

# KENYA NATIONAL ARCHIVES

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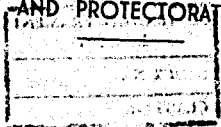
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COLONY AND PROTECTORATE OF KENYA



# LEGISLATIVE COUNCIL DEBATES

OFFICIAL REPORT

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11th COUNCIL INAUGURATED  
OCTOBER, 1956

VOLUME LXXVI  
(PART II—Including Index)

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**1958**

SECOND SESSION  
(Continued)

5th June, 1958, to 25th July, 1958

# List of Members of the Legislative Council

## Speaker:

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

## Chairman of Committees:

\*THE HON. D. W. CONROY, O.B.E., T.D., Q.C.

## Ministers:

- THE CHIEF SECRETARY (THE HON. W. F. COUTTS, C.M.G., M.B.E.).  
THE MINISTER FOR LEGAL AFFAIRS (THE HON. E. N. GRIFFITH-JONES, C.M.G., Q.C.). [1]  
THE MINISTER FOR FINANCE AND DEVELOPMENT (THE HON. E. A. VASEY, C.M.G.).  
THE MINISTER FOR AFRICAN AFFAIRS (THE HON. C. M. JOHNSTON, C.M.G.).  
THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (THE HON. M. BLUNDELL, M.B.E.). [2]  
THE MINISTER FOR INTERNAL SECURITY AND DEFENCE (THE HON. J. W. CUSACK, C.M.G., O.B.E.).  
THE MINISTER FOR LOCAL GOVERNMENT, HEALTH AND TOWN PLANNING (THE HON. W. B. HAVELOCK). [3]  
THE MINISTER FOR FOREST DEVELOPMENT, GAME AND FISHERIES (THE HON. D. L. BLUNT, C.M.G.).  
THE MINISTER FOR COMMERCE AND INDUSTRY (THE HON. A. HOPE-JONES, C.M.G.).  
THE MINISTER FOR WORKS (THE HON. I. E. NATHOO). [4]  
THE MINISTER FOR COMMUNITY DEVELOPMENT (THE HON. C. M. JOHNSTON, C.M.G.).  
THE EUROPEAN MINISTER WITHOUT PORTFOLIO (THE HON. N. F. HARRIS). [5]  
THE ASIAN MINISTER WITHOUT PORTFOLIO (THE HON. C. B. MADAN, Q.C.). [6]  
THE MINISTER FOR TOURISM AND COMMON SERVICES (THE HON. W. E. CROSSKILL).  
THE MINISTER FOR HOUSING (THE HON. M. S. AMALEMBA).  
THE MINISTER FOR EDUCATION, LABOUR AND LANDS (THE HON. R. E. LUYT, D.C.M.) (Temporary). [7]

## Assistant Ministers:

- THE ASSISTANT MINISTER FOR EDUCATION, LABOUR AND LANDS (THE HON. WANYUTU WAWERU, M.B.E.).  
THE ASSISTANT MINISTER FOR FOREST DEVELOPMENT, GAME AND FISHERIES (THE HON. SHEIKH MOHAMED ALI SAID EL-MANDRY).

## European—

### Constituency Elected Members:

- THE HON. R. S. ALEXANDER (Nairobi West).  
GROUP CAPTAIN THE HON. L. R. BRIGGS (Mount Kenya).  
THE HON. F. W. G. BOMPAS, E.D. (Kiambu).  
THE HON. S. V. COOKE (Coast).  
†THE HON. W. E. CROSSKILL (Mau).  
MAJOR THE HON. F. W. J. DAY (Aberdare).  
†THE HON. N. F. HARRIS (Nairobi South).  
AIR COMMODORE THE HON. E. L. HOWARD-WILLIAMS, M.C. (Nairobi North). [11]  
THE HON. MRS. E. D. HUGHES, M.B.E. (Uasin Gishu).  
THE HON. SIR CHARLES MARKHAM, B.L. (Ukamba).  
THE HON. J. R. MAXWELL, C.M.G. (Trans Nzoia). [12]  
MAJOR THE HON. B. P. ROBERTS (Rift Valley). [13]  
THE HON. MRS. A. R. SHAW (Nyanza). [14]  
THE HON. C. G. USHER, M.C. (Mombasa).

## African—

- THE HON. F. J. KHAMISI (Mombasa Area).  
THE HON. J. G. KIANO, Ph.D. (Central Province South).  
THE HON. B. MATE (Central Province North).

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

*African—(Contd.)—*

THE HON. T. J. MBOYA (Nairobi Area).  
 THE HON. D. T. ARAP MOI (North Rift).  
 THE HON. J. N. MUMBI (Kitui).  
 THE HON. M. MULIRO (Nyanza North).  
 THE HON. D. N. MUMO (Machakos).  
 THE HON. R. G. NGALA (Coast Rural).  
 THE HON. J. J. M. NYAGAH (Nyeri and Embu).  
 THE HON. A. OGIINGA-ODIINGA (Nyanza Central). [15]  
 THE HON. L. G. OGUDA (Nyanza South).  
 THE HON. J. K. OLE TIPIS (Central Rift).  
 THE HON. T. TOWETT (Southern Area).

*Asian—*

THE HON. S. G. HASSAN, M.B.E. (East Electoral Area).  
 THE HON. A. B. JAMIDAR (Central Electoral Area). [16]  
 THE HON. J. C. M. NAZARETH, Q.C. (Western Electoral Area). [17]  
 THE HON. A. B. PANDYA (Eastern Electoral Area).  
 THE HON. K. D. TRAVADI (Central Electoral Area). [18]  
 THE HON. ZAFRUDDIN (West Electoral Area). [19]

*Arab—*

THE HON. SHEIKH MAHMOOD S. MACKAWI. [20]  
 THE HON. SHARIFF M. A. SHATRY.

*Specialty Elected Members:*

†THE HON. M. BLUNDELL, M.B.E.  
 †THE HON. W. B. HAVELOCK.  
 LT.-COL. THE HON. B. R. MCKENZIE, D.S.O., D.F.C.  
 THE HON. H. SLADE.  
 †THE HON. M. S. AMALEMBA.  
 THE HON. J. M. MUTHURA.  
 THE HON. N. G. NGOMF.  
 †THE HON. WANYUTU WAWERU, M.B.E.  
 †THE HON. SHEIKH MOHAMED ALI SAID EL-MANDRY.  
 †THE HON. I. E. NATHOO.  
 †THE HON. C. B. MADAN, Q.C.  
 †THE HON. N. S. MANGOAT, Q.C.

*Nominated Members:*

THE HON. K. BECHGAARD.  
 †THE HON. D. L. BLUNT, C.M.G.  
 †THE HON. D. W. CONROY, O.B.E., T.D., Q.C. (Solicitor-General). [21]  
 THE HON. M. H. COWIE, E.D. (Director of the Royal National Parks).  
 THE HON. MRS. J. T. GRICAGA.  
 COMMANDER THE HON. A. B. GOORD, D.S.C., R.I.N. (Rtd.).  
 CAPTAIN THE HON. C. W. A. G. HAMELY, O.B.E., R.N.  
 THE HON. H. G. S. HARRISON, M.B.E.  
 COLONEL THE HON. H. R. JACKMAN.  
 THE HON. E. T. JONES.  
 THE HON. SHARIFF KULLATEIN, M.B.E. (Northern Province).  
 THE HON. J. A. LUSENO.  
 THE HON. K. W. S. MACKENZIE, C.M.G. (Secretary to the Treasury). [22]  
 THE HON. V. A. MADDISON (Permanent Secretary, Ministry of Commerce and Industry).  
 THE HON. BALDEV S. MOHINDRA, O.B.E.  
 THE HON. SHEIKH SALIM M. MUIASHAMY, M.B.E. [23]  
 THE HON. A. H. NURMOHAMMED.  
 THE HON. J. NZIOKA.  
 THE HON. SIR EBBO FIRBIHAL, O.B.E.  
 THE HON. P. J. ROGERS, C.B.E. [24]  
 THE HON. C. W. RUBIA.  
 THE HON. KIRPAL SINGH SAGOO.

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

*Nominated Members—(Contd.)*

THE HON. SHERIFF A. SALIM.  
 THE HON. P. H. SMITH.  
 THE HON. R. J. M. SWYNNERTON, O.B.E., M.C. (Director of Agriculture).  
 THE HON. W. J. D. WADLEY (Director of Education). [25]  
 THE HON. A. J. WALKER, M.D., M.R.C.P. (Director of Medical Services). [26]  
 THE HON. E. A. VASEY, C.M.G.  
 †THE HON. THE EARL OF PORTSMOUTH.  
 †THE HON. SIR ALFRED VINCENT. [27]

*Clerk of the Council:*

A. W. PURVIS.

*Clerk Assistant:*

H. THOMAS.

*Serjeant-at-Arms:*

MAJOR F. W. HORNE, M.S.M. [28]

*Reporters:*

D. BUCK. MISS S. A. RIDDICK. MISS M. M. GARDNER.

*Hansard Editor:*

MRS. J. FRYER.

\* Deputy Speaker and Chairman of Committees.  
 † Also included in lists of Ministers and Assistant Ministers.  
 ‡ Elected by the Legislative Council Electoral College 29-4-58.  
 § Non-Government Nominated Members.

- [1] The Hon. D. W. Conroy, O.B.E., T.D., Q.C., Temporary Minister for Legal Affairs with effect from 23-6-58.
- [2] Resigned Ministerial post 15-4-58; resigned Constituency seat (Rift Valley) 29-4-58; reappointed Minister 30-4-58.
- [3] Resigned post Minister for Local Government, Health and Housing 15-4-58; resigned Constituency seat (Kilambu) 29-4-58; appointed Minister for Local Government, Health and Town Planning 30-4-58.
- [4] Resigned Ministerial post 15-4-58; resigned Constituency seat (West Electoral Area) 29-4-58; reappointed Minister 30-4-58.
- [5] Appointed European Minister without Portfolio 30-4-58 (vice Group Captain L. R. Briggs).
- [6] Resigned Ministerial post 15-4-58; resigned Constituency seat 29-4-58; reappointed Minister 30-4-58.
- [7] Temporary Minister with effect from 6-5-58.
- [8] Resigned post of European Minister without Portfolio 15-4-58.
- [9] Vice the Hon. W. B. Havelock, Specially Elected Member (by-election 17-6-58).
- [10] Vice the Hon. H. Slade, Specially Elected Member (by-election 18-6-58).
- [11] Vice Lt.-Col. the Hon. S. G. Gherrie, O.B.E., resigned (by-election 30-7-58).
- [12] The Hon. R. Field, Temporary Member from 26-5-58 to 27-7-58.
- [13] Vice the Hon. M. Blundell, M.B.E., Specially Elected Member (by-election 17-6-58).
- [14] The Hon. Mrs. A. C. Rawson-Shaw, Temporary Member with effect from 31-5-58.
- [15] The Hon. I. F. C. Owalla-Awino, Temporary Member from 18-4-58 to 23-5-58.
- [16] Vice the Hon. C. B. Madan, Q.C., Specially Elected Member (by-election 21/22-6-58).
- [17] The Hon. R. P. Joahi, Temporary Member with effect from 23-6-58.
- [18] Vice the Hon. N. S. Mangoat, Q.C., Specially Elected Member (by-election 21/22-6-58).
- [19] Vice the Hon. I. E. Nathoo, Specially Elected Member (by-election 18-6-58).
- [20] The Hon. Sheikh M. A. Alamoody, Temporary Member with effect from 23-6-58.
- [21] The Hon. A. M. F. Webb (Acting Solicitor-General), Nominated Member with effect from 23-6-58 (see note 1).
- [22] The Hon. J. H. Butler, M.B.E. (Acting Secretary to the Treasury), Temporary Member with effect from 27-6-58.
- [23] Temporary Member vice the Hon. Sheikh Mbarak Ali Hinawy, M.B.E.; the Hon. Sheikh A. B. Shikely, Temporary Member in place of Sheikh Muhashamy with effect from 3-6-58.
- [24] The Hon. T. C. Colchester, C.M.G. (Permanent Secretary, Ministry of Works), Temporary Member with effect from 9-7-58.
- [25] The Hon. W. D. Gregg (Acting Director of Education), Nominated Member with effect from 23-6-58 on retirement of Mr. Wadley.
- [26] The Hon. E. P. Rigby, M.B.E., M.B. (Acting Director of Medical Services), Temporary Member with effect from 9-7-58.
- [27] The Hon. R. J. Hilliard, C.M.G., Temporary Member from 29-4-58 to 16-5-58.
- [28] Retired 13-7-58.

Thursday, 5th June, 1958

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

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

### PRAYERS

### ORAL NOTICE OF MOTION

**SESSIONAL COMMITTEE—APPOINTMENT TO THE CHIEF SECRETARY (Mr. Coutts):** Mr. Speaker, Sir, I beg to give notice of the following Motion:—

THAT Sir Charles Markham be appointed to the Sessional Committee in place of Lt.-Col. S. G. Gherrie, O.B.E.

### ORAL ANSWERS TO QUESTIONS

#### QUESTION No. 117

MR. OUDA asked the Minister for Agriculture, Animal Husbandry and Water Resources how much of the Swynnerton Plan money was allocated for agricultural development in South Nyanza and on what major development projects was that money spent?

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): Since Swynnerton Plan accounts are not kept by districts, it is not possible to answer the first part of the question without lengthy analysis of accounts which would involve a quite disproportionate amount of labour.

As regards the second part of the question, the main work on which Swynnerton Plan funds have been spent in South Nyanza is as follows:—

Expansion of cash crops (coffee, pyrethrum, tea, sugar cane) which involves increased staff; loans to the Kisii Co-operative Union to develop coffee factories, and loans for jaggery factories; establishment of nurseries and supply of planting material; organization of co-operative societies by the Registrar of Co-operative Societies.

Two agricultural experimental stations have been established, one at Kisii and one at Homa Bay.

The Veterinary Department has posted a livestock officer and staff to assist with animal husbandry at Migori.

The Veterinary Department is spending in the period 1956-60 £26,076 on eradicating trypanosomiasis in South Nyanza.

Many dams have been dug, especially in the lakeshore area, and a light dam construction unit is being provided by ALDEV to continue this work with funds supplied partly by Government and partly by the African District Council.

The Lambwe Valley Settlement, financed by ALDEV, will have cost over £50,000 by the end of the present financial year.

I will provide the hon. Member with a statement giving facts and figures in greater detail and I would also refer him to the ALDEV Report 1956/1957 which I recently presented to him.

MR. OUDA: Arising out of that answer, Mr. Speaker, is the Minister aware that the number of dams is relatively small and that some of them dry up? If he is aware of that then what is he doing to help improve the situation?

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): Mr. Speaker, I am aware that the number of these dams is not as large as we would have liked but we have to keep within the funds allocated for this purpose.

Secondly, Sir, I am aware that some dams dry up, but that is largely due to weather conditions.

Lastly, Mr. Speaker, we are doing our utmost to proceed with constructing more dams, and this would be facilitated with the co-operation of the hon. Member.

#### QUESTION No. 123

MR. NGALA asked the Minister for African Affairs what rehabilitation arrangements are being made for detained or restricted people of the African coastal tribes?

THE MINISTER FOR AFRICAN AFFAIRS (Mr. Johnston): No special arrangements have been made for the rehabilitation of detained or restricted people of the African coastal tribes.

MR. MBOYA: Mr. Speaker, arising out of the reply, since we are under the

(Mr. Mboya) impression that members of the Kikuyu, Embu and Meru tribes who are in detention camps are visited and screened by people from their respective districts, would the Minister not feel that it is necessary that members of the coastal tribes should equally receive treatment of that nature?

**THE MINISTER FOR AFRICAN AFFAIRS** (Mr. Johnston): Mr. Speaker, Sir, there is only one member of a coastal tribe who is detained. Of the six other persons who were restricted, Sir, they are restricted now to their own villages and it is hoped that there they will be rehabilitated by their friends and compatriots.

**MR. NGALA:** Mr. Speaker, arising from that reply, this detainee No. 98 Mr. Mwinga Chokwe realizing that his condition has very much improved and the difficulties which his family are undergoing as far as education is concerned, would the Minister consider rehabilitating that one person?

**THE MINISTER FOR AFRICAN AFFAIRS** (Mr. Johnston): Mr. Speaker I do not necessarily accept that his condition has materially improved. But in due course, no doubt, when we come to this one detainee I will set in Motion the usual rehabilitation measures.

**MR. MATE:** Mr. Speaker, would it not be possible for this detainee to go through the same machinery as the other detainees?

**THE MINISTER FOR AFRICAN AFFAIRS** (Mr. Johnston): Not yet, Sir.

**MR. MBOYA:** Mr. Speaker, is it suggested that this detainee has spent the last six years in detention camps and that nothing has been started until now in the way of rehabilitation?

**THE MINISTER FOR AFRICAN AFFAIRS** (Mr. Johnston): I have not suggested that he has been in detention for six years.

#### QUESTION No. 135

**MR. OGUDA** asked the Minister for Agriculture, Animal Husbandry and Water Resources which cash crops other than cotton does Government intend to introduce in the dry lake

shore areas of South Nyanza and when?

**THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES** (Mr. Blundell): The lake shore is able to grow a wide range of crops including groundnuts, simsim, maize sorghum, millet, cassava, rice and castor seed, according to the locality. There is also scope for a substantial expansion in the production of cotton. Yields of these crops can be substantially increased by improved methods of cultivation and Government considers that much greater benefit will accrue from this than from the introduction of new crops which in the main would be unlikely to be suited to the area.

Many of the drier lake shore areas of South Nyanza are well suited to controlled grazing of cattle and to this end Government has constructed nearly 70 dams in South Nyanza in recent years and proposes to continue this work with a light dam construction unit, financed partly by the Government and partly by the African District Council. Sales of livestock, hides and skins, and ghee from these areas could be greatly increased.

**MR. OGUDA:** Mr. Speaker, Sir, arising from the reply, in view of the fact that the lake shore areas usually have a very long dry season, is it true that most of the crops that the Minister has listed in his reply would be grown in those areas? For example, Sir, groundnuts need a large amount of rain.

**THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES** (Mr. Blundell): Mr. Speaker, Sir, I have already answered the hon. Member's question by saying that the lake shore is able to grow the wide range of crops which I enumerated to him.

#### QUESTION No. 136

**MR. OGUDA** asked the Minister for Agriculture, Animal Husbandry and Water Resources when does Government contemplate starting irrigation schemes in the dry parts of South Nyanza?

**THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES** (Mr. Blundell): Government does not at present contemplate starting irrigation schemes in South Nyanza as no funds are available for this purpose.

**MR. OGUDA:** When does the Government expect to have funds available for this purpose?

**THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES** (Mr. Blundell): Mr. Speaker, that will entirely depend on the funds available to Government and the priorities and the demands made upon the Government for those funds.

#### QUESTION No. 138

**MR. OGUDA** asked the Minister for African Affairs whether the Lambwe Valley Settlement is Crown land or part of the South Nyanza Native Land Unit?

**THE MINISTER FOR AFRICAN AFFAIRS** (Mr. Johnston): The Lambwe Valley Settlement is not Crown land it is part of the Kavirondo Native Land Unit.

**MR. OGUDA:** Mr. Speaker, arising from the reply, have the chiefs of the neighbouring locations lost jurisdiction over portions of the Lambwe Settlement Scheme which were originally part of their location.

**THE MINISTER FOR AFRICAN AFFAIRS** (Mr. Johnston): I do not accept that the Lambwe Valley was under the neighbouring chiefs' jurisdiction. In fact, in 1933 the Lambwe Valley was waterless and inhabited only by elephant and leopard. That valley was not under the chief's jurisdiction because there were no inhabitants there.

**MR. MBOYA:** Mr. Speaker, is it not a fact that, even though the area was only inhabited by elephants and leopards, in the demarcation of the locations in South Nyanza the Lambwe Valley was shown as belonging to some location?

**THE MINISTER FOR AFRICAN AFFAIRS** (Mr. Johnston): Mr. Speaker, Sir, I have no knowledge of that. All I do know is that certain settlement rules were drawn up for that area and the settlement officer there was appointed. Until recently, the settlement officer, looked after those who had been settled.

**MR. OGUDA:** Mr. Speaker, Sir, is the Minister suggesting that the land now known as the Lambwe Valley Settlement was no-man's-land before the scheme was devised?

**THE MINISTER FOR AFRICAN AFFAIRS** (Mr. Johnston): I was merely saying, Sir, that the jurisdiction of the neighbouring chiefs did not run formally in that area.

#### ADMINISTRATION OF OATH

The Oath of Allegiance was administered to the following Member:—

Ali Abdulla Shikely.

#### COMMITTEE OF SUPPLY

Order for Committee read.

#### VOTE 32—EDUCATION

#### MOTION

That Mr. Speaker do now leave the Chair.

*Continuation of debate adjourned on 4th June, 1958.*

**THE MINISTER FOR EDUCATION, LABOUR AND LANDS** (Mr. Luyt): Mr. Speaker, Sir, this is the fourth parliamentary day since we started this debate. I did hear of a move from the Government Back Benches yesterday to get a tie out for all those who had not spoken. I gather that they have now decided the market would be so small that the manufacture would not be worth while.

**SIR CHARLES MARKHAM:** Nonsense!

**THE MINISTER FOR EDUCATION, LABOUR AND LANDS** (Mr. Luyt): Sir, if I were to answer every individual point made by the speakers over the last three days, I think we would be here for a very long time, and I hope that Members will forgive me if in some cases I answer them collectively with a general statement. In doing so, I particularly have in mind all those numerous appeals made by various Members in respect of individual schools, particularly, trade schools, secondary schools and boarding establishments, for their own particular districts. I did in my opening speech make it clear that there were many desirable projects in the education field which under sheer pressure of finance we could not meet at the present time. I can, however, give everybody an assurance who has drawn attention to the need for a school in some particular area and has explained exactly why, that need exists, that we will, in drawing up our plans for the next development period, take all this advice into account.

[The Minister for Education, Labour and Lands]

Similarly, Sir, there were many remarks that the conditions of service of teachers needed attention. Some of them were in general; others were in relation to particular grades of teachers. Now, in respect of that, Sir, I would just like to say that in general, we are satisfied with the framework of the salary structure for teachers. We do admit that there are anomalies which need attention; we do admit that in certain grades, there ought to be readier opportunities for advancement or other remedial measures taken. These anomalies will be given attention; most of them are already under attention. The process is unfortunately, slow, frequently because they need inter-territorial negotiation.

To start now, Sir, on the points raised by individual Members. If I may deal first with my hon. friend, the Arab Elected Member, Sheikh Mahfoud Mackawi. I was asked to give an assurance that the new boarding block at the Arab secondary school at Mombasa would be used for the purpose for which it was intended, and not for other purposes; and, I gather also, that the money which is earmarked to build that boarding block would be used for that purpose. I can certainly give the assurance that the money which we have asked to be voted for the new boarding block will be used exclusively for the boarding block. As regards the use to which the building is to be put, it will certainly be used exclusively for boarding purposes if there are enough boarders offering to fill it. If there are not enough boarders forthcoming, then clearly I think even the hon. Member would wish us to use whatever space is available to the best advantage of the school.

The point was also made by the same hon. Member, Sir, that Government was being unreasonably difficult over permitting African Muslims to gain entry to Arab school. His colleague on the same benches, his Arab colleague, put his finger on the reason for any difficulty that arises when he said that he supported the entry of African Muslims into Arab schools provided that this did not mean keeping any Arabs out. Well, Sir, I am not aware from the continual pressure that has been put on me to provide more Arab tuition accommoda-

tion at Mombasa that we have hitherto been over-generous in providing such accommodation; and that there is, therefore, much space to spare. But I will say that if there is by any chance space to spare, the Government will not stand in the way of an African Muslim being permitted to enter an Arab school. I should, however, point out that Africans so doing might find that they run into difficulties in the later years of their schooling when they may possibly discover that there is such pressure upon the Arab secondary accommodation that they have to change from an Arab school to an African school, because Arab children need all the places that are available at the higher level; they might thus be at a disadvantage at a higher level after having been able to gain entry to available accommodation at the lower levels.

I think that completes the points, Sir, on Arab education, except for one that was raised by the hon. Arab Elected Member, Sharif Shary, concerning bursaries for Arabs. I think the position of having all the bursaries' money allocated by a single bursaries' committee has, in fact, improved the Arab opportunity for gaining bursaries. As I mentioned in my opening speech, instead of having the plurality of bursaries' committees that we had until last year—one for each community—we now have one central bursaries' committee with representatives of all communities on it dealing with the allocation of all bursaries. I also said that each community had a certain minimum of the total bursary money reserved to it, and I might mention that I think the Arabs have been relatively more generously treated as far as their minimum is concerned than perhaps any other community. In addition to that, any Arab candidate can compete for the non-racial pool of money which is at the disposal of the bursaries' committee for allocation as it thinks fit to the best candidates, regardless of race.

The hon. Member for Southern Area, Sir, deplored the fact that the Education Department no longer made arrangements for the local sitting for the South African National Examination, which is an examination, I understand, for which preparation is made through correspondence schools. The point about this is that in the days when

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The Department did make facilities available for this examination to be taken in Kenya, there were no facilities available for taking our Kenya African Preliminary Examination externally. These facilities are now available; the examination is at the same level, and we therefore see no purpose in making additional facilities available for an examination of another territory when full facilities are available in this country for an examination at the same level.

I was also asked to consider the introduction of examination for the General Certificate of Education. This, Sir, has been quite a thorny problem of recent years, and has received considerable attention. I am now glad to be able to announce that through the generosity of the Cambridge Examination Syndicate, arrangements have been made which will, I think, meet the reasonable requirements of everybody in the East African territories. The examination, from 1958, is to be called the Joint Examination for the School Certificate and the General Certificate of Education, so that everybody who writes the School Certificate Examination is in fact competing for this examination to be styled the School Certificate and the General Certificate of Education. Those who are successful in passing at General Certificate of Education level in at least three subjects will receive a certificate. On that certificate will be shown whether they have also succeeded in passing the Cambridge School Certificate Examination. Along side each subject will be shown the standard attained in terms of the Cambridge School Certificate and General Certificate of Education. This, therefore, should, I think, meet the reasonable requirements of everybody. A full announcement with all the details will be made public by my Ministry within the next day or two, and I hope Members will study it. It is too detailed and complex for me to run through now, but what I have just told hon. Members, Sir, is the gist of it.

The hon. Member also asked for the introduction of Economics and the British Constitution as subjects in our secondary schools. Well, Sir, we cannot accept that. It would be an unjustifiable inroad into the time available for the

preparation of students for their normal examinations, and for their work in dealing with their normal syllabus. To introduce two additional subjects must mean dropping something else out. In any case, nowhere at school level am I aware that Economics and British Constitution are taken as subjects on their own. They are included in a history syllabus to a sufficient extent for the requirements of schoolchildren. So we must turn that one down, Sir.

The hon. Member for Nyanza North thought that we were blocking the way for African day secondary schools to be opened prior to 1960. When I mentioned in my opening speech that we were planning for a large development of day secondary schools after 1960, I mentioned that one day secondary school had already received our approval in principle for opening prior to 1960. That one is in North Nyanza. But I did go on to say that that school had undertaken to find all the money itself, to put up its buildings, and we would be finding its own staff. Well, Sir, if there is any other management which wishes to start a day secondary school immediately, provided it can meet all these same conditions of putting up adequate buildings, of finding staff and funds to run the school without Government aid, it can certainly get started before 1960 with our blessing; and certainly there will be no obstacle put in its way.

The hon. Member also suggested that Government statutory bodies in the field of education were being filled with "yes-men" and that we were not getting the genuine and best African opinion on these bodies. I think, as anyone who has sat on these bodies will realize, there is a lot of very free and frank discussion and points are very firmly pressed by the African members who are on them now. Certainly no evidence appears of these members being "yes-men". In the case of a large number of our bodies members are appointed after consultation with representative African organizations. That is standard practice where such organizations do exist. There is one great lack, I will admit, and that is in respect of teacher representation, but I am hoping that with the early arrival of the Kenya National Union of Teachers that lack will disappear; and thereafter the teacher representation on the statutory

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bodies will come as a result of consultation and advice from the Kenya National Union of Teachers.

The hon. Member for the Eastern Electoral Area referred to the lack of adequate accommodation in Asian schools and pointed to various types of new buildings being needed. As I have already mentioned, the main restricting factor is finance, but I think if he studies the Development Estimates for the coming year he will find that, particularly on the modern and technical side, we have done our best to make provision to meet needs, and that Mombasa has not been badly treated.

The unfortunate absence at the beginning of this year of adequate books for the higher school certificate course is an occurrence that I recognize; I agree that this did happen. The reason for this was that a decision to run this higher school certificate class was only taken fairly late last year, for various reasons which we need not go into now. That is however a fact. The decision was taken late last year and the orders for books came through very slowly. It necessitated improvisation and assistance from other schools, but I hope that the position is now either remedied or about to be totally remedied.

The hon. Member also pointed to a discrepancy in the Estimates between the numbers of executive staff and clerical, typing and analogous staff provided for under the headings of European education and Asian education. Under European education, we have 23 executive staff and 21 clerical and other staff; under Asian, it was only three executive staff and 43 clerical. I have had an opportunity of looking into that closely and the reason is solely because of the needs for staff in the executive grades in European boarding schools. The actual grading of staff employed in connexion with the tuition side of school work, is the same in Asian and European.

The hon. African Elected Member for Central Province South put in a plan that all schools—at least in towns—which receive Government grants should be open to all races. Well, in my opening speech, when I think the hon. Member was absent, I did deal with the question

of non-racial schools, and if I may refer him to the record of that speech he will be able to see the extent to which Government is at this time prepared to go towards assisting non-racial education.

The hon. Member for Coast (Rural) pleaded for more women education officers, pointing to the inability of one, per province, to handle the work. That inability, Sir, has been recognized by my Ministry, and steps were taken last year to remedy it by the inclusion of financial provision for more staff, the aim being to have at least two women education officers, supervising female education generally in each province. In several provinces, the second woman education officer is already on the ground at work; in other provinces, including the Coast Province, the second appointment has not yet been able to be made, but we hope it will be very soon.

He also pleaded for better residences for teaching staff of African primary and intermediate schools. I have got a great sympathy with this one. Sir, because I recognize that frequently the housing that African teachers at that level have to put up with, is not really adequate for their status or adequate to enable them to do their work properly. But the provision of these houses is not a matter that Government can undertake, and I would suggest to hon. Members that here perhaps is one of those fields where the frequently repeated offers of self-help might in fact be put into practice. I would suggest that school committees be urged to take a very special interest in this problem and do everything they can to persuade and assist the local people to provide both money and labour in housing their teaching staff adequately.

The same hon. Member touched on a question that we have given a lot of thought to, and I would like to reply fairly fully to it. He asked for more trade teaching, more vocational teaching, in our intermediate schools. He went so far as to suggest, I think, typing, tailoring and carpentry, etc. I can see, Sir, strong reasons for calling for this type of education. I stated only the day before yesterday that in the immediately foreseeable future I did not envisage more than 10 per cent of the output of our intermediate schools finding places

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in our secondary schools. It is understandable that if 90 per cent of the intermediate output cannot go on to further academic education, then they would hope to be fairly well equipped to find employment as soon as they leave school, and to be prepared to find such employment during their school career.

However, Sir, this subject bristles with difficulties. I should point out that, first and foremost, an intermediate school education is designed to prepare children for the full academic course, for secondary schooling in fact, even though only 10 per cent at the moment of the children who leave our intermediate schools can go on to secondary schools. I think they would deplore it if we did not allow the whole 100 per cent to be candidates to go on to secondary education. If, therefore, we divert, shall we say, half of them at a fairly early stage in their intermediate schooling away from the more genuinely academic side of things, those children would automatically be disqualified from any possibility of gaining entry to secondary schools. And if a child is to be so fully trained and prepared while at intermediate school that it can find its training readily marketable as soon as it goes into the employment market, then a great deal of the time would be needed at the intermediate level to give that training. It seems to me that we have got to strike a happy medium in this matter, for we must provide the full academic teaching for those who are going to be able to go on to further education. If we make any serious inroad into the present intermediate syllabus, we will make an equal inroad into their fitness for subsequent secondary education.

However, I agree that the practical side of things must have a very considerable emphasis during the intermediate years, bearing in mind that the great majority will not go on to secondary schooling. We are already trying to do that in various ways. We have got a specialized course going on at the moment to produce handicraft teachers. We have got at every intermediate school a very definite emphasis upon agricultural work; each school has a plot, each school has an agricultural programme, which is worked out under the guidance and under the general super-

vision of an agricultural officer who comes to the school and assists in launching the work. What we do achieve therefore in our present degree of instruction in the manual skills is to enable both pupils and headmasters to gain a very good idea of where the aptitude of a child lies in respect of trades or any other vocation it might wish to take up. That, I think, at the moment is as far as we can go. We can turn out children with a general knowledge of the agricultural requirements and conditions of their district. We can give them a certain amount of handicrafts, we can give them a certain amount of manual training. These cannot be sufficient to enable them to go and sell their skills outside as though they were trained men. It does, however, show them where their particular bent lies, and at the same time it does not do injury to those who do gain entry to secondary education.

Sir, the hon. Member for Nairobi Area, who is not here now, was unfortunately not here either when I made my opening speech; I spoke at some length then on the Kenya National Union of Teachers. If he had been here, I do not think he would have needed to make the subsequent speech which he did make, but as he is not here now, Sir, I will not go back over the ground; I will merely refer him to the HANSARD record of what I said then.

He did, however, raise a couple of other points which I did not cover in my opening speech. He asked that we should not refuse assistance to students seeking higher education, merely because we say that the Royal Technical College or Makerere already provide the facilities in the particular subjects they wish to study. Well, Sir, as long as the Royal Technical College or Makerere do provide facilities, and as long as there are vacancies there, we intend to send our students to our own East African institutions, and we do not intend to spend public money on sending them abroad. Where there are no vacancies, or the subject is not taught in East Africa, then most certainly candidates can apply to the bureaucrat committee for aid. But we do not intend—which, I think, deals with the real point he raised—to send people overseas merely because it is thought to be good to send them overseas, when that means leaving vacant places at



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He also asked, Sir, that we should show more sympathy towards sending students for higher education to the United States of America. The position there, Sir, is that we need dollars to send students to the United States, and there would need to be very strong justification indeed, either the impossibility of finding suitable training in the United Kingdom—and that is a remote possibility—or the impossibility of finding it locally, before we would attempt to raid the dollar pool.

The hon. African Elected Member for the North Rift pleaded for more teacher training colleges in the Rift Valley. I would point out that there are already four existing teacher-training colleges in the Rift Valley, and there will be one more, specially for the Kalenjin people. In the coming financial year, I should also mention that Rift students are not debarred from gaining entry into other teacher training colleges, and in fact a number do.

I have a great deal of sympathy, however, Sir, with his criticism that we are not doing sufficient to provide trade and technical schools in the Rift Valley. A school of that type is needed; it was in our provisional plans and it was only with the greatest regret that it had to be removed when we found that our money would not stretch to it. It was one of the last projects that we deleted, and we did so with great sadness. I will, however, do all I can to see it is included in our next development plan.

The same hon. Member, Sir, felt that inadequate primary education was available to the Kalenjin people. The Baringo District, Sir, which is generally regarded as one of the most ungenerously treated educationally, and which comes into the group to which he refers, has, I have discovered, 55 Standards I, and that, with 40 pupils per standard, means vacancies for 2,200 children per year. An assessment of the population shows that there are in fact only 2,000 children of the age of seven years, which is the normal age of entry into Standard I, and the only reason, therefore, why pupils are failing to gain entry is because of our old boys repeating.

The hon. Member for Nyeri and Embu raised a point which was touched upon by several other speakers, and that was that we were not making the best use of the district education officers and the Education Department staff generally out in the field. I will admit that many of our education officers are too office-bound, which I think was at the bottom of much of his criticism. But it is unfortunately true that as long as there is a great deal of administrative work to do, which is particularly financial administrative work, it is of first importance that this receives proper attention and that our money is used and planned to be used in the best possible way, and is, in fact, later on used in the best possible way.

All this does require the presence of adequate staff in an office, handling the financial and administrative work. I would agree that that should not pin down people who have been professionally trained as educationalists, and who have not really been brought here to do the financial work in the offices. But until we have got adequate clerical assistance in these offices, I am afraid this must, to a large extent, although we are doing our best to diminish it, continue. I am not looking for extra staff; I am merely looking for more experience and ability from existing clerical staff, and I know the Department does feel that they are improving; but they have not yet reached the position where we can turn our education officers loose into the field all the time.

I cannot agree with another Member who suggested that we had a surplus of education officers, and also suggested that because many of them were constantly office-bound their services could be dispensed with. We have in some districts—some of our bigger districts—as many as 300 schools, and the presence of two education officers and several assistant education officers is nowhere near enough to meet the educational requirements of the district.

The hon. Nominated Member, Commander Goord, drew attention to the change in the examination system for European children at the Kenya European Preliminary Examination level, and thought there was being excessive concentration on arithmetic and English to the detriment of the teaching and

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learning of the other subjects. He asked, I think, for an explanation of what exactly was happening. Well, Sir, the present position is that, starting this year, an examination, centrally set, in English and arithmetic will be sat at the middle of the year by all children who have reached their last year of primary education. The results of the English and arithmetic examination will give a first and a very strong indication of the fitness of those children for one or other stream in the secondary schools. These, however, are not the only examinations and at the end of the year another examination, again centrally set, will cover the whole field of the subjects of these children. The results of the second examinations will be used by the schools to supplement the information that they have gained from the arithmetic and English examination. I think if any school were to concentrate only on the English and arithmetic, to the detriment of the teaching of other subjects, it would become apparent almost immediately and steps would very soon be taken to put it right. I do not, however, believe that schools would adopt that attitude.

The hon. African Elected Member for Central Rift pleaded for various improvements in the settled areas in respect of African education. He might be interested to know, Sir, that we have recently detached an officer of the Department from his other duties, and put him full time on a review of the facilities in the Rift Valley Province, in the settled areas, so that he, after full consultation with all interested bodies, may make recommendations for the future development of African schooling in these areas. We are now awaiting that report, and we hope to be able to use it as a basis for our future planning. I do agree that there is perhaps need for more planned provision of educational institutions for Africans in the settled areas of the Rift Valley Province.

The hon. and Nominated Member, Mr. Tyson, made his plea, not for the first time, Sir, for the use of broadcasting in schools. Educationally, the plea can be accepted and is accepted. Broadcasting is not yet introduced solely because of financial considerations, and also because to make full use of teaching

through broadcasting is a very complex exercise, and one does not derive the fullest benefit unless it is done properly. In particular, I am advised that the teaching of English to young children, to whom English is not a home language, is not one of the practices which can readily achieve good results through broadcasting.

A plea was made by the hon. African Elected Member for Mombasa Area for lunch facilities for schoolchildren. I think he was making his plea for schools on Mombasa Island; there are apparently some children who come from the mainland to the Island daily. But the plea was taken up by the hon. and gracious Member for Nyanza as something that would be good in general application to all African schools. We accept, Sir, that when children come from afar the provision of lunch at school would be helpful and to that extent we give it our blessing. But again, we have not got any chance of financing this out of our present funds, and I would again suggest that where conditions are such that school lunches really are a pressing necessity it be regarded as one of those items to which the self-help which has been offered so freely might be extended. Again, school committees might be urged to take an interest in it.

Several speakers pleaded for adequate playing fields for schools and the plea was specially related to Mombasa. Sir, I have recently received a report from a committee which my predecessor set up to look into the whole question of the best use of Crown land, of available land (and there is not much), on Mombasa Island, for schools and playing fields. We have not had a chance to go into these recommendations in detail, but I am sure they will be helpful; and we undoubtedly do bear in mind, even in the congested areas, the need for playing fields.

The same Member, the Member for Mombasa Area, pleaded for a motor mechanics' course at Kwale. This is a matter which is already being investigated, and if the cause is found to be justified it will be provided. But setting up a whole course of this nature is expensive; for a large organization is needed. I might point out that these facilities already exist at Kabete and

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Sigalaga, and it is not at all impossible for students from Mombasa or the coast to gain entry to these other institutions.

There was a plea, Sir, for another Beecher Report, by the hon. Member for Central Province North. We cannot accept that that need exists. I think the hon. Member knows that there is already long-term planning in respect of primary and intermediate supervision and management which I went into at some length in my opening speech, that we have long-term plans for African secondary schools, which I again covered at some length in my opening speech, that we also have delegacies for teacher training, and that the eastern delegacy is already functioning and the western, we hope, about to do so soon. In fact, Sir, we already have plans which have been thoroughly looked at and approved by the Advisory Council on African Education, and we do not at the moment feel that there is need for an upheaval and a completely fresh approach to the planning for African education.

The same Member mentioned that there was difficulty in finding employment for the products of our trade and technical schools. Sir, until the end of last year there was no difficulty at all, and even at the end of last year, when there was some slight difficulty, everyone, every student, was ultimately found employment. If he knows of anyone who is still in difficulties, I would be grateful if he would refer them to my Ministry so that we could look into the matter, and try to assist them. I might mention too that the wages being earned by these ex-students of our trade and technical schools are not low. I understand that one last year did start at Sh. 200 per month, which was much lower than average, but his is an isolated case and it is significant that a number of these ex-students are getting anything from £20 to £30 per month, and doing very well; and they are succeeding in repaying quite substantial loans made to them in respect of equipment that they bought to follow their trade.

The same hon. Member raised the question of grants-in-aid for African secondary schools and I think he pointed

his query particularly to a Catholic school in his district. I think he will be glad to know that we have financial provision in the Estimates we are debating now for grants-in-aid for all African secondary schools.

The hon. Nominated Member, Mr. Mohindra, had most of his points answered by my friend the Director of Education, and I can merely confirm that there is full support for his request for inter-racial extra-mural activities between the pupils of schools of different races—sports, games, debates, etc.

He pleaded for Asian inspectors of schools to be added to our inspectorate strength and also for an Assistant Director of Education (Asian) to be appointed. Well, Sir, we do admit that at the moment we have no Asian inspector on the strength of our inspectorate. That is not by design, but is merely because the qualified and available staff has been thought to be of greater use in other posts. But we do fully accept the wisdom of having Asian inspectors of schools and the Director of Education hopes to have two such officers added to the inspectorate strength soon. As far as the Assistant Director is concerned, I would like to assure the hon. Member that any post in the Education Department is open to anybody of any race provided he is fit for it, and that is the sole basis upon which appointments are made in the Education Department. If we have an Asian officer who is qualified to be the Assistant Director then there will be nothing to stand in his way.

I was asked by the hon. and gracious lady Member for Nyanza to tell her what we were doing to prevent African bursars from staying in the United Kingdom or elsewhere on the completion of their bursaries. This is an extremely difficult problem, Sir, and I cannot at the moment suggest that we have found an adequate answer to it. I can, however, assure her that various schemes and suggestions are being examined, although I do not think any of them can wholly meet the need to which she pointed; but they will be thoroughly looked at.

She also asked me to give some firm information on how children are divided into the various streams in the European secondary schools and to give an assurance that once a child was in one stream

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it could move over into another stream at a later date. Well, as I have already mentioned, while dealing with the Kenya European Preliminary Examination, entry into one or other of the streams is based primarily upon the results of the English and arithmetic papers supported by the results of the overall examination at the end of the year, plus the school reports. If a child goes into, shall we say, the modern stream and spends a year there and shows by performance by the end of that year that he is worthy of being in the grammar stream, and wishes to be in the grammar stream, then that child can most certainly be transferred to the grammar stream. The first year in the European secondary school is a diagnostic year and the differences in the syllabus of the different streams are so slight that no child is at a disadvantage if it changes after one year.

The hon. Specially Elected Member Mr. Machura pleaded for attributes other than examination results to be taken into account in determining fitness for entry into schools. Well, Sir, at both the African intermediate level and secondary level the examination is not the sole criterion. The reports from the schools are certainly taken into account. If for example there are 60 vacancies it might be that the first 40 would almost automatically go in on examination results, but the next 20 would be taken out of, perhaps, 60 aspiring entrants after assessing their all round qualities in addition to their academic qualifications.

The same Member, Sir, suggested that there was a serious shortage of education officers in the Education Department. That was the position until fairly recently but due to major efforts that have been made to recruit staff—and in this we have had the very valuable assistance of an ex-deputy director of our own Department—the position now is that we are almost up to strength as far as education officers are concerned. There will always be vacancies owing to the turnover in a very large establishment, but there is no serious shortage at the present time.

The hon. Nominated Member, Col. Cowie, pleaded for a great subvention for the Stoneham Museum. This, Sir, has

been a subject, as the hon. Member knows, which has been examined and re-examined year after year and while there may be a great deal of sympathy for the needs of this museum it is unfortunately true that, partly due to our serious financial straits, we have been unable to provide any additional assistance over and above the present annual £100 subvention now paid for a great many years. I would, however, suggest that the hon. Member and the Trustees of this museum might consider having it brought within the ambit of the Museum Trustees of Kenya. I realize that there are difficulties and that there might have to be certain sacrifices on the part of the Stoneham Museum which would not be wholly attractive to the trustees of that institution, but I do not wish them to look into the future feeling that there is probably going to be substantially increased financial aid from the Government because as things stand at the moment I honestly cannot see it.

Another Nominated Member, Mr. Rubia, asked whether children passing the Kenya African Preliminary Examination in Nairobi were barred from entry to secondary schools in the rural areas. He said he had heard that that was the case. That is not the case, Sir, and Kenya African Preliminary Examination Nairobi children can gain entry to schools outside Nairobi and their candidature is examined on the same basis as that of children of any other intermediate school.

I am very near the end, Sir, but I have found that the Specially Elected Member, Mr. Ngome, put in a plea which I think deserves an answer. He asked that our bursary awards for overseas should not go exclusively to men. He pleaded for African girls to be considered. The position is, Sir, that women are regarded as being on the same footing as men and if they can on their merits earn a right to a bursary then there will be no difficulty put in their way merely because they are women. They have, in fact, got another opportunity of enjoying a bursary in the United Kingdom which does not apply to men, or which has not hitherto applied to men. If they are married to a bursar who proceeds to the United Kingdom and they themselves are qualified to profit by some useful course which is available to them in the United

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Kingdom then they are frequently given financial aid to take that course while accompanying their husbands to the United Kingdom. I am not yet aware of a man being able to enjoy a similar benefit because his wife happened to be a bursar!

I think I have covered most of the general points. There may be some details that I have overlooked. If there are, and any hon. Member wishes an early answer, I will be grateful if he will let me know and I will do my best to provide an answer.

Now, Sir, having got to the end of this almost timeless test I would just like to thank Members for the many helpful suggestions that have been made and to assure them that although I have perhaps rather ungenerously referred to the length of this debate we value the great interest and also the many suggestions which have been put forward. All of them will be looked at and given full consideration.

With that, Sir, I beg to move.

The question was put and carried.

#### COMMITTEE OF SUPPLY

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

#### IN THE COMMITTEE

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

#### MOTION

##### VOTE 32—EDUCATION

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): Mr. Chairman, I beg to move that a sum not exceeding £5,119,000 be granted to the Governor to defray the charge which will come in course of payment for the year ending 30th June, 1959, for Vote 32—Education.

Question proposed.

Heads A1, A2, A3 and A4 agreed to.

Head B1—Personal Emoluments.

SIR CHARLES MARKHAM: Would the Acting Minister help me on one point on this. The number of education officers has gone up in this as has the numbers of masters and mistresses this year. What

exactly is the difference between the two? I always wonder, looking at this Vote. You have a mass of masters and also you have education officers. Perhaps the Director of Education would help me.

MR. WADLEY: Education officers are normally graduates and are normally employed in secondary schools, while masters and mistresses possess a Ministry of Education certificate and are employed in primary schools.

MR. NYAGAH: Mr. Chairman, B18, I should like to know what is the point of having all these subordinate staff.

THE MINISTER FOR EDUCATION, LABOUR AND LANDS (Mr. Luyt): Merely, Sir, the very considerable number of schools. The subordinate staff is a section of the strength of the Department which is always under regular review. We attempt to prune it as much as possible but when you have institutions all round the country in every town as well as every district I am afraid that they just do total up to that figure.

MR. NYAGAH: The number looks extremely large compared with the other schools which are equally many.

MR. WADLEY: I should like to explain, Sir, that the needs of the boarding schools in this regard are very considerable. I would also like to draw the attention of the hon. Member to the fact that the increase over 1957/58 is only six, whereas the number of additional pupils we expect to have in European schools is well over 1,000. We are, therefore, showing considerable economy.

Head B1 agreed to.

Heads B2, B3 agreed to.

#### B4—Miscellaneous Other Charges

SIR CHARLES MARKHAM: Would the Minister help me on this one? I wish to raise the subject of the Combined Cadet Force. This Vote of £5,300—under who does this come? Does it come under the hon. Minister for Defence or does it come under the headmaster of the school, or is it alternatively just a Vote which can be used at the discretion of the headmaster. I notice in this country particularly that the boys are attached to the Kenya Regiment—they certainly wear the same badge. I wonder who controls this particular Vote and who makes the policy for it.

THE CHIEF SECRETARY (Mr. Couits): This Vote is controlled entirely by the Director of Education and his staff. We naturally rely on the Kenya Regiment and they help in so far as the actual military side is concerned. This Vote is used mainly for the annual camp and also for equipment issued to the people within the Combined Cadet Force. That equipment is indented for by the headmasters themselves and paid for through this Vote and therefore through the accounting system of this Department.

MR. NYAGAH: B4-1, Sir. What does this Combined Cadet Force mean?

THE CHIEF SECRETARY (Mr. Couits): It means the training of youths who are in schools in various military techniques.

MR. NYAGAH: Could it be extended to the neighbouring secondary schools of all races, Sir?

THE CHIEF SECRETARY (Mr. Couits): This is a matter, Sir, which the Minister has considered before for a number of years and generally speaking it has been felt that it is not possible to do so because of the enormous amount of money involved. It does cost quite a lot per head for the pupils who are taken into the force.

MR. ODINGA: Mr. Chairman, I think that the reply the Minister has given us is not quite convincing. If this can only be for one race for the sheer shortage of money, then surely it is best to leave it for ever and not actually make it a specialized thing for only one race.

MR. MACKENZIE: Has my hon. friend never heard, Sir, the saying: "Half a cake is better than none"?

MR. ODINGA: No. I do not see how that applies.

THE CHIEF SECRETARY (Mr. Couits): I think I ought to say something on this. This scheme was started a very long time ago in the European schools when money was possibly not quite so difficult as it is at the present time. But the attitude that I took as Minister for Education, and would still take, was, would the hon. Member want such money as we have got spent on a cadet force in African schools or does he want it spent on education. I think we will find that the answer is that he would prefer to have it spent on education.

MR. NGALA: Is the Chief Secretary suggesting that the money voted for the military training in European schools is unnecessary and that we can remove it from the Vote?

THE CHAIRMAN (Mr. Conroy): Would you say that again, please?

MR. NGALA: Is the Chief Secretary suggesting that the money voted for the military training in European schools is unnecessary and that we can remove it from the Vote?

THE CHIEF SECRETARY (Mr. Couits): I am not suggesting that and have never done so.

MR. ODINGA: Mr. Chairman, the Minister should actually know that as European children need training so the same also applies to other races. It is essential.

THE CHIEF SECRETARY (Mr. Couits): I can only ask the hon. Member to name priorities. Does he want this or does he want further intermediate schools and secondary schools.

MR. ODINGA: Mr. Chairman, that is what I suggest—that when we come to consider the general education, both academic and military, we should consider it for all races and categories.

THE CHIEF SECRETARY (Mr. Couits): My point was that this has been considered over a considerable period and the reasons why it has not been introduced in African schools is that we felt that the Africans themselves would prefer that such money as we could divert to this would be better spent on intermediate education particularly, which is the great need at the moment, rather than giving pupils in secondary schools a military training. I still believe, Sir, that probably if asked, and not in this House, that they would agree that it is better that it should be spent on intermediate education rather on military training.

MR. NGALA: Could the Minister, Sir, explain why this money should be spent on military training for European children and appears under this Vote.

THE CHIEF SECRETARY (Mr. Couits): The answer is, Sir, that it is a complete loss-up as to whether this should appear under the Ministry of Education or the Ministry of Internal Security and

[The Chief Secretary] Defence. So far it has been easier to administer it through the Education Vote rather than through that of the Ministry of Internal Security and Defence because the people who are responsible for running the various cadet forces are in fact masters at particular schools.

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): Mr. Chairman, is there not some rule about people not speaking more than twice in Committee of Supply on a particular Head?

THE CHAIRMAN (Mr. Conroy): I think we have ventilated the subject sufficiently. The question is now coming round for the third time and I would rule that we have all had ample opportunity to debate this question.

MR. ODINGA: Mr. Chairman, we are not quite satisfied with the reply which we have had.

THE CHAIRMAN (Mr. Conroy): Mr. Odinga, Standing Order 71 provides that I can call attention to persistence in repetition. You have made your point several times, and the Chief Secretary has answered it several times, and I think all Members are seized of your view and all Members are seized of the Chief Secretary's answer. Unless there are any fresh arguments which hon. Members wish to bring forward I propose to call the next head.

Head B4 agreed to.

#### Head B5—Grants-in-Aid

MR. ODINGA: Can the Chief Secretary explain to me what sort of school is involved here?

MR. WADLEY: European primary and secondary schools throughout the Colony.

MR. ODINGA: Are they independent schools or are they Government schools?

MR. WADLEY: They are private schools which are run independently of the Government, but which receive grants-in-aid and therefore comply with the various conditions laid down in the grant-in-aid rules.

Head B5 agreed to.

#### Head C1—Personal Emoluments

MR. MOHINDRA: There is just one point which I wish to raise, Sir, and that

is in regard to the point I raised in the main debate. I see here that there is extra provision for education officers. Are these eight vacancies to be filled by promotion or are they new appointments?

MR. WADLEY: These eight additional posts are to deal with extensions to existing training colleges, the two training colleges, the two training colleges in Nairobi—High Ridge, and the Men's Training College—and also to provide for the staff at the new secondary school at Thika.

I am aware, Sir, of the other point to which the hon. Member referred, namely avenues of promotion. He referred to the fact that teachers in secondary schools who are transferred to principalships of primary schools enter what he described as dead end posts which had no further future. We have this problem in mind, Sir, and I would like to tell him that we are considering the establishment of a cadre of posts in secondary education to correspond with those which now exist in primary education.

MR. PANDYA: I wish to refer to the allowance to the principals of secondary schools. What purpose do they serve?

MR. WADLEY: These allowances are duty allowances at the rate of £120 per annum to each of the principals of schools where Higher School Certificate classes are provided.

Head C1 agreed to.

Heads C2, C3, C4, C5, D, E1, E2, E3, F1 and F2 agreed to.

#### Head G1—Personal Emoluments

MR. ODINGA: Mr. Chairman, could the Minister explain to me why the personal emoluments of the African teachers are, in the aggregate, nearly half of those of Europeans and Asians. What are the reasons for that?

THE MINISTER FOR EDUCATION, LABOUR AND LANDS (Mr. Luyt): Mr. Chairman, the answer lies in grants-in-aid. If the hon. Member will look at the grants-in-aid available to Africans and compare those with the same European item then I think he will get a better picture of what is being paid out on the education of the two races.

MR. ODINGA: Mr. Chairman, I see the grants-in-aid. I see then they are much higher than the European or Asian schools, so it does not help at all.

THE MINISTER FOR EDUCATION, LABOUR AND LANDS (Mr. Luyt): The position is that the majority of European children are in Government schools where the Government pays the salaries of the staff direct and that appears against the Votes of the Department, Sir, under Personal Emoluments. The great majority of African pupils are not in Government schools, but in grant-aided schools and therefore the great bulk of the outgoings on African education go under the heading of "Grants-in-Aid" and only a small proportion under "Personal Emoluments" as shown here.

MR. ODINGA: Mr. Chairman—

THE CHAIRMAN (Mr. Conroy): Order, order! You are only allowed to speak twice on any head, Mr. Odinga.

MR. ALEXANDER: Is not the point of my colleague the Member for Nyanza Central that in this £2,000,000-plus for grants-in-aid is a substantial element, in fact, most of it will be for personal emoluments?

MR. NYAQAHI: What I would like to ask the Minister is, who are the ungraded teachers? Who are they, and what are their qualifications? G1—14.

MR. WADLEY: Sir, these teachers are a small and gradually disappearing class who have been in the service for some years. I could not tell the hon. Member precisely where they are employed, but they will be probably in the few remaining Government schools which are, I think I am right in saying, mostly in the Northern Province, but they are a gradually disappearing class.

MR. NYAQAHI: Who are they—Africans or Europeans, or are they graduates or non-graduates?

MR. WADLEY: They are certainly non-graduates. They are African teachers, and they are not qualified in the ordinary way. They are below the present T3—T4 grade.

Head G1 agreed to.

#### Head G2—Travelling Expenses

MR. NGALA: Mr. Chairman, Sir, does that include the travelling of school supervisors in voluntary managements?

MR. WADLEY: No, Sir.

Head G2 agreed to.

#### Head G3—Equipment, Maintenance and Incidental Expenses

MR. NGALA: Mr. Chairman, will the Minister explain whether the equipment for African primary children has been stepped up from Sh. 5 in this Vote?

MR. WADLEY: The answer to that, Sir, is that the figure at the moment is Sh. 5. The hon. Member referred to this problem yesterday, and I should like to say that we agree entirely with him that Sh. 5 is inadequate for the purpose; we have in mind a revision of the fees' rules for African aided schools: whereby the amount available for equipment may be increased progressively to Sh. 10.

Head G3 agreed to.

#### Head G4—Miscellaneous Other Charges

MR. ALEXANDER: G4, Mr. Chairman, I expected my colleague the Member for Nyanza Central, as he is so keen on this subject, to have plunged into this debate in a hurry, but I have had to come before him. Perhaps, having been told the nature of grants-in-aid in some other respects, we might be told the nature of these, just as a child's guide to those of us on this side who are somewhat ignorant. There is £2,000,000 for Africans, there is £244,000 for Asians, and £41,000 for Europeans. Perhaps we could have an explanation on that?

THE CHAIRMAN (Mr. Conroy): Mr. Alexander, you are on the wrong Head. Perhaps we can take that under G5?

MR. ALEXANDER: I am sorry, Sir.

MR. MULIRO: G4—2, Farm Development. Could the Minister or the Director tell us more about this farm development, how they are being developed. Is this at Government schools only, or where?

MR. WADLEY: This particular amount is for the combined training centre at Siriba, which is responsible not only for training teacher students in training, but

[Mr. Wadley] also agricultural and veterinary students in training. There is, therefore, a considerable element of expenditure on farm development.

MR. MULIRO: G4—3—since there is no teachers' organization, who runs this teachers' journal, is it run by the Education Department only?

MR. WADLEY: Sir, the first number of this journal has just been published; it is a professional journal intended to aid teachers in their work.

MR. MUMI: Mr. Chairman, Sir, G4—3, just below Kenya Teachers Journal—Visit of National Union of Teachers' Adviser.

THE CHAIRMAN (Mr. Conroy): That was last year's expenditure; there is no expenditure forecast this year.

Head G4 agreed to.

Head G5—Grants-in-Aid

THE CHAIRMAN (Mr. Conroy): I think Mr. Alexander asked a long question on that. I do not know whether the Minister would like him to ask it again, or whether he would be happy to reply?

THE MINISTER FOR EDUCATION, LABOUR AND LANDS (Mr. Luyt): There was a certain amount of interruption, Sir, and if the hon. Member does not mind, I would be grateful if he could repeat the main point he was making.

MR. ALEXANDER: Really, Mr. Chairman, it was for the benefit of myself and the Member for Nyanza Central. I obviously was in a greater hurry than he was, because I jumped a whole Vote to get to it.

As I say, Mr. Chairman, the figure here is £2,000,000; for Africans, it is £244,000, for Asians, it is £37,000 for Goans and for Europeans, it is £41,000. So for some of us who are somewhat ignorant on this side, we might have a child's guide, an explanation—having had it in respect of one item of this nature, we might have it in respect of this £2,000,000 which by any standards is very phenomenal figure.

MR. WADLEY: I will endeavour to give a brief explanation, if I can. This large figure is provided in order to educate an estimated number of 579,000 children in the coming financial year, of whom rather less than 5,000 will be in Government schools, and the other 575,000 will

be in aided schools. The grants to the educational secretaries are to assist the various missionary bodies in the general administration of grant-aided schools. The grants to regional education boards are in respect of institutions above the primary and intermediate level with the exception of girls' boarding schools. So grants here are for training colleges, secondary schools and girls' intermediate boarding schools, and are normally paid on a budget basis.

The grants paid through the district education board are in respect of the vast majority of the enrolment of pupils who are in primary and intermediate schools, where the basis of grants is now two-thirds of the net cost.

