER WITHOUT PORTFOLIO (Mr. Madan))

**NOTICE OF MOTION**

**EMBAKASI—GOVERNMENT STAFF HOUSING LOAN**

THE MINISTER FOR LOCAL GOVERNMENT, HEALTH AND HOUSING (Mr. Havelock): Mr. Speaker, Sir, I beg to give notice of the following Motion:—

BE IT RESOLVED that this Council authorizes the Kenya Government to guarantee a loan not exceeding £435,540 to be made by Barclays Bank D.C.O. to the Nairobi County Council to construct essential Government staff housing at Embakasi together with the minimum ancillary services for immediate development; such loan to be repaid out of funds to be provided by the Government not later than 1st July, 1960.

**ORAL ANSWERS TO QUESTIONS**

**QUESTION No. 44**

MR. ARAP MOI (Rift Valley Province) asked the Minister for Internal Security and Defence:—

(a) What steps is Government taking to protect the Turkana tribe from Merille (Gelubba) tribesmen?

(b) How many casualties have been suffered by the Turkana tribe as a result of the activities of Merille (Gelubba) tribesmen during the last four months?

THE MINISTER FOR INTERNAL SECURITY AND DEFENCE (Mr. Cusack): (a) The Kenya Police and the Tribal Police have been reinforced in the areas concerned and detachments of the K.A.R. have been sent there. Aircraft are in use for reconnaissance.

(b) During the past four months a total of 105 Turkana are known to have been killed by the Merille. 85 are known to have been killed on 14th November and 16 on 20th November.

MR. ARAP MOI: Arising out of that reply, Sir, is it possible for an African Elected Member to visit the area?

THE SPEAKER (Sir Ferdinand Cavendish-Bentinck): That does not arise out of the question.

SIR CHARLES MARKHAM: Mr. Speaker, arising out of the original reply, would the Minister tell the Council the break down of the casualty figures he has given us, the women and children and men?

THE MINISTER FOR INTERNAL SECURITY AND DEFENCE (Mr. Cusack): The break-down, Sir, is nine men, 39 women and 57 children.

MR. MBOYA: Mr. Speaker, Sir, arising out of the reply, would the Minister state what action the Government has taken in relation to the appropriate Government and if any reply has been received to the Government's protest from the appropriate Government?

THE MINISTER FOR INTERNAL SECURITY AND DEFENCE (Mr. Cusack): Sir, all the appropriate diplomatic procedures are in train.

MR. COOKE: Mr. Speaker, is there any truth in the allegation of the Abyssinians that we went over their border? Any truth whatever in that?

THE SPEAKER (Sir Ferdinand Cavendish-Bentinck): That question does not really arise out of the original reply, but if you wish you may answer it.

THE MINISTER FOR INTERNAL SECURITY AND DEFENCE (Mr. Cusack): That is an allegation, Sir, made by the Ethiopians which will require careful investigation by us. We do not admit it.

**QUESTION No. 42**

MR. MATE (Central Province) asked the Asian Minister without Portfolio (Mr. Madan), acting on behalf of the Minister for Works, what progress has so far been made with plans for making a better trunk road east of Mount Kenya from Meru via Embu to link with the main Nairobi to Sagana road?

THE ASIAN MINISTER WITHOUT PORTFOLIO (Mr. Madan): The case for a new road on a better alignment between Meru and Embu townships is fully appreciated by the Road Authority, but no funds are available for this work in the present development budget of the Road Authority. However, an engineering reconnaissance has been made of a possible alternative route for the road north-eastwards between Embu and Meru which passes over country at a lower altitude and avoids the difficult terrain of the present route. A detailed survey could be put in train if funds for construction became available.

A new route has also been reconnoitered to the south-west from Embu township to link up with the road, which at the moment runs down from Mile 6 on the Sagana-Embu road to the main Nairobi road near the Tana River bridge. Minor improvements to the first six miles of the present Embu-Sagana road at the Embu end are envisaged by the Road Authority, and should be a useful improvement.

MR. MATE: Mr. Speaker, Sir, could the Minister tell us when he hopes the money might be found?

THE ASIAN MINISTER WITHOUT PORTFOLIO (Mr. Madan): I hope as early as possible!

MR. ALEXANDER: Mr. Speaker, Sir, arising out of the original reply, is the Minister aware that this proposed road

goes through some of the richest agricultural country in the world? That being so, is Government prepared to allow the people to raise the money themselves, if they want to, to build this road?

THE ASIAN MINISTER WITHOUT PORTFOLIO (Mr. Madan): I am aware that the area which the road serves is very rich agricultural country. I would like to hear the proposal in detail about people providing the money themselves before giving an answer to that.

MR. COOKE: Mr. Speaker, Sir, is the Minister aware this road was made by myself and other administrative officers with the help of the Africans themselves in that area?

**BILL**

**FIRST READING**

*The Special Tax (Temporary Provisions) (Amendment) Bill*—(Minister for African Affairs) (Mr. Windley)—Order for First Reading read—Read the First Time—Ordered to be read the Second Time.

**BILL**

**SECOND READING**

*The Town Planning (Procedure) Regulations (Validation) Bill*  
Order for Second Reading read.

THE MINISTER FOR LOCAL GOVERNMENT, HEALTH AND HOUSING (Mr. Havelock): Mr. Speaker, I beg to move that the Town Planning (Procedure) Regulations (Validation) Bill be now read a Second Time.

Sir, this is a matter of regularizing mistakes that have occurred in the past—or, shall we say, actions which have occurred in the past which might now be taken as mistakes. The validity, Sir, of the Town Planning (Procedure) Regulations purporting to have been made under the Town Planning Ordinance is doubtful owing to a discrepancy in the date of enactment. These Regulations, Sir, comprise the machinery for implementing the Town Planning Ordinance, and in particular they have been used for variations to the Mombasa Town Plan from time to time.

The Regulations, Sir, govern the statutory functions of a local authority in

[The Minister for Local Government, Health and Housing] connexion with a town planning scheme, and include the publication of schemes or variations of schemes in the *Gazette* and in the local Press, providing opportunity for objections and the final declaration of the scheme, together with the publication of the resolution and maps defining the areas under consideration.

It is, therefore, quite essential, Sir, that there should be no legal doubt at all concerning the validity of action which has been taken under the Town Planning (Procedure) Regulations and accordingly this Bill is being presented to the Legislative Council. The details, Sir, of the reasons and the conflict of opinion in different matters are set out fully in the Objects and Reasons of the Bill, Sir, and I do not think I need dilate any further.

I therefore beg to move.

DR. WALKER 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.

## BILL

### SECOND READING

*The Provident Funds and Contributory Pensions (Repeal) Bill*

Order for Second Reading read.

MR. MACKENZIE: Mr. Speaker, Sir, I beg to move that the Provident Funds and Contributory Pensions (Repeal) Bill be now read a Second Time.

The object of this Bill, Sir, is, as the title shows, to repeal four Ordinances dealing with provident funds and contributory pensions. When the Holmes salary revision took place, contributors to the Asian Civil Service Provident Fund, European Civil Service Provident Fund, the Kenya European Civil Services Contributory Pensions Fund, if they opted for the revised terms of service, became eligible for free pensions and, therefore, they ceased to make contributions to these funds. Since then, all the contributors concerned have either elected to take the revised terms of service,

which gives them free pensions or have ceased to make contributions to the funds. The funds have no further contributors and they have no liabilities. The money remaining in them will, if this Bill becomes law, be paid into the Consolidated Fund.

In case anyone is interested in the amounts involved, I am sorry to say that they are very small: in the Asian Civil Service Provident Fund, the amount is Sh. 955/86 cents; the European Civil Service Provident Fund, Sh. 1/80 cents and in the Kenya Civil Service Contributory Fund, it is Sh. 329/98 cents.

Sir, I beg to move.

MR. CONROY 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.

## 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]

*The British Standard Portland Cement Company Limited (Bamburi Factory) Ordinance, 1951 (Amendment) Bill*

THE CHAIRMAN (Mr. Conroy): I think before we go on with the proceedings of this Bill, it might be of assistance to Members of the Committee if I were to draw their attention to the proviso of Standing Order 101 of the Standing Orders relating to Private Bills which provides that no Member shall be allowed to sit on this Committee until he has made and signed a Declaration that he will not vote on any question which may arise, and in respect of which evidence may be given, without having duly heard and attended to the evidence relating thereto.

The appropriate Declaration will be circulated by the Clerk Assistant among Members while we are proceeding with the Bill in the Committee.

(Declaration passed round for signature)

Preamble agreed to.

Clauses 1, 2 and 3 agreed to.

Title agreed to.

MR. USSHER: Mr. Chairman, Sir, I beg to move that the Committee report to Council its consideration of the British Standard Portland Cement Company Limited (Bamburi Factory) (Amendment) Bill and has satisfied itself that the allegations in the preamble have been substantiated and has examined the Bill and approved the terms and provisions thereof without amendment.

The question was put and carried.

Committee resumed.

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

### REPORT AND THIRD READING

*The British Standard Portland Cement Company Limited (Bamburi Factory) Ordinance, 1951 (Amendment) Bill*

MR. CONROY: Mr. Speaker, I have to report that the Committee of the whole Council has considered the British Standard Portland Cement Company Limited (Bamburi Factory) (Amendment) Bill, has satisfied itself that the allegations in the preamble have been substantiated, has examined the Bill and approved the terms and provisions thereof without amendment.

MR. USSHER: Mr. Speaker, I beg to move that the British Standard Portland Cement Company Limited (Bamburi Factory) (Amendment) Bill be now read a Third Time.

Question proposed.

The question was put and carried.

The Bill was accordingly read the Third Time and passed.

### MOTION

#### ADOPTION OF REPORT OF PUBLIC ACCOUNTS COMMITTEE

(Resumption of debate interrupted on 19th November, 1957)

MR. ALEXANDER: Mr. Speaker, Sir, our subject to-day is auditing. It has been said of auditing that if women did it, it would be called nagging. But, Sir, we are dealing with public expenditure and it is far too serious to be compared with what may happen from the nagging of women.

2.58 p.m.

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

[Mr. Deputy Speaker (Mr. Conroy) took the Chair]

I want to deal first of all with the way in which Government deals with inefficient individuals; and to do this, I want to start from something that was said by the Chief Secretary on 21st May this year. This is what he said, and at the time he was replying to the Member for Nairobi North, who in fact moved this Motion. The Member for Nairobi North had asked him some questions about the responsibilities of the Controller-General in relation to the Public Accounts Committee and the attitude of that committee; and on this subject of the inefficient individual, this is what the Chief Secretary said, and I quote:—

"As for the inefficient individual, all I can say is that if he cannot make himself efficient, and if it is clear that he has had a proper chance to do so and that in justice he has failed to take that chance then he must go."

The Mover of the Motion, when speaking the other day, had this to say on the subject—and before I leave the Mover of the Motion, the hon. Member for Nairobi North, I would like to say what a joy and a pleasure it has been to serve with him under his chairmanship on this committee. He has been extremely tolerant, and extremely patient and it is as a result of the way he has worked the committee that these very good results have come out of it. This is what he said—I quote:—

"Sir, arising out of the examination of this particular department, one matter that did appear rather odd to members of the Public Accounts Committee was the apparent difficulty which exists in the dismissal of an officer who is on the permanent and pensionable establishment even though he may appear, or be considered, inefficient by the head of his department."

Going from there, Sir, to the Report of the Public Accounts Committee which is the subject of this Motion, I now turn to trace the history of the way in which Government does deal with inefficient individuals.



[Mr. Alexander]

The representative of the Chief Secretary's Department, in replying to the Member for the Coast, said this, and I quote: "The departmental inquiry made reference to the distinctly mediocre standard of two officers, in particular, of the departmental accountant and the storekeeper, and came to the conclusion that they, individually and directly, were responsible for some of the irregularities for which the senior officers had had to answer." Then the chairman of the committee came in, the hon. Mover of this Motion, and he said this, and I quote: "I am wondering if those same people exist since they were hardly satisfactory" and the answer of the representative of the Chief Secretary was: "That is so, Sir. In the departmental inquiry they include an appendix which shows who had been in the department over the years starting at February, 1953. The accountant in question was in the department until January, 1956 . . . and you will remember that the report covers the period up till February, 1956 . . . and he has gone, not from Government service, but he is in another Ministry." I chimed in there and said: "Promoted, was he?" The answer came back, "No, he is in the Police Headquarters".

The Chief Secretary's representative said: "The reason I am making such a play about the storekeeper is that a number of these audit reference sheets arose directly from the poor work of the storekeeper. There have, in fact, been found some alterations in the stores ledger. The man was at the end of his tour. The story is that he was harassed, in a nervous condition, and so on, so he made a few inaccurate entries". I asked: "Has he been down-graded?" and the reply was "No, he is still a Grade I Storekeeper".

Then the story goes on and I asked this further question. "Now, this man—the accountant—who I seem to remember you said had gone to the police, does an adverse report follow him to where he goes?" The answer by the Chief Secretary's representative was "The man's confidential report, which is compiled for the time he was in the Information Department, would go on his personal file. His deficiencies would be brought to his notice, but the new department would not be informed that he had incurred an adverse report." I

said: "So his new boss does not know that this man has failed in some other place", and the reply was: "Only by hearsay". Then I questioned: "This part of the regulations that an adverse report must not follow the man to his new boss—is that it?" The reply was: "I would have to refer to the Code of Regulations which I have not got with me. I would not like to commit myself on that." Then I questioned him again: "And yet it seems from the evidence that such a report—an independent report—does not follow the man to his new boss", and the Treasury representative replied: "Yes".

Then, finally, I asked: "So, do I understand from that if there is an inefficient man and he cannot be got rid of, there is going to be a bargaining going on between Government departments as to who might take him into their care—is that it?" The reply was: "No, Sir, not quite. Very often the department in which the man was serving must keep him unless the situation has got to the point at which he must be got rid of from the Government service. In this particular case another accounting officer was quite willing to give the accountant a trial. That officer is, as I say, aware, to my personal knowledge, I questioned him again: "So, if nobody had been prepared to take him on in another department he would have had to be dismissed?" and the reply was: "Then the question of dismissal would have arisen automatically. It did not get that far".

That, Mr. Deputy Speaker, is a story in sequence of what the Government do when they find inefficient officers—provenly inefficient officers—in their midst. They can go to another department and that other department does not officially know of the officers' past inefficiency, I suggest, Mr. Deputy Speaker, that that is a most deplorable state of affairs. I trust that when the Chief Secretary replies to this he can perhaps enlighten us more than we have been enlightened as to how Government does go about this particular sort of matter.

I now come, Sir, to another subject, and that is one of Emergency accounting; and here again I turn to the report. On page 114 I asked this question: "I would like to ask Mr. Magor a general

[Mr. Alexander] Government system, is it not? It is question as to whether in the event of another local war like the one we have had, would he say that operationally there is a hindrance because of the particular peacetime accounting arrangements that have to be complied with? Later, on I questioned further, and I said this: "The opening answer to my question was that it was found that it could not be; that it was not possible to recruit clerks at the speed at which they need to be recruited, or of the quality that was needed, and that in fact a very good system became a farce because it could not be operated. Now the point of my question is surely that for an operational need you have a system which, deficient as it may be in the cold-blooded reflection of peacetime, is a system which can be operated". Mr. Magor answered: "Yes I think we should go into it".

Then on to the scene came our breezy Nominated Member for the sea opposite, and this is what he had to say: "I rather agree with Mr. Alexander. I do not think you relax so much as to go into a more elementary system. Putting it very bluntly, you go into the consumable and permanent stores procedure, and a lot more things become consumable in wartime than go on the rate book in peacetime. I do not think it is a relaxation—it is the devolving into a simpler method. I think there is something in this. Surely, is this part of the reply, that in relaxing your accounting requirements you attach greater responsibility to the individual, and your staff regulations have got to be altered in line so that men who go wrong can be sacked on the spot. That is in fact what happens in a completely operational atmosphere. The man who is discovered to have lost the whole motor-car or a fleet of motor-cars is sacked there and then on the spot. But this system does not allow you to do that. You cannot work it because you have not got the clerks to work it, and you are still on the peacetime system as we learned the other day. We told you that you cannot sack a man. You have got to take him to a disciplinary inquiry where somebody else says that he must not be sacked". "That case was not in the Ministry of Defence". The Nominated Member continued: "No, I know; I am merely saying that it is applied throughout. It is part of the

Government system, is it not? It is timely while we have got some breath to think about this problem". Mr. Magor replied again: "Yes, Sir, well we will, I agree with him".

At this point the Chairman came in and he said: "I think, in the light of your previous experience as a result of the Emergency, you are giving these matters thought in case there should be a recurrence, are you not?" The reply was: "Well, we will, Sir".

Now, I do hope, Sir, that when the Government deal with this debate we will hear something of their attitude to this and what they are doing with the understanding, at least, that we heard from the representative of the Ministry of Defence, that Government would have a good look at producing now, whilst we are at relative ease, an Emergency system of accounting that is there is pulled out of a pigeon-hole and which is capable of being worked in Emergency conditions. I believe, Sir, that much of what we have listened to in the Public Accounts Committee, or the deficiencies about which we had to listen, was because of a system—doubtless a very good peacetime system—which was quite incapable of operation in Emergency conditions.

I turn now, Sir, to another aspect which was dealt with in the evidence, but which has not come out clearly in the various recommendations, although in our minutes there was a suggestion about it. I would like to quote the minute it came in the minutes of 31st May, concerning suggestions regarding a suitable paragraph for the report of the committee on the accounts under review. Paragraph (f) said this, and I quote: "It was felt that the time had come to move into a situation where the financial audit was supplemented by a management audit to be handled through the Public Accounts Committee".

Now, to deal with this, Mr. Deputy Speaker, I have to turn backwards to HANSAID, to May and June of this year. Firstly, on 22nd May, I would like to read what was said by the Minister of Finance and Development on page 182, and I quote: "The responsibility for the day-to-day administration of any Ministry rests upon the Minister and

[Mr. Alexander] the accounting officer concerned, and they can quite rightly be called on to account for it by the Legislative Council and by the Public Accounts Committee. If there is waste and inefficiency; but the control of that administration must remain with the Minister responsible. The Organization and Method reports are submitted to him and it is for him to say what action should be taken—not indeed for the Treasury or for anybody else: it is the responsibility of the Minister concerned and it is right, as it is his responsibility, that he should be enabled to carry it out without reference.

Then, I turn to what the Chief Secretary had to say on 21st May. On page 174 of HANSARD, and I quote from the Chief Secretary: "I would, however, repeat for the benefit of those hon. Members who have made recommendations for unofficial scrutiny of the reports of the Organization and Methods Team, that this would be as inappropriate as it would be to establish an unofficial committee, to advise on the inefficiency or otherwise of individual officers. We clearly cannot introduce a committee composed of political members to examine and check the administrative arrangements of any Government, nevertheless the Government is aware of the interest which is felt and considers that means should be found to help hon. Members opposite to acquaint themselves as fully as reasonably can be expected with the operations of the Government machine. My hon. friend, the Mover, and myself will be happy to discuss this and see how it can best be done". So far as I am aware, we have heard no more of that offer of discussion, unless, of course, the hon. Mover of this Motion, when he replies, is able to enlighten us.

Then I turn—on this subject—to 21st June when some casual remarks were made, firstly by the Secretary to the Treasury, and he said, and I quote: "Management audit, which, as far as I can make out, is a new-fangled name which somebody has made up for what any efficient management should be doing all the time". I can assure the Secretary to the Treasury that this is no new-fangled name, it was something which existed when he and I were at

school. Then the Chief Secretary came into this with a short remark, he had this to say, I quote: "If the hon. Member for Nairobi West requires reassurance that the Government will continue to make certain to the best of its ability that the right man is in the right job, the answer is: 'Yes, it will'. As for the audit of human effort, it sounds to me like a lot of twentieth-century hokum". I can also assure the Chief Secretary, as I have just assured the Secretary to the Treasury, that there is nothing very twentieth century about it.

I now return to the report of the Public Accounts Committee, and I quote from something I said on this subject: "What worries me at the moment is trying to get back to this link with audit. Audit go in, find a serious state of affairs; they have taken it as far as they can, and at the moment the answer they have is that the staff is inefficient, or that the staff is inadequate, as we have heard practically every day for the last six days. Somebody has got to go in quickly at that point. Audit cannot do it, it is not their job, they are doing a financial audit. Someone has got to go in quickly to prove what is right and what is wrong". This is the answer I got: "To take that particular example, Sir, that is where Organization and Methods would probably not go into it, for the very reason that you have given—speed. They are not people who can work quickly, from the very nature of their job. But in any case there is far too much work for them to do. In fact, reports do come through, may be from the Audit Department, may be from the accounting officer, at any rate the Audit Department will have been consulted at some stage. These reports come through to the Treasury and the Treasury itself will want to know what steps have been taken to remedy matters. Those classes of cases usually come to my office and the primary reason for their coming to my office at all is to find out what has been done to stop defects. Now, the detailed examination of what has been done to stop the defects will rest with accounting officer and his organization with his chief accountant, but Audit have to be told what has been done to remedy the error". My question: "And who follows up the Organization and Methods? Who backs them up?" The answer: "Their reports

[Mr. Alexander] come to the Treasury and also to the accounting officer. It means, therefore, that the Treasury follow them up". I questioned again: "Is there not need for some committee like this: Public Accounts Committee to back Organization and Methods?" Answer: "I cannot see why there should be, Sir, it is part of ordinary day-to-day organization of Government".

Then I turn over to the next page and I questioned this: "Could I ask, if there is need for financial audit to come to a committee, is there not the same need for management audit to come to the same sort of committee?" Answer: "One is the audit of money and the other is the audit of human effort, both equally important. Our view, of course, has always been that we are very glad to have the Public Accounts Committee to hold the authority and see that steps are taken to rectify errors which we bring to their notice". That was the Auditor-General's reply, he was very pleased to have the Public Accounts Committee to deal with his work.

Here again that breezy Nominated Member from the sea came on to the scene again, and this is what he had to say, "What Mr. Alexander says is very pertinent indeed, it is exactly what I feel, that we want to look into the financial side of these questions, but the organization and managerial side is so tied up with the financial side that evidently one leads to the other. As the Auditor-General has just said, he is very glad to have us here because we get on to the track of things. I want to make one specific example. We are on to the track of the police in that they had a mess running for some time and this question has come up several times with regard to the overspending on this mess. However, the Public Accounts Committee only gets a whack at it once a year. I see that you raised the question of this mess in your report last year, nothing has happened for 12 months. When you ask exactly the same questions you find exactly the same state of affairs. We are told: 'We are extremely sorry but we have appointed a Commission of Inquiry. We have not had time to get it working yet but it will come along in due course'. Then they say, 'Next year due course'. Then they say, 'Next year you will hear a bit more about it'. The

Public Accounts Committee is not sitting all the time, it will sit again next year and hear a little more about the mess. We will be put off for another 12 months. Arising out of what Mr. Alexander and the auditor says, it appears to me that we want to be able to put the ferrets in ourselves. If we could get hold of this Organization and Methods Team and send for them now and say: 'Look here, there is something here, we smell an awful rat about this police mess. You go in and investigate. You be our executive officer and go and delve into this irrespective of this Commission of Inquiry and ferret out this rat that is lurking in the corner and come and tell us about it'. That is where I tie up with Mr. Alexander in a very obscure way. But I feel we just sit here making inquiries and we send it back and it does not seem to be anybody's particular pigeon to ferret out the rat".

Then, later on, I had this to say: "Let us get this perfectly right, Mr. Chairman, the use that we are to the Auditor-General is that we are a body straight off the floor of Legislative Council to give him, wherever it may be necessary, the backing that he needs in the questions that he has raised; that is what we have been doing for the past five days. Now, to say that the Estimates Committee is, as it were, the Public Accounts Committee of management audit is a contention I could not accept, because as the Estimates Committee, surely, you do not have anybody like the Auditor-General reporting to you, having made a thorough examination, as to whether they think there are weaknesses. Surely the Estimates Committee listens to the justification for expenditure put into the Estimates, they have not got the advantage of—and we have identified audit with Organization and Methods—objective reports from those people on which to assess their conclusions. . . . If there is a need for a Public Accounts Committee to back your Auditor-General on his money audit, is there not the same need for a similar sort of committee, or the same committee, to back Organization and Methods, or management audit as I prefer to call it? We have been told that Organization report to the Treasury, the Treasury send a copy to the accounting officer, then I imagine starts an argument between the particular Ministry and the

[Mr. Alexander] Treasury on the merits or the contentions of Organization and Methods, Organization and Methods says to the Treasury: 'That Ministry does not need those two typists', the Ministry come back and argue with the Treasury. Where is the overall body, who comes in and says after all this argument: 'You do that— get on with it?'

Finally, the Member for the East Electoral Area made his contribution in this, when he said, and I quote: "We have nobody to lead us, if we are guided then we will be in a position to put up the right report. We may be wrong in talking of the organization's shortcomings. If we had somebody to advise and guide us and tell us where the shortcomings of the organization are, then our report would be absolutely complete".

In all that, Mr. Deputy Speaker, I think it is true to say that hon. Members will sense that many unofficial members of this Committee were conscious of the same shortcomings in what we were trying to do so far as getting to the bottom of human inefficiencies is concerned, and I am sure I may be excused if I now turn to some real authority on this because I have found that, particularly when dealing with the Treasury Members on the other side, they do like to have the real word and not the word of insignificant back benchers from over here. This is what Basil Chubb has to say. Now he has been quoted in this Council and I am told he is acknowledged not only in this Council but in the "Mother of Parliaments". He has this to say—I turn first of all to the conclusions in this book of his, which is well known to Members entitled *The Control of Public Expenditure*. My first quotation is as follows:—

"The functions of the Public Accounts Committee are clear, the Committee itself is but one link in a closely integrated chain of investigation and control. It does not conduct its own preliminary research for it is not competent to do so."

Then he goes on:—

"If history and analysis bear witness to the success of the Public Accounts Committee, they show equally its limited field of action. They

show too that its limitations are inevitable and are indeed conditions of its success. A division of the field into an accounting control and some other control is inevitable. The story of the attempt to devise these other methods of control is more chequered. As it became apparent that an accounting control did not necessarily prevent waste of public money, or ensure value for outlay, a serious attempt was made to go farther and to control regions where hitherto Parliament had been unable to tread. The story of the Estimates and expenditure Committee is, therefore, the story of the House of Commons' efforts to extend its control. A successful accounting control had been the first stage, but it revealed further needs and possibilities in the field of economy as the age of spending succeeded the Gladstonian era, a new attempt was bound to be in the direction of ensuring that twenty shillings worth was obtained for every pound spent and that no more pounds were spent than were necessary to attain agreed objectives. It was thus an attack on waste and inefficiency and on the old belief that the business of Government could not, by its very nature, be carried on cheaply. It implied trying to find out first to what extent and where waste and inefficiency occurred and, second, what were the causes and how they could be eradicated.

Time and experience showed that though financial records may reveal the existence of such waste, money figures are but a reflection of the conduct of business and a way of expressing the use of men and materials. Further, they are only one method of expression and a control via accounts is only one method of control and that is inadequate. Other forms of records could be devised and ought to be used and other methods of ensuring value and eradicating waste seem necessary."

3.00 p.m.

What, in fact, happened, Mr. Deputy Speaker, was that the great and renowned Sir Gilbert Campion himself put up proposals to the Select Committee on

[Mr. Alexander] Procedure and this is what Chubb has to say about it:—

"In the course of its inquiries the Select Committee on Procedure of 1945/46 had occasion to examine the whole subject of control of expenditure. The proposals it considered and the witnesses it heard represented the best instructed opinion that was available and this study would not be complete without a careful consideration of the important recommendations it made for a public expenditure committee to include and supersede the existing bodies:

It was natural that the Procedure Committee should examine the problems of expenditure control, for they fell within its terms of reference, but they were, in fact, thrust directly on members since the comprehensive scheme for reform of parliamentary procedure put forward by the then Clerk of the House and on which they based their inquiries, contained important comments and proposals on this subject. The criticisms Sir Gilbert Campion made and the conclusions he drew impressed the Committee and it accepted his plan for combining the functions of the Public Accounts Committee and the Estimates Committee in a new body. This project was, however, strongly attacked by some important witnesses before the Committee, including the Government spokesman, and in the subsequent debate on the report in the House, Mr. Morrison stoutly rejected it."

What Chubb has to say about Sir Herbert Morrison is summed up in these words: I quote:—

"The fears expressed by Mr. Morrison, and these are some of the sort of fears that I think our Chief Secretary tries to express to us, of 'trained clerks looking for trouble and ferreting out things', let alone of 'another rival administrative set-up in the Palace of Westminster' were, so far as can be judged, quite unwarranted."

Chubb goes on to say on page 229:—

"Sir Gilbert Campion's proposals were contained in a written memorandum submitted to the Committee. They represented not solely his own

views, but were the work of himself and of the principle officers of his department. Hence they incorporated the opinions of the clerks who served the financial committees and who alone knew intimately the day-to-day working of the system. These proposals were also backed by memoranda and evidence from Sir John Wardlaw-Milne and Captain C. R. P. Diver, both of whom had been connected with the National Expenditure Committee, the one as chairman, the other as clerk.

The case put forward by the Clerk of the House and his supporters was rooted firmly in experience. Their knowledge and observation of the system led them to four main conclusions. First, the examination and control of expenditure by the Accounts and Estimates Committees were incomplete and unsatisfactory. Second, the functions and organization of the wartime National Expenditure Committee ought to be retained. Third, the functions of the Accounts Committee and those of Estimates or Expenditure Committees overlap, for these Committees may do work in the same field. Fourth, methods of liaison between committees have been unsuccessful in the past and no system based on separate committees can avoid cases of duplicated work and consequent friction. A more complete and unified system is necessary. They therefore proposed a 'Public Expenditure Committee' to cover the whole field more adequately and efficiently. It was to be organized in a manner resembling that of the wartime Expenditure Committee."

Chubb also has this to say, and I quote:—

"A control based on financial audit requires different machinery, techniques, personnel and criteria from a general review of government action with an eye to economy or any possible expert efficiency audit."

Finally he does say:—

"The criticisms made by Sir Gilbert Campion and his supporters demand further attention."

I am certain in my own mind, reading the story of Sir Gilbert Campion's proposals, that they lost their way in the

[Mr. Alexander]

establish of political personalities and I doubt very much whether they were ever really judged on their merits. I do suggest, Mr. Deputy Speaker, that we have the opportunity in this Council of taking advantage of that very great experience, and although I know the Chief Secretary may think this is twentieth century jargon, I do hope that with this weight of evidence to help him he will give this matter his very serious consideration.

Surely we know that financial auditing is conducted upon certain definite principles and rules, and if it can be shown that principles and rules can also be agreed for what is recognized as sound management, then surely there should be a case for the establishment of an annual review of management or administration. If this can be done, and I believe it can be done if there is an earnest attempt to approach it properly, it will be a step of immense and far-reaching value that will have been taken towards efficient management.

I know that the attitude of the moment of Government is that this question of personnel efficiency is a matter of ministerial responsibility, but what I find difficult to understand is that they are prepared to accept the principle of financial audit and all that it implies and are not prepared to accept what I loosely term the audit of human effort. We have got it in this report on page (ii) where it talks about the implications of financial audit. I quote: "Investigating into potential extravagance, controlling the use of Government transport, examination of contracts, rationing systems in hospitals, schools, prisons, etc., examination of records of materials issued for works as to their quantity and their cost after issue".

In other words, they are prepared to accept that when money is spent on these sort of items, stores, materials and so on, that the financial audit can go into those, but when it implies human effort, organization and administration—no, that is ministerial responsibility. I know that financial audit does, at times, find out inefficiencies in human effort, but it is incidental. Mr. Deputy Speaker, because it is not part of the technique of financial audit. This management audit or efficiency audit has a technique all of

its own and I do not mind how Government do it providing they embark upon it either by bringing the Organization and Methods under the Controller and Auditor-General, or by including on his staff people with competency in the appropriate technique, and I do ask the Government to believe me when I say that it is a different technique from straightforward financial audit.

Finally Mr. Deputy Speaker, I would like to turn just to one short sentence which appears on page (iii) of the report where it says, and I quote: "We would also suggest that if the Controller and Auditor-General thinks it necessary, he should not hesitate, in a case of sufficient importance, to make a special interim report to the committee", and I do hope that the Auditor-General is taking those words most seriously and that he will come to us in cases of urgency where he needs immediate backing in matters that are extremely serious. I believe he could have done this in the case of the audit inquiries relating to the police mess that we all know have become such an unfortunate story in this report. There is an example where perhaps if he had come to us soon enough to say: "Look, I am not getting the answer, and I am not getting the support I want, and I ask the Public Accounts Committee to step on to the scene" we could have improved the situation. I hope that when there are other cases like this, that the Auditor-General, with the full backing of the Government, will call in the Public Accounts Committee without delay.

Mr. Deputy Speaker, I beg to support.

Mr. Mackenzie: Mr. Deputy Speaker, Sir, I would like first of all to pay a tribute to the work that is done by the Public Accounts Committee. I have said before that I regard this committee as one of the best friends of the Treasury, and therefore of the taxpayer, in that it ensures that everything possible will be done to avoid any misuse or waste of the taxpayer's money. It is very right and proper that there should be a very high standard expected of those who deal with public money. When a man is dealing with his own money in a business or when a board of directors are dealing with shareholders' money, if they lose money, if things go wrong, the remedy is semi-automatic in that the people concerned lose their money.

[Mr. Mackenzie]

Where the public is concerned, losses can be made good by raising additional taxation and very often they have to be made good because the money is needed to provide services which the public require. But in these circumstances it is all the more important that there should be the very highest standards of propriety, and it is for that reason that every government has an audit service which undertakes a very comprehensive review of the government's financial transactions. The members of the audit service spend a great deal of time in each Government department; they get to know what is going on, they pick up errors that have been made and, as a result of that, they draw attention to faults in procedure which need to be repaired.

They also—and here I touch on a point that was mentioned by the Member for Nairobi West—see where there are weaknesses in the Government machine which are due to human failings, and the reports that are produced will let the Government know that this is so. When, Sir, however, the reports have been received there are two ways in which they are dealt with. One thing that happens is that they come before the Public Accounts Committee, and then accounting officers are summoned to give an account of themselves and to let the Committee know what they are doing to ensure that the same kind of mistake does not happen again. And I would emphasize, Sir, that that is probably the most important of the functions—to ensure that, where things have been going wrong, they are being put right. That, Sir, is very much more important than any kind of witch hunt, which it would be contrary to all the traditions of the Committee. The Public Accounts Committee has never conducted any kind of 'witch' 'hunt', and I am quite sure that my hon. friend, the Chairman of the Public Accounts Committee, would join with me in deploring any need to do so. The Committee has always regarded, and does regard its primary purpose as seeing that, where there are pieces of machinery that are places or pieces of machinery that are not working properly, they are put right. And so far as dealing with people who have made errors in the past is con-

cerned, that is a question which has been, and, I think, very rightly, left with the Government to deal with.