MR. NGALA: Mr. Chairman, G5—Grants-in-Aid. I would like to know whether in view of the difficulty that supervisors of schools have had over this problem, grants this year have been stepped up?

MR. WADLEY: The answer is yes, Sir.

MR. ALEXANDER: I think, Mr. Chairman, that my friend, the Member for Nyanza Central, has some idea that there was something different about the schools in respect of Asian and European education who receive grants from the schools who receive grants under this Head. Do I take it that by and large, these are grants to private institutions and organizations concerned with African education, in the same way as it is for Asians and Europeans.

MR. WADLEY: Yes, Sir, that is so. The rules under which grants are paid are different, but the principles are approximately the same.

MR. ODINDO: Mr. Chairman, I think my friend misunderstood me, I was not dealing with grants-in-aid but personal emoluments. Even in grants-in-aid I still have something to say because I see it is in block sums of money which if separated into personal emoluments and other Heads will still leave a meagre sum for personal emoluments and which on the other side the personal emoluments in block sums would still stand much larger than that of Africans.

MR. NGALA: Mr. Chairman, I think that the Minister has just said that all secondary schools will be granted next year. Am I quite right in assuming that next year, I should expect not to see any secondary school not aided?

MR. WADLEY: An assurance on that point has already been given twice, Sir. Namely, that those secondary schools now unaided will be aided next year.

THE CHAIRMAN (Mr. Conroy): You have had two!

MR. ALEXANDER: On a point of explanation, I was going to ask your permission, Mr. Chairman, because it is a genuine point, and I would not like there to be any misunderstanding between my friend from Central Nyanza and myself. I was relating my question under this heading, G5 to his own question under B5. I was not relating it to his question concerning personal emoluments.

Head G5 agreed to.

Heads G6, H1, H2, H3 and H4 agreed to.

J1—Personal Emoluments

SIR CHARLES MARKHAM: Without wishing to be too vulgar, Sir, could I ask what this special mistress is required for?

MR. WADLEY: The lady in question is the principal of the school known as the Nairobi Central School, which deals with a particular class of pupil to whom I referred yesterday.

SIR CHARLES MARKHAM: May I congratulate the Director of Education for having done his prep. so well, Sir?

Head J1 agreed to.

Head J2 agreed to.

Head J3—Grants-in-Aid

SIR CHARLES MARKHAM: The Outward Bound School, Sir. This grant of £1,800, Sir, has been reduced this year. Could I ask, Sir, either the Temporary Minister or the Director of Education to tell the House whether they do not think they can keep this grant the same as last year and make savings on other heads, because it seems to me to be one of the most important aspects of all this training in Kenya—particularly this Outward Bound School.

THE CHIEF SECRETARY (Mr. Coutts): Mr. Chairman, I think I can answer this, because I dealt with this matter myself some time in the middle of last year. Sir Spencer Summers, who was particularly interested in Outward Bound, came out

last year, and eventually got agreement between the three Governments that we should run the school, certainly for a period of years, on an interterritorial basis. Having got agreement now from both Uganda and Tanganyika that they would take part in the school, it is now possible from our point of view to run it slightly cheaper than we were able to do last year, without, in fact, reducing any of the provision which we made for it, and, probably being able to increase the facilities.

MR. MULIRO: J3—2—Grants-In-Aid to Outward Bound School. Could the Minister or the Director of Education explain to us more about this Outward Bound School?

THE CHIEF SECRETARY (Mr. Coutts): I have just done so!

MR. WADLEY: Sir, the Outward Bound School is situated at Lolitoklok on the slopes of Mount Kilimanjaro, and it aims at providing courses so far as schools are concerned, mainly for secondary school pupils and also for young men engaged in commerce and industry. They are of an interracial nature, and the hope is that by being associated together in a project which demands a considerable amount of physical labour and even danger, they may grow to understand one another better and help to solve some of the problems of race relations to which the hon. Members on the other side are so often referring.

Head J3 agreed to.

Head K1—Bursaries and Scholarships

MR. NYAGAH: Mr. Chairman, what is this Kenya Open Scholarship, and how is it given publicity so that all the deserving people can compete for it?

MR. WADLEY: Sir, this a scholarship awarded annually to the student who obtains the best result in the High School Certificate Examination. There is no need, therefore, to give any publicity to it, since the award is made as soon as the results of that examination are made known.

MR. NYAGAH: Do I understand therefore that the Africans are not included, since they do not do Higher School Certificate?

MR. WADLEY: That is so, Sir.

SIR CHARLES MARKHAM: Sir, could I ask the Minister to give the House any indication of what the actual expenditure will turn out to be for the last year on some of these items such as bursaries, the Technical College, the Makerere Development Scholarship—those three particularly, because the actual expenditure the year previously was very small; the amount of money which the Minister is asking this House to vote now is very considerable. And there is considerable criticism in the country that the Government makes large estimates of funds to provide these bursaries every year, and then the Government does not fill them, because the pupils have not come up to the necessary standards in order to qualify.

I have some other points to raise, but they must rest on the answer to the first question; so perhaps I could get a reply to that to begin with.

MR. WADLEY: Sir, I cannot give the hon. Member anything like a detailed answer on this point, but I think it can be safely said that these items will be almost if not entirely fully spent.

SIR CHARLES MARKHAM: It is very difficult, Sir, when you have only got two innings on this one, and you get an unsatisfactory reply like that. I do not think he has done his prep. on this one, because it is the end of the year now, and he should know, Sir, within a few pounds what has been spent on—

MR. WADLEY: Well, Sir, I would say that within a few pounds, the total amount will be spent.

SIR CHARLES MARKHAM: Well, Sir, having got that, I am very—but he interrupted me, Sir, I had not even finished!

THE CHAIRMAN (Mr. Conroy): Well, I shall count the two speeches as one for the purpose of this exercise.

SIR CHARLES MARKHAM: I thank you for your generosity, Sir. I will be very brief on this one, Sir.

Could, Sir, the Director of Education tell the House about these bursaries to Makerere. We are coming to an item in a moment, Sir, which I am going to raise as well on the contributions to the cost of Makerere, but to have an allowance of £55,000 for bursaries to Makerere—well, what sort of bursaries are they going to be, Sir? Are they going to

be particularly agricultural bursaries, which are so vital to us, or are they going to be at the choice of the student, or alternately, for education bursaries, or for teacher training?

MR. WADLEY: These are bursaries, Sir, to meet the cost of the boarding and tuition fees and other expenses of students at Makerere College. The total number of them at the moment, I think, is well over 200.

THE MINISTER FOR EDUCATION, LABOUR AND LANDS (Mr. Luyt): The hon. Member asked, I think, which particular faculty they were. Well, they cover the spread of the faculties which includes arts and science and teaching. Makerere also has agricultural, veterinary, medical facilities, etc. All the various faculties which Kenya has students in would be covered.

MR. MULIRO: Mr. Chairman, Sir, this K1—Kenya Open Scholarship, I do not see the reason why it should be there at all if it cannot be open to all people in Kenya. If it is just for Europeans and Asians only, I think that is highly discriminatory, therefore, put it under ordinary bursaries or erase it completely from the Estimates.

MR. WADLEY: Sir, I think it is rather unfair for the hon. Member to suggest that this is discriminatory when in the figures we are now looking at, by far the greater proportion of the sum is for African students.

MR. ODINGA: Mr. Chairman, I have only one point to make. The African students are by far the majority and therefore a mention of sums of money in block will not prove that they receive a fair share.

MR. WADLEY: To quote the two major items, Mr. Chairman, first, there are Bursaries to Makerere College: I should say 95 or 96 per cent is for African students; and of the bursaries for the Royal Technical College, certainly about 80 per cent is for African students.

MR. ODINGA: Well, I think you are not correct when you say that Africans get 95 per cent or 80 per cent of bursaries. Makerere College is open to all races, and even the Royal Technical College.

MR. WADLEY: The statement I made is one of fact, not of theory.

MR. MATE: Mr. Chairman, Sir, the point here is I presume this will be a kind of incentive for students to study harder and qualify for these bursaries. If there is no discrimination, why should it not be an open one for all races; I mean, just as in the other Vote, all students compete equally?

THE CHIEF SECRETARY (Mr. Couits): I think it should be fairly simple to answer that question. It is open to all races. My hon. friend will immediately reply that of course, because there are no Higher School Certificate courses in African schools, they are virtually debarred because there are no such courses in African schools at the present moment.

But, the fact remains that we do hope, as everyone knows, to introduce Higher School Certificate courses into African schools at the earliest possible moment, and this scholarship will then be open to anyone, as it is now. Therefore, I see no reason why they should pick upon this as discriminatory.

MR. MATE: Mr. Chairman, to the contrary, it is not a question of Higher Certificate. There are students at the Royal Technical College who may want to go to Makerere or private students who, if they knew the doors were open, might enter privately, so it is not a question of the Higher Certificate at this moment. It is the principle.

THE MINISTER FOR EDUCATION, LABOUR AND LANDS (Mr. Luyt): I think, Sir, the hon. Member is suggesting that the Kenya Open Scholarships, this first item, is by its rules confined to Europeans and Asians. That is not so. It is open to anybody, but because there are not yet Higher School Certificate facilities for Africans, it inevitably goes to a European or an Asian.

MR. ODINGA: But why?

MR. MUMBI: Would there be any harm at all if this amount was put in the ordinary scholarship Vote and given to every student, with or without a Higher School Certificate qualification?

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): I hesitate to intervene in this, but I should have thought that there was a great deal of harm. The Government has taken a step forward in providing an open scholar-

ship for people who can compete in the Higher School Certificate class on a non-racial basis, and it is merely a matter of time before the Africans enter that field. I would suggest, Sir, that there is little to be gained by dragging the idea down. There is more to be gained by the incentive of opening the field by the entry of the African into the Higher School Certificate group.

MR. ARAP MOI: Mr. Chairman, I should like to know more, because there are students who have entered into the Royal Technical College for two years, after which they are not able to go to Makerere, and there are no chances for them to go overseas. If there is any possibility of them entering into this particular scholarship, then I think Government must be fair enough to say that this is not a discriminatory thing.

THE MINISTER FOR EDUCATION, LABOUR AND LANDS (Mr. Luyt): Anyone who has passed the Higher School Certificate Examination is a candidate for this. This £400 is for the best candidate of the year taking the Higher School Certificate.

MR. MUMBI: Mr. Chairman, Sir, is this not an item which was deliberately put there because it was known that it applied only to two races?

THE CHIEF SECRETARY (Mr. Couits): Mr. Chairman, I must object to this!

I do not know how many times I have spoken on this, but I would like to say absolutely flatly from this side that there is absolutely no intention that this item should be in any way discriminatory for one race or another; and I, on this side of the House and as the Leader of the Government, take the greatest exception to the remarks which have been made about this item.

MR. ARAP MOI: Mr. Chairman, I am also furious. I want to know exactly why this money has been set aside. What I do want to know—

THE CHAIRMAN (Mr. Conroy): Order, order! We have all been told *ad nauseam* that this money is provided for the student who passes this particular examination first; so we all know what it is for. I am not going to allow any further questions or any further answers which are precisely the same as the questions and answers which we have had already.

MR. MULIRO: I have another chance, Mr. Chairman—another question, not on that.

K1-6 Development Scholarships. I do not know whether these scholarships are the ones that are being provided for some people who are working, especially many people in the administration like old chiefs going on their holidays to Britain for some three to six months and then come back. I think if it is for that purpose, it should be given to ordinary students who can go to Britain for better courses than just going on a holiday for six weeks, two weeks, or two months.

THE MINISTER FOR EDUCATION, LABOUR AND LANDS (Mr. Luyt): This item, Sir—Development Scholarships—is in respect of members of the public service who show by their performance and ability that they are worth giving further training so that they might acquire qualifications which will enable them to enter higher posts and provide greater service to the public.

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): May I rise now, Sir, on a point of order?

THE CHAIRMAN (Mr. Conroy): Yes, Mr. Vasey.

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): As I understand the Standing Orders, Sir, it says that a Member shall only speak twice on an item. Many times have I just heard in the last ten minutes K1-1, 2, 3, 4, 5 referred to as items. I suggest, Sir, that the item before the Committee is Higher Education, K1, and that Members are only entitled to speak twice on the whole of that, not on every detail in the item.

THE CHAIRMAN (Mr. Conroy): That is true. The decision of the House was that no Member other than the Minister in charge of the Head under consideration shall speak more than twice on any Head. And the Head that we are dealing with is K1. So everyone has a chance to speak twice, although I have put my telescope to my blind eye in respect of Mr. Wadley because I felt he was really speaking *quo* Minister. I thought it was convenient to the Committee to allow him to speak more than twice.

I think it is fairly clear that everyone else is entitled to speak twice—and twice only—on each Head; and the Head we are dealing with is K1.

MR. KHAMISI: On Development Scholarships, I should like to know what kind of training do they apply to, and the amounts and the period of such training.

THE MINISTER FOR EDUCATION, LABOUR AND LANDS (Mr. Luyt): I cannot give complete details, but speaking in general terms, I can say that scholarships would vary in to amount and period, according to the course taken, which in turn would vary with the individual scholarship winner.

Head K1 agreed to.

#### Head K2—Contributions

SIR CHARLES MARKHAM: Mr. Chairman, I did warn the Minister I was going to raise this. The amount of money; both for Makerere and the Royal Technical College, is up this year quite considerably. Regarding the former, Makerere, would the Minister tell the House whether the Kenya Government, by making a contribution which is over £200,000 per year, has any say in the control and management of Makerere? I will make my second point before you speak, if I may, because I only have two innings, you know.

Regarding the Technical College, Sir, could he give any reason for or any explanation of the considerable jump in expenses, from £126,000 to £150,000 in this year's Estimates? I think the information might be of value, and if it is not satisfactory I shall come back for my second go in a minute.

THE MINISTER FOR EDUCATION, LABOUR AND LANDS (Mr. Luyt): I will take Makerere first. Sir, Makerere works on a quinquennial budget. It puts its estimates to the territorial governments in advance and these are studied closely by the governments and, after either negotiation or discussion, a decision is ultimately reached on what can be approved. Thereafter, a contribution has to be made. Contributions are in two parts: there is a basic lump sum from each contributing government and there is a *per capita* payment in respect of each student.

As far as further control is concerned, I can only say that the Governor of this territory nominates three persons to the General Council of the college.

[The Minister for Education, Labour and Lands]

The financing of the Royal Technical College is at the moment on an annual basis, but again the estimates of the college are presented to the governments, and again, after study, discussion, etc., a decision is finally taken on the estimates as presented. Thereafter again, the Kenya Government becomes liable for its basic share and its *per capita* payment. With the development of the college, with increased courses, and with the second- and third-year stages we are now reaching in some courses, it is inevitable we shall have more students and, therefore, higher *per capita* payments.

SIR CHARLES MARKHAM: Sir, I raised the question of the Royal Technical College in view of the rather hysterical outburst in the paper by a gentleman who works for the High Commission, or used to work for the High Commission, who blamed the Kenya Government for the fact that we have no technical people who have passed out of the courses of technical training. What I am worried about, Sir, is that we see this figure here in our Estimates; we do not know what the other governments are contributing, we do not know what the annual cost of this college is, and when my hon. Specially Elected friend Mr. Mangat criticized this college he also received considerable criticism, including another hysterical outburst in the paper this morning.

I think, in view of these figures, it is somewhat alarming if the cost is going to go up every year. We may be faced with an enormous sum of money which this college is going to cost. I think, Sir, that very soon, in this House, we must have the opportunity of debating, in view of the amount of money we have to spend, whether this college is providing the services and producing the quality of people we desire.

I say this now, Sir, without there being any question of criticizing at the moment, but I would like to assure the Minister that there is considerable anxiety in the country about the fact that this place, instead of being a mammoth palace, might become a mammoth white elephant.

THE MINISTER FOR EDUCATION, LABOUR AND LANDS (Mr. Luyt): I deliberately touched rather lightly on higher education and on the Royal Technical College in the main policy debate on this Vote for the very reason that we have got a Sessional Paper already laid dealing with the proposed policy in respect of higher education for the future, and we have not yet debated that Paper.

Therefore, as far as the policy for the Royal Technical College is concerned, the hon. Member who asked this question will have a full opportunity of debating it and of probing as deeply as he wishes when the full debate takes place on higher education later this year. As regards the cost, it is inevitable, I think, Sir, for the first few years of this college, that our recurrent expenditure, in the form of this grant, must increase until each of the courses being provided at the Royal Technical College is running over the full number of years that it takes to complete the course. Once we have reached the stage when each course is running with each of its "years" holding a full complement of students, then the annual cost ought to become static.

MR. MULIRO: The mention of contributions to Makerere brings me to the problem which some of our students find at Makerere. We have got an African on that Governing Council but I think he understands of what goes on in the Council. I think it would serve the Kenya students much better if they could have someone else on that council, if you could get someone better equipped, better educate, like the other governments are doing at present, rather than just have that man, Mr. Joel Owino. He does not catch up with the problems and the development of Makerere; he cannot even follow properly the technical language which is used at the meetings. The Kenya students are complaining very bitterly on that issue, so that if the Education Department would replace that gentleman with someone else it would be much better.

THE CHIEF SECRETARY (Mr. Courts): Sir, since the gentleman to whom the hon. Member has been referring has been a fellow member of mine on the Governing Council for a number of

[The Chief Secretary]

years, I would like the hon. Member to state on what grounds he has made this statement.

MR. MULIRO: The students mainly argue that if they place problems before this gentleman, even if they put them to him, he does not take them up seriously with the Kenya Government.

THE CHIEF SECRETARY (Mr. Coulls): Sir, the hon. Member said he knew nothing about what was going on in the council's business, or words to that effect.

MR. ODINGA: Mr. Chairman, K2—4 and 5; would the Minister just explain to me these headings and what they are really for?

THE MINISTER FOR EDUCATION, LABOUR AND LANDS (Mr. Luyt): Well, Sir, we have a small staff in London which is employed full-time upon providing assistance, guidance, etc., to our students in England. They are given assistance in respect of their entry to universities, the arranging of their courses, even as regards their living conditions, their welfare generally and their future at the end of their studies.

The Students' Unit, Dublin—£250: that item, Sir, is in respect of a similar service which is provided on our behalf by the British Council in Ireland for the approximately 12 to 20 students from this country who are studying in Ireland.

MR. ODINGA: Sir, if that is the case, I would only draw the Minister's attention to the fact that I was recently in London and I found that the African students whom I met seemed as if they were lonely orphans, without anyone to see to their affairs. There are many of them who are suffering but they have not got anyone handling their cases for them. I have had hints of more complaints which I will bring to your notice.

MR. WADLEY: I would like to reassure the hon. Member, Sir, that the officer in charge of this unit is, in our opinion, extremely efficient and looks after the interests of his students very well indeed. I should like to say this: that in a number of cases, when he has tried to help students, they have refused to listen to him and to be guided by his advice. If the hon. Member can let me know

of any cases in which he considers there has been any lack of interest, I will be only too glad to take them up.

THE CHAIRMAN (Mr. Conroy): Mr. Muliro, I think you have already spoken twice on this Head.

MR. MULIRO: I think, Mr. Chairman, you should allow me to speak because when I was last talking I was answering what the Minister wanted me to answer.

THE CHAIRMAN (Mr. Conroy): Is it something you have not raised already?

MR. MULIRO: Yes.

THE CHAIRMAN (Mr. Conroy): Well, I am afraid you cannot speak again.

Order, order.

MR. NYAGAH: Mr. Chairman, Sir, I would like to differ with my hon. friend on this side in this respect, as far as items 4 and 5 are concerned. Unless something drastically wrong has happened during the last four years, I think this service is good; it was certainly doing very well when I enjoyed its advice.

Head K2 agreed to.

Head L agreed to.

#### Head M—Miscellaneous Services

MR. MUMI: Mr. Chairman, M13—English Magazine for African Intermediate Schools: I would like to know what magazine this is and who runs it.

MR. WADLEY: Mr. Chairman, this magazine is published by the East African Literature Bureau on behalf of the East African Governments. The magazine in question is called *The Arrow* and it is designed for intermediate schools, to provide them not only with information and suitable news items, but suitable reading material in English.

This has been in production for some time and I am surprised that the hon. Member has not seen copies of it.

MR. MULIRO: Mr. Chairman, M6—Grants-in-Aid to Libraries of £1,350. Would the Minister tell us if this goes to some of the libraries like the McMillan Library where Africans are not allowed to go?

THE CHAIRMAN (Mr. Conroy): Mr. Muliro, would you say that again? I am afraid it was not heard at this end of the Chamber.

## REPORT

### VOTE 32—EDUCATION

MR. CONROY: Mr. Speaker, Sir, I have to report that the Committee of Supply has considered the Resolution that a sum not exceeding £5,119,000 be granted to the Governor to defray the charge which will come in course of payment for the year ending 30th June, 1959, for Vote 32—Education—and has approved the same without amendment.

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

*Question proposed.*

The question was put and carried.

## MOTION

### SECURITY FOR AFRICAN LAND HOLDINGS

MR. ARAP MOI: Mr. Speaker, Sir, I beg to move that this House calls on the Government to provide greater security for Africans having residential plots and business-cum-residential plots within municipalities, towns and townships.

Mr. Speaker, Sir, momentous changes in municipalities, townships and towns are now taking place. It is now appropriate to bring to the notice of the Government that it is now necessary that Africans living in towns and municipalities or any townships should be given security. Indeed, Sir, these changes affect the African people like anybody else. They feel like living in towns permanently.

When towns and townships and municipalities came into being the Government thought that people working in towns were not going to live permanently, but were having one foot in the reserves and one foot in the towns. But the position has completely changed. Many Africans have changed and they have changed their outlook and most of them have been born in towns and they have been living in towns and they wish to live in towns and be given security.

Now, Sir, this is a problem which has had to be faced by the Ministers concerned. Three Ministers in particular are concerned with this—the Minister for Local Government, Health and Town Planning, the Minister for African

MR. MULIRO: This Grant-in-Aid to Libraries, M6: does it cater for some of the libraries which cater exclusively for Europeans? Some of them in Nairobi?

THE MINISTER FOR EDUCATION, LABOUR AND LANDS (Mr. Luyt): The grants, Sir, go to three libraries, the Seif bin Salim Library at Mombasa, the Desai Memorial Library in Nairobi and the McMillan Memorial Library in Nairobi; they are the three concerned.

MR. MATE: Mr. Chairman, with regard to the McMillan Library on which some of this money is spent, is it true that only Europeans are allowed to go to that library?

THE MINISTER FOR EDUCATION, LABOUR AND LANDS (Mr. Luyt): The facilities of that library are restricted, in terms of the Ordinance which covers the operations of that library, to Europeans.

Head M agreed to.

#### Head N—International Co-operation Administration

MR. MUMI: I would like the Minister to tell me whether this Agricultural School, Kitui, refers to the Government African secondary school—or what I thought was that—the ordinary academic secondary school. If so, I would like to know whether it warrants the employment of the sort of staff there is at present: an education officer who is non-agricultural, and two assistant education officers who could better be used for other schools.

MR. WADLEY: So far as I understand the hon. Member's question it is whether the actual work being done there justifies the staff. I would say that the answer is in the affirmative. There have been repeated demands from the other side of the House and from the African community in general for an agricultural bias to secondary education. That bias is being provided in this school and the work of the school is going on very satisfactorily and in order to enable it to continue its staff is needed.

Head N agreed to.

Head O agreed to.

Resolutions to be reported.

*Council resumed.*

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



[Mr. arap Moi] Affairs and the Minister for Commerce and Industry. The reasons that make an African not to live in towns permanently is that they obtain land without security and without security of tenure and not to build houses which are liable at times to be evicted. This has happened for so many years.

Well, ten years ago many people were pressing the Government to bring land surveyors to survey most of the towns and see where residential plots and business-cum-residential plots should be built and the Government at that time complained that they had no staff or sufficient staff to carry out this very important task.

Nevertheless, recently, not many years back, Government decided to bring about the policy which many Africans did not understand—a policy which many local authorities can carry very lightly and where many Africans are very much affected. This, Mr. Speaker, I refer to certain cases and certain changes which have taken place in some towns some years back; the Minister for Local Government decided that the former area—African location—should be changed and then redeveloped. The Minister decided to put aside a different plan and decided to build some houses of some sort which could be rented on an economic basis.

Well, these brought some drastic changes which affected Africans most. Now, Africans who have for some years been encouraged by the Administration—and I should like to point out Administration, because then the Administration and local government never came into the picture—the officers of the Administration found some Africans who were keen to develop their business. They saved some money. The Administration encouraged them to build better houses and better business plots so that they looked nice. That was a good idea, but then these developments which took place later found it very difficult for these people who had spent a lot of money on erecting permanent buildings, and I assure the Minister I am speaking from experience and facts. These Africans have been told to demolish, they have been given notice, at least four months, to demolish these houses, and have been given plots elsewhere. It has

been surveyed as "an African location". This meant that these people who had had a sum of money for years have now to go again and rebuild. Local authorities could not set up until now agree to compensate these people who have been affected. I should like to be given an assurance by the Minister that these people who are affected—there are a few—I do not claim that there are many permanent buildings but there are some which should be compensated, so that they have some money to go and erect another building in the new demarcated area.

Now then, as I said, Africans like owning and having houses of their own. I am not going further to Africans for the time being housed by employers or Government departments or any other departments, but I should like to see Africans being encouraged to build houses of their own, or renting houses. The trouble, Mr. Speaker, is that many Africans at the moment, as I said before, have been told in most townships and towns that they have to remove or demolish their own buildings and move to the new area. They have been told that rent and stand premia are to be paid within a certain period—let us say a year. They cannot get sufficient money to pay this money. The difficulty arises when certain towns are under Native Authority Ordinance. This is a very complicated business and Government ought—as it has been referred to by the Royal Commission—that the Government should go into this matter very urgently. It is an urgent matter because if we want to urbanize and improve African conditions in towns we should make these changes as soon as possible.

Now, as I have said before, Mr. Speaker, Africans have been asked to pay a certain amount of money so that they are able to move into the new areas. What I am asking for, Mr. Speaker, is that there should be a security, and I am thinking of two things: there is a lease of 33 years and 99 years. Now, I do not see the reason why Africans who live in towns or municipalities or townships should not be given 99 years or more. He should feel that the townships or municipalities are areas where you find people of all races living together, and this should be borne in mind, and

[Mr. arap Moi] an African should be given full security to develop his holdings and settle down as other communities do. This will make him feel that he is not excluded from the town life, that he is not ignored because the Government—I remember the Minister for Commerce and Industry saying that we should like to protect individual property—and this is indeed a duty of the Government, to see that individual property is protected, and if an African by chance has improved his position and made money, by way of selling petty things, in order to get money, and in the end builds a better house, he should then be compensated and made to feel that he is a member of the Government by which he is not ignored. I say this because there are many changes, Mr. Speaker, that are taking place in rural areas as well as in the urban areas. I should like the Minister to note that I am not saying that only urban areas should be looked into, because you will find a town within a rural area is administered by a district commissioner, assisted by an advisory board, members nominated by him. The local authority, which is an African district council, is not fully consulted on matters affecting towns. I am not quarrelling as to how towns are run but what concerns me is the way the African is placed in the town, his position, his property and children and so on. At the moment he is given a temporary occupation licence which can be cancelled within a year or any time, whereas if he has been given leases of 33 years or 99 years, I think he would then be happy and feel secure.

I should like to go further, Mr. Speaker, and suggest that when making provisions or Ordinances affecting townships, Government should make provisions for Africans in future so that they are able to erect any building they wish, and play a part that is being aimed at by members of other communities. I am not thinking that any communities should be deprived of any privilege at all in towns, but what I am asking for, is that an African is asking himself "What is his future going to be in any town?" (2) "Is my business secure? What is the intention of the Government as to these rents and some other things?" (3) "Where does the Minister for Commerce

and Industry come in?" Where an African asks for loans he is told "You have no security whatsoever—the best way is to go and consolidate your land then you will have your loan if you want it".

Mr. OBIINGA: Shame!

Mr. ARAP MOI: But land is not the only thing which one wants to be on the safe side: there are many other things such as plots, and I have said. If we had reasonable houses, which many Africans can build at this time, but because of antipathy of Government policy towards development of the urban townships, municipalities, and, like, makes him feel inclined not to put this money into it.

Mr. Speaker, when moving this Motion I knew that Government has already made legal action—constantly increasing the administration pressure, in line with its development to raise the standard of living of the African people. There are many things which I should like to ask but since I want precisely to know what is the intention of the Government, the future intention of the Government, in building up local government in the proper footing because I do think that Africans should be allowed to take the initiative, too, in the urban population.

Another matter which I should like to raise is that some members of other communities are perhaps given facilities to have what you call hire purchase to build houses of their own in towns. This should be extended to Africans, and not to be given a specific plan that if you do not want to build a house of this type you are not going to have the money—let him have the choice and let the Government investigate whether the man is able really to get the money back. If he is not, then I do not mind the Government waiting.

Mr. Speaker, since my colleagues will try to bring about more problems that affect Africans in various townships I tend to shorten the time because the limiting factor is the time, and I need not keep the House. The House has known my intention in moving this Motion.

Mr. Speaker, I beg to move.

Mr. KHAMISI: Mr. Speaker, Sir, I beg to second this Motion, and in seconding it I would first of all like to say how

[Mr. Khamisi] well the case for African security in townships, municipalities, has been put forward by the Mover of the Motion.

I would like to look at this question of security in a different light. Everybody in this world—and I am quite sure in this House—is very concerned about his security, and particularly during his old age. I am looking at it from the point of view of a townsman. I have lived all my life—and my father and forefathers—in towns, and we are very much concerned about the security of Africans in the townships.

Before I go further I should like first of all to explain a bit about the conditions obtaining in these towns, and particularly Mombasa and Nairobi. In Mombasa all the land in the municipality is owned by non-Africans, and for very many years the Africans have always been at the mercy of the landowners. They go to the landowner and beg permission for a plot of land on which to build a house. The landowner may be very generous and say all right: in the olden days he would ask him perhaps about Sh. 12: today the premium for building a house is in the neighbourhood of Sh. 500 to Sh. 600. Now, after getting that premium, the owner of the plot tells the man: "You can build your house there," and place down no conditions whatsoever, provided one is able to comply with the Public Health Ordinance of the town, and his plan complies with the requirements of the medical officer of health. He builds a house there purely on a month-to-month basis: he has no security whatsoever. He is at the mercy of the landowner: if the landowner decides tomorrow or the week after to sell the land to somebody else, and if that somebody has plenty of money to lay out a development plan and send it to the court, the tenant can be removed without any compensation whatsoever. Not only that, he cannot occupy that house if he has not completely complied with all the requirements of the medical officer of health, which means that he may be forced to spend something like £500 to make the house habitable, and in a month or so may be asked by the new owner of the land to pull it down, without a single cent returned back to him. I think that is the whole crux of this matter, and for very many years

Africans have asked to have security of some sort, and I think this is the time that the Government should step in in order to protect the poor man from losing money by embarking on such schemes, which will not pay any dividends whatsoever. By good luck, one may be able to stay there for ten or 20 years, but that is purely by good luck. Generally speaking, however, this question of security of tenure is very serious and particularly so in Mombasa. I know that in Nairobi it is the same. Those who own houses in places like Pumwani and so on are completely at the mercy of the local authorities, who may move them at a month's notice without any compensation whatsoever.

Now it must be quite clear to everybody that we have in most of these towns an urbanized class of Africans who do not depend on anything for security in their old ages except the houses they put up in these municipalities. I think if a man has no other security except that, it is up to the Government to see that this security is made much safer than it is at present.

Not only that, I think this country needs this type of people, the town-dwellers, because it is they who are able to do the work because they depend almost entirely on what they can earn from their employment. It is they who are able to do their work properly because they know that if they leave that employment they have nowhere else to go. There are very many people of this kind who have no *shambas* elsewhere in the reserves and who are purely towns-people. For these people I would suggest that the Government should be able to see that they are protected so that they may be able to own their houses on long leases.

At present, as you know, in Mombasa we have got such schemes in being. We have got a scheme which we call the owner-builder scheme; this is on land which has been provided by Government and which has been laid out as a village. Africans are going to have a 66-year lease and be made to comply with certain regulations and put up their houses which they can use now and in future. I think that is the type of schemes which should be commended in all municipalities in Kenya. There are other schemes,

[Mr. Khamisi] private schemes which have been sponsored by private people who own big pieces of land. These people, to start with, layout the village plan and send that layout to the local authorities who give them permission to let the plots to people. It is this type of schemes we would like the Government to interfere and say, "We are not going to approve such a layout unless you can give us a written undertaking and give it to the people who are going to own those plots that they are going to own houses on those plots for a period of, say, 66 years".

At present, these people will have no alternative but to accept such conditions because I know they do want people to build on that land so that they can get money to pay the rates to the municipality. On the other hand, the Africans who go there also want these plots because they want to have something as security for their old age. Here, Sir, in this Motion, we are urging Government to see that these people do not lose their money by going and building their houses in such insecure places.

There are, of course, in other townships where plots are owned by Government or local authorities, other methods which could make Africans more secure in these towns. For instance, they could build houses and let them to the Africans on a tenant-purchase scheme or they could loan money to Africans so that they can build their own permanent houses on terms which are attractive and which will be secure to the people who build and own those houses.

This problem of security for old age is most serious—

THE SPEAKER (Sir Ferdinand Caven-dish-Bentick): Mr. Khamisi, your time is up.

MR. KHAMISI: Yes, Sir, I will just finish. As it is at present, Sir, Government has no old age pension scheme for the Africans who are in towns. This is a scheme which Government could just as well exploit to the benefit of the people and the country as a whole.

With these few words, Sir, I beg to second this Motion.

Question proposed.

THE CHIEF SECRETARY (Mr. Courts): Mr. Speaker, Sir, rising to speak to this Motion, I want to say first of all that there is a Government policy in respect of providing security of tenure for Africans, and in that respect I have certain sympathy with the underlying feeling contained in this Motion. But as we have a policy which has probably been delayed for one reason or another, I am unable, on the Government's side, to accept the actual wording of the Motion, and therefore, Sir, at this stage, I would like to propose an amendment, which would read as follows:—

That all words after "that" should be omitted and that the following words be inserted: "This Council calls on the Government to accelerate the implementation of the present policy of providing security of tenure for Africans having residential plots, and business-cum-residential plots, within municipalities, towns and townships".

That is all I wish to say, Sir, and I beg to move the amendment.

THE MINISTER FOR LOCAL GOVERNMENT, HEALTH AND TOWN-PLANNING (Mr. Havelock) seconded.

Question proposed.

THE SPEAKER (Sir Ferdinand Caven-dish-Bentick): As the subject matter of this particular amendment is not readily severable from the subject matter of the original Motion, I rule that the rest of the debate on this particular amendment will be conducted under Standing Order 62; therefore, anyone speaking to the amendment will be held to be speaking to the original Motion as well.

MR. NAZARETH: Mr. Speaker, Sir, I have the fullest sympathy with the Motion and with the amendment which does not really vitally alter the nature of the Motion. In fact, I was going to express my surprise if the Government had opposed the Motion, but I see it has not, in substance, done so. However, I feel that this Motion ought to be enlarged and that the opportunity ought not to be missed for dealing with a subject which really falls within the spirit of the Motion.

I, therefore, would move that the Motion as amended be further amended by adding at the end of the amended Motion the words "and to provide

[Mr. Nazareth] greater security and longer tenures for non-Africans having plots in trading centres in African areas".

There is, Mr. Speaker, the same insecurity existing among non-Africans in trading centres that Africans suffer from. I have had many representations made to me that the terms which are granted of 33 years are quite insufficient to encourage good building. Those who have plots in these areas have been greatly discouraged from putting up good buildings.

I feel my African friends would, in the spirit of the Motion which they have moved, welcome this amendment which I seek to introduce at the end of the amendment which the Chief Secretary has moved. It would have the effect of lowering all barriers and bringing different sections of the community together, and, as I have said, it would greatly improve the trading centres and encourage the erection of much better buildings than are now put up by persons who fear that at the end of 33 years they will lose the benefit of the capital they have put into these areas.

I feel really that every argument that my friends have advanced in support of the original Motion can be used in support of my amendment. I will therefore say nothing further except to commend this amendment to the House.

MR. COOKE: Sir, I beg to second, but I reserve my right to speak.

THE MINISTER FOR LEGAL AFFAIRS (Mr. Griffith-Jones): On a point of order, Sir, the hon. Member is not entitled to reserve his right to speak.

THE SPEAKER (Sir Ferdinand Caven-dish-Bentick): Before putting this amendment in the form in which it has been proposed, I should like to ask the Leader of the House whether it fits in with the Motion he has just proposed. Is it the present policy of the Government? If it is not, I will have to put it in a different form, that is all; I will put the amendment, but I just wondered whether it fitted in as framed by Mr. Nazareth.

THE CHIEF SECRETARY (Mr. Coullis): In so far as it relates to greater security, yes, Sir.

Question proposed.

THE SPEAKER (Sir Ferdinand Caven-dish-Bentick): As this is a considerable enlargement on the original Motion, I will not take this amendment—the amendment to the amendment—under Standing Order 62. It does contain severable matter and I think it should be debated as an amendment in the normal way.

DR. KIANO: It is customary in this House, Mr. Speaker, to stand and say: "I did not intend to intervene in this debate", but I do not think that applies at present because I think everyone has a right to speak, and therefore they are not intervening. However, at this particular moment, I did not intend to speak until the last speaker spoke.

Now, Sir, I rise to accept the Government's amendment to the original Motion because as the previous speaker has just said, the amendment does not seriously alter what we intended to achieve by proposing this Motion. We do feel, however, Sir, that the amendment to the amendment which was introduced by the hon. Mr. Nazareth, cannot be accepted by the African Elected Members. The reason for this, Sir, is that the amendment to the amendment brings into the Motion a completely new aspect that was not intended by the original Mover, and actually, Sir, it is a separate subject altogether. We do sympathize with our hon. friend, and perhaps when he brings his Motion independently we might consider the arguments put forward. We feel, Sir, that at this stage he should not hitch his wagon on to our wagon and he should, therefore, either withdraw his amendment, or in any case understand our opposition when we say that we think that the question of the security of the non-Africans in the towns and municipalities is a different subject altogether, and as such, Sir, we are not prepared to accept it as a part of our original Motion and, therefore, Sir, I beg to support the Government's amendment to the Motion, and to oppose the amendment to the amendment.

THE SPEAKER (Sir Ferdinand Caven-dish-Bentick): I think we should now limit our discussions to the amendment to the amendment.

MR. NOOME: Mr. Speaker, the Motion is very important from its spirit how it is put before this House. If I would be

[Mr. Ngome] allowed to submit, Mr. Speaker, the interest of the Africans is very much important in this particular matter. If possible, I would request that the amendment to the amendment be brought up as a Motion at a later date to give the African people a chance of reaching a conclusion on this subject. It is too quick I should say, in view of the original Motion and the subsequent amendment to come to any conclusion as to how far we should go to reach an agreement.

On that submission, Mr. Speaker, if it would be allowed to postpone the conclusion of the decision of the amendment to the amendment, I would be pleased, Mr. Speaker, on that submission I beg to move.

THE SPEAKER (Sir Ferdinand Caven-dish-Bentick): This amendment to the amendment is, in my opinion, quite permissible, and I have put it. But I have ruled that we are now only discussing this amendment, therefore those who wish to speak to this amendment can subsequently speak to the original Motion or the original amendment. I am not taking this latest amendment under rule 62, but I will take the first amendment under Standing Order 62.

MR. MBOYA: Mr. Speaker, Sir, like my friend the Member for Central Province South, I have some sympathy with the motives behind the amendment to the amendment, but I feel very strongly that it has come at a time when it is not possible for us to support it in its present form and especially to support it if it will in effect be part of a Motion which we intended to bring out purely for other reasons. We have ourselves quite a number of problems and matters relating to trading centres and relating to security, not only of non-Europeans in trading centres, but also of Africans in trading centres and serious conditions, affecting Africans in trading centres and markets in the rural areas which we would have liked to bring before this House and which we might be bringing before this House when I think it will be appropriate for the Mover of the present amendment to bring forward that particular question.

I also think, Sir, that from the Government side, if we start discussing the particular problems relating to security

to African businessmen or traders or residential plot owners in towns, if we were to try to mix this with the conditions of the trading centres and markets in the African areas, we might find the whole thing so confusing that in the end we would find that the amendment to the amendment completely confuses the issue and we will lose sight of the main objectives.

It is, Sir, purely for these reasons, that I find it impossible to support the amendment, not because we are afraid of giving the non-Africans any security in the African areas if they are there as traders, legitimately and genuinely as such, but because we think that in the present circumstances, on this occasion we should concentrate on the main issue—the one brought out by my friend the Mover of the original Motion.

On these grounds, Sir, I am sorry but I have to oppose the amendment to the amendment.

MR. SLADE: Mr. Speaker, Sir, while sympathising very strongly with the Mover of this further amendment and also admiring his ingenuity, I think we are right to oppose it for the reason that it does make a rather untidy job of this debate if we accept it. If we do not stop here, where are we going to stop the amendments, because there are plenty of people in the centre of Nairobi with very valuable buildings on very valuable sites who have only about 40 years to run. We might, Sir, have another amendment to cover them too, and I am sure there are other people who are worried about their security of tenure in this world.

Therefore, Sir, for that reason only I join with others in opposing the amendment to the amendment.

THE MINISTER FOR AFRICAN AFFAIRS (Mr. Johnston): Mr. Speaker, Sir, as a newcomer to this House I am slightly bewildered, but I understand I am speaking now to the amendment to the amendment. Such being the case, this Government will accept the amendment to the amendment, for, Sir, it is the policy of the Government to give all races greater security and longer tenure where appropriate in townships and trading centres. In townships and trading centres, I repeat.

[The Minister for African Affairs]

Now, Sir, I am afraid I may have to bore the House for a while with a description of the leases which are issued in the native lands because there seems to be a great deal of uncertainty about what leases are issued. I am going to deal, if I may, Sir, only with native lands.

These leases fall into four categories—temporary occupation licence, the annually renewable lease, a registered lease for more than one year and not more than 33 years, and finally a registered lease for a term exceeding 33 years but not exceeding 99 years.

The main difference, Sir, between category one—the temporary occupation licence and category three—the registered lease, is that those in the latter category have to be registered under the provisions of the Registration of Titles Ordinance, and a prior requisite for that is a deed plan approved by the Director of Surveys which must be attached to each grant.

Now, Sir, owing to the large amount of work that is engaging the attention of the Survey of Kenya, it is often several years between the planning of a township and a trading centre and the necessary survey.

The security of tenure given to a resident or trader by a temporary occupation licence has not been considered by the Government adequate to encourage development, and it was for this reason that the Government introduced the second category of lease—namely the annual renewable lease.

Now this lease, Sir, gives almost identically the same security of tenure as a registered 33-year lease, but it does not require registration under the Registration of Titles Ordinance and therefore can be issued without a survey. Such lease, as its name implies, is automatically renewable every year up to 32 renewals, and it can, when the survey has been completed of that particular area in which the lease is issued, be replaced by a registered 33-year lease.

It is often, however, more usual, if it is relatively certain that a survey will be made within a reasonable time, to issue the tenants with a letter of allotment which is an assurance to him that

he will be issued with a 33-year lease when the survey has been made as, for instance, has been the case in the township of Fort Hall.

In the past, Sir, it has been the policy to obtain the consent of the Secretary of State where leases are issued in respect of more than 33 years but a proposal is being pursued that where a township is of long standing and of development, the Secretary of State be asked to give a general consent for longer leases being issued in that township.

Now, Sir, as I have said, normally temporary occupation licences are issued in trading centres and markets, but there is no reason why, if those centres are likely to be permanent, such temporary occupation licences should not be converted to annually renewable leases as, indeed Sir, has already been the case in a number of trading centres.

It is doubtful whether the very slight additional security of tenure which will result from a registered lease—that is to say the third category—would justify the high cost of surveying such centres, particularly as most of these centres are, in fact, in the African lands and the survey fees would have to be paid by the African district councils.

An annual rent only is paid on a temporary occupation licence, but on renewable leases and registered leases the lessee is called upon to pay a stand premium, which was one of the subjects touched upon by the hon. Member of the original Motion. A stand premium represents a lump sum payment of part of the rent and an annual rent thereafter.

That, Sir, briefly, is the position in the African lands and I hope I have shown the Council that in fact Government is, by issuing annually renewable leases and by giving registered 33-year leases in an increasing number of townships, giving each tenant a very great deal more in the way of security and longer tenure than has been the case in the past.

I beg to support the amendment to the amendment, Sir.

MR. KHAMISI: Mr. Speaker, Sir, I would like to oppose the amendment to the amendment for the following reasons. First of all, as we have just been enlightened by the Minister for African Affairs, there is no question whatsoever

[Mr. Khamisi]

of lack of security, because, as we have just heard, security is there for the non-Africans in the native land units and trading centres, where we have just heard that they get 33 years and that can be extended after that period up to 99 years, so that the question does not arise at all for them. It is for the poor Africans, who are existing, as it were, from hand to mouth on a month to month basis—it is for these people that we want some security to be granted. I think, although you have ruled, Sir, that the amendment to the amendment is permissible, yet I feel that the amendment to the amendment has introduced quite a new aspect altogether, that I think we cannot accept it on those grounds.

With those few words, I should like to oppose.

MR. ARAP MOI: Being the Mover of the original Motion, I should like to oppose the amendment to the amendment for three simple reasons.

My reason for moving my Motion was simply to have the Africans protected and have security. Secondly, Africans at the moment are going from place to place with no permanent homes. Thirdly, to bring Government policy into line with modern changes.

Now my hon. friend's amendment to the amendment is another element altogether. I do feel, Mr. Speaker, that the intention of bringing my Motion is that Africans at the moment have no security whatsoever. Now let me give a simple illustration. In Nakuru you have an estate called the Ebrahim Estate, where there are many tenants living, he being a landlord. I am not asking that an African should be a landlord, but he should be able to be a landlord in the near future when he has funds to enable him to buy such land, but at the moment he cannot even build a house without being evicted at any moment—at any moment—with even the shortest possible notice. Therefore I am rather amazed to see Government accepting the amendment—accepting another Motion really—and I think perhaps another amendment will come and Government will accept it. I do not know what Government will do—why Government accepts this amendment and that amendment, I thought, as my hon. colleague, the Member for

Nairobi Area suggested, we accepted the amendment brought about by the Government, otherwise we would have stuck to our original Motion. But we accepted it because we thought that Government had seen the intention of my Motion, and therefore thought that the first amendment could be accepted and then consider—

THE SPEAKER (Sir Ferdinand Cavendish-Bentley): Mr. arap Moi, I have ruled that discussion is at the moment limited to the pros and cons of the proposed amendment to the original amendment which is now before the House. I cannot allow you to make a second speech on the principles of your own Motion. I take it that you are speaking against the amendment to the amendment.

MR. ARAP MOI: Yes, I accept that ruling, and I oppose the amendment to the amendment for the reasons I have put forward.

MR. MULOIRO: Mr. Speaker, Sir, I wish to move an amendment to the amendment to the amendment, that all words after "townships" be deleted and the following words be substituted: "and further urges the Government to examine the position of all persons with plots in trading centre". So that, by the amendment to the amendment to the amendment the Motion reads as follows: "That this House calls on the Government to accelerate the implementation of the present policy of providing security for Africans having residential plots and business-cum-residential plots within municipalities, towns and townships, and further urges the Government to examine the position of all persons with plots in trading centres".

The reason why I move this amendment to the amendment to the amendment, Mr. Speaker, is that if we have to get security for everyone in this country—and I am very much in sympathy with the arguments of the hon. Member for Western Electoral Area, and also the acceptance by the Government of his amendment to the amendment—is this: we, as Africans, are not in any way opposed to giving security to everybody in this country. First of all, it is very, very clear in the mind of everybody that the African in this country is the only person who has not had any security at all for years, and anybody seizing the

[Mr. Muliro] opportunely like this, to try and confuse the issue, Mr. Speaker, is not fair.

We want the Government, as we have accepted their amendment first of all, to accept the final amendment to the amendment to the amendment so that the position will be examined in these trading centres. Everybody knows very well that the traders, not only non-Africans but even the Africans trading in trading centres, have no security of any kind at all.

The Minister for African Affairs has been elaborating today on what sort of securities they have got. He says there are some renewal securities from year to year and registered security. Now this is what everybody is interested in, both Africans and the Asians, and the Asians particularly who are trading in these African areas. That we have no objection to, but we urge the Government to examine the position in the light of giving better security to everybody in these trading centres.

With these words, Mr. Speaker, I beg to move the amendment to the amendment to the amendment.

MR. MATE: Mr. Speaker, Sir, I rise to second the latest amendment. My opposition to the amendment raised by my hon. friend the Member for Western Electoral Area is that I saw the relationship between this amended Motion and the original Motion as a two-way traffic. It has been argued in Kenya that the African is not a town-dweller, that he has his foot in the country, and the other in the towns; but for a considerable time the African has been coming into the towns. He has established himself, but not so securely, and the Motion seeks to clarify the position.

On the other hand, the other races who trade in African areas have the security as outlined by the Minister for African Affairs, and I do not feel that they have had much cause for alarm. They have been trading perfectly well. In this amendment there is the provision that my other hon. friend has moved, that their position be examined, and I feel that the amendment to that amendment was, in a way, almost a negating of the first Motion. For this reason I feel, I think it was because it was sort of going backwards—if the Africans'

interests in town, the non-Africans in the African areas—anyway, it is immaterial.

I feel the Motion is very fair, in that it gives all sides an opportunity of reviewing their position.

The other point is I very much sympathize with the feelings of my hon. friend, Mr. Nazareth, because I have had talks and discussions with members of the Asian community and the European community who trade in African areas, as to their security, but I feel that the two things could not very well go together in this particular Motion. I would like to give my support if a Motion was to the effect the Member wanted.

Sir, for these reasons, I feel I would like to second the latest amendment.

*Question proposed.*

THE CHIEF SECRETARY (Mr. Coultis): May I ask whether you are ruling that this is also a separate amendment, or to be dealt with as part of the original Motion?

THE SPEAKER (Sir Ferdinand Cavendish-Bentinck): I must rule that this is a separate amendment otherwise we are never going to dispose of it.

THE CHIEF SECRETARY (Mr. Coultis): In that case, I would like to speak to it. The Government feels, with regard to the last amendment, that virtually it does not really mean anything. It says: "further urges the Government to examine the position of all persons with plots in trading centres". Now does that mean whether they are horizontal or vertical, or whether they are built on a hill or not built on a hill, whether they live in a valley, whether they have got water laid on?

I feel, Sir, that this amendment is unacceptable to the Government because, in fact, we are always examining what is the position of people in trading centres. What I would like to say, Sir, is this: that if Members of the opposition who were concerned with the original Motion were prepared to accept an amendment by putting in the words "all persons", which comes in the present amendment, in the original amendment to the amendment, for the words "non-Africans", the Government would then accept the amendment to the Motion.

THE SPEAKER (Sir Ferdinand Cavendish-Bentinck): If no other Member

[The Speaker] wishes to speak to the last amendment—

MR. TOWETT: Mr. Speaker, the position is not clear, whether the Chief Secretary has suggested another amendment.

THE SPEAKER (Sir Ferdinand Cavendish-Bentinck): No—as far as I am aware the latest amendment which I had as a question is now before the House. That amendment is now before the House, if anybody wishes to speak.

MR. TOWETT: Thank you very much, Mr. Speaker. The position is clear now.

It has been quite an interesting afternoon, and we have been discussing what I call simultaneous arguments. Security is something which is quite interesting. Most people have been talking about the financial side of security and I would like to touch on the rather more non-financial side of security. I mean the social side of security in the urban areas, in towns and townships. Then I come to see what the whole thing is about at the end.

Mr. Speaker, Sir, our intention is to see that Africans who come to urban areas reside there and try to make their permanent homes there. At the moment, there are so many people, the population is growing up in the rural areas—

THE MINISTER FOR LEGAL AFFAIRS (Mr. Griffith-Jones): On a point of order, Mr. Speaker, I think that really it is apparent that the position is not clear to the hon. Member!

THE SPEAKER (Sir Ferdinand Cavendish-Bentinck): I will explain again that we have now got a considerable number of amendments to deal with, and the latest one is the addition to the first amendment of the words "and further urges the Government to examine the position of all persons with plots in trading centres". That is what I would like you to speak on. After we have decided and resolved this particular amendment, we shall then come back to Mr. Nazareth's amendment, and then in due course, we may or may not come back to the first amendment. We will take the amendment in reverse, but I will ask you to speak now on the latest amendment. You will have an opportunity of speaking to the main Motion again afterwards.

MR. TOWETT: Mr. Speaker, I reserve my speech.

MR. NGALA: Mr. Speaker, Sir, I am speaking on the latest amendment. The need for security for the non-Africans in trading centres in the rural areas does not really arise, because, Mr. Speaker, as you might know, due to the leases that have been explained by the Minister for African Affairs, the non-African people in the rural areas have been so much encouraged as even to build permanent residential areas, or residential buildings or traders' premises in their rural areas, thereby showing that they are so sure of their security in the rural areas as to put up buildings in permanent material. I am sure this has been brought about by the leases and the nature of the leases that has been pointed out to you, Sir, by the Minister for African Affairs. Therefore, the second amendment which is referring to the insecurity of the non-Africans does not at all arise in this matter.

I am supporting the latest amendment because it provides some chance of looking into the position of non-Africans in case they have some other further complaints which should be looked into. I would like to underline what has been pointed out by the Member for Central Province North, that in many places, the alarm has been "rather on the Africans, and much less on the non-Africans, particularly in the rural areas."

Therefore, I support the latest amendment, Sir.

MR. OLE TIPIS: Mr. Speaker, Sir, I do not really think that the latest amendment by the Chief Secretary is necessary and I think I would only like to mention that as far as security is concerned, the non-Africans have had quite a good time in the past, because even in the African land units, they were encouraged considerably by the Government in those days when there were no capable Africans who could run any trades or businesses. The position now is that when we are trying to show our faces in the commercial field, then we find that there is no security at all. We have been accused for quite a time of having one leg in the reserve and the other leg in our places of employment. This is surely because we have had no means of any security both in the townships and in our places of employment. I think the time

[Mr. ole Tipis]

has now come when we should go into this matter and provide proper ways of security, especially to those Africans who have no other home, and have made the townships their homes.

With these words, Sir, I beg to support.

MR. MBOYA: Mr. Speaker, Sir, we have very seriously and sort of considerably considered the implications of the latest amendment and the amendment before that one, and have come to the conclusion, Sir, that yet another amendment would be desirable to meet the various points of view.

Consequently, Sir, I arise to move the following amendment—I just do not know how to do it—but it would really come to this: delete all words after "townships" and, instead, have the following words: "and to provide security for all people having plots in trading centres in African areas".

So that the whole thing as now amended would read "This Council calls on the Government to accelerate the implementation of the present policy of providing security of tenure for Africans having residential plots and business-cum-residential plots, within the municipalities, towns and townships and to provide security for all people having plots in trading centres in African areas".

Mr. Speaker, Sir, I beg to move.

MR. NAZARETH: Mr. Speaker, Sir, I need say nothing except to say that I would second the amendment moved by the hon. Member for Nairobi Area.

THE CHIEF-SECRETARY (Mr. Courts): And I would only say, Sir, that the Government would accept it.

THE MINISTER FOR LEGAL AFFAIRS (Mr. Griffith-Jones): May I suggest, Sir, that perhaps the hon. Member for Nyanza North might withdraw his amendment. It might at least remove one of the obstructions in this debate.

MR. MUIRO: Mr. Speaker, Sir, after having a long consultation with my colleagues when we decided to move this amendment to the amendment to the amendment, I withdraw my amendment.

*Amendment to the amendment to the amendment by leave withdrawn.*

*Further amendment to the amendment to the amendment proposed.*

SIR CHARLES MARKHAM: "Mr. Speaker, I think everyone has had about five innings on the various amendments, so with the greatest respect, I would like to move under Standing Order 64 that the Mover be now called upon to reply.

THE SPEAKER (Sir Ferdinand Cavendish-Bentick): No, I think I must put this further amendment, especially so because I have ruled that this amendment by way of addition to the first amendment is a separate amendment to the one I said could be debated under Rule 62. Once we get this out of the way perhaps you might reconsider your Motion.

The question that the words of the amendment to the amendment be deleted was put and carried.

The question that the words of the amendment to the amendment to the amendment be inserted was put and carried.

MR. MBOYA: I do not know, Sir—I am puzzled; I do not understand the constitution. I take it that we can now speak on this as a Motion?

THE SPEAKER (Sir Ferdinand Cavendish-Bentick): As a Substantive Motion, yes, under Standing Order 62.

MR. MBOYA: Well, there is not very much more I wish to add to the debate, except, Sir, to emphasize one or two points. We are accepting the Government's amendment to the original Motion; in fact, in the original Motion, the Mover was calling on the Government to take steps to do something. Here, we have an amendment in which the Government commits itself to accelerating the pace of implementing its policy to provide greater security for those Africans owning business or residential-cum-business plots in the townships, towns and municipalities. On this, Sir, I would like to draw the Government's attention particularly to the situation in Nairobi and to state that in fact, it is very, very urgent and important that the Government moves immediately to providing this security because as a result of the non-existence of that security, a lot of people who own business plots have been unable to go forward with their projects of establishing businesses or more stable businesses in Nairobi even after they have utilized some of the loan

[Mr. Mboya]

facilities that have been provided by the municipality. We have such business plots and residential plots in Bahati and Makadara in Nairobi, where Africans have taken advantage of the loan facilities provided by the City Council. And the problem up to now is whether or not they have title deeds. We understand, Sir, that there have been arguments as to the provision of the length of the leases; the present position as I understand it is that under some municipal by-law, the municipality can only grant leases up to 40 years. I am given to understand that the Africans have put forward the suggestion that this should be extended to a lease of 50 years instead of 40 years, and that until now, it is the Government's part to make up its mind whether they will get extension of that period to enable the Africans to have a longer tenure and a greater security in terms of the businesses and also the residential plots they have in town.

I would like to draw attention, Sir, to the fact that in the Bahati area, some Africans have had buildings, or started to build in this area as early as 1950 and 1951, and that until now, they have had no lease or title deeds granted to them. They are operating on the basis of some sort of letter of agreement that does not enable them, if they wanted so to do, to get loans or other facilities from the plots they own or the houses that they own. I consider it very urgently necessary, Sir, that the Government should move immediately, particularly with regard to the Nairobi situation, to grant the title deeds so as to enable the African businessmen who have taken the advantage of the loans to go ahead and establish a more stable business.

I would like to add just this one other point which is related, and may not be directly involved here; that is, the sort of services provided on this plot, or to these areas, which I think is a Government-cum-local government responsibility. It is sometimes very depressing when these Africans go to the trouble of putting up nice permanent buildings only to find after they have done so that it takes some four or five years before they have proper and effective means of access to their trading centres or business premises. One instance is Bahati again,

where buildings were started in 1950, and until 1958, there has not been a proper road to that area on which the Africans were asked to build and to regard as a trading centre. Now, it is not encouraging these Africans—particularly, it is not encouraging their businesses—to erect these very expensive buildings and find that, after erecting them, they have no suitable access to the building or premises, it also discourages the various wholesale traders and so on to visit these centres; or it makes it almost impossible for people who do not own their own transport to bring the goods they need for their shops. Now, this is part and parcel of the whole question of security for these people, because one aspect of this must be the encouragement for them to trade, and the existence of the necessary facilities—the minimum necessary facilities—to enable these areas to be used effectively as trading centres.

Mr. Speaker, Sir, I do not think there is very much more that I wish to add to this debate, except to emphasize very strongly the necessity for Government not only to promise to accelerate the implementation of its policy, but to take immediate steps to ensure that Africans who have been led to erect these very expensive, permanent buildings have security and the title deeds to enable them further to take advantage of any loan facilities that may exist elsewhere which would enable them to further improve their businesses. After all, it would be almost useless for them to put up these buildings, especially on hire purchase or by taking advantage of loan facilities if they are not able immediately to enter into effective business which would enable them to pay back the money they have borrowed in time. And yet, if they fail to do so, they would be punished by either withdrawal of the title or the agreement that they hold.

In Nairobi, I consider this to be a very urgent question, and I hope, Sir, that the delay that has been caused, partly by the Government and partly by the City Council, will be looked into immediately to enable these people to go ahead without any further fears.

Mr. Speaker, Sir, I beg to support.

THE SPEAKER (Sir Ferdinand Cavendish-Bentick): I think I should again

[The Speaker] explain to hon. Members that I am now regarding the amendment before the House as the first amendment in its approved and amended form. Therefore, we are now continuing the debate under Standing Order 62, which provides that anybody who speaks to this speaks also to the original Motion, which is what Mr. Mboya has just done.