Now, Sir, it has been suggested that the Government needs some 'ginger group' to come along and make sure that it is doing everything possible to ensure that there is efficiency. I would, Sir, like to say that it is, of course, quite wrong to imagine that when inefficiencies arise the members of the Government themselves are not extremely anxious to put them right; and I think, Sir, that everything that we on this side of Council can do to rectify errors and to ensure that the organization is as good as possible is done.

I would like to come back to the question of management audit, as I believe it is called, shortly. First, however, I would like to deal with one or two points that were made by my hon. friend, the Mover of the Motion. One of his first points was that this report which we have with us draws attention to the fact that although in some directions there have been improvements errors still occur and, unfortunately, a good many of the errors are repetitions of errors which have come up before. Well, Sir, all I can say in answer to that is that I am sure, and I certainly hope, that all people who have any responsibility, who are dealing with Government financial business, have heard what my hon. friend said; and that they will do their best, and all of us will do our best, to eradicate these errors.

What I am sure my hon. friend would not expect me to attempt to say is that we will eradicate every error. It would be quite impossible for human beings to do so and, in fact, if we ever reached that ideal state, not only would there be no need for auditors or public accounts committees, but I do not think there would be any need for government itself. The only place in which errors are unlikely to occur would be a dead world.

As regards the types of audit, I would like to assure my hon. friend that I understand that although audit reports are produced, rather than separate queries, everything possible is done to break them down so that they can easily be sent to the people who know about them, and so that there is not undue delay. Certainly, we recognize, and of

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cerned, that is a question which has been, and, I think, very rightly, left with the Government to deal with.

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[Mr. Mackenzie] course, the Controller and Auditor-General himself recognizes the importance of dealing with questions of this kind as soon as possible.

There is also the point, as I said before, that although reports to the committee only tend to come in annually; the errors are brought to the notice of Government as soon as they are discovered and the responsible people in the Government, I think I can say, do their very best to see that the matter is put right, to investigate it and see that it is put right as quickly as possible. Some things slip through the net and I suppose that is inevitable, but I do give the Council an assurance, Sir, that everything is done to keep these occurrences to a minimum.

As regards internal audit, which was another point that my hon. friend mentioned, I can say that instructions have been issued that the internal auditors should in all circumstances have the right of direct access to the accounting officer for their department. Naturally, they work in close touch with the Accounts Branch, since, of course, the whole point of internal audit is to make sure as far as possible that errors do not occur, and if they occur, to see that they are put right. But all internal auditors have a right of direct access to accounting officers, and I am quite sure that if necessary they would not hesitate to use that right.

As regards Financial Orders, I am glad to be able to say that the new edition of Financial Orders is now in the process of being printed, and I hope that it will be issued in the very near future. There is, Sir, however, one point I would like to make here about Financial Orders, and that is that whilst the new ones have been in the course of being prepared there have been the existing Orders, and of course there are Colonial Regulations, and above all, Sir—and I think this is fundamental in all questions of dealing with public finance—there is common sense. The main principle of dealing with public money, of controlling public money, is very little more than sheer applied common sense. It is a question of finding out how much money has been authorized for expenditure for any particular purpose.

That is something which can be ascertained quite easily; it is passed down from this Council through the Treasury to the Ministers, and there is, generally speaking, a well laid out trail of authority which can be followed. If that trail is followed, there should not be very many errors in dealing with the matters of public finance. There is, in fact, nothing particularly difficult in keeping Government accounts, and that, Sir, is partly the answer to what my hon. friend, the Member for Nairobi West, said about Emergency accounting; that Government accounting is the simplest method: it is that of the penny cash book. There have, I know, often been suggestions that other methods could be tried, that governments might turn over to methods more resembling those in use in commerce. But it is not very long ago that a very high-powered committee in the United Kingdom examined this question and came to the conclusion that, for the purposes that Government accounting has to serve—that is, the purpose of ensuring that the moneys voted by Parliament are spent for those purposes for which Parliament intended them to be spent—the Government system does, in fact, serve its purpose extremely well.

3.57 p.m.

[Mr. Deputy Speaker (Mr. Conroy) left the Chair]

[Mr. Speaker (Sir Ferdinand Caverhill-Bentlck) took the Chair]

Now, Sir, I would like to deal with what my hon. friend, the Member for Nairobi West, called "the human side of management, or management audit". He did mention that some time ago, speaking in this Council, I said that this was a new-fangled idea, and he corrected me and said that it was not a new-fangled idea, that it had been going on when we were at school and long before that. I would like to point out that what I said on that occasion was that it was a new-fangled name for an old idea, that management audit was not something new and that, in fact, it is something the Government has had very much in mind and still has very much in mind.

As my hon. friend pointed out in his speech, one of the main objects of financial audit is to eliminate waste; and waste

[Mr. Mackenzie] is done he has got to accept executive responsibility, and if that happens there can be no question that he will not have nearly the same freedom to criticize that he has at present. Equally, though, Sir, if the Controller and Auditor-General is not to be saddled with these executive functions, it is essential that the Government, the Executive, should have weapons to deal with deficiencies of organization. For that reason we have set up the Organization and Methods section, and we have the staff inspection side of the Establishments Division; it is their function to help the Government to find solutions to organizational problems. It is obvious that this must be the case; the Government must govern. If a Minister is responsible for a department he must be responsible, and he must be able to turn to someone and ask for his assistance in putting things right if he is told that they are wrong. We cannot have a situation arising in which a Minister, shall we say, wants to put the Organization and Methods section on to something which he thinks is wrong in his Ministry but where the Controller and Auditor-General might prefer to use them on something quite different. That would not be a satisfactory situation. Since the Government is very anxious to remedy any faults that may arise, I think, as I have said already, it is important that they should be able to rely on the Organization and Methods people and their advisers who have been provided for this purpose.

There are many errors which are brought to notice in the accounts which could only have arisen from bad management or from having the wrong kind of man in the wrong kind of place, and where an error of that kind is noticed the auditors do not have the slightest hesitation in bringing it to the notice of the accounting officer concerned and the Treasury; and everything possible is done to put things right. This will continue. But, Sir, the Controller and Auditor-General does not dictate what shall be the functions and methods of management; his role is one of criticism and it is his duty to bring errors and deficiencies to light, but he is not responsible for the remedy. That is the function of the Executive, of the Government; and in so far as errors in any particular Ministry are concerned it is the function of those in charge of that Ministry.

I think, Sir, that it would be entirely wrong to inhibit the Controller and Auditor-General in his critical function by saddling him with the responsibility for saying what should be done to put the management right. The moment that

is done he has got to accept executive responsibility, and if that happens there can be no question that he will not have nearly the same freedom to criticize that he has at present. Equally, though, Sir, if the Controller and Auditor-General is not to be saddled with these executive functions, it is essential that the Government, the Executive, should have weapons to deal with deficiencies of organization. For that reason we have set up the Organization and Methods section, and we have the staff inspection side of the Establishments Division; it is their function to help the Government to find solutions to organizational problems. It is obvious that this must be the case; the Government must govern. If a Minister is responsible for a department he must be responsible, and he must be able to turn to someone and ask for his assistance in putting things right if he is told that they are wrong. We cannot have a situation arising in which a Minister, shall we say, wants to put the Organization and Methods section on to something which he thinks is wrong in his Ministry but where the Controller and Auditor-General might prefer to use them on something quite different. That would not be a satisfactory situation. Since the Government is very anxious to remedy any faults that may arise, I think, as I have said already, it is important that they should be able to rely on the Organization and Methods people and their advisers who have been provided for this purpose.

Regarding the actual details of the report, these—as my hon. friends on both sides of the Council know—will be dealt with in the Treasury Memorandum which will be presented at the first meeting of the Public Accounts Committee. It would not be appropriate for me to attempt now to anticipate the contents of that memorandum, and I do not think that any of my hon. friends opposite would expect Members of this side of the Council to attempt to deal in debate with any of the points contained in the report which very often involve questions of technique and administrative detail. Those, I think, are matters which are much better dealt with at leisure in the Treasury Memorandum which is compiled with the guidance of the accounting officers of the Ministries concerned. As I say, that is what will

[Mr. Mackenzie] happen this year, and what has happened in the past.

There is one final point I would like to deal with, and that is the delay, to which reference has occasionally been made, between the presentation of the Audit Report, and even more between the date on which the events referred to in that report took place and the time when the Report of the Public Accounts Committee comes before this Council. To a very great extent, of course, the timing is inevitable. The accounts necessarily refer to an accounting period, and that accounting period is the financial year. Although it has been suggested that interim reports could be provided I am quite sure that it would be impossible from the point of view of the committee to have to be continuously deluged with 30 or 40 interim reports every month, as could well happen. The only result of that would be that in fact the committee would be dealing with audit queries instead of, as does happen, dealing with general principles.

As I say, Sir, the accounts refer to the accounting period. The accounts have to be with the auditor within four months of the end of the financial year. They then have to be actually with the auditor and he writes his report and as soon as possible that is presented to the committee; and then, of course, the committee has to meet, take evidence and write its report which is eventually printed and brought to this Council. But that is quite natural, when one considers all those things will have to be done, that it will take time. But, Sir, I do not think that that delay is an unduly serious matter because I think that the primary function, both of the Audit Report and of the committee's work, is to draw attention to serious weaknesses in the Government's financial structure, and I would add in passing that I personally believe that weaknesses in financial structure should always be looked at very carefully, because they do tend to suggest, if there is a weakness in finances, there may be a weakness elsewhere. For that reason it is important that these weaknesses should be looked at very carefully. I think that can best be done in studying case histories of what has gone wrong in the past. That, Sir, is precisely what the committee does, and the result

is that they bring in recommendations and the Government always takes the very greatest notice of those recommendations. We welcome them.

In closing, Sir, I would like once more to say how much we appreciate the very valuable work of the committee, and in particular the work of my hon. friend the Mover of this Motion.

I beg to support, Sir,

THE CHIEF SECRETARY (Mr. Turnbull): Mr. Speaker, Sir, the only point I wish to refer to in this debate is the apprehensions that have been expressed as to the immovability of the incompetent civil servant. Sir, I am aware that it is commonly said that it is very often almost impossible to remove a civil servant who does not measure up to his responsibilities; he is either kicked upstairs, or is pensioned off, or transferred to another department—to another ministry? I think was the expression.

Well, Sir, this is not so. But there is enough in what has been said about this matter, by the hon. Mover, and by the hon. Member for Nairobi West to call, I think, for an explanation as to what line the Government does take with civil servants who are unsatisfactory or inefficient. Let me admit right away that it is much more difficult to get rid of a civil servant from the Government than it would be to sack a counter attendant at a sweetshop. The reason is that the Government organization is a very large one, the machinery is elaborate, and it is most important to ensure that justice is done to the civil servant, that he has a proper occasion for stating his case, and that the Government is able to satisfy itself that the man is not the victim of the size of the machine or of the length of the chain of command.

I went into this matter, Sir, about a year ago in some detail for it came to my notice that many senior officers of the Government, and quite a number of heads of departments, were themselves not quite certain as to how they should proceed to get rid of the inefficient and the unsatisfactory officer. After examining their difficulties I drew up what I might call a "child's guide" to sacking the incompetent civil servant. This "child's guide" lays down the technique which must be followed to get rid of the

[The Chief Secretary]: It is often rather a slow technique and it does require rather patient following; but I can assure you, Sir, that if my technique is followed patiently and as directed on the bottle, it is invariably successful.

MR. HARRIS: If they do not die of old age first!

THE CHIEF SECRETARY (Mr. Turnbull): The technique which one applies obviously has to vary according to the man who is on a permanent appointment, and the man who is serving on probation and hopes to be confirmed require one kind of handling; the man who is guilty of an offence against a code of regulations requires another, and the man who is to be compulsorily retired in the public interest requires a third, and that is a difficult technique, because the public interest is not very easy to define.

In my "child's guide" I said: "The public interest is served by the removal from the service of an officer who, although he has committed no offence meriting dismissal, is generally inefficient or exhibits defects of character or temperament or unsuitability, rendering his retention in the service inadvisable." Previously I had said: "The public service is not served by allowing an indifferent officer to remain in the service long after he should have been got rid of, and by making a belated attempt to restore the position by imposing some negligible cut in his retiring benefits. The service is not recompensed for the idleness and incompetence to which it has been exposed, and the officer concerned thinks he is being unfairly treated."

I think you will agree, Sir, that the Government has not been remiss in this matter and that the Public Accounts Committee will, themselves find that when this particular position finds its mark, they will have less grounds for complaint in this direction.

MRS. SHAW: Mr. Speaker, Sir, I rise to support the Motion and to congratulate the hon. Mover on bringing this very serious matter to the attention of Council. The Mover, I think, rightly assumes that most hon. Members have read the report for, as it is a Committee of the whole Council, it is their duty to do so. But, Sir, the reports do tend to

fall on the heads of Members of this Council like manna from heaven. I can remember once when I newly joined this Council, viewing my pigeon-hole with dismay and asking the hon. Member for the Aberdear: "Do you read all these reports?" and I can remember, too, his very comforting reply. He said, "Good gracious, no; I read those that interest me, and hope to heaven that the others interest somebody else!"

So, Sir, I think the hon. Mover was right to underline the findings of the report just in case there was one hon. Member who has not had time, through pressure of work, to read its findings; and very disturbing they were; so disturbing, Sir, that I venture to suggest that they caused a slight ripple on the surface of complacency of the hon. gentleman opposite. The hon. Mover is an example, I think, to all chalmers, because he does take his duties extremely seriously and is not the least deterred by their difficulties. It takes courage to criticize, and as someone once said, "Criticism is the searchlight which illuminates the faults of those who are trying to avoid its beam by saying nothing, doing nothing, and sometimes being nothing". So year after year the hon. Member wags his fingers at the Benches opposite and turns his searchlight on the unfortunate facts revealed by the report of this committee.

The hon. Seconder, too, Sir, I think deserves praise for his courage in criticizing the attitude of some heads of departments towards the findings of the committee and sometimes towards the hapless juniors. He said some pretty hard things, Sir, and although the delightfully jaunty manner in which they were said made them more palliative, for the breeze from the quarterdeck acts as a breath of fresh air on the Council, yet, Sir, they are on record, and I hope that the Government will take them to heart. For this side of Council, we want an explanation and we want the truth. I have heard some cynic say, "You must take your choice; you cannot have both", but I would, Sir, venture to suggest that we are entitled to both in this case.

I beg to support.

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

4.25 p.m.

LT.-COL. GHERSIE: Well, Sir, there is not a great deal that I have to reply to, because a number of the recommendations contained in our report refer to quite a number of Ministers who have not taken the opportunity of answering, either what one might term accusations as contained in the report; or even what they think of our particular recommendations. I do not need to mention the actual Ministers by name, Sir, but it is quite obvious to all hon. Members who they are in particular, as they are very noticeable by their absence.

Sir, there is one correction I would like to make, and it is not that I need to correct anything I have said; but in Thursday's *East African Standard* it was stated, Sir, that I made a reference to the Controller and Auditor-General and that his staff had been reduced from seven to one. Well, Sir, perhaps it was quite easy to misunderstand a statement like that, in view of the various departments I was referring to; but actually that reference was made to the Inland Revenue Department. I was quoting what Mr. Wedderpoon had said; he was at one time, at least up until June of this year, responsible for this Department and his defence he pointed out how his staff had been reduced to that extent, but it was misunderstood by the representative of the *East African Standard*, who referred to the Controller and Auditor-General. I would like to make that, perfectly clear, because it would be a very sorry state if the Controller and Auditor-General only had one staff left to deal with this enormous Government machine.

My hon. friend, the Member for Nairobi West, paid particular attention to the suggestion of a management audit, and suggested that this might function either in conjunction with the Controller and Auditor-General or under the Public Accounts Committee. He also drew attention to the fact that although recommendations appeared in our minutes, it was not included in the report as a recommendation.

Well, Sir, I must take full responsibility for that because the report, I suppose, emanated from me, although it was naturally circulated to members of the Public Accounts Committee for their

comments and any suggestions or anything they may require to have included, which, naturally, I or the committee would have considered.

But one reason why, Sir, it was left out was that I felt and I think the Public Accounts Committee feels, that at this stage, this particular suggestion of a management audit—although it has very great merit in it, Sir—is perhaps outside the terms of reference of the Public Accounts Committee as such, our terms of reference being, of course, Sir, to examine the accounts of the Colony, the appropriation accounts of the Colony and, of course, the audit report. But I entirely agree with my hon. friend; I do think there is a great deal of merit in the suggestion of a management audit, and I hope that it is a matter that the Treasury, quite apart from what they have said in regard to the Organization and Methods Team—I mean, I stand to be corrected, but I think the Organization and Methods Team has a very small complement of staff, and I do not see that they can really carry out their duties effectively (I will not say efficiently, I am not suggesting that they would not do them efficiently), but effectively, when one considers the number of departments that is involved in Government, I do suggest that it is very worthy of consideration by Government.

I would also like to correct what was possibly a misunderstanding and it was referred to by two hon. Members. We may endeavour to protect the public purse, but we can only ensure, as far as possible, that funds are spent or expended on projects as laid down by Legislative Council. Our first information, Sir, as everyone knows, reaches us from the Controller and Auditor-General; and it is after that that we investigate and endeavour to arrive at the reasons why errors took place, or the cause of lack of proper financial control. It is our duty, I think, I am sure it is our particular function in fact, to endeavour to put forward recommendations which will, as far as possible, ensure that there is no repetition of those errors. But we are not in a position to prevent their occurring.

One other point, referring to my hon. friend, the Secretary to the Treasury, when he referred again to the Organization and Methods Team as being the

[Lt.-Col. Gherisie.] correct body to carry out the management audit. I think he also referred to the question of an annual review. Well, I have the hon. Member's words here—I think the hon. Member did say, Sir, that he thought that the management audit should be conducted through the Organization and Methods Team (or they may be the people to undertake the work) he thought it would be a very good idea that there should be an annual review as far as the staff of the various departments were concerned. Well, I can see the hon. Member frowning so perhaps I misunderstood him—but I thought that was what he said. What I was going to say to that was that, of course, it would be quite useless to have an annual review: there must be a continual examination if it is to be in any way effective: Do you want me to give way—you seem rather worried?

MR. MACKENZIE: I do not remember, Sir, having said anything about an annual review; but there is most certainly a continuous examination by Audit.

LT.-COL. GHERSIE: Thank you, Sir; I was not referring to the Audit Department. I was referring to the Organization and Methods Team.

Now, Sir, my hon. friend, the Secretary to the Treasury, also pointed out that the internal auditors had direct access to their accounting officers. That is as it should be, of course. But what we also suggest is that the information made available to the accounting officer should also be made available to the Controller and Auditor-General.

MR. MACKENZIE: I would like to assure the hon. gentleman, Sir, that that is so.

LT.-COL. GHERSIE: I wonder if I am to understand, Sir, that the actual report of the internal auditor which is made available to his accounting officer is also made available to the Controller and Auditor-General.

MR. MACKENZIE: Yes, Sir, all files in any department are available to the Controller and Auditor-General and naturally he would look first for the internal audit reports.

LT.-COL. GHERSIE: Mr. Speaker, Sir, as I understand it, they are available. But there is a very big difference between being available and being made avail-

able. If you understand the distinction. In other words, I submit that they should be furnished to the Controller and Auditor-General, not just that they are available if he wishes to make use of them.

Well, Sir, my hon. friend also made reference to the audit reports which have now superseded audit queries, and that Government took action on these immediately they were made aware that queries had arisen; and he did not think it was very desirable that the Public Accounts Committee should be bothered with meetings—I think he mentioned actually once a month—there was no suggestion of that.

MR. MACKENZIE: What I said, Sir, was that I was sure that the Public Accounts Committee would not wish to deal with 60 queries a month.

LT.-COL. GHERSIE: No, Sir, I am afraid my hon. friend completely misunderstood what I was driving at and what I actually said in my speech when moving this Motion in the first instance. What we said was—and it is in the report—that in a case of sufficient importance the Controller and Auditor-General should not hesitate, not hesitate to furnish an interim report to the Public Accounts Committee. You see, Sir, if you examine even this report which was tabled on 8th October, there are definite instances where literally no action has been taken whatsoever on very serious matters.

Therefore, to suggest that an audit report, an audit query goes to the Government, and they deal with the matter immediately would not appear to be the case. I submit that in a case such as (the hon. Member knows exactly what I have in mind—I do not intend to read the report and quote them again)—I submit that the Controller and Auditor-General should immediately bring the fact to the notice of the Public Accounts Committee so that we, either by representation to the senior officers in Government, or through Legislative Council, may see that the recommendations we have made, or the inquiries, as the case may be, are acted upon expeditiously instead of allowing matters to drag on as they do for possibly two or three years.

MR. ALEXANDER: Quite right.



LT.-COL. GHERSIE: I am very glad to hear the hon. Member say that the Standing Orders are now with the Government Printer, and that they will be available, presumably, in the very near future.

I would also like to make one point there too: my hon. friend, the Secretary to the Treasury, did not seem to think it was a very serious matter that delays took place. When a query is reported by an internal auditor, the Controller and Auditor-General or his department, Government, he alleges, take action. He did not think that the delay between the time of a query of lack of financial control being discovered and the time it comes, for instance, to the notice of the Public Accounts Committee mattered.

Well, Sir, it should be remembered that *this* report of the Controller and Auditor-General, for instance, Sir, is dated 21st January, 1957, and it is on the Colony's accounts for the year ended 30th June, 1956. The Public Accounts Committee, Sir, in turn, took evidence in April of this year. Then again, through no fault of the Public Accounts Committee, their report is not tabled until 8th October; we are now debating the report on the Colony's accounts for the year ended June, 1956, in November, 1957.

The point I wish to emphasize is this, Sir: when queries are raised, they should be dealt with immediately. It should not be necessary to wait all this time. The Controller and Auditor-General discloses in his report because presumably they have been reported to the officer concerned, or the accounting officer of that branch, and no action has been taken; and therefore he finds it necessary to bring them to the attention of the Public Accounts Committee. It is then, of course, as a result of examination by the Public Accounts Committee that it finds its way into this Council.

But I do submit, Sir, that the delay must not be made light of; it is absolutely essential that when queries are disclosed, either by the internal auditor or by the Controller and Auditor-General himself, action should be taken immediately. They should not be allowed to drag on as they have during the past two years.

MR. MACKENZIE: On a point of explanation, Sir, I think my hon. friend

realizes that it was the delay in producing the audit report which I thought did not do any great harm. So far as queries are concerned, I entirely agree with him that they must be dealt with at once.

LT.-COL. GHERSIE: Yes, Mr. Speaker, I appreciate those remarks, but I would again emphasize that there was a delay in producing this report which is dated January of this year on the Colony's accounts up to 30th June, 1956. There is an audit taking place at this particular moment on the Colony's accounts for the year ended 30th June, 1957; and I submit, Sir, that in a case of sufficient important—lack of proper financial control say—whatever the case may be, the auditor should not wait until he has completed his report; but he should bring the subject to the attention of the Public Accounts Committee during this interim period.

Sir, I was very glad to hear from the hon. the Chief Secretary that he apparently has a "child's guide"; I think he called it, or prescription, which seems to cover most of the ills—the point is, of course (it sounds admirable actually), has it really been drawn to the attention of all senior officers; and if so, are they really taking action. That is really the point, I think, Sir. It sounded excellent and he did, of course, admit the difficulties that exist because of the various categories. But he also stated that justice must be done and I quite agree: one should see that justice is done in the case of any civil servant. But we would also like to see that perhaps justice is done in another way when it is necessary; in other words, we would like justice to be seen to be done, too, in the interests of the taxpayer.

Well, Sir, I have nothing further to add. I think I have answered all the points that have been raised. I would like to conclude, Sir, by thanking hon. Members for their complimentary remarks in respect of the members of the Public Accounts Committee and myself; but I do assure all hon. Members that the efficient working of the Public Accounts Committee is due entirely to the teamwork displayed by all the members of that Committee.

Sir, I beg to move.

The question was put and carried.

## ADJOURNMENT

THE SPEAKER (Sir Ferdinand Cavendish-Bentinck): That brings us to the end of the business on the Order Paper. I will therefore adjourn Council until 2.30 p.m. to-morrow, Wednesday, 27th November.

Council rose at forty-five minutes past Four o'clock.

—Wednesday, 27th November, 1957

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:—

Arthur Poyntz Jack.

## BILL

## SECOND READING

The Pyrethrum (Amendment) Bill

(Resumption of debate interrupted on 20th November, 1957)

MR. HARRIS: Mr. Speaker, Sir when this debate was adjourned last week, I think I had made the point that, under the Bill, considerable power is being given to the Pyrethrum Board of Kenya to raise money in various ways; and that therefore, before we granted this power under the Bill, it was necessary for us to see the kind of people to whom this power is being granted. I had mentioned, Sir, that in the Annual Report of the Pyrethrum Board dated August of this year, it was noted that the three commercial representatives on the Board had, for some reason, found it necessary to resign in September of 1956; and to suggest, Sir, that it did not inspire a great deal of confidence in the business acumen of the Board if it was necessary for the three commercial representatives to resign.

Now, Sir, if one studies this annual report further, one finds this paragraph:—

"A contract has been placed with British manufacturers for the supply of the grower-owned extraction plant which is to be operated by the Board at Nakuru. A site has been purchased in the Nakuru industrial area and the services of an experienced extraction plant manager have been acquired. The plant is now in course of manufacture and deliveries of machinery and equipment are due to commence in six months' time. The new plant should be fully operative by the end of 1958. Although no precise figure

(Mr. Harris) can be established, it is probable that the total capital cost involved will not exceed the sum of £200,000 which was approved at the 1955 Conference of Delegates.

Now, Sir, the first question I have to ask the Minister on this, is this plant really necessary? There is already in existence, erected by private enterprise, in Nairobi, an extraction plant which I think it would be fair to say the investors of that project were encouraged to erect; and this encouragement, Sir, is reminiscent of Liebig's encouragement to Athi River some years ago. But now, Sir, it seems that the Board, the Pyrethrum Board, have decided and have placed a contract to duplicate a plant already in existence, which is capable of taking care of the Kenya crop and the crops of adjoining territories in Nakuru. I would have thought, Sir, that if the Pyrethrum Board had £200,000, the Colony could have found a very much better use for that £200,000 than duplicating a facility that already exists elsewhere. But, Sir, I doubt whether they have £200,000; looking at their balance-sheet, as at 31st March, I think, of this year, we find that they have an overdraft of £151,000 which is secured by hypothecation of certain stocks. Their liquid assets in the balance-sheet including investments and cash are, in fact, £40,000.

I would like to ask the Minister, Sir, how is he going to finance the other £160,000 as a minimum. Is he coming back to this Council to ask for a guaranteed overdraft, an overdraft guaranteed by Government; and if he does, Sir, what right have we to grant this facility to the Board when there are already in the country the necessary facilities for converting pyrethrum flowers to extract? It is interesting, Sir, that my information is that the present stocks of extract in the country are valued at £630,000—present stocks. The total sales for the year ended March, 1957, were approximately £500,000. So we already have in stock in this country more than last year's sales with an extraction plant which is capable of dealing with the whole crop. Why is it therefore necessary, Sir, to add a further burden to the pyrethrum industry of redemption charges on a loan—and

it can only be a loan because there is no money in this balance-sheet—to use for the erection of a £200,000 factory? Why is it necessary to put up this factory when the facilities are already here?

The last time I raised this question, Sir, was some 18 months ago when the Minister said that he would encourage the existing plant providing he could be satisfied that it was efficient. Now, Sir, there are all sorts of yardsticks for efficiency; but I understand that there is in America a pyrethrum extract plant which is considered to be the finest in the world. If the Minister, Sir, will study the conversion ratio of flowers to extract, he will find that the Nairobi plant to-day is more efficient than the American plant. Therefore, Sir, there can be little excuse in saying that a plant operated by the producers—the Minister for Commerce and Industry, Sir, seems to be doing some arithmetic; I am not going to division!

THE MINISTER FOR COMMERCE AND INDUSTRY (Mr. Hope-Jones): I did not think you would!

MR. HARRIS: The position, Sir, is that there is certainly enough facility for converting flowers to extract and there is an efficient factory already in existence in the country. Attempts have been made at various meetings to discuss this matter; in fact, Sir, I made the last attempt as late as last Thursday to see whether we could not get the various parties together but, unfortunately, the Minister decided that he must go ahead.

We come, Sir, to a matter of very important principle which affects many of the boards that come under the Minister's control. They are producer boards and it seems to me that the producers refuse consistently to allow people who know how to process their produce or how to sell it to have any real say in processing and selling; and they insist, for some extraordinary reason best known to themselves, on keeping their hands on all the processing and all the selling much to the detriment, I believe, of the agricultural industry in this Colony.

Let me give an example, Sir, of the sheer inefficiency of the new factory. The old factory in Nairobi is employing at the present time eight highly paid and highly skilled Europeans. I think the

(Mr. Harris) Minister for Commerce and Industry will agree with me that those sort of people will cost the industry, on an average, at least £2,500 per annum each; so that in Nairobi we have £20,000 worth of European skill being paid for every year in a processing factory. It is now proposed to duplicate that £20,000 in a factory in Nakuru.

Now, Sir, if the reason for the resignation of the commercial members from the Board, which I mentioned earlier, was not disagreement over this factory then I am quite sure it was disagreement over the sales policy of the Pyrethrum Board.

What is this new factory doing, Sir? It is adding another £20,000 to the cost of pyrethrum processing and therefore making us £20,000 per year on the crop worse off in competition with foreign competitors; and, Sir, to have two factories each paying £20,000—

MR. ROBINSON: Mr. Speaker, on a point of order, is the hon. Member not slightly off the point. There is nothing about a processing factory in the Motion which we are discussing at the present time.

MR. HARRIS: May I speak to that point of order?

THE SPEAKER (Sir Ferdinand Cavendish Bentinck): The hon. Member is getting some way from the terms of the Bill. On the other hand, there is a clause giving powers in respect of raising and expending money in this Bill, and I think the hon. Member must be permitted to develop his arguments a little longer.

MR. HARRIS: Thank you, Mr. Speaker.

The point I was making is that the hon. Member who rose on a point of order is a member of this Board and therefore I quite understand his not wishing me to question whether he is a right and proper person to raise funds on behalf of the industry.

Now, Sir, I have very little more to say, the hon. Member will be glad to hear. But I would appeal, Sir, to the Minister not to be obstinate in this matter but to realize that we are, all of us, even I in my criticism of the Pyre-

thrum Board of Kenya, trying to do the right thing for the Colony; and it is very difficult to justify the erection of a duplicate factory in Nakuru and at the same time to say to overseas investors, who have already put up a plant in this country, that the farmers of Kenya think they can operate an industrial process more efficiently than people who are engaged in commerce and industry.

I do not wish to embarrass the Minister for Commerce and Industry who resigned from this Board; but I feel sure that he would realize that the particular company which has invested in this country already has done a great service in other ways in this country by the investment of capital. It would be a great pity if obstinacy on the part of the Minister of Agriculture were such that it turned that capital, and other capital which might follow it, away from this Colony.

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

MR. HARRIS: I think that if there are any threats in this matter they have already come from the Minister for Agriculture, and he will have an ample opportunity of replying—

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): May I ask the hon. Member to withdraw? If he reads the speech which I made when I introduced this Second Reading, and if he reads the format of this Bill, he cannot justify the statement he has just made.

MR. HARRIS: The Minister, Sir, will have an opportunity of replying to me later—

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): I have asked the hon. Member to withdraw.

MR. HARRIS: What am I supposed to do, withdraw, Mr. Speaker?

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): The hon. Member has alleged that I have made threats in this Council. I have not made any threats in this matter. He is making a mistake.

Mr. HARRIS: I did not say that threats had been made in this Council, Sir; I said if threats had been made, if anybody had made threats it was the Minister.

I do not want to go into this chapter and verse, Sir, but when the Bill went through this Council six months ago there were at least some recriminations, if not threats.

THE MINISTER FOR AGRICULTURE, SOURCES (Mr. Blundell): The hon. Member admits they were not threats then!

Mr. HARRIS: Mr. Speaker, it seems to me that like the pyrethrum extract factory we are duplicating a previous debate!

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): Hear, hear! Perhaps the hon. Member would like to stop!

Mr. HARRIS: Actually, Sir, I was going to stop, but I am now going to try to think of something else to say. I will repeat in different words what I have already said—that I do appeal to the Minister to realize that his action in this matter may well be turning investment capital away—not in pyrethrum, but it may well be a symptom of turning away other investment capital from this Colony; and until I get a satisfactory answer to this, Sir, I shall withhold my declaration as to whether I support or oppose the Second Reading.

Mr. CROSSKILL: Mr. Speaker, I cannot but feel that it is a great pity and, indeed it is wrong that this matter should have taken the turn that it has done. I feel that it has turned on a question of quite a well-known commercial disagreement which I feel should be settled in the normal course by negotiation rather than by being brought before this hon. Council. I feel that by doing this it is wasting hon. Members' time and the country's money. However, I feel that since the matter has been raised, it is now unfortunately necessary to have a fairly full discussion of the matter so that the question can be cleared up.

With regard to clarity, Mr. Speaker, it is certainly not clear whether the hon.

Member—who spoke last is taking up cudgels on behalf of the banks, the growers, the processors or the buyers.

Mr. HARRIS: Or the investors!

Mr. CROSSKILL: The only thing that is clear to my mind is that Nairobi South is not a pyrethrum-growing area.

Mr. HARRIS: We make it saleable.

Mr. CROSSKILL: If, Mr. Speaker, he is taking up cudgels on behalf of the banks, then I feel that he is wasting his time, because in my personal experience they need no protection and they are well able to look after their own interests. If it is on behalf of the growers, then they are unanimously in agreement with the project. If it is on behalf of the processors, then, Sir, they have reassurances and they have agreements to which I shall refer later. If it is on behalf of the buyers, then I would assure him that what they require is more extract and not so many flowers.

Now, Sir, arguments have been brought forward by my hon. colleague, the Member for Nairobi South, which infer that there has been and is in fact mismanagement by the Board of this very important industry. This is a very valuable, thriving, and a very well-organized industry which is of tremendous importance to this country; and I believe it to be very wrong that statements such as have been made should go unchallenged as they might well damage the interests of this important industry outside this country.

That this industry has seen fit to restrict the growing of this crop is no slight. It does not show that it is badly organized; rather, Mr. Speaker, does it show that it is on its toes and that it is organizing and restricting the crop and co-ordinating it with the demands. I believe, Sir, that the Chairman of the Board has just recently returned from a very extended tour together with the General Manager; and that again shows that they are very much on their toes. I, as a grower, have confidence that those two, in conjunction with the Board, would not go forward with this project if what they had found in their travels did not warrant the expenditure of the money.

On the other hand, Sir, the Board is, and has been, determined to see that everything humanly possible is done to

[Mr. Crosskill] increase that plant owing to the expanding economy and the expanding market for pyrethrum and the demand for extract rather than for flowers. During that time—up until 1953—the processors had a contract with the Pyrethrum Board, working on a tonnage of 1,200 to 2,000 tons a year. They have a contract on those lines until 1959, and that has given them security for many years within a monopoly. That security still exists and continues. It is open to them to negotiate to any further extent, and I believe, that that would be possible. But meanwhile from the time when the processors were working on 600 tons a year, the crop has risen to 4,000 tons a year and it is not likely, so far as I know, to decrease below that. Therefore, Mr. Speaker, it is quite obvious that the potential of the plant in Nairobi must be increased very considerably or else an additional plant must be built.