MR. MULLIRO: Mr. Speaker, Sir, I find it very difficult, although I have never negotiated to a very high degree, to withdraw my own amendment, but I feel there is nothing substantial in the Government's amendment to the original Motion, because the Government says "We are going to accelerate". What are they accelerating? We do not see any security for the Africans which has been carried on by the Government and which they say they are going to accelerate. If you want your speed accelerated in a particular direction, you must have been walking in that particular direction. So far, Mr. Speaker, I do not see how the Government have walked towards giving security to the Africans—better leases to the Africans in townships. The very essence of the former Motion which the Government has amended was because the Government was doing nothing, although the Chief Secretary says there is a paper which has been delayed somehow. But we do not see anything which has been carried on.

No security for the Africans in townships is a very serious issue, Mr. Speaker. Although the Government says so, I say there is no security for the Africans; mere acceptance of saying "We are going to do that" does not mean that the Government is doing it. It has not been doing it. Now they will try to evade the whole issue by saying "We are going to accelerate". The African in the townships is being looked upon as someone who is very temporary, a stranger who has come there to earn some few shillings, and then go back somewhere to the reserves where he has to get some security of some kind. Even in the reserves the African has no security.

Today this Motion has been amended, but, Mr. Speaker, I feel before I can support such an amendment the Government must show me exactly what they

are doing, and therefore I oppose this amendment.

THE SPEAKER (Sir Ferdinand Cavendish-Bentick): I think you have spoken several times, Dr. Kiiano.

DR. KIANO: Mr. Speaker, Sir, I have spoken only once; immediately after Mr. Nazareh.

I have risen to speak on the general Motion now, though I must say, like the Minister for African Affairs, that, being new in this House, I am not quite used to all these manoeuvres that are going on.

I do want to congratulate my hon. friend the Member for Western Electoral Area for the ingenuity with which he practically caught us unprepared. I think it is one of the best parliamentary victories that have been won in this House. I would like to point out that the Government so far have told us that they do have a policy which they want to accelerate in regard to the security of Africans owning trading plots and so on. Unfortunately, however, due to the various amendments on the amendment to the amendment that have been proposed we are not yet quite sure what this policy is, and we do hope that before we have voted on this Motion a Member from the Government side will actually clarify the position and tell us what the policy exactly is. The hon. Chief Secretary, in moving the amendment, did say there is a policy, but he made one of the briefest speeches heard in this House, and he did not clarify exactly just what policy it is that they expect to accelerate.

So, Sir, I am then asking that prior to the closing of the debate we are told what the policy is so that we can feel much happier about the security of the Africans in the townships and municipalities.

Now, Sir, the purpose of the original Motion by my hon. friend Mr. arap Moi was to improve the situation which we consider relatively disadvantageous compared with the position of the non-Africans in the towns and municipalities. We still feel that in this attempt to bring the African position more and more close to the position already enjoyed by the non-Africans a Motion of this kind should be left as it had been amended by the Government, without making it so

[Dr. Kiiano]

cumbersome as to also try to improve the position of the non-Africans, not because we are not sympathetic with—

THE SPEAKER (Sir Ferdinand Cavendish-Bentick): Dr. Kiiano, the House has accepted this amendment. What I mean is the particular question you are speaking against has been accepted and determined by the House.

DR. KIANO: Well, I have got my third point. To come to the position of the non-Africans in the African areas—not, Sir, in opposition or in discussion of the part already accepted, but in clarification of my views as far as the general Motion is concerned.

It is my feeling, Sir, that until this House debates the report of the Royal Commission Report on land and population and discusses the whole question of land ownership or ownership of plots in various parts of the country, we cannot at this stage fully discuss the position of everybody in the African areas, and the part that is already clear is the part that deals with municipalities alone. I am not quite sure, Sir, that the Government will find it possible to really implement the Motion which is before us now in its entirety.

I would like to add that in the debate regarding local government, I raised the question of African security in regard to one area—that is, Limuru area—which is an example of the type of insecurity that the Africans suffer; and as yet, I have not received an answer, although I am not really pressing for the answer now—but it was a very good example of the type of insecurity Africans owning shops in various townships may suffer by finding that they may have to remove or break down buildings which they have already finished. I give the example of Limuru.

I want, therefore, Sir, in the remaining half a minute to say that not only do we accept the idea of acceleration, but within the next five or six months, the Government will be in a position to show us what they have done to implement this Motion calling for the acceleration of securing the position of Africans, because it is a matter of great urgency, and one which I, as an individual, will raise perhaps within the next five or six months to see what actually

has been done. I have serious reservations as far as the last amendment which we accepted is concerned, but since this has already been accepted, I shall only in general say I support.

THE MINISTER FOR LOCAL GOVERNMENT, HEALTH AND TOWN PLANNING (Mr. Havelock): Mr. Speaker, the general principle which hon. Members have been referring to, that is, the general policy of the Government, is, of course, to provide leases to Africans just as leases are provided to anybody else. There is no discrimination between the races except sometimes to the benefit of Africans where certain areas are set aside in urban townships where only Africans can own, and only Africans can trade. That is a protection for the Africans themselves. Apart from that, all races are treated exactly the same; there is no reason in the world why an African should not go and buy a house, as they have done, I believe, or considered doing, in Parklands just as any other race can do so, I cannot understand what the banging of the big drum is about the matter of security, except on the basis of the Government's amendment which is to the effect that we do agree, and we do recognize, that owing in the first place to lack of survey; secondly, owing to a certain number of arguments, which the hon. Member for Nairobi Area brought up, there has been a delay in actually issuing the titles which will give the type of security required. That we accept. But we also say that we will accelerate the issue of those titles, and we will do so.

Sir, if I may try to deal with one or two specific points made by hon. Members: the hon. Mover of the original Motion said that he was worried about the houses that are being built on temporary occupation licences, obviously, in certain townships—and I think he was referring mostly to townships in country areas, in the settled areas—which houses have now been demolished, and the Africans have been asked to shift elsewhere. Now, the first thing is that such villages and collections of huts grew up without any pattern, and without any pre-planning. Lately, in the last few years, it has been possible properly to plan the townships with which he is concerned; surely, it is necessary that they should be so planned from economic, social and all sorts of aspects. Now, on

[The Minister for Local Government, Health and Town Planning]

re-planning, there have been in some areas a new area for African estates which has been planned, and the old area, mostly because it has not been a very salubrious area, has got to be pulled down. But the policy of local authorities in that regard is as follows: that where plots are held on temporary occupation licences, it has been the policy of the local authority where a new African location has been planned for residential and business purposes to assess the life of the buildings on the existing temporary occupation licence plots and to offer the occupiers alternative premises in the new layout, on condition that they forfeit their existing premises without compensation, at any time within the assessed life of the building.

Now, in the case of temporary buildings, of course, there is no assessed life, but in the case—as the hon. Member himself said—in the few cases where permanent buildings have been built on temporary occupation licences, their life is assessed, and the person concerned has that amount of time to move to a proper-planned area. I hope the hon. Member is quite satisfied with what I have said—I can see he is listening with great interest.

There are quite a number of other points I wish to bring up which have been brought forward by hon. Members, and there is one other point, I think, raised by the same hon. Member with regard to owner-builder schemes, and I think he said The Africans have not got enough money to pay the premium and to pay for the rent.

On the owner-builder schemes which do operate, as the hon. Member knows, in a number of areas and townships in this Colony, the schemes which go mostly by the name of Vasey schemes, the standard premium, I am told, is £5 and the annual rent is Sh. 10. I can hardly understand the suggestion that on those sort of schemes, which are helped by the Government, no one can afford to participate in them. This, of course, does not apply to commercial plots and rightly so. Commercial plots are dealt with in the same way as any other commercial plots. If a man is going to make a profit out of a plot on a commercial basis, then

he has got to be dealt with as a commercial man.

There again, I would like to move to another hon. Member, the Member for Mombasa Area, who was appealing for Government aid and Government protection from landlords, owners of land, who subdivide, according to a subdivisional scheme, and then let their plots for people to build houses upon. The hon. Member seems to think that the Government should place on themselves the responsibility of seeing that those landlords do not in any way get away with it, with regard to their tenants. Well, Sir, the principle surely which so many hon. Members opposite have been putting before this House for weeks and weeks on end is that Africans should be treated like anyone else, that in fact they have a sense of responsibility, they in fact can hold their own in a modern life. And yet we have another hon. Member appealing for special protection from the Government against private enterprise. That is about what it amounts to. All I can say is that hon. Members, especially hon. African Elected Members, if this sort of thing is taking place, should tell their own people to look out and watch out, and indeed to insist that they should have a proper lease from landlords and not be led astray by a month-to-month agreement which can be upset so easily.

When the Government takes a hand in it, and Crown land is used, of course the Government is then the landlord and I think hon. Members will admit that the Government has treated anybody who wishes to take a plot fairly, with a proper lease and a proper title when that happens.

Now, Sir, time is very short; I have not got much time to reply to the number of points that were raised. I am therefore skipping a number of remarks by hon. Members, but I will come to the hon. Member for Nairobi Area and assure him that the matter of the 40- or 50-year lease at Makadara has been settled, and it will be 50 years.

The matter of service provided to the Bahati plots I will certainly look into; I will not go into it at the moment. But I only hope that it will not be a rather disappointing surprise if, when the leases are issued to the owners of these plots, the Private Streets Ordinance is brought

[The Minister for Local Government, Health and Town Planning] in and those owners, because they are now owners with proper title, may be made to pay for making up the roads. However, we will see how it goes.

I would also like to say that a number of leases have already been issued in the areas referred to by the hon. Member—at least, a number of agreements to lease have been issued—where the actual people, the tenants, have been traced. Some of them cannot be traced at all. If the hon. Member, in order to save time, wants more details, I have got them here and I can give them to him later.

The other point, I think, that must be remembered by hon. Members is that if a man is going to buy a plot and build a house on it, on the hire-purchase system, from, say, a local authority, then the local authority is going to insist that it holds the deeds of that plot as security against the purchase of the plot and the building of the house. Until that is paid off, there will not be a deed available for the person to go to the bank and borrow more money. Naturally not. They have got to pay their first debits off first.

Sir, as I say, I have not got time to go into more detail and give further answers, of which there are many. It is the amendment we are speaking to, is it not?

THE SPEAKER (Sir Ferdinand Cavendish-Bentick): You are speaking to both the remaining amendment and to the original Motion.

THE MINISTER FOR LOCAL GOVERNMENT, HEALTH AND TOWN PLANNING (Mr. Havelock): I beg to support.

MR. ARAP MOI: Mr. Speaker, Sir, because of the confusion that has arisen, I beg leave of the House, under Standing Order 37, to withdraw the Motion.

MR. KHAMISI seconded.

THE SPEAKER (Sir Ferdinand Cavendish-Bentick): I think you have made a mistake as to the number of the Standing Order. I do not know whether the hon. Member is really trying to do something under Standing Order 13 or whether he wishes to withdraw the Motion under Standing Order 37, but with an idea of bringing it up again. Standing Order 37 reads: "After the question has been proposed on a Motion, the Motion shall be deemed to be in the possession of the

Council, and cannot be withdrawn without the leave of the Council". Under Standing Order 13: "A Member who wishes to postpone to some future occasion the further discussion of a question"—and this is what I think the hon. Member has in mind—"which has been proposed from the Chair may claim to move 'That the debate be now adjourned.' The debate on any such Motion shall be confined to the matter of the Motion. But if Mr. Speaker shall be of the opinion that any such dilatory Motion is an abuse of the proceedings of the Council, he may forthwith put the question thereon or he may decline to propose it".

I will tell you here and now that I would decline to propose it, if you put it under that Standing Order, for this reason: these are Private Members' Motions and I think they are abused, if I may say so, because the object of giving time for Private Members' Motions is to enable individual Private Members to ventilate some question about which they feel strongly and to get an opinion from the Government, and not to involve the House in a repetitive debate of many hours' duration, which is unfair on other Private Members who also feel equally strongly about their grievances but who, in consequence, do not get a chance of putting their Motions forward.

If you wish to suggest that the Motion which is now in the possession of the House be withdrawn under Standing Order 37, it cannot be done without the leave of the House and I will put it to the House. But in the case I think it is also abuse of the privileges of the House to do so, to bring forward a Motion, and when you think the question is going to be determined in some way you do not like, to think you can withdraw it and bring it up again later in any event would be quite out of order under Standing Order 37. That, in my opinion, is an abuse of the proceedings of the House and the rights of the Members of this House, I say so openly.

MR. ARAP MOI: Mr. Speaker, I wanted to withdraw the Motion under Standing Order 37 not because I meant any abuse of the House's time or privileges, but because I felt that the purpose of the Motion was very important. And so I felt that under Standing Order 37 I should reconsider my Motion.



[The Minister for Local Government, Health and Town Planning]

re-planning, there have been in some areas a new area for African estates which has been planned, and the old area, mostly because it has not been a very salubrious area, has got to be pulled down. But the policy of local authorities in that regard is as follows: that where plots are held on temporary occupation licences, it has been the policy of the local authority where a new African location has been planned for residential and business purposes to assess the life of the buildings on the existing temporary occupation licence plots and to offer the occupiers alternative premises in the new layout, on condition that they forfeit their existing premises without compensation, at any time within the assessed life of the building.

Now, in the case of temporary buildings, of course, there is no assessed life, but in the case—as the hon. Mover himself said—in the few cases where permanent buildings have been built on temporary occupation licences, their life is assessed, and the person concerned has that amount of time to move to a pre-planned area. I hope the hon. Member is quite satisfied with what I have said—I can see he is listening with great intensity.

There are quite a number of other points I wish to bring up which have been brought forward by hon. Members, and there is one other point, I think, raised by the same hon. Member with regard to owner-builder schemes, and I think he said the Africans have not got enough money to pay the premium and to pay for the rent.

On the owner-builder schemes which do operate, as the hon. Member knows, in a number of areas and townships in this Colony, the schemes which go mostly by the name of Vasey schemes, the standard premium, I am told, is £5 and the annual rent is Sh. 10. I can hardly understand the suggestion that on those sort of schemes, which are helped by the Government, no one can afford to participate in them. This, of course, does not apply to commercial plots and rightly so. Commercial plots are dealt with in the same way as any other commercial plots. If a man is going to make a profit out of a plot on a commercial basis, then

he has got to be dealt with as a commercial man.

There again, I would like to move to another hon. Member, the Member for Mombasa Area, who was appealing for Government aid and Government protection from landlords, owners of land, who subdivide, according to a subdivisional scheme, and then let their plots for people to build houses upon. The hon. Member seems to think that the Government should place on themselves the responsibility of seeing that those landlords do not in any way get away with it, with regard to their tenants. Well, Sir, the principle surely which so many hon. Members opposite have been putting before this House for weeks and weeks on end is that Africans should be treated like anyone else, that in fact they have a sense of responsibility, they in fact can hold their own in a modern life. And yet we have another hon. Member appealing for special protection from the Government against private enterprise. That is about what it amounts to. All I can say is that hon. Members, especially hon. African Elected Members, if this sort of thing is taking place, should tell their own people to look out and watch out, and indeed to insist that they should have a proper lease from landlords and not be led astray by a month-to-month agreement which can be upset so easily.

When the Government takes a hand in it, and Crown land is used, of course the Government is then the landlord and I think hon. Members will admit that the Government has treated anybody who wishes to take a plot fairly, with a proper lease and a proper title when that happens.

Now, Sir, time is very short; I have not got much time to reply to the number of points that were raised. I am therefore skipping a number of remarks by hon. Members, but I will come to the hon. Member for Nairobi Area and assure him that the matter of the 40- or 50-year lease at Makadara has been settled, and it will be 50 years.

The matter of service provided to the Bahali plots I will certainly look into; I will not go into it at the moment. But I only hope that it will not be a rather disappointing surprise if, when the leases are issued to the owners of these plots, the Private Streets Ordinance is brought

[The Minister for Local Government, Health and Town Planning]

in and those owners, because they are now owners with proper title, may be made to pay for making up the roads. However, we will see how it goes.

I would also like to say that a number of leases have already been issued in the areas referred to by the hon. Member—at least, a number of agreements to lease have been issued—where the actual people, the tenants, have been traced. Some of them cannot be traced at all. If the hon. Member, in order to save time, wants more details, I have got them here and I can give them to him later.

The other point, I think, that must be remembered by hon. Members is that if a man is going to buy a plot and build a house on it, on the hire-purchase system, from, say, a local authority, then the local authority is going to insist that it holds the deeds of that plot as security against the purchase of the plot and the building of the house. Until that is paid off, there will not be a deed available for the person to go to the bank and borrow more money. Naturally not. They have got to pay their first debts off first.

Sir, as I say, I have not got time to go into more detail and give further answers, of which there are many. It is the amendment we are speaking to, is it not?

THE SPEAKER (Sir Ferdinand Cavendish-Bentley): You are speaking to both the remaining amendment and to the original Motion.

THE MINISTER FOR LOCAL GOVERNMENT, HEALTH AND TOWN PLANNING (Mr. Havelock): I beg to support.

MR. ARAP MOI: Mr. Speaker, Sir, because of the confusion that has arisen, I beg leave of the House, under Standing Order 37, to withdraw the Motion.

MR. KHAMISI seconded.

THE SPEAKER (Sir Ferdinand Cavendish-Bentley): I think you have made a mistake as to the number of the Standing Order. I do not know whether the hon. Member is really trying to do something under Standing Order 13 or whether he wishes to withdraw the Motion under Standing Order 37, but with an idea of bringing it up again. Standing Order 37 reads: "After the question has been proposed on a Motion, the Motion shall be deemed to be in the possession of the

Council, and cannot be withdrawn without the leave of the Council". Under Standing Order 13: "A Member who wishes to postpone to some future occasion the further discussion of a question"—and this is what I think the hon. Member has in mind—"which has been proposed from the Chair may claim to move. That the debate be now adjourned. . . ."

The debate on any such Motion shall be confined to the matter of the Motion. But if Mr. Speaker shall be of the opinion that any such dilatory Motion is an abuse of the proceedings of the Council, he may forthwith put the question thereon or he may decline to propose it".

I will tell you here and now that I would decline to propose it, if you put it under that Standing Order, for this reason: these are Private Members' Motions and I think they are abused, if I may say so, because the object of giving time for Private Members' Motions is to enable individual Private Members to ventilate some question about which they feel strongly and to get an opinion from the Government, and not to involve the House in a repetitive debate of many hours' duration, which is unfair on other Private Members who also feel equally strongly about their grievances but who, in consequence, do not get a chance of putting their Motions forward!

If you wish to suggest that the Motion which is now in the possession of the House be withdrawn under Standing Order 37, it cannot be done without the leave of the House and I will put it to the House. But in the case I think it is also abuse of the privileges of the House to do so, to bring forward a Motion, and when you think the question is going to be determined in some way you do not like, to think you can withdraw it and bring it up again later which in any event would be quite out of order under Standing Order 37. That, in my opinion, is an abuse of the proceedings of the House and the rights of the Members of this House. I say so openly.

MR. ARAP MOI: Mr. Speaker, I wanted to withdraw the Motion under Standing Order 37 not because I meant any abuse of the House's time or privileges, but because I felt that the purpose of the Motion was very important. And so I felt that under Standing Order 37 I should reconsider my Motion.

THE SPEAKER (Sir Ferdinand Cavendish-Bentick): Precisely. You wish to reconsider. And, therefore, I do not propose to put the question for this reason: you produced the original Motion. You now have the right of reply to an amendment which will obviously be passed because the Government side has intimated that it will support the amendment and not the original Motion. You therefore now, as proposer of the original Motion, want to deprive the House of the amending Motion which they have practically decided on. I do not propose to put your Motion because it is entirely against the spirit of accepted procedure in a debate of this nature.

LT.-COL. MCKENZIE: Mr. Speaker, I do not know whether I am in order, but I wonder if at this stage, after all we have heard this afternoon, under Standing Order 64, the Mover could be asked to reply.

THE CHIEF SECRETARY (Mr. Couitts): Sir, we have before us a proposal that the Motion be withdrawn—should the House not first vote on that?

THE SPEAKER (Sir Ferdinand Cavendish-Bentick): The question that is now before the House is an amendment and not the Motion which the hon. Member wishes to withdraw.

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

THE SPEAKER (Sir Ferdinand Cavendish-Bentick): Do you wish to propose that your amendment be withdrawn?

THE CHIEF SECRETARY (Mr. Couitts): No, Sir, I beg to move now that all Motions be put *seriatim*.

THE MINISTER FOR COMMERCE AND INDUSTRY (Mr. Hope-Jones) seconded.

THE SPEAKER (Sir Ferdinand Cavendish-Bentick): In that case, Mr. Arap Moi, you have the right of reply.

MR. ARAP MOI: Mr. Speaker, Sir, I am in a very awkward position, because of the series of confusions that have been put about by my hon. friends to try to bring about a situation which has now complicated the intention of my Motion.

Therefore, Sir, I feel like adhering to my original Motion for various reasons. The reasons which I put before the House were very clear in that I did not say that other people should not be given rights of security, because they had these

rights already. They have got this security already, and therefore various remarks which have been made by the Ministers whom I indicated have given me satisfaction. I am satisfied because the Government has indicated its intention of implementing its policy granting Africans 33-year leases, and subsequently extending them perhaps to 99 years.

I hope, Sir, you will not think that I abused the rights of the House in bringing this Motion, but in bringing it, many Africans feel that they should be given greater security. My colleagues have expressed their views but because of the confusion they could not express them in the way they would have liked to express them.

Therefore, Mr. Speaker, I think the House has already discussed the matter fully.

I oppose the amendment.

The question that the words proposed to be left out be left out was put and carried.

The question that the words of the amendment as amended be inserted in place thereof was put and carried.

The Motion as amended was put and carried.

#### ADJOURNMENT

THE SPEAKER (Sir Ferdinand Cavendish-Bentick): According to the arrangements made by the Sessional Committee and passed by the House, that brings us to the end of the day's business, and I therefore adjourn the House until 9.30 a.m. tomorrow, Friday, 6th June.

*The House rose at Seven o'clock.*

Friday, 6th June, 1958

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

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

#### PRAYERS

#### MOTION

SESSIONAL COMMITTEE—APPOINTMENT TO

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

THAT the hon. Sir Charles Markham, Bart., be appointed to the Sessional Committee in place of Lt.-Col. S. G. Ghesrie, O.B.E.

Sir, this is entirely a formal Motion, as it is replacing one Member of the House by another on the Sessional Committee.

I beg to move.

THE MINISTER FOR AFRICAN AFFAIRS (Mr. Johnston) seconded.

*Question proposed.*

The question was put and carried.

#### COMMITTEE OF THE WHOLE COUNCIL

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

#### IN THE COMMITTEE

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

*The Customs and Excise Duties (Provisional Collection) (Amendment) Bill*

#### Clause 2

MR. TOWETT: Mr. Chairman, I wish to move an amendment to the effect that we delete clause 2, paragraph (a), of this amendment-Bill.

The reason I have is that I feel that as we have been given that because of the existence of the Council of State, there will be substantial delay when the Bills are passed, but I feel that once you have given six months, there is no need for another proviso, to the effect that "Provided that the Governor may by order, with the approval of the Legislative Council signified by resolution, declare that the period referred to in paragraph (b) of this sub-section shall be extended for such period as shall be specified in the order".

I find that ten weeks plus that proviso gives quite a nice latitude, but when you have six months, and then an extensive latitude of that proviso, I feel that either we are being illogical or we are not being careful. So I feel that we should have ten weeks plus a proviso, but not six months plus an extensive latitude of that proviso.

Mr. Chairman, I beg to move the amendment.

*Question proposed.*

THE MINISTER FOR LEGAL AFFAIRS (Mr. Griffith-Jones): Mr. Chairman, Sir, this amendment is not acceptable because it would very largely defeat the purposes of the whole amendment. The minimum period during which a Bill has to be published nowadays is 40 days, the Council of State can lay a preliminary statement before this House at any time before the Third Reading, and has, in normal circumstances, four months after laying a preliminary statement in which to lay a report for the consideration of this House. The aggregate of those periods takes us to found about six months. There is provision, however, Mr. Chairman, whereby the Council of State could, in certain circumstances, obtain an extension of the four-month period by anything up to a further eight-month period; and accordingly we need a long-stop to ensure that the six-month period is acceptable of extension by this Council.

There is no particular objection of principle that can be raised to this amendment, Mr. Chairman, because the principal Ordinance does provide that where these provisional collection orders are made (if the substantive legislation which, in effect, confirms them is not passed in due course) the duties in excess of those which existed prior to the provisional collection order would be refunded—that is to say, the excess would be refunded. It is necessary to have both the extension of the ten-week period to six months, and the proviso.

I would not object so very much to my hon. friend's suggestion were this Council a legislature in fairly constant session, but there are several occasions throughout the course of our parliamentary year on which the Council is not in session for several weeks at a time,

[The Minister for Legal Affairs] sometimes for periods in excess of ten weeks. This is one of the matters which arise by reason of the introduction of the Council of State, and I might, with your permission, Mr. Chairman, just mention that on Wednesday we took the First Reading of the Appropriation Bill for a similar reason. It is, of course, absolutely essential that the Appropriation Bill be passed into law before the end of the financial year, that is, before the commencement of the next financial year to which it relates. By reason of the fact that the Council of State was only inaugurated on 2nd June, and in case it should choose to lay a preliminary statement in respect of the Appropriation Bill, when it would then have 28 days in which to report, the total extent of that period would take us beyond the end of the financial year. Therefore, the First Reading had to be given to the Appropriation Bill before 28 days from the end of the financial year.

These are not matters, Sir, in respect of which there can be any valid objection of principle, and I beg to oppose the amendment.

The question that the words proposed to be left out be left was put and negated.

Clause 2 agreed to.

Title agreed to.

Clause 1 agreed to.

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): Mr. Chairman, I beg to move that the Committee do report to Council its consideration and approval of the Customs and Excise Duties (Provisional Collection) (Amendment) Bill without amendment.

The question was put and carried.

Council resumed.

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

## REPORT

### THIRD READING

*The Customs and Excise Duties (Provisional Collection) (Amendment) Bill*

MR. CONROY: Mr. Speaker, I beg to report that a Committee of the whole Council has considered the Customs and

Excise Duties (Provisional Collection) (Amendment) Bill and approved the same without amendment.

The question was put and carried.

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): Sir, I beg to move that the Customs and Excise Duties (Provisional Collection) (Amendment) Bill be now read a 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.

## COMMITTEE OF SUPPLY

Order for Committee read.

### MOTION

That Mr. Speaker do now leave the Chair.

### VOTES 7 AND 9—INFORMATION AND BROADCASTING

THE CHIEF SECRETARY (Mr. COULTS): Mr. Speaker, Sir, I beg to move that Mr. Speaker do now leave the Chair in order that Vote 7—Information and Vote 9—Broadcasting may be discussed.

Before I talk to these Votes, Sir, I would just like to mention that the Sessional Committee did agree to allow Vote 9—Broadcasting to be discussed for two reasons. The first is that, from this side of the House, we told the hon. Member for Nairobi West, when he raised the question of African broadcasting, that he would have an opportunity so to do later, in Supply. In actual fact, as things stood at that time, Broadcasting had been put down a good deal later on the programme. As I also, Sir, would like to say a few words about African broadcasting, with your indulgence, we propose that both Vote 7 and Vote 9 be taken together.

Sir, in dealing with Information, a Department which appears constantly to be attacked by all races, I can only assume that it must be doing a very good job of work. Information covers a central organization in Nairobi which has a directorate, and certain services which are common to everyone, that is photographic and reference libraries, stores,

[The Chief Secretary]

transport, registry and despatch. It has also got a Press Section, a Publications Section, a Photographic Section, a Films Section, some field services, which are organized in the provinces, and the African Broadcasting Services until we have the full emergence of a broadcasting organization, which we debated quite recently.

In the gross total expenditure on Information, there is a saving of approximately £3,200 on the 1957/58 Estimates, and on the net total—that is, after subtracting Appropriations-in-Aid—approximately £5,000. These savings are due to some staff changes and a number of economies under other charges.

I do not intend, Sir, to deal with all the sections which I have mentioned, but I would like to comment on publications, photographs, the African Broadcasting Service and the staff position generally, with regard to the employment of Africans, in view of the fact that that particular point has been raised in this House on several occasions. Last year, my predecessor dealt very fully with the policy as regards Information, and I do not feel that one should necessarily go over the whole of that again. I want this year, if possible, perhaps to bring out some of the work which the Information Department is doing by quoting a certain amount of statistics. Now, Sir, I know that statistics can be extremely boring, and I hope that I will not make it too boring for this House. But I do think that by quoting such statistics it will be possible for Members to draw their own conclusions from them as to what is being done.

I turn now, Sir, to the question of publications. The functions of the Publications Section fall into five main categories: the production of periodicals and magazines, the supervision of and technical assistance to provincial newspapers, the production of booklets, posters, broadsheets and leaflets; the assistance to the Kenya Vernacular Press Company and distribution.

Ideally, a Government information department should not enter into the field of newspaper and magazine publication, but should concern itself with assisting established independent

organs. However, many publications for Africans are very limited and it will be necessary for the Department to publish its own for a very long time to come. In recent years, a number of different types of periodical publications have been produced by the Department, and experience has shown that for general use the most popular and effective have been 16-page, illustrated monthly magazines used for the presentation of Government's plans and policies. Four such magazines are now produced for free distribution. They are *Panoja*, which has a circulation of 56,000 copies per month, *Joluo*, which has 30,500 copies per month, *Agikuyu*, 31,000 copies per month and *Akamba*, 15,000 copies per month. This makes a total of 132,500.

In the policy debate, the hon. Member for Machakos said that *Panoja* was a waste of money and that the vernacular Press was not widely read. I do not consider that the figures which I have just quoted substantiate these remarks, particularly when one remembers that from three to five people probably read each copy.

Two specialized publications are also produced. These are *Habari za Radio*, a monthly radio magazine published on behalf of the African broadcasting services, of which 10,000 copies of each issue are distributed, and *African Sports Review*, a quarterly magazine with a circulation of 2,500 copies which are sold. One fortnightly broadsheet is also produced for free distribution in the Thika settled area, with a circulation of 1,000.

As regards provincial newspapers, the publications officer provides editorial, financial and technical supervision of the production of eight provincial newspapers by provincial information officers. These newspapers replace the old district news-sheets. They are very new and are still in the process of building up their circulation. It is hoped to reach the following circulation figures during this coming financial year, 1958/59. *Ihomen le Masai*—you will excuse my French, but I am afraid I cannot pronounce it very well: 8,400 annually; *Mutai* 48,000; then we have two separate news-sheets for Nyanza, which rejoice in the name of *Nyanza Citizen*—the *Nyanza Citizen North* and the *Nyanza Citizen South*.

AN HON. MEMBER: No Central?

**THE CHIEF SECRETARY (Mr. Courts):**  
—each of which is expected to reach about 84,000 annually. There is *Shahidi*, which should reach 48,000; *Kalenjin* 72,000, *Sauti ya Pwani* 72,000 and *Matemo*, 132,000.

Provincial newspapers, with the exception of the one for the Masai, are not distributed free. They are run on commercial lines, with a paid circulation and advertising revenue, and although every endeavour will be made to make them self-supporting eventually, this is unlikely to come about for some years.

Again I would say that the figures show a great interest in vernacular newspapers, particularly as the ones I have quoted have to be paid for.

As regards booklets and posters an important part of the work of this section is the publication of material in two categories. The first deals generally with the policies of Government and the second is designed to support specific campaigns initiated by any Government department. Financial provision included in these estimates will permit the production of some 30 pamphlets, six booklets and 15 posters.

A company, known as the Kenya Vernacular Press Company, registered in 1952, now publishes and prints four newspapers in various vernaculars. A Government-guaranteed overdraft was arranged for this company to enable it to purchase printing machinery. This was to encourage the establishment of a sound independent press and from the beginning help has been given to the company to enable it to become financially independent. This help includes financial assistance, the supervision of accounts, the arrangement of advertising contracts as well as a supply of material for publication. With the exception of that in Luo, however, the circulations have been disappointing. With the exception of the provincial newspapers and *African Sports Review* the publications of this section are usually supplied free. Experience has shown that the only way for all classes of illiterate Africans to be reached is by free distribution. Newspapers and periodicals sell reasonably well in and near the towns. Machinery for their sale in the rural areas is very difficult to devise. Thus the object of the Department's publications could not be achieved, anyway in the next few years,

by building up sales since periodicals would not reach the remoter areas.

Turning now to the Photographic Section, for Press use two distinct types of photographic coverage are necessary—the spot news picture and the picture story to illustrate feature articles. Departmental publications for which photographs are provided include the whole range of magazines, newspapers, booklets, picture sheets, published for Africans by the Publications Section, and the magazines and booklets published by the Press Section for local and overseas distribution. None of these publications can be effective without pictures. Photographs are also supplied to authors, lecturers, schools and any other individual or organization which can make use of them. A special need is the supply of pictures to such quasi-Government organizations as the East African Tourist Travel Association whose work is directly concerned with public relations.

There is a twofold use for film-strips for overseas publicity and as an information medium for Africans. In the first case increasing use is being made of colour for the preparation of strips for lecturers and schools. The most useful strips are those which are made as a teaching aid to assist the work of instructors endeavouring to teach special techniques. It is on this type of strip that the section is concentrating. Close collaboration with the Departments of Education, Medicine, Agriculture, Veterinary, Community Development, et cetera, is taking place.

It is difficult to forecast accurately the output of the various types of pictures required from them since day-to-day needs vary and sudden demands of one type of coverage must be met at the expense of other work planned. As a rough indication the section is able to maintain the following average annual output: 200 new photo-sets comprising 4,000 negatives; 200 colour transparencies; 55,000 prints; 6 mounted photo-displays; and 12 film-strips.

I now turn, Sir, to the African broadcasting services. The total transmissions of all services are some 170 hours a week. In respect of Swahili, Arabic and vernacular broadcasts there is no transcription programme material available from outside sources and a very limited amount of relay material. The effect is

**[The Chief Secretary]**

that over 90 per cent of the output which has to be produced is produced by the staff of this Department.

I do not propose to deal with the technical side of the service which was fully dealt with when I discussed Sessional Paper No. 4.

The proportion of the various types of programme material has been criticized, I think, in the past and I would like to say that they are not very different from that which in fact is put out by the British Broadcasting Corporation Home Service. In the regions attention is paid to tribal and religious differences amongst listeners and the schedule is adjusted accordingly. But for the purposes of comparison I would like to quote the following figures because they show the make-up of the programmes for the National Service as compared with the British Broadcasting Corporation Home Service.

If I could first of all quote the percentage of time, in the first place it will be for our own National Service and the second will be for the British Broadcasting Corporation Home Service. For music and variety our own service is 53.5 per cent as against 46.4; news and news commentaries is 14 per cent as against 10.8 per cent; talks and discussions is 9 per cent as against 11 per cent; features and drama 9.5 per cent as against 10 per cent; religion 5 per cent as against 4.5 per cent; outside broadcasts 2.5 per cent as against 2 per cent; and miscellaneous 6.5 per cent as against 15.3 per cent. That latter figure for the British Broadcasting Corporation actually includes school broadcasts.

I would now like to give some statistics about how the information services reach the African population. It has been estimated on the basis of known sales of sets and dry batteries and a survey carried out in Nyanza Province that there are about 30,000 wireless sets in African hands. A spot check was recently made to ascertain the numbers who listen to each set by making an announcement on the air without warning, and once only, asking those hearing it to write in giving information as to the type of set they owned, where they were listening, and how many people were listening with them at that moment. This one

announcement elicited 1,600 letters from listeners in all parts of the country. The inducement, I may say, was prizes offered for letters picked at random from the replies. It was indicated that these 1,600 sets were being listened to by 17,500 people—an average of over 10 per set. On this basis it can be estimated that at peak listening periods the African Broadcasting Service has an audience of between 200,000 and 250,000 people.

Other indications of the large number of listeners to the African Broadcasting Service are the following. The number of letters received in Nairobi and in the regions from listeners which averages some 300 per day, an appreciable proportion of which contain constructive criticism and comment on the programmes. The increasing listening habit amongst African women is evidenced by recent competitions specifically for women which attracted over 100 letters, all at a very high level of intelligence. A similar competition for women held 18 months ago elicited practically no response whatsoever. When broadcasting announcers and personalities, artists, etc., appear in public they are well known throughout the country and are invariably enthusiastically greeted. A full ten-minute broadcast each day is filled by announcements which African individuals and organizations ask to be put on. These are of political meetings, other meetings, dances and other entertainments, and also for missing persons. This latter type of announcement has resulted in the tracing of several such persons. At Christmas, my predecessor, Mr. Turnbull, the then Acting Governor, broadcast greetings to all listeners. He was amazed when subsequently visiting the Northern Province at the number of people in remote areas who thanked him for his broadcast greeting.

All of this, Sir, I think does show that what we are putting over has got a fairly wide coverage.

As regards film and cinema vans, last year some 3,000,000 Africans saw shows given by the Department of Information vans. In addition some 8,000 films were sent out from the Department to schools, missions, employers of labour, Government departments, and others with facilities for showing them to Africans.

[The Chief Secretary]

Now, Sir, I would like to turn lastly, in this brief survey, to the question of prospects for Africans, because that has been raised in connexion with this Department. It has been brought up in many debates and for some time past the policy of the Department has been to promote Africans to the maximum of their capability. When certain promotions have been effected there will be in the information officer grade 16 Europeans, 16 Africans, 2 Asians and 2 Arabs. The two remaining vacancies are to be advertised through the Civil Service Commission.

A point was raised both in the 1957 Committee of Supply debate and in the recent debate on the Sessional Paper on Broadcasting Development with regard to the facilities for overseas training of staff and promotion prospects for those who return from such training. To date six African members of the staff have received broadcasting training at the British Broadcasting Corporation. Of these one has left the Department to go to All-India Radio, four have been promoted to the officer grades since their return, and one—the most recent—has not settled down yet and is not yet considered fit for promotion.

One African officer of the Department attended a special course for colonial information staff organized by the Central Office of Information in London and is now the African Information Officer Grade I in charge of the West Kenya Regional Broadcasting Station. At present there are two members of the staff—one African and one Arab—on an 18-month secondment to the British Broadcasting Corporation, Bursaries in 1958 and 1959 have been obtained for two African information assistants, one from the Publications Section and one from the Films Section, to study journalism and film making respectively in the United Kingdom. In the case of those at present in the United Kingdom and those to go this year their suitability for promotion will be assessed on their return.

Criticism has been made of the number of Africans on temporary terms of service. This was justified six months ago and arose from the fact that this Department had previously a very large number of Emergency temporary

posts which were transferred to the Colony establishment in 1956 and 1957. As many of those holding these posts have been appointed hurriedly during the Emergency to meet urgent demands for services it was decided to continue each of them on temporary terms for at least a year to assess their ability under normal conditions, Sir, before reviewing their suitability for admission to the permanent and pensionable establishment. This review has now been carried out in respect of information assistants. The departmental board which carried out the review recommended in the case of each temporary officer that he should either be discharged or that his post should be advertised and he be given the chance to apply, or that he should be placed on probation for the permanent and pensionable establishment. Action on the majority of these cases has been completed but there are still a few to be dealt with by the Civil Service Commission. Assuming that in the few remaining cases the Civil Service Commission accept the recommendations of the departmental board the position will be that seven information assistants will remain on temporary terms for the following reasons. Four are in the Nyeri Broadcasting Station which will close when the development plans are implemented and three are holding posts which are to be re-advertised. There are 16 Africans clerks and 35 African drivers still on temporary terms whose cases are now being reviewed in the same way as those information assistants.

Now, Sir, in this brief review I have tried to do two things. Firstly, to give statistics to show how far the effect of the Department's work covers—and that is a great deal of the country—and also to answer the criticisms which have been brought up from time to time.

Before I close I would like to pay a tribute to the Information Office staff. It is a thankless job every day to be wondering what in fact one's policy should be and how one should put out news to all the races of this Colony, what one should say to them and in what manner it should be done. I believe, Sir, within the limitations that we all have, that the Director of Information and his staff have done a very good job of work indeed. I believe, Sir, that you can see this from the statistics which I quoted.

[The Chief Secretary]

Also, Sir, especially on the last point which I mentioned, I think its record in respect of bringing in suitable Africans for training and getting Africans to do this type of job is almost unsurpassed, if you look at the numbers and if you look at the work they are doing. I personally have only had a brief opportunity of seeing the work that they have been doing but I have seen it in both Nairobi and in Mombasa. I believe that they are contributing in their own grade and at their own levels in a great measure to what one can describe as education in the broadest sense for their own people. I think that all of us should give them the meed which is their due.

I do not propose to take up any more of the time of the House, Sir, and I beg to move.

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

Question proposed.

SIR CHARLES MARKHAM: Mr. Speaker, I did not speak on this Vote last year, having made some criticisms the year previously, and in view of the remarks by the Chief Secretary when he introduced this Vote I trust he will accept that any criticisms that I do make are made in an attempt to be constructive rather than destructive.

I would like to try to clarify one thing. It may help other speakers who follow me. In taking Votes 7 and 9 it says under Vote 9 that the Accounting Officer is the Assistant Chief Secretary, as he is under Vote 7. I want to ask the Chief Secretary now whether it is the intention that Vote 9 will come under the control of the Director of Information, because it would help to clarify the position later on, particularly when I come on to discussing policy of broadcasting in respect of these estimates.

THE CHIEF SECRETARY (Mr. Coult): I would like to clarify that straightaway, Sir. I would say that as always the responsibility for the accounting must remain with the Permanent Secretaries to the Ministries. In this case, as I am responsible for it, it does remain with my Ministry.

SIR CHARLES MARKHAM: I would like to thank the Chief Secretary for that. I was speaking, however, about the control of the policy of broadcasting.

Sir, two years ago when I spoke in this House on the Estimates I queried with the then Chief Secretary the value of too many of these publications and I asked whether spoken word was not more valuable than the written word. The reply given at the time was not particularly satisfactory and today we have been given an enormous amount of statistics about the amount of bumf—if I may use that word, Sir—

THE SPEAKER (Sir Ferdinand Cavendish-Bentick): No, you may not use that word.

SIR CHARLES MARKHAM: Well, Sir, the amount of paper which comes from this Department all over the country.

I wonder very much, Sir, whether the statistics which we have been given by the Chief Secretary are not statistics just to fool us and perhaps baffle us, because I do query the value of these papers, particularly in view of the illiteracy of so many of the population in Kenya. I know, Sir, that he will be able to quote back the number circulated. That, I would submit, Sir, means nothing at all. It is how many which are being read which is what we want to know. I would suggest that in view of the stringent times—financial times—that we are going through the amount of £36,000 per year is somewhat excessive especially if you look at the amount we get back from the Appropriations-in-Aid. I am not suggesting that the whole Vote be cut, Sir, but I would suggest that we might get some reallocations regarding the particular aspect of paper as opposed to broadcasting.

Now, Sir, I feel quite certain that other Members will mention specific examples, but I would like to ask the Chief Secretary whether he is personally satisfied, in consultation with the Minister for African Affairs, as to whether these newspapers are fulfilling the purpose which is claimed.

I would have thought, Sir, that in view of the amount of money which this Department requires each year we could have expected that the Information Department would have fulfilled its name by providing information throughout the country and would have corrected promptly any of the misstatements which appear both in the local vernacular Press and again which appear in the overseas Press. For example, I

[Sir Charles Markham] give one specific example, Sir, which is what was reported in *East Africa and Rhodesia* of last week's issue, giving a report of a statement made by my hon. friend the Member for Nyanza Central at a Press conference in London when he talked about the K.K.M. being again "in the settlers' imagination". I would have thought, Sir, that it would have been up to the Government machine to correct those sort of statements as soon as they came out. But so often we have seen these gross inaccuracies and never have we seen—or very rarely do we see—a correction made officially by the Government.

I know that Mr. Turnbull, when he was the Chief Secretary said that this was not meant to be a Government-propaganda machine. That word brings back unfortunate memories of some of the Fascist statements prior to the last world war. But I believe that with that amount of money we should try and make certain that the truth is put across to the people.

Having criticized the publications, I would go on to suggest under Vote 9 that I think all of us accept the figures given by the Chief Secretary regarding the interest shown in broadcasting. I think that those statistics were indeed interesting, particularly on the numbers of people who seem to be listening at one time. I am worried, however, that because of the increased costs of electricity which will come into effect with the two new transmitters, when they come into operation, that the Vote, which is the same as last year, will not prove sufficient. I have been told—and I do not know whether it is on good authority or not—by one person, who has done quite a lot of work for the African Broadcasting Service during the last two or three years, that he has been told that there is no chance of any more work because the amount of money has been reduced. I think that is very serious, Sir, especially in view of the figures given by the Chief Secretary when he quoted some of those statistics. If the internal programmes Vote has been cut then it will mean that the effect of these broadcasts will diminish.

Again, Sir, I would query one thing under broadcasting as to the control of the material put out over the air. I think the Chief Secretary is well aware of criticisms which have come from parts

of the country as to the standard of broadcasting material, and I hope, Sir, that the Director of Information can look into this personally and make quite certain that some of the material of rather doubtful value can be excluded, especially if the amount of money is short.

Regarding one thing, Sir, which I think is very important with broadcasting, I wish to raise the question of the times of broadcasts. So often it seems to be the fashion particularly that some of the vernacular broadcasts should be in the middle of the morning. I hope that once we get the new programme going, which was mentioned in Sessional Paper No. 4, all the Africans, especially those who are working in the towns until quite late in the evening, will get a chance to hear the news. I do not know—and perhaps the Chief Secretary could tell us—whether they have a standard news bulletin put out at a standard time and which can be heard by all people. I think it is important that the African listeners should hear a news bulletin put out giving actual facts and as well, Sir, I would suggest, there might be a commentary like we get with the General Overseas Service, on any matters of particular importance.

Again, I would query whether some of the programmes are not becoming too much for the benefit of listeners outside Kenya. I heard a boast not long ago of the number of people in Tanganyika who use our services for their request programmes. I think that in view of the shortage of money we can do without that sort of thing at the moment. We should concentrate more on programmes which are of benefit to Kenya rather than countries which are on our border.

Before I sit down, Sir, my final point is concerning the staff of the Information Department. I was glad, Sir, that the Chief Secretary did pay a tribute to them. I think perhaps that the fault does not always lie with the opposition who make criticisms. Perhaps the public relations side could be improved, Sir, because there are these misunderstandings which occur, and then we do criticize, perhaps unjustly. But the Department does have a public relations officer and he might perhaps investigate his own department.

[Sir Charles Markham]

Sir, all of us are anxious that this department and the broadcasts should be a success. All of us, Sir, have our own set of views on the methods and perhaps even the policy that should be adopted. What we would like to make quite certain of is that the Chief Secretary, amongst his other very onerous duties, can find time to take a personal interest in these two important sides of Government policy. I think, Sir, that it is perhaps unfair that he, with all his many other tasks, should have to be in charge of these Votes, and I hope that he will accept in good faith, when we bring them forward to him, our views which are not carping criticisms—in fact, we are only too anxious to help these two departments.

I beg to support.

MR. TOWETT: Mr. Speaker, Sir, I rise to explain what I feel about the Department of Information. I will not confine my talks to the information work on broadcasting with which we dealt last time.

If the Government, from my point of view, were not having a policy which we do not know then I would say that the Department of Information as such should not exist. But if the Government has some other things or some other views which we do not know then there might be some justification from the point of view of the Government that, as such, the Department should exist.

I feel that the apparent policy of the Government, as far as information work in this country is concerned, is to give the people diluted ideas of diluted democratic principles, and to stop the people from thinking rightly. The people should be allowed to think as they wish and not to think as the Government wants them to think.

Now, Sir, coming to the analytical side of the different sections of this Department, which I call a do-nothing department, I will take the Press Section. There is something here from the Annual Report of the Information Department which says: "Visiting newspaper correspondents, film companies, television teams, photographers, lecturers, students and many others continued to make use of the facilities provided to give visitors a chance to see for themselves things of

interest in this Colony". That is the first paragraph. That apparently is supposed to be the major work of the Press Section. Now, if this Department wishes to continue encouraging such things as correspondents and film companies and television teams and so many others then I feel that it is no longer the work of the Information Department, Sir, since there is the new Ministry of Tourism and Social Services. I suggest, therefore, that we push the Press Section, whose work is to help these film companies and television teams, to the Ministry of Tourism. It is only fair that such people who tour the country should go and see the Ministry of Tourism. That is tourism and I know that the whole House is going to side with me when I suggest that this Press Section goes to the Ministry of Tourism and not to the main Department of Information under the Chief Secretary.

It then goes on, Sir: "Articles on such subjects as the new Nairobi City Hall, the anti-malarial campaign, opening of the new Tretoops Hotel, rehabilitation of *Mau Mau*, and education progress were produced". I see that the Press Section of the Department of Information handled the activities of the Kenya Police and the stamping out of the poaching of wild game. I suggest that those things should be handled by the respective Departments. Such things as the anti-malarial campaign and the new Nairobi City Hall should come under the department which is directly concerned and not to have this Department doing funny things and handling the items concerning the medical services and the items which should come under the Ministry of Community Development and all the other departments.

By doing so I feel that it is because this Department has got no other work that it tries to go and collect items for publicity for other departments and as such it must go. Each department, whether it be the Department of Agriculture or the Veterinary Department, or whatever it is, should handle its own Press work and produce posters of its own.

Now, Mr. Speaker, I suggest that things like *Kenya Today* and some other similar magazines—surely, surely if they are to publicize Kenya outside Kenya

[Mr. Towett] then surely it must come under the Ministry of Tourism, Sir, and it must be for publication outside. Now that automatically goes to the man who is in charge of the tourists who come to see this country and then go out to spread what they have seen in this country.

So, Mr. Speaker, I do not want to waste more of my time on the Press Section. I just want to say that the Press Section should go to the Ministry of Tourism.

Mr. Speaker, I would now like to turn to the Broadcasting Section. I do not want to say much on that because I have already expressed my views about that section and I feel that since we are going to experiment on the usability of that we should wait and see what it does. Then we will either welcome it or object to it next year.

I would now like to turn to the Film Section. Here are given things like *How Your Vote, Kenya's Story of Progress, Dangers of Poliomyelitis*, et cetera, et cetera. Now, now, when it comes to things like tours by the Royal Family and other tours then I feel that that automatically comes under the Minister of Tourism. I do not want to say much about this except to suggest what should be done. When I come to the end I will say one or two things.

So far as the Publications Section is concerned that gives what I call fourth-hand news. We have things like *Baraza*, and that is a weekly newspaper. Although the news there is obsolete or out of date it is better than a monthly newspaper produced by the Department of Information. We also have the *East African Standard*. The news which we read this morning in the *East African Standard* is already out of date. Then comes the Department of Information, financed by the public money, which goes on encouraging monthly newspapers which are really, really out of date. A monthly newspaper in this age is quite useless. We have the broadcasts and we hear news twice a day and then here comes a newspaper, financed by a Government department, published every month. It is not a magazine—it is a newspaper. It is news wasted.

Now, Sir, there is a newspaper produced by the Department of Information

which is called the *Kalenjin Newspaper*. Now if you read last month's copy of that newspaper because this month's is not ready you will be reading news of March and April. Who wants to read that? We have already had these news items through the broadcasts and through the daily newspapers. Why should we waste our public money producing these newspapers every month. If the Department of Information is competent, as it claims to be, then it should produce daily newspapers for the public and then we shall be able to go in for them. Otherwise we should not waste public money on obsolete, out-of-date news items.

Then we come to this wonderful magazine or newspaper which is called *Pamoja*. It is wonderful because 56,000 copies are produced every month—and those 56,000 are issued free! Well, well, anybody—even the man who does not know how to read—will have it to go and use it as a wrapper for a piece of meat from the market! So to say that the circulation of *Pamoja* is 56,000 is absolutely to miss the point of these things. Statistics like that do not really help us here. *Pamoja* should go out when I get out of this room.

I see the glimmer of light again and I have not said half of what I, have to say.

The *Mandele ya Wanawake* should go to the community development officers in the districts because those are the people who know the locality and they can produce what the women there want and educate the women on the district level. As such, it should be under the Ministry of Community Development. This *Mandele ya Wanawake* is the only one I sympathize with and it is the only one I should like to see going on—but at the district level. Posters and booklets must go to the community development officers of the districts.

Now, Sir, I suggest that the publicity and publication of these things should go to the Ministry of Community Development and not to have them under the Chief Secretary with a highly financed and expensive thing like the Department of Information.

The Photographic Section should go to the Ministry of Community Development as well. We shall be able to use

[Mr. Towett] the people who are there—the community development officers—to produce these things and get rid of some of the useless information officers in the provincial information offices as well as those in the headquarters here in Nairobi.

I should like to say that we should not waste the public money producing things which we are pushing on to the people. The people should go and buy what they want. They should not be pushed and told "This is very good" because that is what the Government is trying to do when it is producing one paper for North Nyanza and another for South Nyanza. If there is any sense in this world, Sir, why not have only one? The people all speak Swahili. Why not have one for the whole place, for the whole of Nyanza? Anyway, I know, from my own district, that this *Citizen* is not popular. If 100 of them have been sold there during any one month I will withdraw my statement and support the *Citizen*. I mean that in my own district it is not popular. Time, money, people's time and newsprint is wasted. Why not do something which is sensible, really, and let the private people do these things and go on and produce what they want. If they go outside the law then of course they will have the law on them and they will have to go to the prosecution box and then they will answer for that. But let the people do things for themselves and not the Government.

Mr. Speaker, I oppose, I oppose, and I shall oppose, unless the whole Department is overhauled.

THE MINISTER FOR HOUSING (Mr. Amalemba): I would support the Motion, Mr. Speaker, and I hope that the Chief Secretary will not mind my suggesting a few things so as to improve a few things which we have in the Department of Information in so far as broadcasting is concerned.

I feel that this section of the Government is the one which should be most popular and which should be used by the majority of the people in the country, particularly Members of this House. I would like to have, perhaps, the Director of Information arranging for the African Elected Members to have time on the broadcasting service to talk to the people. I would like the people to

hear their voices when the Elected Members speak to them, giving them fatherly advice. That I think is one improvement that could be added to whatever is already there.

We have not given the children enough time on this broadcasting service. There are stories told, and I think they are European stories, in Swahili. They do not ring a bell for the African children. If we could find some old mothers coming to talk to our children about our old stories and folklore and so on I think that it might be an improvement. At the moment I think that the children who listen to the programmes for children have not got the background of understanding the stories which, as I say, may be European stories which are translated. They do not ring a bell for an African child.

The mothers also have time allotted to them, but I think what is told to them is modern, things which are only to be made use of by perhaps African mothers living in townships. If we could go further afield and reach the mothers in the country by giving them a chance to talk on their African foodstuffs, meals and customs then there could be more use of this service to appeal to more people.

There used to be Mr. Kipanga and his wife Tamunyole. He is a very popular character on the radio and I would like to have more of Kipanga programmes on the radio for entertainment rather than the music that we are getting. I think we are having more music than we can appreciate. If we could have more advice on what suits the African mentality then I think the service could be improved.

I would say that some of Kipanga's jokes are a little bit elementary for the educated African to appreciate, but he is trying his best and he could be encouraged.

I want to complain about the Swahili broadcasts relayed from the British Broadcasting Corporation. Either there is something wrong with our relay station or the British Broadcasting Corporation is not strong enough to transmit the Swahili programmes. It is not clear and it is not well received, I have checked on my radio set but that is all right. I can get the English programme of the British Broadcasting Corporation

[The Minister for Housing]

very well but when we come to the Swahili there is some trouble. I think that could be investigated and some improvement effected. If we have any influence on the British Broadcasting Corporation I think they could be asked to put on something more than the usual world news that they convey to us and which we already hear locally from our own services here.

About the publications: I actually should not say this, but I think there is something we could do to *Pamoja*. It used to be *pamoja* when there was the army and the civilians; then those two were *pamoja* working for the progress of this country. Now I do not know what they are *pamoja* with these days—whether the name is being continued, or whether we are still civilians with the military *pamoja*—I think we could clarify that to see whether we could improve on it. There is a paper they said was *Akamba*, and another *Mutai*—I think those two are both *Akamba* papers. Perhaps we might like to know who reads *Mutai*, and who reads *Akamba*, because I am sure they are going to the same community, and maybe a saving could be made there.

Then I think I heard something like *Joluo*, and there is a Luo paper called *Ramogi*. That comes under the Kenya Vernacular Press, I think; I think there could be a saving, if there is a paper called *Joluo*, and another one called *Ramogi*; there could be a saving; one should be sufficient if it is intended for the same tribal group.

On the percentage that was given of the various things—music, news, talks, features and so on—I have no complaints to make, except that we seem to be getting more music than anything else; and we have, I think, quite enough time for other things as well. I would, I think, support the suggestion that the timing of the broadcasting could be investigated so that it suited the majority of the people when they had come back from work, and the news to be that of a nature that would not be a repetition of what was said in the morning.

One very interesting thing is the humorous programmes which came under the name "Somebody with Kengell"—there are very many people

who enjoy that programme. Those questions could be simplified so that even the listeners could try to answer them whilst they are listening; it would be better if they were not made so academically complicated. You want to attract the attention of the listeners. It is not meant to show how bright the chaps dealing with those questions are; you are trying to get your listeners with you as you try to answer the questions. If they could be simplified, some of them, made to look local, so that even the listeners could also try to answer them, and see whether they get the answer before the person trying to answer does, they would be very interesting. My children try to answer them, but some of them are very high up in academic knowledge, so that they just say "Well, we'll just listen and join in with the laughing" when the laughing comes.

Mr. Speaker, there is very little I can say about the news section of the broadcasting. I feel as most Africans do that the Information Services should do a first-class job, and it should actually try to be ahead of the private firms dealing with the news. If the *East African Standard* has got hold of some item, and it puts it out, then in the evening, you hear that same news broadcast. We tend to feel that the *East African Standard* is feeding the Information Service, which should not be the case. That may not be, but that is what we get: our own Government machinery is so slow that it is beaten by a private firm. If that is not so, I think we should try to improve it so that it does not appear that a private firm gets ahead on established information service, which should be the authority from which private firms draw facts, if any facts were needed.

Otherwise, Mr. Speaker, I support the Motion.

MR. MUIMI: Mr. Speaker, Sir, I should first of all like to congratulate the Chief Secretary for the way in which he outlined the two Votes. I have got very little to say, because much has been said by my colleagues.

It has been said by a Member from this side that much money is being wasted in these pamphlets or these papers in various languages. Well, I believe the House will agree with me that the Information Department is encouraging tribalism in this country by

[Mr. Muimi] printing Luo, printing Kikamba, printing Kikuyu, printing this and that. I think in order not to waste public money, I suggest to the Chief Secretary that there should be two papers only: one outlining Government policies; and a second one giving current items of news, in the various areas in this country. Surely, the Luo wants to know what is happening in Ukamba, and the Akamba want to know what is happening in Luo. But I believe it is a mere waste of time and public money to tell the Akamba what happened two weeks ago, when what is happening every day is broadcast every day.

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

[Mr. Deputy Speaker (Mr. Bechgaard) took the Chair]

I think we should reduce all the papers to two only and print them in one language, Swahili, people have come to learn this language, and they are very interested in listening to the Swahili broadcasts, and also in reading Swahili papers. I do not see why Government should waste all this much money in printing pamphlets which after all are put in the store and are never read by anybody.

Now, the other thing I would like to mention here, Sir, is the Broadcasting Section of this Department. There are two things I would like to say: I believe it is Government's intention that we should interpret the policies of Government to our people, and I do not know why it is that Members of the Council—the African Elected Members—are not encouraged to use the broadcasting section to their people, giving policies of Government. I feel that there should be provision for that.

The other thing I would like to say—which I would say has been mentioned by the hon. Mr. Amalemba—he said that such entertainment as the Kipanga and Tamunyore displays should be encouraged. I think this is horrible, and anybody with any sense should feel that it is shameful. I do not see why Government should waste its money, the public money, to pay somebody who simply messes like a cat—

MR. ALEXANDER: Like Danny Kaye!

MR. MUIMI: Well, what the African would like to see is, let that money which is paid to people like Kipanga in that section of entertainment be given to the films' people, then the people will attend films made by the Broadcasting Section, and they will learn something better. But for goodness sake, I do not understand the purpose of someone listening to a person pretending to be what he is not.

The other thing I would like to say about the film section is this: complaints have been lodged by various people that certain films are somewhat immoral. I might illustrate this by giving the example of one film I remember attending where Juma was exhibited as leaving the army with a lot of money, going through the Swahili suburbs, wasting all his money, and he goes back empty-handed. I think such films should be censored before they are exhibited—to the children, especially—because that is one way of encouraging vagrancy. Sometimes, it takes time for a child to decide whether it is only an exhibit, or something that is not real; and by exhibiting such films, children sometimes do not take them as fun, but they take them as facts; and they put them into practice. Then, in the end, you find that children are being entangled in serious affairs.