I think, Sir, that it is no exaggeration to say that at the moment the pyrethrum industry is, to a very great extent, carrying the mixed farming in this country. We have heard recently in this Council that there has been trouble experienced by the Meat Commission over the selling of beef. Farmers have been in trouble over being unable to sell their cattle. Difficulties—well-known ones—have been experienced over the growing of wheat. Our scientists, unfortunately, have rather lagged behind in producing rust-free types of wheat. The cost of machinery is well known and is the subject of examination by the Kenya National Farmers' Union. Those factors make it difficult for profits to be made out of wheat. It has also been recently known that the price of wattle has fallen dangerously low, making that possibly uneconomic. Then again even dairying, which may be said to be the backbone of the mixed farming industry in this country, is not a very sound proposition at the present time. I estimate that it is only a 5 per cent—and a somewhat hazardous 5 per cent—investment; and with money borrowed at 6 and 7 per cent it makes it even less sound.

We must therefore look, to a very great extent, to this pyrethrum industry to maintain the prosperity of the country; and I believe that the sales organizations—the marketing organizations—of those industries to which I have referred could well learn a lesson from the Pyrethrum Board and gain inspiration by the steps which they are taking now to maintain the prosperity of that industry.

I now come to the reasons why the processing plant at Nakuru is necessary. Just to go back a few years, Mr. Speaker, it was in 1945 that the processors first started on their own account. They were processing some 600 tons a year. In 1953, four years ago, the Board came to the conclusion that it would be necessary in the near future to

I would like to say why the Board has decided that it would be preferable to build another plant rather than extend the present one. There are several reasons. The first is this. The process uses materials which are extremely inflammable and there is a constant danger that a plant may be burnt down. If the plant were burnt down it would be a very serious matter as it is the only plant in the country. It would certainly cripple the industry for a very long time.

My second point, Mr. Speaker, is that with part of the crop being grown in the west of Kenya near to Nakuru; and part nearer Nairobi—as well as in Tanganyika—it is economically desirable that the transport should be shared; and quite obviously there will be considerable savings in the handling, packing and baling of that part of the crop which comes from the western part of Kenya where the plant at Nakuru is open. There will be a considerable saving also in millage from Nakuru to Nairobi.

3.00 p.m.

Perhaps more important than any of those, Mr. Speaker, is the question of the loss of pyrethrins, the virtue in the loss of pyrethrum flower; which is lost in transit. Then again, perhaps even more important than anything that I have said

[Mr. Crosskill]

so far is the factor of competition which is always desirable.

Therefore, Mr. Speaker, I maintain that it is logically right and economically sound that the Board should expand and have another plant at Nakuru.

THE SPEAKER (Sir Ferdinand Cavendish-Bentick): I do not want to infringe the hon. Member, but I would like him to give some indication as to where his general exposition relates to one or all of the clauses contained in this amending Bill which is confined to specific amendments. We are not debating the existing Pyrethrum Ordinance which no doubt covers many of these generalities.

MR. CROSSKILL: Mr. Speaker, Sir, I am equally sorry that one finds it desirable to go into this detail because the detail has been introduced and arguments have been put forward that the plant should not be constructed—

THE SPEAKER (Sir Ferdinand Cavendish-Bentick): I realize I have given great latitude, but we must adhere more closely to the terms of the Motion under discussion.

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): Mr. Speaker, Sir, on a point of order, surely the hon. Member is in order in developing his argument with a view to refuting the allegations which were made by the hon. Member for Nairobi South, that the Board was not competent to exercise the provisions in the Bill which allow it to deal with money matters?

THE SPEAKER (Sir Ferdinand Cavendish-Bentick): I think the hon. Member was getting rather beyond that; we shall shortly be involved in botanical aspects of the pyrethrum plant.

MR. CROSSKILL: Mr. Speaker, I will leave that point and proceed with greater brevity towards my next point.

Another point raised by the hon. Member in advocating that the extra plant should not be built, Mr. Speaker, was the cost. Well, I do submit that the money is the property of the growers, and if the growers are prepared to risk their money, then I feel that that should be allowed to go forward. It is in the form of a cess of 7½ cents a pound of pyrethrum flowers, which I myself pay

and so do more than 13,000 other growers, both European and African.

Mr. Speaker, it has been computed that the amount which will be borrowed from the bank will be completely repaid by this cess by 1962, and the bank is quite happy with the collateral security of the capital assets owned by the Board.

With regard to protection for the processors, which apparently is behind the reason for objecting to the new plant, I think it has been found by the hon. Attorney-General that it is not possible to include protection in detail in the Bill. But, Sir, is it necessary for legislation to protect commercial enterprises in this way? I say "No". There are many other ways in which this can be done. The Board has given agreements and is prepared to extend agreements. Furthermore, I believe the Minister will tell us that he has also given assurances that he will protect the processors in every way he can within his power—and those powers are very considerable.

I also believe that there are no growers in this country who wish to see the processors put out of business, but who would rather wish to see both plants operating in the foreseeable future, for the reasons I have given, the danger of fire, for instance. For that reason alone, we do wish to see the two plants going. There is, furthermore, the other reason I have given, which is that for geographical reasons it is more economical to have two plants than one very large one.

Another point made by the hon. Member for Nairobi South, Mr. Speaker, was with regard to the resignations of the three commercial members of the Board. Now, Sir, he implied that there was something sinister with regard to their resignations. I do not believe that there was in any way anything sinister in that, Mr. Speaker, and I think it is wrong to impute that suggestion. I think it is quite clear; it is not that they did not have time, it is not that the hon. Minister opposite was too peripatetic to take part in the pyrethrum industry at all, but we know—

THE MINISTER FOR COMMERCE AND INDUSTRY (Mr. Hope-Jones): On a point of order, Mr. Speaker, I think the hon. Member is mistaken in implying that I was a member of the Board as a

[The Minister for Commerce and Industry]

Minister; he knows very well that I was not.

MR. CROSSKILL: Mr. Speaker, I was very sympathetic with the Minister in his dual capacity. It is no good the hon. Minister scowling at me in that manner because—

THE MINISTER FOR COMMERCE AND INDUSTRY (Mr. Hope-Jones): On a further point of order, would the hon. Member withdraw his implication that I was a member of the Board as a Minister. I was a member long before I ever became a Minister.

MR. CROSSKILL: Mr. Speaker, what I say is that the Minister was a member of the Board, not as a Minister, but he was placed in a very difficult position, if he will allow me to proceed, in being a Minister and being on the Board. It is well known that there was a disagreement and it put the Minister in a very difficult position, in his capacity as Minister, to have to arbitrate or take part in arbitrations. I think he was quite right, Sir, in resigning, because he was in an impossible position.

Now, Sir, there is a very formidable structure not far from this Council Chamber, which has a plaque; this plaque does, I believe, among the names of other aldermen, bear the name of the hon. Member for Nairobi South, and on that plaque it says: "This building is an act of faith". Well, Mr. Speaker, this new processing plant at Nakuru is an act of faith on the part of all the pyrethrum growers in this country.

I beg to support.

THE SPEAKER (Sir Ferdinand Cavendish-Bentick): Once again I would point out that there is no mention of processing factories in the Bill. We are discussing proposed amendments to an existing Bill. So far no speaker has alluded to the specific proposals.

MR. ROBINSON: Mr. Speaker, Sir, I think I had better make my personal position clear. My hon. friend, the Member for Nairobi South, has pointed out what I was going to do: I am a member of the Pyrethrum Board of Kenya and a grower on a substantial scale, therefore I have, as he has pointed out, a very real interest in this Motion.

Sir, a great deal of harm, I think, has been done to the industry by the political lobbying and commercial manoeuvring which has taken place in the last year, and therefore I intend to make my remarks as uncontentious as I can. My hon. friend, the Member for Mau, has spoken at length on the reasons why the Board wish to erect another plant in Nakuru, so I will not myself touch on that point.

There are some matters of detail which my hon. friend, the Member for Nairobi South, raised with regard to the operations of the Board. He said, I think, that the capital assets of the Board were £40,000. Well, if he looks at the capital fund account he will find that, by an independent valuation, done on 31st March, 1956, the amount is £127,000.

MR. HARRIS: Thank you for giving way. I made the point very carefully that the liquid assets were £40,000. In other words, Sir, those assets upon which the Board could call if they wished to finance a new plant.

MR. ROBINSON: Sir, whether the assets are liquid or fixed, the two banks who have undertaken this facility for the Board are quite happy to accept the security—whether they are fixed or liquid. Also, Sir, my hon. friend said that the sales realization—possibly I am wrong once again—only amounted to £500,000. I would like to correct that on behalf of the Board: the sales realization for last year was just under a £1,000,000.

MR. HARRIS: Mr. Speaker, on a point of order, I do not like being misquoted: I said the sale of extract was £500,000. I made it quite clear.

THE SPEAKER (Sir Ferdinand Cavendish-Bentick): You are, I presume, making a personal explanation not raising a point of order.

MR. ROBINSON: My hon. friend was trying to make his point that as the sales were so low—only £500,000—it was not a loanworthy scheme for the Board to undertake.

MR. HARRIS: I must get up on another point of explanation, Mr. Speaker. I did not make that point at all, Sir. I made the point, Sir, that the stocks at present on hand in the country of extract were £630,000, and the sales last year were £500,000. It is nothing to do with the loanworthiness.

Mr. ROBINSON: Mr. Speaker, Sir, my hon. friend mentioned an overdraft of £152,000, and I would like to explain to the Council how the crop is financed. It is unlike cereals. This crop is produced more or less all through the year, and is paid on delivery on the ratio of two-thirds of its value. This is a commercial undertaking, which has been conducted by the bank ever since the Board started operating, and there is nothing sinister or peculiar that there should be this overdraft. The security offered is the stocks which are held by the Board.

Finally, Sir, I would like to say that this project has been enthusiastically supported by all growers and is supported by the new commercial members of the Board. I think that it will add to the capital assets of this country, and I would like to say for the record once again what the Board has said so often, that it has no intention or wish to put out of business any commercial interest which is committed in it. As long as the industry concerned is efficient, and can provide equal facilities to those offered by the Board, then the Board is happy that it should continue in the business.

Sir, I beg to support.

THE EARL OF PORTSMOUTH: I do not wish to take up the time of this Council, Sir, for more than a few moments. I am and must declare myself a very small pyrethrum grower, but I am certain that it is of great importance that this Bill goes through and that there should be, through the working of the Bill, the possibility of increasing the sale of our extract in the best way. I think it is even more important now that we have not only a very large proportion of European growers, but a very large, increasing proportion of African growers, that we must do everything we can to make sure of our market and our sales on quality.

Mr. Speaker, Sir, I beg to support.

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): Mr. Speaker, Sir, as I said when I was introducing this Bill, it is mainly concerned with certain small amendments which the daily

working of the Ordinance has proved by experience to be necessary. Major issues have been raised in this Council which really have no relationship whatsoever to the small amendments which are before the Council. I think that they would be better dealt with if it was necessary at all to deal with them, possibly by Motions from the Council, rather than introducing them into an amending Bill of this nature, largely concerned with small matters of detail.

That being so, I propose to deal with only three points that have been raised, partly because some of the arguments advanced by the hon. Member for Nairobi South have already been dealt with by other hon. Members, but mainly because much of the matter which has been introduced into the Council is not really pertinent to the Bill.

The first point that I would like to make, Sir, is this: My hon. colleague, the Minister for Commerce and Industry, was a member of this Board in his private capacity from long standing. I think that he contributed to the deliberations of the Board for upwards of 15 years. And it was really a subsidiary matter that, in the course of 15 years, he rose to the position of being a Minister!

The second point to which I would like to refer, Sir, is whether the Board is competent really to adventure upon a commercial process of this sort, and I would like to draw the attention of hon. Members to the calibre of the commercial members on the Board. They consist at the present moment of a Mr. J. S. Perkin, who is the Managing Director of the Magadi Company Limited. He is a trained chemist and was for many years a director of one of the Imperial Chemical Industries companies in the United Kingdom. I think we can assume, therefore, that his technical knowledge of chemistry, which is much concerned in the processing, and also his business experience, are of value to the Board. A second commercial director is Mr. Eric Baumann of Baumann and Company Limited, and I think hon. Members will agree with me that his is a name which carries some weight in commercial circles.

[The Minister for Agriculture, Animal Husbandry and Water Resources]—  
The last member is Mr. Gardner, who is a representative of the Unilever Organization in this country, and, I believe, the head of it, and I think, again, hon. Members would agree that the Board is lucky to have business experience of that ability at its disposal.

I therefore feel, Sir, that as the Board has decided to proceed on a second processing plant with the full agreement of these gentlemen, we can accept that the matter has been thoroughly examined by the Board and we can also accept their decision with confidence.

Now, Sir, the last point with which I want to deal is the matter of an appeal to me by the hon. Member for Nairobi South not to be obstinate in this matter. I would like to say this, Sir, I think that much of the trouble in this matter has arisen from suspicion between the members of the Board and the processors. I would like to ask hon. Members whether they think that the activities which have recently taken place in the calling together of Members of this Council by the processors and the presenting to the Members of the Council by the processors of their point of view, and I must call it so, Sir—very widespread lobbying which has taken place by the processors is conducive to removing the suspicions of the Board as to the single-minded interest of the processors in the furtherance of the general interests of the industry, especially when hon. Members remember that the processors have a particular relationship to the Board and it is a relationship which in all honourable commercial concerns is one of great integrity and sanctity—the relationship of agents to their own principals, who are the Board. I think as long as these suspicions exist it will be difficult for me to bring the parties as much together as I would wish.

I would like to read to hon. Members the remarks which I made in the debate on the 29th February so that hon. Members may understand that the position of the Government has not altered in this matter. I said then:—

"The processing side has been in association with the industry, to my certain knowledge, for the best part of ten years and the growers have always

denied that there was an established right for the processors to have flowers, but equally always agreed that an allocation of flowers should be made in the interest of the industry. It would be my personal opinion that if the growers failed to recognize the contribution which the processors have made to the industry, they would be unwise. It seems to me that we should look at the matter as follows. The growers are entitled to arrange for the extraction of their flowers to the maximum benefit of the grower himself, and I do not believe any Government could stand in the way of the growers' wish, if they so require, to produce their own factory and extract their own flowers. I think there must be a proviso to that wish by the growers. That proviso must be this, Sir, that an existing industry which has worked in close association with the growing side for ten years is entitled to a protection of its interest. I believe that its entitlement to protection must rest on two things and two things only. One is that it is efficient and the second is that it is in the economic interest of the industry. I do not want to bore the Council with technicalities, but I do not think that the Government would be justified in protecting a processing industry which was inefficient in the degree of its extraction and thus caused the grower loss. On the other hand, I also feel that the Government would not be right in introducing legislation which enabled the Board of growers to abuse the powers of such legislation to eliminate an existing industry which had invested capital in the country, provided that the extraction was economic and gave the grower a reasonable return for his flower."

That being so, Sir, I am prepared to consider introducing amendments to this legislation on the lines of the amendments which I abortively placed before the Council, if a situation arises where legitimate interests on one side where legitimate interests on the other are being damaged. I tried to outline to the Council exactly what I would consider, as Minister, what I would be the legitimate interests. I do not believe that the Government would be entitled to introduce legislation to bolster an inefficient and uneconomic industry, but equally I

[The Minister for Agriculture, Animal Husbandry and Water Resources] would oppose the abuse of powers under this legislation to eliminate a helpful and efficient industry."

Now, Mr. Speaker, I believe that that statement is a very clear one indeed and I do not think, really, that it is necessary for me to add to it except to say this; at the present moment I understand that the processors are protected by an agreement on the allocation of flowers for another four years. I am only too willing to do anything I can to try to bring the two parties together and as the hon. Member for Nairobi South has indicated that he made an attempt last Thursday which was largely negated by myself, I think it is only right that I should put before the Council a recent experience which I had. Upon my return from the United Kingdom both the Pyrethrum Board and the processors had agreed to a form of words which would have enabled me to move the amendments which I had already disclosed to this Council might be necessary. The form of words, however, was not one which my hon. and learned friend, the Attorney-General, felt was suitable to be agreed if the matter had to be decided in law. I therefore asked the members of the Pyrethrum Board and the processors to meet me, as the Minister responsible who had not up to that moment been engaged in this discussion, with my hon. and learned friend in his office to see if we could slightly amend the agreement which they had made with a view to making it of greater clarity in law.

Now, Mr. Speaker, the Chairman and two members of the Board attended the meeting but the processors refused to do so. I telephoned to the processors and made a personal appeal, asking them to attend, but still they refused.

I would like to record to the Council that I have no doubt that, had they attended, I would have reached agreement because the members of the Pyrethrum Board were in a co-operative and friendly mood and I can only say, Sir, how much I regret that the processors did not attend that meeting.

Now, Sir, what makes me feel that my position is difficult—and I hope that the processors will reconsider the matter—is

that no sooner was that meeting over than the processors called a meeting to which they invited all Members of this Council who might be interested in the matter including the Minister for Commerce and Industry and myself and the position that we, as Ministers, faced was this, Sir, when I, as the Minister responsible, attempted to bring about harmony between contending parties by inviting them to a meeting at which my hon. and learned friend would attempt to resolve the matter, that meeting was refused. And the processors then embarked upon a meeting of their own to which they were graciously pleased to call the Minister. Now, I do record that to the Council, so that the Council may be fully aware of the difficulties under which the Government has been acting in this matter, I think, Sir, that the Government has no wish whatsoever to depart from the statement which I made on 29th February, 1956.

I am still hopeful that the contending parties will be able to reach agreement. I am certain that the processors at the present time have no need to worry because their allocation of flowers is protected under an agreement which does not terminate, I think, until the end of 1961.

Sir, with these words I beg to move the Second Reading.

The question was put and carried.

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND RESOURCES (Mr. Blundell): Would it be impossible, Mr. Speaker, to take the Committee's stage to-day?

THE SPEAKER (Sir Ferdinand Caven-dish Bentinck): (Inaudible.)

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): Well, Mr. Speaker, with all due respect, no extraneous matters have been introduced into the Bill, all hon. Members are now fully briefed on the situation.

THE SPEAKER (Sir Ferdinand Caven-dish-Bentinck): It will have to be to-morrow.

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

BILL  
SECOND READING  
The Special Tax (Temporary Provisions)  
(Amendment) Bill

THE MINISTER FOR AFRICAN AFFAIRS (Mr. Windley): Mr. Speaker, Sir, I beg to move that the Special Tax (Temporary Provisions) (Amendment) Bill be now read a Second Time.

I think, Sir, that hon. Members will remember that in a very lengthy debate on 25th June of this year this subject was debated and a Motion passed by this Council. I feel, therefore, that it is hardly necessary to cover all this ground again but at that time it was approved by this Council that the rate should be reduced from Sh. 25 to Sh. 15. This Bill, Sir, provides the formal legislation which is required to implement this proposal which has already been approved in a Motion passed by this Council.

Sir, I therefore beg to move.

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

Question proposed.

MR. MATE: Mr. Speaker, Sir, last time I spoke on the special tax I said that it would have been better if it had been waived. Sir, speaking of this particular field I would like to bring to the notice of the Minister, the question of loyalty certificates, in connexion with the payment of the special tax.

Sir, the loyal people in the Central Province with loyalty certificates have the option not to pay the special tax and these loyalty certificates were given during the last elections to all people who wanted to get votes for the election—everybody who was above the age of 21. Sir, there is another class of people which includes those boys, young men who left schools and colleges and who were not involved in the elections or others who have attained the age of 18 where they pay taxes who would not have loyalty certificates now. Sir, I would bring to the notice of the Minister this fact so that the loyalty certificates could be issued to these people who have not got them and they would have the option as any other loyalist has in paying the special tax.

I feel that it is important because not many people were interested in the

election. Perhaps they were too lazy to get their votes or did not manage to get their loyalty certificates in order to get a vote; but they are taxpayers and they are loyalists and they should be given a chance by the various districts to go along and obtain their loyalty certificates.

Sir, the other point is that there is another class of people who would be rather poor to pay the ordinary tax and they would find it difficult to pay the special tax at the same time and I would appeal to the Minister for this particular class of people to be considered with the others if their difficulties are genuine and they cannot pay, as is done in the case of the ordinary tax.

Sir, with these few remarks I beg to support.

3.30 p.m.

MR. MBOYA: Mr. Speaker, Sir, since this subject was discussed quite fully in June, I shall not waste much of the Council's time repeating arguments that have already been put forward. I stand, however, to register once more my complete opposition to the payment of this special tax by members of the Kikuyu, Embu and Meru tribes. I am not and have never been convinced that under the present circumstances it is anything but a punitive measure which has lost its meaning and which, in my view, is merely an added irritant and a cause for frustration that this Government could well do without.

In agreeing with my colleague about the reference to the loyalty certificates, I want to go a bit further and state that in fact the circumstances under which the loyalty certificates were issued and the opportunities that now obtain for people to obtain these certificates are such that, in fact, the exemption that is granted to some people with loyalty certificates constitutes, in my view, a very irritating point to those who have not had similar opportunities. The basis on which loyalty certificates are issued and the opportunities available raise a very important question as to whether this exemption is in itself justified and also as to whether such exemption is in accord with the whole principle involved in the Government's argument for the continuance of this special tax.

[Mr. Mboya]

As I said, these arguments have been raised once before in the Council and I do not wish to repeat but to re-emphasize the point that the Government, in continuing this tax, are in fact creating a situation where even those people who have come back from detention camps, who have passed through rehabilitation (and whom we should do everything possible to reabsorb in our society and to impress upon the need to maintain peace and to become responsible members of our society) will find it difficult to understand the whole sense of the rehabilitation system and the society in which they are invited to take part and become responsible members of. Whereas we try to convince them that after rehabilitation they are accepted back, at the same time we continue to punish them for what we say we have already forgotten.

There is a second aspect that I wish to raise during this debate and that is, Sir, the fact that I have only recently learnt that the Government has advised the Wages Advisory Board not to accept or agree to certain increases in the minimum wages because—

THE MINISTER FOR AFRICAN AFFAIRS (Mr. Windley): On a point of order, Mr. Speaker, Sir, I would like to inquire whether the deliberations of the Wages Advisory Board have any connexion with the subject of this debate, which is on the special tax, Sir.

THE SPEAKER (Sir Ferdinand Cavendish-Bentinck): Absolutely none.

MR. MBOYA: Mr. Speaker, if I had been given the chance to develop my argument I was coming to say that Government has argued that the economic situation in the country is such that they cannot entertain or advise any further increases in wages and so on and, consequently, have refused to agree to wage increases despite the existence of a case for one. I was going to make the point, Sir, that if the economic situation is such that the Government advises against an increase in the minimum wages, then I suggest that the economic situation is such that the Government certainly cannot justify the continuance of this special tax that, as I said, is only a punitive measure to a people whom we know are engaged

in a very heavy job of reconstruction in their own reserves and whose opportunity for earning money is so limited as to be in some cases completely nonexistent. If this, Mr. Speaker, does not exist or does not make sense to the Minister, then I wonder what does make sense.

I beg to oppose.

MR. MULIRO: Mr. Speaker, Sir, when I think of the amount of revenue which will be derived from this special tax, I think the Government could do as well without it. The work of fighting against terrorists is done. Mr. Speaker, people should not be taxed any more. Their problems should be dealt with as my colleague from the Nairobi Area has told the Council, rather than increase their disabilities.

Mr. Speaker, I beg to oppose.

MR. MACKENZIE: Mr. Speaker, Sir, as regards the point which was made by the hon. Member for Nairobi Area and repeated by the Member for Nyanza North regarding the state of the economy and the inability of people to pay this tax, I think I should point out that the Government has recognised the difficulties and that, in fact, is why this tax has been reduced from Sh. 25 to Sh. 15. There has been a reduction of Sh. 10 in the tax that is being collected and that in itself shows that the Government does not overlook the point that has been made. But, Sir, as the Minister for Finance said when this question was last debated, it is too early to remove completely the remainder of the disaster which has been brought to the country by the folly of a number of our people and the Government has tried to hit that moderate path between not continuing a measure that in view of the economic situation in certain parts of the Central Province could bring great distress and, at the same time, not to have a situation where they could too easily and too quickly forget the consequences of the type of action for which, when all is said and done, a large number of their people were fundamentally responsible.

Sir, 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.

THE MINISTER FOR AFRICAN AFFAIRS (Mr. Windley): Mr. Speaker, Sir, I need not really add to what my hon. friend, the Secretary to the Treasury, has just said. As hon. Members have already noted this ground has been well covered in the previous debate and I do not propose, therefore, to go over all that again. But I would assure the hon. Member for the Central Province, as I have before, that those in need of exemption for reasons of poverty will, once more, be given full consideration in this connexion and if anybody really cannot pay on the grounds of poverty he will be exempt. I would like to remind him also that loyalty certificates were not only issued for purposes of voting, they covered a much wider sphere. It could also be possible for somebody to claim exemption as a loyalist under this tax provision, never having had a loyalist certificate at all but he might not have applied for it. That may sound a bit far-fetched but this is considered location by location and sub-location by sub-location and those who are of proved loyalty, whether they have applied for loyalist certificates or not, are considered under this Ordinance separately for exemption.

I will not go into the arguments again, Mr. Speaker, Sir, as to whether this is a punitive measure, we have covered all that ground before, or whether, indeed, it is justified, because that has been covered before, and my hon. friend, the Secretary to the Treasury has drawn attention to the large amounts of money spent in the Kikuyu Reserves, not only on destroying Mau Mau and dealing with the terrorist organization there, but on the reconstruction necessary up to the present and, indeed, so far as I can see, for some years to come. Bearing this in mind, Sir, it is right that those who caused this upheaval, this rebellion and this destruction in the Central Province should contribute towards the large cost it has been to this country.

I therefore, Sir, wish to move.

The question was put and carried.

The Bill was read the Second Time.

### SUSPENSION OF STANDING ORDERS

THE CHIEF SECRETARY (Mr. Turubull): Mr. Speaker, Sir, I should like to move

that the Standing Orders be suspended to the extent necessary to enable the Council to consider the Committee stages of the Pyrethrum (Amendment) Bill, and the Special Tax (Temporary Provisions) (Amendment) Bill after the Committee stage of the Town Planning (Procedure) Regulations (Validation) Bill and the Provident Funds and Contributory Pensions (Repeal) Bill. Also, Sir, that they be suspended to the extent necessary to enable the Paper on the Relationship between African District Councils and Central Government finances to be laid to-day.

The reason is, Sir, that the business for this particular meeting is drawing to a close and that if this procedure is followed it will enable the business before the Council to be concluded to-day.

MR. CONROY seconded.

THE SPEAKER (Sir Ferdinand Cavendish-Bentinck): I understand that if we sit to-morrow it would be for a very small piece of business indeed; in fact, two Committees of the whole Council to consider two short Bills to which no amendments have yet been received. Therefore, it has been proposed that Standing Orders be suspended to the extent necessary to include, under Order No. 6, the Committee of the whole Council, the addition of the Committee stages of the Pyrethrum (Amendment) Bill and of the Special Tax (Temporary Provisions) (Amendment) Bill. I will take that first.

The question was put and carried.

THE SPEAKER (Sir Ferdinand Cavendish-Bentinck): I will now put the second question which is that Standing Orders be suspended to the extent necessary to enable a Paper to be laid and one notice of Motion given which would normally have been a piece of purely formal business to-morrow had we sat then. It would make no difference to procedure.

The question was put and carried.

### 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]

*The Town Planning (Procedure)  
Regulations (Validation) Bill*

Clause 2 agreed to.  
Title agreed to.  
Clause 1 agreed to.

*The Provident Funds and Contributory  
Pensions (Repeal) Bill*

Clause 2 agreed to.  
Schedule agreed to.  
Title agreed to.  
Clause 1 agreed to.

*The Pyrethrum (Amendment) Bill*

Clauses 2, 3, 4, 5, 6, 7, and 8 agreed to.

## Clause 9

MR. ALEXANDER: Mr. Chairman, clause 9 (b): the addition to the Ordinance which says "as soon as possible after the end of each pool year the Board shall forward the balance sheet", etc. I am just wondering if the Minister can tell us why there is no specific date as to when these annual accounts should be presented. As we know, in the Companies Ordinance, it does require that they be presented once every calendar year, and not more than 15 months after the last accounts, and we have had some unfortunate instances in the delay of presentation of final accounts. I think the Nominated Member opposite, Mr. Tyson, the other day had occasion to raise a query on this; and I am wondering if the Minister can give us an assurance that he will, in fact, impose a time limit on this, otherwise we can get into the frightful situation—and it does happen very often—of accounts either never being presented or being presented so delayed that they have ceased to have any meaning.

MR. MACKENZIE: Mr. Chairman, Sir, as I read this position, the one my hon. friend has just referred to, the wording is quite clear—it says: "As soon as possible . . . the Board shall forward the balance sheet"—I think, Sir, that is very clear. It will be forwarded as soon as it possibly can be forwarded. But I am quite sure that that will be adhered to; I would say that, at this stage, it would

be quite impossible to lay down a particular date on which the balance and account will be actually available. I do not think it would be at all reasonable at this stage to attempt to lay down such a date.

MR. ALEXANDER: Mr. Chairman, I quite appreciate that the words "As soon as possible" mean what they say, as soon as possible. What I was seeking from the Minister is that administratively, he would see, with instructions that go out from his office, that these words "As soon as possible" did not mean an indeterminate time. I mean, Government has told us on many occasions that things are going to happen as soon as possible, but several years have gone by before anything does happen. I just want to make certain that this is not going to be the case here.

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): Mr. Chairman, I think the hon. Member is really labouring the point a bit. This Board has been in existence for 15 or more years, and I think that we have never had any trouble at all with the presentation of this account; and I have no reason to believe that that will arise.

Clause 9 agreed to.

Clauses 10 and 11 agreed to.

Title agreed to.

Clause 1 agreed to.

*The Special Tax (Temporary Provisions)  
(Amendment) Bill*

Clauses 2 and 3 agreed to.

Title agreed to.

Clause 1 agreed to.

Bills to be reported.

THE CHIEF SECRETARY (Mr. Turnbull): Mr. Chairman, I beg to move that this Committee do report to Council its consideration and approval of the following Bills without amendment: the Town Planning (Procedure) Regulations (Validation) Bill, the Provident Funds and Contributory Pensions (Repeal) Bill, the Pyrethrum (Amendment) Bill, and the Special Tax (Temporary Provisions) (Amendment) Bill.

Question proposed.

The question was put and carried.

Council resumed.

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

REPORTS AND THIRD READINGS

*The Town Planning (Procedure)  
Regulations (Validation) Bill*

MR. CONROY: I beg to report, Sir, that a Committee of the whole Council has considered the Town Planning (Procedure) Regulations (Validation) Bill, and approved the same without amendment.

THE MINISTER FOR LOCAL GOVERNMENT, HEALTH AND HOUSING (Mr. Havlock): Mr. Speaker, Sir, I beg to move that the Town Planning (Procedure) Regulations (Validation) 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 Provident Funds and Contributory  
Pensions (Repeal) Bill*

MR. CONROY: Mr. Speaker, I have to report that a Committee of the whole Council has considered the Provident Funds and Contributory Pensions (Repeal) Bill and approved the same without amendment.

MR. MACKENZIE: Mr. Speaker, Sir, I beg to move that the Provident Funds and Contributory Pensions (Repeal) 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 Pyrethrum (Amendment) Bill*

MR. CONROY: Mr. Speaker, I have to report that a Committee of the whole Council has considered the Pyrethrum (Amendment) Bill and approved the same without amendment.

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): Mr. Speaker, I beg to move that the Pyrethrum (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.

*The Special Tax (Temporary Provisions)  
(Amendment) Bill*

MR. CONROY: Mr. Speaker, I have to report that a Committee of the whole Council has considered the Special Tax (Temporary Provisions) (Amendment) Bill and approved the same without amendment.

THE MINISTER FOR AFRICAN AFFAIRS (Mr. Windley): Mr. Speaker, Sir, I beg to move that the Special Tax (Temporary Provisions) (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

EMBAKASI—GOVERNMENT STAFF HOUSING LOAN

THE MINISTER FOR LOCAL GOVERNMENT, HEALTH AND HOUSING (Mr. Havlock): Mr. Speaker, I beg to move—

BE IT RESOLVED that this Council authorizes the Kenya Government to guarantee a loan not exceeding £435,540 to be made by Barclays Bank D.C.O. to the Nairobi County Council to construct essential Government staff housing at Embakasi together with the minimum ancillary services for immediate development; such loan to be repaid out of funds to be provided by the Government not later than 1st July, 1960.

Sir, it became apparent some time ago when the plan for the Embakasi aerodrome was completed and construction went ahead that in itself, the aerodrome would necessarily attract a certain number of interested parties who might wish to reside near the aerodrome; and, of course, it would be essential for a number of Government servants, of the High Commission also, to live in that vicinity. The area concerned, of course, lies within the area under the jurisdiction of the Nairobi County Council, but here I should like to make it quite clear that the aerodrome itself is and will be under the control entirely of the Central Government; it is a Central Government responsibility as an international airport, it is also under international agreements regarding health, etc.

However, Sir, the surroundings of the village which would grow around the



(Mr. Alexander) a club of political personalities and I doubt very much whether they were ever really judged on their merits. I do suggest, Mr. Deputy Speaker, that we have the opportunity in this Council of taking advantage of that very great experience, and although I know the Chief Secretary may think this is twentieth century hogwash I do hope that with this weight of evidence to help him he will give this matter his very serious consideration.

Surely we know that financial auditing is conducted upon certain definite principles and rules, and if it can be shown that principles and rules can also be agreed for what is recognized as sound management, then surely there should be a case for the establishment of an annual review of management or administration. If this can be done, and I believe it can be done if there is an earnest attempt to approach it properly, it will be a step of immense and far-reaching value that will have been taken towards efficient management.

I know that the attitude at the moment of Government is that the question of personnel efficiency is a matter of ministerial responsibility, but what I find difficult to understand is that they are prepared to accept the principle of financial audit and all that it implies and are not prepared to accept what I loosely term the audit of human effort. We have got it in this report on page (ii) where it talks about the implications of financial audit. I quote: "Investigating into potential extravagance, controlling the use of Government transport, examination of contracts, rationing systems in hospitals, schools, prisons, etc., examination of records of materials issued for works as to their quantity and their control after issue".

In other words, they are prepared to accept that when money is spent on these sort of items, stores, materials and rations, that the financial audit can go into those, but when it implies human effort, organization and administration—as, that is ministerial responsibility. I know that financial audit does, at times, find out inefficiencies in human effort, but it is incidental. Mr. Deputy Speaker, because it is not part of the technique of financial audit. This management audit or efficiency audit has a technique all of

its own, and I do not mind how Government do it providing they embark upon it either by changing the Organization and Methods under the Controller and Auditor-General, or by including on its staff people with competency in the appropriate technique, and I do ask the Government to deliberate me when I say that it is a different technique from straightforward financial audit.

Finally Mr. Deputy Speaker, I would like to turn just to one short sentence which appears on page (iii) of this report where it says, and I quote: "We would also suggest that if the Controller and Auditor-General thinks it necessary, he should not hesitate, in a case of sufficient importance, to make a special interim report to the committee", and I do hope that the Auditor-General is taking these words most seriously and that he will come to us in cases of urgency where he needs immediate backing in matters that are extremely serious. I believe he could have done this in the case of the audit inquiries relating to the police since that we all know have become such an unfortunate story in this report. There is an example where perhaps if he had come to us soon enough to say: "Look, I am not getting the answers, and I am not getting the support I want, and I ask the Public Accounts Committee to step on to the scene" we could have improved the situation. I hope that when there are other cases like this, that the Auditor-General, with the full backing of the Government, will call in the Public Accounts Committee without delay.

Mr. Deputy Speaker, I beg to support.

Mr. MACKENZIE: Mr. Deputy Speaker, Sir, I would like first of all to pay a tribute to the work that is done by the Public Accounts Committee. I have said before that I regard this committee as one of the best friends of the Treasury, and therefore of the taxpayer, in that it ensures that everything possible will be done to avoid any misuse or waste of the taxpayer's money. It is very right and proper that there should be a very high standard expected of those who deal with public money. When a man is dealing with his own money in a business or when a board of directors are dealing with shareholders' money, if they lose money, if things go wrong, the remedy is semi-automatic in that the people concerned lose their money.

(Mr. Mackenzie)

Where the public is concerned, losses can be made good by raising additional taxation and very often they have to be made good because the money is needed to provide services which the public require. But in these circumstances it is all the more important that there should be the very highest standards of propriety, and it is for that reason that every government has an audit service which undertakes a very comprehensive review of the government's financial transactions. The members of the audit service spend a great deal of time in each Government department; they get to know what is going on, they pick up errors that have been made and, as a result of that, they draw attention to faults in procedure which need to be repaired.

They also—and here I touch on a point that was mentioned by the Member for Nairobi West—see where there are weaknesses in the Government machine which are due to human failings, and the reports that are produced will let the Government know that this is so. When, Sir, however, the reports have been received there are two ways in which they are dealt with. One thing that happens is that they come before the Public Accounts Committee, and then accounting officers are summoned to give an account of themselves and to let the Committee know what they are doing to ensure that the same kind of mistake does not happen again. And I would emphasize, Sir, that that is probably the most important of the functions—to ensure that, where things have been going wrong, they are being put right. That, Sir, is very much more important than any kind of witch hunt, which it would be contrary to all the traditions of the Committee. The Public Accounts Committee has never conducted any kind of "witch hunt", and I am quite sure that my hon. friend, the Chairman of the Public Accounts Committee, would join with me in deploring any need to do so. The Committee has always regarded, and does regard its primary purpose as seeing that, where there are pieces of machinery out of place or pieces of machinery that are not working properly, they are put right. And so far as dealing with people who have made errors in the past is con-

cerned, that is a question which has been, and I think, very rightly, left with the Government to deal with.

Now, Sir, it has been suggested that the Government needs some ginger group to come along and make sure that it is doing everything possible to ensure that there is efficiency. I would, Sir, like to say that it is, of course, quite wrong to imagine that when inefficiencies arise the members of the Government themselves are not extremely anxious to put them right, and I think, Sir, that everything that we on this side of Council can do to rectify errors and to ensure that the organization is as good as possible is done.

I would like to come back to the question of management audit, as I believe it is called, shortly. First, however, I would like to deal with one or two points that were made by my hon. friend, the Mover of the Motion. One of his first points was that this report which we have with us draws attention to the fact that although in some directions there have been improvements errors still occur and, unfortunately, a good many of the errors are repetitions of errors which have come up before. Well, Sir, all I can say in answer to that is that I am sure, and I certainly hope, that all people who have any responsibility, who are dealing with Government financial business, have heard what my hon. friend said, and that they will do their best, and all of us will do our best, to eradicate these errors.

What I am sure my hon. friend would not expect me to attempt to say is that we will eradicate every error. It would be quite impossible for human beings to do so and, in fact, if we ever reached that ideal state, not only would there be no need for auditors or public accounts committees, but I do not think there would be any need for government either. The only place in which errors are unlikely to occur would be a dead world.

As regards the types of audit, I would like to assure my hon. friend that I understand that although audit reports are produced, rather than separate queries, everything possible is done to break them down so that they can easily be sent to the people who know about them, and so that there is not undue delay. Certainly, we recognize, and of

[Mr. Alexander] clash of political personalities and I doubt very much whether they were ever really judged on their merits. I do suggest, Mr. Deputy Speaker, that we have the opportunity in this Council of taking advantage of that very great experience, and although I know the Chief Secretary may think this is twentieth century hokum I do hope that with this weight of evidence to help him he will give this matter his very serious consideration.

Surely we know that financial auditing is conducted upon certain definite principles and rules, and if it can be shown that principles and rules can also be agreed for what is recognized as sound management, then surely there should be a case for the establishment of an annual review of management or administration. If this can be done, and I believe it can be done if there is an earnest attempt to approach it properly, it will be a step of immense and far-reaching value that will have been taken towards efficient management.

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Mr. Deputy Speaker, I beg to support. **MR. MACKENZIE:** Mr. Deputy Speaker, Sir, I would like first of all to pay a tribute to the work that is done by the Public Accounts Committee. I have said before that I regard this committee as one of the best friends of the Treasury, and therefore of the taxpayer, in that it ensures that everything possible will be done to avoid any misuse or waste of the taxpayer's money. It is very right and proper that there should be a very high standard expected of those who deal with public money. When a man is dealing with his own money in a business or when a board of directors are dealing with shareholders' money, if they lose money, if things go wrong, the remedy is semi-automatic in that the people concerned lose their money.

[Mr. Mackenzie]

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cerned, that is a question which has been, and I think, very rightly, left with the Government to deal with.

Now, Sir, it has been suggested that the Government needs some ginger group to come along and make sure that it is doing everything possible to ensure that there is efficiency. I would, Sir, like to say that it is, of course, quite wrong to imagine that when inefficiencies arise the members of the Government themselves are not extremely anxious to put them right, and I think, Sir, that everything that we on this side of Council can do to rectify errors and to ensure that the organization is as good as possible is done.

I would like to come back to the question of management audit, as I believe it is called, shortly. First, however, I would like to deal with one or two points that were made by my hon. friend, the Mover of the Motion. One of his first points was that this report which we have with us draws attention to the fact that although in some directions there have been improvements errors still occur and, unfortunately, a good many of the errors are repetitions of errors which have come up before. Well, Sir, all I can say in answer to that is that I am sure, and I certainly hope, that all people who have any responsibility, who are dealing with Government financial business, have heard what my hon. friend said, and that they will do their best, and all of us will do our best, to eradicate these errors.

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As regards the types of audit, I would like to assure my hon. friend that I understand that although audit reports are produced, rather than separate queries, everything possible is done to break them down so that they can easily be sent to the people who know about them, and so that there is not undue delay. Certainly, we recognize, and of

[Mr. Mackenzie]

course, the Controller and Auditor-General himself recognizes, the importance of dealing with questions of this kind as soon as possible.

There is also the point, as I said before, that although reports to the committee only tend to come in annually, the errors are brought to the notice of Government as soon as they are discovered and the responsible people in the Government, I think I can say, do their very best to see that the matter is put right, to investigate it and see that it is put right as quickly as possible. Some things slip through the net and I suppose that is inevitable, but I do give the Council an assurance, Sir, that everything is done to keep these occurrences to a minimum.

As regards internal audit, which was another point that my hon. friend mentioned, I can say that instructions have been issued that the internal auditors should in all circumstances have the right of direct access to the accounting officer for their department. Naturally, they work in close touch with the Accounts Branch, since, of course, the whole point of internal audit is to make sure as far as possible that errors do not occur, and if they occur, to see that they are put right. But all internal auditors have a right of direct access to accounting officers, and I am quite sure that if necessary they would not hesitate to use that right.

As regards Financial Orders, I am glad to be able to say that the new edition of Financial Orders is now in the process of being printed, and I hope that it will be issued in the very near future. There is, Sir, however, one point I would like to make here about Financial Orders, and that is that whilst the new ones have been in the course of being prepared there have been the existing Orders, and of course there are Colonial Regulations, and above all, Sir—and I think this is fundamental in all questions of dealing with public finance—there is common sense. The main principle of dealing with public money, of controlling public money, is very little more than sheer applied common sense. It is a question of finding out how much money has been authorized for expenditure for any particular purpose.

That is something which can be ascertained quite easily; it is passed down from this Council through the Treasury to the Ministries, and there is, generally speaking, a well-laid-out trail of authority which can be followed. If that trail is followed, there should not be very many errors in dealing with the matters of public finance. There is, in fact, nothing particularly difficult in keeping Government accounts, and that, Sir, is partly the answer to what my hon. friend, the Member for Nairobi West, said about Emergency accounting; that Government accounting is the simplest method: it is that of the penny cash book. There have, I know, often been suggestions that other methods could be tried, that governments might turn over to methods more resembling those in use in commerce. But it is not very long ago that a very high-powered committee in the United Kingdom examined this question and came to the conclusion that, for the purposes that Government accounting has to serve—that is, the purpose of ensuring that the moneys voted by Parliament are spent for those purposes for which Parliament intended them to be spent—the Government system does, in fact, serve its purpose extremely well.

3.57 p.m.

[Mr. Deputy Speaker (Mr. Conroy) left the Chair]

[Mr. Speaker (Sir Ferdinand Cavendish-Bentley) took the Chair]

Now, Sir, I would like to deal with what my hon. friend, the Member for Nairobi West, called "the human side of management, or management audit". He did mention that some time ago, speaking in this Council, I said that this was a new-fangled idea, and he corrected me and said that it was not a new-fangled idea, that it had been going on when we were at school and long before that. I would like to point out that what I said on that occasion was that it was a new-fangled name for an old idea, that management audit was not something new and that, in fact, it is something the Government has had very much in mind and still has very much in mind.

As my hon. friend pointed out in his speech, one of the main objects of financial audit is to eliminate waste, and waste

[Mr. Mackenzie] is done he has got to accept executive responsibility, and if that happens there can be no question that he will not have nearly the same freedom to criticize that he has at present. Equally, though, Sir, if the Controller and Auditor-General is not to be saddled with these executive functions, it is essential that the Government, the Executive, should have weapons to deal with deficiencies of organization. For that reason we have set up the Organization and Methods section, and we have the staff inspection side of the Establishments Division: it is their function to help the Government to find solutions to organizational problems. It is obvious that this must be the case: the Government must govern. If a Minister is responsible for a department, he must be responsible, and he must be able to turn to someone and ask for his assistance in putting things right if he is told that they are wrong. We cannot have a situation arising in which a Minister, shall we say, wants to put the Organization and Methods section on to something which he thinks is wrong in his Ministry but where the Controller and Auditor-General might prefer to use them on something quite different. That would not be a satisfactory situation. Since the Government is very anxious to remedy any faults that may arise, I think, as I have said already, it is important that they should be able to rely on the Organization and Methods people and their advisers who have been provided for this purpose.

Regarding the actual details of the report, these—as my hon. friends on both sides of the Council know—will be dealt with in the Treasury Memorandum which will be presented at the first meeting of the Public Accounts Committee. It would not be appropriate for me to attempt now to anticipate the contents of that memorandum, and I do not think that any of my hon. friends opposite would expect Members of this side of the Council to attempt to deal in debate with any of the points contained in the report which very often involve questions of technique and administrative detail. Those, I think, are matters which are much better dealt with at leisure in the Treasury Memorandum which is compiled with the guidance of the accounting officers of the Ministries concerned. As I say, that is what will

I think, Sir, that it would be entirely wrong to inhibit the Controller and Auditor-General in his critical function by saddling him with the responsibility for saying what should be done to put the management right. The moment that

is done he has got to accept executive responsibility, and if that happens there can be no question that he will not have nearly the same freedom to criticize that he has at present. Equally, though, Sir, if the Controller and Auditor-General is not to be saddled with these executive functions, it is essential that the Government, the Executive, should have weapons to deal with deficiencies of organization. For that reason we have set up the Organization and Methods section, and we have the staff inspection side of the Establishments Division: it is their function to help the Government to find solutions to organizational problems. It is obvious that this must be the case: the Government must govern. If a Minister is responsible for a department, he must be responsible, and he must be able to turn to someone and ask for his assistance in putting things right if he is told that they are wrong. We cannot have a situation arising in which a Minister, shall we say, wants to put the Organization and Methods section on to something which he thinks is wrong in his Ministry but where the Controller and Auditor-General might prefer to use them on something quite different. That would not be a satisfactory situation. Since the Government is very anxious to remedy any faults that may arise, I think, as I have said already, it is important that they should be able to rely on the Organization and Methods people and their advisers who have been provided for this purpose.

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[Mr. Mackenzie] happen this year, and what has happened in the past.

There is one final point I would like to deal with, and that is the delay, to which reference has occasionally been made, between the presentation of the Audit Report, and even more between the date on which the events referred to in that report took place and the time when the Report of the Public Accounts Committee comes before this Council. To a very great extent, of course, the timing is inevitable. The accounts necessarily refer to an accounting period, and that accounting period is the financial year. Although it has been suggested that interim reports could be provided I am quite sure that it would be impossible from the point of view of the committee to have to be continuously deluged with 30 or 40 interim reports every month, as could well happen. The only result of that would be that in fact the committee would be dealing with audit queries instead of, as does happen, dealing with general principles.

As I say, Sir, the accounts refer to the accounting period. The accounts have to be with the auditor within four months of the end of the financial year. They then have to be actually with the auditor and he writes his report and as soon as possible that is presented to the committee; and then, of course, the committee has to meet, take evidence and write its report which is eventually printed and brought to this Council. But that is quite natural, when one considers all those things which will have to be done, that it will take time. But, Sir, I do not think that that delay is an unduly serious matter because I think that the primary function, both of the Audit Report and of the committee's work, is to draw attention to serious weaknesses in the Government's financial structure, and I would add in passing that I personally believe that weaknesses in financial structure should always be looked at very carefully, because they do tend to suggest, if there is a weakness in finances, there may be a weakness elsewhere. For that reason it is important that these weaknesses should be looked at very carefully. I think that can best be done in studying case histories of what has gone wrong in the past. That, Sir, is precisely what the committee does, and the result

is that they bring in recommendations and the Government always takes the very greatest notice of those recommendations. We welcome them.

In closing, Sir, I would like once more to say how much we appreciate the very valuable work of the committee, and in particular the work of my hon. friend the Mover of this Motion.

I beg to support, Sir.

THE CHIEF SECRETARY. (Mr. Turnbull): Mr. Speaker, Sir, the only point I wish to refer to in this debate is the apprehensions that have been expressed as to the immovability of the incompetent civil servant. Sir, I am aware that it is commonly said that it is very often almost impossible to remove a civil servant who does not measure up to his responsibilities: he is either kicked upstairs, or is pensioned off, or transferred to another department—"to another ministry" I think was the expression.

Well, Sir, this is not so. But there is enough in what has been said about this matter, by the hon. Mover, and by the hon. Member for Nairobi West to call, I think, for an explanation as to what line the Government does take with civil servants who are unsatisfactory or inefficient. Let me admit right away that it is much more difficult to get rid of a civil servant from the Government than it would be to sack a counter attendant at a sweetshop. The reason is that the Government organization is a very large one, the machinery is elaborate, and it is most important to ensure that justice is done to the civil servant, that he has a proper occasion for stating his case, and that the Government is able to satisfy itself that the man is not the victim of the size of the machine or of the length of the chain of command.

I went into this matter, Sir, about a year ago in some detail for it came to my notice that many senior officers of the Government, and quite a number of heads of departments, were themselves not quite certain as to how they should proceed to get rid of the inefficient and the unsatisfactory officer. After examining their difficulties I drew up what I might call a "child's guide" to sacking the incompetent civil servant. This "child's guide" lays down the technique which must be followed to get rid of the

[The Chief Secretary] incompetent man. It is often rather a slow technique and it does require rather patient following; but I can assure you, Sir, that if my technique is followed patiently and as directed on the bottle, it is invariably successful.

MR. HARRIS: If they do not die of old age first!

THE CHIEF SECRETARY (Mr. Turnbull): The technique which one applies obviously has to vary according to the man who is being dealt with: the man who is on a permanent appointment, and the man who is serving on probation and hopes to be confirmed require one kind of handling; the man who is guilty of an offence against a code of regulations requires another, and the man who is to be compulsorily retired in the public interest requires a third, and that is a difficult technique, because the public interest is not very easy to define.

In my "child's guide" I said: "The public interest is served by the removal from the service of an officer who, although he has committed no offence meriting dismissal, is generally inefficient or exhibits defects of character or temperament or unsuitability, rendering his retention in the service inadvisable." Previously I had said: "The public service is not served by allowing an indifferent officer to remain in the service long after he should have been got rid of, and by making a belated attempt to restore the position by imposing some negligible cut in his retiring benefits. The service is not recompensed for the idleness and incompetence to which it has been exposed, and the officer concerned thinks he is being unfairly treated."

I think you will agree, Sir, that the Government has not been remiss in this matter and that the Public Accounts Committee will themselves find that when this particular potion finds its mark, they will have less grounds for complaint in this direction.

MRS. SHAW: Mr. Speaker, Sir, I rise to support the Motion and to congratulate the hon. Mover on bringing this very serious matter to the attention of Council. The Mover, I think, rightly assumes that most hon. Members have read the report, for as it is a Committee of the whole Council, it is their duty to do so. But, Sir, the reports do tend to

fall on the heads of Members of this Council like manna from heaven. I can remember once when I newly joined this Council, viewing my pigeon-hole with dismay and asking the hon. Member for the Aberdare: "Do you read all these reports?"; and I can remember, too, his very comforting reply. He said: "Good gracious, no; I read those that interest me, and hope to heaven that the others interest somebody else!"

So, Sir, I think the hon. Mover was right to underline the findings of the report just in case there was one hon. Member who has not had time, through pressure of work, to read its findings; and very disturbing they were so disturbing, Sir, that I venture to suggest that they caused a slight ripple on the surface of complacency of the hon. gentleman opposite. The hon. Mover is an example, I think, to all chairmen, because he does take his duties extremely seriously and is not the least deterred by their difficulties. It takes courage to criticize, and as someone once said, "Criticism is the searchlight which illuminates the faults of those who are trying to avoid its beam by saying nothing, doing nothing, and sometimes being nothing." So year after year the hon. Member wags his fingers at the Benches opposite and turns his searchlight on the unfortunate facts revealed by the report of this committee.

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I beg to support.

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

[Mr. Mackenzie] happen this year, and what has happened in the past.

There is one final point I would like to deal with, and that is the delay, to which reference has occasionally been made, between the presentation of the Audit Report, and even more between the date on which the events referred to in that report took place and the time when the Report of the Public Accounts Committee comes before this Council. To a very great extent, of course, the timing is inevitable. The accounts necessarily refer to an accounting period, and that accounting period is the financial year. Although it has been suggested that interim reports could be provided I am quite sure that it would be impossible from the point of view of the committee to have to be continuously deluged with 30 or 40 interim reports every month, as could well happen. The only result of that would be that in fact the committee would be dealing with audit queries instead of, as does happen, dealing with general principles.

As I say, Sir, the accounts refer to the accounting period. The accounts have to be with the auditor within four months of the end of the financial year. They then have to be actually with the auditor and he writes his report and as soon as possible that is presented to the committee; and then, of course, the committee has to meet, take evidence and write its report which is eventually printed and brought to this Council. But that is quite natural, when one considers all those things will have to be done, that it will take time. But, Sir, I do not think that that delay is an unduly serious matter because I think that the primary function, both of the Audit Report and of the committee's work, is to draw attention to serious weaknesses in the Government's financial structure, and I would add in passing that I personally believe that weaknesses in financial structure should always be looked at very carefully, because they do tend to suggest, if there is a weakness in finances, there may be a weakness elsewhere. For that reason it is important that these weaknesses should be looked at very carefully. I think that can best be done in studying case histories of what has gone wrong in the past. That, Sir, is precisely what the committee does, and the result

is that they bring in recommendations and the Government always takes the very greatest notice of those recommendations. We welcome them.

In closing, Sir, I would like once more to say how much we appreciate the very valuable work of the committee, and in particular the work of my hon. friend the Mover of this Motion.

I beg to support, Sir.

THE CHIEF SECRETARY (Mr. Turnbull): Mr. Speaker, Sir, the only point I wish to refer to in this debate is the apprehensions that have been expressed as to the immovability of the incompetent civil servant. Sir, I am aware that it is commonly said that it is very often almost impossible to remove a civil servant who does not measure up to his responsibilities: he is either kicked upstairs, or is pensioned off, or transferred to another department—"to another ministry" I think was the expression.

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I beg to support.

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

4.25 p.m.

LT.-COL. GHERSIE: Well, Sir, there is not a great deal that I have to reply to, because a number of the recommendations contained in our report refer to quite a number of Ministers who have not taken the opportunity of answering either what one might term accusations as contained in the report; or even what they think of our particular recommendations. I do not need to mention the actual Ministers by name, Sir, but it is quite obvious to all hon. Members who they are in particular, as they are very noticeable by their absence.

Sir, there is one correction I would like to make, and it is not that I need to correct anything I have said; but in Thursday's *East African Standard* it was stated, Sir, that I made a reference to the Controller and Auditor-General and that his staff had been reduced from seven to one. Well, Sir, perhaps it was quite easy to misunderstand a statement like that, in view of the various departments I was referring to; but actually that reference was made to the Inland Revenue Department. I was quoting what Mr. Wedderspoon had said; he was at one time, at least up until June of this year, responsible for this Department and his defence he pointed out how his staff had been reduced to that extent, but it was misunderstood by the representative of the *East African Standard*, who referred to the Controller and Auditor-General. I would like to make that perfectly clear, because it would be a very sorry state if the Controller and Auditor-General only had one staff left to deal with this enormous Government machine.

My hon. friend, the Member for Nairobi West, paid particular attention to the suggestion of a management audit, and suggested that this might function either in conjunction with the Controller and Auditor-General or under the Public Accounts Committee. He also drew attention to the fact that although recommendations appeared in our minutes, it was not included in the report as a recommendation.

Well, Sir, I must take full responsibility for that because the report, I suppose, emanated from me, although it was naturally circulated to members of the Public Accounts Committee for their

comments and any suggestions or anything they may require to have included, which, naturally, I or the committee would have considered.

But one reason why, Sir, it was left out was that I felt and I think the Public Accounts Committee feels, that at this stage, this particular suggestion of a management audit—although it has very great merit in it, Sir—is perhaps outside the terms of reference of the Public Accounts Committee as such, our terms of reference being, of course, Sir, to examine the accounts of the Colony, the appropriation accounts of the Colony and, of course, the audit report. But I entirely agree with my hon. friend; I do think there is a great deal of merit in the suggestion of a management audit, and I hope that it is a matter that the Treasury, quite apart from what they have said in regard to the Organization and Methods Team—I mean, I stand to be corrected, but I think the Organization and Methods Team has a very small complement of staff, and I do not see that they can really carry out their duties effectively (I will not say efficiently, I am not suggesting that they would not do them efficiently), but effectively, when one considers the number of departments that is involved in Government. I do suggest that it is very worthy of consideration by Government.

I would also like to correct what was possibly a misunderstanding and it was referred to by two hon. Members. We may endeavour to protect the public purse, but we can only ensure, as far as possible, that funds are spent or expended on projects as laid down by Legislative Council. Our first information, Sir, as everyone knows, reaches us from the Controller and Auditor-General; and it is after that that we investigate and endeavour to arrive at the reasons why errors took place, or the cause of lack of proper financial control. It is our duty, I think, I am sure it is our particular function in fact, to endeavour to put forward recommendations which will, as far as possible, ensure that there is no repetition of those errors. But we are not in a position to prevent their occurring.

One other point, referring to my hon. friend, the Secretary to the Treasury, when he referred again to the Organization and Methods Team as being the

[LT.-COL. GHERSIE] correct body to carry out the management audit. I think he also referred to the question of an annual review. Well, I have the hon. Member's words here—I think the hon. Member did say, Sir, that he thought that the management audit should be conducted through the Organization and Methods Team (or they may be the people to undertake the work) he thought it would be a very good idea that there should be an annual review as far as the staff of the various departments were concerned. Well, I can see the hon. Member frowning so perhaps I misunderstood him—but I thought that was what he said. What I was going to say to that was that, of course, it would be quite useless to have an annual review: there must be a continual examination if it is to be in any way effective. Do you want me to give way—you seem rather worried?

MR. MACKENZIE: I do not remember, Sir, having said anything about an annual review; but there is most certainly a continuous examination by Audit.

LT.-COL. GHERSIE: Thank you, Sir; I was not referring to the Audit Department. I was referring to the Organization and Methods Team.

Now, Sir, my hon. friend, the Secretary to the Treasury, also pointed out that the internal auditors had direct access to their accounting officers. That is as it should be, of course. But what we also suggest is that the information made available to the accounting officer should also be made available to the Controller and Auditor-General.

MR. MACKENZIE: I would like to assure the hon. gentleman, Sir, that that is so.

LT.-COL. GHERSIE: I wonder if I am to understand, Sir, that the actual report of the internal auditor which is made available to his accounting officer is also made available to the Controller and Auditor-General.

MR. MACKENZIE: Yes, Sir, all files in any department are available to the Controller and Auditor-General and naturally he would look first for the internal audit reports.

LT.-COL. GHERSIE: Mr. Speaker, Sir, as I understand it, they are available. But there is a very big difference between being available and being made avail-

able, if you understand the distinction. In other words, I submit that they should be furnished to the Controller and Auditor-General, not just that they are available if he wishes to make use of them.

Well, Sir, my hon. friend also made reference to the audit reports which have now superseded audit queries, and that Government took action on these immediately they were made aware that queries had arisen; and he did not think it was very desirable that the Public Accounts Committee should be bothered with meetings—I think he mentioned actually once a month—there was no suggestion of that.

MR. MACKENZIE: What I said, Sir, was that I was sure that the Public Accounts Committee would not wish to deal with 60 queries a month.

LT.-COL. GHERSIE: No, Sir, I am afraid my hon. friend completely misunderstood what I was driving at and what I actually said in my speech when moving this Motion in the first instance. What we said was—and it is in the report—that in a case of sufficient importance the Controller and Auditor-General should not hesitate, not hesitate to furnish an interim report to the Public Accounts Committee. You see, Sir, if you examine even this report which was tabled on 8th October; there are definite instances where literally no action has been taken whatsoever on very serious matters.

Therefore, to suggest that an audit report, an audit query goes to the Government, and they deal with the matter immediately would not appear to be the case. I submit that in a case such as (the hon. Member knows exactly what I have in mind—I do not intend to read the report and quote them again)—I submit that the Controller and Auditor-General should immediately bring the fact to the notice of the Public Accounts Committee so that we, either by representation to the senior officers in Government, or through Legislative Council, may see that the recommendations we have made, that the recommendations we have made, or the inquiries, as the case may be, are acted upon expeditiously instead of allowing matters to drag on as they do for possibly two or three years.

MR. ALEXANDER: Quite right.

LT.-COL. GHERSIE: I am very glad to hear the hon. Member say that the Standing Orders are now with the Government Printer, and that they will be available, presumably, in the very near future.

I would also like to make one point there too: my hon. friend, the Secretary to the Treasury, did not seem to think it was a very serious matter that delays took place. When a query is reported by an internal auditor, the Controller and Auditor-General or his department, Government, he alleges, take action. He did not think that the delay between the time of a query of lack of financial control being discovered and the time it comes, for instance, to the notice of the Public Accounts Committee mattered.

Well, Sir, it should be remembered that this report of the Controller and Auditor-General, for instance, Sir, is dated 21st January, 1957, and it is on the Colony's accounts for the year ended 30th June, 1956. The Public Accounts Committee, Sir, in turn, took evidence in April of this year. Then again, through no fault of the Public Accounts Committee, their report is not tabled until 8th October; we are now debating the report on the Colony's accounts for the year ended June, 1956, in November, 1957.

The point I wish to emphasize is this, Sir: when queries are raised, they should be dealt with immediately. It should not be necessary to wait all this time. The Controller and Auditor-General discloses in his report because presumably they have been reported to the officer concerned, or the accounting officer of that branch, and no action has been taken; and therefore he finds it necessary to bring them to the attention of the Public Accounts Committee. It is then, of course, as a result of examination by the Public Accounts Committee that it finds its way into this Council.

But I do submit, Sir, that the delay must not be made light of; it is absolutely essential that when queries are disclosed, either by the internal auditor or by the Controller and Auditor-General himself, action should be taken immediately. They should not be allowed to drag on as they have during the past two years.

MR. MACKENZIE: On a point of explanation, Sir, I think my hon. friend

realizes that it was the delay in producing the audit report which I thought did not do any great harm. So far as queries are concerned, I entirely agree with him that they must be dealt with at once.

LT.-COL. GHERSIE: Yes, Mr. Speaker, I appreciate those remarks, but I would again emphasize that there was a delay in producing this report which is dated January of this year on the Colony's accounts up to 30th June, 1956. There is an audit taking place at this particular moment on the Colony's accounts for the year ended 30th June, 1957; and I submit, Sir, that in a case of sufficient importance—lack of proper financial control say—whatever the case may be, the auditor should not wait until he has completed his report; but he should bring the subject to the attention of the Public Accounts Committee during this interim period.

Sir, I was very glad to hear from the hon. the Chief Secretary that he apparently has a "child's guide", I think he called it, or prescription which seems to cover most of the ills—the point is, of course (it sounds admirable actually), has it really been drawn to the attention of all senior officers; and if so, are they really taking action. That is really the point, I think, Sir. It sounded excellent and he did, of course, admit the difficulties that exist because of the various categories. But he also stated that justice must be done and I quite agree: one should see that justice is done in the case of any civil servant. But we would also like to see that perhaps justice is done in another way when it is necessary; in other words, we would like justice to be seen to be done, too, in the interests of the taxpayer.

Well, Sir, I have nothing further to add. I think I have answered all the points that have been raised. I would like to conclude, Sir, by thanking hon. Members for their complimentary remarks in respect of the members of the Public Accounts Committee and myself; but I do assure all hon. Members that the efficient working of the Public Accounts Committee is due entirely to the teamwork displayed by all the members of that Committee.

— Sir, I beg to move.

The question was put and carried.

## ADJOURNMENT

THE SPEAKER (Sir Ferdinand Cavendish-Bentinck): That brings us to the end of the business on the Order Paper. I will therefore adjourn Council until 2.30 p.m. to-morrow, Wednesday, 27th November.

*Council rose at forty-five minutes past Four o'clock.*

Wednesday, 27th November, 1957

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:—

Arthur Poyntz Jack

## BILL

## SECOND READING

*The Pyrethrum (Amendment) Bill*

*(Resumption of debate interrupted on 20th November, 1957)*

MR. HARRIS: Mr. Speaker, Sir when this debate was adjourned last week, I think I had made the point that, under the Bill, considerable power is being given to the Pyrethrum Board of Kenya to raise money in various ways; and that therefore, before we granted this power under the Bill, it was necessary for us to see the kind of people to whom this power is being granted. I had mentioned, Sir, that in the Annual Report of the Pyrethrum Board dated August of this year, it was noted that the three commercial representatives on the Board had, for some reason, found it necessary to resign in September of 1956; and to suggest, Sir, that it did not inspire a great deal of confidence in the business acumen of the Board if it was necessary for the three commercial representatives to resign.

Now, Sir, if one studies this annual report further, one finds this paragraph:—

"A contract has been placed with British manufacturers for the supply of the grower-owned extraction plant which is to be operated by the Board at Nakuru. A site has been purchased in the Nakuru industrial area and the services of an experienced extraction plant manager have been acquired. The plant is now in course of manufacture and deliveries of machinery and equipment are due to commence in six months' time. The new plant should be fully operative by the end of 1958. Although no precise figure

[Mr. Harris] can be established, it is probable that the total capital cost involved will not exceed the sum of £200,000 which was approved at the 1955 Conference of Delegates".

Now, Sir, the first question I have to ask the Minister on this is, is this plant really necessary? There is already in existence, erected by private enterprise, in Nairobi, an extraction plant which I think it would be fair to say the investors of that project were encouraged to erect; and this encouragement, Sir, is reminiscent of Liebig's encouragement to Athi River some years ago. But now, Sir, it seems that the Board, the Pyrethrum Board, have decided and have placed a contract to duplicate a plant already in existence, which is capable of taking care of the Kenya crop and the crops of adjoining territories in Nakuru. I would have thought, Sir, that if the Pyrethrum Board had £200,000, the Colony could have found a very much better use for that £200,000 than duplicating a facility that already exists elsewhere. But, Sir, I doubt whether they have £200,000; looking at their balance-sheet, as at 31st March, I think, of this year, we find that they have an overdraft of £151,000 which is secured by hypothecation of certain stocks. Their liquid assets in the balance-sheet including investments and cash are, in fact, £40,000.

I would like to ask the Minister, Sir, how is he going to finance the other £160,000 as a minimum. Is he coming back to this Council to ask for a guaranteed overdraft, an overdraft guaranteed by Government; and if he does, Sir, what right have we to grant this facility to the Board when there are already in the country the necessary facilities for converting pyrethrum flowers to extract? It is interesting, Sir, that my information is that the present stocks of extract in the country are valued at £630,000—present stocks. The total sales for the year ended March, 1957, were approximately £500,000. So we already have in stock in this country more than last year's sales with an extraction plant which is capable of dealing with the whole crop. Why is it therefore necessary, Sir, to add a further burden to the pyrethrum industry of redemption charges on a loan—and

it can only be a loan because there is no money, in this balance-sheet—to use for the erection of a £200,000 factory? Why is it necessary to put up this factory when the facilities are already here?

The last time I raised this question, Sir, was some 18 months ago when the Minister said that he would encourage the existing plant providing he could be satisfied that it was efficient. Now, Sir, there are all sorts of yardsticks for efficiency; but I understand that there is in America a pyrethrum extract plant which is considered to be the finest in the world. If the Minister, Sir, will study the conversion ratio of flowers to extract, he will find that the Nairobi plant to-day is more efficient than the American plant. Therefore, Sir, there can be little excuse in saying that a plant operated by the producers—the Minister for Commerce and Industry, Sir, seems to be doing some arithmetic: I am not going to division!—

THE MINISTER FOR COMMERCE AND INDUSTRY (Mr. Hope-Jones): I did not think you would!

MR. HARRIS: The position, Sir, is that there is certainly enough facilities for converting flowers to extract and there is an efficient factory already in existence in the country. Attempts have been made at various meetings to discuss this matter; in fact, Sir, I made the last attempt as late as last Thursday to see whether we could not get the various parties together but, unfortunately, the Minister decided that he must go ahead.

We come, Sir, to a matter of very important principle which affects many of the boards that come under the Minister's control. They are producer boards and it seems to me that the producers refuse consistently to allow people who know how to process their produce or how to sell it to have any real say in processing and selling; and they insist, for some extraordinary reason best known to themselves, on keeping their hands on all the processing and all the selling much to the detriment, I believe, of the agricultural industry in this Colony.