THE ASIAN MINISTER WITHOUT PORTFOLIO (Mr. Madan): What about the moral of the story?

MR. MUIMI: Now, last, Sir, I would just like to say this: much as we appreciate what is done by the Information and Broadcasting Department, I believe there is much more to be done by pruning what we feel is unnecessary, both in the Information and Broadcasting Sections.

I think my friend will add more to what I have said. I beg to support.

MR. SMITH: Mr. Deputy Speaker, Sir, in supporting this Motion, I would like to add a word of praise for the film units; in spite of what our hon. friend on the other side of the House has just said, I believe they are indeed a very great deal of use. But I would, Sir, like to press for a broader outlook on some of the pictures that are made—a more educational outlook, and in particular, a good deal more on agricultural topics.



[Mr. Smith]

In country districts, Sir, these films do indeed reach a large number of African farmers and farm labourers. Films shown on farms, while including pictures quite rightly of various members of our Royal Family and their various activities, should also, I feel, include well-taken, well-balanced films on agricultural topics. These might well deal with such subjects as the various exotic breeds of cattle which many African farmers are now able to obtain, particularly in the higher areas, in fact, all exotic breeds, Sir, that we have in Kenya now; and also, other pictures and films showing the various other aspects of agriculture, and I would include, planting, growing and the fertilizing of crops, and harvesting. All such things would be of great interest to many of us and to many of our African friends who do see these films, Sir.

I beg to support.

MR. NYAGAH: Mr. Deputy Speaker, Sir, I rise to support the Vote on Information and Broadcasting, because I believe that it is money, wisely spent, that will have a profound effect on the lives of many people in this country.

I particularly welcome the statement by the Chief Secretary on the opportunities that are going to be given to the officers of all races. I know for a long time, as a civil servant, we have had our complaints about the treatment of some of the so-called junior officers in that Department. Now, with this assurance that something is going to be done, I am quite happy.

I know when I was a civil servant that one of the complaints we had, Sir, was that the relationship between the junior officers and the senior officers was not all that good. Now the Chief Secretary has assured us that improvements have taken place, and are going to take place. The figures and statistics given by the Chief Secretary are also very encouraging, but I would like to see a more systematic way of finding out the real facts as to those figures, how they were arrived at, and what I would call the follow-up to see whether the information or the news as put out has been of any use, or has been absorbed to the benefit of the listeners. I think there should be an aim in any of the things that are put out by the Department, whether they are for educational value or just for enter-

tainment. When I spoke on this subject before, I made a complaint that I thought the music side of the service was too much. I still maintain that this side of the broadcasting is too much, and I would like to see it reduced. Not only is it heavy, but it is concentrated more on the light side of music.

I should like to join the other people who complained about the news being a bit stale. Something should be done about it so that we can give to the listeners fresh news. Perhaps the Department could arrange to have a source of getting fresh news just like the other papers do, or like Cable and Wireless.

MR. ALEXANDER: They do not, not Cable and Wireless.

MR. NYAGAH: Anyway, some of the more efficient newspapers and broadcasting stations.

As far as the publications are concerned, I have a criticism of the Department's vernacular papers. I know it is an effort in the right direction to try to provide reading material for many people in their own languages, but as far as the present position is concerned, I am not satisfied that that is the final goal, that we have reached the finality of the published material in order to encourage our people to read. I should like to see more improvements made in the vernacular papers. I am thinking particularly of the Kikuyu paper—the one that is produced today, *Mwana*—or the others that have been produced by the Department. My chief complaint is on the orthography. In the schools, the teacher-training colleges, and in the primary schools, we insist on the readers having to put those squiggles on top of a's, of o's, of u's and i's; but the Government deliberately goes out to omit them, and expects those same children and men to read the same stuff. I think there should be uniformity on the orthography of the Kikuyu vernacular papers.

About films, I would like to mention this to the Chief Secretary—that I have heard a commentator give a totally different commentary on a picture. There was an English running commentary, and the commentator was telling a different story. There is nothing that could be more ridiculous than that. That should be checked so that we get the real value of the picture. That happened, Sir, to be a picture on the life

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and development of a scout, in which I am very interested; and the story the commentator was giving was totally different.

I think, Sir, the public could be more interested in taking part in the inside working of the Department; invite experts to come and discuss, take part in competitions, give talks, or even a programme like "Twenty Questions". Take it to the experts rather than rely entirely on the members of the staff of the Department. I do not regard them as experts in everything. There are some items which could be fairly well tackled by volunteers from outside to the benefit of the public.

Now, Sir, I have a very strong feeling about Swahili. I know there is a Motion coming to this effect. The news put out in Swahili programmes is, I think, more listened to by the majority of the Africans than the vernaculars. Take, for instance, the Mount Kenya Broadcasting Station: people in Embu or Kiambu can hardly hear what is being said from this station, but they can always turn to the African Broadcasting Service and listen to the Swahili programme. That shows that the Kikuyu programmes given by Mount Kenya—which I think was the original idea, that the news should reach as many Kikuyu-speaking people as possible—is not listened to very much because the station itself is not strong enough to be heard by people in those areas; and again, the material produced there is of an inferior quality compared with that of Nairobi.

THE CHIEF SECRETARY (Mr. Coutts): Sir, could I just interrupt the hon. Member? Did he say that the programmes were not heard in Embu and Meru, or was it just Embu?

MR. NYAGAH: Embu and Kiambu, Sir—and Meru, too.

Again, I think it is a great honour that the British Broadcasting Corporation has given to the African Broadcasting Service provision for selecting two of our Kenya announcers to go to London and carry on the work of the Swahili broadcasting. It has put Swahili on the map, I feel, and at this time, when the British Broadcasting Corporation has given us such an opportunity, we in Kenya should encourage that Swahili

should have its proper place in the world.

Sir, I regard this Department as being on the same footing as the Department of Education, a department that will have a lot of influence on millions of people in this country. Whoever we employ to educate the masses must be a real teacher. And when the time comes to introduce school broadcasting, I hope that consideration will be given to people with those qualities so that they will not mislead our children, but take them in the right direction. It is a pity, Sir—I know it has been decided that Mount Kenya Broadcasting Station has got to move to Nairobi. Well, we feel hurt as a region, i.e. Central Province, but if it is going to mean that we are going to get better news and better programmes than we have been getting hitherto, I very much welcome the progressive change.

Sir, I beg to support.

MR. MBOYA: Mr. Deputy Speaker, Sir, I have little else to add to what has already been said, except to make some few observations and probably emphasize one or two points.

Firstly, may I say that I very much appreciated and was very much encouraged by the way the Chief Secretary put forward the Government's policy statement, and also the Government's future attitude in both broadcasting and information. I have been critical myself to the past of some aspects, particularly of broadcasting and information generally, but I see that these criticisms voiced in this House have not passed unnoticed. I do want to say, for example, that I have in the past few weeks been very much impressed by some of the news items, and particularly the manner in which some aspects of day-to-day news have been put forward by the broadcasting services, in Swahili. I have also been very much impressed by some of the changes, what I consider to be changes, in the attitude of the commentary section of the broadcasting services.

I must, however, emphasize again what I have said in the past, which is that this service, the information and broadcasting service, should not be looked upon as merely a propaganda machine. For the moment it takes on that shape it loses its effectiveness; and

(Mr. Mboya)

so long as it is not effective, it is no use to us, and the money we spend on this service would, in my view, be wasted. We want to move to a stage when all the people for whom it is particularly meant can respect and have confidence in the service, and acknowledge that it is meant for both their good and that of the country. We have been very critical in the past of the particular function and aspects of the information and broadcasting services which tended to make it into a propaganda machine rather than an information and genuine broadcasting machine.

There are still some aspects of the broadcasting and information service related to this question of propaganda or information machine which must be looked into.

The Minister this morning quoted quite a few statistics to try to prove the point that this service was effective, and that in fact, it was accepted as genuine and it had the confidence of the people. I entirely agree with my friend the Member for Ukamba when he stated that these statistics did not necessarily prove the point at all. So long as leaflets and news-sheets or broadsheets or magazines or newspapers are issued free the significance of the circulation loses its meaning, especially when we cannot be sure that they are being read. As my friend the hon. Member for Southern Area has pointed out, in quite a number of cases, the news items included in some of the monthly newspapers are so much out of date that nobody bothers to read these papers, except to look to see if there are any pictures of some prominent personalities that they may cut out and keep or paste on their walls.

MR. ALEXANDER: Pin-up boys!

MR. MBOYA: That is right. Now, I think, Sir, that some improvement could be made in this particular respect in the selection of news, and particularly in the planning of what should be put out. Might I suggest, Sir, that probably, in dealing with this question—since this question of news has been criticized quite considerably this morning and in the past—that we might consider in Kenya the establishment of some sort of news agency that would enable us in this connexion to have a service that itself collects news and puts it out.

I was struck, Sir, once by a statement from the Press Officer when I rang him up and said there was some Press conference, and was he interested in coming, also enquiring whether there were any foreign newspapers in the country at the time. His reply was "Oh, well, we are not interested in Press statements or Press conferences other than those of the Government. We do not send people to these Press conferences or necessarily come to pick up the Press statements, but you can send them to us if you wish"—now, this sort of attitude is a bit negative, if I may say so. The Press Office and the broadcasting services should be interested in Press statements put out in this country, regardless of whom puts these statements out. In fact, Sir, if this service is going to be effective, it should be interested in every type of news item or Press statement or conference that may take place in Kenya. If, at these Press conferences or in these Press statements, the Government policy is criticized, or some statement is made that is going to be of relative importance to the public in this country, I suggest and I strongly submit, Sir, that Government information and broadcasting services should be as interested as any commercial newspaper in this country in such items. It is no use, Sir, criticizing and saying that the Government—and I think the hon. Member for Ukamba pointed out that he wanted to see some correction made of a statement made by my friend, the hon. Member for Central Nyanza, and asked that Government should take immediate steps to correct such statements in the future. There is no use in taking this attitude. I thought everyone on that side was welcoming that suggestion. There is no use in taking that attitude if all we are interested in is correction of the people who criticize Government and so on. The more we take this attitude, the more people lose confidence in the machinery and think that all it is for is to propagate Government policy and information and criticize or condemn anyone who criticizes Government policy. What we really want in, order to gain the confidence of every section of the public is to be able to put forward all points of view regardless, naturally, being a Government service, taking the trouble effectively to make clear Government policy. However, in the process, one should be sure that all

(Mr. Mboya)

points of view are brought forward so that the people can distinguish between what is truth and what is not truth. It is not just a matter of saying: "This is the truth we are telling you: we are the Government". You must give them a chance to decide for themselves whether the Government is right or wrong. Otherwise it is to underestimate the intelligence of the public whom I believe all of us would like to serve.

In this connexion, I was very much interested in the statement made by the hon. Minister for Housing, when he said that some time should be found on the air for various people to be able to express their views. We have in this House, in the past, expressed the same opinion; we have asked that we should be allowed opportunity from time to time to make known our views on various subjects. This comes exactly to what I was saying, Sir: when Government puts out news items or any programmes, criticizing, say, the African Elected Members' policy, without giving the opportunity also to the African Elected Members to use these facilities. After all, the public pays for these facilities and we are part of that public. As the parliamentary Opposition, we are as much entitled as is the Government to put forward our views on various aspects of Government policy and programmes. The public is entitled, I think, to hear both sides of any question. In that way, the Government will have an opportunity firstly to ensure that the people have confidence in the service, because people will know, from the service they receive, both sides of the question, and secondly in that way the Government will ensure that people, when they make up their minds to support Government programmes, have had the opportunity to listen to both sides so that there is no chance of their being swayed thereafter by any other person from what the Government considers is right.

As it is, at the moment, this is not the case. I have myself written once to the Director of Information Services, asking whether we were allowed to have time on the air to put forward our views on various things, and I was told that that was not Government policy and therefore we could not do so.

I would like to differ from some of my colleagues on one point and that is the question of encouraging people like Kipanga. I differ with them because I think some light programmes are necessary and that, whereas some of us may not enjoy people like Kipanga's programmes—I do not myself enjoy some of his programmes—other members of the public do enjoy them. Here I make a very definite qualification; what I do want to say is that when we discover men like Kipanga who definitely have some natural talent, I think it should be the policy to encourage and help them improve, rather than let them go on with this untutored, untrained, natural ability.

[Mr. Deputy Speaker (Mr. Bechgard) left the Chair]

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

I think it should be the aim not only to discover more people like Kipanga but also to encourage them to develop the obvious natural talent which they possess. As I say, I see the obvious need for us to encourage this kind of people.

I think the Member for Nairobi West referred to him as another Danny Kaye, but the Member for Nairobi West will agree with me that Danny Kaye is not just a "natural" at it but also a fully-developed, trained and experienced artist, who has been given a lot of chances to develop. I think that if we give Kipanga a little bit more opportunity for training, send him overseas, for example, we might have a better Kipanga and a better, lighter programme in the future.

MR. SPEAKER, Sir, on the question of this programme—Kengele—again, I differ slightly from my colleagues about simplifying it, because when a person is dealing with things like riddles and proverbs I do not see how one can really simplify those unless one completely removes the thing to a lower plane, which again many people would not enjoy. I think that if we are talking in terms of children's programmes, we should just confine ourselves to some children's programmes, and have some other programme that is for mature people. I have myself listened to this programme, Kengele from time to time and find that some of it is quite

[Mr. Mboya] stimulating because occasionally I find that even I cannot solve some of the riddles—and I follow them with a great deal of interest. I think other people do and I think they ought to be encouraged.

But I think there is perhaps a case for some sort of lower plane programme which could cater for the less sophisticated or developed or educated people and also for the less mature person.

Mr. Speaker, I do want to say again that we would like to see a greater degree of encouragement of promotion for African staff in this department. A lot, it seems, has been done but I do not think that there is no room for improvement; I think there is room for a few more Africans to be trained and promoted to higher services in the department. I hope that what has been done in the past in this particular direction will not only be encouraged in the future but improved upon and accelerated in the future.

With those few remarks, Sir, I beg to support.

MR. ROGERS: Mr. Speaker, Sir, may I ask the hon. the Chief Secretary if he would give consideration to the question of advertising in Government propaganda films? I am not asking for a considerable amount of advertising, just half or even a quarter of a minute in 30 minutes. Not only advertising for cigarettes, either, Sir.

I think Government would find that there are a number of firms which would undertake to make propaganda films on such things as agriculture and health and pay for them, and furthermore, would be able to exhibit them in their own broadcasting and film vans which a number of firms have touring the country. In this way, not only would there be more films to be exhibited—and that is one of the biggest things we want in this country—but also Government would in fact be able to save a considerable amount of money.

I support the Motion, Sir.

MR. MATE: Mr. Speaker, Sir, regarding the statement which the Chief Secretary made about the improvement of the broadcasting and information services, I find myself in disagreement with my colleagues on quite a number of points. One of them is these so-called light pro-

grammes like *Kengele* or the other one. I find I quite enjoy them sometimes myself and, learning from what the African people in general say, they are enjoyed immensely. I do not think it is true to say that they are not worth broadcasting. What I would like to see is something more serious for the next class of people who want something more serious, but there is a market for *Kengele*, *Gogo na Biskiti*, and even *Tannyle* and these other people. I would ask Government to consider having something more serious for the next group of listeners, not in anyway by ruling out artists like Kipanga, just because a few people who think people ought to listen to the serious programmes, do not like them. I think many Africans like them but we want something more serious.

On the question of what I may call serious matters, I am thinking of what my hon. friend for Nyeri and Embu said, something like a discussion group of people outside the Information Department, experts discussing something serious about trade or something about current affairs, so as to attract the attention of the schoolteacher and the progressive trader, that type of African, who wants something serious.

The same applies to light music, jazz music. I would hate to see this curtailed because Africans like jazz music, but I would like to see something more serious, and see less time given to this type of music; I would like something more interesting. Perhaps there could be a series of talks on trade or English courses or current affairs, something which is educational.

On the question of films, I agree with the hon. Nominated Member, Mr. Smith, that we need more instructive films, where the farmer or the trader can benefit by seeing what is happening. I think that is a very constructive suggestion.

On the question of news and publications, I entirely agree with my hon. friend, the Member for Southern Area, that there is too much duplication and the news is out of date. We have the Cable and Wireless supplying the news via the *East African Standard*, and we have the *Baraza* and these Department of Information pamphlets follow on about a month after. It is really a terrible waste of time, and I am wondering why Government does not seem to have

[Mr. Mate]

noticed it. What I would suggest is that we should have some pamphlets, say, at district level where it would mainly concern problems and news of that particular district, agriculture, trade, education, roads and so on. I think that is something that would interest the people. Otherwise Government is wasting a lot of money when people not only listen to Nairobi radio but also to London.

Coming to the question of the illiterate African, he is not all that ignorant. He discusses matters with his friends straight from the African Broadcasting Service and Cable and Wireless and to hope that these newspapers are going to serve them assumes they are too far away. Newspapers and radios are in plenty in Kenya today, and you find wireless sets and dailies taken in very odd places. I feel there is a terrible waste of money here.

On the question of what my hon. friend, the Member for Akamba, called tribal newspapers, I feel these are helpful if they are used in the right way. I would have said that perhaps a newspaper in Kikamba serving the Wakamba, dealing with their problems of trade or farming or cattle, just for these people who speak that language, would be a good thing, so long as it is not used in order to depreciate any other group or be antagonistic towards any other group. Otherwise, I do not see how all areas—Kikuyu country or Luo country—would be able to get a local newspaper for themselves without this kind of magazine. But my main complaint is the duplication and waste of money in *Panola* and *Akikyuu* which repeat things which were done a year ago.

Mr. Speaker, I would also like to join my friend, the Member for Nyeri and Embu, who talked about the two announcers in London. I feel that the British Broadcasting Corporation have done a very good thing in giving Swahili a prominent place in the languages of the world and broadcasting like it is in Tanganyika and the other East African territories. I think that is a very good thing. I feel the African Broadcasting Service, too, should pay more attention to the standard of Swahili used in their broadcasts.

Mr. Speaker, I beg to support.

THE MINISTER FOR TOURISM AND COMMON SERVICES (Mr. Crosskill): Mr. Speaker, I wish to reply to the proposal made by the hon. Member for Southern Area, who unfortunately is not in the House. I think it is regrettable when hon. Members make, shall we say, unusual proposals, and then do not wait to hear Government's viewpoint on them.

I do appreciate his analytical thinking when he proposes that the Information Department should be carved up into various sections, but I do assure him that any such surgical operation as that would not make for economy. I feel that if my Ministry and several others did seek supply, each for a public relations officer, photographic officers, publicity officer, that would be opposed strongly by hon. Members opposite, whose great interest is naturally in the economic running of Government.

I would say more. Pamphlets which are published by the Information Department—and I would instance in particular one called *Kenya Safari* and another one called *Kenya, Land of Progress*—are of tremendous interest to my Ministry, and perhaps have an emphasis in promoting tourism. But indeed, every other Ministry has a very great interest in it also. My hon. friend, the Minister for Commerce and Industry, has particular interest in *Kenya, Land of Progress*, as has the Minister for African Affairs, because it does describe development in African agriculture, European agriculture, industry and commerce. Therefore, I would urge him to accept that only can one obtain the maximum efficiency and the maximum economy when one has flexibility. That can only be obtained by having information centralized and the services available to all facets of Government.

Mr. Speaker, I beg to support.

MR. OLE TIPIS: Mr. Speaker, Sir, just a word on this important Motion which is before us. As I said, the Government seems to be concentrating all the time on the more advanced communities or tribes, if I may call them so, because as far as the Government publications and pamphlets are concerned they are mainly issued and printed to enlighten further the already enlightened masses. But I have not yet seen anything started in the way of trying to uplift and educate the

[Mr. Ole Tipia] most backward people. Surely, we have a great duty to these people, a greater duty than to the more enlightened ones.

If I understood the Chief Secretary right, there is a Masai paper—*Ilonon le Maasai*—whose circulation is 8,400, and I understood him to say that this paper is not issued free whereas such other papers as *Pamoja* are issued free and circulated free by the Kenya Government. Surely that is a case where—

THE CHIEF SECRETARY (Mr. Courts): I thank the hon. Member for giving way. Actually, out of this particular set of publications, that is the only one which is issued free.

MR. OLE TIPIS: Thank you, that is quite clear now. But I was going to suggest to the Government that they should try to have some sort of good news or important news in this particular paper, to educate the masses, have something which will show them what is happening in other parts of the country, where the tribes are pastoral and have been able, through the modern ways of animal husbandry, to improve the quality of their livestock; and also impress on them that a change has come and that this change is here to stay. It is no good their trying to stick all the time to their old customs which are out of date. We must educate them, because the country cannot go forward leaving some people behind.

On the other hand, as far as this newspaper, *Pamoja*, is concerned, I personally have received quite a number of copies every month, and although I did not like it because it had no news in it, I felt it was my duty to hand it out to the labour and various other people interested as reading material and nothing else. Their reception of it was very, very poor. They did not like it because it had no news for them. If that is the case, the Chief Secretary can judge for himself. Let him take a few copies and get someone to give them to Africans in the street; he will see that most of them will only put them in their pockets or tear them up. It is no good wasting public money on this kind of publication.

What I should like to see is this money which is spent on publications

reallocated to improve the Broadcasting Section, because here you can add a few periodical broadcasts to the masses, to those illiterate people, in the remotest parts of the country, and enlighten them on the various topics which are essential for their development.

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

Sheikh Shikely: Mr. Speaker, Sir, a few years ago I was one of the greatest critics of the *Sauti ya Mvita* at Mombasa. Now each month, I find my attitude in this respect changing and I think that is due to the increased staff available at the local station and the amount of good work which they are doing. In this House, criticisms have been made on the running of the Department. We have heard the hon. Chief Secretary tell us that most of the scripts available for the African and Arabic Sections of the Department are made locally by our own staff. I feel sure that as better qualified staff is available, and as we get more talent, the quality of the scripts produced will be improved. And then I feel sure that there will be less criticism made of the Department.

I also wish to congratulate the Department of Information on introducing Arabic proper in their programmes. This is an achievement which has not been started in Zanzibar which claims to be the seat of the Arabs in East Africa. I think the Department should take this as a great credit and source of pride on their part.

In this connexion, Sir, however, I wish to say that the transmitters of the local station are not powerful enough and something should be done to increase their power. Hardly 30 miles out of Mombasa can the *Sauti ya Mvita* be heard clearly. In Takaungu Village, which is hardly 30 miles out, the people have often not been able to hear the *Sauti ya Mvita* programmes, let alone Lamu, which is several miles away. I think this error should be corrected immediately as it will also help in diverting listeners at the moment, who listen to the most undesirable rubbish which emanates from *Sauti ya Uhuru*. Nobody knows where that comes from.

Criticism has also been made about the Government publications, to the effect that these publications contain

[Sheikh Shikely] material on how to prevent malaria. Surely that is one of the duties of the Information Department, to educate the public on how to look after themselves. Several publications in several languages have been mentioned, but I regret to say that there is no Arabic publication and I would like the hon. Chief Secretary to look into this matter.

With these few remarks, I beg to support.

MR. ALEXANDER: Mr. Speaker, Sir, the African sense of humour is something that we all admire. I was very disappointed, therefore, and indeed very distressed, when the Member for Kitui, who, I regret to see, has left the House, embarked upon a criticism of the African comedian. I think it is a symptom of the current psychology of certain Africans that they are beginning to cease to laugh at themselves, and cease to laugh at people who are trying to make them laugh. The particular comedian that he was talking about has done a great service to this country. I detect in it, of course, that he perhaps finds this particular character distasteful because he has that very fine quality of being able to debunk politicians. This country is suffering, Mr. Speaker, because there are not enough people who are able successfully to debunk politicians. The European community is suffering since a very fine character, Mr. Peter Colmore, decided to cease appearing in public, and we would improve greatly, and this country would, if he would come back and debunk us. Of course, as far as the Asian is concerned, he has never had anyone to debunk him.

MR. NATHOO: Peter Colmore does!

MR. ALEXANDER: Peter Colmore can debunk the Asians, but as soon as he does it, Sir, they go up to Government House to complain about it! This is where we are losing our perspective in Kenya.

What did disappoint me, Sir, greatly is to find that it was a member of the Kamba tribe that brought this criticism, because my great love and admiration and respect and liking for this tribe is the result of their great sense of humour, their great sense of being able to mimic. I hope that in this tribe there will rise

up some more Kipangas to mimic and mock us all, because that is what we could do with, more comedians to make us laugh. In any other country, of course, people like Kipanga are national heroes—and that is why I mentioned Danny Kaye. I am very gratified that the Member for Nairobi should have come to his defence. I have found more and more in the last few weeks that the hon. Member for Nairobi and myself have been talking the same language. There is obviously, Mr. Speaker, still a hope for Kenya, particularly if he and I get down to a bit of clowning rather than politics.

Of course, Sir, the other type of hero we lack is the sportsman. In any other country sportsmen are national heroes. In this country Nyandika Myoro is hardly known. Why? Because our Government has not made a hero of him. In Britain if a politician—even of the quality of the Member for Nairobi—decided to have a political meeting anywhere near where Stanley Mathews was playing in a soccer match he would not have the hope of an audience. I believe recently that he complained bitterly on a Sunday when he found that there were only 1,000 people at his meeting and 6,000 at a football match in the Stadium. That is the way that it should be. There should have been no more than 100 at his meeting, Sir, and 10,000 in the Stadium. When we arrive at those sort of proportions we are certainly making good sense of Kenya. I am sure the Member for Nairobi Area—because I know he is intelligent enough—agrees with me deep down in his heart.

I want to deal now with item F in the Estimates concerning broadcasting. It is the £36,000 for implementing the policy of Sessional Paper No. 4 of 1958/59. I would like the Chief Secretary to tell us, when he replies, whether he is satisfied that the policy for recruiting for this programme is satisfactory, because Government has set out to do this as purely another Government department and it does seem, Sir, that they are going to buy know-how in the most expensive way. There are considerable doubts as to ability of the Government at the present time to handle, with due regard to the taxpayer, a programme of the size envisaged in this policy for broadcasting.

[Mr. Alexander]

Five years from now I think it is estimated that the subsidy will reach £150,000 per annum. The Sessional Paper itself, hon. Members will remember, did say that the "scheme was a new one and that the Government had little previous experience by which to be guided". I am worried, Mr. Speaker, because the advice the Government has taken appears to be exclusively from the British Broadcasting Corporation. I understand that three experts have been out here from the British Broadcasting Corporation, and yet the Government have told us that they are modelling this on the policy in Fiji. That being so, I am very surprised that the Government has not sought advice from the New Zealand Broadcasting Commission upon which the Fiji system is based, Sir, before it is too late. I am glad to see that none of this £36,000 can be spent without special sanction, and before it is too late I would plead with the Government to seek the proper advice from those who have experience of commercial broadcasting.

The premise, all the way through, seems to be that the undertaking can never be self-supporting, and we in this country will be faced with an ever-increasing subsidy to be paid towards it.

I am not clear in connexion with this £36,000—and perhaps the Chief Secretary will make it clear—whether the advertising staff are to be recruited at this stage. What does disturb me is that when they are recruited the proposal is for one advertising manager at £1,600 without any of the skilled assistants that should go with him in any system of commercial advertising. I am wondering what the Government think they are going to get for £1,600 a year. The revenue estimated at its height from commercial advertising is £15,000 a year, which is only 7.5 per cent of the total disbursements. I do plead with the Chief Secretary to look at this now in this year ahead when we are spending this £36,000. Otherwise, Mr. Speaker, I believe we will find that we have another empire on our hands, before we know where we are, sapping the revenue of this Colony.

The total number of staff to be employed, I believe, is 267 persons when the scheme is at its maximum. The Forces Radio, Mr. Speaker, which we all

admire, and which gives us all so much pleasure, is, I understand, run and administered with less than one dozen people. There is a service which shows a real dedication. It has had to exist on a shoestring and because of that challenge this station has really shown what can be done. I suggest that before the Government embark too far they should have a good look again at their idea, and also that they should have a good look at the facilities for listening, because it is not the slightest bit of use having an immense broadcasting system if people are not listening. Of course, Sir, this raises the whole question of radio equipment and the ability of the public to purchase it. I am not certain whether there is any relief from customs duty in the lower price ranges of wireless sets but if there is not then I think here is a case where there might well be a concession so that many many more thousands of people who at the moment cannot afford to buy radio sets will be able to do so in future.

The Minister went rather hurriedly through some figures, some percentages of times available, and I could not jot them down, but for the record I would like to quote some as well. This is a comparison between the West Indies and Fiji, remembering, Mr. Speaker, that we are basing our future policy on Fiji. Here are the figures. I quote the West Indies first. News talks and commentaries, 14.6 per cent as against 11.4 per cent; light entertainment, including popular and dance music and variety, 37.6 per cent as against 50.4 per cent; classical and light classical music, 12.4 per cent as against 15.3 per cent; children, 1.8 per cent as against 1.14; sports, 2.5 per cent as against 1.14 per cent; religious, 5.9 per cent as against 1.9 per cent; women, 8 per cent as against 1.14 per cent; drama, 14.4 per cent as against 7.4 per cent; community announcement, 2.8 per cent as against 3 per cent in Fiji.

I merely record those so that the Chief Secretary, when he comes to look at them, can compare them with those he tossed out to us just now.

There was some mention of films. I merely take this opportunity to say that I have a very excellent film available for anybody who would like to use it, and it is in English and Swahili and I

[Mr. Alexander]

offer it to you, the Member for the Nairobi Area, as it is a film, in colour, of the Kenya Olympic team. It would be very fine for taking round the country.

Lastly, Mr. Speaker, I ask that our public relations should constantly be reminding the overseas Press of the encouragement that they give to extremism in this country, and I am speaking particularly of European extremism, every time the Press, particularly the British Press, seek to criticize efforts in Kenya. Every time the British Press—and they constantly do it—criticize and throw mud at our efforts in this country the more they encourage extremism. I believe it is that way that the Nationalists got into power in South Africa. They had to do nothing; the British Press did it for them. That is the sort of information I would like conveyed to the British Press. Leave us alone to get on with our own business. We can do it very well, as the Member for Nairobi Area, and myself, have shown today.

Sir, I beg to support.

COMMANDER GOORD: Mr. Speaker, it may be something of value to give the impressions of one who lives in a very rural area indeed of how the information services make their impact in those districts.

Firstly, with regard to the news-sheets, it was asked by the Member for Nairobi Area firstly whether these were read. Well, whatever may be the situation in the towns I can assure the House that in the more country districts these are read quite avidly.

On his criticism that the news was out of date, I do think there is a lot of truth in that, but again in the country areas that is not of such very great importance.

A criticism which the hon. Chief Secretary himself made was the difficulty of circulation in country areas. I do feel that that is a point which very much requires looking into.

Turning to broadcasting, Sir, I do believe that the entertainment value in broadcasting is of even more importance than that of information, but it is a very persistent source of information in that where a wireless set exists it is

listened to constantly; and for that reason it is extremely valuable.

The suggestion that the Government should start a school for entertainers should be dealt with by the Minister for Education, perhaps!

Lastly, Sir, on films, I believe that films are the most important medium of all and we have noticed in the farming areas that the effect of a film show will last for a month or more. It will be talked about consistently and there is little doubt that the eye is in fact a more receptive organ than the ear.

In conclusion, Sir, I would like to support my hon. Nominated friend's plea for the admission of advertising. Not only would it fill out the programmes—and I think it would be enjoyed if the items were of suitable merit—but also it would bring in quite a considerable income from which no doubt propaganda could be disseminated to counteract any of the bad habits which might be engendered thereby!

I beg to support, Sir.

THE CHIEF SECRETARY (Mr. Coutts): Mr. Speaker, the first thing I might say is that I have welcomed the extremely constructive criticism which has been made in this House this morning. We realize, probably as well as anyone, that no service of this kind can be perfect and it certainly was not my intention in introducing these estimates to say that in fact we were perfect. What I was trying to impress upon the Members of this House was that we are trying to do our best in a service about which everyone must have his own particular ideas. Last year in this very debate I think that my predecessor said that everyone in the country was of course the perfect information officer and that they had all got their own ideas on the subject.

Well, Sir, turning to the hon. Member for Ukamba who was talking about the control of the policy on broadcasting, he questioned the value of the many publications and asked whether the statistics meant anything. This point was also brought up by a number of other speakers in this debate and I will try to deal with it in so far as is possible for them all at the same time.

The first thing I do want to stress, Sir, is that these monthly papers which are sent out are magazines—they are

[The Chief Secretary] not newspapers as such; and they are meant, as my hon. friend the Member for Nyeri and Embu said, to be issued as reading material. That is one of their prime purposes. They are not, as my hon. friend the Member for Rift Valley said, meant to be used as hand-outs in Nairobi, but they are meant to be a source of material and information which is not available to people in the back parts of the country. The idea is that we should issue, as much as possible, reading material for people who, in addition to that, can find out what has been going on in the previous month. I agree with my friend the hon. Nominated Member Mr. Goord that time does not in fact matter so much in the back parts of the country: what does matter is that the people should have something to read and also that they should be able to get some news. Otherwise they may not get any news at all; and therefore to turn round and say that because you are educated, well-read, intelligent people who can get every type of newspaper that is produced we should cease to publish such things for others, who cannot get them, and who are in a worse position than yourselves, I feel is not a good argument. Also in regard to those critics who said that the papers are not read, I am surprised to find that the demand is increasing. If the demand is increasing one wonders why people want them. Perhaps they have got other uses for them.

MR. MBOYA: Shortage of wrappers!

THE CHIEF SECRETARY (Mr. Coutts): Indeed, it was stated, I think, by one hon. Member that they were used for wrapping up meat. Personally I have also used other types of papers for wrapping up meat myself, but only after I have read them.

The hon. Member for Ukamba also raised the question of correcting mis-statements within the Colony and outside. He quoted a particular statement made in *East Africa and Rhodesia*. I would like to remind him that in this connexion we have, as he probably knows, a public relations officer in the United Kingdom, and although it does not appear in this Vote the fact is that that is one of his main duties. He also asked in his speech if I personally could take as much interest as possible in the

Information Department. I think the House should know that every morning of the week we have a short introductory piece of business in the morning where nothing but information is discussed. We also discuss what has been said during the previous day and what is likely to come up in the following day, and we decide whether or not the Government should put out anything on it either by way of statements in the local Press or in the African Broadcasting Service or by putting specific items in the newspapers. That is done every day of the week, Sir, and in addition to that I personally write, to the Public Relations Officer in London regularly on all matters which concern what is going on in the Colony and suggest certain things to him so that he can take them up with the appropriate quarters in the United Kingdom. So I can give him the assurance that in fact we are doing our best to keep abreast of the times.

He also then went on to question the cost of electricity used for broadcasting. I would like to give him an assurance that in these Estimates one has to remember that for the current year the costs should be approximately the same because the installation of the new transmitters will be during the coming year and the increased cost in so far as an item like electricity is concerned will not really come until the 1959/60 Budget.

I think that largely covers the points which he himself made and I would now like to turn to the hon. Member for the Southern Area who described the Information Department as the "do-nothing department". He also said that its policy was giving out diluted ideas of democracy. That does raise, of course, the whole question of what in fact the Department does, and it has been raised, for instance, by my hon. friend the Member for Nairobi Area.

As I have tried to say in this House before, we try to be objective and we do not use propaganda in the normal sense of that word. Propaganda to me means using specific ideas and hammering these ideas over all-the-time to the people in order that they will think in no other terms but these ideas. What we have tried to do in the Information Department and in Government is to put over what happens with, as far as possible, no comment at all. In other

[The Chief Secretary] words; somebody says something and it goes out.

We also use as much material as we possibly can from every source so that people will know what is going on and from that they can derive their own conclusions and ideas.

If hon. Members are telling me that we should use the Department as a propaganda machine, well, I think results might be very different from what is happening at the moment, Sir, and what they have in mind, because a propaganda machine of the type that we saw during the war under the famous Dr. Goebels can in my view have a considerable boomerang effect. When one puts out things which one thinks are going to be of great effect in the country they may have entirely opposite effects. Therefore one has to be very careful as to how the machine is used. Nevertheless, Mr. Speaker, I do not want to give the impression that I am just merely shutting my eyes to what is going on or closing my ears to what has been said. We will give the criticisms made by the hon. Members on this particular line every possible consideration.

I think that my hon. colleague the Minister for Tourism and Common Services has dealt with the main points made by the Member for the Southern Area, so I will go on to a point which was actually raised in the speech of my hon. colleague the Minister for Housing when he talked about the two newspapers *Joluo* and *Ramogi*. I did try to point out in my first speech that the Government had done its best to encourage private enterprise in running such papers and *Ramogi* is one of those which are put out by the vernacular Press to which I made reference in my introductory speech. If at the same time we put out a paper called *Joluo* it is because we feel for the reasons which I have given that there is insufficient reading material and that this is in addition to what is already available for the country. Therefore what we are trying to do is to assist private enterprise—if they were able and indeed willing to take over the whole of this from us we would be most grateful—with not only reading material to fill the gaps but also with news items for which people ask.

The hon. Member for Kitui raised the question of the entertainer Mr. Kipanga which has to a large extent been answered by my hon. friend the Member for Nairobi West who pleaded for more comedians. I could not agree more, Sir. Let us have more comedians and fewer buffoons.

MR. ALEXANDER: Especially on the Government side!

THE CHIEF SECRETARY (Mr. Coutts): The hon. Member for Kitui also mentioned the question of films and made some severe criticisms of them, but I would like to say here that, as indeed with all the things put out by the Department, we cannot satisfy everyone. I mean that it is obvious from what has been said this morning about this particular comedian that some people like him and some people dislike him. However I do think it is a good thing to encourage such people to give at least a certain amount of entertainment for those who want it.

I agreed with the hon. Nominated Member Mr. Smith when he raised the question about films having possibly a broader outlook and giving a broader basis to agricultural subjects. I have noted what he said about exotic breeds of cattle, fertilizers, etc., and we will have a look at that in due course.

Once again I am grateful for what the hon. Member for Nyeri and Embu said in his speech: As usual, he made a constructive speech, and I would like to deal under this heading with the point which has been raised by a number of Members about fresh news.

Now, Sir, I do not know whether this House realizes what it would cost to set up a competent news agency. I have no figures on this, Sir, but I should think it would probably cost not less than £20,000 a year to set up such an agency and get red-hot news. If that is what in fact hon. Members are asking for.

I hope that my friends on the *East African Standard* will not take it amiss when I say that I believe even they cannot afford to pay for what might be the top class of news service, and it is mainly a question of expense.

We, therefore, Sir, have to be dependent to a large extent on such sources as we can find to get our news; and no one dislikes stale news more than myself

[The Chief Secretary] but we do push out the best that we can get.

\* Referring to what I said earlier, Sir, of course the news in monthly magazines is going to be slightly old, but, as I say, particularly the people for whom it is designed should get some news because they may not get any other.

I should like to mention the question of orthography which the hon. Member spoke about. I have not been into this question personally, Sir, but I imagine it is something to do with the actual printing machines. I myself happen to be interested in this because, as the hon. Member knows, I have done a good deal of reading in the Kikuyu language and I do know that there are two entirely different ways of writing the language, one of which is the normal kind of print, which he referred to himself, with various marks over the vowels. The other kind is a type of orthography used by the Catholic missions in their publications. In our case I imagine that the answer is that we do not have printing presses which can produce the various diacreses which one has to put over the vowels. That is probably why they are missing. But I will certainly look into it for the hon. Member and see whether anything can be done about it.

I would like to deal with one other point and that is—the question of the Mount Kenya Station going to Nairobi. He himself virtually gave the answer himself when he said that most people did not listen to the Kikuyu programmes as they could not hear them and in fact switched on to the Swahili programme from Nairobi. I do know, for technical reasons, that when the Mount Kenya Station is brought to Nairobi you will be able to hear anything that is put out on it and therefore the actual service which you will get will be very much better, for various reasons, than the one you are now getting from Mount Kenya. I would like to thank the hon. Member for Nairobi Area for some of the things which he said, and for the fact that he has complimented the Information Office in what it has done recently. He dealt mainly with the point about the propaganda machine, with which I have already dealt myself. He said that if publications were issued free, circulation lost

its meaning, and nobody bothered to read those publications which are put out free. Well, I have already said this, and this is tedious repetition, but unless we try to go to those people in the country who would not normally get reading material, we cannot really expect them to pay for it, particularly as they themselves are usually the people who are the poorest part of our communities.

My hon. friend, the Nominated Member Mr. Rogers, referred to advertising in Government propaganda films. This is a matter, Sir, which we have considered, and if the hon. Member would give us some concrete proposals I feel that we could probably work out something which would be of assistance to him and to ourselves.

My hon. friend Mr. ole Tipis said we were concentrating all the time on the more advanced tribes. Well, Sir, I do not think that is entirely true. If he looks at the lists of the various publications that we make, we have, in fact, tried to touch those tribes which are not more advanced, and it has been part, as I say once again, of our programme that we should get publications to them as indeed we do to other people.

MR. ALEXANDER: Wanderobo?

THE CHIEF SECRETARY (MR. COULTS): Wanderobo—I do not want to make an appalling pun, Sir, in this House, but where are the Wanderobo wandering at the moment.

My hon. friend, the new Nominated Member from the Coast, Mr. Abdulla—I would like to congratulate him most sincerely on his maiden speech, which was given, I thought, with excellent diction and great dignity. I am grateful to him for what he said about *Sauli ya Mvita*: I would like, however, as he was not here at the beginning of the debate, to warn him that there are definite difficulties about the broadcasting position in Mombasa. I may say that my hon. friend, the Member for the Coast, did raise the question of being able to hear Mombasa radio; I told him on that occasion that we thought we had improved it enormously about three days before, and I now gather, Sir, that that is not so at all, and therefore, I have an apology to make to my hon. friend, the Member for the Coast. I gather that

[The Chief Secretary] it is extremely erratic; the reason why I gave him the information was that we had heard Mombasa ourselves in Nairobi only the previous day, and therefore, we assumed that it was better. However, on my recent visit to Mombasa, I did go into this matter, and I think we must treat this whole question with caution; whereas we do intend, of course, to step up the size of the transmitter by ten times, it does not necessarily mean that the service will be better if the climatic conditions are bad. Therefore, one has got to hope that it will be better because greater technical effort will be put into the station, but if climatic conditions eventually on a particular day are so bad that even the increased powers of the set cannot get through, I am afraid that Members on the Coast may still find that that particular broadcast is not as good as it might be. All I can assure Members is that we will do our very best to get over these difficulties, and hope that eventually, their service will be better. I could not agree more with the hon. Member who spoke in his proposal that we should try to get this particular broadcast to people within the Mombasa area rather than that they should listen to various outside broadcasts which we know are heard in that area.

Turning now to my hon. friend, the Member for Nairobi West, I dealt with him first over the question of comedians. As regards broadcasting policy generally, all I can say is that this matter has been very seriously considered, and as he knows from what I said in the broadcasting debate, we have felt that the setting-up of the Government Department for all sorts of reasons which were explained in the paper is probably at this stage the best way of starting off this broadcasting service. It does not mean that in the future we will not have to reconsider our policy a great deal. I may say that I have taken his point quite clearly on the question of the recurrent costs of such a service, and whether or not the commercial world cannot help us with such recurrent costs. Therefore, I would like to tell him that I have taken his point on that, and we will consider it as time goes on.

As regards seeking advice from New Zealand to set up the broadcasting

system in Fiji, I think the hon. Member must realize that our reference to Fiji in the broadcasting paper was to a specific point; that is, how far commercial broadcasting might be used in the general Government broadcasting system, and we thought that, having examined the various systems that had been introduced, Fiji was a good model from that particular point of view, but it did not necessarily mean that we were adopting the Fiji system for any other particular reason.

MR. ALEXANDER: Mr. Speaker, just on a point of explanation—I am grateful to the Minister for giving way—the point I was trying to make was that the Government had not sought advice on that commercial aspect from the proper sources. Their only advice has been very British Broadcasting Corporation advice.

THE CHIEF SECRETARY (MR. COULTS): I thank the hon. Member for his information, but it really comes within the remarks which I have already made; namely, that we do feel that in the initial stages for a lot of local reasons, it would be better to set this up as a Government department.

He did mention the question of the numbers of people who ran Forces Radio, and made a reference to our numbers in the proposed broadcasting set-up. I would like to point out to him that a great deal of our numbers are due to ancillary and subordinate staff connected with the broadcasting units which are not only in Nairobi. One has to remember that when you set up a broadcasting unit in Mombasa, in Kisumu, and again in Nairobi that you will have to duplicate some staff, which you would otherwise not have to duplicate had you got the whole broadcasting outfit in Nairobi, but I have taken a note of that.

The last point he made was over the question of the British Press, and their attitude generally to Kenya. I think I have answered that in replying to the hon. Member for Ukamba, and once again, Sir, in conclusion, I would like to thank all hon. Members for the very constructive criticisms which they have made in this debate, and I beg to move.

The question was put and carried.

## COMMITTEE OF SUPPLY

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

## IN THE COMMITTEE

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

## MOTION

## VOTE 7—INFORMATION

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): Mr. Chairman, I beg to move that a sum not exceeding £175,000 be granted to the Governor to defray the charge which will come in course of payment for the year ending 30th June, 1959, for Vote 7—Information.

*Question proposed.*

## Head A—Personal Emoluments

SIR CHARLES MARKHAM: Mr. Chairman, I rise now to suggest to you that we have gone into Committee with approximately three minutes to go, Sir, before we adjourn and ask leave to report progress. I have got quite a lot of stuff I would like to ask, Sir, and it is going to make it very difficult to do it now and to wait till Tuesday till we start again. I want to ask your guidance, Sir, because it does make the whole thing easier if we get an answer at the time, rather than raising one point now, and having to wait till Tuesday for the next one.

THE CHAIRMAN (Mr. Conroy): I had hoped that we would be able to dispose of some of this Vote, but if the question is a long one and the answer is a long one, we will have to wait until Tuesday. If, on the other hand, the question were a short one and the answer were a short one, we could dispose of some of it.

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): Might I suggest that the hon. Member at any rate starts his questions, and by the time he has finished, at soon as he signified he has reached a vital point, I would suggest that I interrupt his speech, Sir, by moving that we report progress and ask leave to sit again which, Sir, I hope would not be accounted as one innings to the hon. gentleman, but rather an interrupted part of his first innings.

SIR CHARLES MARKHAM: Item A27, Sir, Gratuity to Contract Staff. Looking down this list, the only people I can see on this item A, Sir, who are contract are the two assistant press officers. I do not know whether there are other ones, Sir. Is it the intention that the gratuities are for those two when they have finished their contracts, because it seems to have gone up since last year when we made allowance £1,150; this year it has gone to £2,305. I wonder perhaps if you would give an explanation on that one?

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): Before the hon. Member sits down, Sir, and in order to interrupt him properly, may I move now, Sir, that the Committee do report progress and ask leave to sit again.

*Question proposed.*

The question was put and carried.

*The House resumed.*

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

## REPORT

MR. CONROY: Mr. Speaker, I beg to report that the Committee of Supply reports progress and asks leave to sit again.

*Question proposed.*

The question was put and carried.

## ADJOURNMENT

THE SPEAKER (Sir Ferdinand Cavendish-Bentinck): That brings us then to the hour for the interruption of business, and I adjourn the House until 9.30 a.m. on Tuesday next, 10th June.

*The House rose at thirty minutes past Twelve o'clock.*

Tuesday, 10th June, 1958

The House met at thirty minutes past Nine 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:—

Auriol Christian Rawson-Shaw.

## PAPERS LAID

The following Papers are laid on the Table:—

The Price Control (Wajir District, Maize and Maize meal) Order, 1958. (BY THE CHIEF SECRETARY (Mr. Couitts) on behalf of the Minister for Agriculture, Animal Husbandry and Water Resources)

The Forest (General) (Amendment) (No. 3) Rules, 1958.

The Forest (General) (Amendment) (No. 4) Rules, 1958.

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

\*Estimates of Revenue and Expenditure of the Road Authority for the year 1958/59.

(BY THE MINISTER FOR WORKS (Mr. Nathoo))

## ORAL ANSWERS TO QUESTIONS

## QUESTION No. 139

MR. OGUDA asked the Minister for Agriculture, Animal Husbandry and Water Resources how much money has been allocated during the last five years by ALDEV for the clearing of bush in those parts of South Nyanza where there is thick bush?

MR. SWYNNERTON (on behalf of the Minister for Agriculture, Animal Husbandry and Water Resources): £36,000 has been spent since 1954 in South Nyanza by the Zoological Section of the Veterinary Department on anti-tsetse work. Not all this money was spent on bush clearing as some of it was spent on other anti-tsetse measures, such as spraying with insecticides. This money was derived partly from Swynnerton Plan funds and partly from American Aid (I.C.A.).

Besides this, money has been spent by the East African Trypanosomiasis Research Organization in the Lambwe Valley. Bush clearing was also carried out in this area as part of the Lambwe Valley Settlement Scheme.

## QUESTION No. 140

MR. OGUDA asked the Minister for Agriculture, Animal Husbandry and Water Resources which parts of South Nyanza are still tsetse infested and what steps are Government taking to free such areas of tsetse flies of all kinds?

MR. SWYNNERTON (on behalf of the Minister for Agriculture, Animal Husbandry and Water Resources): The main areas of tsetse infestation in South Nyanza are the Kabwoch Forest and the headwaters of the Kuja River, parts of the Migori River up-stream of Migori township, various islands in Lake Victoria and some 100-150 miles of the lakeshore bush. There are also some small foci of the fly near Lambwe and on the Awach River near Homa.

Some 900 square miles of tsetse-infested bush have already been cleared of fly by various means and a campaign is continuing to clear the lakeshore bush and other areas of fly infestation, both by spraying with insecticides and by selective clearing.

MR. OGUDA: Mr. Speaker, arising out of the reply, would the hon. Member please tell us what other methods, apart from spraying are being employed by Government to ensure that tsetse flies are eradicated within the shortest possible time?

MR. SWYNNERTON: Mr. Speaker, Sir, besides spraying, bush clearing is taking place, but in any tsetse-clearing scheme it is most important that it should be followed up with settlement so that the people come in on the ground and prevent regeneration of bush where bush has been cleared. Therefore, where possible, settlement follows bush clearing.

MR. OGUDA: Mr. Speaker, Sir, arising out of the reply, is the hon. Member aware that in certain river valleys which have been cleared over the last ten years the bush is regenerating and I think this is encouraging the infestation of those areas. If he is aware of that, what does



[Mr. Oguda] the Government intend to do about such areas?\*

MR. SWYNNERTON: Mr. Speaker, Sir, I am aware that bush is regenerating in some of these areas, but the people of South Nyanza have not seen their way to allowing people from other districts to come in and settle areas which they, at present, are not prepared to settle themselves.

MR. MBOYA: Mr. Speaker, Sir, is the Minister aware that one of the reasons why these people are not willing to settle in these areas is the example set up by the Lambwe settlement scheme which existed in South Nyanza, where conditions have not been particularly attractive.

MR. SWYNNERTON: The Minister is aware that there have been certain complaints about settlement in the Lambwe Valley but a sub-committee of the Provincial Agricultural Committee has been going into that and their report is awaited.

THE SPEAKER (Sir Ferdinand Cavenish-Bentinck): You are getting rather far away from the original question; any supplementary question must refer to the original answer, and not a supplementary answer.

MR. MULIRO: Mr. Speaker, arising out of the original reply, could the Member tell us what steps the Government is taking to get people from other areas to come and settle in those areas?

MR. SWYNNERTON: Mr. Speaker, Sir, I do not think that arises out of the question; it may arise out of a supplementary reply.

#### QUESTION No. 142

MR. ARAP MOI asked the Minister for Works is the Minister aware that the Perkerra River is becoming dangerous to the members of the public and the Administration during heavy rains and that it is necessary to construct a permanent bridge at Marigat?

THE MINISTER FOR WORKS (Mr. Nathoo): The drift over the Perkerra River at Marigat is not dangerous unless the water crossing the drift is high or rising after heavy rains. It can then be dangerous to careless or impatient wayfarers unwilling to wait for the water to subside.

I agree with the hon. Member that the flooding is becoming worse and Government would be grateful for his support in preventing the forest denudation and the destruction of the vegetation at the headwaters through the actions of his constituents which is the prime cause of any increased flooding.

The crossing is the responsibility of the Baringo African District Council, but the Road Authority has gone a long way in investigating the possibility of providing funds for a permanent bridge using my Ministry to carry out the work. Although I can give no promise, it is quite likely a permanent bridge may be built over the river but this largely depends on cost and other priorities.

MR. ARAP MOI: Mr. Speaker, Sir, arising out of the Minister's reply, is the Minister aware that one of his Ministry's vehicles was washed away and hence written off?

THE MINISTER FOR WORKS (Mr. Nathoo): I think the matter was brought to my notice, Sir, but that was on account of the fact that the vehicle got stuck there and got carried away, it was not that the vehicle was trying to cross impatiently.

MR. ARAP MOI: Sir, arising out of the Minister's reply, is it not expedient, because of the holiday-makers to Lake Baringo, and the tourists, that this problem should be solved as it is very urgent? And also that there should be some irrigation scheme at Marigat?

THE MINISTER FOR WORKS (Mr. Nathoo): Sir, this drift is one of the many which requires attention, and the Road Authority has to assess the value of priorities when considering this question. As I told the hon. Member earlier, the Road Authority is going into the question and within a few days I will be able to give him a definite report as to how the deliberations are progressing.

MR. MBOYA: Mr. Speaker, Sir, in view of the fact that not only is the bridge bad but that his own Ministry's truck was stuck on the bridge, does the Minister not consider that the bridge needs immediate attention?

THE MINISTER FOR WORKS (Mr. Nathoo): Sir, the one incident involving the Ministry's truck has no bearing at

[The Minister for Works]

all on the whole question. The question is how important this particular bridge is *vis-à-vis* the other bridges which require attention in other parts of the Colony.

THE SPEAKER (Sir Ferdinand Cavenish-Bentinck): These supplementary questions are becoming repetitive. Next Order please.

#### BILL

##### SECOND READING

##### The Civil Service Commission (Amendment) Bill

Order for Second Reading read.

THE CHIEF SECRETARY (Mr. Couitt): Mr. Speaker, Sir, I beg to move that the Civil Service Commission (Amendment) Bill, 1958, be now read a Second Time.

In looking at the Bill, Sir, it looks a fairly simple one with a matter of three or four amendments. However, there is in section 3 a matter of considerable principle which affects the staff associations in the Civil Service and also, naturally, it affects the composition of the Civil Service Commission itself.

It is proposed in section 3 to do two things. First of all to give His Excellency the Governor the complete right of appointing persons to the Civil Service Commission without necessarily having to consult his Council of Ministers, and also to appoint three members to that Commission without necessarily having to consult, as he has done in the past, the staff associations directly. It is, of course, possible for him to consult whom he likes in setting up a commission of this nature, but in the past the previous arrangements, as Members will see from the original Bill, as set out on page 3, were that there were three members appointed by the Governor in Council and selected from a panel of nominees to be submitted by each of the following associations: the European Civil Service Association of Kenya, the Kenya Asian Civil Service Association, and the Kenya African Civil Service Association, one such member being selected from each panel. That has been the procedure up until now.

The Government feels, however, that both the staff and the public should feel

that the Commission is responsible to the Governor alone and also that the Governor should not be required by law to consult anyone in particular. The staff associations feel that they should still be able to put up a panel of names from which the Governor can choose such people to be on the Civil Service Commission. We feel—that is, the Government feel—that if this happens then the people who are selected must always at all times in their dealings with the Civil Service Commission think that they must be responsible to their particular association, or, shall I say, always have their left eye over their shoulders to see what their own particular association is feeling about a particular appointment to be made by the Civil Service Commission.

We feel, Sir, that this would be a handicap. The staff associations, however, have made it abundantly clear that they do not agree that this is a handicap and also, I should say, that the Government is wrong in making this change. They have also stated that they have not been consulted about the amendments, or this particular amendment to this Bill. I should mention, Sir, that in the past I think there have been two amendments to this Bill about which the staff associations were not consulted and they did not in fact raise the question. However, that is immaterial because in this particular occasion they have raised the question very strongly. They now have been consulted very fully. First of all there was a meeting with the General Purposes Committee of the Central Whitley Council and after that the representatives of the staff associations saw the Director of Establishments and thereafter they saw me, and on two occasions I had discussions with them.

The fact remains now, Sir, that there is a division of opinion. The staff associations feel that they should still have the right to put up persons to be selected by the Governor and we on the Government side feel that the Governor should be entirely free to decide who should sit on what after all is a most important Commission. We feel this because we think that the Commission must be insulated from every possible type of influence. As you know, it was set up in the first place to be insulated from politics and the object of this particular

[The Chief Secretary]

amendment is also to insulate it from pressures which may be brought by one group or another.

That, therefore, Sir, is the reason for the amendment in section 3, and I do wish to stress to the House that there has been disagreement about this matter but the Government feels that this is the right course for them to take.

As regards section 4, this I think is easy of explanation. It is a matter of removing from the Civil Service Commission the necessity for dealing with transfer within a single Ministry and a single grade. It is obviously unnecessary, in our view, that if people are being transferred within a single Ministry or in a particular grade, subject of course to the fact that it is not on promotion, it should not necessarily have to be dealt with by the Civil Service Commission; it is only giving that Commission more work than is necessary.

Section 5 is the amendment which removes the words "Governor in Council" and substitutes the word "Governor" and section 6 is a consequential amendment because of our present provision in section 12 of the Kenya Constitution Order in Council.

Sir, if I might, I would end by saying that we consider that these amendments are in the best interests of the working of a completely independent and impartial body which makes selections for the Civil Service, and there is no other reason for making such amendments.

I beg to move.

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

Question proposed.

MR. MBOYA: Mr. Speaker, Sir, I rise to oppose the suggested amendments, particularly that affecting the appointment of members of the Civil Service Commission without consultation with the various staff associations.

The Chief Secretary stated that the main reason for this is to try and insulate the Civil Service Commission from politics or political and any other pressures. In this, Sir, I would like to agree with him very sincerely. But I strongly question his implied impression that the present Civil Service Commission is subject to political or other pressures.

Mr. Speaker, I think we ought to be convinced by the Government that the system which is operating at the moment is not (a) effective and (b) efficient, and that it has created either a situation or circumstances in which members of the Civil Service Commission have either been embarrassed by the fact that they have been recommended or that they have been chosen from a panel recommended to the Governor by the various staff associations. The Chief Secretary has stated that in this matter the three—the African, the Asian and the European—staff associations have very strongly made it known to the Government that they do not accept the Government's present attitude or approach or the amendment as it stands. I think myself that it is necessary to take into consideration the attitude of the three associations in this matter. After all, Sir, the Civil Service Commission, apart from anything else, will determine recruitment, job opportunities or, to some extent, promotional opportunities; and there is no reason why members of the Civil Service should not be very interested in a matter such as this. It is not true, Sir, that if the three Civil Service Associations are allowed to continue to recommend to the Government a panel of names this would immediately and automatically imply undue pressure on members so appointed to serve on the Civil Service Commission, firstly because I have submitted that the Government has not shown us that the present Civil Service Commission is subject to such undue pressure and, secondly, Sir, when these associations submit a panel of names to the Governor for appointment they do not necessarily and they need not necessarily submit names of people from within their association itself—in fact, it is the condition, I think, that they may not submit names of persons from either their own association, trade union or other body. That has in the past been indicated in the appointments.

There can be, Sir, I think, effective machinery of appointment which accords the three associations some amount of consultation and yet preserves that necessary independence that the Civil Service Commission must and should have.

I do not quarrel with the Government in the Memorandum of Objects and

[Mr. Mboya]

Reasons when they say that these members should not be directly representative of the three associations. I do not think they should be directly representative of the three associations, nor do I think that they should be denied that opportunity to function or act as independent members; but the mere recommendation of a panel of names to the Governor does not, Sir, as I have said, remove that independence. The Chief Secretary must be aware that in the country at the moment we have several boards; for example, we have the Labour Advisory Board and the Wages Advisory Board on which people are appointed on the recommendation of certain bodies; but it is clearly understood both by the Government and these bodies that these people so appointed do not necessarily represent those bodies either on the Labour Advisory Board or on the Wages Advisory Board. They do not have to go back to their bodies to consult before they agree on matters of discussion at any time on either the Labour Advisory Board or the Wages Advisory Board. The Government will agree with me that here in the Labour Advisory Board and on the Wages Advisory Board a sense of independence has prevailed, yet these people have been appointed in consultation with bodies that have a direct interest in the matter.

I feel, Sir, very strongly, that we would be denying the civil servants' associations what I think is necessarily their right to have some say or some sort of influence, however remote, in the selection of the Civil Service Commission.