Let me give an example, Sir, of the sheer inefficiency of the new factory. The old factory in Nairobi is employing at the present time eight highly paid and highly skilled Europeans. I think the

[Mr. Harris] Minister for Commerce and Industry will agree with me that those sort of people will cost the industry, on an average, at least £2,500 per annum each; so that in Nairobi we have £20,000 worth of European skill being paid for every year in a processing factory. It is now proposed to duplicate that £20,000 in a factory in Nakuru.

Now, Sir, if the reason for the resignation of the commercial members from the Board, which I mentioned earlier, was not disagreement over this factory then I am quite sure it was disagreement over the sales policy of the Pyrethrum Board.

What is this new factory doing, Sir? It is adding another £20,000 to the cost of pyrethrum processing and therefore making us £20,000 per year on the crop worse off in competition with foreign competitors; and, Sir, to have two factories each paying £20,000—

MR. ROBINSON: Mr. Speaker, on a point of order, is the hon. Member not slightly off the point. There is nothing about a processing factory in the Motion which we are discussing at the present time.

MR. HARRIS: May I speak to that point of order?

THE SPEAKER (Sir Ferdinand Cavendish Bentinck): The hon. Member is getting some-way from the terms of the Bill. On the other hand, there is a clause giving powers in respect of raising and expending money in this Bill, and I think the hon. Member must be permitted to develop his arguments a little longer.

MR. HARRIS: Thank you, Mr. Speaker.

The point I was making is that the hon. Member who rose on a point of order is a member of this Board and therefore I quite understand his not wishing me to question whether he is a right and proper person to raise funds on behalf of the industry.

Now, Sir, I have very little more to say, the hon. Member will be glad to hear. But I would appeal, Sir, to the Minister not to be obstinate in this matter but to realize that we are, all of us, even I in my criticism of the Pyre-

thrum Board of Kenya, trying to do the right thing for the Colony; and it is very difficult to justify the erection of a duplicate factory in Nakuru and at the same time to say to overseas investors, who have already put up a plant in this country, that the farmers of Kenya think they can operate an industrial process more efficiently than people who are engaged in commerce and industry.

I do not wish to embarrass the Minister for Commerce and Industry who resigned from this Board, but I feel sure that he would realize that the particular company which has invested in this country already has done a great service in other ways in this country by the investment of capital. It would be a great pity if obstinacy on the part of the Minister of Agriculture were such that it turned that capital, and other capital which might follow it, away from this Colony.

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

MR. HARRIS: I think that if there are any threats in this matter they have already come from the Minister for Agriculture, and he will have an ample opportunity of replying—

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): May I ask the hon. Member to withdraw? If he reads the speech which I made when I introduced this Second Reading, and if he reads the format of this Bill, he cannot justify the statement he has just made.

MR. HARRIS: The Minister, Sir, will have an opportunity of replying to me later—

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): I have asked the hon. Member to withdraw.

MR. HARRIS: What am I supposed to do, withdraw, Mr. Speaker?

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): The hon. Member has alleged that I have made threats in this Council. I have not made any threats in this matter. He is making a mistake.



Mr. HARRIS: I did not say that threats had been made in this Council, Sir; I said if threats had been made, if anybody had made threats it was the Minister.

I do not want to go into this chapter and verse, Sir, but when the Bill went through this Council six months ago there were at least some recriminations, if not threats.

THE MINISTER FOR AGRICULTURE, SOURCES (Mr. Blundell): The hon. Member admits they were not threats then!

Mr. HARRIS: Mr. Speaker, it seems to me that like the pyrethrum extract factory we are duplicating a previous debate!

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): Hear, hear! Perhaps the hon. Member would like to stop!

Mr. HARRIS: Actually, Sir, I was going to stop, but I am now going to try to think of something else to say. I will repeat in different words what I have already said—that I do appeal to the Minister to realize that his action in this matter may well be turning investment capital away—not in pyrethrum, but it may well be a symptom of turning away other investment capital from this Colony; and until I get a satisfactory answer to this, Sir, I shall withhold my declaration as to whether I support or oppose the Second Reading.

Mr. CROSSKILL: Mr. Speaker, I cannot but feel that it is a great pity and, indeed it is wrong that this matter should have taken the turn that it has done. I feel that it has turned on a question of quite a well-known commercial disagreement which I feel should be settled in the normal course by negotiation rather than by being brought before this hon. Council. I feel that by doing this it is wasting hon. Members' time and the country's money. However, I feel that since the matter has been raised, it is now unfortunately necessary to have a fairly full discussion of the matter so that the question can be cleared up.

With regard to clarity, Mr. Speaker, it is certainly not clear whether the hon.

Member who spoke last is taking up cudgels on behalf of the banks, the growers, the processors or the buyers.

Mr. HARRIS: Of the investors.

Mr. CROSSKILL: The only thing that is clear to my mind is that Nairobi South is not a pyrethrum-growing area.

Mr. HARRIS: We make it saleable.

Mr. CROSSKILL: If, Mr. Speaker, he is taking up cudgels on behalf of the banks, then I feel that he is wasting his time, because in my personal experience they need no protection and they are well able to look after their own interests. If it is on behalf of the growers, then they are unanimously in agreement with the project. If it is on behalf of the processors, then, Sir, they have reassurances and they have agreements to which I shall refer later. If it is on behalf of the buyers, then I would assure him that what they require is more extract and not so many flowers.

Now, Sir, arguments have been brought forward by my hon. colleague, the Member for Nairobi South, which infer that there has been and is in fact mismanagement by the Board of this very important industry. This is a very valuable, thriving, and a very well-organized industry which is of tremendous importance to this country; and I believe it to be very wrong that statements such as have been made should go unchallenged as they might well damage the interests of this important industry outside this country.

That this industry has seen fit to restrict the growing of this crop is no slight. It does not show that it is badly organized; rather, Mr. Speaker, does it show that it is on its toes and that it is organizing and restricting the crop and co-ordinating it with the demands, I believe, Sir, that the Chairman of the Board has just recently returned from a very extended tour, together with the General Manager; and that again shows that they are very much on their toes. I, as a grower, have confidence that those two, in conjunction with the Board, would not go forward with this project if what they had found in their travels did not warrant the expenditure of the money.

On the other hand, Sir, the Board is, and has been; determined to see that everything humanly possible is done to

[Mr. Crosskill] increase that plant owing to the expanding economy and the expanding market for pyrethrum and the demand for extract rather than for flowers. During that time—up until 1953—the processors had a contract with the Pyrethrum Board, working on a tonnage of 1,200 to 2,000 tons a year. They have a contract on those lines until 1959, and that has given them security for many years within a monopoly. That security still exists and continues. It is open to them to negotiate to any further extent, and I believe that that would be possible. But meanwhile from the time when the processors were working on 600 tons a year the crop has risen to 4,000 tons a year and it is not likely, so far as I know, to decrease below that. Therefore, Mr. Speaker, it is quite obvious that the potential of the plant in Nairobi must be increased very considerably or else an additional plant must be built.

I think, Sir, that it is no exaggeration to say that at the moment the pyrethrum industry is, to a very great extent, carrying the mixed farming in this country. We have heard recently in this Council that there has been trouble experienced by the Meat Commission over the selling of beef. Farmers have been in trouble over being unable to sell their cattle. Difficulties—well-known ones—have been experienced over the growing of wheat. Our scientists, unfortunately, have rather lagged behind in producing rust-free types of wheat. The cost of machinery is well known and is the subject of examination by the Kenya National Farmers' Union. Those factors make it difficult for profits to be made out of wheat. It has also been recently known that the price of wattle has fallen dangerously low, making that possibly uneconomic. Then again even dairying, which may be said to be the backbone of the mixed farming industry in this country, is not a very sound proposition at the present time. I estimate that it is only a 5 per cent—and a somewhat hazardous 5 per cent—investment; and with money borrowed at 6 and 7 per cent it makes it even less sound.

We must therefore look, to a very great extent, to this pyrethrum industry to maintain the prosperity of the country; and I believe that the sales organizations—the marketing organizations—of those industries to which I have referred could well learn a lesson from the Pyrethrum Board and gain inspiration by the steps which they are taking now to maintain the prosperity of that industry.

I now come to the reasons why the processing plant at Nakuru is necessary. Just to go back a few years, Mr. Speaker, it was in 1945 that the processors first started on their own account. They were processing some 600 tons a year. In 1953, four years ago, the Board came to the conclusion that it would be necessary in the near future to

I would like to say why the Board has decided that it would be preferable to build another plant rather than extend the present one. There are several reasons. The first is this. The process uses materials which are extremely inflammable and there is a constant danger that a plant may be burnt down. If the plant were burnt down it would be a very serious matter as it is the only plant in the country. It would certainly cripple the industry for a very long time.

My second point, Mr. Speaker, is that with part of the crop being grown in the west of Kenya near to Nakuru, and part nearer Nairobi—as well as in Tanganyika—it is economically desirable that the transport should be shared; and quite obviously there will be considerable savings in the handling, packing and baling of that part of the crop which comes from the western part of Kenya when the plant at Nakuru is open. There will be a considerable saving also in railage from Nakuru to Nairobi.

300 p.m.

Perhaps more important than any of those, Mr. Speaker, is the question of the loss of pyrethrin, the virtue in the pyrethrum flower, which is lost in transport. Then, again, perhaps even more so. Then, again, perhaps even more important than anything that I have said

[Mr. Crosskill] so far is the factor of competition which is always desirable.

Therefore, Mr. Speaker, I maintain that it is logically right and economically sound that the Board should expand and have another plant at Nakuru.

THE SPEAKER (Sir Ferdinand Cavendish-Bentick): I do not want to interrupt the hon. Member, but I would like him to give some indication as to where his general exposition relates to one or all of the clauses contained in this amending Bill which is confined to specific amendments. We are not debating the existing Pyrethrum Ordinance which no doubt covers many of these generalities.

MR. CROSSKILL: Mr. Speaker, Sir, I am equally sorry that one finds it desirable to go into this detail because the detail has been introduced and arguments have been put forward that the plant should not be constructed—

THE SPEAKER (Sir Ferdinand Cavendish-Bentick): I realize I have given great latitude, but we must adhere more closely to the terms of the Motion under discussion.

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): Mr. Speaker, Sir, on a point of order, surely the hon. Member is in order in developing his argument with a view to refuting the allegations which were made by the hon. Member for Nairobi South, that the Board was not competent to exercise the provisions in the Bill which allow it to deal with money matters?

THE SPEAKER (Sir Ferdinand Cavendish-Bentick): I think the hon. Member was getting rather beyond that; we shall shortly be involved in botanical aspects of the pyrethrum plant.

MR. CROSSKILL: Mr. Speaker, I will leave that point and proceed with greater brevity towards my next point.

Another point raised by the hon. Member in advocating that the extra plant should not be built, Mr. Speaker, was the cost. Well, I do submit that the money is the property of the growers, and if the growers are prepared to risk their money, then I feel that that should be allowed to go forward. It is in the form of a cess of 7½ cents a pound of pyrethrum flowers, which I myself pay

and so do more than 1,000 other growers, both European and African.

Mr. Speaker, it has been computed that the amount which will be borrowed from the bank will be completely repaid by this cess by 1962, and the bank is quite happy with the collateral security of the capital assets owned by the Board.

With regard to protection for the processors, which apparently is behind the reason for objecting to the new plant, I think it has been found by the hon. Attorney-General that it is not possible to include protection in detail in the Bill. But, Sir, is it necessary for legislation to protect commercial enterprises in this way? I say "No". There are many other ways in which this can be done. The Board has given agreements and is prepared to extend agreements. Furthermore, I believe the Minister will tell us that he has also given assurances that he will protect the processors in every way he can within his power—and those powers are very considerable.

I also believe that there are no growers in this country who wish to see the processors put out of business, but who would rather wish to see both plants operating in the foreseeable future, for the reasons I have given, the danger of fire, for instance. For that reason alone, we do wish to see the two plants going. There is, furthermore, the other reason I have given, which is that, for geographical reasons it is more economical to have two plants than one very large one.

Another point made by the hon. Member for Nairobi South, Mr. Speaker, was with regard to the resignations of the three commercial members of the Board. Now, Sir, he implied that there was something sinister with regard to their resignations. I do not believe that there was in any way anything sinister in that, Mr. Speaker, and I think it is wrong to impute that suggestion. I think it is quite clear; it is not that they did not have time, it is not that the hon. Minister opposite was too peripatetic to take part in the pyrethrum industry at all, but we know—

THE MINISTER FOR COMMERCE AND INDUSTRY (Mr. Hope-Jones): On a point of order, Mr. Speaker, I think the hon. Member is mistaken in implying that I was a member of the Board as a

[The Minister for Commerce and Industry] Minister; he knows very well that I was not.

MR. CROSSKILL: Mr. Speaker, I was very sympathetic with the Minister in his dual capacity. It is no good the hon. Minister scowling at me in that manner because—

THE MINISTER FOR COMMERCE AND INDUSTRY (Mr. Hope-Jones): On a further point of order, would the hon. Member withdraw his implication that I was a member of the Board as a Minister. I was a member long before I ever became a Minister.

MR. CROSSKILL: Mr. Speaker, what I say is that the Minister was a member of the Board, not as a Minister, but he was placed in a very difficult position, if he will allow me to proceed, in being a Minister and being on the Board. It is well known that there was a disagreement and it put the Minister in a very difficult position, in his capacity as Minister, to have to arbitrate or take part in arbitrations. I think he was quite right, Sir, in resigning, because he was in an impossible position.

Now, Sir, there is a very formidable structure not far from this Council Chamber, which has a plaque; this plaque does, I believe, among the names of other aldermen, bear the name of the hon. Member for Nairobi South, and on that plaque it says: "This building is an act of faith". Well, Mr. Speaker, this new processing plant at Nakuru is an act of faith on the part of all the pyrethrum growers in this country.

I beg to support.

THE SPEAKER (Sir Ferdinand Cavendish-Bentick): Once again I would point out that there is no mention of processing factories in the Bill. We are discussing proposed amendments to an existing Bill. So far no speaker has alluded to the specific proposals.

MR. ROBINSON: Mr. Speaker, Sir, I think I had better make my personal position clear. My hon. friend, the Member for Nairobi South, has pointed out what I was going to do. I am a member of the Pyrethrum Board of Kenya and a grower on a substantial scale; therefore I have, as he has pointed out, a very real interest in this Motion.

Sir, a great deal of harm, I think, has been done to the industry by the political lobbying and commercial manoeuvring which has taken place in the last year, and therefore I intend to make my remarks as uncontentious as I can. My hon. friend, the Member for Mau, has spoken at length on the reasons why the Board wish to erect another plant in Nakuru, so I will not myself touch on that point.

There are some matters of detail which my hon. friend, the Member for Nairobi South, raised with regard to the operations of the Board. He said, I think, that the capital assets of the Board were £40,000. Well, if he looks at the capital fund account he will find that, by an independent valuation, done on 31st March, 1956, the amount is £127,000.

MR. HARRIS: Thank you for giving way. I made the point very carefully that the liquid assets were £40,000. In other words, Sir, those assets upon which the Board could call if they wished to finance a new plant.

MR. ROBINSON: Sir, whether the assets are liquid or fixed, the two banks who have undertaken this facility for the Board are quite happy to accept the security—whether they are fixed or liquid. Also, Sir, my hon. friend said that the sales realization—possibly I am wrong once again—only amounted to £500,000. I would like to correct that on behalf of the Board: the sales realization for last year was just under a £1,000,000.

MR. HARRIS: Mr. Speaker, on a point of order, I do not like being misquoted: I said the sale of extract was £500,000. I made it quite clear.

THE SPEAKER (Sir Ferdinand Cavendish-Bentick): You are, I presume, making a personal explanation not raising a point of order.

MR. ROBINSON: My hon. friend was trying to make his point that as the sales were so low—only £500,000—it was not a loanworthy scheme for the Board to undertake.

MR. HARRIS: I must get up on another point of explanation, Mr. Speaker. I did not make that point at all. Sir, I made the point, Sir, that the stocks at present on hand in the country of extract were £630,000, and the sales last year were £500,000. It is nothing to do with the loanworthiness.

Mr. ROBINSON: Mr. Speaker, Sir, my hon. friend mentioned an overdraft of £152,000, and I would like to explain to the Council how the crop is financed. It is unlike cereals. This crop is produced more or less all through the year, and is paid on delivery on the ratio of two-thirds of its value. This is a commercial undertaking, which has been conducted by the bank ever since the Board started operating, and there is nothing sinister or peculiar that there should be this overdraft. The security offered is the stocks which are held by the Board.

Finally, Sir, I would like to say that this project has been enthusiastically supported by all growers and is supported by the new commercial members of the Board. I think that it will add to the capital assets of this country, and I would like to say for the record once again what the Board has said so often, that it has no intention or wish to put out of business any commercial interest which is committed in it. As long as the industry concerned is efficient, and can provide equal facilities to those offered by the Board, then the Board is happy that it should continue in the business.

Sir, I beg to support.

THE EARL OF PORTSMOUTH: I do not wish to take up the time of this Council, Sir, for more than a few moments. I am and must declare myself a very small pyrethrum grower, but I am certain that it is of great importance that this Bill goes through and that there should be, through the working of the Bill, the possibility of increasing the sale of our extract in the best way. I think it is even more important now that we have not only a very large proportion of European growers, but a very large, increasing proportion of African growers, that we must do everything we can to make sure of our market and our sales on quality.

Mr. Speaker, Sir, I beg to support.

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): Mr. Speaker, Sir, as I said when I was introducing this Bill, it is mainly concerned with certain small amendments which the daily

working of the Ordinance has proved by experience to be necessary. Major issues have been raised in this Council, which really have no relationship whatsoever to the small amendments which are before the Council. I think that they would be better dealt with, if it was necessary at all to deal with them, possibly by Motions from the Council, rather than introducing them into an amending Bill of this nature, largely concerned with small matters of detail.

That being so, I propose to deal with only three points that have been raised, partly because some of the arguments advanced by the hon. Member for Nairobi South have already been dealt with by other hon. Members, but mainly because much of the matter which has been introduced into the Council is not really pertinent to the Bill.

The first point that I would like to make, Sir, is this: my hon. colleague, the Minister for Commerce and Industry, was a member of this Board in his private capacity from long standing. I think that he contributed to the deliberations of the Board for upwards of 15 years. And it was really a subsidiary matter that, in the course of 15 years, he rose to the position of being a Minister!

The second point, to which I would like to refer, Sir, is whether the Board is competent really to venture upon a commercial process of this sort, and I would like to draw the attention of hon. Members to the calibre of the commercial members on the Board. They consist at the present moment of a Mr. J. S. Perkin, who is the Managing Director of the Magadi Company Limited. He is a trained chemist and was for many years a director of one of the Imperial Chemical Industries companies in the United Kingdom. I think we can assume, therefore, that his technical knowledge of chemistry, which is much concerned in the processing, and also his business experience, are of value to the Board. A second commercial director is Mr. Eric Baumann of Baumann and Company Limited, and I think hon. Members will agree with me that his is a name which carries some weight in commercial circles.

[The Minister for Agriculture, Animal Husbandry and Water Resources].  
The last member is Mr. Gardner, who is a representative of the Unilever Organization in this country, and, I believe, the head of it, and I think, again, hon. Members would agree, that the Board is lucky to have business experience of that ability at its disposal.

I therefore feel, Sir, that as the Board has decided to proceed on a second processing plant with the full agreement of these gentlemen, we can accept that the matter has been thoroughly examined by the Board and we can also accept their decision with confidence.

Now, Sir, the last point with which I want to deal is the matter of an appeal to me by the hon. Member for Nairobi South not to be obstinate in this matter. I would like to say this, Sir, I think that much of the trouble in this matter has arisen from suspicion between the members of the Board and the processors. I would like to ask hon. Members whether they think that the activities which have recently taken place in the calling together of Members of this Council by the processors and the presenting to the Members of the Council by the processors of their point of view, and I must call it so, Sir—very widespread lobbying which has taken place by the processors is conducive to removing the suspicions of the Board as to the single-minded interest of the processors in the furtherance of the general interests of the industry, especially when hon. Members remember that the processors have a particular relationship to the Board and it is a relationship which in all honourable commercial concerns is one of great integrity and sanctity—the relationship of agents to their own principals, who are the Board. I think as long as these suspicions exist it will be difficult for me to bring the parties as much together as I would wish.

I would like to read to hon. Members the remarks which I made in the debate on the 29th February so that hon. Members may understand that the position of the Government has not altered in this matter. I said then:—

"The processing side has been in association with the industry, to my certain knowledge, for the best part of ten years and the growers have always

denied that there was an established right for the processors to have flowers, but equally always agreed that an allocation of flowers should be made in the interest of the industry. It would be my personal opinion that if the growers failed to recognize the contribution which the processors have made to the industry, they would be unwise. It seems to me that we should look at the matter as follows. The growers are entitled to arrange for the extraction of their flowers to the maximum benefit of the grower himself, and I do not believe any Government could stand in the way of the growers' wish, if they so require, to produce their own factory and extract their own flowers. I think there must be a proviso to that wish by the grower. That proviso must be this, Sir, that an existing industry which has worked in close association with the growing side for ten years is entitled to a protection of its interest. I believe that its entitlement to protection must rest on two things and two things only: one is that it is efficient and the second is that it is in the economic interest of the industry. I do not want to bore the Council with technicalities, but I do not think that the Government would be justified in protecting a processing industry which was inefficient in the degree of its extraction and thus caused the grower loss. On the other hand, I also feel that the Government would not be right in introducing legislation which enabled the Board of growers to abuse the powers of such legislation to eliminate an existing industry which had invested capital in the country, provided that the extraction was economic and gave the grower a reasonable return for his flowers.

That being so, Sir, I am prepared to consider introducing amendments to this legislation on the lines of the amendments which I abortively placed before the Council, if a situation arises where legitimate interests on one side or the other are being damaged. I tried to outline to the Council exactly what I would consider, as Minister, would be the legitimate interests. I do not believe that the Government would be entitled to introduce legislation to bolster an inefficient and un-economic industry, but equally I

[The Minister for Agriculture, Animal Husbandry and Water Resources] would oppose the abuse of powers under this legislation to eliminate a helpful and efficient industry."

Now, Mr. Speaker, I believe that that statement is a very clear one indeed and I do not think, really, that it is necessary for me to add to it except to say this; at the present moment I understand that the processers are protected by an agreement on the allocation of flowers for another four years. I am only too willing to do anything I can to try to bring the two parties together and as the hon. Member for Nairobi South has indicated that he made an attempt last Thursday which was largely negated by myself. I think it is only right that I should put before the Council a recent experience which I had. Upon my return from the United Kingdom both the Pyrethrum Board and the processers had agreed to a form of words which would have enabled me to move the amendments which I had already disclosed to this Council might be necessary. The form of words, however, was not one which my hon. and learned friend, the Attorney-General, felt was suitable to be agreed if the matter had to be decided in law. I therefore asked the members of the Pyrethrum Board and the processers to meet me, as the Minister responsible who had not up to that moment been engaged in this discussion, with my hon. and learned friend in his office to see if we could slightly amend the agreement which they had made with a view to making it of greater clarity in law.

Now, Mr. Speaker, the Chairman and two members of the Board attended the meeting but the processers refused to do so. I telephoned to the processers and made a personal appeal, asking them to attend, but still they refused.

I would like to record to the Council that I have no doubt that, had they attended, I would have reached agreement because the members of the Pyrethrum Board were in a co-operative and friendly mood and I can only say, Sir, how much I regret that the processers did not attend that meeting.

Now, Sir, what makes me feel that my position is difficult—and I hope that the processers will reconsider the matter—is

that no sooner was that meeting over than the processers called a meeting to which they invited all Members of this Council who might be interested in the matter including the Minister for Commerce and Industry and myself and the position that we, as Ministers, faced was this, Sir, when I, as the Minister responsible, attempted to bring about harmony between contending parties by inviting them to a meeting at which my hon. and learned friend would attempt to resolve the matter, that meeting was refused. And the processers then embarked upon a meeting of their own to which they were graciously pleased to call the Minister. Now, I do record that to the Council, so that the Council may be fully aware of the difficulties under which the Government has been acting in this matter. I think, Sir, that the Government has no wish whatsoever to depart from the statement which I made on 29th February, 1956.

I am still hopeful that the contending parties will be able to reach agreement. I am certain that the processers at the present time have no need to worry because their allocation of flowers is protected under an agreement which does not terminate. I think, until the end of 1961.

Sir, with these words I beg to move the Second Reading.

The question was put and carried.

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND RESOURCES (Mr. Blundell): Would it be impossible, Mr. Speaker, to take the Committee stage to-day?

THE SPEAKER (Sir Ferdinand Caven-dish Bentlock): (Inaudible.)

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): Well, Mr. Speaker, with all due respect, no extraneous matters have been introduced into the Bill, all hon. Members are now fully briefed on the situation.

THE SPEAKER (Sir Ferdinand Caven-dish Bentlock): It will have to be to-morrow.

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

## SECOND READING

## The Special Tax (Temporary Provisions) (Amendment) Bill

THE MINISTER FOR AFRICAN AFFAIRS (Mr. Windley): Mr. Speaker, Sir, I beg to move that the Special Tax (Temporary Provisions) (Amendment) Bill be now read a Second Time.

I think, Sir, that hon. Members will remember that in a very lengthy debate on 25th June of this year this subject was debated and a Motion passed by this Council. I feel, therefore, that it is hardly necessary to cover all this ground again but at that time it was approved by this Council that the rate should be reduced from Sh. 25 to Sh. 15. This Bill, Sir, provides the formal legislation which is required to implement this proposal which has already been approved in a Motion passed by this Council.

Sir, I therefore beg to move.

THE MINISTER FOR INTERNAL SECURITY AND DEFENCE (Mr. Cusack) seconded.  
Question proposed.

MR. MATE: Mr. Speaker, Sir, last time I spoke on the special tax I said that it would have been better if it had been waived. Sir, speaking of this particular field I would like to bring to the notice of the Minister, the question of loyalty certificates in connexion with the payment of the special tax.

Sir, the loyal people in the Central Province, with loyalty certificates have the option not to pay the special tax and these loyalty certificates were given during the last elections to all people who wanted to get votes for the election—everybody who was above the age of 21. Sir, there is another class of people which includes those boys, young men who left schools and colleges and who were not involved in the elections or others who have attained the age of 18 where they pay taxes who would not have loyalty certificates now. Sir, I would bring to the notice of the Minister this fact so that the loyalty certificates could be issued to these people who have not got them and they would have the option as any other loyalist has in paying the special tax.

I feel that is important because not many people were interested in the

election. Perhaps they were too lazy to get their votes or did not manage to get their loyalty certificates in order to get a vote; but they are taxpayers and they are loyalists and they should be given a chance by the various districts to go along and obtain their loyalty certificates.

Sir, the other point is that there is another class of people who would be rather poor to pay the ordinary tax and they would find it difficult to pay the special tax at the same time and I would appeal to the Minister for this particular class of people to be considered with the others if their difficulties are genuine and they cannot pay, as is done in the case of the ordinary tax.

Sir, with these few remarks I beg to support.

3.30 p.m.

MR. MBOYA: Mr. Speaker, Sir, since this subject was discussed quite fully in June, I shall not waste much of the Council's time repeating arguments that have already been put forward. I stand, however, to register once more my complete opposition to the payment of this special tax by members of the Kikuyu, Embu and Meru tribes. I am not and have never been convinced that under the present circumstances it is anything but a punitive measure which has lost its meaning and which, in my view, is merely an added irritant and a cause for frustration that this Government could well do without.

In agreeing with my colleague about the reference to the loyalty certificates, I want to go a bit further and state that in fact the circumstances under which the loyalty certificates were issued and the opportunities that now obtain for people to obtain these certificates are such that, in fact, the exemption that is granted to some people with loyalty certificates, constitutes, in my view, a very irritating point to those who have not had similar opportunities. The basis on which loyalty certificates are issued and the opportunities available raise a very important question as to whether this exemption is in itself justified and also as to whether such exemption is in accord with the whole principle involved in the Government's argument for the continuance of this special tax.

[Mr. Mboya]

As I said, these arguments have been raised once before in the Council and I do not wish to repeat but to re-emphasize the point that the Government, in continuing this tax, are in fact creating a situation where even those people who have come back from detention camps, who have passed through rehabilitation (and whom we should do everything possible to reabsorb in our society and to impress upon the need to maintain peace and to become responsible members of our society) will find it difficult to understand the whole sense of the rehabilitation system and the society in which they are invited to take part and become responsible members of. Whereas we try to convince them that after rehabilitation they are accepted back, at the same time we continue to punish them for what we say we have already forgotten.

There is a second aspect that I wish to raise during this debate and that is, Sir, the fact that I have only recently learnt that the Government has advised the Wages Advisory Board not to accept or agree to certain increases in the minimum wages because—

**THE MINISTER FOR AFRICAN AFFAIRS (Mr. Windley):** On a point of order, Mr. Speaker, Sir, I would like to inquire whether the deliberations of the Wages Advisory Board have any connexion with the subject of this debate, which is on the special tax, Sir.

**THE SPEAKER (Sir Ferdinand Caven-dish-Bentick):** Absolutely none.

**MR. MBOYA:** Mr. Speaker, if I had been given the chance to develop my argument I was coming to say that Government has argued that the economic situation in the country is such that they cannot entertain or advise any further increases in wages and so on and, consequently, have refused to agree to wage increases despite the existence of a case for one. I was going to make the point, Sir, that if the economic situation is such that the Government advises against an increase in the minimum wages, then I suggest that the economic situation is such that the Government certainly cannot justify the continuance of this special tax that, as I said, is only a punitive measure to a people whom we know are engaged

in a very heavy job of reconstruction in their own reserves and whose opportunity for earning money is so limited as to be in some cases completely non-existent. If this, Mr. Speaker, does not appeal or does not make sense to the Minister, then I wonder what does make sense.

I beg to oppose.

**MR. MULIMO:** Mr. Speaker, Sir, when I think of the amount of revenue which will be derived from this special tax, I think the Government could do as well without it. The work of fighting against terrorists is done. Mr. Speaker, people should not be taxed any more. Their problems should be dealt with as my colleague from the Nairobi Area has told the Council, rather than increase their disabilities.

Mr. Speaker, I beg to oppose.

**MR. MACKENZIE:** Mr. Speaker, Sir, as regards the point which was made by the hon. Member for Nairobi Area and repeated by the Member for Nyanza North regarding the state of the economy and the inability of people to pay this tax, I think I should point out that the Government has recognised the difficulties and that, in fact, is why this tax has been reduced from Sh. 25 to Sh. 15. There has been a reduction of Sh. 10 in the tax that is being collected and that in itself shows that the Government does not overlook the point that has been made. But, Sir, as the Minister for Finance said when this question was last debated, it is too early to remove completely the remainder of the disaster which has been brought to the country by the folly of a number of our people and the Government has tried to hit that moderate path between not continuing a measure that in view of the economic situation in certain parts of the Central Province could bring great distress and, at the same time, not to have a situation where they could too easily and too quickly forget the consequences of the type of action for which, when all is said and done, a large number of their people were fundamentally responsible.

Sir, I beg to support.

**THE SPEAKER (Sir Ferdinand Caven-dish-Bentick):** If no other 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 need not really add to what my hon. friend, the Secretary to the Treasury, has just said. As hon. Members have already noted this ground has been well covered in the previous debate and I do not propose, therefore, to go over all that again. But I would assure the hon. Member for the Central Province, as I have before, that those in need of exemption for reasons of poverty will, once more, be given full consideration in this connexion and if anybody really cannot pay on the grounds of poverty he will be exempt. I would like to remind him also that loyalty certificates were not only issued for purposes of voting; they covered a much wider sphere. It could also be possible for somebody to claim exemption as a loyalist under this tax provision, never having had a loyalist certificate at all but he might not have applied for it. That may sound a bit far-fetched but this is considered location by location and sub-location by sub-location and those who are of proved loyalty, whether they have applied for loyalist certificates or not, are considered under this Ordinance separately for exemption.

I will not go into the arguments again, Mr. Speaker, Sir, as to whether this is a punitive measure, we have covered all that ground before, or whether, indeed, it is justified, because that has been covered before, and my hon. friend, the Secretary to the Treasury has drawn attention to the large amounts of money spent in the 'Kikuyu' Reserves, not only on destroying *Mau Mau* and dealing with the terrorist organization there, but on the reconstruction necessary up to the present and, indeed, so far as I can see, for some years to come. Bearing this in mind, Sir, it is right that those who caused this upheaval, this rebellion and this destruction in the Central Province should contribute towards the large cost it has been to this country.

I therefore, Sir, wish to move

The question was put and carried.

The Bill was read the Second Time.

**SUSPENSION OF STANDING ORDERS**

**THE CHIEF SECRETARY (Mr. Turnbull):** Mr. Speaker, Sir, I should like to move

that the Standing Orders be suspended to the extent necessary to enable the Council to consider the Committee stages of the Pyrethrum (Amendment) Bill, and the Special Tax (Temporary Provisions) (Amendment) Bill; after, the Committee stage of the Town Planning (Procedure) Regulations; (Validation) Bill; and the Provident Funds and Contributory Pensions (Repeal) Bill. Also, Sir, that they be suspended to the extent necessary to enable the Paper on the Relationship between African District Councils and Central Government finances to be laid to-day.

The reason is, Sir, that the business for this particular meeting is drawing to a close and that if this procedure is followed it will enable the business before the Council to be concluded to-day.

Mr. CONROY seconded.

**THE SPEAKER (Sir Ferdinand Caven-dish-Bentick):** I understand that if we sit to-morrow it would be for a very small piece of business indeed; in fact, two Committees of the whole Council to consider two short Bills to which no amendments have yet been received. Therefore, it has been proposed that Standing Orders be suspended to the extent necessary to include, under Order No. 6, the Committee of the whole Council, the addition of the Committee stages of the Pyrethrum (Amendment) Bill and of the Special Tax (Temporary Provisions) (Amendment) Bill. I will take that first.

The question was put and carried.

**THE SPEAKER (Sir Ferdinand Caven-dish-Bentick):** I will now put the second question which is that Standing Orders be suspended to the extent necessary to enable a Paper to be laid and one notice of Motion given which would normally have been a piece of purely formal business to-morrow had we sat then. It would make no difference to procedure.

The question was put and carried.

**COMMITTEE OF THE WHOLE COUNCIL**

Committee read—Mr. Speaker left the Chair.

## IN THE COMMITTEE

D. W. CONROY, Esq., O.B.E., T.D., Q.C.,  
in the Chair

*The Town Planning (Procedure)  
Regulations (Validation) Bill*

Clause 2 agreed to.

Title agreed to.

Clause 1 agreed to.

*The Provident Funds and Contributory  
Pensions (Repeal) Bill*

Clause 2 agreed to.

Schedule agreed to.

Title agreed to.

Clause 1 agreed to.

*The Pyrethrum (Amendment) Bill*

Clauses 2, 3, 4, 5, 6, 7, and 8 agreed to.