I do not think there is very much more I wish to add, Sir, except to impress on the House the fact (a) that the three Civil Service associations have very strongly protested to the Government against this amendment. We cannot overlook that, Sir. The second point, Sir, is that it is not necessarily true that when these members are appointed from a panel of names recommended by the three associations, either separately or jointly, that that removes from these members the sense of independence that the Government wishes to see in the Civil Service Commission, and I dare say, and I submit, Sir, that we, too, would like to see it retain that sense of independence which, as I submit, cannot

and would not necessarily be removed by the mere existence of this system of appointment, namely the recommendation of a panel of names to the Governor by the three associations.

I am given to understand, Sir, that the three associations are in fact willing to depart from the old system where each of the associations submitted a panel of names on its own and the Governor appointed a name from each panel, thereby giving the impression that one was representing the Africans, one the Europeans and one the Asians. These three associations are willing, in fact, to submit a joint panel instead of separate panels from the three associations. I think that this is a step forward and it may be in the back of the Government's mind to remove that aspect of racialism in this particular suggestion. If this was one of the motives then, Sir, the three associations have in fact also agreed to meet it by their suggestion that they could submit a joint panel of names instead of three separate panels as before.

Mr. Speaker, I must say I feel very strongly on this, at Committee stage, I will myself move an amendment accordingly.

Mr. Speaker, I beg to oppose.

MR. SLADE: Mr. Speaker, Sir, I also oppose this Motion. My first reason is that given by the hon. Member for Nairobi Area. There is no suggestion so far that the existing Commission has in any way worked badly or proved itself irresponsible. It has been in existence for some time now and until we are given reason to believe that it is working badly through the nature of its constitution, I should have thought it was a great pity to make any change. The principle I have been taught is that when a change is suggested, you do not make it unless you are given some good reason by experience. That has yet to be seen in this case. But, Sir, it goes deeper than that. This Bill seems to me to be retrogressive in principle. As this Colony is developing towards a greater measure of local responsibility, so the tendency has been for the many powers that were originally in the hands of the Governor alone to be delegated gradually to local people, or at any rate, to be restricted in their exercise by reference

[Mr. Slade] to local people. And here we are, having adopted that principle in the original constitution of this Commission, now reverting to the position that the Governor is the only person who has any say.

Now, Sir, it may be a nice principle to suggest that the Governor is detached, and will therefore be quite impartial and free from influence, but in fact, Mr. Speaker, all Governors have to be advised by someone. They cannot do everything out of their own heads, or if they try to, they make fools of themselves. It is a question whether they are going to have their own private advisers, whoever they select, without anyone even knowing who is advising the Governor, or be required to resort to people of known responsibility for their advice. In my submission, Mr. Speaker, in principle, the latter alternative is greatly preferable in all circumstances. It is said, Sir, that the object of this Bill is to insulate this Commission from every type of influence. Now, that is a wonderful thing perhaps, Sir, if one can achieve it, but to begin with, it will not be; for the very reason I have given, that those who still have influence, but in future, we shall not know what kind. But in fact, Sir, even if it were possible to insulate a commission of this kind from every type of influence, is that really desirable? I have been told by doctors that—and perhaps the Director of Medical Services will agree with me—that you can overdo the consumption of sterilized food. Well, Sir, in order to have any vigour and immunity, it is a good thing to absorb food that may have a germ or two from time to time.

Now, Sir, if we try to develop an insulated or sterilized Commission, we get into two kinds of trouble: one is that being insulated, they are out of touch, out of touch with those whose affairs they are trying to manage. We have seen something of that in other fields in this Colony to our disadvantage. If you have people with powers of direction who are out of reach of the advice of those who know the affairs with which they are dealing, then they are liable to function all the worse for that. They must be in touch with the people whose affairs they

are managing in order to be properly advised. The other question, Sir, equally important, is always this question of confidence.

It is essential that a Commission of this kind commands the confidence of the Civil Service in particular, and the public in general. Sir, if we are going to cut out this reference to representatives of the Civil Service on the one hand, and Council of Ministers on the other, we are gravely jeopardizing that confidence.

For those reasons, Sir, I do urge caution in this theory of insulating from every kind of influence.

I beg to oppose.

MR. MULIRO: Mr. Speaker, Sir, I also oppose this section 3 where the Government, without putting forward any reasons which are convincing at all, is arguing that we want to insulate the Civil Service Commission from politics. I think the Government should not make these people who are in the Civil Service discontented simply because they have some motive behind this insulating them from politics. The position is this: that if there are organized bodies, the three associations—the European, the Asian and the African associations—all of them very strongly against the idea that the Governor alone should select the people who will be sitting on the Civil Service Commission without reference to them at all. I think that is a definite weakness in the Government. The Government itself has not told us the reasons why—as the hon. Member with the Selected Seat has just said now—the reasons why they want to insulate these people, and the reason why they should not at all refer matters to the three associations. The Government have not shown us that these associations were indulging more in politics than Civil Service work. If there is no evidence that the associations are choosing people or the three names they suggest to the Governor for nomination are actually three names of politicians I do not see why they should not have that right to continue with that again. Now, probably the Government, because they have a very long hand, knows that politics are creeping into the Civil Service Commission, but they themselves, between themselves—say, the Council of Ministers probably—they say "Look, the Council

[Mr. Muliro] of Ministers will agree not to be consulted in this because politics are creeping up, and let the Government alone do that". I do not think that any country which is going forward can leave everything in the hands of one person only. However you might think the Governor can be impartial, the Governor does not know everybody in this country; before he makes his choice, he would have to consult someone, and this person whom the Governor would consult—probably might consult the Chief Secretary—we want to know that the Governor is consulting such-and-such a person, not just keep quiet, and say "Look, the Governor will go ahead again". He will not go ahead alone; we know that, Mr. Speaker. He will have someone to advise him. This someone to advise him or body of people advising him—we want to know exactly whether it is the Council of Ministers or a group of Ministers advising the Governor on this issue, this issue of selecting various people. But the best people to advise the Governor, if you want to insulate the Civil Service Commission from politics altogether, would be the civil servants themselves. If the civil servants themselves are moving forward, trying to eliminate the whole issue of racial associations; say even that the three associations will come together to decide who will go to join the Civil Service Commission—I think that is a very good step forward which the Government should consider doing.

Therefore, Mr. Speaker, with these few remarks, I beg to oppose.

SIR CHARLES MARKHAM: Mr. Speaker, in view of the remarks made by many of my hon. friends on this side of Council, I fear that there is going to be some difficulty in the Government's getting this Bill through without using their large majority.

Accordingly, Sir, I am going to move an amendment to delete the word "now" and substitute at the end of the Bill that "this Bill be read this day six months". I think, Sir, it is quite obvious that there is a fair amount of feeling throughout the country that the civil servants have not asked for this amendment; and again, there will be considerable feeling in the country that this is being pushed through

against their wishes. I hope, Sir, that perhaps Government might think again on this one to give the Civil Service a chance of making quite certain that their relations on the Civil Service Commission are the right ones. We always pride ourselves in this country, Sir, that we have a very fine Civil Service; I do not see why now we should rush through an amending Bill which is against their wishes without very great, or much more detail given by the Chief Secretary as to the reasons for it.

The point made by my hon. Selected friend; Mr. Humphrey Slade, about who would advise the Governor is a very valid point, Sir. I hope that perhaps this amendment will be accepted or perhaps even three months, to give it time to think again, because the rest of the Bill, Sir, is not particularly important, I would not have thought, and the important clause is this section 3. If we have this deferment, it will give time for more views to be heard from the Civil Service on this very important issue.

I beg to move.

MR. MUCHIRA seconded.

Question proposed.

SIR CHARLES MARKHAM: Sir, on a point of order, I think my hon. friend who wanted to speak did not quite know the procedure. He certainly wanted to speak. Is he allowed to speak, Sir?—or having bowed now, has he lost his opportunity?

THE SPEAKER (Sir Ferdinand Cavendish-Bentick): If this amendment is defeated, I will permit him to speak on the Bill. There is no point in his speaking on this particular amendment.

MR. ALEXANDER: Mr. Speaker, I beg to support the amendment.

Until a few moments ago, I was completely ignorant on this particular subject. But some advice and some indoctrination by my colleague, the Member for Nairobi Area, has made it perfectly clear to me, and I am quite convinced that there is considerable validity in what he says, also in what has been said by my friend, the Specially Elected Member from the North Kinangop. I agree with the Mover of this amendment that it would be wise for Government this time to discard the steamroller, and to think again.

I beg to support.

THE CHIEF SECRETARY (Mr. Coutts): Mr. Speaker, Sir, there is a major difference between moving an amendment that this Bill be now read six months, which virtually means the defeat of the Bill if that is effected, or adjourning the debate. I suggest to the hon. Member that that is the proper form that he should adopt.

THE SPEAKER (Sir Ferdinand Cavendish-Bentinck): Well, at the moment as I gather from the hon. Member, he probably wants to defeat the Bill. If you wish to make a further amendment, to postpone further discussion and adjourn the business of this particular Bill, in order that Government may have further discussions with hon. Members the debate could be adjourned under Standing Order 13 and in due course we could resume and go on where we left off.

MR. CONROY: Mr. Speaker, might I move under Standing Order 13 that the debate be now adjourned.

MR. SWYNNERTON seconded.

THE SPEAKER (Sir Ferdinand Cavendish-Bentinck): It has now been proposed and seconded under Standing Order 13 in order to postpone to some future occasion. In my opinion in accordance with Standing Order (13) (3) such a dilatory Motion would not be an abuse of the proceedings of the Council and I therefore put the question that we should now adjourn the debate. Under this particular section, it means that when we resume the debate, we shall resume where we left off. It does give the two sides an opportunity to discuss matters. It would still not deprive Sir Charles of his chance of defeating the Bill on a future occasion.

*Question proposed.*

MR. COOKE: Mr. Speaker, Sir, I would like to support the Motion that the debate be now adjourned.

Personally, I have not been approached by the European civil servants at all, although they usually do as I had been chairman of the Appointments Board for many years. But in this case, they have not approached me, and I am rather surprised that they have not approached, as far as I can find out, any other Members, except that the Elected Members' Organization apparently saw one of its representatives yesterday. For that

reason, in order that the civil servants should get in touch with us, I support the Motion moved by my hon. friend, the Solicitor-General.

THE SPEAKER (Sir Ferdinand Cavendish-Bentinck): Well, it has been proposed and seconded that the debate be now adjourned and, as on previous occasions within the last week, I exercised my powers under sub-section (3) in that I was of the opinion that a dilatory Motion under the same Standing Order was an abuse of the proceedings of Council. I would like to state before putting this question that, in my opinion, this Motion is proposed under entirely different circumstance, and I think this would probably be a wise measure to take. I will therefore now put the question that the debate be now adjourned.

The question was put and carried.

*Debate adjourned.*

## IN THE COMMITTEE

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

## MOTION

### —Vote 7—INFORMATION

*Continuation of Consideration in Committee adjourned on 6th June, 1958.*

#### Head A

THE CHAIRMAN (Mr. Conroy): The question had been proposed on Friday, the Head A. Personal Emoluments, had been called, and I think Sir Charles Markham was about to speak.

SIR CHARLES MARKHAM: In the cold light of dawn, Sir, on Tuesday morning, I cannot even remember what my question was, and—

THE CHIEF SECRETARY (Mr. Coutts): Well, I am quite prepared to answer it, Sir!

The question was in respect of item 27. Gratuity to Contract Staff, and he asked why, in view of the fact that practically every officer appears to be pensionable, there was a necessity for gratuities to contract staff. The answer to that is, Sir, that very often it occurs in Government service that although a post is pensionable, it does not necessarily mean that the person occupying that post is, in fact, pensionable. He may be on contract. In

[The Chief Secretary] this case, there is one provincial information officer, one photographer, one assistant press officer and one information officer, grade III, all of whom are on contract, and their contracts will expire in 1958/59, and that is what the money is required for.

Head A agreed to.

Heads B, C and D agreed to.

#### Head E—Publications

SIR CHARLES MARKHAM: Mr. Chairman, I was going to move an amendment on this particular item, but in view of the fact that the time is running out in this House for the Estimates—we have only got today and tomorrow—all I will ask for is an assurance from the Minister that he will watch this expenditure very carefully and, if necessary, make all possible economies. Otherwise, we will be here for a long time, and there are many more important things to come up.

THE CHIEF SECRETARY (Mr. Coutts): Yes, Sir, I will give him that assurance. As a matter of fact, since the debate we had the other day, I have asked the Director of Information to discuss this matter with me.

Head E agreed to.

Heads F, G and H agreed to.

The question was put and carried.

### —Vote 9—BROADCASTING

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): Mr. Chairman, I beg to move that a sum not exceeding £93,000 be granted to the Governor to defray the charge which will come in course of payment for the year ending 30th June, 1959, for Vote 9—Broadcasting.

*Question proposed.*

Heads A, B, and C agreed to.

#### Head D—Transmission, Line and Licence Fees, Programme Charges and Maintenance of Equipment

SIR CHARLES MARKHAM: Mr. Chairman, I have a very brief point on this one. When I spoke in the debate, Sir, I do not think the Chief Secretary quite understood my remarks about broadcasting. I said that according to my information, some of the programme Vote had been cut because of the in-

creased charge in electricity for the transmitters. Could he give an assurance, Sir, that—that is only a very small one, I think about £2,000 a year of that £13,000; it was for production costs, you might say, of these programmes, particularly on the African programmes—that it will not be cut if savings are made out of other Heads to keep it going.

THE CHIEF SECRETARY (Mr. Coutts): I think I have said to the hon. Member—and I think I also made it clear on the original debate on broadcasting—that none of these figures which we have put in are by any means final. They cannot be, the main reason being that we have got, as you know, to recruit a Director of Broadcasting. A great deal of administrative and preparatory planning work will have to be done by him when he arrives, and therefore, to a large extent, with due apology to the House, these figures are notional; they may be subject to modification.

Head D agreed to.

Head E agreed to.

#### Head F—Proposals in accordance with Sessional Paper No. 4 of 1957/58

MR. ALEXANDER: Item F, Mr. Chairman, £36,000. I am wondering whether the Minister has had the opportunity of following up my remarks the other day on the policy debate, concerning the need to recover as quickly as it is possible some of this expenditure. I was referring of course to the need to recruit well ahead of the inauguration of the scheme the people who are going to advise regarding the commercial aspects of it. As I said, I think, then, unless we are ahead in this respect, we will lose potential revenue that might accrue to us.

Whilst I am speaking about this, I would like to congratulate the Minister on the very close grasp he has got of this very technical subject in the time that it has been under his control. He knows my particular anxiety, and I am sure that he will be able to tell us that Government are well ahead in the research that needs to go on in respect of the commercial aspects of this.

THE CHIEF SECRETARY (Mr. Coutts): Mr. Chairman, Sir, I can give the assurance for which he asks. It is not an easy problem, this question of how we bring advertising into the matter and how

[The Chief Secretary]

We recover revenue. I would also like to give him an assurance that we are going as soon as possible to get the two key figures that is, the Director himself and the Head of Programmes and after having got their advice, which of course we cannot get immediately, having got their advice we will do the best we can along the lines that he himself has suggested.

Head F agreed to.

The question was put and carried.

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): Mr. Chairman, I beg to move that the Committee do report back to Council its consideration and approval of the Resolutions, Vote 7—Information, Vote 9—Broadcasting, without amendment.

Question proposed.

The question was put and carried.

Council resumed.

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

#### REPORT

MR. CONROY: Mr. Speaker, Sir, I beg to report that the Committee of Supply has considered and approved two resolutions: first, that a sum not exceeding £175,000 be granted to the Governor to defray the charge which will come in course of payment for the year ending 30th June, 1959, for Vote 7—Information; and second, that a sum not exceeding £93,000 be granted to the Governor to defray the charge which will come in course of payment for the year ending 30th June, 1959, for Vote 9—Broadcasting, and approved the same without amendment.

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): Mr. Speaker, I beg to move that the Council do agree with the said resolution on Vote 7—Information.

THE CHIEF SECRETARY (Mr. Coutts) seconded.

Question proposed.

The question was put and carried.

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): Mr. Speaker, I beg to move that the Council do agree with the Committee in the said resolution on Vote 9—Broadcasting.

THE CHIEF SECRETARY (Mr. Coutts) seconded.

Question proposed.

The question was put and carried.

#### COMMITTEE OF SUPPLY

##### VOTE 38—MINISTRY OF WORKS

#### MOTION

That Mr. Speaker do now leave the Chair.

THE MINISTER FOR WORKS (Mr. Nathoo): Mr. Speaker, Sir, I beg to move that Mr. Speaker do now leave the Chair to consider Vote 38—Ministry for Works.

Mr. Speaker, Sir, the total votes of the Ministry for the year 1958/59 show a deficit of £10,000 in a Vote of nearly £4,000,000. At first sight, this reduction may not appear to be very substantial, but I would like to point out that during the forthcoming year, two increased liabilities and how these services have been introduced which alone account for a sum of £130,000. The first one is the subvention to the Road Authority which has been raised from £150,000 to £250,000; and the services in connexion with the Nairobi Airport, which have increased the Vote of the aerodrome from £40,000 to £75,000. With these, Sir, I feel it is a matter of satisfaction that we have been able to introduce these two increased expenditures without increasing the cost of the total Vote.

The hon. Members will note, Sir, that the Draft Estimates this year are presented in slightly different form, and all the branches are shown alphabetically in these Estimates with much greater detail shown therein.

Hon. Members will also notice that there is an overall reduction of nearly 211 posts in the establishment of these works. I do not want to appear to be too virtuous about this reduction, Sir, because a great deal of reduction in these posts has been made possible by the fact that we have undertaken a much less amount of work. But there has been some reduction in the total establishment particularly in buildings and hydraulics.

The other reason for this reduction is, Sir, that we have not filled certain posts in the past which had been authorized, and in the forthcoming year, it is our

[The Minister for Works]

intention to do without these posts rather than to follow any scheme of retrenchment.

The works staff of the Ministry, Sir, is by and large divided into two main parts. It is the permanent and pensionable posts of the establishment; and what we call the Works Paid Staff. The pensionable and permanent posts are posts which are on a pensionable basis, and the cost thereof is debited to the permanent establishment of the personal emoluments vote. The temporary works staff vote is generally debited to the repairs and maintenance vote, and the personnel therein are paid by the hour and on daily wages. In the past, Sir, a great deal of criticism has been levelled at the contrast which exists between the permanent staff and the casual staff of the Ministry; and it has been suggested—I think to a great extent rightly—that the contrast is too great a one in this matter. We have, Sir, been considering the position of the works staff which has been on a temporary basis, because some of them have been with us for many many years, and are likely to remain so. We are authorizing ways and means to find out whether we cannot give them better terms of service so that they would be able to get a certain amount of security of tenure by the way of gratuity and other leave privileges.

The other point, Sir, that I would like to draw the attention of hon. Members to is the fact that arising out of the Manzoni Report, a certain amount of reorganization had to be introduced, and I am very happy to say, Sir, certain steps were taken, and by working over the last year or so, we find the steps we took arising out of the White Paper which was discussed in 1956, were on the right lines.

One of the recommendations of this reorganization report, Sir, was that as time goes on, we should direct ourselves of greater responsibility of doing the work directly and should entrust these to the local authorities. I had occasion to mention, Sir, when the Road Authority Report was being discussed, the steps which have been taken to this end. Hon. Members will also see that we have on page 185 under the Roads Branch with a staff of inspectors, road engineers,

whose services are available for the purpose of helping the local authorities to assume greater responsibility.

In the field of water, Sir, as time goes on, and in the very near future, it is Government's intention to hand over the water supplies to a great extent to county councils; and one of these major water supplies, Sir, the Mombasa Water Supply Scheme, will I think disappear if the present proposition which has been made to the Municipality of Mombasa to undertake the water distribution on the Island, is accepted, then this vote also will disappear. I think, Sir, that it would be in the interest of local inhabitants and also greater efficiency and economy if local authorities undertook the water supplies rather than leave them to the Central Government.

Another point, Sir, which I would like to mention is that hon. Members will have noticed that there is a new branch established under the Ministry for consultants and contracts and the object of this is to have a still greater amount of work put out to consultants and contractors. In the past, Sir, experience has shown that when we entrust this task to contractors and consultants, a great degree of control has to be kept with regard to the drawing up of these contracts. I am hoping, Sir, that with the establishment of this new branch, a greater amount of control and stricter economy will be exercised in giving out contracts to outside people.

Another point, Sir, that I would like to mention is the fact that Karura Brick and Tile Works Vote has been shown as £1. I am hoping, Sir, that within the course of the next few weeks, this enterprise will be sold to a private concern where it should rightly belong, as in the past, the Ministry has undertaken this work because the supply of bricks and tiles has not been very satisfactory. But we feel, Sir, that this is an item which should rightly go to private enterprise; and for that reason, it is our intention to sell this concern.

Another point, Sir, I would like to mention for the information of hon. Members is with regards our policy of purchase of stores. In consultation, Sir, with the representatives of commerce and industry in this country, steps have been taken whereby we go to a greater extent

[The Minister for Works]

for purchasing our stores by local tenders rather than purchasing them through the Crown Agents. The representatives of commerce and industry, Sir, are still not quite satisfied that all that could be done is being done, but I would like to assure hon. Members that wherever it is possible to purchase articles locally without spending too much money, it is Government's policy to encourage local enterprise.

One of the chief criticisms in the Manzoni Report, Sir, was levelled at the personnel of the then Public Works Department on the establishment side. I would like to mention, Sir, that steps have been taken and are being taken to see that this branch of the Ministry is being organized so that it will result in better economy and better efficiency.

I have not dealt, Sir, very lengthily with any other projects which come under my Portfolio for the simple reason that I would not like to take up too much time of the House in view of the limited time at our disposal, and will leave the Members to question on matters in which they are interested; and I assure them, Sir, that I will do my best to answer them.

There is, Sir, one point I would like to mention before I finish: that is, that hon. Members are aware that Government has been trying to raise finance for the roads by going to private contractors for this purpose. If, Sir, the scheme goes through, I would like to inform the House that I will have to come to this House for a supplementary vote to increase the staff so that this work could be carried out.

Sir, with these words, I beg to move.

MR. JONES: Mr. Speaker, Sir, I have the honour to second this Vote, and in doing so, Sir, I would like to express my warm thanks to the Minister for two things that he has said: one, to confirm that we are going to give the Road Authority another £100,000, which may not be very much, and two, he ended up by saying that they would probably get some £4,000,000 from contractors. Sir, these roads of ours have done us well, and they have been well worn, and it is no good those on the other side saying that the £4,000,000 that we require on this side if we come to a deal with these

contractors is going to be expensive. Sir, money is expensive, and it is especially expensive for propositions of this kind. It is no good, Sir, looking back and saying how much cheaper it would have been if we had done all this road development before, or looking forward in the hope that things will be cheaper when we get some more cement factories, or large quantities of bitumen thrown out in distress from over-worked oil refineries in this territory. Sir, these roads are required now, and I hope that the contractors and this arrangement will be acceptable when it is presented.

Finally, Sir, I would like to take this opportunity of informing the House that the Transport Licensing Board which I adorn has really no authority over the use of specific roads, and we are always being selected for criticism for putting large and unsuitable vehicles on the roads. Sir, in my capacity as chairman of the Transport Licensing Board, I have taken advice from the Road Authority, and it is with their understanding and with their agreement that any vehicle in this country that conforms to the requirements of the Traffic Ordinance can be licensed for use on our roads. Other legislation exists to prevent them going over Mr. arap Moi's bridge, and so on; and the Transport Licensing Board have got powers, Sir, to revoke licences. One of those powers is when a conviction against an operator has been obtained for an offence against the Road Protection Ordinance. If anyone successfully prosecutes these chaps, and then comes to the Transport Licensing Board and says: "This is the position; will you take action?" we can act. The Transport Licensing Board cannot take the initiative in this matter, however, but it is always very ready to act if breaches of the Ordinance are brought to its notice.

So with those few words, I have the honour to second the Motion.

#### Question proposed.

SIR CHARLES MARKHAM: Mr. Speaker, I thought my hon. Nominated friend—I was almost going to call him my hon. Corporate friend, Sir—would use that opportunity, Sir, on the question of licensing of vehicles. I do not propose to talk about roads, Sir; we had a very full debate a short time ago on the subject of the Road Authority Report, and,

[Sir Charles Markham]

Sir, I shall keep off that subject to-day, except to say one thing only regarding heavy vehicles: that I quite understand the position now, and I hope, Sir, my hon. and Nominated friend will make representations to the right authorities so that cases are brought to his notice when there have been breaches of the law.

Sir, when I spoke in the Committee on Development Estimates, I was perhaps overstating my case and was somewhat rude about the Nairobi Airport and the Ministry of Works staff there. I would like to take this opportunity, Sir, of withdrawing those remarks in so far as the Ministry of Works is concerned—(Applause)—but reserving them against the whole Government.

I was down at the airport last night, Sir, having a look round those parts which affect my business, and there is improvement. But there is still need for further improvement on this temporary village. However, Sir, I do not blame the Minister for Works or any of his staff, I blame the planning—and I am sorry the Minister for Commerce and Industry is not here as I am not certain that he is not actually the person who should take the blame. However, Sir, I thought that for the record it would be as well to make these remarks today, for obvious reasons.

Sir, regarding this very large Vote, there are only two things I want to discuss, but I want to discuss one of them briefly and one in some detail; that is rents and house allowances. The other one, Sir, regards—I would almost call it our old friend—the Buildings Branch of the Ministry of Works.

It has been said on occasions, Mr. Speaker, and it is still being said, that the Ministry of Works are the most expensive building contractors in Kenya. Whether that is true or not, I do not know, but I have a very good indication it is true, because I have seen some of the buildings, for example the school in Thika, the school at Machakos and, again, I feel quite certain about other examples. I could quote another one affecting the police. I am wondering, Sir, whether the Minister, with his Permanent Secretary, will try to find out

the reasons why the standards of building of the Public Works Department—which are very good standards, I will accept that—are more expensive than those of contractors. Perhaps he may tell us, Sir, that my remarks cannot be substantiated and that they are putting up these buildings more cheaply, but I would certainly like to have some more information because there is concern in the country about the standards of building and the expense of it.

Sir, regarding item Q, which is rents and house allowances, in previous years the Ministry of Works has carried under its Vote all the rents of houses and offices and house allowances. Now they have been separated this year, as we know, to the various Votes. What I cannot understand is this, Sir, however: having last year the entire Vote for the Government departments of £350,000—the approved Estimates—this year, with the Ministry of Works being responsible only for itself, the Vote has gone down only to £335,000, although all the other Votes have gone up proportionately. I understand that there has been this increase which was mentioned during the debate on the Development Estimates, the allowances paid, but I would like to have a little more information; and perhaps, if it is not available when the Minister replies, we could have it in the Committee stage so that we can know about this matter.

The same remarks apply, Sir, to the house allowances in lieu of quarters. This has gone up considerably from last year. Am I to presume that this only concerns the Ministry of Works? Because, again, the other Votes have that head and so they have been separated. £75,000 on this item alone for this Ministry is very high, and I would like some further details from the Minister.

Sir, I have got very little further to say on this particular Vote, except to say one thing only regarding the administrative and general side of the Ministry. We are in some doubt, Sir—the public—regarding this Ministry. It seems to undertake almost all the functions of a Ministry of Works, and yet there is also this decentralization, such as the Road Authority, the hydraulics branch, the electrical branch, etc. What I would like

[Sir Charles Markham] to ask, Sir, is this: he employs a great many clerical and typing and some other name I cannot pronounce, staff totalling 447. I would like to suggest to him that the time has come very nearly, when he should implement the recommendations made by the Estimates Committee two years ago, regarding fewer of a higher quality rather than a lot of a lower quality. It is quite amazing how inefficient—I use that word very reservedly, Sir—how inefficient some of the lower-paid clerks are in this Ministry. That probably applies to all other Ministries as well, Sir. I would prefer to see fewer people paid a better salary, rather than see a great number, some of whom really, Sir, are incapable of being a clerk, yet they get that glorified title.

Under this head office—it will be some time, presumably, this building goes up for this headquarters; I suppose it will be two years or 18 months—in this time, Sir, I would suggest that the Minister and his Permanent Secretary go through staff organization of this head office; I will call it that for want of a better word. When he does move it to this new building, therefore, he will not require an extra building to house all these clerks and subordinate staff and executive staff. It has been a criticism, Sir, made in the Estimates Committee two years ago, and I believe that that criticism still holds good to a certain extent. As the Ministry is moving within two years or so, I do hope it will give them an opportunity to, as one might call it, weed out some of the more undesirable elements in that staff.

Sir, that is all I have to say on this particular Vote; I have some other criticisms and suggestions to make in the Committee stage.

With those words, I beg to support.

MR. ARAP MOI: Mr. Speaker, Sir, I have a few points to put forward. I should like to support my hon. friend here, Sir Charles Markham, who has said that the Public Works Department buildings are much too expensive in various areas where building materials are not available. I would like to suggest, Mr. Speaker, that it is now high time that the Public Works Department handed over its responsibilities to the

Provincial Administration, so that they could undertake building works.

I knew a certain district commissioner who built a very good house with only £2,000, which the Public Works Department could build for £4,000 normally. I do not mean that the Public Works Department has lower standards, but the way it is handling building materials is inefficient. For example, when building a house in Eldoret, the Public Works Department transport some materials from Nairobi or Mombasa, and rails them to Eldoret and also carries some other stuff on vehicles and so on. This increases expenditure. I think there should be ways and means of trying to minimize this expenditure, which has been incurred by the Public Works Department.

Furthermore, Mr. Speaker, I appreciate the remarks made by the Minister that his Ministry is trying to provide some security for casual labourers who are working on Ministry for Works main roads. This has been a matter of discontent among the Ministry of Works employees, and I appreciate this and would like to point out to him that reasonable houses for them should be erected so that they are convenient when making these roads.

There are also some points—unfortunately I did not speak during the Ministry's policy debate—which I would have liked to make about roads. I also appreciate the fact that his Ministry has seconded some officers to local authorities, and they have done extremely good work. Furthermore, the machinery which has been given to these local authorities has done a good job. What I should like here, Sir, to emphasize is that as far as new roads are concerned there has been no provision at all for new roads in backward areas and other areas which need development. I should like to urge the Minister to try and find some money to allot to these new roads which are very important.

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

[Mr. Deputy Speaker (Mr. Conroy) took the Chair].

I know it is important, to provide money for maintenance of main roads and some other roads, but it is equally

[Mr. arap Moi] important, as far as closer administration is concerned, to have more money allocated for new roads in certain areas, as well as constructing bridges.

Sir, I do not think there is any more that I have to say about this Ministry, but what I should like to add is that Africans working in this Ministry would like to have an avenue of promotion where it is necessary. I think I may contradict the Member for Ukamba, who said that there are clerical staff—I do not know whether he meant Africans or Europeans or Asians—but what I would like to say is that Africans should be given every encouragement in this Ministry.

Mr. Speaker, I beg to support.

MR. KHAMISI: Mr. Deputy Speaker, Sir, I beg to say how grateful I am for the brief review which has been given by the Minister for Works. Unlike my two friends who spoke just now I do not altogether agree that the Ministry of Works necessarily builds at a high cost, because I have a very low opinion of the standard of building of private contractors. I say this because I have had experience of this; for the last three or four years, I have been Chairman of the Housing Committee on the Mombasa local authority, and we have continually been complaining about the standard of building which showed in the finished product of the contractors. I would prefer that a house be built at a high cost and last a long time, rather than it should be built at a very low cost and then afterwards found to be in need of rebuilding at a much higher cost than would have formerly been the case.

Of course, I do realize that in a place like the Ministry of Works, naturally building costs would be very high because of the overhead costs of people who are drawing big pensions and big salaries and house allowances etc. But at the same time I think it is worth while having our permanent buildings built properly rather than, from the commercial point of view, simply putting up the building and letting it do the best it can.

Coming to the other point I would like to bring up very strongly, I would like to talk about the question of water supplies. I was very happy to hear that

it is the intention of the Ministry to hand over the water supply at Mombasa to the local authority. I would like to welcome that because I think it is a step in the right direction. For a very long time, we have had a lot of difficulties seasonally at Mombasa, in view of the small amount of water which came out from the Mrere waterworks. But now we have the Mzima water supply which is plentiful, and I should like these facilities to be extended to the mainland areas. I do not know whether the Minister for Works, before handing over, will see that the mainland areas—that is, Kisumu and Likoni and Mtongwe—get a share of the water from the Mzima Springs. I think we have more water than we can possibly manage to consume ourselves in Mombasa, and the people in those areas are suffering very badly because up to now they have had to depend on their wells for their water supply. I would very much like to see a good water supply in those areas, and I am sure the public would very much appreciate such an extension of the Mzima water supply.

Another extension to the Mzima water supply could be made to (the places through which the pipe passes; for instance, at Mariakani and Mazera, where there is a great shortage of water. Since water passes through those areas, I do not see the reason why a water supply cannot be made available to the people in those areas.

Passing to another point about contributions and grants which the Ministry is giving to ease the burden of tolls. I see that in the Estimates £10,000 is allocated to be given to Nyali Limited for a reduction of tolls. I would like also to see a grant or a contribution being made in order to offset the tolls at Likoni and Mtongwe because I think the residents in those areas are paying very high ferry fees, and particularly the Africans. I think they should get some contribution from Government in order to offset the tolls. We also have the new bridge over Mtwaapa Creek which, we understand will be a toll bridge. I would like to see the Ministry make some contribution towards easing the burden of the tolls for the people who use that bridge.

There is another item in the Estimates for the maintenance of water supplies in

[Mr. Khamisi]

the African areas—£25,000. I should like to know which areas will benefit from that £25,000 because I feel that there are very many areas in the Coast Province, outside Mombasa, particularly at Rabai, Mariakani and so on, which should benefit from this grant. Alternatively, they should have an extension of this Mzima water supply so that these areas would be covered.

With those few remarks, Sir, I beg to support the Motion.

MR. COOKE: Mr. Deputy Speaker, Sir, although I remain a severe critic of the Lyttelton Plan, and although I do not know whether the appointment of my hon. friend, the Minister, has added to the efficiency of the Public Works Department, nevertheless I would like to congratulate him on the tremendous enthusiasm he has put into his job; he seems to be here, there and everywhere in the pursuit of his multifarious duties.

I have just one question of policy to ask him before I sit down and that is with regard to the subsidization of the ferries on the coast. Is there any policy in that matter or does it depend on the amount of agitation we may put up to get such-and-such a ferry subsidized? There is this incongruity at the coast at the moment, that whereas the north coast ferry—at Nyali Bridge—is highly subsidized, that on the south side has no subsidy at all. I do not want to indulge in details in this policy debate, but I would ask my hon. friend if he would tell us if there is any policy when he replies in this matter.

Sir, I beg to support.

MR. OLE TIPIS: Mr. Deputy Speaker, Sir, I have got a few points I would like to bring to the notice of the Minister, and one of them is that I think it would be quite a good idea if the Minister considered the question of recruiting African graduates from Makerere to fill some of the executive posts in his Ministry. Secondly, I know there are quite a few African engineering assistants employed by his Ministry; I would like to ask him what facilities there are within the Ministry for training these personnel, both theoretically and practically, to further them in their profession so that they will become more efficient and ready to fill higher posts,

in other words, to be promoted to the higher posts in this Ministry.

Another point is that I know we have got quite a number of unnecessary posts in this Ministry, such as the post of the African labour manager, whose main duties seem to be to keep the labour records in a division, whereas in every division of the Ministry we have got sections, such as the hydraulic or building section, where they employ labour managers who are really responsible for the labour in their charge, and for the records in that particular section. I do not at all see why we should employ such an expensive officer as African labour manager, because such duties can easily be carried out by an efficient clerk at a lower rate. Apart from that, you find that he has got very, very little to do, and as soon as he finishes his job in the morning he simply walks round with his hands in his pockets, doing absolutely nothing but harassing the labour. I think it is time we got rid of such people.

On the other hand, if it is at all necessary to have such an officer, why not employ him as being in charge of all the labour, not only African labour but all the labour within the Ministry? He does practically nothing, except to keep the labour records; surely, if you can employ an efficient clerk who knows his job he can do such a job with the greatest of ease. You could, say, spend the money which you save by not paying this officer on doing something more productive, than just having somebody who mainly harasses the labour and who does not know what he is doing.

The other point is the question of roads. In the African land units, you find that in some divisions the roads are quite impassable and it is these parts of the country which we want opening up, with schools and dispensaries and the rest of it. I should like to ask the Minister at least to try and allocate sufficient funds to keep these roads passable, because most of the time they are absolutely impassable. That is why we are not opening up these parts of the country as we would like to see them opened up.

Another point is the fact that you find in some areas, in the settled areas, that the roads in the charge of local government bodies are maintained in better

[Mr. Ole Tipis]

order than the roads which come under the Ministry. Of course, when you drive on to the main roads from the internal roads and find that the surface is so very bad, then I think there is room for improvement. For instance, if you take the Gilgil—Ol Kalou road at times it is very, very bad, and also the Gilgil—Eimeteita road. I am wondering, because I am not sure whether they come under him, but if they do, I think he should try to improve them somehow.

Another thing is the question of African personnel employed by his Ministry. I think we have got to encourage them, have the right type of people to be trained, so that we may have a good staff, and people who really know how to handle Africans. I think the African knows his people; with a good, capable man, who can command his people, you can get more out of the labour than you can with somebody who pretends to know the labour but does not know exactly how to handle them.

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

MR. NYAGAH: Mr. Deputy Speaker, I would like to take three items in the Estimates of the Ministry of Works, namely, water, housing and roads. I shall take roads last, Sir, because no doubt the Minister knows very well some of the things I shall say on that, but I shall have to remind him again and press for a definite answer.

As far as housing is concerned, Sir, I would like to mention something about the living places that are provided for the people who help in maintaining our roads. When one thinks that it is the duty of the Ministry of Works to provide this country with good houses, and to see the type of housing it provides for its workers, I feel it reflects no credit on the Ministry at all. Something should be done for these labourers who help to maintain the roads.

About six months ago, I remember hearing some criticisms made by members of the African Civil Service working in this Ministry in Nairobi. There is a shortage of housing and I believe the method of allocating houses to these civil servants is worked on a points system. I do not know whether this system still works nowadays, and whether a new

method of allocating houses to these people has been found. The complaints were mainly from people who have been longest in the service, and who did not qualify under the system of points for houses. Without sufficient points, some of these people are not allowed to have their families with them, and if, by any chance, anyone had his wife with him I think the Ministry prosecuted him and I think the wife was repatriated home, and the person fined. I do not know how true that is, but perhaps the Minister would like to find out what the position is today.

There is another criticism as far as housing is concerned. Some departments have been working for the improvement of African housing and it is the duty of the Public Works Department to improve these houses. It is a fact that some of the people who have been sent to improve these houses have not done the work as well as they should do. They have made unfortunate remarks such as, "This is not a European house, we will just do it roughly and finish". We would like, once the money has been set aside for improvement, to see it used properly and get a good piece of work done.

I will not say any more about housing now, but will move on to water. There are some places, Sir, in this country where water cannot be transported by means of pipes, or even held by dams, and where the African Land Development Board cannot provide water because the land does not happen to be of great agricultural value. Nonetheless, there are people living there and they need water. I would ask the Ministry to try to find out ways of getting water for these people. Recently, in one such place in Mberere Division of Embu District, it has been found very difficult to get water even by means of boreholes. But I think a successful experiment has been tried which I would like to see extended in areas of that kind, such as Taraka and Mberere and certain parts of Kitui, that is, using water catchment from the surfaces of rocks. The possibilities of this could be extended. That would be a great help to those people who are not necessarily agricultural producers.

As far as the roads are concerned, Sir, I would like to tell the Minister that I have just finished a tour round the mountain—over 700 miles. My car now



(Mr. Nyagah) looks a year older than it did before I went round the mountain. It is at this time that people are picking their coffee. I would like to tell the Minister that there is a bit that is completely cut off from the world today—that is, between Chogoria and Meru. The road is so bad that some attention ought to be paid to it and paid quickly. Perhaps if that part happens to be too far away in the opinion of the Minister from the Embu Division of the Public Works Department, or the Nyeri Division, it might be a good idea to hand it over to the department of the Minister for Local Government, so that it could look after that bit, because it cuts off the Meru coffee producing area from both Nanyuki and Sagana railheads, and it is high time something was done and done very quickly.

Again, Sir, the road from Embu to Meru should, we feel, have priority because we have been waiting to see something done for a very long time. The other day I raised the question of a speedier road to help us in South Nyeri to go through Fort Hall, in order that we may be able to bring our fresh produce into the Nairobi market. I hope the Minister took note of that and that he will not forget. I would like to remind him that there are possibilities of opening up a market for the Central Province with the Southern Province, by means of a road and a bridge in the southern parts of either Meru or Embu, linking them with Kitul.

With these remarks, Sir, I beg to support.

LT.-COL. MCKENZIE: Mr. Deputy Speaker, when we were discussing the Road Authority Annual Report the other day—

CAPT. HANLEY: Speak up!

LT.-COL. MCKENZIE: Does the hon. Member want me to give way? You will remember, Sir, that Government brought in Standing Order 64 to cause the end of the debate. I therefore make no apology today for touching on Road Authority matters.

I maintain that the Road Authority public relations in general and also those of the chairman are poor. Now, Sir, we must appreciate that all our roads,

especially when we have a wet year, are in the rural areas far from satisfactory. We have heard friends of ours among the African Elected Members maintaining that their roads are bad in their rural areas; I can tell you that a lot of the roads in our rural areas—in the European areas—are bad when we get heavy downpours of rain, and especially when you are getting continual downpours of rain every day.

Sir, I maintain that having poor public relations does not help matters. I would have thought that the position of the chairman of the Road Authority ought to have been completely non-political and every opportunity that the Road Authority or the chairman thereof had, of putting across the work that the Road Authority is doing, ought to be seized. Now, we heard the chairman of the Road Authority talking at Eldoret in the last few weeks, and also he has spoken at Solik; but he has said nothing about roads at all, it has always been political. Now, to help I would like to give the chairman and the Road Authority two suggestions. Why does not a senior member of the Authority or the chairman himself visit all the county councils, both African and European, and the municipalities, as well as the district councils? Why does he not use the Ministry of Information to get the information across?

Now the general public does not really know what the attitude of the Road Authority is on the future of the Mombasa road. The general public, until the other day, when it was mentioned in this House, did not know that 50 per cent of the revenue came from taxation of heavy lorries. The general public do not know that between June, 1954, and June, 1957, the Nairobi County Council bituminized 81 miles, the Public Works Department only did 31 miles, and all the other county councils only 11.

Now, Sir, we have heard that trunk roads are going to be frozen, for some time to come, from the county councils' working on them. What I would like to know from the Minister is when he maintains that these roads will be unfrozen, bearing in mind the mileages which I have just given. And when they do become unfrozen, would that mean a decrease in the staff of the Ministry

[Lt.-Col. McKenzie]

Now, I would also like to know why, during the year 1956/57, the amount of £183,000 was underspent on recurrent, and why there was a non-recurrent expenditure of £136,000 during the same period on roads, especially after our showing how bad the rural roads are. I should also like to know something else, Sir, if the Minister is willing; to tell me and that is the answer to something on page 40, paragraph 3 in the auditor's report. What is meant by what the auditors said in paragraph 3 of the Road Authority Report for last year?

I would also like to have an answer, Sir, to what I asked the Minister some days ago in this House. I was promised an answer within 24 hours which I have not had yet. It is the question of the future of the bridge over the Marengat near the Kenya Co-operative Creameries' factory about six miles north of Naivasha.

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

DR. KIANYO: Mr. Deputy Speaker, Sir, I have only one point to raise with the Minister for Works. You know, sometimes I have felt that the position of Minister for Works should be occupied by a man who lives in the rural areas instead of by a man who lives in the city, because perhaps he might share with us some of the difficulties we experience as we travel around. I was accompanying my hon. friend, Mr. Nyagah, on his tour, and I did realize something which was really appalling in the case of Meru, as well as Embu. Since my friend, the hon. Member for Central Province North is not here, I would like to emphasize on his behalf what he told me, that in Meru, for example, the coffee industry is really prospering but they are continuing to have difficulty in getting their produce to market, mainly because of the bad roads.

Now, Sir, I would like to raise one other point and that has to do with the emergency roads that were constructed in the Central Province during the Emergency. I do not know whether they come under the Minister for Works or the local authorities, but we do want to emphasize the fact that, although these roads were constructed during the Emer-

gency, for purpose of carrying out operations against the Mau Mau movement, we would like to see those roads maintained and maintained at a higher standard than they are today.

Now, the last point I want to make has to do with purely parochial matter, and that is the road beyond the Uplands Bacon Factory. There is a place there called Magina just near Lari, and I met some people who come from there the other day and they asked me whether I knew the Minister for Works personally. I said, "Yes, I do". So they said, "Would he be kind enough to accept an invitation to our home, maybe during the rainy season, and see for himself what goes on?" The reason why I have got up to speak about this matter is because it is from this area that most of the vegetables consumed in Nairobi come. Every day we have trucks and trucks or lorries and lorries full of vegetables most vitally needed in Nairobi, and yet this road is in such a condition that during the rainy season one finds five or six or seven lorries stuck there. Now vegetables, of course—although I am not an agriculturalist—are a perishable commodity, and when a man is stuck there for about five days with his vegetables, by the time he gets to Nairobi, of course, he can hardly find a housewife to buy his produce.

I would say that since we are concerned very much with the question of encouraging higher production and commercial agriculture in the African areas, roads like this one, which goes to Magina, should be given priority, because when we have spent so much money on African land development and agricultural development, and yet make it difficult for the produce to reach the market, half of the work is being wasted. I am, therefore, extending this invitation to the Minister for Works perhaps to visit this area and see for himself.

The last point I wish to make is that it appears to me that in some cases we perhaps spend more money in constant repairs of bad roads than just deciding once to fix the roads and, perhaps, thus saving the cost of constant repairs. I have been this happening so often on the roads in my constituency. I wonder whether the Minister could not look through his list again and see which

[Dr. Kiano] roads are really taking a lot of his money, in constant fixing here, patching up there. He should just make up his mind to fix the roads permanently and thus save himself the cost of recurrent repairs.

With these words, Sir, I beg to support.

CAPT. HAMLEY: Sir, naturally, I would not dream of stabbing the Minister for Works in the back from these Benches, but there are one or two suggestions I would like to make to him. I would like to point out to him how very disappointed we people are at the coast to see this £4,000,000 for roads going up-country and none of it coming our way. The Minister does not live at the coast, he does not know what we have to put up with. But I do think, Sir, he must have a look at that stretch of the Mombasa road between the end of the Mombasa tarmac and the beginning of the Mackinnon Road tarmac. If he does not, I am afraid I will have to carry out the threat I made to him the other day, that the 16 Coast Members in this Chamber will follow him round, saying, "Don't forget the Mombasa road" until he does something about it.

I can tell you, Sir, that I use the Mombasa road as a whole a good deal—as a hole, yes—and it is not too bad except for that one stretch, and for about five miles each side of Tavvo. If he would only deal with that, I think he would have no trouble with complaints about the Mombasa road for years to come. I do ask him to see if he can do something about it.

The other thing I want to remind him about, Sir, is that the south coast is growing very much. A lot of people live on the south coast and deserve a lot of consideration. I do not want to detract in any way from Malindi and the north coast road as an important attraction to tourists—it certainly is, and it certainly should be developed—but I want to point out to him that there is also a wonderful stretch of beach south of Mombasa and, in the interests of the tourist trade, he should do something about that south coast road.

I have heard those beaches at Mombasa compare very favourably with Waikiki beach. It is a great attraction,

and we should get people from the Copper Belt and people from the Gulf and what-not coming there if they could get about. But they cannot get about with the present state of the roads, and I do strongly advise the Minister to look into the question of making that south coast road an appropriate approach to the south coast holiday resorts and beaches.

The other thing is that there is a great deal in what one Member—who was it?—said about the subsidy for the Likoni ferry.

[Mr. Deputy Speaker (Mr. Conroy) left the Chair.]

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

I know that there is no money to spare these days, and I know that it is all very well to ask for these things without having to say where the money is to come from. But it costs an African four times as much to cross from Likoni to the island as it does for him to cross from the north mainland to the island, and that is a great burden on the African. I do think that that should be looked into. It seems to me to be an odd thing that there is a subsidy—and I live on the north mainland myself and benefit from a subsidy to cross from the north mainland to the island—but there is no subsidy to cross from the south mainland to the island. They are both extensions to the main trunk roads.

My other point—and I know it is a sore point—is that the Minister should look into the question of the Mombasa ferry ramp. I think we are rather being put off with soft words. I am not at all happy about that Mombasa ferry ramp.

I am a seaman, and the hon. Minister is—

AN HON. MEMBER: NO!

CAPT. HAMLEY: Well, Sir, it is presumable unparliamentary to call him a landlubber, I would not say that, but he is not a seaman. But I do know very well that unless the foundations of that ferry ramp are very sound indeed the current and the wash from the propellers are going to be very dangerous things. And, although we are told that it is being constantly looked at, and although we are told there is no immediate danger,

[Capt. Hamley] and although we are told that steps will be taken if it is considered that there is any danger, yet I think he had better have another look at it. Let me tell him that I am not happy about it, and I know what the sea can do. So, will he please have another look into this matter.

Sir, I beg to support.

MR. MACKENZIE: Mr. Speaker, when my hon. friend the Member for Ukamba was speaking he referred to sub-head Q, the ration and house allowances sub-head, and asked how it was that in spite of the fact that there had been a removal of certain expenditure to departments the figure for item I was still £335,000 next year as against £350,000 this year. The answer to that, Sir, is that while the house allowances vote has been dispersed amongst departments, since the allowances are actually paid out by the departments, the rents of offices and houses vote is still administered centrally by the Ministry of Works who are responsible for certain services in connexion with rents for all offices and houses and they will deal with them in just the same way as they deal with Government's own estate, Sir, of this kind. That is the reason for that.

There is a slight reduction as the expenditure during the current year has not been as high as was expected but there will be a saving as hon. Members will note this afternoon when we deal with the Supplementary Estimates.

As regards the house allowances vote, this is higher than the current year's provision. The £75,000 provided is for the Ministry of Works alone. It is higher than the current year's provision although, as my hon. friend will note if he looks at 1956/57, this year's net original provision is actually less than the actual expenditure was during last year. This year's provision is £52,000 for this staff.

I might say that next year's provision does take into account the increases in allowance and various other factors which are the reason for our having to take a Supplementary Estimate—at least one of the reasons. We shall be dealing with that particular matter this afternoon, Sir, I understand, and I would not propose to go into that at this stage except merely to say that the increase the same time there are certain dangers

next year is due to the same causes as will make it necessary for us to take this Supplementary Estimate.

SIR CHARLES MARKHAM: I thank the hon. Member for giving way, but do I understand from him that this sum of £52,000 in last year's Estimates was only for the Ministry of Works? Or was this for all Government departments?

MR. MACKENZIE: It was the provision, Sir, for the Ministry of Works during the current year. Of course, it was not entirely adequate.

I would also like to say for the information of all my hon. friends on the other side that in splitting this house allowances vote between departments this year it was not possible to get the detailed information from departments in the time available to us and so what was actually done was to take the total estimate provided by the Ministry of Works and divide it proportionately amongst the departments. That was the way that the individual departmental estimates were obtained this year. It was about the only way we could think of without going to a tremendous amount of labour, and of course when we have had experience of it being actually run by departments for six months or so it will be possible to get a much more accurate estimate.

Now, Sir, to turn to one other matter that my hon. friend mentioned, that is the considerable amount of clerical staff under the administration and general sub-head, and it was his suggestion that it would be a very good thing if there were to be fewer staff of this clerical, typing and analogous type, to have fewer of them and of a higher quality, as was suggested in the Estimates Committee a year or two ago. This is, of course, a problem which I do not think is by any means unique to the Ministry of Works.

The Government is generally doing everything it possibly can to raise the standard of clerical work, and I think I can say that at any rate every possible effort is made to try to ensure that people who are put into these jobs are doing them as well as possible, but we know that there is still a long way to go. At which I should mention. Merely increasing salaries probably would not do a great deal of good because it would mean that the same people in the same jobs

[Mr. Mackenzie] would merely get more for being no more efficient. But the general philosophy, I would entirely agree with what my hon. friend said, it is always desirable if one can get one man to do the job of two whose combined salaries would probably be a little more than his although his salary would be more than either of theirs individually, but that is the sort of thing that one should look at; and this is a matter that the Government is looking at generally all the time. We are always trying to see whether we can make this organization more efficient and we have no illusions about the fact that there is room for improvement everywhere. I will give my hon. friend that assurance, that that is something which is looked at generally.

As regards the question of having an inspection of staff, there again, as hon. Members know, the Government has got a staff adviser. I do not think that he has yet had an opportunity of visiting the Ministry of Works, but he has done extremely good jobs in one or two departments, including the Treasury, in having an expert look at the staff and suggesting where savings can be made; and I am quite sure that this is something that my hon. friend will bear in mind.

Finally, Sir, there is one further point I would like to mention and that is that it was suggested that the criticism that is often levelled at the Ministry of Works, that the cost of the Ministry of Works building is far higher than it ought to be, should be examined and that the public should be told what the facts are. A suggestion was also made that it is always very much cheaper for other departments, in the particular instance it was the Provincial Administration who it was suggested could always build houses or other buildings more cheaply, but we have heard the same criticism made that various departments build more cheaply than the Ministry of Works.

I think that there are one or two points which should be known in dealing with this thing, and that is that the Ministry of Works are specialists in buildings and that the cost of their work is always fully shown in the cost of the building when it goes up. I think com-

parisons with the costs of departmental building are sometimes rather misleading in that a good deal of the cost of transport and supervisory staff and various other things is met from the Votes of the department concerned and does not have to be charged to the work, the actual work, as it is when the Ministry of Works undertakes a building project. There is also the point, Sir, that the Ministry of Works have standards which they try to apply so far as possible throughout the Colony. They build with an eye to making quite sure that maintenance will be as cheap as possible and therefore they do very good building work, their building work is of a very high standard, and the result of that is that the cost of maintenance is kept at a very low level. The Ministry of Works maintain all the buildings in the Colony, including some very large ones, for, I think it is something approximating a little under 1½ per cent of the capital value of the building. Now, Sir, that is a very low maintenance figure and the fact that maintenance can be undertaken for such a low figure is of itself one of the justifications for the very high standard of building which is undertaken. I think that, if the matter was gone into thoroughly, this criticism of the high cost of Ministry of Works building, it would be found, when equal things are compared, that the cost compares very favourably with work done by anyone else.

Sir, I beg to support.

MR. MUCHURA: Mr. Speaker, Sir, on this Vote of the Ministry for Works, I do not represent a rural constituency so I will try and confine my remarks to matters related to staff and things connected with that.

I understand that the Ministry of Works is reducing staff, mainly because of cuts in the development programme for the years 1957/60. As a result of that they have been reducing a lot of their staff, mainly temporary staff, and those probably who are a bit old now.

This question of staff in the Ministry of Works has always been a problem in the Government. I remember that committee after committee have been set up and the last one, which I recall now, was in about 1945, 1946 and 1947. In that committee certain reorganizations

[Mr. Muchura] were recommended. One of them brought about the better housing for the Ministry of Works staff behind the headquarters offices at Athi Road. The other one was a recommendation to the effect that there should be some sort of supervision and welfare of labour employed by the Ministry, primarily from the divisional headquarters, by people who will be responsible for the workers and the looking after of the day-to-day problems of the labour that was employed. It was, I think, suggested that these people should be as mobile as possible and that there should be some provision of vehicles of some kind to take them round and to see where these people work at the roadside, in stations and where bridges are being built.

This recommendation brought about the appointment of labour managers. Now, that the Department is reducing staff, and now that they are going to be, shall I say, on a more stable basis for the time being, then this creation of labour managers—and there is provision for five of them—is a duplication of what I would call a proper and established method of dealing with staff. I know for certain that most of the African labour that are employed by the Ministry are not satisfied with the handling of their affairs because they are dealt with by several different people—firstly by the establishments section, secondly by the labour managers, and thirdly by divisional heads and other people.

Now, Sir, the idea of having labour manager is not welcomed now by most of the African labour because, for one thing, they cause delay and they do not understand their problems. I would suggest very strongly to the Minister to consider reinforcing these establishments divisions so that there is a change of management and control, including a welfare officer within the establishments sections in the Ministry, so that the control and management of staff matters is in one straight line from the worker to the Ministry. That will simplify matters for the staff to understand and it will make the handling of matters easier.

I know, when I was in the Civil Service, that there were people who were declared redundant over five months ago, and up to this minute, because of that

confusion, there has not been any settlement of their claim. I say that that is due to two or three different fellows handling the same question at different stages.

Another thing I would like to mention, Sir, is the question of institutional housing. I do not know what the merits or demerits are of this case but I can understand the question of institutional housing in so far as the Medical Department, the Police and the Prisons Department are concerned. I could not understand the case of the Ministry of Works staff in townships. It is all very well outside where they have got camps and where they are building roads, but when it comes to a town it is entirely a different question. The feeling is that while there are institutional houses, especially as in the case of the Ministry of Works, it is just a continuation of office supervision right up to the home and back again to the office. Secondly, Sir, it will help very much if it could be done, and as the Ministry of Works is responsible for building Government staff quarters, why do they particularly want to have their own houses for their own staff. I do not say that this will really ease the housing situation, for instance in Nairobi, but to bring them to the common pool for all the Government servants and not particularly confine them for the Ministry of Works would be a good thing. You can understand it in the case of the Medical Department where the staff have got to be near the hospital, and it is convenient for them and convenient for the Department. The same goes for the Prisons Department and the Police, etc., but in the Ministry of Works the feeling is that this provides a means of control right up from the office to the home and back again. That is creating a bit of a feeling. I would suggest that the Minister considers, the idea with, of course, the Chief Secretary, of bringing those houses into the common pool in townships. I am not suggesting the roadsides and other places where they may be working, but in townships where there is permanent staff when the institutional housing should be brought into the common pool under the supervision of the officer in charge.

The other point I would like to touch on is the question of training and trade testing. I see in the Estimates that there

[Mr. Muchura.]  
is provision for a training school. I welcome the idea. I do not know how it is going to work but I can see that they are trying to produce the staff qualified to do whatever job it is that they are doing. But then at the same time I would appeal to those who are not coming into the training now but have been in the employment of the Ministry for some time to go in, shall we say, for a refresher course in order to be able to be taught something a bit more, if they are capable of learning. Some may be too old, but I would like them taught something more in the way of refresher courses to give them an overall advantage in their work and whatever they may be doing.

That drives me straight on to the question of trade testing. I know it is the Government policy that promotions, appointments and so forth will be based on whether an officer has passed a trade test of some kind. It may be grade I, grade II or grade III, but it has been my experience that some of these people are employed for instance in a building, for example there is an electrician whose duty it is to check up and make sure that the electrical system in that building is working correctly, and he may be stationed there for five years. With this new idea of trade testing, he will not only be trade tested on maintaining the electrical system in the government building, but he may be asked about anything connected with electricity. That goes for every other big Government institution like the Medical Department, the Treasury and other places where certain Africans are stationed there for some time to do nothing but maintenance. From there to go and do a trade test would be pretty hard for these people—not because they are not capable, Sir, but because of being confined to doing their particular individual work. They are unable to take a trade test and do all the other things which they have not done for five years. Therefore, Sir, I would suggest and recommend to the Minister that these schools should be an opening for these people who have been stationed and made to do a particular kind of job over a number of years—to be able to go back to these schools, refresh their minds and then be given a trade test. That, I would suggest, might help.

I appeal to the Minister to reconsider the idea of labour managers and find out from his staff what relationship, if any, exists between the staff he is supposed to be managing and himself, and then, secondly, to create a single unit of establishment sections running the whole of the staff matters and leading right down to a clerk in an establishments section in a works camp or wherever it may be. I would point out the need for greater and better staff relations in the Ministry because I think that is related to this problem.

I beg to support.

MR. NGALA: Mr. Speaker, Sir, I very much appreciate the mention made by the Minister in connexion with the £4,000,000 roads project. It is a proposed idea but I personally hope, Sir, that it will come into fruition.

I would like to support the hon. Nominated Member, Capt. Hamley, that when this comes about I hope the Minister will firstly have a look at the Coast Province and the difficulties there in connexion with roads. I have a few roads in mind. Sir, the road between Mombasa, Kinango, and joining on to Tanganyika is one, I think, which needs particular attention. There are several places which are very notorious so far as the order of the road is concerned. Many places are often bad and the officers serving under the Minister know very well that they are repeatedly repairing these places. I maintain, Sir, that in the long run it would be a saving for the Ministry if such places were put in order once and for ever. There is one place just before reaching Kwale, called Mkwamtsola. The place is very bad and the Ministry is spending a lot of money every year repairing that place with material which is very weak. I submit, Sir, that if the Ministry concentrated on that place and put it in order the road between Mombasa and Tanganyika would be in use almost throughout the year. That would serve not only people moving from Mombasa to Tanganyika but also the local people who trade in the local goods round about Kwale District.