Clause 9

MR. ALEXANDER: Mr. Chairman, clause 9 (b): the addition to the Ordinance which says "as soon as possible after the end of each pool year the Board shall forward the balance sheet", etc. I am just wondering if the Minister can tell us why there is no specific date as to when these annual accounts should be presented. As we know, in the Companies Ordinance, it does require that they be presented once every calendar year, and not more than 15 months after the last accounts, and we have had some unfortunate instances in the delay of presentation of final accounts. I think the Nominated Member opposite, Mr. Tyson, the other day had occasion to raise a query on this, and I am wondering if the Minister can give us an assurance that he will, in fact, impose a time limit on this; otherwise we can get into the frightful situation—and it does happen very often—of accounts either never being presented or being presented so delayed that they have ceased to have any meaning.

MR. MACKENZIE: Mr. Chairman, Sir, as I read this position, the one my hon. friend has just referred to, the wording is quite clear—it says: "As soon as possible . . . the Board shall forward the balance sheet"—I think, Sir, that is very clear. It will be forwarded as soon as it possibly can be forwarded. But I am quite sure that that will be adhered to; I would say that, at this stage, it would

be quite impossible to lay down a particular date on which the balance and account will be actually available. I do not think it would be at all reasonable at this stage to attempt to lay down such a date.

MR. ALEXANDER: Mr. Chairman, I quite appreciate that the words "As soon as possible" mean what they say, as soon as possible. What I was seeking from the Minister is that administratively, he would see, with instructions that go out from his office, that these words "As soon as possible" did not mean an indeterminate time. I mean, Government has told us on many occasions that things are going to happen as soon as possible, but several years have gone by before anything does happen. I just want to make certain that this is not going to be the case here.

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): Mr. Chairman, I think the hon. Member is really labouring the point a bit. This Board has been in existence for 15 or more years, and I think that we have never had any trouble at all with the presentation of this account; and I have no reason to believe that that will arise.

Clause 9 agreed to.

Clauses 10 and 11 agreed to.

Title agreed to.

Clause 1 agreed to.

*The Special Tax (Temporary Provisions)  
(Amendment) Bill*

Clauses 2 and 3 agreed to.

Title agreed to.

Clause 1 agreed to.

Bills to be reported.

THE CHIEF SECRETARY (Mr. Turnbull): Mr. Chairman, I beg to move that this Committee do report to Council its consideration and approval of the following Bills without amendment: the Town Planning (Procedure) Regulations (Validation) Bill, the Provident Funds and Contributory Pensions (Repeal) Bill, the Pyrethrum (Amendment) Bill, and the Special Tax (Temporary Provisions) (Amendment) Bill.

Question proposed.

The question was put and carried.

Council resumed.

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

REPORTS AND THIRD READINGS

*The Town Planning (Procedure)  
Regulations (Validation) Bill*

MR. CONROY: I beg to report, Sir, that a Committee of the whole Council has considered the Town Planning (Procedure) Regulations (Validation) Bill, and approved the same without amendment.

THE MINISTER FOR LOCAL GOVERNMENT, HEALTH AND HOUSING (Mr. Havlock): Mr. Speaker, Sir, I beg to move that the Town Planning (Procedure) Regulations (Validation) 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 Provident Funds and Contributory  
Pensions (Repeal) Bill*

MR. CONROY: Mr. Speaker, I have to report that a Committee of the whole Council has considered the Provident Funds and Contributory Pensions (Repeal) Bill and approved the same without amendment.

MR. MACKENZIE: Mr. Speaker, Sir, I beg to move that the Provident Funds and Contributory Pensions (Repeal) 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 Pyrethrum (Amendment) Bill*

MR. CONROY: Mr. Speaker, I have to report that a Committee of the whole Council has considered the Pyrethrum (Amendment) Bill and approved the same without amendment.

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): Mr. Speaker, I beg to move that the Pyrethrum (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.

*The Special Tax (Temporary Provisions)  
(Amendment) Bill*

MR. CONROY: Mr. Speaker, I have to report that a Committee of the whole Council has considered the Special Tax (Temporary Provisions) (Amendment) Bill and approved the same without amendment.

THE MINISTER FOR AFRICAN AFFAIRS (Mr. Windley): Mr. Speaker, Sir, I beg to move that the Special Tax (Temporary Provisions) (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

EMBAKASI—GOVERNMENT STAFF HOUSING LOAN

THE MINISTER FOR LOCAL GOVERNMENT, HEALTH AND HOUSING (Mr. Havlock): Mr. Speaker, I beg to move:

BE IT RESOLVED that this Council authorizes the Kenya Government to guarantee a loan not exceeding £45,540 to be made by Barclays Bank D.C.O. to the Nairobi County Council to construct essential Government staff housing at Embakasi together with the minimum ancillary services for immediate development; such loan to be repaid out of funds to be provided by the Government not later than 1st July, 1960.

Sir, it became apparent some time ago when the plan for the Embakasi aerodrome was completed and construction went ahead that in itself, the aerodrome would necessarily attract a certain number of interested parties who might wish to reside near the aerodrome; and, of course, it would be essential for a number of Government servants of the High Commission also, to live in that vicinity. The area concerned, of course, lies within the area under the jurisdiction of the Nairobi County Council, but here I wish to make it quite clear that the aerodrome itself is and will be under the control entirely of the Central Government as, of course, it is a Central Government responsibility as an international airport, it is also under international agreements regarding health, etc. However, Sir, the surroundings, and the village which would grow around the

[The Minister for Local Government, Health and Housing] aerodrome to service the people employed there do lie within the area of the Nairobi County Council; and that county council was asked some time ago to plan this village which they did do, having taken on staff to do so. The county council is of course also the health authority for the area outside the aerodrome proper. They did plan that area, they have done so; and although they are not yet the planning authority, they undertook this task, and their plan will have to be confirmed by the Commissioner for Lands as the county is not the planning authority, but I have no reason to believe that there will be any difficulty about that.

Well, Sir, in these circumstances, it seemed to the Government that an offer should be made to the county council that they should undertake to develop the particular area concerned. A considerable amount of work has been put in to estimating what the cost would be for the minimum essential requirements of the Government in this regard. The estimate, Sir, has come to a total figure of some £450,000 and for the interest of Council I will give a breakdown. The buildings, it is estimated, will cost in the region of £235,000; services (which of course include water, sewerage, conservancy and roads) will be to the tune of £169,000; amenities for the particular village in the way of shops, etc., will be some £10,000; and then a figure of £35,985, to round off the figure has been included for contingencies.

Hon. Members will see that the actual Motion before them to-day is for a guarantee for £435,540, not for £450,000, and the reason for that is that it is hoped that the county council will be able to draw on its daily balances, on its overdraft, so that there will be no need for a guarantee for the full amount. It is also hoped by the county council that they may not have to draw up to the full guarantee, which this Council is asked to sponsor to-day. Again, on the basis that they will have their own daily balances with the bank and may not therefore have to draw up to the full sum. But, Sir, this money will have to be repaid in 1960; that is, at the beginning of the next planning period; the rate of interest which the bank will charge will

be 4 per cent about the Bank Rate. The rate of interest, of course, will in the first place be charged to the county council. But when the loan is repaid by the Government, then that drops away.

Some of this money will be a continuing responsibility for the county council, and that is for the money expended on services and other matters, such as the amenities which are the responsibility of local authority. It is estimated that some £96,000 will be the total which will remain the responsibility of the Nairobi County Council; but, of course, I would make it clear that they will not be expected to carry an overdraft to the Bank even for this £96,000, but the Local Government Loans Authority at that time, I hope—unless we have no money at all—will make that money available to them on the usual terms and in the usual manner that we do make money available to local authorities.

The other parts of the expenditure and repayment will be for housing, Government housing for civil servants, and will be part of the development contingencies and the responsibility at that time of the departments who benefit by the houses concerned. The departments who will be particularly concerned, Sir, are the airport commandant and his staff, who will require housing in that vicinity, the Medical Department, the police, the Ministry for Works, and the Immigration Department.

I see certain facial gestures being made at me, Sir, from the opposite benches; I suggest that the hon. Member asks me a question afterwards if he wishes to do so.

The buildings, it is hoped, will be erected by direct labour. Now, the reason for that is that it is expected that with direct labour the buildings would be very much cheaper than they might be under contract, but there will be a question of sub-contractors for services, and I am afraid I cannot tell the Council the details, yet of exactly what will be sub-contracted out by the local authority. There are some matters, such as possibly the sewage disposal works, which they would not be able to undertake themselves, and would have, therefore, to sub-contract out. But it is likely that the greater part of the contract, or of the

[The Minister for Local Government, Health and Housing] project will be undertaken by direct labour.

Now, Sir, the Government really is in the position in this regard of using the Nairobi County Council as a contractor, and it will be very necessary that a legal agreement is drawn up between the Government and the county council, with full safeguard for the Government against any unsatisfactory work or any delay. In addition, Sir, it is considered by the Government that supervision should be undertaken of this work; and may I re-emphasize that the necessity for that supervision is that the Government will be taking over the houses that are being built and, therefore, will need to know that they are built to proper specifications, etc. It is therefore suggested that a firm of consulting engineers be appointed by the Government to undertake the supervision whilst the work is proceeding.

The supervision, Sir, of course, will not be necessary on the services which will be a continuing responsibility of the county council.

The administration of the township will be undertaken in due course by the county council, as they would do in any other area within their jurisdiction, but I would like to underline that when I say administration I do not include, of course, law and order. The Central Government is responsible for that in all parts of the Colony and will continue to be responsible in this particular area as well; but the administration of welfare services and that sort of thing is a proper responsibility for the local authority.

The area itself, as I have said, has been planned and we hope that it will be developed not only by Government or, rather, by the building of Government quarters there, but that having been planned, and services being available, the area will attract private enterprise. I am certain that there are a number of firms particularly interested in the airport who might well be attracted to this particular spot, and the land will be made available to them at the usual Government rates.

The time factor is an important one; it is estimated—but I must make it quite plain that this is a rough estimation—that the scheme can be completed in about two years. If everything goes right,

I hope that will be so. It is very urgent, therefore, especially as the airport is going to become available for use in the near future, that we should start this scheme as soon as possible, and get on with it.

Now, Sir, that, I think, is as much detail as I can give, except that answers to questions by hon. Members will no doubt arise, but before I sit down I would like to express my appreciation of the initiative and drive and interest which has been shown by this particular local authority in this area, and indeed the imagination and the co-operative attitude that they have displayed in rather protracted negotiations. I feel, Sir, that this is a very important project, certainly the most important that any county council has undertaken, and I only hope that this Legislative Council will support the Motion and allow the Nairobi County Council to show its worth.

4.00 p.m.

I would like to say this, that this is a test, I believe, not only for the Nairobi County Council, but for all county councils and local government in general. I know there will be difficulties, and obviously there will be certain times when there will be great headaches, which the county council will have to suffer; but first of all I wish them luck and secondly I would like them to realize that they have a very heavy responsibility in undertaking this job. It is not easy for Government or a local authority to undertake a project of these proportions; a considerable reallocation of, and addition to, staff will be necessary on the part of the county council in order to provide the supervision and personnel required for it. They are, therefore, launching themselves out into a very important and difficult project, and I can only assure them that they will have Government's backing in doing so. I hope they will have this Council's backing too.

Sir, I beg to move.

Mr. COCKROV seconded.

THE SPEAKER (Sir Ferdinand Cavendish-Bentley): Before I propose the Motion, may I have the Minister's assurance that the Governor has signified his consent thereto in accordance with Standing Order 105?

## [The Speaker]

The Minister signified that this was so.

## Question proposed.

Sir ALFRED VINCENT: Mr. Speaker, Sir, I would like to support this Motion and congratulate the county council on their drive in this matter. Of course, this is just two years too late and I do know that the members of the county council have been trying to obtain finance for a very long time, but I know that every time Government have almost said "Yes", then something else has arisen and Government have not been able to say "Yes".

Sir, in rising to ask a question, I do so on behalf of East African Airways, which is neither a Government nor private concern. It is a Government-owned corporation, and we have been shuttle-cocked to and from the various Ministries continuously in trying to get an answer as to who should put up the housing for our many employees who will be at the Nairobi aerodrome which is some considerable distance from the town. The last reply we got—one of many, I might say, Sir, was that we must put up our own temporary housing which will be pulled down when Government or Government's agent or the correct authority can provide it.

I would ask the Minister, when he replies, Sir, if he can tell me the position of East African Airways Corporation in this matter, because it is a matter of considerable importance to them, both for their finances and also the resultant loss and waste of money which may be occasioned if temporary housing has to be erected.

I am not going to make invidious comparisons with other Governments and the housing which they have been able to provide in proximity to the various aerodromes in other territories, but it is an important matter and I do not want to embarrass anybody by asking them to give us a snap answer to this; it is a matter of economics. We have got to house the people and I am very glad to see that the whole scheme is being proceeded with, I join very sincerely with the Minister in exhorting the county council to set a fine example to this country of what can be done with

vim and determination, and, at last, finance being placed at our disposal, Sir, I beg to support, Sir.

MR. ALEXANDER: Mr. Speaker, I, too, support this Motion, and I do so with just a few observations. First I understand that this is the very first time that Government have guaranteed a local loan to a local authority in this way, and here I think it is timely to applaud the efforts of our Minister for Local Government in this respect, because I detect in this some of his initiative and imagination to improve—or to help the Government improve—what has been a lack of imagination in the past in the local loans policy of Government. I hope that we can accept it from him that this is to be a precedent that we will be able to follow in the years ahead in respect of other local authorities who have the capability and the initiative to take upon themselves burdens of this nature.

I would just like to ask what guarantees there are in respect of price in this particular transaction, which ultimately the Government is responsible for. I ask this, particularly, because the Minister will remember that in another respect when the transaction was the other way—that is the Government were building for a local authority—there was very serious trouble in respect of the price increase that arose between the time when the arrangement was first made and the time when the housing was due to become completed; and I can see from what the Minister has explained that the finance for this seems to have been cut down to the very minimum that needs to be borrowed; because the county council are using their own internal funds to finance the short-fall. If there is to be any increase in price—and that is the tendency to-day—how is it to be dealt with under this particular transaction?

The other question relates to what the Minister told us about the intention to do most of this work by direct labour. I understand—it seems fairly obvious—that a great part of this work will be for African housing, and I am just wondering whether he can tell us why there is to be direct labour when, on the doorstep almost of Embakasi Airport, there, through his own Ministry, is going on at this moment the construction of housing by contractors, under a scheme using materials that, we are told, mean houses

(Mr. Alexander) at less cost I would have thought that the most economical way of doing this would be to ask the contractors at present building in the African locations of Nairobi to switch their efforts on to this job as well.

My last observation relates to the build-up of staff that it will be necessary for the county council to employ on this major project: as to what will happen with that large commitment to staff when the project is completed. Undoubtedly the county council will have to take on builders, constructional engineers and perhaps architects, with which they are going to be left after this major project is completed—unless, of course, the Minister is able to tell us to-day that Government will continue to support this county council with the same financial backing in order to enable them to progress still further with commitments of this kind and so absorb the staff they have had to create for this particular project.

Mr. Speaker, Sir, I beg to support.

MR. MACKENZIE: Mr. Speaker, Sir, I have one or two points to make on this Motion. In the first place, I would like to say how nice it is to near my hon. friend, the Member for Nairobi West, congratulating the Government on the initiative and imagination with which the financial arrangements for dealing with this matter, have been made. I should like to thank him very much for those kind words.

MR. ALEXANDER: Not congratulating the Minister for Local Government.

MR. MACKENZIE: As regards the \$64,000 questions—the question that my hon. friend the Corporate Member for Commerce and Industry put about financing housing for East African Airways, and the one that the Member for Nairobi West made about what happens to the financial commitment of the Nairobi County Council when this scheme is over—I would imagine that neither of the hon. Members expect an off-the-cuff answer this afternoon. As regards the first one, it is, of course, the Government's hope as my hon. friend the Minister mentioned when he was moving the Resolution, that private enterprise will take up plots in this new town-

ship. Of course, East African Airways—as my hon. friend opposite mentioned—is a somewhat different position. They are neither private enterprise nor a Government department, and quite obviously the question of how they will finance their requirements is one that will have to be gone into very carefully. I do not think that anything further could be said at the present time about that. I am sure my hon. friend would not expect me to say any more.

As regards, Sir, the question of price guarantees for the Government, the Minister said when he was moving the Resolution that the Government would have a legal agreement drawn up which would be entered into by the Government and the county council; and naturally that aspect of the matter will be looked after at that time.

As regards the question of precedent, that is, I think, another \$64,000 question.

Sir, I beg to support.

THE MINISTER FOR LOCAL GOVERNMENT, HEALTH AND HOUSING (Mr. Havelock): Mr. Speaker, my hon. friend the Secretary to the Treasury has answered a number of points. I think he has answered the hon. Corporate Member very fully. I would merely like to add that it looks as if—I am afraid—that temporary housing will have to be used for a while until these permanent buildings can be erected. It is a pity but, as the hon. Corporate Member knows himself, we must make a start down there in order to get the aerodrome operating as soon as possible.

The hon. Member for Nairobi West, Sir, has said that this is the first time the Government has guaranteed a loan to a local authority. Of course, it is not; but it has been made quite clear in this Council that a guaranteed loan in the future for a local authority is a very difficult thing for the Government to undertake as any guaranteed loan does to some extent prejudice the amount of some extent available to the Government as a whole. However, I would like to point out, Sir, that in this particular instance a very great proportion of the money is to be spent on buildings for the Government, and in fact it is not a guarantee for a loan for a local authority to spend money as it wishes but is a guarantee for a loan to a local authority



The Minister for Local Government, Health and Housing] to build houses for the Government which otherwise the Government would have to build for itself.

Concerning the matter of price, Sir, the hon. Secretary to the Treasury has mentioned the legal agreement which will be entered into, and the legal officers of the Crown will, I am sure, see that this is tied up very nicely. This, I would re-emphasize, is an offer to the county council and I sincerely hope that they will accept it; but of course they will have to accept it on the terms laid down in such an agreement.

The hon. Member referred to trouble about prices with regard to another housing scheme of another local authority. I think, Sir, that the agreement will be entered into, as I said, before the actual project is started on this one; and also I hope—sincerely hope—that there will not be so much difficulty between the Government and this local authority as there was between the Government and the other local authority to which the hon. Member was referring.

The hon. Member also asked why we should use direct labour. He is quite right in saying that a lot, in fact most of this money will be spent on African housing. The Nairobi County Council has had considerable experience in building African housing with direct labour in other parts of their area. They have had considerable experience and considerable success. Naturally, they will have to extend their direct labour teams from what they have to-day, but they have the organization, they have the method, and they have the detail all worked out, which is not the case with other local authorities. I would say here and now too, Sir, that in spite of the fact that there is a contract now being undertaken for African housing in Nairobi by a private contractor, I still think—as I have said before—in this Council, that the direct labour organizations would have been able to build those houses in Nairobi even more cheaply than they are being built now. Therefore, I believe that the county council will be able to build their houses more cheaply than they would by letting them out to contract.

As regards the staff, the county council have already on their staff—I am

told—sufficient permanent officers of the higher calibre to carry out this scheme, and the extra staff required will be in the form of temporary staff which will not be a long-term commitment on the county council. The hon. Member asked if Government would continue to support the county council in schemes of this sort in the future. I most sincerely hope it will be able to do so, but as the hon. Member knows very well, that is a matter of whether capital is available or not through Government sources, or any other sources. I do not think there will be any very important commitment in that respect that the county council have to enter into.

I think, Sir, that I have answered, together with the Secretary to the Treasury, all the questions asked, and I beg to move.

The question was put and carried.

#### PAPER LAID

The following Paper was laid on the Table:—

White Paper No. 1, 1957/1958: The Financial Relationships between the Kenya Government and the African District Councils.

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

#### ORAL NOTICE OF MOTION

APPROVAL OF THE GOVERNMENT WHITE PAPER No. 1 of 1957/1958

THE MINISTER FOR LOCAL GOVERNMENT, HEALTH AND HOUSING (Mr. Havelock): Mr. Speaker, I beg to give notice of the following Motion:—

BE IT RESOLVED that the Government White Paper No. 1 of 1957/1958 entitled, "Financial Relationships between the Kenya Government and the African District Councils" be approved.

#### ADJOURNMENT

THE SPEAKER (Sir Ferdinand Cavendish-Bentley): That terminates the business on the Order Paper. I understand that the question of the date of the next meeting has been discussed by the Sessional Committee and in accordance with the wishes of the Council I therefore adjourn Council until 2.30 p.m. on Wednesday, 11th December.

Council rose at thirty-two minutes past Four o'clock.

Wednesday, 11th December, 1957

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

(Mr. Deputy Speaker (D. W. Conroy, Esq.) in the Chair)

#### PRAYERS

#### PAPERS LAID

The following Papers were laid on the Table:—

Lake Victoria Fisheries Service Annual Report, 1956/57.

East African Income Tax Department—Report for the period 1st July, 1956, to 30th June, 1957.

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

Flax Fund Balance Sheet as at 30th June, 1957.

Maize Control, Produce Control, Rice Control, Control Management Balance Sheets and Accounts as at 31st July, 1956.

The Production of Food Crops (Amendment) Rules, 1957.

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

The Price Control (Maize and Maize-meal) (Posho) (Amendment) (No. 6) Order, 1957.

The Price Control (Baringo District) Order, 1957.

The Price Control (Cement) (Amendment) (No. 5) Order, 1957.

(BY THE MINISTER FOR LOCAL GOVERNMENT, HEALTH AND HOUSING (Mr. Havelock) on behalf of the Minister for Agriculture, Animal Husbandry and Water Resources)

The Central Housing Board Report on the Accounts and Administration of the Housing Fund for the year, 1956.

African District Councils—Summary of Accounts and Report thereon for the year ended 31st December, 1954.

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

The Public Health (Drainage and Latrine) Rules—Municipal Board of Kitale.

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

#### ORAL NOTICES OF MOTIONS

INCOME TAX EXEMPTION UNITED STATES OF AMERICA EMPLOYEES

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

THAT this Council approves the exemption under section 11 (2) (c) of the East African Income Tax (Management) Act, 1952, of income received by persons who are citizens of the United States of America, in virtue of their employment by the United States of America, Department of Agriculture on research work in collaboration with the East African Governments.

(Governor's consent signified)

INCOME TAX EXEMPTION ATOMIC ENERGY AUTHORITY AWARDS

THAT this Council approves the exemption under section 11 (2) (a) of the East African Income Tax (Management) Act, 1952, of rewards paid by the United Kingdom Atomic Energy Authority for the discovery of uranium ore in East Africa, where such rewards constitute income accruing in, derived from or received in the Colony and Protectorate of Kenya except where such income is liable to income tax in any country outside East Africa and there is between that country and the Colony and Protectorate of Kenya provision for any form of double taxation relief.

(Governor's consent signified)

INCOME TAX EXEMPTION INTERNATIONAL CO-OPERATION ADMINISTRATION ARRANGEMENTS

THAT this Council approves the exemption under section 11 (2) (a) of the East African Income Tax (Management) Act, 1952, of income received by persons employed under any contract providing for exemption

[The Minister for Finance and Development] from income tax, arranged with financial assistance from the International Co-operation Administration.

(Governor's consent signified)

#### MOTION ON THE ADJOURNMENT

MR. ALEXANDER: Mr. Deputy Speaker, Sir, under Standing Order No. 10, I beg to give notice that I wish to raise on the adjournment the matter of the Supply and Transport Department.

THE DEPUTY SPEAKER (Mr. Conroy): The matter will be dealt with at the close of business.

#### ORAL ANSWERS TO QUESTIONS

##### QUESTION No. 43

MR. TYSON asked the Minister for Local Government, Health and Housing why the report and accounts of the European Hospital Fund Authority for the year ended 31st December, 1956, were not presented to this Council until 20th November, 1957.

THE MINISTER FOR LOCAL GOVERNMENT, HEALTH AND HOUSING (Mr. Havelock): The detailed audit and examination of the accounts of the Authority were completed at the end of May, 1957, which, considering the work entailed, is not unreasonable.

The Authority was not in a position to meet and have the covering Report ready for the June Session of Legislative Council and therefore timed their programme to have it ready for this Session.

The Authority met on 17th October when the draft Report was approved. Thereafter finalizing and printing was the only delay.

Every effort will be made to have Reports submitted earlier in the year.

MR. TYSON: Mr. Deputy Speaker, Sir, arising out of that reply, can something not be done to ensure that the Reports are presented with a little more promptitude? There has been an 18-month delay.

THE MINISTER FOR LOCAL GOVERNMENT, HEALTH AND HOUSING (Mr. Havelock): Mr. Deputy Speaker, I

query the supplementary question of 18 months later, and I think in explanation I have nothing further to add. I do not think that there is any real justification for blaming the Authority for this, they had a very difficult and detailed task to face and I am perfectly satisfied that the Accounts have been presented as quickly as they could have been done.

LT.-COL. GHERSIE: Mr. Deputy Speaker, arising out of that reply, would the Minister say whether or not the delay has been caused by a delay in the production of figures from the Income Tax Department?

THE MINISTER FOR LOCAL GOVERNMENT, HEALTH AND HOUSING (Mr. Havelock): Yes, of course, that is the cause of some of the delay because naturally the figures have got to be obtained for the previous year's income.

LT.-COL. GHERSIE: Arising out of that reply, Mr. Deputy Speaker, will the Minister state what representations are being made to the Income Tax Department to expedite production of these necessary figures?

THE MINISTER FOR LOCAL GOVERNMENT, HEALTH AND HOUSING (Mr. Havelock): The representations have already been made, Sir, and the figures are now being expedited.

##### QUESTION No. 45

MR. ARAP MOI asked the Minister for Education Labour and Lands how many African students from—

- Rift Valley; (i) Kalenjini, (ii) Masai;
- Nyanza Province;
- Coast Province;
- Southern Province;
- Central Province;
- Northern Frontier District;

have been awarded scholarships by Central Government to attend overseas universities, colleges, training institutions and other courses since 1947?

THE MINISTER FOR EDUCATION, LABOUR AND LANDS (Mr. Coultis): The number of students who have been awarded scholarships by Central Government

[The Minister for Education, Labour and Lands] since 1947 to attend overseas universities, colleges, training institutions and other courses is as follows:—

- Rift Valley: Masai, 1; Kalenjini, nil.
- Nyanza Province, 18.
- Coast Province, 3.
- Southern Province, 5.
- Central Province, 28.
- Northern Frontier Province, nil.

MR. ARAP MOI: Mr. Deputy Speaker, arising out of the Minister's reply, is the Minister aware that one of the Kalenjini students who had the required qualifications was not allowed the chance because somebody else from another province had to be given priority?

THE MINISTER FOR EDUCATION, LABOUR AND LANDS (Mr. Coultis): Mr. Deputy Speaker, Sir, the point about the awarding of bursaries is that they are entirely dependent upon the qualifications of the student concerned. Also only if the course is desirable is it awarded. If the course happens to be providable locally, then that also must be taken into consideration. The Bursary Selection Board takes all these matters into account when considering applicants and I can only assume that the Central Province candidate was more suited to an overseas bursary than the Kalenjini.

MR. ARAP MOI: Mr. Deputy Speaker, arising out of the Minister's reply, is the Minister aware that breaking the African educational policy throughout Kenya, is unfair for the Rift Valley and the Masai?

THE MINISTER FOR EDUCATION, LABOUR AND LANDS (Mr. Coultis): I do not think, Sir, that we are breaking any education policy in what I have said but I have noted what the hon. Member has said.

MR. MDOYA: Mr. Deputy Speaker, arising out of the Minister's reply would he state what are the main causes of the disparity in the figures that he has quoted which show Nyanza Province and the Central Province with a very, very much higher figure as compared with the other provinces. Would he say this is the result of there being no high schools in the other provinces.

THE MINISTER FOR EDUCATION, LABOUR AND LANDS (Mr. Coultis): Mr. Deputy

Speaker, I think that it is entirely dependent on the number of suitably qualified candidates.

MR. ARAP MOI: Mr. Deputy Speaker, arising out of the Minister's reply, is he going to take this matter sympathetically and give scholarships to students in these areas?

THE MINISTER FOR EDUCATION, LABOUR AND LANDS (Mr. Coultis): Only if a person is worth it, Sir.

MR. HARRIS: Have any of the scholarships in Nyanza been given for dress-making?

THE MINISTER FOR EDUCATION, LABOUR AND LANDS (Mr. Coultis): I would want notice of that question, Sir.

MR. MULIRO: Arising out of the original answer, Sir, is the Government not departing from its policy of assisting the backward areas?

THE MINISTER FOR EDUCATION, LABOUR AND LANDS (Mr. Coultis): No, Sir, I feel that it is absolutely essential that everyone should realize that there is no point in sending someone to an overseas university if he is not fit to take that course. For the benefit of Members I would like to inform them that during this last year, 1957, 15 people were accepted for overseas training, therefore the proportion in future years is obviously going to be much higher than in the last 10 years. Therefore, it is assumed that the backward areas will probably have more candidates than they have had in the past.

MR. ARAP MOI: Mr. Deputy Speaker, arising out of the original reply, is it true that noisy areas get fair play?

THE MINISTER FOR EDUCATION, LABOUR AND LANDS (Mr. Coultis): Do I answer, that, Sir?

THE DEPUTY SPEAKER (Mr. Conroy): No, I do not think so.

#### MOTION

APPROVAL OF WHITE PAPER No. 1 OF 1957/58

Financial Relationships Between the Kenya Government and the African District Councils

237 p.m.

THE MINISTER FOR LOCAL GOVERNMENT, HEALTH AND HOUSING (Mr. Havelock): Mr. Deputy Speaker, Sir, may I thank the Council, Sir, before I begin on this

(The Minister for Local Government, Health and Housing)

Sessional Paper and apologize to them for bringing them back to this sitting of the Council primarily for this particular Motion?

May I, Sir, now move:—

BE IT RESOLVED that the Government White Paper No. 1 of 1957/58 entitled "Financial Relationships between the Kenya Government and the African District Councils" be approved.

I think, Sir, that I also have another apology to make. Although nothing has been ruled so far and I have not had the advice of the Clerk or yourself, Sir, I think it may be unconstitutional for a Paper of this sort to be described in this Council as a "White Paper". I believe, Sir, the proper terminology is a "Sessional Paper" and therefore may I offer another apology if I am correct?

The general intention, Sir, of this Sessional Paper is that financial relationships between the Government and the African district councils are brought more in line with those between other local authorities and the Government. It is hoped that under this new system the development of local government in African areas may be expanded and also that the more progressive African district councils can develop according to ability and their financial resources without being held back by the less progressive and less wealthy areas.

It will be apparent, Sir, to hon. Members that the system of grants explained in this Paper is not exactly the same in every particular as that which applies to other local authorities, that is, county councils and municipalities. Conditions, of course, in municipalities are very different to those in rural areas and therefore the differences which require comment are not so much those between African district councils and municipalities, but between African district councils and county councils.

There are, for instance, no diminishing grants on the same basis as those paid to the county councils and there is a very good reason. That is, the county councils have taken over or are taking over from the Government the townships and trading centres within

their particular areas, and the Government recognize that it has some obligation to help those councils to improve and develop the services and amenities in those townships and trading centres. The primary reason for the general diminishing grants to county councils was to aid them in this particular development.

The African district councils, on the other hand, have not taken over townships and trading centres and indeed the Government have not asked them to do so as yet. It must be realised that if the African district councils do take over such a responsibility for these urban centres within their area, then they would have to adopt the same principle that the county councils have adopted—that is, to agree to non-African representation on their councils: in other words to agree to the representation of people who are non-Africans, and who would then be paying rates, who reside in the townships and trading centres. This is a matter to which African district councils might give some serious thought.

At the same time, Sir, it must be made clear that the townships and trading centres in African district council areas have been given very much greater attention by the Central Government than those in the settled areas. Much more money has been spent on them, and is being spent on them, and therefore if, in the future, these centres were absorbed under the African district council umbrella, there may not be as much justification at that time for special financial aid, such as diminishing grants, as there is for similar areas in the county council.

Sir, in paragraph 6 of this Paper, there is a comment on the system of rating which is now in force in different local authority areas. It is stated that the Government considers it desirable that we should move to a system of rating on land in African district council areas similar to that pertaining in other local authority areas. But, of course, this cannot be done until the land is owned individually and the landlord's liability can be assessed.

As is well known, in a number of areas in the Colony, consolidation of land holdings is taking place, and the issue of individual titles to Africans will

(The Minister for Local Government, Health and Housing)

take place; so it may not be very long before we can think again on this matter of rating and method of rating in African district council areas.

However, I would sound one note of warning. The Central Government's contribution to local authorities, where rating is based on land and on land values, is a contribution in lieu of rates on Crown land, both developed and undeveloped. Crown land, within the areas of the local authorities concerned. As the Crown's position as a landowner in municipalities and the settled areas is very different from that in the native land units—there is no land in the native land units actually owned by the Crown and little occupied by the Crown—this would mean that if the same system were applied, of contribution in lieu of rates to African district council areas, then the revenue so derived might be quite small.

Sub-paragraph (1) of paragraph 9 of the Paper—it is on page 2—refers to capital expenditure and envisages an increase in borrowings by African district councils. The African district councils would, of course, borrow from the Local Government Loans Authority, and indeed they have done so. It is interesting to note that the measure of such borrowings has increased very considerably indeed in the last few years. Perhaps hon. Members might be interested in one or two figures: Up to 1956, out of a total of nearly £3,500,000 lent to local authorities by the Local Government Loans Authority and ALDEV, the African district councils borrowed about 10 per cent, the county councils about 20 per cent, and the municipalities about 70 per cent. In the 1956/57 programme, it is envisaged that from a total, which is, of course, much smaller, of £1,800,000 from the Local Government Loans Authority and ALDEV, the African district councils will borrow 15 per cent, county councils 19 per cent and municipalities 66 per cent.

So you will see that in terms of percentage the African district councils have increased their percentage, whilst the other two have decreased it.

Here again I am afraid another note of warning must be sounded. Although

greater and greater attention is being given by the Local Government Loans Authority to the capital requirements of African district councils, it must be pointed out that the financial resources of the Authority are limited, and at the present time very strictly limited. It must also be realized that from the point of view of health and development of industry—which is such a vital need in Kenya—it is the urban areas which are more likely to qualify for the highest priority in the allocation of capital.

Hon. Members will note the breakdown set out in the Paper between the basic agricultural and veterinary services, for which the Government will undertake full financial responsibility, and the local services which are considered to be the responsibility of the African district councils. These local agricultural and veterinary services are not undertaken by other local authorities in rural areas, and it may, therefore, seem to hon. Members that a greater burden is falling on the inhabitants of the African district council areas than on the inhabitants of other rural areas. But this is not really so, because nearly all the activities which are listed as the responsibility of the African district council are undertaken in the other areas by individuals and by private enterprise in some form or other.

For instance, the arrangement and management of agricultural tours and shows in the settled areas is undertaken by the Royal Agricultural Society, and, therefore, in fact, by the farmers themselves. I think if hon. Members will study that list they will see that the same applies to almost every other local service, except possibly rural water supplies. Although up to now they have been the responsibility of the individual farmer, the county councils are now considering taking over such supplies and working out simple arrangements for administration, etc.