The other road, Sir, which I hope the Minister will pay some attention to is the road between Malindi, Garsen and Garissa. Now, I have mentioned these roads more than twice in this House

[Mr. Ngala]  
and the Minister has always stood up and said that there is not sufficient money to put on roads which serve undeveloped areas. Now, Sir, I would like to remind the Minister that roads is one of the factors that can help us in developing areas and I believe very strongly that this road would help developing the area among the Pokomo people and also the Somalis who need it very much for their agricultural produce and stock produce. I hope that the Minister is aware that this road is for quite a bit over four months in the year impassable, and I think that is a very serious aspect so far as the agricultural development of this area is concerned.

The other road, Sir, that I would like the Minister to think about is the road which I mentioned during the Budget debate, the road between Malindi through Kaloleni and Mariakani. This road, so far as tourism is concerned, is a vital road and should be put in order so that we can encourage tourism and people who travel from Nairobi to Malindi to spend their holidays there.

The other aspects I would like to touch on, Sir, is the question of water supplies. There is a lot of criticism as far as contracts given by the African district councils to the Ministry of Works in connexion with water undertakings are concerned. Many African district councils are complaining that such contracts given to the Ministry of Works are very much delayed. They are not given the priority that they should be given. For example, the Kwale African District Council gave a contract I think a year and a half ago for a water tap to be installed in Mazeras for the use of the local people there. Now, these have been overlooked for quite some considerable time. Last month I saw the District Commissioner at Kwale and talked to him about this and all he said was that he had handed over the contract and that the Ministry was not very quick at it. I hope the Minister will bear in mind that there is quite a serious need for water in rural areas and when a contract is given to the Ministry I hope it will be undertaken in the quickest possible manner.

In the present Estimates there is a sum of £55,000 for maintenance of water in African areas. Now, I would like to

know, particularly so far as rural areas are concerned, where the Ministry is spending this money, particularly in areas in the Coast Province.

Mr. Speaker, Sir, I would like to show my appreciation of the mention which was made by the Minister that he is intending to provide some kind of security to workers of the lower class so that gratuities and pensions are possible for those who do qualify for it. I think this is a very necessary step and I hope that the Minister will look into it with the greatest sympathy that he has.

I would like to support my friend the hon. Member for Mombasa in the reduction of tolls over Likoni ferry and Mtongwe ferry. There is a lot of difference between these tolls as between the Likoni ferry and the Nyali ferry. I think it is time that a levelling up should take place.

With these words, Sir, I beg to support the Motion:

MR. TYSON: I have just two points that I would like to put to the Minister. One is in connexion with staff training. I wonder whether we are making sufficient use of the local facilities instead of, as appears to be the case, sending Kenya students to the Engineering School at Entebbe and for training outside Kenya. The position today is that there are considerable and very valuable facilities available locally both at the Royal Technical College, combined with evening classes in Nairobi, and in Mombasa and in Nakuru. I would like some assurance that every possible use is going to be made of these local facilities so that young fellows who go in to his Ministry, if they make use of these facilities, have a good chance of promotion.

The other point I wanted to raise again, Sir, was in connexion with the question of house allowances in lieu of quarters. We go on spending considerable sums year by year and I would like to know from the Minister whether any inducement is held out to the officers concerned to buy their own houses instead of Government having to look up these sums of money as we are doing today.

Subject to that, Sir, I support.

MR. ODINGA: Mr. Speaker, Sir, I have got just a few points to raise on this particular Ministry. Last year I raised the same point but since I do not think that something really substantial has been done, I think I should again bring them before the Minister. I refer to the African building teams. Each year the Government turns out some of the Africans who have been trained as masons and carpenters and so on. But if the Government does not encourage them when they get out by giving them simple building programmes to do then I do not think that this training will really be worth while.

Every now and then we get complaints from the African building teams, and even in Nairobi and in many parts of the country, saying that they are not being encouraged by the Government to stand on their own. Every time the Government has got any building programme or even the simplest work they generally prefer to give it either to the Asians or to the European builders, which I think should not wholly be at this time.

Mr. Speaker, for these people to carry on, in the first place it is for the Government itself which must encourage them. It is the Government who must in the first instance recommend them for the work which they have done and probably later on some private firms may also see from the Government example and employ them in their work.

Recently when we were discussing this with one of the Government officials he told me that their main reason or their main objection for giving the African building teams the jobs is that they have not got any security to offer, or any guarantee. I do not think this should be any drawback because when one is given a building job generally in the contract it is laid down that a certain small sum should be paid to him at the signing of the contract and when he has done a certain amount of the job then an equal amount is paid to him, and so he is paid little by little until he has completed the job. As such I think that should be enough security for the Government to give them jobs to do.

It is said that the Government may stand the chance of losing money. Losing money is everywhere and it is not only

a characteristic of the Africans. It is, even if you give the job to some of the most expert men, you will always find that sometimes he will make a mistake. You sometimes make a mistake and making mistakes is not confined to the Africans only. Honestly also is not a characteristic of one race only. Honestly: you will find Africans who are honest, Europeans who are honest and Asians who are honest. As such it is only by trial and error that you will get that type of people. As such it is the Government which must start with such experiment.

Recently I learned something, that an institution which is producing the African carpenters and masons had instead of encouraging these Africans who are trying to stand on their feet, he picked up few Africans who are probably helpless, and could not form themselves into a building team. He got these people back and he employed these people and whenever there is any job, instead of publicizing the job so that he gets the tender from the right type of people to take up that job he goes on and uses these people who he has employed himself to do the job. I think that is also another way which should not actually be encouraged by the Government itself. He went on and told me that he is doing that simply because by that way he can build so many houses cheaply. I asked him: "How possibly can it be cheap? How possibly can you get it cheaply when surely you have had the estimate and the reasonable price that you know". If you do not exploit the labour employed then it must be that your supervisory labour is not included and that particular labour must have been included in another heading which you are exploiting.

You are flattering yourself that you have built it cheaply when in effect you have used the money from another Heading.

Mr. Speaker, I am asking the Government to consider this very seriously and encourage the African building teams. You should encourage them to come up in order to compete in the open market with other people, particularly in those building programmes which are done in the African areas. Here the African should mostly be encouraged to come out.

[Mr. Odinga]

Mr. Speaker, now I have only got one more point and it is a very important point. As some of the other Members have raised points about the Mombasa road and so on I think that I should also raise the point of the road to Kisumu.

Mr. Speaker, the road to Kisumu which goes through to Uganda is a very busy road but it seems as if the Government is so busy about the road going the other way and neglects this important road to Kisumu.

Kisumu is also one of the most important towns in this country, particularly in East Africa because it is the centre of East Africa and as such you communicate with Tanganyika and with Uganda. It is the meeting place for all these East African territories, Sir, and as such it should be encouraged by good roads; particularly the time has come when the road to Kisumu and through to Uganda should be tarmacadamized and put properly, instead of being busy with that which goes through to Eldoret. I think that Eldoret is a little bit sideways.

With these few remarks, Mr. Speaker, I beg to support.

GROUP CAPT. BRIGGS: Mr. Speaker, I very much welcome the intention to apply the principle of hire purchase to the provision of roads because it is quite obvious that many of the trunk roads in the country have for a considerable time been uneconomic to maintain on a gravel basis. I only regret that the idea was not pursued when it was originally mooted some three years ago because if it had been done then we should not only have been able to obtain the finance but we should also have had some miles of good roads.

I would like to raise one other point. Everyone has been talking on the question of local roads and I would like to raise one. That concerns the bitumen extension on the Thika-Sagana road which is some seven miles long. Now that road was completed, I think, roughly about two years ago and if my recollection is correct it was a fairly expensive road to build, as it was not a light-specification road or anything like that. It was supposed to be a permanent road. It was quite obvious when it was completed that the surface was very

rough as compared with other sections of new roads and since then it has broken up in a good many places and it does rather appear to me that there has been a considerable wastage of public money. I would be very grateful if the Minister, when he replies, would perhaps deal with that particular aspect.

Subject to those remarks, Sir, I beg to support.

MR. MULIRO: Mr. Speaker, I also have a few points to raise on these Estimates, and one of the points I would like to start with is the Kapsingazi Bridge which connects Kitui with Embu. This road is terribly bad and the bridge is terribly bad; it has been under water for, the last couple of months. That forces out a number of people who have to move between Embu and Kitui to go a long distance of two miles. Now, if the Minister for Works would take immediate action to look into that my hon. friend the Member for Embu and Nyeri would be very pleased.

Now, I do not want to speak very much on this, except there are two points I would like to raise with the Minister for Works. The main roads in African areas have become to a very high degree unusable. When I move on roads, both main roads and secondary roads, in the settled areas I find it very pleasurable to travel on them. I have this chance, unlike my friend who went through Kisumu. I go on through Eldoret; that road is indeed good and we can travel on that road very well up to Kitale, and even from Kitale on to Elgon Nyanza the road is very good. Now, those roads in the settled areas are maintained by county councils. In Nyanza Province, in African areas, the roads which are maintained by African district councils are indeed very good, particularly in my own area, North Nyanza and Elgon Nyanza. These roads are very much better than the trunk roads which are maintained by the Ministry of Works through the Road Authority.

MR. ODINGA: Yes!

MR. MULIRO: What the people want is that the Road Authority should put these roads to a certain standard, so that they are taken over by local authorities rather than the Road Authority, because these people are wasting a lot of money;

[Mr. Muliro]

they actually perform some good work, then the maintenance of roads is worse than anything else. They do not look after these roads at all.

Now, this Minister who travels between Kisumu and Nairobi in planes does not know and does not realize how bad these roads are. I think in his own tours which he does mainly by air, he should adopt a different method this year, and see that he goes to various provinces by road. If he can move by road he will realize the importance of maintaining these roads in good condition.

My hon. friend from the Coast Province maintained that the roads to Mombasa are very bad; they are very bad, these roads are bad, but the Minister will never realize that they are bad because this hon. gentleman moves by air between Nairobi and Kisumu. Now, he cannot see how bad these roads are. I invite him to come to tour my own district with me by road, then he will realize and he will see the immense difference between the roads which are being maintained by the Road Authority and the roads which are being maintained by African district councils. Another point I would like to raise, Mr. Speaker, is this one on the bridges which are being built between Tarbo (?) and Broderick Falls. They are getting stones from a certain man who is in my constituency. His stones are being taken by the Ministry of Works without payment at all. These stones—the man was paid just a few shillings for the land which was taken for building the roads; but for the stones which were extracted, they told him that he could not be paid at that time for the stones. They said: "Well, you can do whatever you want with your stones; we are not interested in these stones". But now, they have come back; they are using those stones which they never paid him for. Now, I think the Minister should take that very seriously. Instead of seeing him, I have mentioned this today here, and I think he could do something about that.

Another point—and the last one—is the improvement of the aerodrome at Kisumu. The Members of the Coast Province find it very leisurely to travel from Mombasa to Nairobi because their roads are bad. We in Nyanza Province, we

would also there, quite a number of us, would very much like to travel by plane from Kisumu to Nairobi, because our roads are very bad also. But, unfortunately, unlike the Coast Province, the people coming from Mombasa, we in Nyanza Province have a very poor aerodrome also at Kisumu, so that we are unable to travel by plane from Kisumu to Nairobi.

Now, the Minister for Works should see to that. We shall be very pleased if that aerodrome at Kisumu can be improved so that there is a daily service between Kisumu and Nairobi. Kisumu, as the Member for Central Nyanza has already said, is a very important link in the whole of East Africa, from Nyanza to Kisumu, Entebbe, Mwanza, Nairobi—all that is very important.

So, Mr. Speaker, with these few remarks, and lastly our aerodrome as being the last remark, I am supporting these Estimates.

MR. HASSAN: Sir, as a rule, I never support the Nominated Member for the Coast as he uses his whip for Members opposite, but this time when he spoke of the Mombasa road, and of our exit from the island to the mainland, I must support every word he said about its improvement.

Sir, I would like to draw the attention of the Minister for Works to the fact that we in Mombasa need facilities to have easy exit to the mainland, to remove congestion from the island as well as develop the resources of the mainland. But, unfortunately, we are always left at the mercy of the private companies to afford facilities for us to have exit from the island; although I pay tribute to those companies who come to invest their money to help us; but at the same time, I must draw the attention of the Minister for Works to the fact that investments of private companies are always made for purposes of business, and they always do see that they make some profit out of it. With agriculture and other development, it does not pay to have heavy tolls to bring their produce to the island. It will be rather distressing to know that the vegetables grown in Voi area are having less overheads to reach Mombasa than from 10 to 40 miles of the mainland of Mombasa. It does not help the agricultural development of the Coast, because a

[Mr. Hassan]

lorry-load of vegetables or fruit coming from Malindi and paying tolls on the way, and the cost of the lorry, is so heavy that it discourages the people from growing vegetables and fruit for the market of Mombasa. Today, this being a very nice fruit-growing area, we are living entirely on the fruit which we are getting from as far as Italy and South Africa.

Another matter which was mentioned by a Member was with regard to the staffing of the Public Works Department. This matter was dealt with in a committee a year ago when it was found out that the efficiency of looking after the stores and accounts branch of the Public Works Department was disorganized; and investigation proved that it was not due to the fact that there was not efficient staff working there, but it was due to the fact that a considerable number of new people for supervisory work were engaged from overseas who did not know the work they were engaged for. That ended up in considerable disorganization of the accounts branch, and the stores accounting work. It was then found out that there were quite a few very senior people in the Public Works Department who were quite fit by their experience to take over the supervisory work of stores and accounts, but they were discouraged as they were not given adequate promotion.

Sir, I would like to bring about the efficiency of the staff to encourage the old experienced worker in the Public Works Department, and give them the supervisory work rather than bring in untrained supervisors to cause disorganization in the running of the Public Works Department.

There was mention made that if the building work in the outstation was trusted to the provincial staff, they will be able to build very much cheaper than the Public Works Department. Well, I had personal experience of this work, as I was doing a considerable amount myself; but the difference in the cost of building between the Public Works Department and the provincial staff could easily be made out that when the Public Works Department put up buildings, they always add the cost of their officers and the technicians who frequently visit dur-

ing the building operations. The provincial people usually do not add to the cost of the building their own supervision costs. They use their own lorries which is usually charged to their own departmental Votes, and the station labour which is paid by the department's Vote is usually not added to the cost of the building.

As a matter of fact, the Public Works Department cost is more than what a contractor can deliver to us, but there is no doubt that the Public Works Department supervision and technical staff usually do work in a better way than the contractor can.

With these few words, Sir, I support the Motion.

THE SPEAKER (Sir Ferdinand Cavenish-Bentley): I think, being only half a minute to, that the time has come for the interruption of business, and I adjourn Council until 2.30 p.m. this afternoon.

*The debate was interrupted at thirty minutes past Twelve o'clock.*

*Council resumed at 2.35 p.m.*

#### BUSINESS OF COUNCIL

THE CHIEF SECRETARY (Mr. Coultis): Mr. Speaker, Sir, with your permission I would like to make a statement with regard to the business of the House for the next three or four days and if possible I will try to give an outline of what is intended for the rest of this Sitting.

Tomorrow, that is Wednesday, 11th June, is the 15th and is therefore the last Supply Day. We therefore only have this afternoon left to deal with the other Heads which are left. It is suggested that if Council is considering a Motion that Mr. Speaker do now leave the Chair, at the rising of Council today, that that Motion will be taken to its conclusion tomorrow. Thereafter at whatever time we will take all the subsequent Votes in Committee without further policy debate.

On Thursday—that is the day after tomorrow—it is proposed in view of the fact that Supply will have concluded, and so as to cause as little interruption in the debate in Committee of Ways and Means, to take Private Members' Motions only. That is for the whole of Thursday afternoon. But Council will only sit

[The Chief Secretary] until 6.15 which is the normal time of interruption, Sir, on a Private Members' Motions day, Mr. Speaker will then call upon the Mover to reply at 6 p.m. and will put all the questions necessary to dispose of the Motion which is then under consideration. The Committee of Ways and Means will commence on Friday morning. I would remind hon. Members that the Committee of Ways and Means is restricted to three days under Standing Rules and Orders but may be extended by Motion of the House to five days. If Members on the other side of the House wish that extension, I would remind them that the necessity for moving that Motion is with them. It is suggested, Sir, that we should take the first two days of Committee-of Ways and Means to discuss customs and excise in the remaining three—that is assuming that the Opposition will move for the extra two days—on income tax. It is proposed, Sir, in respect of these debates, that there shall be no limitation of time and we shall stand by Standing Rules and Orders, and as we are in Committee each Member will be allowed to speak twice but there will be no limitation. We hope, however, that each group in the House will decide on the speakers which they will choose to take part in this particular debate. Thereafter, Sir, after the five days of Ways and Means is over, and I assume that the Opposition will wish the five days, we will take the Appropriations Bill which will be the following Friday. The following week there should be two days on the necessary Bills—to dispose of customs and excise and income tax, and it is hoped with the concurrence of the House, that the House should rise on Friday the 27th June. But I must warn hon. Members that there may be a certain accumulation of business after we have completed all necessary matters in connexion with the Budget, and therefore we may have to organize double sittings during this period.

#### COMMITTEE OF SUPPLY MOTION

VOTE 38—MINISTRY OF WORKS

Debate interrupted at 12.30 p.m. resumed.

SHEKIH MAHFOOD MACKAWI: Mr. Speaker, Sir, I wish to pay tribute to my

friend, the hon. Minister for Works, for the way he has introduced his Vote for his Ministry. Mr. Speaker, Sir, there is one point, however, about which this House needs further explanation. When the Minister was replying in the debate to the points I had raised, he said "The minimum cost required to make up the Malindi and Lamu road was £250,000". Sir, my information is that the first patch which gets flooded is only ten miles, which makes the road impassable for about four months every year. Sir, would the Minister, suggesting that it would take such a sum to construct, only the ten miles so that the road could be made passable throughout the year.

Mr. Speaker, Sir, I need clarification on this point from the Minister because the hardship to the trading public on this road is considerable.

With these words, Sir, I beg to support.

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): Mr. Speaker, I rise now, if I may say so, to join the general chorus of "I want" from the other side of the House but once again to remind hon. Members that all the schemes that we have heard suggested from the other side in connexion with this Vote and all the wants that have been expressed with regard to either the team which I think may come to be known as a Coastal Corridor, or its opposition side known I think as the Nyanza Nibblers: they all, if they are carried into effect, will mean indeed more money.

The main reason I rise to my feet is to deal with a question, which I understand was raised, of the contribution towards the reduction in tolls on the Nyalil Bridge. This was something which was discussed by my predecessor in this office, Mr. Matthews, some many years ago, and was agreed to by the Government as a contribution towards a reduction in the cost of living. It never has had anything to do with the question of the principle of road subsidy. I think that should be made perfectly clear, Sir, and hon. Members should be reminded of that fact.

If there is to be a question of a subsidy in so far as a road is concerned, and of course the ferries and bridges may be argued to be roads if hon. Members so wish, that must of course come from the

[The Minister for Finance and Development] Indeed I wonder whether we have not made a mistake in placing this £10,000 in the portfolio of my hon. friend the Minister for Works and whether it would not clarify it a little better if we were to put it back into the Treasury showing to those 16 hon. Members from the coast indeed that it is and has been a special subsidy that they indeed get privileges that are not extended to any other part of this territory, Sir, and no doubt which are largely due to the efficiency of the pressure which the hon. Members exert from time to time.

But, Sir, the Government's desire must be of course to reduce this contribution over the years in so far as the direct Government subvention is concerned. If, of course, the Road Authority decides that it and the Mombasa Municipal Board should subsidize a main road, the same as other main roads are subsidized in construction and maintenance, then that would be something, as I think my hon. friend would agree, for the Mombasa Municipal Board and for the Road Authority in discussion.

I may say, Sir, that I was, however, heartened by the remarks of the hon. Member for Coast Rural when he spoke about levelling up the figures. That really struck a warm chord in my heart. Had he spoken about levelling down I should have been very worried indeed.

The only other points which I think are for me to mention, Sir, is that the hon. Mr. Tyson spoke about houses for civil servants and the encouragement of purchase. I can only repeat, Sir, that in the last Sessional Paper on Development the Government policy on this matter was clearly laid down in the Appendix and that is the policy we are following.

My hon. friend, the Member for Nyanza Central, spoke to some degree about the Government's giving work to African building firms, contracting firms, and I would like to assure him that the question of race never enters into the giving of a Government contract at all. It is a question of efficiency and the safeguarding of public money. The Government would not be entitled to expend public money unless it were satisfied of the efficiency of the contracting

firm, because to start that once would be open wide a gap through which a lot of public money could pour in time. The hon. Member used the words "... we should try this business out on a basis of trial and error", which is a very dangerous thesis for public money to be spent, and indeed, I am sure the hon. gentleman would agree with me that we cannot have too many trials, because we may have too many errors.

One last point, Sir, and this rather in a humorous sense, I hope: I was so interested to hear the hon. Member for Nyanza Central say that last year, he had complained about this certain factor, and that nothing had been done this year, so that he was at liberty to complain again. I was, Sir, perusing a magazine not so long ago in which there was a record of a meeting of the Road Committee in Hungary last year, at which the Communist chairman got up, and said "Are there any complaints about the roads in this district?", and one gentleman got up and said "My name is Janos, and I have a great deal of complaints to make about the roads in this district; why have we not had all the promises that were made to us fulfilled?", and the chairman said "We will look into this matter?". This year, there was a meeting of the same Road Committee in Hungary, and the same chairman. The chairman once again said "Are there any complaints?", and a very meek little man got up at the back and said, "Sir, I do not want to make any enquiries about what has happened to the roads of the district: could I just ask what has happened to Mr. Janos?" It is nice to think, Sir, that all the hon. Members—including the hon. Member for Nyanza Central—who are complaining this year under our system of Government will be here next year we trust to complain again.

MRS. HUGHES: Mr. Speaker, Sir, I am sorry that I missed the speech this morning of the hon. Member for Nyanza Central. I understand he did bring up the question of the re-alignment of the main Kenya/Uganda road, and said that it should be taken through Kisumu. Well, Sir, I must make one or two points on the question of the present alignment, which as the Member knows, goes through Eldoret, and I would say that possibly 50 per cent of the work on

(Mrs. Hughes)

this road has already been completed. I think it would be a great pity to waste so much work and so much money on re-aligning it at the present time.

Sir, there were, I think, one or two very important points which led the authorities to align this road through Eldoret which for the purposes of the record I should mention here. Firstly, I think the present alignment takes off about 10 to 20 miles of road which at the present cost of road building would be a saving of a sum of about £8,000, possibly more, a mile. Another factor that I think was brought up and considered was the question of building these roads on high ground. Taking it down through the Kisumu area, you go through a great number of flats, through Mumias and Busia, which all adds to the initial cost of filling and building bitumen roads, as well as adding also to maintenance costs. I think that was instanced quite recently by the heavy floods on the Thika Road, where water got underneath the bitumen surface of the road and caused a great deal of damage.

Another point, Sir, was the opening up of the Elgon Nyanza area, which is a very prosperous area, and which indeed I think has gained considerably in opening up that area by this road.

I think, Sir, those are the only points I have to bring up and I beg to support.

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

THE MINISTER FOR WORKS (Mr. Nathoo): Mr. Speaker, Sir, in the first place, may I thank all those hon. Members who have said from time to time such kind things about the Ministry which I have the honour to control.

Mr. Speaker, Sir, the first question I would like to reply to was from the hon. Member for Ukamba who mentioned the question of heavy vehicles and said that the question should be looked into to see what could be done to stop all the damage that is done to our roads. Now, Sir, I mentioned before that at least 50 per cent of the road revenues are derived from these heavy vehicles, and Government has to consider seriously whether it can afford to lose that revenue. More-

over, Sir, the main damage to the roads is caused by fast traffic rather than by these heavy vehicles. When people go over 40 miles an hour on these roads, the damage to the section of the road is much greater than when even eight or ten tons of lorry is travelling at an ordinary speed.

SIR CHARLES MARKHAM: What speed do you travel?

AN HON. MEMBER: He goes by plane!

THE MINISTER FOR WORKS (Mr. Nathoo): Another point, Sir, that the hon. gentleman made was regarding the expensive buildings of the Ministry for Works. Sir, when I was on the other side of the House, I always used to make similar criticisms of this project, and, Sir, having come to the Ministry, I would like to say that wherever it has been possible, we have gone out to contract, and when the hon. Member says that the buildings we build are more expensive, does he want me to follow the procedure of direct labour which is followed by the Provincial Administration when they build their buildings?—because most of the buildings—we seldom build anything these days. Sir: most of the work is given out to contract.

Another point, Sir, I would like to make is this: when people compare the cost of the Ministry for Works' buildings as opposed to the provincial administration or other administration buildings, quite often, in these provincial centres, a certain amount of hidden cost is never shown. I thank the hon. Member for East Africa for bringing this matter to the notice of the House, because he has personal experience of the facts. They do not take into account transport which is charged to the Transport Vote. Quite often, Sir, they do not make any provision for boys' quarters; garages, they just put up a building, and it can be shown that the building cost £2,000 as opposed to £3,000 or £4,000 by the Ministry for Works. When the Ministry for Works build any buildings, Sir, every single item which is chargeable to that project is shown. I would like to say this, Sir: that quite often, we lose sight of the fact that we have to maintain a Ministry for Works for work which cannot be allocated to any particular scheme. There is a great deal of research work to be done, a great deal of

[The Minister for Works]

examination of various schemes to be made, and these things have to be carried by the Government, Sir, in order to run the Department properly. But when certain specific schemes come under the Ministry, we put up those charges proportionately to each scheme we undertake. I would like the hon. Member to remember that even when we do not do any new work, it would still be necessary for Government to maintain a great deal of staff for maintenance work and for schemes which never come to fruition because we have to examine them to see whether we can go on with these schemes.

The other point, Sir, that the hon. gentleman made was regarding the quality of staff. Sir, I agree with him entirely that the quality of the clerical staff which we have—not only in the Ministry for Works, but in all offices of the Government and even private enterprise—leaves a lot to be desired as regards its efficiency. For that reason, Sir, I think hon. Members will notice in this year's Estimates that we have a training scheme whereby we are going to train clerks, not only of the lower-grade class, but in a supervisory capacity; so that they can be taught how to supervise these clerks; and we hope, Sir, that when the scheme gets going in the course of the next few weeks, we shall be able to improve the quality of our personnel.

Another point, Sir, the hon. gentleman made was that he hoped that when we went into the new Ministry buildings, there would be a certain reduction in the staff. I think, Sir, when he was saying that he must have had in mind the total number of people who are being employed in the Ministry. I would like to mention, Sir, that these are the numbers, which are not only employed in Nairobi, but all over the country. But I will give him one assurance, Sir: not only in this respect, but one of the primary principles of the Ministry, Sir, as far as I am concerned, is that wherever economy is possible, it will be done, and we shall see that no more staff is employed except when it is absolutely necessary.

The hon. Member for Rift, Sir, Mr. apap Moi, also talked on the same theme of expensive Ministry of Works' build-

ings. I would also mention to him, Sir, that quite often, we have found that when the Ministry has been asked to take certain buildings on the register for maintenance, some of these buildings which have been built without any supervision have had a lot of repairs to be done to them, quite often, new materials have to be used to bring that building to a reasonable standard. The other thing I said, Sir, was that in the provincial administration, there are hidden expenses which are never shown on any particular scheme. But I will say this, Sir: the only complaints the hon. Members could make about these expensive buildings would be that if we built those buildings ourselves, then they would certainly have had a reasonable grouse to say we have built more expensively than other People do. But in almost every case, Sir, we go out to tender which is a competitive tender; and I am sure, Sir, that if the provincial administration can build these things so cheaply, there are people in this country and private enterprise who would not lose an opportunity like that to put 10 or 15 per cent on administration costs, and tender for these buildings, and make 10 or 15 per cent. It is quite easy. But the thing is this, Sir: I said that it is very unfair to compare, and say that one building has just cost more than another, till, Sir, you have taken all the facts into consideration. May I mention for the information of the hon. Members, Sir, that all the administration buy their building materials from the stores of the Ministry for Works, so there is no question of their getting anything free, whereas the Ministry has to pay transport of these materials. They get the materials at exactly the same price as the Ministry gets them.

The other point he made, Sir, was regarding the works' paid staff, who are on a temporary basis, and whom I mentioned. Whilst it is not possible or even advisable that the artisans and a large number of subordinate staff should be put on a pensionable scale, measures are being taken to see that they are given reasonable terms of security and the privileges which go with the Ministry of Works. I will assure the hon. gentleman, Sir, that when this scheme is brought into force, we shall make sure that the people who have been with us



[The Minister for Works] the longest time are given the first consideration for these appointments.

Another point was mentioned and that was regarding the consultants who have gone to advise the local authorities, and I was very glad to hear him endorse the view that that was a good thing. But, Sir, I would like to mention this to him and to the House: that from these revenues we only use money for maintenance and that the new roads come from development Votes. Now these development Votes, Sir, are controlled by the Road Authority and, at the risk of repeating myself once again in this House, I would like to say that, hearing the speeches of so many hon. Members here, quite a few of them lose sight of the fact that it is not the Ministry which controls the Vote of roads, Sir. It is the Road Authority, which is a statutory body, in which all sections of the country and all communities are represented. And, Sir, when people have certain complaints about one section being neglected in favour of another, it is their duty to bring this matter to the notice of the Road Authority, either to the member who sits from their area—not represents their area because on the Road Authority each member represents the entire country. They can bring this matter to their notice. Moreover, if there are any particular feelings of injustice, if they will bring these matters to the notice of my Ministry or of the Road Authority I can assure them that due regard will be paid to their complaints.

The other point, Sir, he made was that there should be encouragement for Africans to take up employment with the Government and that there should not be discrimination. As far as I am concerned, Sir, I have said this in previous debates, and I will say it again: wherever possible, if there are openings in my Ministry they are open to all races; no discrimination is made against one community and in favour of another; and if the people who apply for these posts have the qualifications we need, whether they be Europeans, Asian or African, their cases will be equally considered. On that point, Sir, I would like to give the hon. Member an assurance that not only is there no discrimination against Africans, but it is the policy of my Ministry to see that every en-

couragement is given to the Africans to take up both clerical and technical jobs in the Ministry.

The hon. Member for Mombasa, I think it was, Sir, Mr. Khamisi, came to support us in our view that the Ministry of Works' building is not always very expensive and made some points regarding the bad quality of the work done by private enterprise. He then went on to say things about the Mombasa water supply. Not only, Sir, have we talked about this now, but ever since that scheme was undertaken the intention always was that as soon as the scheme was ready it would be handed over to the local authorities for reticulation in that area; and I hope that within the next few months, if not weeks, if the local authority at Mombasa is prepared to take over this water supply, we shall give them every assistance to do so, because we feel that thereby they can work this scheme more efficiently and more economically than can be done by us from the centre.

But, Sir, there is a certain amount of misgiving in the minds of people when they suggest that we should take water from the pipeline to feed the areas through which this pipeline passes, or that we should supply water either to the north of the Island or to the south of the Island. I think, Sir, it was about two years ago that I mentioned this matter; there was a scheme whereby it was hoped that the water would be supplied to the north of Mombasa, and a certain private enterprise was prepared to put in a lot of money to enable us to do this. Somehow or other, Sir, this scheme never came to fruition. But I will say this, that if the local authorities are prepared to shoulder the burden of such supplies to the north and south of the Island, and if the proposals are definitely put in to Central Government, we shall give them every possible consideration.

One thing must be remembered, Sir, that unless and until a certain amount of water is consumed by the people in a certain area, the cost is so prohibitive that there would never be an economical supply. Supplies such as this, either on the north or the south of the Island, will prove of great benefit to the coastal areas, and we are as anxious as anyone to see that this is done. But the

[The Minister for Works] The hon. Member for the Coast paid me compliments, which I think is quite foreign to his nature generally, because he is generally a critic of the Government and of the Members who go towards the composition of the Government. However, Sir, I am grateful to him for his compliment, and I think the answer he requires regarding the policy of subsidization has been given by my friend the Minister for Finance.

The hon. gentleman went on also to speak of tolls, and asked why there was a toll on the Likoni side which was much higher than that on the Nyali side. He said there was a subsidy on the Nyali side; why should there not be on the Likoni side? My friend, the hon. Minister for Finance, gave an answer, but, Sir, I would like to say, for the hon. gentleman's information and the information of the House, that about four years ago, just when I took over the Ministry, we had a discussion with the Provincial Administration at Mombasa and the municipality, and at that time we suggested that if they were prepared, to take over the ferry service between Likoni and Mombasa, and if there was any loss, and if they were prepared to pay 50 per cent of the losses—the Municipality of Mombasa and local government—the Central Government and the Road Authority would pay 25 per cent each. I am afraid, Sir, that the local authorities at Mombasa were not prepared to shoulder this burden. I think, Sir, it must be appreciated that unless the Municipality of Mombasa is prepared to help itself and its citizens, they cannot expect the Central Government to give them the unfair subsidy which is being asked for. It would not be fair to other parts of the country.

The other point he raised was about the £25,000 which has been provided in the Estimates for the provision of water in African areas. I would like to mention, for the information of the House, that most of this money is going to be expended in the Samburu area in the Northern Province, and a great deal of work has to be done on the existing scheme in the Northern Province. There will be very little money available for any other area from this allocation. I would say that the Minister for Agriculture is the Minister in charge of the policy and I have not the slightest doubt that arising out of the remarks of the various hon. gentlemen made this morning this matter will receive his due attention and that their cases will be considered.

The hon. Member for the Coast paid me compliments, which I think is quite foreign to his nature generally, because he is generally a critic of the Government and of the Members who go towards the composition of the Government. However, Sir, I am grateful to him for his compliment, and I think the answer he requires regarding the policy of subsidization has been given by my friend the Minister for Finance.

The hon. Member for Rift South, Sir, reckoned that we should recruit African graduates, and that we should give every encouragement and every assistance to them. Sir, I should like to tell him that we are anxious to get qualified people to fill every possible job in our Ministry, and that, as far as I am concerned—and I again reiterate the assurance—whenever suitable people with qualifications apply they are given every possible consideration.

Regarding the encouragement of engineering assistants, I should like to mention, for the hon. gentleman's information, that there have been promising students who have come to us for work and they are being trained. We are hoping that one or two of them will achieve the highest possible standards in the engineering world.

MR. OLE TIPIS: Mr. Speaker, I am the Member for Central Rift, not Rift South.

THE MINISTER FOR WORKS (Mr. Nathoo): I am sorry, Sir, that I made that error.

The other point he made was that the clerk who is put in charge of the labour is unnecessary and that he has nothing to do, I would like to tell him that, employing a large number of personnel at various places, it is necessary and economical to see that this staff is properly employed. But, Sir, in view of his criticism, I shall go into the matter and see whether these supervisors have not enough to do, and if they have not we can soon find them enough to keep them occupied the whole time.

Sir, several Members have complained about the bad roads. To them I would like to say this, Sir, we are aware of the fact that more roads are required in many areas, but all these demands have to be considered *vis-à-vis* the funds which are available to the Ministry and to the

[The Minister for Works]

Road Authority. In the final analysis, it is only that the Road Authority has to decide on the priorities, and until such time as we are able to get some extra finance to put into roads, I am afraid we shall have to put up with the hardships that do exist and of which I am fully aware.

The hon. Member for Nyeri and Embu, Sir, made the point about allocating houses to staff according to points. Now, this points system, regarding both European and Asian housing in the country, has existed for very many years. Until such time, as some alternative system is found, a better and more efficient one, I cannot see what else can be done. But in view of his remarks, Sir, I will again look into the question and see whether any alteration can be made in the present system of allocation of houses.

The hon. Specially Elected Member, Col. McKenzie, complained that the debate on the Road Authority was curtailed rather suddenly, and that Members were precluded from saying things they wanted to say. On behalf of the Government, and as the Minister in charge of that particular Motion, I apologize to him that time did not permit the debate to go on as long as Members would have liked it to. But I hope that he has had his opportunity to say now what he wanted to say then.

Now, Sir, the chief point he mentioned was the public relations of the Chairman of the Road Authority and of the Road Authority itself. Sir, at that time I did not like to acquaint him of the cuff about all that had happened, and I said that the relations were bad perhaps because the Chairman had not had time to deal with them. But, having gone into the question, I would like to mention, for the information of the House, that since the new Chairman took over his duties he has seen that the question of roads has been given full ventilation, and he has, during the last two months, been touring all over the country, visiting the local authorities and discussing with them what their problems are.

After I had had a talk with him, I was satisfied that he is doing, and has done, all that is possible to put the

public relations side in order. But, Sir, I will say this: as regards certain of the facts which the hon. Member said the public was not aware of, I think we find quite often that people are interested only in their own parochial questions, and they seldom try to be interested in or give attention to anything when it is said as a general statement. However, in view of the fact that the Member thinks these sort of statements should be brought more to the notice of the public, I am sure we shall take every precaution to see that more of the work of the Road Authority is brought to the notice of the general public.

LT.-COL. MCKENZIE: Mr. Speaker, I thank the hon. Minister for giving way. On a point of information, I think he missed the point I was trying to get at before. That was, that as Chairman of the Road Authority I thought he was very wrong to enter into politics. That was the point I was trying to raise.

THE MINISTER FOR WORKS (Mr. Nathoo): I was coming to that, Sir. The hon. Member then went on to criticize the political statement the Chairman made at a particular meeting. Now, Sir, I would like to say that, although Mr. Welwood is the Chairman of the Road Authority, he is not in the same category as a Government servant who is precluded from expressing any opinions on political matters. He is entirely at liberty to express the opinions he has done, except when any such statement which, in the opinion of the general public, affects his work on the Road Authority. Then, Sir, we would have reason to grouse and complain. But until such time as he does that, then he is as free as the hon. gentleman sitting opposite here to make whatever public statements he likes regarding his political views, and no control can be exercised over him as regards the expression of these views.

THE SPEAKER (Sir Ferdinand Cavenish-Bentley): Order, order. Arguments about and references to vague Press reports of political speeches alleged to have been made outside this House, and in this case by a person who is not a Member of this Council are not in order. It has been ruled on previous occasions that such reports must be produced and laid on the Table and must be relevant to the business under discussion. I am not referring particularly to your

[The Speaker]

remarks. Mr. Nathoo, but to the principle.

THE MINISTER FOR WORKS (Mr. Nathoo): I am sorry, Sir.

The hon. gentleman made a statement regarding the underspending of the 1956/57 Votes of about £183,000. I would like to mention that when we show these Estimates, a certain amount of money is always shown as having not been spent, but the Road Authority has to deal with a number of local bodies, county councils, African district councils, urban municipalities, where certain moneys have been spent by local authorities and their claims have not yet been scrutinized and passed; therefore, in each year's accounts, there will appear a certain sum which is shown as the balance brought forward. In fact, however, this money has already been spent by the local authorities and is earmarked for that particular Vote, though the money has not yet actually been paid out.

The hon. gentleman then criticized the Marenang Bridge, and mentioned its dangers to the public. Sir, again I have to say the same thing: there are so many other bridges which, from the point of view of complete safety, are not in an ideal condition, but until such time as we have the money we cannot do much in this matter. The only thing we can do, Sir, is to see that the public must exercise extra precautions when approaching these bridges.

The hon. Member for Kiambu mentioned the fact of the bad roads, and said that a great deal of public money was wasted in trying to repair roads which deteriorated again very soon. He said that it would be much better if we spent a lot more money and put these roads in order. Now, Sir, he is an economist and these things are very dear to him, but I would like to put this to him, Sir: quite often we find that people buy their tea or other such commodities, in small packets, well knowing that these things cost much more than if they were bought in bigger quantities. But the whole point is that they have no money to buy that commodity in the larger quantity and at a cheaper price. The same thing applies to us. We have not enough money to spend to bring the roads up to the standard where they will

bear wear and tear. I hope he will wait until such time as we have the money and we get to work, and in the meantime we can either not spend any money on repairs or repair the roads and give what little extra service we can. I think, Sir, it is for us to decide what we are going to do. Are we going to let our roads stay just as they are and not worry, fill such time as we have enough money to put them into proper order? Or must we keep them to a standard which our funds can afford? Even if we know that this money is spent in this way, it will be gone in a comparatively short time.

The hon. Nominated Member for Mombasa, Sir, Capt. Hamley, being the mouthpiece of the other 15 Members, made a plea regarding the Mombasa road. I told him in the last debate, and I am telling him now, that I am the seventeenth one today who sympathizes with this predicament, because about a fortnight ago I travelled on that road, and certain portions were really bad. But then, Sir, I will mention that we are fully aware of the position, but cannot do anything till we have funds at our disposal. The only thing we can hope for is that he and his 16 colleagues are able to persuade the Road Authority that they have a better claim in the £4,000,000, whenever it comes to hand, than anyone else in the country and that the money should be spent on that road. I would be one to give him every possible support in requesting that this road be put in proper order.

The other point he mentioned was about the ramp at Likoni. Now, Sir, I would like to invite the hon. gentleman and the other 15 Members to get a pair of goggles—and I think most people who live at the coast are in possession of goggles—

CAPT. HAMLEY: Mr. Speaker, not the ramp at Likoni, the Likoni ferry ramp on the island.

THE MINISTER FOR WORKS (Mr. Nathoo): Sir, I think I used the words "ramp at Likoni" advisedly because I think much more noise is made about that matter than is strictly justified. I think. Therefore, I was saying, Sir, that he and his friends are in possession of goggles—and if they are not, I do not think it is an unreasonable request, Sir, and I will undertake to provide them with these materials—and they should go

## [The Minister for Works]

and have a look at the ramp at Likoni, which the technical advisers of the Ministry have looked at. Although I do not say that the situation is absolutely ideal, the position is such that the Road Authority has felt, with the advice we received from the technical people, that it can afford to spend this money on other schemes and not on doing what the hon. gentleman wishes the Road Authority to do.

The hon. Specially Elected Member, Mr. Muchura, Sir, made certain criticisms about housing and staffing and quite a lot of them were justified. Now, on the position regarding institutional housing, I entirely agree with him, Sir, that except for departments which have to be housed at the site, it is not desirable to have institutional housing. As far as the Ministry of Works is concerned, except for certain African housing, Sir—the position of African staff, compared with any other department or concern in the country, is extremely bad; the Ministry of Works has not much institutional housing. The only institutional housing we have is at Aerodrome West, where a certain type of housing is provided for people whose salaries do not entitle them to have houses in a better condition. Apart from that, Sir, I entirely agree with him that, wherever possible, the housing should be from a pool, and everybody must take his chance.

The hon. Member for Coast (Rural) asked came back to the question of the £4,000,000 and he wanted some of it for the Mombasa road. I have already dealt with that question, Sir, and I will see if the members of the Road Authority can be persuaded to do something in that direction.

The other thing was he told me I should think about the roads. I would like to assure the hon. gentleman that I am having nightmares about the roads, I am not just thinking about them! I am just having nightmares. You see, the thing is this: until I get some more money to do something about these roads, I am absolutely unable to do more than the Road Authority is doing at the moment.

The other point he mentioned was regarding the delay in executing the water supply scheme which has been

entrusted to the Minister for Works by the Administration. Sir, I do not know the actual case he has mentioned, but I will undertake to look into the matter, and if necessary ask the hon. gentleman to give me further information. Then I will see that every possible attention is given to expedite this scheme.

The hon. Nominated Member, Mr. Tyson, mentioned the question of training and I thoroughly agree with him that, wherever possible, we should make use of the local facilities for the training of our people. And, Sir, it is only when we find that the type of training we want to give is not locally available that we send our people away.

The hon. Member for Central Nyanza, Sir, made a plea for the African contractors in one or two points to which the hon. Minister for Finance gave an answer. I would like to tell him this, Sir, that in the Ministry we have a list of contractors under certain categories, according to the amount of work they are capable of doing. These range from up to £5,000, then up to £10,000, and £20,000 and then unlimited contracts. Sir, people who are anxious to do work on contract for the Ministry should register their names with the Ministry, and every time the tenders for which they are eligible are put out they will be sent these tenders. I can assure the hon. gentleman that if the tenders are competitive, they will certainly get the contract. But, Sir, I endorse the views of my hon. friend the Minister for Finance when he says that without laying ourselves wide open to a lot of attacks, we cannot possibly follow any other course in the spending of public money, except in buildings by public tender. I assure the Member that, if he has certain difficulties in this matter, if he discusses them with my Ministry and me we will give them all possible help to see that African contractors are able to do the work. We will encourage them and do all we can, but within the limits that I have described about the spending of public money.

Then, Sir, he mentioned about the Kisumu road, I entirely agree with him. Sir, that the traffic which travels between Kisumu and Kakamega and Elgon Nyanza and the Uganda border is really heavy. Sir, it is the policy of the Government to see that whilst the road, which

## [The Minister for Works]

is now termed the Uganda road, goes through Eldoret, the roads in the Kisumu area will get proper consideration, because we are aware of the fact that these roads do have very heavy traffic.

The hon. Member for Mount Kenya made a criticism regarding the six-mile stretch between Thika and Sagana. Now, Sir, I entirely agree with him, and I would like to mention, for the information of the House, Sir, that this work was done at the express wish of the Nairobi County Council and this work was entrusted to them. When they had prepared the specifications and were ready to get on with the job, my Ministry queried that they were not satisfied with the specifications and thought that when they were put into effect they would not be strong enough. In spite of that fact, Sir, the Nairobi County Council went ahead with the scheme and the result is well known to the hon. gentleman; the road did not stand up to the traffic which was travelling on it.

Here, Sir, I would like to say that quite often when officials of my Ministry criticize certain schemes as not being of a sufficiently high standard we are told we are being unnecessarily fussy and that we should take chances. Well, Sir, the Nairobi County Council was allowed to take chances and we know what has happened.

I would like to assure the hon. gentleman that the Ministry is continually making experiments with light specifications for various surfaces, and that wherever possible we will continue to do so. But if traffic is heavy there is no short-cut to any good road except using proper specifications.

The hon. Member for Nyanza North, Sir, said a few things about roads, water and aerodromes. I have already given him the answer about aerodromes, Sir, but I would like to say this: he is fortunate that the aerodrome at Kisumu is in a state which is much better than that of most of the aerodromes in the country. There is a service which goes to Kisumu, I think, twice weekly. If there is a demand for more services, I am sure that East African Airways could tend out more services. Their position, Sir, is much better than either Eldoret

or Kitale, where the Dakotas cannot land. He should be thankful that the aerodrome is in the condition it is, where ordinary traffic is permissible.

The other point he mentioned was that the African district councils were maintaining the roads and doing a better job than the Ministry were doing on the roads they maintained. Sir, I have said here in the debate that it is the policy of the Government that, where possible, the maintenance of the roads should be handed over to the local authorities as they are the best judges and best people to do these things. I am not in the slightest doubt that the better condition of the road, which he has mentioned, has been brought to the notice of the Road Authority and my Ministry, and if that is the case he can rest assured that more and more work will be given to this African district council in the care and upkeep of those roads.

The other point he made was that there were several bridges being built on the Broderick Falls section and that in spite of the fact that the land belonged to some private person he had not been paid for the stone.

I would like to mention that I think the Government is satisfied. In the first place bridges are built by private contractors and not by the Ministry at all, and from the information I have these private contractors are getting stone from the area which belong to the Ministry and there is no claim against these people. Moreover, Sir, the hon. gentleman must have noticed that we include every year a large sum of money paid as compensation to people when their land is acquired for either quarrying the stone or getting other materials and that I cannot possibly agree, Sir, that we would go to the extent of taking away somebody's land and taking the stone away from there and that we do not compensate. If the hon. gentleman will give me the circumstances in this matter I will make enquiries, but I am quite sure, Sir, that so far as the Ministry is concerned, and I am not prepared to believe it, we are not taking away somebody's land or stone without paying some kind of compensation.

The hon. Member for the East Area, Sir, said that it was not a good thing that the private enterprise had gone into

[The Minister for Works] this and had built a bridge at Mtwapa and that these things should be done by the Government. Sir, I entirely agree with him. There is no magic wand to wave for any money we require. These things should certainly be built by the Government if the money is there but I think we are fortunate that when we do not have the money a private firm has come forward to put up this bridge. We have the condition in the lease that whenever we have the money we will be able to take over the bridge ourselves. We shall do that because we believe that the Government should control these things.

The hon. Elected Arab Member, Sir, mentioned the point of the Lamu-Mombasa road. What I said was this. That according to the rough estimates which I had received I was told that the cost of bringing that road to a good standard throughout the year would be in the region of £150,000. Now, Sir, the hon. gentleman has mentioned the ten miles which require to be reconstructed. I do not like to make any statement but I should not be surprised that even this ten-mile strip would cost between £100,000 and £150,000 if that portion is to be used throughout the year. I am not saying that it would, but in view of what information I have been given I will check up with the Ministry and the Road Authority and give him an answer when I see what they say.

Sir, I think these were all the points that the hon. gentlemen opposite have made during the course of the debate. Before I sit down, Sir, there are two things I would like to do.

One is to pay a tribute to the staff of my Ministry who under very bad conditions and under circumstances which are quite unfair, have carried out their duties as well as anybody could have. I am grateful to them for all that they have done, and particularly I would like to mention the fact that when the Nairobi Aerodrome was built and was constructed six months ahead of schedule, a large number of people working on that scheme used to work from morning until dusk, including Saturdays and Sundays, for several months without any overtime or any word of appreciation from anyone. I think that in spite of the fact that

this airport was got ready in time, and occasionally we hear a trickle of complaint from here and there, sufficient appreciation is not given to the work that these people did.

I would also like to say that I am grateful to hon. Members for their courtesy to me, when I moved this Vote, and also whenever I speak in this Council. I am grateful to them for their criticism because I am sure they make it with a view to getting things improved and not with any malice or bitterness in it.

Sir, I beg to move.

The question was put and carried.

### COMMITTEE OF SUPPLY

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

### IN THE COMMITTEE

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

### MOTION

#### VOTE 38—MINISTRY OF WORKS

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): Mr. Chairman, I beg to move that a sum not exceeding £3,346,870 be granted to the Governor to defray the charge which will come in course of payment for the year ending 30th June, 1959, for Vote 38—Ministry of Works.

Question proposed.

Head A.—Personal Emoluments (excluding Roads Branch)

SIR CHARLES MARKHAM: Mr. Chairman, I trust the Minister has got over his nightmare by now before he has to answer some of these questions, Sir. I wish to raise a point on page 179 under Buildings Branch. When I raised the question of building costs in the policy debate a moment ago I was given a reply both by the Secretary to the Treasury and again by the Minister that all the costs are allocated to specific jobs. Sir, there is a very large amount of money under this particular head of Personal Emoluments for the Buildings Branch. Would the Minister tell the House whether these are allocated back to specific jobs and if so where they are

[Sir Charles Markham] shown under the Appropriations-in-Aid. My information has been, Sir, that the basic overheads are allocated by a percentage charge and not allocated, as the Minister said in his speech, "specially, pro rata and accurately", which were similar words he used, to a specific job. If I understood him a certain percentage is represented by this figure. I would like to get that clear and I have a second point to raise.

THE MINISTER FOR WORKS (Mr. Nathoo): If I gave the impression that the money was allocated specifically on any Vote by amount then I am sorry. My contention was, Sir, that all these things, which are the overheads of the Ministry, are allocated whenever a certain job is done and an average percentage is charged to this Vote.

LT.-COL. MCKENZIE: Mr. Chairman, No. 35, the Fire/Crash Services at the Aerodrome, and this is reduced from nine to five but yet the number of crash crews themselves remains identical. I wonder if the Minister could tell me how he has done that.

The next one is the Hydraulic Branch in general. Could the Minister tell me whether he is up to establishment in his professional people in that Branch. What I am getting at are hydraulic engineers, water engineers and geologists. Is that part of his Ministry up to strength or not. Depending on his answer, Mr. Chairman, I still have my second chance.

THE MINISTER FOR WORKS (Mr. Nathoo): I did not get that point quite clear.

LT.-COL. MCKENZIE: I wanted to know whether the Minister's Hydraulic Branch—the professional people in that section—is up to establishment. Are you short staffed with professional people?

THE MINISTER FOR WORKS (Mr. Nathoo): So far as I know, to give an off the cuff answer, we have no people missing—I do not think that we are short of them on our establishment.

So far as the fire services officers are concerned I am afraid that I cannot give him an off the cuff answer. I think I will be able to let him know in a few minutes time.

SIR CHARLES MARKHAM: Could I ask that in future years the sub-totals under each of these headings be put in. It is

very hard, looking at the whole lot of personal emoluments, and we would like to know what each section is costing, such as the Buildings Branch, Contracts Branch, and so on.

MR. MACKENZIE: That point will be considered. Of course, my hon. friend will realize that it will merely give the cost of the personal emoluments and it will not really give the full cost of the organization.

LT.-COL. MCKENZIE: I would like to go further into 35. If the Minister has nine people taking care of this last year then I do not know how he does it with five this year.

THE MINISTER FOR WORKS (Mr. Nathoo): We are shown as reducing the number of Fire Crash Section Officers from nine to five. We have never been able to recruit locally the right sort of people to fill nine posts and took the decision that we would wash out four posts and make do with three extra posts for superior Africans given special training of the senior N.C.O. class. We have therefore inserted in Item 39 three Section Leaders who will be on the Grade E4—3. The Estimates record that we had three such posts last year but this is largely because the totals in 1957/58 column of numbers have to have some degree of correspondence with the figures for this year. In fact, we have upgraded most of our Fire Crash Crews and obtained more promotion posts because of additional responsibility and to attract good quality.

Head A agreed to.

Head B agreed to.

Head C—Miscellaneous Other Charges (excluding Roads Branch)

LT.-COL. MCKENZIE: Mr. Chairman, I would like to take this opportunity of congratulating the Minister on the stand which he had at the Royal Show last year. I am perturbed that he is going to reduce his Vote from £1,500 to £1,200. I sincerely hope that this does not mean that the stand will not remain at the high level of last year's exceptional stand.

THE MINISTER FOR WORKS (Mr. Nathoo): I would like to give that assurance. I can assure the hon. Member that I am fully conscious of the value of the stand we had at the Royal Show and I

[The Minister for Works] will see that no deterioration of standard takes place.

Head C agreed to.

*Head D1—Personal Emoluments (Roads Branch)*

LT.-COL. MCKENZIE: Mr. Chairman, I wonder how the Minister has done away with a third of his drivers but yet he does not seem to have done away with the people who need driving around. Has he suddenly allowed people to drive themselves? Or is this because of the vehicles which have been stuck at Pokerra, or what is the reason?

THE MINISTER FOR WORKS (Mr. Nathoo): I will let you know that answer.

Head D1 agreed to.

Heads D2, D3 and E agreed to.

*Head F—Contributions and Grants*

MR. ARAP MOI: Would the Minister tell us more about these contributions F4 and 5.

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): Mr. Chairman, F4 represents the statutory contribution to the Road Authority which is laid down as the Road Authority's revenue from taxation, etc., and is therefore at the disposal of the Road Authority. F5 is a special contribution to the Road Authority which the Central Government makes in recognition of the fact that the Road Authority with its increasing commitment is finding it hard to work within its own statutory contribution and revenue.

Head F agreed to.

*Head G—Expenses of Staff Training*

LT.-COL. MCKENZIE: Would the Minister tell me whether full advantage is being taken of this training and whether it is fully taken up or not. Do you get enough students to fill all this?

THE MINISTER FOR WORKS (Mr. Nathoo): The point is, Sir, that some of these schemes have not been going yet. A great deal of time has had to be spent on planning these courses and schemes properly and unless they are properly planned no useful purpose could be served. I am hoping that within the next few weeks the scheme will get going but in the meantime I would like to assure

the hon. Member that there is no dearth of suitable candidates.

LT.-COL. MCKENZIE: Can I take it then, Sir, that the £5,200 allocated last year was not spent?

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): That, Sir, remains to be seen, as the end of the financial year has not yet come.

Head G agreed to.

Heads H, I and J agreed to.

*Head K—Maintenance and Services to Government Buildings*

LT.-COL. MCKENZIE: Could I ask the Minister if he could give me the value of these temporary buildings which cost £20,000 to maintain. They only cost £6,000 in 1956/57.

MR. MACKENZIE: I can assure my hon. friend but I cannot give him the value of them. This is a figure based on the capital value of the temporary buildings. Of course the cost of maintaining temporary buildings is considerably greater than that of maintaining permanent buildings. The reason for the increase since 1956/57 I think is probably due to the fact that the Ministry have been taking over responsibility for a considerably wider range of buildings than they did at an earlier date, but I will check up on that and let my hon. friend know what the exact reason for it is.

LT.-COL. MCKENZIE: Sir, could I be told what was paid for these.

THE MINISTER FOR WORKS (Mr. Nathoo): I am afraid that I will have to ascertain the facts and give an answer to my hon. friend later.

MR. ARAP MOI: Will the Minister give us more explanation on maintenance of Government buildings?

THE MINISTER FOR WORKS (Mr. Nathoo): I think the hon. gentleman has missed the point of this maintenance of permanent buildings vote altogether. The thing is this, Sir, that we have these buildings on our hands. It is necessary to keep them in good repair and see that they do not deteriorate and a certain amount of money has to be spent. As a matter of fact, to do the thing properly would require about 50 per cent more money than has been allocated here. It is Government's policy that the maintenance vote should be kept to a minimum.

MR. MACKENZIE: There is one point, Sir, to add on this sub-head and that is that £400 is to be spent on the maintenance of graves and burial places in *bomas* and various places throughout the Colony, Sir, where the Government is responsible for this.

I do not know whether you will agree that this is entirely appropriate to this sub-head, Sir, but there was the question of drivers. I do not think I can get it in on buildings.

THE CHAIRMAN (Mr. Conroy): No doubt you will be able to get it in later on.

MR. NGOME: This maintenance of graves and burial places. Does this apply to places like Nairobi and Mombasa?

THE MINISTER FOR WORKS (Mr. Nathoo): I beg your pardon.

MR. NGOME: Does this maintenance of graves and burial places apply throughout the Colony?

MR. MACKENZIE: This applies, Sir, in places other than municipal areas, where there are no municipalities, in *bomas* throughout the length and breadth of the Colony, for example. That is where this applies.

Head K agreed to.

Head L agreed to.

*Head M—Maintenance of Mechanical Transport and Plant*

MR. MACKENZIE: Mr. Chairman, there was a point raised about M earlier and I think this may be a suitable opportunity to explain it. The Roads Branch, which use a lot of these drivers, were asked why there was a reduction in this. The answer, I understand, Sir, is that far more drivers are now works paid staff. It is the policy to take on more people who are charged direct to works as drivers and not to take on so many people who are paid under the head of Personal Emoluments.

LT.-COL. MCKENZIE: Do I understand from that that the cost of the drivers are now being put against specific jobs?

MR. MACKENZIE: They are charged for through the work they are employed on.

LT.-COL. MCKENZIE: Did I understand, then, that every penny charged in previous years was wrong?

AN HON. MEMBER: No! Head M agreed to.

*Head N—Maintenance of Aerodromes*

LT.-COL. MCKENZIE: Is the hon. Minister satisfied that he has enough personnel in charge at Nairobi Airport to utilize the £7,000? All I am trying to do, Sir, is to get back to the question he has not answered.

THE MINISTER FOR WORKS (Mr. Nathoo): I can assure the hon. gentleman that if money is included in the Vote it does not mean that it necessarily must be spent.

LT.-COL. MCKENZIE: I am trying to raise the question of the safety factor at our aerodrome. We used to have nine people looking after the safety factor and we now have five people looking after that. What I would like an answer to is, is the Minister satisfied that with the five people he has got this year the safety factors are completely covered. That is all I am trying to get at. It is no good saying that he does not know whether the £7,000 is going to be spent or not. None of us know whether there is going to be a fire at that aerodrome or not.

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): There is only one point, Sir. I do not think my hon. friend could have listened to what my hon. friend the Minister for Works has just said. We never had nine people. That was what my hon. friend said. We only had five in actuality. So that the premise on what my hon. friend is dealing is not quite accurate. The question as to whether my hon. friend the Minister is satisfied with the maintenance and operations side is something which cannot be related to this amount of money. The hon. Member asked if we had not got sufficient staff whether we would spend this money. My hon. friend has replied in a very true and correct manner, Sir. The mere fact that the money is voted does not mean that that money must be spent.

THE MINISTER FOR COMMERCE AND INDUSTRY (Mr. Hope-Jones): I would like to reply to one point which was raised by my hon. friend. He asked about the adequacy of the fire crash services. My hon. friend is very well aware indeed that the standards are laid down

[The Minister for Commerce and Industry], internationally in regard to the adequacy of the fire crash services. Those standards are implemented through the Directorate of Civil Aviation, and unless the Director of Civil Aviation were satisfied that these services were adequate he would not allow the aerodrome to be operational. Therefore, Sir, I think that my hon. friend can be satisfied on that score—that in the opinion of those experts responsible the services are adequate. Let us hope that they are never put to the test in the sense that we do not want a crash. But we observe the international standards as laid down by international agreement.

LT.-COL. MCKENZIE: On a point of explanation, would the hon. Minister say who the expert was?

THE CHAIRMAN (Mr. Conroy): That is not a point of explanation.

THE MINISTER FOR COMMERCE AND INDUSTRY (Mr. Hope-Jones): I would like to answer this point as it is very important.

I do not know the hon. Member's objective in raising this matter, but I would suggest that if he had listened to what I had said he would have heard me say that these standards are laid down by the Ministry of Civil Aviation in the United Kingdom and those standards have been arrived at after international consultation. My hon. friend knows all that himself.

Head N agreed to.

Heads O and P agreed to.

#### Head Q—Rents and House Allowances

SIR CHARLES MARKHAM: In view, Mr. Chairman, of the angry cluckings from the other side of the Council, I will give notice, Sir, that I will raise the detail of this under Supplementary Estimates. That will allow my hon. friend the Minister for Commerce and Industry to introduce his Vote which he seems rather worried about and he rather seems to resent questions on this Vote.

THE MINISTER FOR COMMERCE AND INDUSTRY (Mr. Hope-Jones): I think that the hon. Member—and I went into very great detail to reply—has made an unjustified observation and I would ask him to withdraw his insinuation.

SIR CHARLES MARKHAM: Sir, I will withdraw nothing. I have been watching the hon. Member's face, and I can assure you, Sir, that it is no pleasure to see him grimacing whenever a question has been asked from this side of Council on this particular Vote.

THE CHAIRMAN (Mr. Conroy): Order, order! We have not got very much time left to deal with the Estimates which are now before us. Personal recriminations from either side of the Council get us nowhere.

SIR CHARLES MARKHAM: I will reserve the detail for the Supplementary Estimates.

Head Q agreed to.

Heads R, S, T and U agreed to.

Resolutions to be reported.

Council resumed.

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

### REPORT

#### VOICE 38—MINISTRY OF WORKS

MR. CONROY: Mr. Speaker, Sir, I beg to report that the Committee of Supply has considered a resolution that a sum not exceeding £3,346,870 be granted to the Governor to defray the charge which will come in the course of payment during the year ending 30th June, 1959, for Vote 38—Ministry of Works—and has approved the same without amendment.

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

THE CHIEF SECRETARY (Mr. Coultis): seconded.

Question proposed.

The question was put and carried.

### COMMITTEE OF SUPPLY

#### VOICE 37—MINISTRY OF COMMERCE AND INDUSTRY

### MOTION

That Mr. Speaker do now leave the Chair.

THE MINISTER FOR COMMERCE AND INDUSTRY (Mr. Hope-Jones): Mr. Speaker, I beg to move that Mr. Speaker do now leave the Chair.

[The Minister for Commerce and Industry]

As there is very little time, and as hon. Members will wish to reply to my remarks on certain matters which I know they have been wishing to raise, I will try to make my speech somewhat briefer than I intended to, so that, that can occur, and then I hope I will be able to deal with the points raised in my own reply.

It is perfectly true that in the last year, there has been some slowing down in firm investment in industry in this Colony, but interest in the opportunities offering has not materially decreased. It has just been that the effects of the credit squeeze have possibly made people a little more critical of individual projects. That in itself, Mr. Speaker, in my view, is not a bad thing, provided of course that the credit squeeze and the shortage of investment money does not go too far. It is interesting to note that in the past year, a number of very important manufacturing industries have come into production; particularly notable is the East African Portland Cement Company, the Meat Commission's new canning factory, and the large and expensive oil installations—I am speaking of the depots, not at this moment—filling station—put in in Mombasa and in other parts of Kenya, and indeed, of East Africa, by Ozo. In addition, although as my hon. friend has said, the rate of building in 1958 shows some decline over 1957, the construction of important buildings in the major centres still remains a very important aspect of our economic life. Now then, many people say, who finances these buildings? And I think the answer should go on record, because it has very great relevance to the prosperity of commerce and industry in the Colony: some of it is financed out of savings in this Colony; most of it is financed by money brought in from overseas; almost all of it has a value in terms of the commercial and industrial importance of centres such as Nairobi and Mombasa, and indeed the smaller centres in the Colony. This building activity is not a burden on the producers of this country; it is rather an indication of the growth of the commercial and industrial importance of the country, not only in

relation to Kenya itself, but neighbouring territories; and, indeed, further afield.

I mentioned earlier the establishment of the Ottoman Bank; that, too, represents further capital coming into this country. As my hon. friend has said, speaking earlier, the hotel industry—and this will be stimulated by the wise measures introduced by my hon. friend—is showing signs of picking up, there is the new Oceanic Hotel at Mombasa, and the new hotel being built in Nairobi. Again, a large and modern soap factory, sponsored by Lever Brothers, and under the local control of East African Industries, will soon be in production. The factory will serve a very much bigger area than Kenya, and will be one of the most modern and up-to-date factories of its kind anywhere in Africa.

Then there is the story of cement in Kenya, it is indeed, a success story of industrial development based wholly on local raw materials offering good opportunities of employment for all races in this Colony. Seven years ago, it did not exist as an industry. We were entirely dependent upon the imported article. Not only has this industry been built up, sufficiently to meet the needs of Kenya and to supplement those of neighbouring territories, but it is a success story that has produced a surplus for export, and most important, in spite of its development in a high cost period, has resulted in reduced prices for cement. I suggest that it is the contemplation of achievements of this kind based entirely on private enterprise that can give us some confidence in the economic future of this country.

Now, Sir, I do not want to detain the House by speaking too much about the publicity that results in the interest shown by capital in this country; but it is perhaps worth mentioning that in the last 12 months articles have, *inter alia*, appeared publicizing Kenya as a source of investment in the *Stock Exchange Gazette*, two in the *Investors Chronicle*, in *Colonial Development*, in the *South African*, in *East Africa and Rhodesia*, in the *Board of Trade Journal*, in the *Overseas Trade Bulletin*, in the *Financial Times* and in *The Economist*. *Commerce and Industry*, which most Members are familiar with, produced by my Ministry, now has outside East Africa and the

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United Kingdom a distribution built up on an individual mailing list of over 5,000 copies covering 42 countries. These 5,000 copies, going to individual people and institutions who receive it from year to year, excludes, as I say, the copies circulated in East Africa and the copies circulated in the United Kingdom. The mailing list has been built up over the past ten years. The circulation of this particular publication results in literally hundreds of enquiries a year. It has been publicized in three United States' publications, publicized by them, not as a result of payment, and has been remarked upon as being one of the most effective forms of drawing attention to investment opportunities that any country in the world has yet developed. The journals that I refer to are *Foreign Commerce Weekly* and *Investment Opportunities Abroad*, the first of which is a United States' official publication. Reference was also made in the January issue of *African Report*, which, however, if I may say so, featured even more the biography of the hon. Dr. Kiara.

Signed articles have also appear in *The Times British Colonies Review*, the *West German Economist*, *Commonwealth Calling*, the *Investors' Chronicle* again, and many other papers. I mention these things not because they are interesting in themselves, but because they do show that the interest shown in investment in industry and commerce here has not, to quote the *Investors' Chronicle*, been the result of accident; but, in their view, has been the result of design and a sound Government policy.

Now, Sir, I know that at times it may be a little boring to quote statistics again, but I think that this is a necessary statistic, and one that has significance. My hon. friend, the Minister for Finance, has referred to the fact that national income has increased from approximately £50,000,000 to nearly £170,000,000 in a matter of nine years. That means an increase of three times; during the same period the contribution of manufacturing industries—and I am carefully excluding the processing of agricultural produce, such as the manufacture of tea and the manufacture of coffee—manufacturing industry in the somewhat narrow sense that it excludes

agricultural processing and mining has increased 500 per cent, in other words, five times. Now, Sir, in a poor country like this, without many natural resources, that can only represent in view of the competition for capital a successful Government policy. I do not wish to emphasize this point, but I would wish to quote from an article by a friend of Kenya who know it well, the Rt. Hon. Hilary Marquand, and he refers in an article in *The Times* published recently, which is in the library, Sir—to a well-sustained Government policy supported by results. In Kenya, as elsewhere in Africa, industry and investment is a matter for private investment to a very large extent. The functions of Government are to provide the basic facilities, as I see them: the railways, the water, the roads as far as we can to enable that development to take place.

I would, if I may, before passing on to some detail of the departments for which I am responsible, like to refer to one or two comments that we have received from independent sources on the new Nairobi Airport. I would like to quote first from the special correspondent of one of the best-known United Kingdom financial papers, who spends most of his time travelling around the world. This gentleman—and a copy of the relevant publication is in the library—remarks that in his opinion as a world traveller, not only was the Nairobi Airport the best that he has experienced for its size; but it was also the most efficiently run. Now, Sir, I suggest that when a man of less standing and of less experience makes a remark like that, that is something of which those responsible for running the airport—the airport commandant and his staff—can be proud.

MR. ALEXANDER: What about customs?

THE MINISTER FOR COMMERCE AND INDUSTRY (Mr. Hope-Jones): The other point I wish to remark on is this: I have a letter in my possession from the chairman of the Nairobi County Council which he asked me to circulate, in which he too pays the highest possible compliments to the efficiency of the airport and the efficiency of the staff. Now, Sir, I mention these two amongst many because one is from somebody who is very well qualified to make those remarks.

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and the other is from somebody who has great experience of present conditions to say it. Now, Sir, my hon. friend who has just interrupted—and he will have ample opportunity to raise the matter again—said "What about customs?" I am happy to say that the Customs are now co-operating to the full. I think that my hon. friend and other hon. gentlemen who have been round there recently have no cause to complain.

MR. ALEXANDER: Well done!

THE MINISTER FOR COMMERCE AND INDUSTRY (Mr. Hope-Jones): Now, Sir, if I can touch on some of the things we have been trying to do to assist industry—I realize that time is short—and I must apologize here for possibly not going into quite sufficient detail. The new Customs Tariff undoubtedly, in many respects, will be of assistance to industry, and quite a number of industrialists have taken the trouble to write to tell me so—the Industrial Development Corporation, of which my hon. friend, the Corporate Member for Commerce and Industry, is so distinguished a Chairman, has continued with its comparatively limited resources to assist industry where it can. We examine applications put to us in an objective and impartial way; when the money is available, if we are satisfied on that score, we seek to assist industry. We are not able to do as much as we would like; no concern of that kind can. Nevertheless, I believe that the corporation does an excellent job, and, indeed, the proof of the pudding is in the eating; of few Government finance corporations of that kind can it be said that over a period of years, they have not only not lost their original capital, which was the result of selling wartime industries, but, indeed, have been able to assist industry, and to a very large extent to show a reasonable and profitable return. The Government's policy—and I mention this because my hon. friend, the Nominated Member, Mr. Tyson, is certain to raise it if I do not—the Government's policy is as far as possible to de-centralize industry. We are showing considerable success in this matter, particularly as Thika is now coming into full fruition in the sense that it is becoming an industrial area.

The paper mill that I mentioned a year ago is now under construction there. It is expected to be in production towards the end of this year or early next year. The proposals approved by the Legislative Council to develop industrial estates in and adjoining the African land units is now being fully pursued. There has been some shortage of finance and the development of the first African industrial estate at Karatina has been delayed because of arguments over compensation. Arrangements have, however, been completed for the payment of compensation required to set aside the land. The argument has been a long one with the African district council. Additional funds may well be required. We hope to plan, if this is successful, a second African industrial estate, and we are looking ahead to Nyanza where, if funds can be made available and suitable sites can be found, without an undue burden of compensation for land that will greatly increase in value inevitably when industrial development takes place, we hope to work along those lines there. I believe that the policy will succeed. A year ago, I asked my hon. African friends on the other side if they would give some backing to this policy. They said they would through one of their number, and I know that they have. But it is not always easy to explain that there must be some disturbance if there is to be an industrial estate, and about compensation, not that compensation should not be paid—it should—but very long arguments merely delay the fruition of the plans.

In 1957, mineral production again showed an increase over 1956. The figure for 1958 will undoubtedly show a further large increase, because one of the largest users only came into full production early in 1958. Gold production, I am afraid, fell again in value from £172,000 to £92,000. The value of soda ash, while the volume increased, fell slightly from £1,750,000 to about £1,600,000. Cement production, as I said, showed a big increase.

No new mineral deposits of any great importance were found during the year. Two oil exploration licences, in respect of areas of North-East Kenya, are in force. But I am afraid I must report a great disappointment in terms of

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minerals: the internationally known company to which the special licence in respect of Marima Hill was issued have given it up at the end of the period as the metallurgical problems involved in the extraction of the ore were too great for them. This particular company made the very greatest efforts and spent infinitely more money on the problem than they had contracted to do. However, it is hoped that another company may take it on, and in any case, the metallurgical research, which is the basic problem, not the amount of the ore body, or its quality, will go on.

The geological survey has made good progress during the year, and now, well over 45 per cent of the country has been surveyed in a basic sense. A few years ago, to give you the comparison, it was less than 20 per cent. Five reports on geology in different parts of the country were published during the year.

A good index of industrial and commercial activity and general growth is the amount of power consumption. I have referred to that, and I think somebody at an earlier stage asked me what the figures were. Well, for the year 1957, over 55,000 kilowatts were consumed. That represents a nine per cent increase on the previous year. That is a very large increase indeed when one considers that since 1938, from very small beginnings, there has been a 1,600 per cent increase; that after that very rapid increase, in terms of the large figures of consumption at the present time, that expansion should be sustained at nine per cent is significantly encouraging.

I appointed a committee of enquiry into the operation of rent restriction about ten months ago. It sat under the chairmanship of my hon. friend, the Asian Minister without Portfolio. Evidence was heard in public in the main urban centres, and in addition, a great many written memoranda from members of the public and interested bodies were considered. This report is now in my hands, and is being considered by the Government. It will, of course, result in full discussion in this Council at a later date.

Before I sit down, I would like to remind hon. Members of the very great

help and assistance that I and my Ministry get from the Board of Commerce and Industry. I have mentioned it on one or two occasions before, but I really feel that I should mention to hon. Members how very much time the members of that Board spend in considering things as diverse as rent control, or the problems in connexion with commerce in different parts of the country, not only at the regular meetings of the Board, but in committee. The same goes for the members of my Board of Industrial Development who, as hon. Members will remember, were constituted as a board about two years ago. Their advice to me is quite invaluable, and during its initial stages, the heavy burden of work which has been undertaken by the members of these two Boards and the members of other boards I appoint, such as the Electrical Power Advisory Board, have been invaluable.

The assistance to African businessmen, artisans and industrialists, fits in very well here, because there are a great many joint boards, the members of whom again give valuable advisory services. Not only, as last year, have African district councils contributed to the scheme, but three of the municipalities are now taking an active part, and it appears that a further two will be doing so in the course of next year.

Last year, I remarked that about 130 loans had been issued. At the present time, there is a total of 291 loans—that was at the 31st March—and the latest figure is well over 300.

Now, it is very easy to say that a great many more loans should be made more quickly; when that criticism was made by one of my hon. friends some time ago, I said that the most valuable thing an African businessman could have was credit worthiness, and that credit worthiness was built up by borrowing within one's capacity to pay, and paying back. I also remarked a year ago that the number of defaults in respect of these loans was so infinitesimal—I think if I remember rightly that it was two out of 130—was so small as in itself to recommend the scheme as proving that properly administered, Africans were credit worthy. Not only have we increased the number of loans to well over 300 from 130, but the same small proportion of defaulters remains. I suggest

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that in terms of the development of the African, from an economic point of view, it is better to proceed along the lines we have proceeded along somewhat, possibly in the initial stages too cautiously, provided the result is the one that I have been able to refer to today. Tremendous enthusiasm has been shown by those who have given their time and energy to making this scheme work, very largely on a voluntary basis. In addition to that, under the same scheme, we are now extending the number of trading courses for Africans at the Jeanes School and at Masena. They, too, have got a valuable part to play.

Now, Sir, the Department of Trade and Supplies is a department that is probably as much in contact with the public as any department of Government. I think that among the commercial and business community, it is true to say that the members of that Department enjoy the business world's confidence. I think it is true to say that their publication, which is published at regular intervals, again enjoys the full support of the commercial community. It is proposed if we can find the money, to publish a Swahili version of that for the assistance of African businessmen—not all of whom are familiar with English; it has, of course, a big circulation amongst African businessmen in its English version; but we felt that if we can find the funds—and we believe we can make it self-supporting—we should do that.

It is interesting to note that in trade enquiries, as distinct from the type of enquiries I was referring to earlier, over 4,000 enquiries were submitted to the Department of Trade and Supplies alone—not my office—in the last year. I feel that as time is so short, and there are so many aspects of my Vote that hon. Members may wish to raise that I should rather cut short the remarks I intended to make, and ask Members to excuse me if I have left out things they are particularly interested in, and to say that I will answer them if they raise them in the debate if time permits.

There is just one more thing I want to say; that is, about the Weights and Measures Department. Not only did it

have the great honour the other day of weighing this Mace, a ceremony that takes place in connexion with the Maces of every parliament in the British Empire—the hon. Member for the Coast may not know it, but the Mace in the British Parliament lost 6 oz. through handling by the Sergeant-at-Arms in a matter of 230 years.

The increased scope of the Department of Weights and Measures' activities is best shown by the revenue collected by this Department for the various services it sells to the trading public. This total, well over £9,000 last year, and does not, of course, include the fines which are inflicted by the courts for false weights; this is for the service which honest traders desire to have, in seeing that their equipment is checked at regular intervals.

One thing that may interest hon. Members if they have time to go along to the Weights and Measures headquarters and see the curious instruments with which the public of Kenya has been afflicted by dishonest traders over the last few years to try and give them short weight without it being realized. It is quite an interesting collection; they have only kept the best ones. Some of them are measures with false bottoms, others are weights with pieces hollowed out, and so on; they are quite interesting to look at. I think—and I have said this before—it is worth noting that one of the most effective ways of reducing the real cost of living is to see that honest weight is given. I believe that this small Department does a very fine job indeed in seeing that there is honesty in weights and measures, which is in the interests of the traders and the buyers.

Now, Mr. Speaker, before I sit down I would like to say what other Ministers have said about their staff, and I say it very sincerely, I am very grateful to them, as I have been over the years. I think that in many ways they have tackled a difficult job in a magnificent way and, indeed, in their constant relationships with the public carry out an almost unique job of public relations. I was very grateful, if I may say so, when my hon. friend Dr. Kiako paid tribute to them, as regards their courtesy.

Mr. Speaker, I beg to move.



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

*Question proposed.*

MR. ALEXANDER: Mr. Speaker, Sir, it is pleasing at this time of year to come to this Vote for the Minister for Commerce and Industry; and it is a very pleasant afternoon on which he should have to deal with it. I say it is pleasing, Sir, because I do consider of the Minister that he is one of those on the other side of the House who does appreciate what our job over here is, to be, if we can, objective critics of Government. And he certainly is one of those who receives that criticism without every time going into a sulk about it.

In fact, Mr. Speaker, I rather look upon the Minister as what I might call the cheerleader of the other side; he is always ready, at any time, irrespective of what is being said, with applause or a laugh, just to raise the other side from the depths of depression and despondency into which they get themselves from time to time.

I am grateful to him for the way in which he did leave out a considerable part of his speech in order to give one or two of us a chance to speak; I noticed he turned over many, many pages of what he had to say. I am sure all of us on this side are grateful for that.

My understanding, Sir, of the task and responsibility of this Ministry is that it should help and advise, stimulate and encourage, commerce and industry. In that context, Sir, I wonder whether the Minister realizes—and I am sure he does realize, after his applause just now for those departments of his Ministry that are in such close contact, as he claims, with the public (and I am sure they are)—the extent to which the present proposals on undistributed income tax are damaging commerce and industry in this country at this very moment. Whilst these proposals remain in being, that damage will continue day by day and grow more serious day by day.

Already much of commerce and industry and business in this country is curtailing its activities because of these proposals. I know—and I believe I am in a profession that can claim to know—of finance that was due to come here some weeks ago but because these proposals came out, and are still in being,

that finance has turned itself away. I know of proposals for extensions to existing businesses and commerce and industry, which are at this moment halted. And, appreciating that the Minister must realize all this, I ask him today to tell us whether he has tried to influence all his colleagues, and if he has not, whether he is prepared to do so, to have this particular part of the income tax proposals withdrawn today—that, Mr. Speaker, is the only way to remedy the present serious state of affairs.

A famous American Chief Justice by the name of Marshall once said that the power to tax was the power to destroy. I can assure the Minister, and all his colleagues on the Government side, that today these particular tax proposals related to undistributed profits are destroying day by day the business and commerce and industry of this Colony.

In the reign of Henry the Seventh, windows were taxed heavily, so everyone blocked up their windows. In South Africa, they attempted to tax the wheels of wagons, so they took the wheels off the wagons and used them as sledges. That is the sort of thing which will happen in relation to these particular tax proposals, unless our Government makes a very, very early decision to withdraw them and think again.

Mr. Speaker, I beg to support.

MR. ROGERS: Mr. Speaker, Sir, may I add my congratulations to the Minister, not only on the introduction he gave us, but also on the operation of his Department?

Now, as he has said, in the Budget there was a strong element of assistance to industries and protection of local industries by means of the new customs duties. I think that this is quite correct, and also, despite the increase of 50 cents in the company tax, I feel it is still low enough to encourage investment, and indeed it is a better principle than the tax concessions, the tax holidays, the pioneer industry principle, which are used in some countries.

Despite these we must, however, always be on the watch for methods of encouraging local industry, for there is today the fiercest competition for the world's available capital. In Malaya, for instance, not only are new companies given tax holidays but those financing

[Mr. Rogers] them, those providing the capital, are also given a tax holiday, and this tax holiday is no mean one. It is five years. In Kenya, in addition to the two principles I have set out, we also have the Industrial Development Corporation, and I am glad to see that under Head HJ—Ex-Gratia Payments to Secondary Industries, there is a substantial sum allocated. For there is one way of putting the money of Kenya to work and that is in ways like this where it will earn money.

Not only will it assist local industry but it will assist our export trade, which is something we must take increasingly seriously. Naturally, these inducements must only, of course, be used to encourage satisfactory industry; they must not be used to nurse sick or incompetent industry, or ones which it is not reasonable to suppose will recover to boisterous health. In other words, the principle must be springboard and not as a sofa.

Now in the past the predominant part of the trade of Kenya has been held by the expatriate races. I think that was inevitable in the stage of development which then existed. But I am glad to say that our African friends are now making great efforts to improve their trading abilities and their trading position, and have indeed already achieved some quite good results. The Minister for Commerce and Industry is, of course, assisting in this as he has set out, and other departments are doing the same, such as Jeanes School. A number of business firms and businessmen in this country are also helping by means of lectures, by having the students visit their businesses and by taking them in during the vacations.

I personally, as a businessman, would like to give the warmest support to the advancement of Africans in trade, for I do not think there is any future for a country where the trade is confined to certain elements of the community. All sides of the community must take their part. I feel sure, on their side, our African friends will be very careful not to try to go too quickly. For instance, they will see, Sir, the large wholesalers, importers, industrialists, manufacturers; I would commend to them the fact that there is vast experience and knowledge behind these undertakings before they

were started. Furthermore, there is capital which is not yet available to the Africans, except to a small extent.

May I commend to our African friends that well-known Chinese proverb: *Cah-ee djung-rung-ee kuh shir*. Now, I realize that it is possible that certain hon. Members may perhaps have forgotten some of their Chinese, and they are no longer wholly fluent in that language. So I will, in fact, give a translation. The translation is that it is easy to open a shop but it is very difficult to keep it open.

I beg to support the Motion.

SIR CHARLES MARKHAM: Mr. Speaker, I listened with interest to the speech of the Minister when he introduced this Vote. I think there is some misunderstanding on his part about the procedure, because, as I understand it from the Chief Secretary, we carry on with this Vote, and it is only when this Vote is finished tomorrow we go into Committee. Therefore we could have had more detail from the Minister, Sir, although he did speak for 35 minutes and gave an interesting survey.

I have two questions I would like to ask him to answer when he replies to the debate: one is concerning the general position of attracting industry to Kenya. As I see it, at the moment, the position is very similar to the remarks made by the Acting Corporate Member for Commerce and Industry, Mr. Hillard, when he explained the difficulties facing any new industry coming to Kenya regarding facilities they are given by the Government. We have I think got to accept the fact that there is room for a very large business concern, like cement business, but for the small business to try to build up over the years it is none to easy, and there have been a lot of cases recently, although they do not come under this Ministry, of failures of well-known established companies in Kenya, including one of the oldest chemist shops, who are finding the present times very much of a slump or a depression or a recession, whichever you like to call it. There is no doubt in my mind that there will be a tendency for the business interests from overseas to look to the most attractive market and that will be their decision, whether to come to Kenya or not.

[Sir Charles Markham]

Now, I hope that one of these days, Sir, the Minister—I must admit I am glad he pays tribute to his own staff: I find they are one of the smallest Ministries in numbers in the country—and I hope one day he might be able—by savings perhaps or extra revenue from the airport—to have this Commercial and Industrial Secretary, because there have been complaints made to me—and I think they are justified—of the difficulties people have in getting hold of members of the Minister's Ministry, mainly because there are not very many of them and two of them have been directly involved with the airport.

Now, Sir, regarding the airport, I have said quite enough on that in other Votes, except that I was glad the Minister raised the question of putting ourselves on the back over having this wonderful airport. I was down last night, Sir: I was told that new regulations regarding admission into the halls, through Customs, were fully understood, I think they are fully understood by the Customs officers, Sir, but I am not certain they are fully understood by some of the subordinate Customs officers on duty at the barriers. I had two passes, one being a Legislative Council pass which I produced with great glee last night, and I went through—the officer thought that pass meant I was a policeman!

THE MINISTER FOR INTERNAL SECURITY AND DEFENCE (Mr. Cusack): On a point of order—is not the hon. Member a member of the Kenya Police Reserve?

SIR CHARLES MARKHAM: I am surprised the Minister does not know his own passes. I think the Minister could get the details explained to some of the more junior officers.

There is one small complaint regarding the airport which he might look into—the water supply is heavily chlorinated: in fact, Sir, I warn Members of this House not to drink a whisky and water at the airport—it tastes perfectly disgusting, heavily chlorinated, and there have been complaints from passengers of the taste of the water.

My final point is something dear to me and concerns the Mines and Geological Department. There have been many rumours—I will not say scares, Sir, that

would be the wrong word—rumours about new minerals being found in Kenya. There has been occasionally information about the new strikes of gold or other semi-precious minerals: at the moment there are many geological reports issued from the Mines Department which are of great assistance to firms coming to Kenya. A lot of those reports were written after research some years ago, and in the event of certain minerals which have now come into the useful category, perhaps it might be worthwhile for the Commissioner to revise his views on the economic size of some of the deposits of some of the various minerals. I am particularly thinking, Sir, of minerals which are now becoming more and more valuable, whilst others, which some years ago—such as radioactive minerals—are now becoming a buyer's market. There is always the question of how much the Minister can help in his publicity overseas with giving a list of what minerals there are available in Kenya. I have often thought, Sir, that a very large company could financially operate some of our gold mines, whilst a small person would die the death of being too small and sub-economic. I wonder, Sir, whether we are spending enough time or whether enough attention is being paid to the very small gold mining industries of Kenya. There is provision in these Estimates for gold mine development: perhaps the Minister might tell us, Sir, because of this particular Vote—it comes under Sub-head G—how many people have taken up loans under the Gold Mining Loans Ordinance? I think it is called that. Again, whether Government proposes to help by technical assistance these small gold mines to produce their economic quantities of gold.

The other thing, Sir, and it is a small point again but it does come under the Minister, being in charge of the Mines Department, is the relationship which still is not clear between those mines operating in the National Parks and the National Parks. The relations, as far as I know, have been extremely good but there has been some difficulty between companies who wish to prospect in the Parks and are told, "very sorry, you cannot do so". I had a case the other day of a person looking for deposits of limestone just on the borders of the

[Sir Charles Markham]

Park, near Tsavo River; for all the good it does the National Parks—that triangle—you would think they are trying to safeguard the Royal National Park, Nairobi, and I do think the Minister might interfere occasionally when bureaucracy, even in that sector, becomes a little too involved.

Sir, we have another Vote coming before us and I will reserve the rest of my remarks for Committee.

THE SPEAKER (Sir Ferdinand Cavenish-Bentinck): It was agreed that at 4.45 we should interrupt business on Order No. 9 and turn to Order No. 14. I understand that was the wish of the House. Therefore, I will call upon the Clerk to call Order No. 14—we will then resume debate on Order No. 9.

#### COMMITTEE OF SUPPLY

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

#### IN THE COMMITTEE

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

#### MOTION

#### SUPPLEMENTARY ESTIMATE (No. 2) 1957/58

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): Mr. Chairman, I beg to move that a sum not exceeding £253,878 be granted to the Governor on account for or towards the defraying the charges of Supplementary Estimate No. 2 of 1958.

*Question proposed.*

Votes 1, 2 and 5 agreed to.

#### Vote 6—HEAD B—TRAVELLING EXPENSES

MR. ALEXANDER: I thought that this type of expenditure came under a renewals fund. It need not have come through this.

MR. MACKENZIE: The answer there, Sir, is that there is a renewals fund for Ministry of Works vehicles but not for vehicles run by other departments. The renewals fund is purely for the Ministry of Works.

SIR CHARLES MARKHAM: Could I ask the Chief Secretary what sort of car he proposes to buy with this £900?

THE CHIEF SECRETARY (Mr. Coutts): The best possible car befitting the dignity of the office and the amount provided.

SIR CHARLES MARKHAM: He is not going to get away with that one, Sir. If this is an estimate of £900, it presumably is some sort of figure he has made up if he has not made up his mind. Could he please answer the question.

THE CHIEF SECRETARY (Mr. Coutts): The answer is that there are several cars of this type.

SIR CHARLES MARKHAM: What type?

THE CHIEF SECRETARY (Mr. Coutts): I have not yet made up my mind.

Vote 6 agreed to.

Votes 7, 8 and 9 agreed to.

#### Vote 11—MISCELLANEOUS

SIR CHARLES MARKHAM: Mr. Chairman, under G—

THE CHIEF SECRETARY (Mr. Conroy): We have not got to G.

#### Head B—Ex Gratia Payments

MR. ALEXANDER: The note here says "Original provision was underestimated"—the figure is £3,000. May we be told why it is underestimated and what this is for?

MR. MACKENZIE: The point about this, Sir, is that the £2,000 for ex gratia payments is by way of being a token. I would like to apologize for the actual wording of the memorandum, although it does say it is underestimated: the fact is that this is by way of being a token and in a normal year it is quite likely that it will be exceeded and there will have to be a supplementary in the very nature of things. Obviously with a Vote for ex gratia payments we have no idea how many are likely to be made in a year, and that is why the provision of £2,000 was made. Actually the additional £3,000 is for a number of cases in which the Government thought fit to make ex gratia payments: one is in respect of leave pay for certain ex-King's African Rifles officers. I believe this is pay arising out of the last war. There are refunds to the Royal Air Force for import duty on petrol and oils, similar refunds to the East African Airways Corporation on import duty on oils; refund of petrol consumption tax to the Railways and

(Mr. Mackenzie)

Harbours Administration; and there are one or two miscellaneous ones, including payment of certain medical expenses which the Government considered to be a proper charge to Government funds and to be a reasonable case for an ex gratia payment.

Head B agreed to.

*Head G—Loss on Realization of Investments*

SIR CHARLES MARKHAM: Mr. Chairman, the note here says "Amount required to meet the loss on investments which were realized and on those which matured during the year". The English is not particularly good on this one: would the Secretary to the Treasury give the House some information about this not inconsiderable loss which occurred?

MR. MACKENZIE: Yes, Sir. Actually the memorandum note is quite correct. The amount of £29,093 is required partly to meet the loss of investments which were realized before maturity. There were four cases where investments were purchased some years ago at above par, and therefore when they matured there was a book loss. The main loss was of £24,872 in respect of the switch of certain investments for the nominal value of £111,724 into sinking funds. Of course, although there is a book loss, my hon. friend will realize that in a case of that kind the actual return from the investment is just as good, or in fact in some cases by a profitable switch, can be better than we had at an earlier stage.

MR. COOKE: From whom does Government take advice when investing Government money?

MR. MACKENZIE: The Government takes advice in so far as local investments are concerned—it naturally takes its own advice, within the Treasury. Where it is a question of expert advice on what is happening on the London market that is needed, we have the advantage of the Crown Agents people who, as my hon. friend knows, have got very considerable experience in this sort of thing.

Head G agreed to.

Vote 11 agreed to.

VOTE 16—PENSIONS AND GRATUITIES

Heads C and E agreed to.

*Head G—Miscellaneous*

SIR CHARLES MARKHAM: Sir, are we allowed—would you guide the Committee, Sir: you do not read out Appropriations. There is rather a serious one of expected deficiencies—are we allowed to discuss it or not?

THE CHAIRMAN (Mr. Conroy): We do not call the Appropriations-in-Aid because we are not voting that: it is always relevant to the Heads that go before and can, I think, be discussed on that basis.

SIR CHARLES MARKHAM: On Appropriations-in-Aid, it says at the bottom "Expected deficiencies": would the Secretary tell us why there is this expected deficiency—a very large sum of money—for pensions and gratuities.

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): On a point of order—are we dealing with Vote 16?

THE CHAIRMAN (Mr. Conroy): Vote 16. I was asked could we discuss Appropriations-in-Aid, and I said strictly speaking he could not because they were not called, and we did not vote on them, but as they are clearly reflected in the Votes we are voting I thought it was proper to seek information on them.

MR. MACKENZIE: The original estimate for the Appropriations-in-Aid for military pensions and gratuities was based on reimbursement from Tanganyika and Uganda of 17 per cent of the total costs of military pensions and gratuities excluding long service pensions and gratuities, which were estimated at a figure of 25 per cent from both Uganda and Tanganyika, and this money was to be reimbursed. The actual expenditure for the six months from July to December, 1957, revealed that the expenditure incurred on behalf of Uganda and Tanganyika would be approximately £5,000 each instead of nearly £10,000 each below what was anticipated for the full year when the estimate was originally framed.

Head G agreed to.

Vote 16 agreed.

VOTE 17—COAST AGENCY AND PASSAGES  
*Head B—Travelling Expenses and Miscellaneous Other Charges*

MR. USHER: Mr. Chairman, there is a Vote here that says there will be savings for 1958/59, the same as for 1957/58, on £581,500. Where is the saving?

MR. MACKENZIE: The point about this one, Sir, is that as from the beginning of the current financial year, as from 1st July, 1957, the shipping companies have introduced return fares, and the result of that is that in the last few months of the current financial year we are having to pay for return passages for all people who go on leave by sea, whereas in the previous year we only paid for single passages. The result was that at the beginning of this year, that is in the period July to the end of 1957, there were quite a number of people coming back from leave who had to have single passages paid for, and yet for all the people who actually started their leave during the current financial year we paid return passages. Obviously, next year, the savings to the Government in respect of each passage, through booking a return fare, is 10 per cent, and quite obviously this is once and for all saving. Next year the people who come back to the Colony in the early months of the financial year will do so at no additional expense, as their return fare will have been paid for this year, and the Government will get the full benefit of the 10 per cent reduction for paying a return passage.

SIR CHARLES MARKHAM: This particular Vote, Sir, has been the subject of a fair amount of criticism in this House before. Can we have an assurance, Sir, that the amount of money—passage money—£581,500, which came to virtually the same this year—now it has been increased by revised estimate—will be sufficient to avoid a further supplementary Estimate? We have complained, and I think with some justification, that every year the numbers—

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): Does he mean supplementary estimate this year?

SIR CHARLES MARKHAM: Yes, Sir. We have complained that every year this House has to face a supplementary estimate for passages. The total was £70,000, or whatever the amount is now. Can we have an assurance that the estimating for this Coast Agency is accurate, because we had slight words, you remember, last year when Suez was blamed for the supplementary estimate. It was admitted during that debate that this was not so.

One other point on this, Sir: is it only just now that the shipping companies have introduced 10 per cent, or is it only one line? I thought all were giving you a return fare. You have had a discount for many years past.

THE CHAIRMAN (Mr. Conroy): We will call C—Passages, because we have been discussing it.

MR. MACKENZIE: To deal first with my hon. friend's last point. The provision for providing return passages by sea was introduced on the 1st July, 1957. More recently arrangements have been made by the air company, by the air corporation, for their return passages to be exchanged for somebody to be able to go by air one way and sea the other and to have facility for return passage. That is more recent, but the one generally for the shipping companies came in on the 1st July.

As regards my hon. friend's other point—can an assurance be given that in no circumstances will there be another supplementary estimate—I would like first of all to say that I am just as tired of having to bring supplementary estimates for this Vote to the House year after year as my hon. friend is in having to see them brought. But this is a rather difficult Vote: it has been particularly difficult in years when the Service has been expanding rapidly in numbers and of course it does depend on how many people go on leave in any one period. The estimating cannot be absolutely exact on a service-wide basis: one thing or another happens and people cannot always go. All I can tell my hon. friend is that we have in so far as the coming year is concerned done our best to ensure as far as possible that an accurate estimate will be provided. I might say in this connexion that we have also considered the possibility of doing with this Vote what has been done with the house allowances Vote, and distributing it to the departments because then of course, dealing with considerably smaller numbers, it will be possible to have a much more exact estimate. There are, however—although it would be quite easy to do it for air travel—there are certain difficulties particularly with booking for sea travel. It is more convenient to do it through the Coast Agency, who is on the spot in Mombasa and so far it has not been found possible

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to get over that particular obstacle. The thing will, however, be kept in mind and in the meantime whilst I cannot give the assurance, since this is a condition of service to which officers are entitled—their leave and passages—I cannot give an assurance that we have got it absolutely right but I can say that we have done our best for the next year, and I sincerely hope as much as my hon. friend does that we shall not find ourselves coming back. If we do come back I hope it will be for a marginal amount and not for these very large sums.

Head B agreed to.

Head C agreed to.

Vote 17 agreed to.

#### VOTE 20—MINISTRY OF AFRICAN AFFAIRS

##### Head A1—Personal Emoluments

MR. USHER: Mr. Chairman, I am wondering whether I might be allowed to take all the personal emoluments that occur in this Vote—that would include the Administration—and even ask for an answer on them generally.

THE CHAIRMAN (Mr. Conroy): The way we have dealt with that is to raise a matter of principle on one Head and use the other Heads by way of illustration.

MR. USHER: If I might do that, Sir, I will follow that precedent. It is merely to ask for a general explanation upon what I think can properly be called over-expenditure throughout the Ministry and the provincial administration. One sees notes, Sir, here, most of them saying that the original provision was underestimated. There is one exception, the Central Province, where I see there was a shortfall in the original provision. I suppose there is some subtle difference between those two.

In my general condemnation, Sir, I ought to have said that the Coast is impeccable in the matter and has not over-spent its Votes.

The point is really, Sir, that for the last year we have known that that money was getting tight and that every effort ought to have been made to keep things down. I should therefore like to know how it is that in every province, with that one exception, we have this over-expenditure.

THE MINISTER FOR AFRICAN AFFAIRS (Mr. Johnston): Mr. Chairman, the reasons for these underestimates were two. First of all, our recruiting campaign was very much more successful last year and this year than it had been in the past and we were able to fill most of our posts. Secondly, when the cost of living was abolished, and consolidated salaries were introduced, sufficient provision was not allowed in those consolidated salaries to meet the full cost.

MR. USHER: Mr. Chairman, does the Personal Emoluments include the cost of living allowance?

THE MINISTER FOR AFRICAN AFFAIRS (Mr. Johnston): Yes, Sir.

Head A1 agreed to.

Heads A2, A5 and A6 agreed to.

##### Head A7—Losses of Cash, etc.

MR. ALEXANDER: The hon. Member for the Coast is a very broad man and has the habit of hiding us all!

These losses of cash—£2,650; it occurs to me that it has perhaps been put in at this time of the year when we are very nearly at the end of the financial year, because losses of cash have actually occurred. Or is this against some anticipated losses that are going to occur between now and 30th June?

THE MINISTER FOR AFRICAN AFFAIRS (Mr. Johnston): Sir, the details of these particular losses can be supplied to the hon. Member if he wishes, but the cases number over 50 and the amounts range from Sh. 10 to over £100.

Head A7 agreed to.

##### Head B1—Personal Emoluments

MR. ODINGA: Sir, could the Minister explain to me what he means by general staff as it appears here?

MR. MACKENZIE: Yes, Sir, I think what my hon. friend wants to know is what is the explanation of Sub-head B1—General Staff. The position is that we knew, when the graduated personal tax was introduced, that it would be necessary to take on certain temporary staff during the early months of this year, in order to help to get it going. What was not known at that time—and I think it was explained when we took the token supplementary estimate—was whether there would be savings in the Vote.

[Mr. Mackenzie]

whether the cost of that temporary staff could be met from savings or if it could not, exactly how much additional provision would have to be made in order to cover it.

In the event, it does turn out that the original provision that was made—which is under Sub-head B1—for the whole of the general staff was £604,669. That in itself was an underestimate by some £19,000 in the first instance, the reason being that, as my hon. friend, the Minister for African Affairs, has said, recruiting has gone very much better this year and vacancies which it was thought might not be filled when the Estimate was drawn up have been filled. In addition to that, there was this £11,000 for temporary revenue staff and provision had to be made for that. Instead of there being savings, the original provision was overspent and that, Sir, is the reason for it.

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): Mr. Chairman, to add to my hon. friend's explanation, if the hon. Member for Nyanza Central is really in doubt as to what the general staff heading includes, if he will turn to page 65 of his Annual Estimates, Vote 21—Ministry of African Affairs, he will see that it includes everything, from the Special Commissioner down to the allowance for the Chairman of the Court of Review.

SIR CHARLES MARKHAM: Mr. Chairman, although we heard the explanation from the Secretary to the Treasury, Sir, I would have expected to this supplementary estimate just for £11,000. But to go up from £11,000 to £30,000, a jump of £19,000, is a fairly considerable underestimate as far as this Ministry is concerned.

Sir, could the Minister for African Affairs tell the House how this has happened, and whether it is going to happen again for this following year with the Estimates we are considering, that so many Votes for provincial administrations are underestimated and the general staff underestimated?

And again, would he bring it to the notice of his officers, that it is unsatisfactory to give an explanation as brief as this for so large a sum of money? I would have thought if you underestimate

by £19,000—as in this case it was—you might have given a more detailed explanation in the footnote to help Members of this House. I would have thought out of courtesy alone, Sir, we might have had that information.

MR. MACKENZIE: The reason, Sir, why the supplementary estimate was not only for the £11,000 provided to meet the cost of the temporary revenue staff was that, if my hon. friend will turn to page 15, he will see that the total original provision for this Vote was £604,000, which is quite a considerable sum of money. That includes the provision for all district officers and for all the posts not definitely allocated to one province, all the district officers, district assistants, provincial commissioners or my hon. friend in one of his capacities, and many other people.

In putting in the Estimate, the Ministry, in consultation with the Treasury, naturally reduces the provision to what it believes will actually be required, taking into consideration the recruiting position when the Estimate is being drawn up. That, of course, is something well over six months before the beginning of the year to which it refers. This Estimate was actually drawn up in the Ministry round about the beginning of 1957, or the end of 1956, when the recruiting position was not as good as it is today. During the intervening period, considerably more recruits have come forward than were expected and the bulk of the additional £19,000 is required for that purpose.

It is the sort of thing that can very easily happen in a Vote of this kind. I think my hon. friend will realize that, as compared with £604,000, in the circumstances I have described an excess of £19,000 is not altogether out of the way.

SIR CHARLES MARKHAM: Sir, I take it from those remarks—I will ask the Minister for African Affairs to answer this one if he can or is willing—it does represent, then, no additional staff being engaged, which is what we have complained of in this House, namely that the staff has been engaged in between annual estimates. It really is the explanation he gives; I have got the Estimates at the time of the general staff, Sir, of the previous year which are reflected as

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opposed to this year, and we were not told at that time, Sir, to the best of my knowledge, by the Minister for African Affairs that there was any shortage of staff or vacancies to be filled in this coming year.

I certainly feel that the explanation given by my hon. friend the Secretary to the Treasury is the correct one, but could we just have, for the record, Sir, that assurance about additional staff being taken on?

**THE MINISTER FOR AFRICAN AFFAIRS (Mr. Johnston):** Sir, the numbers of the staff are laid down in Vote 20 and we have certainly not exceeded that. We have in fact recruited up to the numbers in our establishment.

**SIR CHARLES MARKHAM:** Thank you.

**MR. ALEXANDER:** Mr. Chairman, my colleague in front is determined to obstruct me today, I can see that.

This figure of £30,000 that we are dealing with in connexion with the collection of graduated personal tax, I notice that the estimated revenue for the coming year is a figure of some £2,500,000 approximately, within £50,000, Mr. Secretary to the Treasury. And I am wondering if the Government can tell us just how we are coming out on this, on revenue, in relation to the expenses. Is there anything left of the £2,500,000 when we have paid to collect it? And if there is, what is Government's estimate of the amount left over?

**MR. MACKENZIE:** I am afraid I would need a certain amount of notice, Sir, to answer my hon. friend's question exactly, since it would indeed be almost impossible to say what the exact cost was since a certain amount of time of a very large part of the provincial administration is taken up with this. But it is not by any means the whole of their time. It would be a matter of apportioning so much of a district commissioner's time, and a district officer's time and so forth. The actual revenue staff, the peculiarly revenue staff, of course, is not nearly so large, but it would be quite impossible off-hand to attempt to give an answer and I would much prefer not to hazard a guess that, shall we say, the cost of collecting personal tax is £500,000 or £250,000 or £2,000,000 or whatever it may be. I could

give him the cost of revenue staff—that could be exacted—but not, I am afraid, the full cost of collecting the tax, without a very large exercise.

**MR. ALEXANDER:** Mr. Chairman, I am grateful to the Secretary to the Treasury for his very candid and honest reply, but am I to assume from this that, in fact, the Government have gone into this taxation, or proposed this taxation, without really knowing whether it pays to collect it? If the answer—which I imagine might be the answer and I certainly will accept it as a very valid answer—is that perhaps at the moment this tax is not entirely economic, but the Government is expecting that, having started it, it will grow considerably in amount without adding to the expenses of having to collect it—I hope that it is an answer from the Government, because I am sure we on this side, within the future years, will look with great keenness at the mounting figures year by year.

**MR. MACKENZIE:** The answer, Sir, is that the original cost of collecting this particular tax as compared with collecting the old racial personal tax and the old non-African personal tax and the African poll tax is only purely marginal, and there is this £11,000 for temporary revenue staff additional to what had to be spent in the past, and in addition to that there was certain additional expenditure which was taken with Supplementary Estimate No. 1 of 1957/58. I have not got the details of that, but it was certainly less than £58,000, since the whole of the supplementary estimate was only £58,000.

**MR. ALEXANDER:** Mr. Chairman, could I ask whether Government would agree, in their own time and at their convenience and at their pleasure, to try and do an exercise on this to discover exactly what it is costing, as near as possible, to collect this revenue, because if it is costing even half what we get back, one begins to wonder whether it is really necessary.

**THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey):** Mr. Chairman, certainly, if the hon. Member wants the exercise done in detail, we will do it; but I can assure him that we did look at this in the overall picture and we were already collecting from the

[The Minister for Finance and Development]

non-African side the graduated personal tax; and we were already collecting from the African side the poll tax. When we merged the two, the additional staff that were required were very, very small in number and a very small cost against the additional revenue visualized, and there is little doubt in my mind that already the tax gives a very economic return, and that will develop more as the years go on, particularly once the basis of assessment and the work of assessment has been carried out. But if the hon. Member wants the exercise in detail we should be only too pleased to do it, but I can assure him that we have, indeed, covered it in principle and made perfectly sure that the cost of the collection of this particular type of tax is not out of line with the cost of collection of any other tax. I have assured myself on that before putting it before the House.

**MR. ALEXANDER:** I accept that answer. Head B.1 agreed to.

#### Head B5—Compensation and ex Gratia Payments

**MR. ODINGA:** Compensation and ex Gratia Payments—I would like the Minister to elaborate on that more.

**THE MINISTER FOR AFRICAN AFFAIRS (Mr. Johnston):** Mr. Chairman, this refers to a sum of money which is still owing in respect of maize and posho supplies which were issued to a trader between 1948 and 1950. In those days it was customary for a district commissioner to order supplies and to allocate them to traders, and in this particular case the trader was allowed credit, but fell into arrears with his payments until he owed over £4,000. Court action was taken against the trader and some of the money was recovered, but the trader died and there was not much left on which distress could be levied. The Maize Control subsequently asked Government to take over the debt, together with the interest, as it appeared that Government was partly to blame for allowing excessive credit. This was agreed, and as my Ministry is responsible for the Provincial Administration we have to foot the bill.

**SIR CHARLES MARKHAM:** Sir, would the Minister agree to make representa-

tions to his colleague, the Minister for Agriculture, who controls the Maize Control, about the considerable accumulated surpluses in their accounts, who might well bear this rather than the wretched taxpayers of Kenya?

**THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey):** The point about it is, as the hon. Member for Ukamba will realize, that this was a debt incurred in 1948-50, before the present accounting system was in operation. I have no doubt that should it arise again, the Permanent Secretary to the Minister for African Affairs would be very quick to make such representations.

**MR. ODINGA:** I wonder, Mr. Chairman, whether I should be out of order if I asked the Minister—because that is really very strange indeed, to hear that a trader was given such large sums of money—which race was the trader—for many times we have never had the advantage of Government advancing us such large sums of money.

**THE MINISTER FOR AFRICAN AFFAIRS (Mr. Johnston):** As I said, Sir, it was the custom in those days for a district commissioner to order such supplies, particularly in outlying districts, and those supplies were allocated by him. They were called by the rather odd name of "famine relief supplies", and I admit, it was negligence on the part of the district commissioner that such a large debt arose.

Head B5 agreed to.

Head E1 agreed to.

#### Head E2—Other Charges

**MR. COOKE:** We heard in a recent debate that there is no unemployment in the settled areas. Why is this large sum of money being asked to supply these labour camps?

**THE MINISTER FOR AFRICAN AFFAIRS (Mr. Johnston):** Sir, from time to time, labour change their employment, and in order to avoid a lot of labour wandering about we have these transit camps where they can be housed and fed and looked after pending further re-employment. The object, Sir, of these transit camps is to alleviate the necessity for sending Kikuyu back to their districts where there is already unemployment.

**MR. COOKE:** Are they wandering about?

THE MINISTER FOR EDUCATION, LABOUR AND LANDS (MR. LUYT): Could I speak on this? I think it is aimed at me. I would like to make it clear that I have never said there is no unemployment, I have merely said we must keep the picture in perspective. There is some unemployment.

MR. ARAP MOI: On this very point, Sir, knowing the particular camps to which the Minister refers, I feel that these people are put into these camps unnecessarily, some having relatives within the townships, and yet they are sent to these camps where they are given insufficient food, and so on and so forth.

THE MINISTER FOR AFRICAN AFFAIRS (MR. JOHNSTON): Sir, I certainly do not accept the fact that these people are put in camps unnecessarily, and when they are put in there it is for their own benefit in order that we may get them employment again. These camps are, in fact, serving as labour exchanges.

LR-COL. MCKENZIE: MR. CHAIRMAN, may I ask the Minister if I am not correct in saying these people in these camps get permission and passes for ten days and 14 days to go and look for work in various areas? So in fact they are not completely in these camps.

THE MINISTER FOR AFRICAN AFFAIRS (MR. JOHNSTON): That is so, I thank the hon. Member for putting that point.

DR. KIANO: Mr. Chairman, I would like to take up the Minister on this point—whether this applies to only one tribe or all tribes. And secondly, whether a person with a residence of his own is allowed not to stay in the transit camp.

THE MINISTER FOR AFRICAN AFFAIRS (MR. JOHNSTON): The transit camps are for the Kikuyu, Embu and Meru only, since they come under the passbook regulations and the regulations governing the employment of Kikuyu, Embu and Meru in the Rift Valley Province. Therefore, under the provisions of that legislation, they have to have a resident's permit at night. If they are unemployed we take them into these transit camps, in order that they can be protected.

DR. KIANO: I did not quite get the answer to my second point, which was if a person has his own place of residence in Nakuru, or such other place,

would it not be a saving—as well as for any other reason—to allow him to stay in his own place, rather than take him to the camp and leave his place empty?

THE MINISTER FOR AFRICAN AFFAIRS (MR. JOHNSTON): I beg the hon. Member's pardon for forgetting the second part of his question. If the Kikuyu, Embu or Meru has a valid permit of residence, he naturally remains there, Sir.

DR. KIANO: Could we therefore get clarification from the Minister that this is an Emergency matter and not a matter of unemployment?

THE CHIEF SECRETARY (MR. COULTS): Once more, it seems that we are getting on to generalized statements of conditions in camps, and so on, which are unsubstantiated.

THE CHAIRMAN (MR. CONROY): I think the hon. Member was questioning whether the man who had a permanent residence had to stay in the camp or not.

THE CHIEF SECRETARY (MR. COULTS): I am referring to the hon. Member opposite.

Head E2 agreed to.

Heads F1, F3, G2, H1, H2 agreed to.

### Head 3—*Ex Gratia Payment for Turkana Tribesmen*

MR. USHER: On page 20 I see it says, so wisely, that negotiations are likely to be protracted. Now, as I understand it, we have £1 token provided this year, with the promise of a sub-head to be inserted in the Estimates of this year, but I cannot find the sub-head. Could that be elucidated? Ought it not to be in here now?

MR. MACKENZIE: The point, there, Sir, is that this came along after the original Estimates for the coming year had been finalized—the question of putting in an extra sub-head—so the £1 token was put into this supplementary estimate in order to bring it to the notice of the House, and it is unlikely that there will be any expenditure during the current financial year. There may well be expenditure, depending on the speed with which the claims are made for compensation, before the first supplementary estimate is taken next year, but we do not know how much, and the

[Mr. Mackenzie]

purpose of this particular supplementary estimate is to bring it to the notice of the House that it will be proposed to pay compensation up to a maximum of £16,541 from the Civil Contingencies Fund, if need be. A new sub-head of the African Affairs Vote will be created in next year's accounts so that it will be properly accounted for. The actual amount required for the supplementary estimate will then be reported to the House when the first supplementary estimate is taken in the coming year.

MR. ARAP MOI: Would the Minister tell us how this amount was assessed or calculated and how it was submitted to the Ethiopian Government?

THE MINISTER FOR AFRICAN AFFAIRS (MR. JOHNSTON): The amount was assessed in the normal way; that is to say, there have been several instances in previous years arising from raids into Kenya, and the assessments have been made on the same basis each time—per person killed and per head of stock lost. I am afraid I could not answer the second part of the hon. Member's question.

MR. ARAP MOI: Would the Minister assure us that this tribe, who were residing peacefully—will be fully compensated—those who lost their lives? Would the Government indicate that compensation will be paid to these people, particularly for lives lost?

THE MINISTER FOR AFRICAN AFFAIRS (MR. JOHNSTON): Yes, Sir. That is the reason for this Vote being put in, so that we can, in fact, pay out compensation to the people who lost their lives and stock.

Head H3 agreed to.

Heads K1, K2 agreed to.

### Head L1—*Personal Emoluments*

MR. COOKE: The claim made on the Ethiopian Government—will it include this £4,000?

THE MINISTER FOR AFRICAN AFFAIRS (MR. JOHNSTON): It will not include the £4,000.

SIR CHARLES MARKHAM: Could I ask, Sir, why not? And, Sir, while I am on my feet, would the Minister take the opportunity of giving the House some

information on what is going on in that part of the world at the moment?

THE MINISTER FOR AFRICAN AFFAIRS (MR. JOHNSTON): Sir, I think we only have a right to claim compensation for loss of stock and the loss of lives against the Ethiopian Government, and not the provision of police there.

THE MINISTER FOR INTERNAL SECURITY AND DEFENCE (MR. CUSACK): It is hardly possible to give on this issue a description of what is going on along some 2 or 3,000 miles of international frontier.

SIR CHARLES MARKHAM: Could we ask—do we not think it is a particularly funny matter on this side of Council—could we ask the Minister—£4,000 for Tribal Police—it requires explanation. All we want, Sir, is a very brief statement of what is happening there. It could last one minute, two, three or four, and would be quite satisfactory.

THE MINISTER FOR INTERNAL SECURITY AND DEFENCE (MR. CUSACK): I can give a very brief explanation. At the moment nothing is happening. The police are protecting the Turkana; the Ethiopians have reinforced their garrisons; and at the moment there is peace.

SIR CHARLES MARKHAM: That is all we wanted to know.

THE MINISTER FOR INTERNAL SECURITY AND DEFENCE (MR. CUSACK): If the hon. Member had expressed himself succinctly, he could have had it the first time.

Head L1 agreed to.

### VOTE 21—MINISTRY OF AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES

Heads A4, B, C, D, F, O agreed to.

### Head Q—*Loans*

MR. ARAP MOI: Could the Minister tell us what this loan is for?

MR. SWYNNERTON: For the African Livestock Marketing Organization to purchase stock in the overstocked areas and get them to market or to field abattoirs. The money, as you will see in the note, has, although lent, already been repaid.

Head Q agreed to.

Head Y agreed to.

VOTE 22—MINISTRY OF INTERNAL SECURITY AND DEFENCE

Head D—Miscellaneous Services

SIR CHARLES MARKHAM: I hope, Sir, the question I ask the Minister this time is perfectly clear. Could the Minister tell the House—I must be very serious so he will understand—how long he expects this work will continue? According to the note it has been quicker than expected. How much longer is it to be before it is completed?

THE MINISTER FOR INTERNAL SECURITY AND DEFENCE (Mr. Cusack): I can answer quite clearly. It has been completed.

Head D agreed to.

VOTE 23—MILITARY

Head E agreed to.

Head F—Kenya Contribution to War Department

SIR CHARLES MARKHAM: Could we have, Sir, some detail of what this additional supplementary estimate is for, Sir, other than that provided by the note?

THE MINISTER FOR INTERNAL SECURITY AND DEFENCE (Mr. Cusack): Yes, Sir. As hon. Members are aware, the East African Land Forces Organization took over control of the East African forces from the War Department in July, 1957. That take-over involved various financial arrangements and these are some outstanding bills which arose during the financial year 1956/57, for which accounts have now been submitted by the War Office to us.

SIR CHARLES MARKHAM: Do I understand there might be another one coming for this current year at the moment?

THE MINISTER FOR INTERNAL SECURITY AND DEFENCE (Mr. Cusack): There should not be, Sir, because the War Office connexion ceased at the end of that financial year.

Head F agreed to.

VOTE 26—MINISTRY OF LOCAL GOVERNMENT, HEALTH AND TOWN PLANNING

Heads C, D agreed to.

VOTE 30—MINISTRY OF EDUCATION, LABOUR AND LANDS

Head C agreed to.

VOTE 32—EDUCATION

Heads H2, H3, J2 agreed to.

Head O—International Co-operation Administration

LT.-COL. MCKENZIE: I do not know if I am right on this or not, but I thought we got American specialists free. Is this one we are going to have to pay for?

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): If the hon. Member will just have regard to the note, he will see "subsequently reimbursed".

Head O agreed to.

VOTE 33—LANDS

Head F agreed to.

VOTE 35—MINISTRY OF FOREST DEVELOPMENT, GAME AND FISHERIES

Head L agreed to.

VOTE 36—COMMERCE AND INDUSTRY

Heads H and L agreed to.

VOTE 37—MINISTRY OF WORKS

Head J agreed to.

Head K—Rents and House Allowances

MR. USHER: Mr. Chairman, Sir, we have alluded to this thing before in the general debate in the Supply Stage of the Chief Secretary's Vote and slightly this morning, although I could not hear it all, but I should like to clarify the position as we see it on this side.

Now, the total provision for the current year, according to estimates was £323,330 or thereabouts. Now, we have a supplementary estimate of £95,000 of which £30,000, as I understand it from the Secretary to the Treasury, Sir, is to raise the percentage of house allowance to officers owning their own houses from seven per cent to ten per cent, and the other £65,000 is for other officers coming into the ambit of those who can claim house allowance.

Now, Sir, I do not wish at this moment to dispute the wisdom of the rise from seven per cent to ten per cent to those who own their own houses. I know the reasons and I am in sympathy with them. I am going to dispute later on the way in which this was done.