I would like also to say here, Sir, that these lists of the separate duties of the Government and the African district councils for agricultural and veterinary services are not necessarily complete in every detail. As we gain experience of the division of such duties, differences of opinion may arise between certain

[The Minister for Local Government, Health and Housing]

African district councils and the Government as to their respective responsibilities. If such differences do arise in detail, not in principle—the principles are really laid out here—if they do arise in detail they will have to be sorted out between the Minister for Agriculture and myself, after consultation with the African district councils, and, of course, after consultation with the Minister for Finance.

I would point out that on the present reckoning the division of responsibility in the agricultural sphere alone will cost the Government another £86,000. That means that the responsibility of the African district councils will be reduced by that amount.

The argument as to the desirability or otherwise of obtaining revenue for African district councils from cesses is set out in sub-paragraph (3) on page 3. Although a cess on agricultural produce is not an orthodox method of financing local government activities, under the present circumstances it seems that it will have to be retained. There just is no other method, apart from the poll rate. And there is, after all, some indirect relationship between the cess paid on agricultural produce and the value of the land from which that produce comes.

Turning to health services, it will be seen that Government is claiming reimbursement from African district councils for the work done for them by the Government officers. This is in line with the system pertaining in other local authority areas where medical staff give their services to local authorities for activities connected with public health, and in that case the other local authorities reimburse the Government for this work.

As regards fees, again there is no difference in the approach set out in this Paper from that to other local authorities. I must mention that all other local authorities charge fees for health services, such as dispensaries, ambulances, maternity services, etc. It will be noted that an appropriate adjustment will be made to arrive at the net expenditure for grant services where fees are not charged. This is essential, otherwise the local authorities who do not charge fees would be more heavily subsidized by the

Central Government than those who do. Also it is essential to make an adjustment to the rate income to arrive at a figure on which the block grant will be paid. Otherwise, if an African district council did not charge fees, but increased the rate in order to pay for that part of the health services (the cost of which would otherwise be paid for by fees) the Government would be unfairly subsidizing a council which did not charge fees against one which did.

I hope that is very clear to hon. Members; it took me half an hour to work out!

It will be noted that the grant paid by the Government to the African district councils for education expenditure will be for transmission to the district education boards. In other words, the money belongs to the district education board, not to the African district council. But this grant will pass through the accounts of the African district council, and therefore the full picture of education expenditure will be available for the councillors and the ratepayers. It is felt that under the present system, the very large contributions which are made by the Government towards education in African district council areas are not appreciated.

It will be noted that the Government will pay a grant for two-thirds of the approved expenditure on primary and intermediate education in the African areas; the African district councils will contribute one-third. It is realized, as it is stated in the Paper, that this will mean an increase in contribution by the ratepayers to education, but this will be offset by increases in increased grants to be made to the African district councils by the Government for other purposes.

As far as capital expenditure is concerned, capital expenditure on education, that is dealt with under its own separate sub-heading. The African district councils can make application to the Local Government Loans Authority for loans for schools in permanent materials, but again I am afraid that finance for this purpose will be limited in the present period. In fact, I do not think that there is any further money to be allocated till 1960, and even then naturally it will depend on the availability of capital at that time.

[The Minister for Local Government, Health and Housing]

I want to stress again here that the funds at the disposal of the Local Government Loans Authority are so limited that they have had to lay down priorities; and water, schemes, sewerage schemes and other expenditure directly affecting the economic life of the country, have been given first priority.

I would state also in this connexion that other local authorities are in exactly the same position, and no moneys are made available or probably will be available to them for this type of expenditure.

3.00 p.m.

The next sub-paragraph, Sir, is on bursaries, and I would merely like to say here that I do not look with any great favour on disbursement of moneys by African district councils for bursaries. I do not consider that it is really a local government activity, or at any rate, something that is a usual local government activity. It will be seen from the Paper that African district councils will be able to grant bursaries for secondary education and for higher education where courses are not available in East Africa. Note is made in the Paper that such bursaries will be subject to the approval of the Government Committee for African Bursaries, and I would like to say also that they will be subject to the approval of my Ministry, who, when examining the application to grant bursaries, will, of course, take the overall financial position of the council concerned into consideration. I feel that the finances of the African district councils will not probably be so buoyant in the future as they have been in the past; and expenditure therefore on orthodox local government development should, of course, have first priority.

Hon. Members will note that in the case of administrative officers in the field who give their services to the African district councils, those services will not be chargeable. This is a bonus, really, to the African district councils, but it must also be admitted that administrative officers in other areas, such as county council areas, also contribute very greatly to the activities of local government, and it is difficult to judge the exact proportion and so on of their activities; therefore, any charge for their

help, advice and contribution of local government has been waived.

The provision set out in the paragraph to do with forestry sub-paragraph (11) those provisions are already in line with the policy which has already been placed before this Council. The first part of the paragraph shows the ultimate aim of the Government in this regard, and the second part sets out the procedure to achieve that aim. The implementation of the recommendations will take some time, as is noted in the Paper. The Government make it clear, under the paragraph headed "Community Development", that we believe that eventually financial responsibility for community development should be accepted by all local authorities. Approved staff, employed in social and child welfare services, will qualify for percentage grants as in other local authority areas. It is my hope that all local authorities will expand these services which I believe are of the greatest value in providing a knowledgeable and progressive population in their areas.

Some African district councils, especially that at Kisumu, will lose considerable revenue from fines on the transfer of African courts to the Central Government. Financial provision will be made to meet this loss, and I am sure that hon. Members will agree that the administration of justice must be the primary responsibility of the Central Government, and not that of local authorities. It will be noted that Government proposes to pay a rent for the court buildings which African courts will occupy and which now belong to African district councils. The councils will, therefore, be responsible for the maintenance of those particular buildings, but I want to make it clear that this passage in the Paper does not mean that African district councils will be expected to provide a number of new buildings and the rental for them if and when they are required. That responsibility will have to rest with the Central Government, although, of course, should African district councils wish to build court-houses the Government will pay the rent as I have said.

Road Authority grants will continue as heretofore; there is only one sentence actually in the Paper which refers to them. But in this Council, from time to

[The Minister for Local Government, Health and Housing] time, there has been considerable discussion on the meanness of the Road Authority, or otherwise, towards African district councils. 75 per cent will be contributed to secondary roads; 25 per cent to minor roads, and some, I understand, of the important primary roads which run through African district council areas will qualify for 100 per cent.

I would like to give some figures here to show the increased interest that the Road Authority has taken in the roads in the African district council areas during the last few years. This is, of course, due to the increased activity in those areas, the increased numbers of vehicles on the roads, and the increased quantity of produce that is being sent across the roads. In 1955/56 the recurrent expenditure; grants were made by the Road Authority for £151,000 to all African district councils. In 1957/58, for recurrent, it is estimated that the grant will total £232,000. As far as capital is concerned, in 1955/56, only £60,000 was made available by the Road Authority, and next year, or rather this current financial year, it is expected that £119,000 will be made available. I feel that those figures show that very much more attention is being paid to the roads of African areas than there was recently.

A special privilege which African district councils enjoy is maintained under sub-paragraph (16), and that is the buying of stores through Central Government. This applies mostly to medicinal stores, and the result is a quite considerable saving to the African district councils. Other local authorities do not have this privilege except in certain circumstances.

Now, we come to probably the most complicated of all the paragraphs, that is, the one to do with graduated block grants. The basis of the block grant is fully set out in this paragraph (19) and as these grants have to be calculated on the income which derives from a poll rate, they cannot be compared with any accuracy with contributions by Government to other local authorities. As I have said, in other areas where land is the basis of rating, Government contributes in lieu of rates on the land which

the Crown owns. To a great extent, this contribution is in payment of services rendered by the local authority to the Crown as a landowner, just the same as to any other landowner or ratepayer. This hardly applies to African district council areas as there are few Government establishments in comparison with other areas. The services supplied by the African district councils, therefore, are not enjoyed to any great extent by the Crown, or in any comparable extent, one might say.

However, it may be of interest to hon. Members to compare the amounts of money received by the local authorities from the Government as a ratepayer in municipal areas and county council areas with a total to be paid to the African district councils under this particular graduated block grant system. In 1957/58, contributions in lieu of rates on Government property, Crown property, to municipalities and county councils, equalled about 26 per cent of the total rates of those local authorities. The block grants on poll rates to African district councils in that same year, as will be seen in this Paper, will be 27½ per cent of the total rates. I think it is quite an interesting comparison.

It should be noted that Government will be paying about £98,000 to the African district councils more than they have done in the past on the payment of Sh. 2 per rate, that was the system before; the Sh. 2 rate system. Of course, the block grant basis provides for much more elasticity as it will increase according to the total rate revenue which takes into account increases in the incidence of rates as well as the increase of population and number of ratepayers. It was only the increase in the number of ratepayers that affected the Sh. 2 per rate paid grant previously. It is realized, of course, that certain African district councils will lose; others will gain by the introduction of this new procedure.

The full picture is set out in the tables attached to the Sessional Paper and both supplementary grants and special grants-in-aid are provided for, as will be seen, in order to ensure that no individual African district council will suffer loss.

I must point out that the tables at the end of the Paper are based on the Estimates of Expenditure for 1958;

[The Minister for Local Government, Health and Housing] whereas the supplementary grants to certain African district councils noted in paragraph (20) on page 9 are based on the 1957 probable expenditure and adjusted as if the provisions in this Paper were in force at that time, in 1957. Now, the reason for this is that most of the suggestions put before this Council to-day in this Paper were known to African district councils many months ago. Naturally, we wish to discuss it with them, and so we did. Their Estimates, therefore, for 1958, which they only drew up fairly recently, might well have been inflated according to the provisions of this particular Paper; whereas the 1957 figures can be accepted as the normal revenue and expenditure for the African district council's concerned.

With regard to special grants-in-aid which are noted under paragraph (21), I want to make it clear that they will not be tied to any specific expenditure, but will be made after my Ministry has given consideration to the Estimates of any particular African district council in full, that is, the Estimates as a whole. We fully appreciate that there may be difficulty over the transfer of staff from African district councils to the Government when the Government takes over functions which the African district councils now undertake. In the ordinary course of events, the Government would take over such staff. There will, however, be certain anomalies and of course, the Government must have the right to refuse to employ any individual who would not normally qualify to be a Government officer. The Government, however, will view any difficulties and anomalies that may arise in this transfer of staff with special sympathy. This applies also to the question as to whether certain individuals qualify for grant gratuities and pensions, etc.

Now, Sir, we come to the last paragraph of the Sessional Paper, and it will be noted there that African district councils must accept these proposals *in toto*, and I am not speaking Swahili. It would not be possible to implement them if any African district council could opt out of the provisions or if any African district council could opt that only certain provisions in the Paper should apply to them. It must be done as a whole. I am

quite sure that hon. Members will recognize that it would not be administratively feasible to try to adopt only parts and bits and pieces. I want again, in summing up, to say that the net result will be a financial gain to the African district councils of nearly £100,000; that is, Government will be paying out to the African district councils £100,000 more than they do to-day.

I therefore, Sir, submit this Sessional Paper to the Council, and to hon. Members and I hope that they will accept it and appreciate that it is an important step in the development of local government in African areas, and it brings much nearer the day and the goal where all our local authorities are on exactly the same basis. We are not very far away from it now as far as this Paper is concerned.

Sir, I beg to move.

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

THE DEPUTY SPEAKER (Mr. Conroy): Before I propose the question, I think it might be convenient for hon. Members to know that I propose to-day, and also if this debate goes on till the same time to-morrow, to suspend business for 15 minutes at about quarter past four.

Question proposed.

3.14 p.m.

MR. OONGUA: Mr. Speaker, Sir, it is an honour that I should follow the Minister in this particular White Paper and I had thought I should do so. I am glad to note that the Minister is trying to bring the African finances on to equal footing with other local authorities. I hope that he will also bring the African local authorities on to an equal footing in the Ordinance. I am glad that he is intending already mentioned that he is intending to see that even the Ordinance and the affairs of these African district councils come more and more on to an equal footing with the other local authorities, especially the county councils and the European district councils.

Now, Sir, I am glad also to note that the Minister is trying to get away from the contribution which the Government used to make of Sh. 2 to the African district councils and substituting it with another form. But in this particular paragraph 2 and in paragraph 19 I thought

[Mr. Odginga:] I have noted that the old basis of Sh. 2 per rate paid was most unfortunate because I felt that to base it more or less on the rates paid, I think that is not encouraging the African local governments to find other sources and other means of contributing to their services. They will largely be induced to increase the rates knowing very well that if their contribution is high the Government in return will also give them something substantial; and I do not think that it will encourage them to try to find other sources of financing the local government.

Similarly, it is most unhappy that the Government has failed again to find other factors or other ways of basing their contribution. They have again fallen into it by using the rate paid as a basis for working their contributions. I thought if the Government thought of some improvement they should have considered the whole revenue-earning capacity of local governments, and they should have based their contribution on that and not on particular reference to the rate paid.

Now, Sir, if we turn to paragraph 2 in comparison with paragraph 19, I have been puzzled because I did not know exactly what basis the Government used in calculating the new graduated contribution, which they are going to make; but in attempting also to follow their footsteps I took, for example, some figures for 1955. I found that North Nyanza in 1955 had a total rate paid of £60,847. In the same year, the Government contribution was £16,876. Now, according to the new graduated formula, which the Government have put down—if I worked North Nyanza's total rates with that I found that what the Government should contribute to them would be only £15,648. If the new system was started in 1955 they should have got £15,648. If I worked with the 27½ per cent on their total revenue in that year it would be £16,733, which is more or less the Government contribution to them in the same year. So I was more or less convinced that probably the Government based their 27½ per cent on the African district councils which pay the highest amount of rates; and I took that to be really most unfortunate. It seemed to me that if the basis is

taken from those paying the highest African district council rates, and if we work from that, it will only mean that the Government is working for the aggregate of all rates paid in all African district councils; and it will mean that those African district councils which have got the highest aggregate of rates will not have any improvement in Government grant. I have actually compared this with other lower paying African district councils. I have taken, for example, in the same year, the Meru African District Council which paid £31,951; and in the same year the Government paid them £5,807. With the new formula they would get in the same year £10,140. If I worked with 27½ per cent they would be getting £8,786; and I see that with that particular rate the African District Council would be gaining something like £1,400.

If I take the Masai African District Council, which is a little lower than the Meru African District Council, in 1955 their total rates paid were £15,635 and the Government contribution in that year was £1,878. Now, with the graduated formula they would get £6,409; but if I worked with 27½ per cent they would get £4,299.

Then I go to Baringo which is even half of the Masai District Council. In that year they had £7,538 paid as total rates, and the Government contribution in that year, I do not know why, was much more than the Masai one, and came to £2,551; and with the new formula they would be getting £3,764. If we worked with 27½ per cent they would get £2,070.

Going even further down to the Teita-Taveta District, I found that in 1955 the total rates were £4,538 and the Government contribution was £1,388. If we worked with the new formula they would get £2,569. I was a little embarrassed here about the new formula, because it is said that, for the first £10,000 the Government contribution would be 50 per cent; but I do not know whether figures which are below £10,000 are also calculated at 50 per cent. I was embarrassed because it is not explained in that manner. With the new working Teita-Taveta would be gaining something like £1,000, and so at last I also came to the Tana River. Their rate is £1,307. The

[Mr. Odginga:] Government contribution was £426. Now, with the new formula they would get £654; and if we worked at 27½ per cent they would get £359, which is a gain for them of £300.

I do not have any quarrel with the lower African district councils. I thought it was quite genuine and that it was quite fair of the Government to try to assist the African district councils which cannot make ends meet; but on the other hand I would not like that they should get it at the expense of the other African district councils at the top. I think it is quite fair that the Government should find other means of making their contributions to these African district councils. If it is 27½ per cent then it should just be a straightforward figure; and if the Government has to help other African district councils they should again just consider a separate figure for helping other African district councils, but not at the expense of the other ones. Because if the other African district councils pay higher rates there are certainly some pressing needs which force them to pay higher rates; and at the same time dealing with huge populations as contained in those districts there are too many other complications which they have to cope with, and as such they must also be considered to get fair contribution.

I have also mentioned that I was puzzled in working these figures out. I had a figure of £10,000. There may be, for example an African district council with only £15,000 contribution as rates. Well, if we took £10,000 and worked it at 50 per cent I do not know whether we should also work the other £5,000 at 50 per cent or at 25 per cent. I was puzzled in that because it was not explained in the formula itself.

Now, Sir, I will proceed further and leave that. But before I leave it my suggestion was that I thought if, instead of 27½ per cent, the Government had been bold enough to make it 30 per cent, it would have covered fair contribution to other African district councils with higher rates of income. We cannot lay our hopes on the special grants which are put down here because it is said with regard to special grants that they are grants-in-aid and will be used to assist

areas where lack of natural resources has hampered development.

Again, it is stated—

"The existing Vote in the Minister for Local Government's estimates for special grants-in-aid to African district councils will be augmented so that the Minister will have a special Vote from which he will be able to give assistance to the poorer Councils."

Now, Sir, if I turn to paragraph 6, it is stated here, and the Minister has really explained again every thoroughly, about the land holdings and also contributions from land. It is quite true that the African system of land holding does not at the moment allow for rating on land. But, on the other hand, I think in the African areas there are some organizations which own land, Government land in the African areas, and although they may be few those should be thoroughly surveyed and also a number of Mission land holdings in the African areas should be surveyed, also plot holdings in the African trading centres. These are not at the moment surveyed properly and if they were and title deeds issued, I think these would form a fair contribution from land at the initial stages.

I think at this time the Government should consider more particularly their land which is in the African areas and the Missions especially; there are so many of them in the African areas. These plots should be surveyed and title deeds given and I am sure that the plot owners will not object to paying, as a result, reasonable rates for that land, and if they are properly surveyed and title deeds issued.

At the moment I would not advocate any rating on any agricultural land in the African areas because I feel the Government should first of all make known its relationship with the Africans so far as land is concerned. This is not definitely defined because the African himself knows the land which he owns in the African reserves he owns by transfer and not by gift or by any other method. He knows that it is his from the very beginning and if anybody says that he is going to get a title deed or something like that he is puzzled, he does not understand it. We understand

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The Government scheme and the arrangements for that, but we feel the Government has not been able to face the African and tell him that these are the conditions under which he holds his land and that has brought in the suspicion which the African at the moment has when the consolidation of land comes, or anything like that, the African is suspicious. Actually, the Government is not quite straight with the Africans in that way. It does not come forward and tell the Africans all about it. They know that the African lives in his reserve and at that reserve he does not know the conditions under which he holds his land. He knows that he owns the land which his forefathers and his fathers held and he knows no one who will give him any title deed on that land.

I think the sooner this thing is clarified and people come forward and it is made known to the Africans and the Africans make known their opinion about it, the better, and the necessary development which we want in this country will not lag as it does at the moment. It is lagging because of true suspicions. The Africans do suspect the Government and the Government also is keeping the Africans ignorant of exactly the legal identity about land, land holdings and the relationship with the Africans as far as land is concerned.

At the moment, as some people have already said, the other thing which has brought the suspicion as far as land consolidation is concerned is because immediately he has consolidated his land he is asked to get some sort of title deed or something like that. He then probably says: "The man who has given me this thing is the owner of the land and I am only using it and he will dispossess me at some time".

Now, Sir, to turn to the cess revenue. It is most unfortunate that the Government has not found it possible to drop the cess on the agricultural produce, the cess which was a bribe to the African district councils by the Produce Control Authorities in order to win their support.

The Minister has stated that he thought it was reasonable to maintain the cess because it probably represents the land rates which would have been charged. But I thought that the rates

which the African pays are not paid by other local government authorities and that should correspond to the rates which are paid by them.

Now, to turn to the education side of this, Sir, I should say that here education is a responsibility of the Government and I thought the Government, when bringing the African district councils into equal footing with other district councils, should have been able to take up the sole responsibility of education into its hands and not leave part of it to the local government.

The payment for education is a very big responsibility which if left to the local government will not be done as efficiently as it can be done. But if the Government has got it into its hands, Government will unify the education throughout the country while the local government and other private bodies should be left to start, or if they like to run their own smaller schools they should do so. Government should finance primary education; it must start from the very beginning going right up to the secondary schools. I think this is a responsibility which the Government should have felt able to take. It is here said "Intermediate and primary school buildings in African areas are for the most part erected with the proceeds of a locational rate or with labour and materials supplied by the local community and are normally in temporary materials." I wonder whether the Government also recognize that the Africans are contributing a great deal to the primary education and so on. This is the first time I have heard of this being mentioned and it is surprising that the Government should expect the African population to carry a responsibility which the Government's, and that it should hinder the African of the chances of starting their own private schools. It is reminding them of that initiation and other things. They build the schools for the Government which are later on taken up by the Government and when they cry for more they are told they must apply the method of self-help. Here I see that the Government is recognizing that the Africans are the people who are starting the Government on the educational activities. They use their free labour and materials and I think it is a shameful thing for the

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Government to put it down here when it is not statutory. It is not being recognized in taxation and other things.

To say again that the Government is not able to provide the capital expenditure in building the schools is really absurd. I do not know what is happening but the Government is wasting money in so many other spheres. For example, yesterday when I was in a meeting police came in about six lorries coming up to me. It that not wasting money? Why should there be so many? If that money could have been used to build up schools and make people proper citizens later on it will not be necessary for money to be used in this way. Schools are more essential because they will teach boys to be better citizens later on and will not need the police round about them.

MR. HARRIS: Well done!

MR. ODINGA: Not well done at all.

MR. HARRIS: Over-done!

MR. ODINGA: But I wish you would persuade them to implement something if it is so.

Now, Sir, I turn to the Road Authority grants. I thought that the Africans—and I am glad that the Minister also realises that the roads in the African areas have been neglected for a long time. I think they are very important for the economic development of this country and the sooner it is realised and bigger grants are given in the way of money and road plants the better; particularly the road plants. These people have not got the road plants to work in the African areas and if more money could be granted than is being granted at the moment it would help a great deal. At the same time the local government also should be given part of the traffic revenue. I have not seen anywhere that it is provided that the African local government will be given part of the revenue from traffic. I am sure, Sir, this should be considered.

While going through the Road Authority Report I found that the municipalities in 1956 were granted £122,549 and the county councils £299,414 and the European district councils £81,046, whereas all African district councils throughout the Colony were granted

£155,816. But I thought that the African areas were not less important than all these other areas, and the way of starting increasing the African roads grant *pole pole* is not the right way to go about it. As soon as the mistake is found it had better be corrected at once and put right.

Now, Sir, coming to my last item, I should like to talk about staff transfer. I understand that the Minister mentioned that while taking over some staff from the African district council, if any of them were found to be inefficient they would terminate their services, and as a result the African district councils would be liable to pay their gratuities or other benefits due to these people. I should have thought that the Government should have helped the African district councils, for the African district councils are giving them a walk-in and walk-out business, and they are not paying any goodwill at all to the African district councils for what they have done. As a result of this I should have thought that any of these people would constitute the goodwill that they are paying to the African district councils. These duties should now be considered as having been the Government duties for a long time; the African district councils have wasted a good deal of money in creating them and putting them on a proper footing for the Government. It would have been much more genuine for the Government to consider compensating those servants. This is a most serious and quite genuine request.

Now, Mr. Deputy Speaker, with these few remarks I beg to support the Sessional Paper.

3.47 p.m.

MR. MUIIRO: Mr. Deputy Speaker, Sir, since this is dealing with African district Councils, the debate is going to be predominantly African, and some of my colleagues are waiting to hear some of us speak before they can speak.

The Paper, as we have it before us, Sir, has a lot of staff missing. I do not like the note which the Minister for Local Government, Health and Housing issued in his last speech, and that is on page 10.

As the Government's proposals will effect a general settlement for all

(Mr. Muliro) African district councils. It follows that the general settlement must be taken as a whole, and it will not be possible for any Council to accept part of the recommendations and reject others. All African district councils will therefore be required to adopt the recommended grant structure in all respects."

I regard that final note, Mr. Deputy Speaker, as a very serious omission in the White Paper, and in the policy of the Government. The original "Vasey" report, which was discussed by all African district councils, was given to the African district councils with the full understanding that some of the recommendations which the African district councils could make, were going to be observed. But what was the use of the Government asking these African district councils to make suggestions and certain recommendations, and then the Government coming out with a White Paper like this and saying that the African district councils must accept it as a package deal.

This, Mr. Deputy Speaker, is a very serious omission on the part of the Government and I think it was unfair for the African district councils, when they had wasted all their time thinking that the recommendations they were making were going to be accepted by the Government, to have the Government come and say, "All that you said was rubbish. You must accept everything."

I shall be most grateful if the Minister, in his reply, could quote some of the recommendations made by the African district councils because the memoranda from African district councils were many. My own districts which I represent are very perturbed about the attitude which the Minister finally took.

With that, Mr. Deputy Speaker, I will go on to talk on what I have to say. The first point I would like to raise is on agriculture. There are provisions which the Government in the original document had regarded as basic and as such they were to be a primary duty of the Central Government. But when we look at the final product of this White Paper, we find that these services are being shared by the Government and the local government authorities. The Government

fully understands that if these basic services can be shared between the Central Government and local government authorities, many local authorities will not be able to carry out the basic services, the minimum basic services, which are required for the development of the particular areas.

I will quote, for instance, from page 3, number 6 under Basic Services the Government says:—

"(6) Water Supply (including dam construction): Government is prepared to make contributions by loan or grant towards construction in certain circumstances."

And then, again, in the opposite column:—

"(6) Water Supply (including dam construction and maintenance)."

If the Government is taking over the services, how on earth are the African local government authorities going to do something? There should be a definite demarcation between the basic services taken over by the Government as a whole, and the others which would be taken over by the local authorities.

Again, number 7, on agriculture and the loan policy:—

"(7) Loans: Government is prepared to make loans to individuals and statutory bodies in certain circumstances."

That, again, is very vague. And the same, number 7:—

"(7) Loans to farmers (primarily a local responsibility)."

Nobody can deceive himself in this country that many of the African councils are not backward; the Government tells us of these backward areas. The same Government is not at all prepared to develop these backward areas. If loans are going to be the responsibility of local authorities, and the local authorities have not got the money, do we expect the Africans to pay anything at all? We talk very ably in this Council of land consolidation, farm planning and so on, and title deeds, but title deeds alone are nothing. Even if you get title deeds, if you have nowhere to borrow money, to develop your land, how are you going to develop this land?

(Mr. Muliro) Now if that is being surrendered to poor African district councils with no funds at all, how are they going to do that? There are no funds to maintain dams. I have heard a suggestion from one of the officials of one of the districts. I represent that money, such as one might get from local council rates is going to be used for repaying loans given by the Government to construct dams and to maintain these installations. But the original intention of Africans in levying such rates was not to use them for dam construction or loans. They have not got the money.

I therefore think the question of loans the Government should definitely take that up as a national issue, because no farmer in this country, be he European or African, can utilize his land to the best possible advantage unless he gets the money to exploit fully those natural resources which God has given him.

Unless the Government is prepared to get a loan and then give it to the Africans, I do not see where we shall get on that. Furthermore on that, the Government is going to encourage the Africans to borrow the money from the Government in order to loan it to other Africans through the local authorities. I think the African district councils are going to be reduced to a very impoverished status, if they are always dependent, always living in debt. They will be living in debt. I have known of some African district councils which have gone all out to get loans from the Government to build up some property in their area, but I know for how many years these people will be paying that back to the Government.

Such a policy is not a good policy, and I think this White Paper is shifting more and more responsibility on to the Africans, knowing full well that the Africans have not got the money to carry on these services.

I will now pass on to the health services. The African district councils in the past and at present and in the future are going to bear more responsibility, financial responsibility, as far as health services in their respective districts are concerned. But, Mr. Deputy Speaker, we have already said in this Council several times that there are real backward areas where the Africans are completely

ignorant of medical science. These areas, when they are told that they must carry on their own medical services without help from Government, will not be bothered. They will say, "All right; we have no money; let them die."

I think health is a primary responsibility of the State, and the Government grants towards the maintenance of health services in African areas should be made available in a higher percentage than the proposed 50 per cent.

There are other districts, Mr. Deputy Speaker, where Africans feel—and I think it is a very legitimate wish—that they should have more and more control over the staff of their hospitals. They are going to be called upon to pay a lot of money to the Government for medical officers of health, health inspectors, nursing sisters and Government health assistants. In one of my own districts, we shall pay £4,710. How that has been arrived at, Mr. Deputy Speaker, I do not know; nobody knows; but they say "You pay so much."

Well, many of the local authorities would wish that if that is the case they could employ their own doctors. They say, "If we give a doctor £1,200 a year, we shall get quite a good doctor, and dispense with the very expensive service of the Government." One will find the nursing sisters in the particular hospitals for whom this money is going to be paid. But the work they do cannot be calculated; you do not know exactly how much work they have put in for the African district council. Some might just be moving up and down, checking up and going to the clinics and saying: "How many babies have been washed this week?" and then going on. We have to pay for that.

I am of the opinion, Sir, that if Africans are going to bear this very heavily, as they are doing, they should have full power and full control over their employees. If the Government wishes to remove their doctor, they can remove him—and then the African district councils which are able—I do not say all African district councils—should, but those which are able to employ their own doctors and their own health assistants could be allowed to get ahead and as they do not lose the money they are likely to



[Mr. Muliro]

lose if they give this block grant to the Government for the people who are doing half services a day, or probably only a quarter of the service.

Another issue is that of education and that is a very sore point to the Africans. I have made sure that I am not going to repeat some of the statements made by my hon. colleague, the Member for Central Nyanza, but excuse me, whatever affects the African affects him so seriously that I might be risking repeating some of those statements.

The capital expenditure on intermediate and primary schools in the African areas, it is said in this White Paper, is a primary duty of the African district councils. I see in this, Sir, a very clear and marked discrimination, that other races in Kenya are given full grants to build, even in primary education. We in this Council this year we approved so many thousand shillings to build the Somali school in the Rift Valley, at Nakuru. I do not say that we should not build that school for the Somalis, but I will say that what is done for other races should be done to all. Personal tax has been applied to everybody. Why is there this discrimination against Africans?

We will go ahead building our own intermediate and primary schools. But the Africans will go on paying graduated personal tax. If there is discrimination in these services, then let there be discrimination which has already existed even in the taxes. I regard capital expenditure on education as a national service, and national services should never be discriminatory, if we are building one nation.

Another point which is again in this White Paper, Sir, is that of district education boards. The district education boards are being given a lot of power to spend the money given by the African district councils, but the African district councils—in other words, the legitimate representative organization of the African taxpayers on the basis of the district—are not given power to examine these bodies. That body should be no more than a mere committee of the African district council. If it is a body with its own power to do whatever it likes with the money which is being hard earned by the African taxpayer, then I oppose that very strongly.

THE MINISTER FOR FINANCE (Mr. Vasey): Sir, the hon. Member must be accurate in his statements. The Paper says: "After the Boards' estimates have been approved by the African district councils".

MR. MULIRO: Mr. Deputy Speaker, I could never bring this anomaly which has already existed to the notice of the Council when this debate is being held in this Council. I would be failing in my duty as a representative if I let it go by. I know there has been this anomaly in the past, that some management are being given the money by the district education boards, paid by the African district council to them. They have approved these grants, Mr. Deputy Speaker, but the way in which they have been used has never been made known to the African district councils. It is what I am putting across.

THE MINISTER FOR FINANCE (Mr. Vasey): Mr. Deputy Speaker, Sir, your permission—the hon. gentleman must be accurate. The words used in the Government White Paper are: "After the grant after the Boards' estimates have been approved by the African district councils".

MR. MULIRO: Mr. Deputy Speaker, I think still the Minister for Finance does not understand what I am talking about at all! All that I am saying is that in the past the African district councils have approved this money going out, but it has been used and they have never known anything concrete on which the money has been spent. That is all I am saying to the hon. Minister for Finance. I only say this: the African district councils should have the right to deal with these affairs really effectively.

Another issue I would like to raise on education is that of higher education. I am pleased to note that the African district councils can continue to send student overseas. On that I am very, very strong probably because I personally am a product of such a scheme or perhaps I have a more sentimental outlook to the future of the Africans and the development of African education. I feel the Africans—and I think that the Government should also feel with me—that the Africans are immature, very backward in many respects, like a small child. And this small child can only walk as long as

[Mr. Muliro]

he himself makes some effort, stands, crawls a bit, falls and bruises his knee or bumps his nose. But in time he will be able to walk. So I think if Kenya is to go ahead at all, the Government should give free latitude to the Africans to send students overseas, and the Government should do likewise, so that the combined efforts of the Central Government and the local government authorities will produce better results than if we never combined.

I oppose the idea that the Government Committee should finally agree to the candidate. I think no self-respecting African district council can ever send a student overseas whom they know is not going to benefit by a higher education. Therefore when they have selected a student, the only duty of the Government, through the Director of Education, is to issue him with a passport, and this person will either walk, fly or go by sea or cycle, like the two people cycling to India.

Another point I would like to raise. Mr. Deputy Speaker, is on African courts. The hon. Minister for Local Government, Health and Housing, in arguing his case to-day has said that the maintenance of law and order, or the administration of justice, is the duty and primary function of the Central Government. I think that sentiment is very good. But we should not forget that African courts are at present administering certain practices which, by their very nature, are of local concern. The Courts of Assizes in Great Britain, you will find they are similar to these small courts here. Furthermore, when you come to our own country the Government has accepted a magistrate to try people who offend against the by-laws of Nairobi City Council. If Nairobi City Council, a local authority, can have its own magistrate to prosecute people who break its by-laws, why should not the African district councils do the same? The African district councils also have got a peculiar nature; they are predominantly African customs and laws being tried.

Furthermore I do not see any reason on earth why the African courts are being removed from the African district councils and placed under the Minister for African Affairs. That Ministry is not the Judiciary. So if the Government is

interested—and we cannot stop them from doing it because we are only them Africans on this side; and however much we oppose it, it will be passed—I would like this to be reckoned upon by the Government: if they are transferring the African courts from the African district councils to the Government, they should go to the Judiciary and not the Ministry of African Affairs. This practice of having African courts and anything dealing with Africans under the Ministry of African Affairs, as I have declared in this Council before, Mr. Deputy Speaker, is serious discrimination and it is only the mark of Central Africa, the Rhodesias and South Africa.

MR. ODINGA: Certainly.

MR. MULIRO: This discrimination should not be there. Let that be transferred not to the Ministry of African Affairs—I do not hate him—but to the Judiciary. The Government should think about that. If they take it under the wing of African Affairs, it is once again the old policy of discrimination against the Africans.

Finally, Mr. Deputy Speaker, I think that the Africans, very eager as they are at present, are going to tax themselves for their general development, are going to over-tax themselves.

It is very, very clear that the Government needs to think a little bit about this, when they finally bring the Bill, to give the finishing touch to this Paper of theirs; and to think about the way in which these grants are going to be given to Africans, because I feel African district councils have been given more and more responsibility but they are not getting the money to carry on these services; and because Africans are eager to see that agricultural pursuits go ahead—they are eager, too, to see that education goes ahead, they are eager to see that health services are maintained at a very reasonable standard—they will go and tax themselves. But in taxing out themselves, they are going to over-tax themselves and in fact, many of the themselves' district councils already have been over-taxing themselves up until been over-taxing themselves. This is going now, Mr. Deputy Speaker. This is going to incapacitate the African taxpayer. So the Government should give more generous consideration to allowing grants to Africans.

[Mr. Muliro]

The idea of the Government, Mr. Deputy Speaker, of Africans borrowing money—that is very serious. They should not borrow them. Let them give them as grants because if they borrow them, they are going to keep these Africans impoverished in debt, as Kenya is moving into debt itself. The Minister for Finance is always running everywhere collecting, and borrowing money, loans and more loans for Kenya; but then, a country living in debt is not fair. African district councils, too, living in debt, however much you might talk of coffee—coffee, coffee, coffee planting, more cash crops—where do we get the money? Where is it going? It is going to pay these Government loans which they borrowed for 20 years, and we will be paying it in five years.

With these reservations, Mr. Deputy Speaker, I beg to support

*Council suspended business at seven ten minutes past Four o'clock and resumed at thirty seven minutes past Four o'clock.*

THE DEPUTY SPEAKER (MR. CONROY): Does any other hon. Member wish to speak? If not, I will call on the Minister to reply.

THE MINISTER FOR LOCAL GOVERNMENT, HEALTH AND HOUSING (MR. HAVELOCK): Mr. Deputy Speaker, Sir, although only a few hon. Members in this Council seem to have shown very considerable interest in this most important Sessional Paper, those who have, Sir, have raised quite a number of questions, and I will try to deal with them now.

The hon. Member for Central Nyanza welcomed the fact that we were trying to get away from the Sh. 2 per rate grant in this Sessional Paper, but he felt that the Government grant should not be based on the rate paid, but should be based on total revenue, as I understand it.

Now, Sir, although that may well be an attractive proposition, it really is not practical in that by manipulation, one might say, of fees and, in fact, putting up fees to an uneconomic level—indeed, possibly making fees a burden on the particular person requiring that service—through that method, the African district councils concerned might well be

able to obtain a very much higher Government grant, at the expense, I suggest, of individuals rather than at the expense of all the ratepayers.

The hon. Member for Nyanza Central quoted a number of figures which he said were based on 1955 Estimates, and I think—I hope he will correct me if I am wrong—

MR. ODINGA: Not Estimates, but they are the summaries of accounts and report for the year at 31st December 1955.

THE MINISTER FOR LOCAL GOVERNMENT, HEALTH AND HOUSING (MR. HAVELOCK): Thank you. I think the first one that he mentioned was North Nyanza where he gave a total rate revenue of some £60,000. I think that is correct. But I would like to point out, Sir, that after 1955, the then North Nyanza African District Council was split into two; it became, in fact, the Elgon Nyanza and North Nyanza, therefore, I would suggest that a comparison of figures of the North Nyanza African District Council accounts in 1955 is hardly fair when the split took place when you compare with the figures of the day.

Now, Sir, I would also like to look again at the Appendix to the Sessional Paper where it is shown quite clearly what the graduated rate grant will be in column 11, and he will see there that for North Nyanza, which is the one he quoted, the graduated rate grant, 1958, will be £20,000 or more. That is on the basis which has been set out in the Sessional Paper. I think he will admit and agree that if he goes through that column with all the other African district councils and compares the Estimates over the years with the procedure which he outlined to this Council, even the graduated rate grant is a very generous allocation. I do admit, and I will say straightaway, that the poorer councils, the councils with less revenue, are going to benefit from the graduated scheme set out on page 8, paragraph (19) of the Sessional Paper. I think the point that he was making was that the poorer councils, he admitted, would benefit, but the richer councils would not at all; and he was a bit worried about that.

I think what really happens if you work it out is: in the total revenue that each council will get from Government,

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The majority of all councils will benefit, the poorer ones more than the rich. I also would like to remind him—that he has forgotten column 10 in that Appendix, column 10 being the 50 per cent public health grants which no African district council has received previous to this. So if he is trying to estimate the total amount of revenue from the Government which each African district council will get, he must add that column 10 and column 11 together.

I do agree with him, Sir, that the richer councils should not lay any special hopes—I think his words were—on the special grants-in-aid because, as has been noted in the Paper, they will be paid to the poorer and not the richer councils, but I repeat, Sir, that I think you will find that all councils benefit in the long run.

Now, Sir, the hon. Member also referred to land holdings and rates on land. All I want to say is this, Sir, that although in this Paper it has been suggested that the African district councils will be encouraged to help their rating resources in lines more in accordance with local government practice (and when I moved this Motion, I said that rating on land, of course, is the general practice of local authority areas)—even if African district councils were in a position to rate land, and by Ordinance were allowed to; if there were land with individual titles and that land was valued by Ordinance and they were allowed to rate on it—even then it is entirely up to the African district councils; it is not the Government who is trying to impose this at all. The African district councils have a completely free hand as to whether they should rate on land or not, even if they were enabled to do so (and at the moment, of course, they are not enabled to do so).

He then, Sir, went on to mention the matter of cess revenue, and criticized my remark that there was some indirect relationship between revenue from agricultural cess and the value of land from which that cess was produced, or that agricultural produce was produced. He also said that surely, the poll rates, that are paid by the African district councils are in the same category as the rates paid

by ratepayers in other areas. Therefore, the cesses were—as I understood him to say—the cesses were rather an additional type of taxation. To some extent, Sir, he is correct; but I think you will find that because it is not practical to have what one might call a graduated rate, as one does have in other local authority areas—graduated on the value of the land—as one does not have a graduated rate where the richer would pay more than the poorer; thus, as under African district councils, the poll rate is just one flat sum for everybody, because of that, no African district council can put up those rates to a very high ceiling, as they would be unbearable to the poorer people.

Again, the result of that is that some form of extra revenue has necessarily to be produced to finance the basic services that the local authority supplies in the African district council areas.

Now, Sir, the hon. Member then went on to discuss education, and said that the total cost of education should be borne by the Government and not by the African district councils. All I can say to that is that if the total cost of education were to be borne by the Government, then the amount of education would have to be restricted. In other words, with regard to the present budget, and the present revenue of the country, the Government could not increase education any more than it is in paying its grants to the African district councils. Therefore, if the African district councils did not make its contribution, the number of people going to school would have to be restricted because the money is just not there.

MR. ODINGA: Money is there, being wasted on unnecessary Tribal Police Force and other useless departments.

THE MINISTER FOR LOCAL GOVERNMENT, HEALTH AND HOUSING (MR. HAVELOCK): That comes to the next point to which I think the hon. Members may be referring—special taxes or rates for the building of schools at local level. That is a different matter. But it is still on the same basis of expansion of the educational facilities at the request of the people themselves over and above what the Central Government can pay for.

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He mentioned the Road Authority grants, Sir, and I think he was appreciative of the fact that more money was being paid to African district council areas now; but he mentioned especially that there was no road plant machinery in the African areas. I would say here that that especially, Sir, should be an item for which the Local Government Loans Authority would be very sympathetic in making money available for African district councils to purchase such machinery, and certain African district councils have already done so. It is up to them to apply if they wish to have such machinery and if they feel they can use it economically.

He then mentioned other local authorities as being given a percentage of the traffic licence revenue, and I would point out that that traffic licence revenue is distributed according to the townships. It is not distributed overall according to local authorities, and I have not had time yet to check—but I believe that townships in African district council areas get a certain contribution; but I would have to check that.

He compared the figures of road grants to county councils, municipalities and African district councils, and showed, of course, that the African district council grants were very much less than those of other local authorities. I would like to remind him that a number of main roads run through African district council areas and they are completely maintained and constructed by the Ministry of Works. The same thing applies in some areas to county council roads which run through African district council areas, and the county councils maintain them, but the main basis—and the hon. Member for the Coast can probably speak better for this than I can, as he is a member of the Roads Authority—of the Roads Authority allocations is the number of vehicles that use the road, and strategic and administrative importance is taken into consideration as well as the produce that is carried on that road. On that basis I understand that the allocation to the African district councils is fair.

I must admit that I fully appreciate the remarks of the hon. Member that this is a walk-in walk-out basis, and that

the Government should sell its goodwill, or rather treat any gratuities that have been paid to staff whose contracts have been terminated as the element of goodwill in the purchase of the business, and all I can say is that we cannot really accept it on that basis; but I re-emphasize that the Government will consider very sympathetically any difficulty that may arise from staff being transferred. I really do not see much reason why there should be any people who would be dispensed with.

The hon. Member for Nyanza North made quite a number of points. He said, Sir, that he did not like the note at the end of the Sessional Paper, which in fact says all or nothing. He did not like the package deal, which is a term we have heard quite a lot lately, but I do not particularly relish it being applied to this Sessional Paper. I did point out that administratively it was quite impossible to have only bits and pieces of the Sessional Paper applied, and the hon. Member also said that the African district councils' recommendations were not taken into account. It is true that the original recommendations were circulated to African district councils and their comments were requested. There was a very large number of comments which came in; most of them were only detail. The main principles of the suggestions were not opposed by African district councils. A number of detailed suggestions were made. These suggestions were studied at great length in my Ministry, and quite a number were accepted, especially the detailed suggestions with regard to the allocation of agricultural and veterinary services between African district councils and Government. It is certainly not true to say that the comments were ignored. They were not ignored; they were given very considerable study, and a number of their suggestions were accepted.

The hon. Member then went on to point out that under the agricultural services breakdown on page 3, items 6 and 7—first of all item 6—that water supply was put down on basic and local services. That is quite correct, and the reason for that was that we felt that water supply, normally including dam construction, should be a local matter; and there again it is a local matter in

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the other areas—a local matter on the individual or company, or whatever it may be. But we put in under "Government Basic Services" this passage—"Water Supply, including Dam Construction"—just so that we could meet what the hon. Member has asked for, and that is that in certain areas, where we knew the African district council could not afford what might be a necessary economical development, the Government would be in a position to be able to do it. That is the reason why it is under the basic services—so that Government can do it, and can help the poorer areas.

He then mentioned, too, that loans should be a Government responsibility, as has been stated here. Loans to farmers are primarily, we consider, a local responsibility but let us make quite sure in our own minds what we mean. The actual money loaned to the farmers in the great majority of cases comes from the Central Government in one way or another. It is either loaned to the African district council in the first place by the African Land Development Board, or other organizations, and reloaned by the African district council to the individuals. One of the reasons why the machinery of the African district council is used for loans to individuals is that it is much easier for the local authority at that level to know what the security of the individual is, what his efficiency is, and so on, rather than Central Government. That is why local government is used, but I do not think the hon. Member should run away with the idea that all the loans that will be made available to farmers through the African district councils will be pure African district council money. I know very little that is being used in that way. Nearly all the money has been channelled through the African district council by the Government.

Now, Sir, I think both hon. Members said that the Sessional Paper was shifting more and more responsibility on to the African district councils. This is not so. In fact the responsibilities have been reduced if anything, and the contributions by Government, as I emphasized, have been increased.

The hon. Member said, I think, that the African district councils were going to bear more financial responsibility for health services. That is not correct. They are going to get a 50 per cent grant from the Government for health services. Therefore, they are in fact going to get more from Government than they did in the past for that particular service.

The hon. Member then went on to state that because—I think he made it a reason—the African district councils were going to be expected to contribute more towards health services, that they should have more and more control of staff and hospitals. He did not like the idea of paying a lot of doctors or paying a lot of part-time people; he would rather that African district councils would take on their own doctors and pay them and use them completely. Now, Sir, that may be a development that will come in due course, but it must be remembered that a doctor in an African district council area who acts as a medical officer of health for the African district council has many other duties as well, and if it is not really economic to employ two bodies to do those different duties. I would remind hon. Members that these duties would consist of supervising the medical services in development schemes such as settlement and irrigation schemes, of schemes carried out by the Insect-Borne Diseases Section. It is expected that medical officers of health in that area would provide medical attention to Government servants and institutions and secondary schools, camps and prisons in that area, and he has to arrange for hospitalization for infectious disease cases. There are a number of other things he has got to do. Also we must remember, especially in the rural areas—this may be of interest to other hon. Members—it is essential to have a strong link between the curative side of health and the educative and preventive side, and that is something we must always keep in mind when we consider the duties of the medical officer of health on the one hand and the medical officer on the other. In other words, if we take the African district council areas, the duties of the medical officer in charge of a district hospital are very much interwoven with the duties of the medical officer of health in charge of the district. Therefore on most occasions there is no doubt that it is an

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advantage that the medical officer of health should at the same time be the medical officer in charge of the hospital.

Now hon. African Members especially may be particularly interested in what I am going to say now with regard to medical officers of health. I suspect, although no hon. Member has said so, that there may be a feeling that African doctors might not be given a good chance on this matter and that African district councils should be allowed to take on their own medical officers of health who would be if possible—and quite naturally—African doctors. Well, for the moment, as I say, I do not think that economically it is the right thing, but there is no racial matter in this at all. In fact it may be of interest that the Director of Medical Services intends to post an African doctor—a fully qualified doctor—as medical officer of health of Central Nyanza in the very near future.

< p.m

Certain points the hon. Member for Nyanza North made with regard to education I have dealt with, because they were the same as those made by the hon. Member for Nyanza Central, but he did complain, I think, that district education boards were being given, I think he said, a lot of power to spend the money and that the district education board should be a committee of the African district council. I think that is more or less what he said. I should like to comment on that to this extent: He knows, of course, that the African district council has considerable representation on the district education boards to-day, and I understand it is the policy of my hon. friend, the Minister for Education, to increase that representation so that the African district councils will have even more influence than theretofore over district education boards. That, I think, he would agree, is at least a step in the direction which he has asked for. The hon. Member is never satisfied, Sir; he is shaking his head. Maybe it is the best thing for me to withdraw what I have said.

The question of overseas bursaries is also something that the hon. Member referred to, and he suggested that it should be a combined effort of the

Central and local governments to send people overseas and he does not agree with the Government Bursary Committee approving the allocation of these bursaries by local authorities. First of all I want to remind him of what I said when I proposed this Motion, which is that I personally do not think it is a proper function of local government to provide bursaries. However, we are prepared to see African district councils, as they do not carry out all the orthodox functions of a local authority, to grant some bursaries for higher education overseas; but it is, of course, necessary for the Committee for African Bursaries to approve such grants, otherwise you are going to have overlapping. It is no use if all sorts of odd bodies give bursaries to people overseas without some form of co-ordination and some central authority; otherwise you will find that African district councils will be giving bursaries to people who may be first on the list of the Government and vice versa and, therefore, I think it is quite essential that what has been stated in the Sessional Paper should be carried out, and also it is essential for the general budget of the local authority concerned to be studied carefully before money should be disbursed in this manner. However, I do understand what the hon. Member is feeling about it; I know how strongly hon. African Members feel about higher education, and that is the reason why Government has not washed out altogether the authority for the granting of bursaries by African district councils.

Now, Sir, with regard to courts, the hon. Member suggested, I think, that he did not like the idea—if courts were to be taken away from African district councils, they should be put under the judiciary; he did not like the idea of their being taken away at all. Well, Sir, the point is this: that the Minister for African Affairs, or shall we say the Administration, has, of course, had the courts within their purview for a number of years, although the African district council, the local authority, had the administration of them; and I think it is only fair to say that he has got the people on the ground able to administer them; and, therefore, in fact it is practical that he should handle them. However, I am certain that my colleague

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will support me when I say that any matter with regard to justice and the administration of justice as such, not the administrative part of the courts so much, would, of course, be subject to advice from the Minister for Legal Affairs. There is, in fact, a link already in that, in the office of the hon. Minister for African Affairs, there is a place for an African Courts Officer and he works very closely indeed with the Minister for Legal Affairs. This is where the link comes.

MR. ODINGA: Does the Minister tell us that these courts will be under the district commissioners?

THE MINISTER FOR LOCAL GOVERNMENT, HEALTH AND HOUSING (Mr. Havelock): If hon. Members had not stayed for the third, fourth or fifth cup of tea, I might have had more time to get my answers more off pat. Now, Sir, the best answer that I can give is to repeat what I said, that the courts will be administered by the Minister for African Affairs staff, that is the Administration. There are certain statutory functions which he will wield, but as I said, the actual legal aspect of it will be subject, as normal, to the advice of the Legal Department and the officers of my hon. friend the Minister for Legal Affairs. There is also a Court of Review, which is presided over by a Judge.

MR. ODINGA: We are not satisfied.

THE MINISTER FOR LOCAL GOVERNMENT, HEALTH AND HOUSING (Mr. Havelock): If he is not satisfied, as the hon. Member says, he had better try to take further measures to persuade Government to his way of thinking.

MR. ODINGA: Give me time.

THE MINISTER FOR LOCAL GOVERNMENT, HEALTH AND HOUSING (Mr. Havelock): You have got plenty of time. I have not I think, Sir, that more or less deals with the detailed points that were raised, although the hon. Member for Nyanza North, I think, ended up with an appeal for more money from Government; more grants from Government to African district councils and the whole tenor of the speech of the hon. Member was to give more responsibility to the African district council,

the local authorities, on the one hand and Government to give more money, on the other. Now, Sir, that does not only apply to African district councils in my position and in the position of the hon. Minister for Finance, we eternally hear the same cry, from local authorities: "We must have more authority and we must have more Government money." I do not think that those two go together. It surely follows that the more money that comes from the Central Government, the less autonomy any local authority can have. I, therefore, suggest, Sir, that hon. Members should think of a more balanced way on this subject and I beg to move.

The question was put and carried.

THE DEPUTY SPEAKER (Mr. Conroy): That concludes the business on the Order Paper. I should be glad if the acting Chief Secretary would move "That the Council do now adjourn".

THE ACTING CHIEF SECRETARY (Mr. Griffiths-Jones): Mr. Deputy Speaker, I beg to move that this Council do now adjourn.

THE MINISTER FOR AFRICAN AFFAIRS (Mr. Johnston): seconded.

#### ADJOURNMENT MOTION

##### SUPPLY AND TRANSPORT DEPARTMENT

MR. ALEXANDER: Mr. Deputy Speaker, Sir, under Standing Order No. 10 I have given notice that I wish to raise the matter of the Supply and Transport Department.

It may be wondered why it is necessary to raise now a matter that has been approved in the two Development Programmes of 1954-57 and 1957-60. I do so, Sir, because I have disturbing information, which if it had been available to hon. Members before would, I am sure, undoubtedly have caused closer inquiry when the policy of supply and transport was first introduced and when ever it was subsequently mentioned. There is still time, Mr. Deputy Speaker, for some remedies if our overpowering Government will just mellow a little and be reasonable about this.

This very important matter, involving hundreds of thousands of pounds, was introduced in a few lines when introduced to this Council, for the first time,

[Mr. Alexander] in the Development Programme of 1954-57. In his speech presenting that Programme the Minister for Finance made no reference to it and in his reply to the debate he only answered the Member for Nairobi South very casually. The Minister for Works, whose portfolio at that time included this department—and I am sorry I do not see him here to-day because his portfolio included this department made no reference to it whatsoever.

In the debate on the Development Programme for 1957-60 the subject was not even discussed by the Minister for Finance, neither in his opening speech nor in his closing speech. At other times there have been brief references, either in official papers, or by the Minister for Finance or the Secretary to the Treasury, but invariably with a clear emphasis on the need only to cater for the security forces.

Now we learn that this organization is to deal with the whole of Government, excluding the Ministry of Works and certain technical supplies.

There appears to have been little or no provision of contingencies to cater for the policy of extending this organization beyond the needs of the security forces in an Emergency.

We are told that this department's turnover will rise to £2,500,000 per annum when the new buildings are ready. It claims to turn over its working capital three times in a year and therefore, on that velocity ratio, it will require a stores fund of upwards of £1,000,000. But I question the claim of a threefold turnover because the experience of this trade generally is that an average turnover of working capital twice in a year is exceptionally good business and therefore the stores fund that will be required is more likely to be between £1,250,000 and £2,000,000. Quite phenomenal figures, Mr Deputy Speaker.

In case I should be misunderstood, let me say immediately, that I do agree that for certain purposes only a Government Central Stores and Maintenance Department is a wise policy, provided (a) that items with a high obsolescence factor are dealt with through normal trade channels; (b) that it functions mainly as an inspectorate for local supplies and co-

ordinates provisioning and (c) that the Crown Agents are only used when there is a real overall advantage to the Colony.

Regarding the stores policy and the obsolescence factor, it is interesting to read two remarks attributable to the present Controller. Over two years ago he said to the Public Accounts Committee, and I quote:—

"I do not intend to hold a large quantity of spare parts for obvious reasons, namely that they go into thousands and I do not want to hold redundant stores for longer than I need. My policy at the moment is that I intend to endeavour to . . . go to the local agents for the fast-moving spares. . . ."

In the *East African Standard* of 21st November, 1957, after an interview with the Controller, it states:—

"It was hoped that the Motor Transport Division would be able to hold enough spares for the standardized vehicles so that Government departments could cut down on local purchases at inflated prices."

Surely Mr Deputy Speaker, two quite contradictory statements.

We are entitled to know now what is to happen to obsolete spares when vehicle models are changed. There is very much anxiety about this.

A sample comparison—a sample—in figures may help hon. Members to appreciate my fears. Here is one. In staff, interest, obsolescence and other overheads, it will cost this Department at least £20,000 a year to handle some £64,000 of spares, plus major assemblies for 1,500 vehicles; whereas if the trade were to carry the bulk of spares for these same vehicles, the Government would only need a spares stock of approximately £5,000.

There is surely, Mr. Deputy Speaker, far too much "Groundnut Scheme" thinking about this policy: a massive central organization and a massive staff.

I raised this matter to-day because there is still time for Government to have an independent inquiry on it and avoid the policy mistakes which have not yet been implemented: Government have a duty to-day to agree to such an independent inquiry.

[Mr. Alexander]  
5.15 p.m.

To make sure that Government would be ready for this debate, I sent to the Secretary to the Treasury two weeks ago a copy of the notice in which I listed five questions. With what I have already said to-day, there are other questions on the same theme that would be satisfactorily answered by an independent inquiry, and they include the following: (1) Is it not a fact that the workshops layout design was criticized by Ministry of Works' technicians as being (a) too large, and (b) inefficient, because, firstly, it entails multi-handling of trucks and, secondly, it makes supervision difficult? (2) Is the Minister aware that a statement attributable to the Controller states that an increase of vehicle life to five years will create a saving in expenditure, whereas at the last Royal Show another Government department illustrated quite differently? Which one is correct? (3) Have senior officials of Government ever recommended that the Ministry of Works should take over Supply and Transport, and, if so, what has happened to such a recommendation? And the final question (4) Would considerable capital expenditure have been saved if Supply and Transport had been taken over by the Ministry of Works?

Mr. Deputy Speaker, an independent inquiry now will help to remove anxieties.

MR. SLADE: Mr. Deputy Speaker, the justification for raising this matter to-day, and in this manner, rests upon the fact that this a matter of public confidence. That, I think, appears clearly from what has already been said by the hon. Member for Nairobi West. Here we have an undertaking involving a very large amount of capital—very large indeed, having regard to the stringencies of our position to-day in raising capital—and also a very large permanent commitment from year to year. It is true, as my hon. friend has said, so far the public have heard very little about this undertaking.

Now, Sir, it is equally true that there is a rising tide of anxiety about the justification for this undertaking on its present scale—or its apparent present scale—about the efficiency of its planning.

about the efficiency of its organization and about its prospective effect on ordinary trade.

As I am aware that a sub-committee of the Chamber of Commerce is already examining the matter, I would point out that it is a wider question than merely the effect of this undertaking on commerce. It is the whole question of what the Colony is being let into in this undertaking, and indeed, incidentally, what commerce is being let into by encouraging an undertaking of this kind.

Now, Mr. Deputy Speaker, it is not a question in a case like this of merely satisfying a few that the whole undertaking as now planned is justified. It is not enough to satisfy some Members on this side of Council. It is not enough to satisfy the Chamber of Commerce. It is a question of reassuring the public as a whole. I must make this clear, Sir, that we are not asking for the Minister for Finance to-day to justify, in detail, this undertaking. There is no time for that in a Motion on the Adjournment; and that is not the purpose of raising the matter to-day. We do not expect the Minister to give us a complete defence of what is going on, and even if he does he must not think that we are content to leave it at that, because what we are asking for, Sir, is not a full explanation to-day but a halt—a halt in this development pending an independent examination and a report. That is a very different thing from the Minister for Finance satisfying himself and possibly a few Members of this Council on the Government side that all is well. An independent examination and a report and a halt meanwhile—that, Mr. Deputy Speaker, is the only way by which the public will be reassured.

MR. MACKENZIE: Mr. Deputy Speaker, Sir, the hon. Member for Nairobi West mentioned that he rang me up about a fortnight ago and mentioned certain questions that he would be raising in this debate. He did mention those questions, Sir, at the very end of his speech and I was rather surprised that, that being so and in view of the great deal of perturbation which he shows on this matter, I was very surprised that he did not come along and see me and show me this evidence which he states that he has. I was very surprised, Sir, and I would

[Mr. Mackenzie] have thought that if what he was doing was in the public interest he would have done so.

Sir, the answers to the questions that he raised are quite easy to give. He asked whether there had been criticisms. Well, Sir, of course there have been criticisms. Whenever the Government has any scheme to deal with there are criticisms. The Treasury criticises them. The Ministry of Works, in this particular case, were asked to give their views on the layout and they gave them. They have given advice; they are still giving advice, and their advice is taken into consideration and it will be taken into consideration in the future, and I can give the Council a complete assurance that the Mechanical Department of the Ministry of Works will collaborate to the full with the Department of Supply and Transport to ensure that the running of the workshop is as efficient as possible.

As regards the layout, Sir, the hon. Member mentioned that it was thought that the lifting gear was not sufficiently heavy for trucks. Well, Sir, as regards that, the fact is that this organization will be dealing in the main with the lighter type of vehicle, not with very heavy vehicles, and there is no doubt that the system for moving parts—moving trucks—the lifting—will be entirely adequate for what is in view. I should add, Sir, that the layout is based on the layout of one of the most successful private firms in this town, and that it has been designed by a private architect and is being built by a private contractor, not by direct labour.

There are one or two other points which have been raised. The hon. Member asked, when he rang me up, whether the department would be adequately staffed and how the staff would be recruited. The answer to that, of course, is that of course it will be adequately staffed and that the staff will be recruited through the normal Government channels.

MR. SLADE: That may not be adequate.

MR. MACKENZIE: A further point is whether it is intended to extend the economic life of vehicles. All I can say on that is that there is every intention that the economic life of the vehicles

shall be as long as it is possible for it to be economic, and a great deal depends on what exactly the vehicle is being used for. Quite obviously a vehicle being used a great deal in up-country conditions by the police force will have a shorter economic life than a vehicle being used in town by one of the civilian departments.

AN HON. MEMBER: Go on!

MR. MACKENZIE: There was finally, Sir, the question of whether there was ever any suggestion that this department should be merged with the Ministry of Works. Well, Sir, amongst others, the hon. Member suggested that senior officers of the Government had made a suggestion of that kind. Well, if it is of any help to him I will say here and now that I myself suggested some time ago that we should inquire whether any advantage would be gained by such a merger, and I had the matter gone into and I found that in fact, in present circumstances, there would be no economies. The fact is, Sir, that these two organizations are in quite different types of business. In so far as the workshop is concerned, it would be necessary to have a quite different workshop if the Ministry of Works were to undertake the repair of vehicles for the Security Forces and other departments other than the Ministry of Works. The Ministry of Works' workshop is intended to deal with heavy vehicles, whilst that of the Supply and Transport Department will be dealing mainly with lighter vehicles. There is quite a difference between maintaining heavy mechanical plant and maintaining light police vehicles. Equally on the stores side, the Ministry of Works is primarily an engineering organization and keeps stores for its own purposes.

This department will maintain common user stores. But, Sir, the machinery of Government is always under consideration and I have no doubt that as the years go by this particular problem will be looked at, from time to time, and the Government will take the sort of action which is best in the circumstances.

5.30 p.m.  
THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): Mr. Deputy Speaker, I am very interested in this

[The Minister for Finance and Development] matter that has been raised on the Adjournment. I regret that there is apparently a new technique alive, that this procedure can be used for an attack on the Minister but the Minister must not defend himself; he must deal with the question of an independent inquiry into whether the facts are correct or not.

Now, Sir, the Government cannot agree to an independent inquiry at this stage. I made an offer to the hon. Corporate Member for Commerce and Industry that I would meet a number of Members—I would hope from all groups on the other side—and that we would bring before them the head of this particular supply and transport department and the Secretary to the Treasury and I myself would be there and we would have an interchange of opinion and discussion to see how far the statements made were justified. Until that has been done, and the situation made clear and the facts clarified, the Government certainly would not agree to any inquiry. I understand that that offer is now being rejected by the hon. Members opposite, although I consider it a very fair and reasonable offer to have made.

Now, Sir, this particular department was set up as a result of an inquiry in 1953, when it was thought that there was some need of an organization of this kind and so an independent expert—two, in fact—from the Crown Agents were brought out to Kenya, and they recommended that an organization of this kind was necessary on the grounds of economy and general efficiency. By 1954 the situation had become such with regard to the Emergency that we had been unable to carry that out, but a position had there arisen with regard to the vehicles, etc., of the Emergency Security Forces that we went to the steps of bringing out another of these experts from abroad—so beloved by some hon. Members—and he again recommended that something of this kind should be done. Now there, Sir, we had a position arising where it had to be undertaken, and in view of the very heavy pressure and the urgent need and the fact that a number of our police vehicles were likely to be off the road at a critical moment, action had to be taken.

We put this question up to the Government and the Treasury can say that it said quite clearly it did not want to undertake the responsibility for this particular department; that it felt it should belong to some other Ministry. But so over-loaded were the Ministries at that particular time that it was decided that the Treasury, whether it liked it or not, must carry out this for at least some time, and so we laid it down by agreement with my colleagues that I would carry this responsibility for two years, subject to review at that particular time, and that review is being undertaken. I hope that will get rid of part of the magnificent obsession with myself which seems to fill the mind of the hon. Member for Nairobi West.

Now, Sir, I wonder whether anybody has looked at the fact that there was a discussion of this when Supplementary Estimates No. 8 of 1955 and No. 1 of 1955/56 were laid. We then put down quite a large paragraph in the Memorandum about that particular Department, and I do not think that any big discussion has taken place since then.

MR. ALEXANDER: For the Security Forces!

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): There has been some suggestion about criticism. I do not know where the hon. Member for Nairobi West got his information from—of criticism of the lay-out by the Chief Mechanical Engineer's Department, and I would like to confirm further the words of my hon. colleague the Secretary to the Treasury inasmuch as there is a record which shows that on 20th April, 1955, the layout of the new workshop was discussed with gentlemen of the Ministry of Works, and they were in entire agreement with the layout and design. So I really do not know—perhaps there has been some change of emphasis since? Perhaps the hon. gentleman is not aware of that particular piece of information. We have had the fact that there have been savings already due to the operation of this particular Branch to save some £55,000 in Government purchases, and we have through this Department an agreement with the oil companies whereby we have been able to save an average of ten cents a gallon on

[The Minister for Finance and Development]

petrol used by the Government during the past year, so that it has begun to show a considerable amount of savings. I think too, Sir, that we must stand by the figures given us by the Head of the Department, that he has had a working capital of some £300,000, and a turnover of £1,300,000. That shows that the capital is turning over roughly at a rate of four times a year, which seems to me to indicate a great degree, even on the figures put forward by the opposite side—a great degree of efficiency on the part of the department—and its stocks at the present moment are given to me as a figure of £82,000.

Now, Sir, I think that on these figures it can be shown that the Department is working efficiently. Let me say this on the question of local purchases and purchases through the Crown Agents; we indeed did see the Chamber of Commerce some time ago on this particular matter and said that where there was a 5 per cent advantage in price in purchasing overseas we would in fact give the benefit of the doubt to the local people, but when I get the type of figures that we have got here for instance on tentage to purchase locally as distinct from the purchase overseas—it would have meant the taxpayer paying 30 per cent more for the tentage. I not think we could justify purchasing locally under those circumstances. The same thing has applied to soap and the same thing has applied to Brasso, when in fact the local price was Sh. 1/25 as distinct from the purchase abroad of 10½d.

MR. ALEXANDER: What about Customs duty?

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): Never mind. These are the things we cannot do on behalf of the taxpayer. We must have regard to the cost and the burden, but we do lay the emphasis—and the figures that I have in front of me show that particularly, for instance, in the motor world—have we gone as far as possible to make contracts with local firms.

I know I have only got a couple of minutes more, and I do not want to spend the time in justifying, not myself, but the efficiency of this Department. I repeat the offer I made, Sir, that I am quite willing to meet, with the Secretary to the Treasury and with the Head of Department, a group of Members drawn from all the races opposite and we can have a full and free and frank discussion. If at the end of that, if from those figures and those facts anything emerged which would justify an independent inquiry, then I am sure that my hon. friend the Leader of the Council would consider the matter seriously, but not without that.

Or I would suggest another alternative. Sir, which I think could be carried into effect, and that is that we have sitting an Estimates Committee which has on it many, many Members of the Council, including the hon. Member for Nairobi West, the hon. Member for Nairobi South and the hon. Member for Nairobi North, I think, all of whom are intimately concerned with the commercial aspect of this particular matter. We could then discuss this matter in detail; we could call the Head of the Department in front of us and ask him to give evidence, we could cross-question him and then the Estimates Committee could make up its mind quite clearly on the evidence laid before it and recommend to this Council what it felt should be the steps and the policy involved.

Sir, I think that is all I have to say, except to say that I regret that what I considered was a very reasonable offer should so abruptly have been turned down by hon. Members opposite.

#### ADJOURNMENT

THE DEPUTY SPEAKER (Mr. Conroy): That completes our thirty minutes and it accordingly falls to me, under Standing Order No. 9, to adjourn the Council. The Council will stand adjourned *sine die*.

Council rose at twenty minutes to six o'clock.

#### WRITTEN ANSWER TO QUESTION

No. 53

MRS. E. D. HUGHES to ask the Minister for Local Government, Health and Housing:—

In view of the statement by the Minister that Nairobi County Council is to act as "agent" and "Contractor" in connexion with Embakasi Housing Scheme, is it Government's policy to encourage local authorities to carry out work by direct labour?

#### REPLY

In accordance with accepted Government policy as set out in Sessional Paper No. 98 of 1957, "the Government will ensure that as much responsibility and work as possible shall be passed

over to local authorities who shall thereby be encouraged to develop their resources."

This policy can in no way be interpreted to infer that the Government intends to encourage local authorities to carry out work by direct labour.

The decision as to how any particular scheme entrusted to it by the Government should be carried out, is primarily a matter for the local authority concerned and will naturally depend on the type of scheme and the various conditions prevailing at the time. The policy of the Government with regard to contractors remains as stated in Sessional Paper No. 98 of 1957 (page 8) and this policy is well known to local authorities who must take it into full consideration when undertaking works of all types.

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11th Council—Second Session

VOLUME LXXIV

23rd October, 1957, to 11th December, 1957

### Explanation of Abbreviations

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