[Mr. Usher]

In regard to the £65,000 which still remains to be accounted for, I have been through the Estimates and I have been through the first supplementary estimates and the ones we are now considering, and I cannot see anything to account for so large a sum. £65,000, Sir, is 20 per cent of the total provision for the year—an additional 20 per cent. Certainly, there do not appear to have been an extra 20 per cent of officers appointed. If there were, Sir, we shall have to have a very serious talk about it because to make these appointments without the knowledge of this Legislative Council and without its sanction is a thing which I am sure the Government would never contemplate. It may be urged that perhaps there were more posts filled than had been anticipated. That certainly does account for a bit of it, but it does raise the question also that when framing estimates, whether one should not relate the house allowance to the amount provided, that is to say—if you put in an estimate for a proportion of a man's time—say six months in case he is not recruited before that—then presumably you would put in only half his house allowance, but that does not seem to have been the case in these Estimates at all.

Sir, I hope I am not out of order, since my remarks are really directed to pointing out how extremely confusing this all is, and I do wish, if I may, Sir, to make a reference to the present Estimates. You have here a total provision of £460,390 from which you can subtract £60,000 which represents the amount by which those officers who own their own homes will benefit who are in the full year. That leaves you with £400,390 which is not very much more than the total Estimates for this year, although I thought we had less staff. But when you come to examine any detail of it, it is extremely confusing.

I look, for instance, Sir, at the Treasury, not from malice at all, but merely because I thought it was bound to be a department which my hon. friend the Secretary to the Treasury would know a great deal about. Let us look at it then, Sir. There is a reduction of staff this year from 159 to 142—that is 11 per cent; and yet the increase in house allowance is from £7,350 in the present year, plus, of course, Sir, a small frac-

tion of that £30,000, to £11,000—this is almost 50 per cent. Where are we? This example really is sufficient to justify the qualms we all feel here on this side. Sir, even if all the Treasury staff owned their own houses, they could not make it come to that.

Now, Sir, I do appreciate the propriety of spreading this Vote over the departments. In fact, I think there might be a case for putting it into personal emoluments. We have no quarrel there at all. But, there are two serious matters here, Sir.

We were told that this business of the rise from 7 per cent to 10 per cent was an arrangement between the Government and the Central Whitley Council. Sir, who governs this country—the Central Whitley Council or this Legislative Council? Who authorizes these major changes in policy? I dare say this rise from 7 per cent to 10 per cent is a very good thing and, at first sight, I like it very much and I think it is sound, but, Sir, this thing was concocted in December last. Why has it not been before the Council?

The same thing with new appointments: If this other £65,000 we are now discussing is due to new appointments, why do we not hear of them until now? This is really, Sir, such an important point of principle. My hon. friend the Chief Secretary blandly quoted my school motto at me: *Dat Deus Incrementum* and so it seems, Sir. But what we want to know is who is *Deus* in this country? He said it, with such "urbanity of manner and unconsciousness of sin" that it really seemed to me that he had forgotten that these are major matters where large expenditure is involved. Not only this year, but for coming years this Council must be consulted, and consulted in good time.

SIR CHARLES MARKHAM: Sir, just to follow up the words of my hon. friend so that the Secretary to the Treasury can reply to both of us at the same time.

Sir, in two years approximately, this Vote has doubled. It was in the 1956/57 Estimates, Sir, for house allowance £240,000 and the figure in the Estimates we were considering earlier today, Sir, the total comes up to £460,000—which is virtually double. What I would like

[Sir Charles Markham] to know is this, Sir, the supplementary estimate we are now considering is for a sum of £95,000 for house allowances less the savings. That alone, Sir, if you take that figure of the Estimates we approved last year, plus this new supplementary, you still find this year a difference, a very considerable difference, of over £40,000 on the Estimates we are considering at this moment. Again, Sir, no explanation has been given by Government as to how they get this item.

I did say, Sir, when we were considering the Ministry of Works' Vote that I would raise matters now, Sir, to save repetition in the two Votes, but my remarks are equally applicable to the Ministry of Works who were previously responsible as the one central agency for all forms of house allowances and rents of offices. Now, Sir, they have been divided up amongst the various Government departments.

Now, Sir, this £95,000 which is for house allowance in lieu of quarters—I can find no method of working out where it comes from.

Regarding the increase from 7½ to 10 per cent which is mentioned in the Policy Debate, I would have thought that in view of the frightening figures, and they must be described as frightening now, a total of £460,000-odd a year to be paid on house allowances is enough to make the hon. Nominated Member, Mr. Tyson, really to come back to the charge again, like he did this morning.

We, Sir, have had twice in this Council assurances given that when there is a major change in Government policy, the Government would inform the Council. I would have thought, Sir, that a jump in two years from £240,000 to £460,000 is surely a major enough item for the Government to have come to this Council and said it proposed changing the house allowances.

Sir, I would have thought, again, that this is a matter which will require a very careful answer from Government otherwise I shall be forced, with such a few on this side of the Council compared with the mammoth numbers on the other side, to move the deletion of this item to show our displeasure that this item has come before the Council without any

previous warning by way of a supplementary estimate.

Sir, my final remark on that is this—if it had not been for the remarks made by my hon. friend the Member for Mombasa in the course of the Policy Debate, we would never have known that this sum had gone up from 7½ to 10 per cent. Even this supplementary estimate, Sir, does not mention that there has been this increase. I think it is very wrong of the Government, if it had not been asked from this side of the Council, to try to literally get away with it, Sir—those are the only words I can use without informing the Council.

I may move the deletion of this clause later, depending upon the reply we are given by the Government.

MR. MACKENZIE: Sir, to deal first with one or two points that my hon. friends have made in speaking to this matter. In the first place, we were asked who authorized the increase, and the answer, of course, to that is the Government authorized it. The method in which the increase from 7 per cent to 10 per cent in house allowance was come to, was the normal form of discussion in the Central Whitley Council between the Staff Associations and the Government side. Now, various matters affecting the conditions of service of the Government are discussed in the Central Whitley Council, and that is the proper forum for those discussions to take place.

SIR ALFRED VINCENT: On a point of explanation, Sir, could I ask the speaker to let us know what Government is in this respect of the Central Whitley Council?

THE CHAIRMAN (Mr. Conroy): Order, order. I am afraid you cannot interrupt a speech for that purpose.

MR. MACKENZIE: The Central Whitley Council, Sir, discusses matters concerned with conditions of service and various matters of that kind, and one of them was the adequacy of the allowances paid to officers living in their own houses. There was an enquiry into this, and it was found that 7 per cent of the capital value which was being paid was quite inadequate to be any encouragement to an officer to live in his own house at the present time. It was very carefully gone into, and it was then discussed with the

[Mr. Mackenzie] Central Whitley Council and the Government was asked to agree to an increase, and the Government agreed. The cost of that particular increase was, and I am sorry I did mislead the Council last time I spoke when I said it was £60,000—I was misinformed—the cost for a full year is £42,000 and the component of this £95,000 represented by the increases in house allowance is £21,000; the remaining £9,000, I understand, of the £30,000 component to which I referred then, is accounted for by increased rates of allowance payable to officers living in unlicensed hotel accommodation, otherwise, I am told, known as "chummeries".

The actual question of whether the Government should have come along before and spoken to the Council about this before altering the rates of house allowance, I think is one which could be argued in more than one way. It is, I think, all hon. friends here will realize, desirable that as far as possible questions on terms and conditions of service should be settled on the Government side, but it was intended to come to this Council and to bring this matter to the notice of the Council, because there was a very considerable amount of money involved, and it was for that reason, precisely in order to let the Council know what was going on, that this particular supplementary estimate was taken.

Now, Sir, as regards its make-up. There was £21,000 for the house allowances, there was £9,000 for the "chummeries". Another £30,000—a quite considerable amount of the balance—is, I understand, attributable to the fact that when the Ministry of Works staff, who used to be shown in the Development Estimates in 1956/57, were transferred—that is: the Ministry of Works general staff—to the Colony Estimates in 1957/58, the Government, unfortunately, omitted to move the house allowances payable to those people with them, and there is a very considerable number of staff, as hon. Members will remember. The amount provided for in the 1957/58 Estimates for house allowance was £30,000 too low, which should have been there and which had been in the Development Estimates in the previous year, and that omission accounts for a £30,000. So that brings

them up to £60,000. That leaves a balance of £35,000 out of the increase of £95,000.

The reason for this is that there have been more officers drawing house allowances. It has been due to this factor of the filling of posts which were in the Estimates—no new posts have been created—but there were posts which were in the Estimates and as I mentioned when speaking on the African Affairs' Vote—recruiting for all branches of the service has become very much easier in the last year or two.

THE CHAIRMAN (Mr. Conroy): Order, order. Mr. Mackenzie, I am afraid we shall have to stop you in full flight and report progress and ask leave to sit again, otherwise we will overrun our time.

*Progress to be reported.*

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): Mr. Chairman, I beg to move the Committee do report progress and ask leave to sit again.

*Question proposed.*

The question was put and carried.

*Council resumed.*

*Progress reported.*

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

## REPORT

MR. CONROY: Mr. Speaker, I have been asked by the Committee of Supply to report progress and ask leave to sit again.

## SUSPENSION OF STANDING ORDERS

THE CHIEF SECRETARY (Mr. Coult): Mr. Speaker, Sir, I beg to move that Standing Orders be suspended to the extent necessary to complete consideration of Orders 14 and 15 on the Order Paper.

MR. CONROY seconded.

*Question proposed.*

The question was put and carried.

## IN THE COMMITTEE

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



## VOTE 37—MINISTRY OF WORKS

*Consideration resumed.*

*Head K—Rents and House Allowances*

MR. MACKENZIE: I was saying, Sir, the remaining £35,000 has been due to posts being filled which were vacant before, and to higher hotel rates, higher rents payable and miscellaneous things of that kind, but the chief one, I think has been that recruiting has been very much easier and posts which were vacant but which have been provided for have been filled. I think that is probably the main reason for it. As I say, Sir, I am sorry that this was not brought to the attention of the House when we took Supplementary Estimate No. 1. I think probably on reflection my hon. friends opposite may agree that it is not too desirable to have actual questions of whether it should be 6, 7, 8 or 9 per cent discussed here, but, in view of the considerable sum of money involved, I think we should have come here, it would probably have been a good idea to come here with Supplementary Estimate No. 1.

I accept full responsibility myself for the fact that we did not. We knew that there would be some over-expenditure on this particular item during the current year, but the difficulty was at that stage we did not know to what extent it would be possible to obtain savings. Therefore, we chose to wait until nearer the end of the year when we knew how much could be met from savings, and whether it would be necessary to vote actual expenditure. In the event, it was not necessary, and, as I say, we have taken this opportunity to acquaint the House of what was being done. If any hon. Members opposite have any feeling that there was any attempt to hide this from the House, I will give every assurance that there most certainly was not. That is why we deliberately are asking at this moment for £1.

SIR ALFRED VINCENT: Sir, may I just ask a simple question? When the last speaker referred to Government, what is the definition of Government in this particular matter? Is it the Council of Ministers or is it a Government department? What is meant by that?

MR. MACKENZIE: The Government, Sir, is my hon. friends on the Front Bench.

SIR ALFRED VINCENT: I take that to mean that it is the Council of Ministers?

THE CHIEF SECRETARY (Mr. Coultis): Mr. Chairman, a statement by the Government is a statement made with the full concurrence of all the Ministers.

SIR CHARLES MARKHAM: Sir, I raise one point which my hon. friend has not answered. Perhaps he might like to do it again in his second innings. I queried the sums of money in view of the fact that the last Estimates plus this supplementary total £420,000, whereas the Estimates we were considering this morning come to £460,000, that is another £40,000 difference. Could we have an answer to that particular one?

THE MINISTER FOR WORKS (Mr. Nathoo): Mr. Chairman, the difference is made up as follows: £7,000 for the renting of A.D.C. buildings, £13,000 taken over from the Emergency account, £10,000 coming from municipal rates due to landlords under the leases. Government has £1,400 for other new rents for new broadcasting services and other staff. This makes up the £40,000.

SIR CHARLES MARKHAM: I enjoyed hearing those figures, but they have nothing to do with house allowances, which is what I was talking about. I do not think that broadcasting is anything to do with that, Sir, is it?

THE CHAIRMAN (Mr. Conroy): I understand it was houses or quarters for that Department.

SIR CHARLES MARKHAM: No, Sir, there are two different sections there. One is rent of offices, and the other is housing allowances. That is the difference. Sir, Each Government department has its own Vote now. That, Sir, comes to £460,000 this current year, as opposed to last year, with the supplementary now of £420,000. It is this £40,000, Sir, in which I am interested. It has nothing to do with the rent of offices.

MR. MACKENZIE: I am sorry I did not answer this point when my hon. friend put it, but there has been a very considerable increase in the provision for house allowances during the last year or two. It has been, I think, mainly due to the fact that there have been increased staffs of civil servants; the staffs have been increased very considerably in the past two or three years. They have been coming forward and there have not been

[Mr. Mackenzie]

nearly sufficient Government quarters to accommodate them and they have had either to find rented accommodation or to buy their own houses.

I cannot give the exact numbers, I am afraid I have not got them, and I am sure my hon. friend would not expect me to have them at my fingertips, but these allowances are paid. I can give this assurance, that they are paid in accordance with a scale laid down in the Code of Regulations, and they can only be paid to people who have been engaged, who have joined the Service and who have not been housed in accommodation either belonging to the Government or rented by the Government. As far as possible, we naturally try to house people either in Government quarters or, as an alternative to that, the Government has undertaken quite a considerable amount of renting of private accommodation.

I think there is one point to which I might draw attention and that is that the rents of offices and houses and the house allowance Votes have, to a certain extent, for the reason I have given, to be read together, in that if there are not enough Government-owned quarters, either one rents more accommodation or one pays rent allowance or house allowance to people who live in their own houses or who rent their own houses.

That is the explanation of the saving of £30,000 this year; there has been during the past year this £30,000 saving that partly offsets the increase of £95,000 and that is due to the fact that during the past year there have been more people living in accommodation they have rented themselves or in their own houses than people living in Government-rented accommodation.

The short answer, Sir, is that there are more civil servants who have to be housed.

SIR CHARLES MARKHAM: I am sorry, Sir, to keep on at this; I wish we could get a simple answer to this. We have been told—and I have got the Estimates for the last three years here—by the Minister for Finance that there have been no increases in the number of staff. We have been told that and it is in his own Budget debate, I think I am right in saying that, Sir.

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): With only the rare exceptions, the one I mentioned, revenue staff.

SIR CHARLES MARKHAM: Yes, Sir, in 1956/57, Sir, we had an amount for house allowance in lieu of quarters of £240,000. Today's figure is £460,000, Sir. We know there has been an increase by this Whitley Council, after collaboration with the Government, from 7½ per cent to 10 per cent, but this increase is very nearly a 100 per cent increase. We should like to know the answer. We have heard explanations, Sir, but we have not been given any satisfactory answer as to why this sum has bumped up in the last two years from £240,000 to £460,000.

MR. MACKENZIE: Mr. Chairman, Sir, I can only give the general answer, and that is that there have been increases of staff since 1957. There have not been increases this year, in the coming year's Estimates there have not been increases but there have been considerable increases since 1957, since the beginning of that year, when the current year's Estimates were compiled, and there has been a great deal of filling of vacant posts also.

As I say, that is, I am afraid, the only answer I can give to this; there has not been a sudden creation of hundreds of posts or anything like that, which the House does not know about; it is merely the cost of housing the people whose engagement this House has authorized at some time in the past.

If my hon. friend would like me to do so, I should be only too happy to have the matter gone into very much more fully and to give him all the information which he wants on this particular subject. It may take some time because it will mean going to every department, but if my hon. friend would like me to do that exercise I will have it undertaken fully.

MR. USHER: Sir, I do not wish to prolong this, but could the hon. Member tell me what the number is of civil servants who own their own houses and who are now eligible for the 10 per cent?

MR. MACKENZIE: I understand Sir, that it is approximately—and I can only give an approximate figure—350.

SIR CHARLES MARKHAM: In view of that assurance, Sir, and in view of the fact that Bacchus is calling well past his usual hour, I will accept that, Sir.

Head K agreed to.

#### VOTE 38—MOMBASA WATER SUPPLY

##### Head F—Interest Charges

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): Mr. Chairman, I would just like to correct a little sentence in the "Details of the Foregoing"—"The increase is offset by a corresponding increase in withdrawal from the Reserve Fund". That is not quite accurate, as my hon. friends will see if they regard the Appropriations-in-Aid.

Head F agreed to.

#### VOTE 40—COUNCIL OF STATE

Head A agreed to.

##### Head B—Honoraria, Allowances, etc., to Members of the Council of State

MR. COOKE: Could we have some explanation as to the honoraria and allowances? Is the payment per day or per month or per year to the Members of the Council of State?

THE CHIEF SECRETARY (Mr. Coultis): The answer is, Sir, that the Chairman will be paid an honorarium of £300, the Deputy Chairman of £250 and the other Members of £200.

MR. COOKE: Per annum?

THE CHIEF SECRETARY (Mr. Coultis): Per annum.

MR. COOKE: I asked that question because there is a good deal of anxiety in the country and we heard that these Members were not going to be paid. So it is definite that they are getting annual payment. It is not an honorarium, it is a salary.

THE CHIEF SECRETARY (Mr. Coultis): No, Sir, it is an honorarium because they can also get an attendance allowance.

MR. COOKE: And they get that in addition?

THE CHIEF SECRETARY (Mr. Coultis): Yes, in addition.

MR. COOKE: Could we know what the attendance allowance will be?

THE CHIEF SECRETARY (Mr. Coultis): I have it here somewhere, Sir, but I cannot give it to him immediately. Could I give it to you later, Mr. Cooke?

MR. COOKE: Yes, certainly.

Head B agreed to.

Head C agreed to.

#### VOTE 41—OFFICE OF THE MINISTER FOR TOURISM AND COMMON SERVICES

Heads A and B agreed to.

##### Head C—Grants-in-Aid

SIR CHARLES MARKHAM: Sir, I do apologize to the House for being on my feet so much on this one. Would the Minister for Tourism tell the House how much is being contributed to this General Assembly, which I am certain is welcomed by all Members of this Council, by the Governments of Uganda, Tanganyika and perhaps Zanzibar?

THE MINISTER FOR TOURISM AND COMMON SERVICES (Mr. Crosskill): Sir, as shown in the note, the total cost of this conference is estimated to be about £8,000, of which half—£4,000—will be contributed by the General Assembly itself, leaving a balance of £4,000 of which £2,000 will be contributed in equal sums of £500 by the Government of Uganda, the Government of Tanganyika, the East African Railways and Harbours Administration and the City Council of Nairobi.

That, Mr. Speaker, leaves a balance of £2,000 which is being underwritten by the Kenya Government. I emphasize the word "underwritten". The Kenya Government is being asked to make a payment of £1,000 immediately and in view of the unique opportunity which will be presented by this conference for the display of Kenya produce, Kenya manufactures, Kenya tourist attractions, it is hoped that firms, commercial firms, and industrial firms, and agriculture and all firms who may benefit by this, will contribute and so cover a part, or the whole of the £1,000 which will be the balance outstanding. That is why I use the word "underwritten" in respect of this £2,000.

Head C agreed to.

#### VOTE 42—MINISTRY OF HOUSING

Heads A, B and C agreed to.

Resolutions to be reported.

#### DEVELOPMENT SUPPLEMENTARY ESTIMATES (No. 2), 1957/58

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): Mr. Chairman, I beg to move that a sum not exceeding £29,002 be granted to the Governor on account or towards defraying the charges for Development Supplementary Estimates (No. 2) of 1957/58.

Question proposed.

Heads D1—2, D4—1, D4—5, D4—6, D4—7, D5—1, D6—2, D8—6, D11—3, D11—6, D12—9, D13—2 and D13—5 agreed to.

Resolutions to be reported.

Council resumed.

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

#### REPORT

##### SUPPLEMENTARY ESTIMATE (No. 2), 1957/58

MR. CONROY: Mr. Speaker, I beg to report that the Committee of Supply has considered a Motion that the sum not exceeding £253,878 be granted to the Governor on account for or towards defraying the charges of Supplementary Estimate No. 2 of 1957/58 and approved the same without amendment.

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

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

Question proposed.

The question was put and carried.

##### DEVELOPMENT SUPPLEMENTARY ESTIMATE (No. 2), 1957/58

MR. CONROY: Mr. Speaker, I beg to report that the Committee of Supply has considered a Motion that a sum not exceeding £29,002 be granted to the Governor for or towards defraying the charges of Development Supplementary Estimate (No. 2) of 1957/58 and approved the same without amendment.

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

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

Question proposed.

The question was put and carried.

#### BILL

##### FIRST READING

##### The Consolidated Fund (No. 2) Bill

Order for First Reading read—Read the First Time and ordered to be read the Second Time tomorrow.

THE SPEAKER (Sir Ferdinand Cavendish-Bentinck): In order to conform to the arrangements made I will ask the Clerk to read Order No. 9.

#### COMMITTEE OF SUPPLY

Order for Committee read.

#### MOTION

VOTE 37—MINISTRY OF COMMERCE AND INDUSTRY

#### ADJOURNMENT

THE SPEAKER (Sir Ferdinand Cavendish-Bentinck): That brings us to the interruption of business and I adjourn the House until 2.30 p.m. tomorrow, Wednesday, 11th June.

The House rose at forty minutes past six o'clock.

Wednesday, 11th June, 1958

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

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

### MINISTERIAL STATEMENT

#### TREATMENT OF CONVICTS AT LOKITANGA

THE CHIEF SECRETARY (Mr. COULTS): Mr. Speaker, Sir, because certain allegations regarding conditions in a prison in the Northern Province which accommodates a few *Mau Mau* convicts, have been given fairly widespread publicity, the Government feels that this House is entitled to a prompt statement on the situation.

A considerable time before these allegations were made public, the Government was aware of them, and it had instituted and indeed completed investigations before the rumours were given wide publicity. The allegations related to lack of adequate water supplies, visits from relatives, censorship of mail, rations and medical facilities. As a result of the investigation which has been completed, the Government is satisfied that the allegations are unfounded.

As regards water supplies, our investigation has shown that the district officer responsible for the area in which the prison is situated had decided to close temporarily to everyone the usual water supply point for the purpose of cleaning and repairs. This action was possible because rains had started and water was available for all the local people in other ways and at other places, for example, in rain-water tanks and from other available wells. The district officer considered that the alternative well from which convicts and other members of the local community were instructed to draw water on April 25th was fit for human use since it had recently been emptied and cleaned out. The usual water supply point was closed to all persons at the time in question, and there is no truth in suggestions that have been made that although this source was closed to the convicts, it continued to be available to the few European residents in the area. As from 1st May, that is, six days after it had been closed, the water supply point which was regularly used was reopened to everyone, including the con-

victs, and since then, there have been no further complaints regarding the water supply.

Until this year, there were no complaints about the water supply. This year, there was a danger of shortage owing to drought, but it was possible to maintain an adequate supply for everyone including the convicts. Water rationing had to be imposed on everyone in Lokitanga for short periods earlier this year on account of drought conditions. The system of rationing was by putting a limit on the time allowed for drawing the water and the convicts were able to draw approximately ten gallons per head per day in the period allotted to them. This is about the same amount as they used without any complaint before rationing was imposed. There was no question of their being unable to have baths over a long period. In making these allegations, the convicts concerned described themselves as political prisoners; that is quite incorrect. All of them are serving sentences following convictions in courts for criminal offences. They include some of the most dangerous leaders of the *Mau Mau* organization and one who has been sentenced for consorting with persons in unlawful possession of firearms.

Regarding allegations that these convicts were unable to have visits from relatives, there is no record of any such application having been received.

Suggestions which have been made that the prison was not visited regularly are quite untrue. The Provincial Commissioner, Northern Province, and the District Commissioner, Turkana, are the visiting justices to the prison, and they inspect it regularly, as do senior officers of the Prisons Department.

As regards allegations that censorship resulted in serious mail delays, these convicts have been told to inform their correspondents that letters should be addressed to them c/o Prisons Headquarters in Nairobi, where these letters are censored, in order to reduce delay. The convicts, however, persisted in giving their address as the prison. It is unfortunate that this failure to comply with instructions for their benefit may have resulted in their mail being delayed, but the remedy is in their own hands, namely, a request by the convicts to their correspondents that their mail should be addressed to them in the proper way.

[The Chief Secretary]

All the convicts at present serving sentences in the prison concerned were asked by the investigating officer if they had any complaints to make on the score of ill-treatment. Only one complained orally that he had been struck some time ago by an *askari*, but he told the investigating officer that he did not wish anything about this included in his written statement.

I wish to assure the House that the Government is satisfied that allegations of brutality against these convicts are quite unfounded, and medical examinations at regular intervals have revealed no signs of ill-treatment. There is also the question of ration scales. As Members know, these are fixed on the advice of the Medical Department. There are occasional local variations in the scales required by local supply conditions, but these variations are made only with the advice and approval of the medical officer. This practice has been the case in the prison concerned where all the convicts receive a balanced ration including meat, and vitamin supplement in the form of oil, tablets and yeast food, which they are allowed to augment by vegetables cultivated in allotments within the prison.

I will now turn to the allegations regarding medical facilities. A medical officer, who is responsible for the health of the prison and lives within 100 yards of it, visits regularly once a week. He reports that it is untrue that convicts are prone to disease; he further reports that they seldom have been ill, and that they are now in good health.

There were further allegations about convicts' eyes. One convict was transferred to Kitale Hospital in 1955 for the removal of an infected eye; another has asked for spectacles which will be provided if medically certified to be necessary.

Members will be well aware that these allegations have been made by convicts who include the principal leaders of *Mau Mau*, men who were responsible for the collapse of law and order in the Kikuyu country, which resulted in the need for the Emergency to be declared. These were the men who inspired superstitions and fears among the mass of the

Kikuyu and recent experience of K.K.M. in the Colony has shown that the teaching of these *Mau Mau* leaders has not been entirely eradicated. It is clear from the allegations which have been made that these men succeeded in illegally smuggling a letter out of the prison; it is equally clear that had they been held nearer the Kikuyu country, they might have tried to smuggle out more letters, letters which might well have caused further outbreaks of violence. We know from our experience of the months just before the declaration of the Emergency; how expert these men are at the use of the double-meaning. In order to obtain the greatest possible security, it has been necessary to keep them in a very remote spot. In consequence, it has not been possible to appoint official visitors to the prison in addition to the visiting justices, since visits could not be undertaken regularly in such a remote area, but the prison has been visited regularly by the visiting justices and by senior officers.

MR. MBOYA: Mr. Speaker, Sir, I find the Government's statement totally unsatisfactory—

SIR CHARLES MARKHAM: Why?

MR. MBOYA: —and unacceptable.

THE SPEAKER (Sir Ferdinand Cavendish-Bentinck): Order, order. When a Minister makes a statement by the permission of the House, it is permissible for other Members for a very short period of time to ask questions purely to elicit further elucidation. A statement is not the opening gambit for debate.

MR. MBOYA: I was going on to say, Sir, that we would be interested in knowing what nature of enquiry has taken place in the allegations; by whom this enquiry was carried out—whether it was by the same department against whom the complaints have been made, or by some independent person.

I would be glad to know, Sir, from the Chief Secretary also whether the Government—

THE CHIEF SECRETARY (Mr. COULTS): Would it be possible for me to answer the questions one by one, Sir?

The enquiry was held, Sir, by a senior district commissioner who is also a magistrate, and he took statements from all the people concerned.

MR. MBOYA: Would not, Sir, the Government consider that in view of the fact that this is not the only allegation of its kind that has been made, that it is time we had an independent enquiry into the allegations that have been made, because, Sir, I find it difficult to believe that all these allegations could have been invented.

THE CHIEF SECRETARY (Mr. Coultis): I have given a full reply, Sir, to all the points which were raised. I consider, myself, that the enquiry was full, and that we have done our best in this particular matter. I cannot agree with the hon. gentleman that another enquiry is necessary.

## BILL

## SECOND READING

*The Consolidated Fund (No. 2) Bill*  
Order for Second Reading read.

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

THE SPEAKER (Sir Ferdinand Cavendish-Bentlinck): Mr. Vasey. If I might interpolate prior to your commencing your remarks on a point of procedure.

I have called the next Order because as I have already explained, I cannot allow a statement to evolve into debate. We have heard a statement by a Minister. If hon. Members feel as a result of that statement that they want to pursue any matter further, they can then do it by way of Motion in the normal way, but not at the beginning of a sitting immediately following a statement by a Minister. We have other business on the Order Paper.

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): Mr. Speaker, I beg to move that the Consolidated Fund (No. 2) Bill be now read a Second Time.

This Bill, Sir, deals with the funds granted by the Committee of Supply in its deliberations yesterday on Supplementary Estimates No. 2 of 1958, and Development Estimates No. 2 of 1957/58. A considerable time was spent on the consideration of the items contained in this Bill, and I do not propose, therefore, to delay the Council any longer.

Sir, I beg to move.

THE CHIEF SECRETARY (Mr. Coultis) seconded.

*Question proposed.*

The question was put and carried.

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

## 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 Consolidated Fund (No. 2) Bill*  
Clauses 2, 3 and 4 agreed to.

Schedule agreed to.

Title agreed to.

Clause 1 agreed to.

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): Mr. Chairman, I beg to move that the Committee do report to Council its consideration and approval of the Consolidated Fund (No. 2) Bill without amendment.

The question was put and carried.

*Council resumed.*

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

## REPORT

## THIRD READING

MR. CONROY: Mr. Speaker, Sir, I beg to report that a Committee of the whole Council has considered the Consolidated Fund (No. 2) Bill and approved the same without amendment.

The question was put and carried.

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): Mr. Speaker, Sir, I beg to move that the Consolidated Fund (No. 2) Bill be now read a Third Time.

*Question proposed.*

The question was put and carried.

The Bill was accordingly read the Third Time.

## COMMITTEE OF SUPPLY

Order for Committee read.

## MOTION

That Mr. Speaker do now leave the Chair.

## MOTION

VOTE 37—MINISTRY OF COMMERCE AND INDUSTRY

*Continuation of debate interrupted on 10th June, 1958*

MR. OBIINGA: Mr. Speaker, Sir, while the Minister for Commerce and Industry was speaking yesterday, he mentioned many industrial developments which had taken place during the last year or some years before. He mentioned things like meat factories and cement factories, which are now being operated. I was also rather pleased this time because he went on to mention, very lightly, some of the industrial arrangements which are due to take place in some African areas. But I was a little bit at a loss to know whether these industrial proposals were going to be run by the Africans or whether they are some which will be run by immigrant races with their capital.

Mr. Speaker, as usual, I do not think the Minister for Commerce and Industry has gone really deeply into investigations of those industrial developments which should take place in the African reserves. I take it that he seems to be far too busy and interested in the capital which is coming into the country, but he must, on the other hand, know that capital coming into the country is only a burden to the country. It is not actually what should interest him more than carrying out industrial investigations to find out about the Africans, because the Africans form the bulk of the population of this country; and, as such, if the bulk of these people are only workers in factories and so on, that will not do much for the commercial development of this country.

He must find how simple industries and secondary industries can be created by these people, in order to create more work for them. By what they make, they could reap money from outside. Our primary concern should be to see what we can export to earn money for this country, rather than our being concerned with the capital coming into this country, which is only a burden, a great burden, to the country.

Mr. Speaker, it seems as if, both in commercial and industrial development, the Africans are not in any way encouraged. One example which I learnt of just recently is that many Africans are now taking a keen interest in timber work, but I understand that those people who have got their own saw mills are not allowed to go into the forest to cut the proper timber for their own saw mills. They can only take poor ones or the rejected timber for their work; but not the right type of timber. This is really absurd, and it is something which should be gone into. If you like, I will mention that if you go to places like Londiani and Molo there are many of these Africans who are trying their best to come forward and deal in timber, but you will find that they are completely stopped from getting the licence for cutting the proper kind of timber which they need for their trade.

Mr. Speaker, I would say that in this country any Minister for Commerce and Industry should have more concern for African Commercial development, rather than with the immigrant races, because these people have come, they have already established themselves, and it is the Africans who need the help at this time. It is the Africans who should take up about 99 per cent of his time, since he should go into the matter and try to find how Africans could be helped to come up in the commercial world. I do not think that that is being done enough at the moment.

As a result, I remember some years back that there was somebody—he was probably just doing it because of his interest—at Kericho and later on at Kisumu, was trying to train African women and African men to do spinning and weaving; surprisingly later on we found that that work was abandoned. When I enquired from one of them I was told that probably it was due to the pressure by some members of the commercial world who thought that that would be a danger to their business. And so it was abandoned. It is indeed absurd! It should not be the case at all, because the Africans should be taught simple spinning and weaving. They have got the cotton; they could do a great deal in that sphere if they are only encouraged in that way by the Government.

[Mr. Odinga]

Mr. Speaker, last year I also ventured to say here that there are so many Africans who are struggling in the mining industry. It would be a good thing if the Government could support them by some loans to get the machinery which they require for their job. At the same time, there were two or three cases where some of them were keen to go prospecting in the Rift Valley Province but to get a chance to do that is really very difficult. They have struggled for about three years but without any success.

One last thing which I should mention, Sir, is that the Minister last year, when I mentioned he should make a research into what we called Nubian gin, took this suggestion very lightly indeed. He thought that probably I mentioned that in passing as a joke. But I should tell him that Nubian gin is costing the African a lot of money each year in fines, heavy fines. It would be a good thing if the Government saw that research was carried out into this particular industry to encourage it, so that they can distill the gin properly. This should be distilled in the proper way, rather than our importing gin from the United Kingdom or from other places. We could actually get proper gin from this country. But though it is discouraged in that manner and they are fined heavily—it still goes on; it cannot stop. I do not see how this matter is going to be helped in that way. It is only helping to ruin the African business by heavy fines each year which I think should not be left like that.

Mr. Speaker, with these few remarks I would still request the Minister for Commerce and Industry to have more and more dealings with the African businessmen, because the African businessmen are at the present time at the mercy of immigrant businessmen who are already established. African business needs a great deal of help, it needs a great deal of personal contact with him.

Mr. Speaker, with these few remarks, I beg to support.

Mr. KHAMISI: Mr. Speaker, Sir, I listened yesterday very attentively to the remarks which were made by the Minister for Commerce and Industry and I of course do appreciate that a lot of work has been done by that Ministry.

Nevertheless I was much more attracted and I admired the kind words and the awakening speech which was made by the hon. Nominated Member on the other side, because I think he said that it is the duty of the Minister for Commerce and Industry to stimulate and advise Africans as to the best way they could carry out business in this country.

Of course, Sir, it is realized that the Africans are in the very great majority in this country and without their participating fully in commercial and industrial life of the country I do not see how we in this country can prosper very far.

The immigrant races, who are very much experienced in this type of business, are the only ones I see who are getting a fair deal from the Minister for Commerce and Industry, because it does appear to me that he is directing all his attention to this particular type of experienced people rather than to the Africans who are now struggling and starting to enter into the commercial life of the country.

THE MINISTER FOR COMMERCE AND INDUSTRY (Mr. Hope-Jones): *Hapana!*

Mr. KHAMISI: Sir, the Minister has just said *hapana*, which means that I am not speaking the truth. But I can illustrate to him, Sir, that although he told us yesterday that he had started training the African traders at Maseab and at Jeanes School, my understanding of the position is that it is only the literate Africans who are allowed to follow the courses which are given in these two institutions. The great majority of African traders at present are illiterate and some of them are very prosperous traders although they are illiterate. I should like the Minister to tell us in his reply what action his Ministry has taken to see that these illiterate traders are given the training they require to make them much more efficient than they are at present.

I consider that the Ministry of Commerce and Industry is a very important department of State, and I would like that the Minister should utilize much more of his time in trying to see how the African could be helped in order that he may fully participate in the life of this country in creating the finances which we require in order to run this country.

[Mr. Khamisi]

Turning to the assistance given to African traders and industrialists, we have been told yesterday by the Minister that the loans have been increased from 130 to 300. In a country like Kenya where there are 6,500,000 people I think that is a very small amount of achievement and I think the Minister should not have been able to stand up and tell us that only 300 people have had loans. I believe that in Nairobi itself surely there are very many more shops than 300 and I am quite sure that if he looks round the country he will find that there are very many African industrialists who would do well and even better with the assistance which could be given from his Ministry.

Now, Sir, turning to the Department of Trade and Supplies, Sir, I think that is a very useful department, and the best that they could do to help trade and commerce for the Africans would be able to advise the African traders from which direction they could be able to buy goods at wholesale prices. At present, as has been said by the last speaker, the African trader is now at the mercy of the big experienced traders. Now, Sir, I should like the Minister to tell us what efforts his Department has made to see that the Africans have a kind of wholesale business where they can order goods from overseas and supply them to the small retailers who could then sell these goods at a price which would be reasonable to the consumer as well as being profitable to the traders themselves.

Now, Sir, I should like the Minister to tell us how much money is available for loans to African traders both from local and overseas sources. Now, I do understand, Sir, that in certain local authority areas there are schemes under which African traders in those areas can be helped to obtain loans. Now, Sir, some of these schemes are very difficult to operate, particularly in the townships like Mombasa where the traders' requirements to obtain loans are so complicated and difficult that only a few, a very few; could be able to obtain those loans. Not only that, Sir, but up until now not a single trader in the whole of Mombasa has been able to benefit by these loans owing to the complicated nature and the considerable formalities which are required for a trader to obtain a loan. I

should like the Minister to tell us how simple it is possible for his Ministry to devise ways and means by which these traders can obtain their loans swiftly and be able to carry on their business.

AN HON. MEMBER: What about the traders' own money?

Mr. KHAMISI: Their own money? We are now dealing with loans and not dealing with the money belonging to the traders. Otherwise they would not be traders if they had not started firstly with their own money.

Now, Sir, with those few remarks, Sir, I beg to support the Motion.

THE MINISTER FOR FOREST DEVELOPMENT, GAME AND FISHERIES (Mr. Blunt): Mr. Speaker, there are two points that have arisen in the course of this debate to which I think I ought to give a reply, mainly for the record.

The first point was made by my hon. friend the Member for Ukamba who asked what the position was in regard to mining in the national parks. Now, Sir, the position with regard to mining in the national parks is perfectly clear and it is stated in the National Parks Ordinance that subject to any rights lawfully acquired before the commencement of the Ordinance and notwithstanding the provisions of any law in force for the time being no prospecting or mining for minerals should be carried out on any land situated within a national park except with the consent in writing of the trustees. There is then a provision whereby if the applicant is aggrieved by the decision of the trustees he may appeal to a committee appointed by resolution of Legislative Council. Many Members of this Council will recall that during the course of the last year such a committee was appointed and is in existence. Therefore the appeal can be made.

The other point I would like to refer to, Sir, is that raised by the Member for Central Nyanza in connexion with Africans, as I understood it, not being allowed to cut the timber which they need. Now, Sir, I am afraid that I am not exactly aware of the details of his complaint and I therefore cannot answer it in detail. But I would like to say for his information that there is no distinction in the matter of dealing with timber supplies between any race and that every African has just as good an opportunity

[The Minister for Forest Development, Game and Fisheries] as any European or Asian for obtaining supplies of timber under exactly the same conditions.

Sir, I beg to support.

DR. KIANO: Mr. Speaker, Sir, to start with I would like to record my pride as a result of the statement made yesterday by the Minister for Commerce and Industry when he said that the Africans who have so far borrowed money through the International Co-operation Administration programme have shown a very high degree of credit worthiness, and that only a very, very small number of them have defaulted. I think it is important that that should be put on record because when it comes to the question of finding loans for African businessmen and traders the question of African credit worthiness is often brought up for discussion. However, I do not wish to speak at any great length on this point because while I am glad to hear the good news from the Minister for Commerce and Industry I am at the same time a little disappointed to know that such a very small number of the Africans have benefited from the programme he discussed with us yesterday.

I feel, Sir, that in a way I could accuse my hon. friend the Minister for Commerce and Industry of following the old theory that those who have will have more added to them and that those who do not have will have even the little they have taken away from them.

I see the Minister shaking his head and now I want to show him why I have made this allegation to the very person with whom I have so often agreed in this House.

If you look at the commercial sector of our economy you will find that the Africans are at present making some headway, and I must say that it is a headway of which all my colleagues and myself are proud. However, quite a number of unnecessary restrictions and in some cases some neglect of their conditions do obtain in the country. I have, for example, a feeling that the day has come when that Ordinance which restricts the Africans from borrowing more than Sh. 2,000 without an exemption should be abolished. That is a restriction which makes many people like

myself or others unable to borrow more than Sh. 2,000 unless we first get the exemption from the Registrar-General's office. Now, Sir, whether this comes under the Minister for Commerce and Industry or whether it comes under the Minister for African Affairs, I must say I am not very clear about. I hope I shall hear from the Minister concerned about this.

The second point I would like to make in this regard is that the amount often lent to the Africans is usually very small, Sir, perhaps an amount which may help an African trader to meet a small crisis in his trade but often it is not large enough to be really effective in the expansion of his business, or even to start a large-scale business. Now, Sir, he may tell me that perhaps the funds are not available. And, of course, if we keep on accepting this excuse, that funds are not available, from every Minister we shall be reduced to the position where we cannot make any demands to the Government side. I think that if a Member assumes the position of a Minister then he should also assume the responsibility of looking for the funds.

Now, Sir, the programme which originated from the money given to this country by the International Co-operation Administration has, I believe, contributed significantly to the development of African business and artisan establishment in the rural areas. It is a programme which is organized by the joint boards in the various districts. However, Sir, I would like to know from the Minister the amount of money that has been put aside for this programme because I feel that we cannot keep on talking of African economic development when we do require to look into the hardship or the obstructions that they find when they actually seek to follow the policy of development.

Let us look at the position of an African trader in a place like Nairobi. We did try to bring this issue to this House the other day through a Motion moved by my hon. friend Mr. arap Moi. I must say that the debate sort of wandered away from the original intent. However, the position of an African trader is often a difficult one. If, in Nairobi, I want to borrow money from the City Council to build a residential house in, let us say, the African location,

[Dr. Kiano] that may be possible, but if I begin looking round to borrow money not for a house in which to live but in order to set up a shop, I often find that neither the savings and loans companies nor the building societies are likely to come to my aid.

Now, Sir, the Minister may say that I am not credit worthy but what opportunities do I have to prove that I am credit worthy? This is the main problem which I think the Minister should concern himself with.

The last point I want to make, so that I can give an opportunity to other speakers, is a question of what is happening in the rural areas. I complained the other day in this House that there is a tendency to concern ourselves with economic and other problems in the towns and to forget or neglect the rural population and the need for rural development. We do know that the Minister for Agriculture is concerned to raise the agricultural production and that the Minister for African Affairs is very busy with the land consolidation. The result of this might prove to be a big headache for the Minister for Commerce and Industry because the land consolidation, for example, may bring about a number of people who are landless and who will need to find a way of making a living in the industries of the country. I would like to know from the Minister for Commerce and Industry what policy or plans he has to bring about a certain degree of industrialization in the rural areas in order to provide alternative ways of making a living for the Africans who live in those areas.

I would like to know, for example, whether he has considered the possibility of learning from other under-developed countries such as India and other Asian countries where things like rural and village industries have been established in order to provide extra income to the people who are otherwise a farming community.

We cannot say that we will only give credit to the advanced African. I want to know what provisions are being made for those people who might be seriously displaced by the programmes which are under way under the ALDEV and the land consolidation programmes. That is what I had in mind when I said that the

success of the Ministry of African Affairs might in the end be the headache of the Minister for Commerce and Industry and that therefore the two should work together.

The last point, Sir, which I want to make is that we on this side of the House find it often difficult to know which person to talk to, because when it comes to the question of loans or when comes to other questions you will find that it is not only the Minister for Commerce and Industry who is concerned. There is another Minister also. The Minister for African Affairs is also concerned. We do hope that not very long in the future, that in the very near future, our Government will look into its arrangements and its distributional function so that there can be something logical in the set-up of a Council of Ministers and so that we will know whom to blame for what fault.

Mr. Speaker, we are worried. When I talked about this Ordinance restricting credit it was whispered to me that that had something to do with the Minister for African Affairs. The point that I am making is that we need to streamline this Government so that we can know who is responsible for what so that we can get the right answer from the right Minister instead of having Ministers telling us we are addressing them on issues that do not concern them. I beg to support, Mr. Speaker.

MR. NGALA: Mr. Speaker, Sir, I would like to start with underlining what my hon. friend Dr. Kiano has just said—

THE SPEAKER (Sir Ferdinand Cavendish-Bentley): I trust that by underlining you do not mean repeating! This debate is becoming all too repetitive!

MR. NGALA: I would like to raise the point concerning industrial rural training. I would like to take up another aspect of that: I would like to know from the Minister for Commerce and Industry whether he has done anything in the way of seeing how far the evening continuation classes, particularly in townships, can help as far as industrial training is concerned. I know that in some evening continuation classes there is some carpentry going on but I believe very strongly that some other projects could be going on in the same evening continuation classes. For example, mechanics: in a place like Mombasa instead of boys

[Mr. Ngala]

who have passed the K.A.P.E. going into private enterprise where they are not really taught anything. I think there could be a kind of working together of companies with the evening continuation classes to make it possible for such boys to learn something really useful in industry. I feel very strongly, Sir, that in mechanics, motor mechanics in big townships like Mombasa, I think the African young man can learn quite a lot if there is some kind of supervision and working together with companies which I know would be interested. What we need is a bit of co-ordination and supervision.

The other question, Sir, which I would like to take up, is that of the boat industry, or dhow industry, at the coast. It is quite true that there have been other better means of transport or better means of industry, but many of the African people in the coast have been living on the boat industry, using the boats for transport and using the boats for fishing. Recently, their work has been taken up by bigger bodies. I feel that the Minister should encourage the boat industry in the coast so that these people could trade in dhows or boats and have a chance of earning their living more reasonably than they do now.

Mr. Speaker, I do not know which Minister is concerned with this, but whoever is concerned should look into that point because it concerns so many Africans who are living at the coast.

The other point which I would like to touch is the question of fisheries—the industry of fishing. Now, the hon. Capt. Hamley touched on this the other day, and I think it is something which should be looked into. I would like to know from either the minister for African Affairs or the Minister for Commerce what they have done to help the ordinary African fishermen along the coast.

THE MINISTER FOR COMMERCE AND INDUSTRY (Mr. Hope-Jones): On a point of Order, Mr. Speaker, my Vote does not include any funds in respect of this, I am not responsible for fisheries, and therefore, Sir, I am unable to reply.

Mr. NGALA: I was talking about the fishing industry, Sir, which I thought came in the Vote of the Ministry concerned.

THE MINISTER FOR COMMERCE AND INDUSTRY (Mr. Hope-Jones): On a point of explanation, there is a Minister who is responsible for Forests, Game and Fisheries.

Mr. NGALA: Mr. Speaker, I am a bit confused but I hope that you understand what I am talking about with regard to this fishing industry.

The other point, Sir, which I would like to raise is accounting with African traders. I would like to know what the Minister is doing to help so many African traders who are in real difficulty so far as accounting is concerned. I am quite aware that a few get a chance of training in Jeanes School but that is only a very small fraction of the African traders. I do not know what the Minister is doing in the rural areas to help the African traders with their accounting. In many places I hope, if some help can be given, and I know that the position of the African trader, particularly the shopkeeper, would be much better.

I would like to end, Sir, with the village industrial training. I know that the position of those young men and women, who are finding it very difficult to get some work now even after being well educated, is very serious and in many villages there are simple carpenters who are keeping their shops and I feel that in such villages if these carpenters were helped to take in a few young men or women who could train with them and become carpenters for their own locations it would be very helpful indeed. I am quite aware, Sir, that there are the technical trade schools where some people do go. But I am not talking of people of that level of education. I am thinking of the ordinary young man who has an aptitude for carpentry but is not having anywhere to go where he can get the right training as far as apprenticeship is concerned. I would like to know what the Minister is doing about attaching such people to local carpenters and giving them supervision so that they can learn some village industry.

I would also like to know if the Minister is helping any of the voluntary people like missions and mission bodies who have undertaken to help and start village industrial training in the country.

[Mr. Ngala]

I believe that that would be a very helpful idea as regards the general African young men.

The question of loans, Sir, is very difficult, and I would like to complain on the nature of the loan. I am glad that the loan is to be stepped up but I would like to show that the five per cent which is being paid by the ordinary African trader is too high and I would like the Minister to consider the possibility of reducing that percentage because we know that the African traders do not have such big profits. To pay back five per cent is too much for the ordinary African trader.

With these few words, Sir, I would like to support the Vote.

CAPT. HAMLEY: Mr. Speaker, I am afraid that the last speaker was delightfully vague about this boat building trade. I would like him to come to talk to me and tell me what he really means. The only African boat building trade that I know is the making of dug out canoes. I do suggest that that might very easily be combined with the Nubian gin trade because that stuff will dig out a canoe better than any method—that I know of.

The point is, Sir, that it is all very well to talk about the boat-building trade but it is a very specialized trade indeed. There are Arabs who make dhows at Lamu, but that also is a very specialized trade. The Arabs who make dhows at Lamu were taught by an English Naval carpenter from one of the anti-slavery warships on the coast last century. They make those dhows to the design of a naval cutter, but there is no inherent building art here I regret to say, although there is of course a great dhow building craft in Arab countries. I do not see a Minister of Boatbuilding here; so I will do the best I can to help the hon. Member, but I do not really see what he is after.

He also talks about the dhow trade. Now, he knows very well that the dhow trade is run almost exclusively by the Arabs, who have been running it for centuries. What does he want there? Does he want the Arab dhow and Nahodas to take on Africans as crew, because they will not do it. The dhow trade, although it may look a very simple thing,

is really a highly specialized trade—I will give way—

Mr. NGALA: Mr. Speaker, Sir, on a point of explanation, I was referring to the African canoes that are used very commonly around the coast from Vanga to Lamu.

CAPT. HAMLEY: On his other point—what was his other point—he wanted Africans to go to sea, but we have had this one out many times before. Africans are very expert in some things; each nation has its own particular inherent speciality, but the Africans as a whole are not seamen, and nobody is going to take on anybody in a ship who is not a seaman, nor on a boat. If my friend has some pals in Mombasa looking for a job in ships and who are really seamen, let him send them along to me and I will find them a job. But it is very hard indeed to find an African seaman. The gentlemen on the other side seem to take that as an insult or as meant to be derogatory. It is not derogatory at all. There are many things Africans can do that I cannot do. But it is a fact that Africans are not born seamen, and if you are going to sea—and the sea is a very chancy business—you should take on people who understand something about the sea; not any Tom, Dick or Harry who is going to—. So please, when the hon. Member is talking about the sea and about boats, let him find out something about it before he gets up and talks, because he has said nothing as far as I can see, except a few generalities.

Mr. Speaker, I beg to support.

THE CHIEF SECRETARY (Mr. Coutts): Mr. Speaker, Sir, I just wish the House to know that in view of the fact that a number of people wish to raise points on Votes 26, 6, 28 and 33, the Government proposes under section 64 to move the closure to this debate at a quarter to four.

Mr. MBOYA: Mr. Speaker, Sir, I do not wish to add very much more to what has been said except one or two points, but before I do that, may I take on the hon. Member for the sea—

CAPTAIN HAMLEY: And gallant!

Mr. MBOYA:—hon. and gallant Member for the sea, and inform him

[Mr. Mboya] immediately that my colleague, the Member for the Coast Rural Area, did not speak about the sea or going to sea. All that the hon. and gallant Member has been able to achieve is to inform the House that he is in fact capable of getting jobs for those who want to go to sea.

The two or three points I wish to mention, Sir, is, firstly, when the Minister spoke in the House yesterday, he did mention the existence of the Industrial Development Corporation. With due respect, Sir, to both the hon. Minister and the hon. Corporate Member on this side of the House, I wish to submit that the Industrial Development Corporation could do with a bit more vigorous activity in the country. I have not myself, despite my very great interest in the subject, been able to find out exactly how far the Industrial Development Corporation has been able to function in terms of (what I think it ought to do) in terms of stimulating interest and competition in industry in terms of producing the necessary information and data that we people need in relation to the development of local industry and encouragement of secondary industry.

I think, Sir, that the Industrial Development Corporation could be made into a more useful body if it concerned itself more actively and effectively with producing for us some information and in fact making it possible for those who wish to enter into certain industrial activity in this country, particularly local industry—I see the Minister shaking his head, but that is my view of how best we should make use of the existence of this particular corporation.

Now, one or two of my colleagues raised the question of training facilities. It is true that in the last few years Jeanes School has provided some training for African traders, but I think there is a lot to be done, and especially in urban areas where there is this concentration of small petty traders, a lot could be done to help them, in particular with training in book-keeping and the simple methods of running a business. This could be done through the various training centres that we have, and I do not see, Sir, why the Ministry of Commerce and Industry should not directly interest

itself in such a programme. At the moment it seems that this is left entirely either in the hands of private—the Minister is showing me a booklet, I do not know from where, or published by whom, and so on—but it would help a great deal—

THE MINISTER FOR COMMERCE AND INDUSTRY (Mr. Hope-Jones): Published in Nairobi.

Mr. MBOYA: By whom?

THE MINISTER FOR COMMERCE AND INDUSTRY (Mr. Hope-Jones): I will show you.

Mr. MBOYA: You will show me; well, I am saying that at the moment, even if those books exist, very few people get to see those books. I think that the Ministry of Commerce and Industry should interest itself more actively in the training and development of the African businessman in the urban areas, as, indeed, my colleagues have also asked in the rural areas. I am very keen and very much interested in the development of industrial villages, and sincerely hope that the Minister will not only keep this as an idea that should be developed, but will take active and positive steps to ensure that the programme is followed up.

I think he referred to the African Elected Members, and I thought questioned whether we were co-operating with him or agreeing with him on this particular programme—the answer is yes; we would like to see more of it and the Minister can rest assured that if and when he approaches any of us for such co-operation, he is sure to get it. We are very anxious that more of this decentralization of industry or creation of industrial villages in the African rural areas takes place as fast as possible. In the Central Province, the situation is very, very serious and will grow even more serious as more people become jobless or landless, and in need of alternative employment. The Minister for African Affairs is laughing, but the fact remains that we do have a problem and it is becoming serious, and we have to find jobs. One way of doing it is to encourage this sort of development rather than to assume that everyone who wants a job must look to the urban areas or plantations and agricultural areas for such jobs.

[Mr. Mboya]

The other point, Sir—and here I may get into the same difficulty as my friend, the Member for Central Province South, namely, that the subject might be one which the Minister for Commerce and Industry will refuse to answer because it should properly be answered by the Minister for African Affairs, but it is one of those things that arises out of the complicated machinery of Government that we have in this country—this is the question of co-operative societies. I do not wish to deal with the question of co-operative societies as such, but I want to refer to its importance in developing African businessmen and African industry because in the majority of cases, very few Africans as individuals will effectively engage in business or industry. Some system of co-operative societies of some sort will have to be evolved. For this, there will have to be a certain amount of training, some of which is already being provided at Jeanes Schools, but I think the time has come when we must also have some higher or more advanced training for these people, especially those who have passed through Jeanes School.

Lastly, Sir, may I join the Member for Nairobi West in his plea for the Government to review the position, as regards the tax on "undistributed" profit. I do not have to repeat what I said in my speech on the Budget policy, but must emphasize that I still feel very strongly that the Government ought to review that particular situation, and hope that in fact this will be done. And whether or not the Minister for Commerce and Industry is directly concerned, I hope the Government will take the opportunity when he speaks in answer to this debate to give an indication of what they intend to do so that the House may be aware as to whether in the Means and Ways debate, the Government will take such a step.

With these remarks, Sir, I beg to support.

Mr. OLE TIPIS: Mr. Speaker, Sir, I do not want to be a racialist on this subject, but on the other hand, I think I am right in saying that commerce and industry of this country is to a very great extent in the hands of Europeans and Asians. As such, I would most

sincerely appeal to the Minister to do everything possible to help and guide the few African businessmen on the proper methods of running their businesses, and give them every possible opportunity and encouragement in order to make them raise their economic standing and the economic standing of the country as a whole.

As far as loans facilities go, I would rather like to see an increase in the amount made available to the African traders, and especially to those Africans in the settled areas, and I would even go to the extent of asking the Minister when he comes to reply, to tell me how many Africans in the settled areas have benefited by the loans made available from time to time to African traders in various other districts in the last two or three years.

The other thing, Sir, is that in some of the county councils, these councils have the sole monopoly of the African beershop. This is quite understandable, and appreciable, because their argument is partly right, and that is, the profits accruing therefrom are used for providing social services for the Africans: But are we to understand?—that we are out to stop private enterprise? I think that those few capable Africans who want to make their living out of the ordinary beer selling should be given an opportunity to do so.

The other thing is, I entirely agree with my hon. friend, the Member for Nyanza Central, as far as the Nubian gin goes, and I would even go further: I think this matter which I am going to touch on now partly concerns the hon. Minister for African Affairs as well. I think we all know that there is no doubt about it, the greatest drain on the African's pocket at present is intoxicating drink; there is no doubt about that. As such, there are some restrictions which are there, in the way, and I do not like them; they are not fair, and anything which is not fair, I do not think we should stand. The thing is that when an ordinary African goes to a shop, he can buy brandy, whisky or gin or any other strong drink which is very very expensive, without a permit. He is not required by law to have a licence at all. Now, when it comes to the question of the poor African having two or three friends which he wants to entertain, and on the



[Mr. ole Tipsis]

other hand; he wants to have at least a mugful of *pombe* for his own consumption, then he is told "You can't brew even four pints of ordinary *pombe*", which is very cheap to do, because he can buy as far as that matter goes three pounds of sugar with, say, two pounds of honey, and brew *pombe* to his liking and he can simply drink and drink. Now, why have to go to the *bwana* district commissioner and get a permit? The thing is not for sale, but for his own consumption, and for the entertainment of his few friends. Surely, this is a quite unnecessary restriction, and will the hon. Minister for African Affairs please see to it, and stop it, if necessary. I think it is necessary that you stop it.

Now, I said, Mr. Speaker, that I want to share my time with another Member, so with these few remarks, I beg to support.

MR. CONROY: Mr. Speaker, Sir, I beg to move in accordance with the provisions of Standing Order 64 that the Mover be now called upon to reply.

THE EUROPEAN MINISTER WITHOUT PORTFOLIO (Mr. Harris) seconded.

THE SPEAKER (Sir Ferdinand Cavenish-Bentinck): The debate has been going on a considerable time, and has again become somewhat repetitive. As in my opinion in accordance with Standing Order 64 it would not be an abuse of the proceedings of the House nor an infringement of the rights of private Members, I will put the Motion.

Question proposed.

The question was put and carried.

THE MINISTER FOR COMMERCE AND INDUSTRY (Mr. Hope-Jones): Mr. Speaker, before I reply—I do not know what the hon. Member for Eastern Area is laughing at already, possibly the *pombe*—before I commence to reply to points raised by hon. Members, I would say that I found it most interesting to listen to hon. Members from the other side, particularly some of my friends who spoke recently, because virtually every item they raised was outside the ambit of my Ministry. Now, Sir, I can quite understand their raising these points as I have the privilege of batting last, and naturally, having spent possibly—was it two days?—on the affairs of my hon. friend, the Minister for African

Affairs, it was quite natural that further points should be raised affecting him. Having spent four days, I believe, on the affairs of my hon. friend, the Minister for Education, Labour and Lands, it was natural that last-minute points should again be placed before him before the axe falls. It was also very natural that other points should be raised that affected the Minister for Finance, that affected my hon. friend, the Chief Secretary. Some of those points, I will deal with—and the Minister for Local Government has just reminded me that a lot of points were raised that were of interest to him. Now, Sir, I cannot reply in detail to all the points that affect the portfolios of my hon. friends, all of which have been covered in the course of this debate, apart from items that will not be reached, are covered by their votes. Nevertheless, I will try to deal with some of the more important points my hon. friends have raised that cover other Ministers' portfolios, but I must ask them to be charitable to the extent that I cannot be expected to answer in detail.

First, Sir, I would like to congratulate the Member for Nairobi West on what I thought was a most constructive speech yesterday. He asked me, was I aware of the feeling and indeed the dissatisfaction in regard to the undistributed profits tax? Not only am I aware of that feeling, but my colleagues are aware of that feeling; and, Sir, I would like to say that I personally am particularly in a position to understand the weight of opinion that was behind my hon. friend when he spoke. I know, too, that my hon. friend, the Minister for Finance, is aware of the weight of that opinion. I think, Sir, at this stage that I have said enough as I believe that my hon. friend will wish to speak in greater detail on this matter at a later stage when certain important consultations that are now going on will have gone a further stage.

Now, Sir, I should like to thank the hon. Nominated Member, Mr. Rogers, for what I thought was his most interesting speech. I can assure him—and in doing so, I can assure other hon. Members who have spoken—that it is the purpose of this Government to encourage the development of African trade, commerce and industry. In saying that, Mr. Speaker, I would like to make

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two observations, and I would commend them to my hon. friends, who perhaps have not been willing to appreciate them. There is no easy way to business success; success in business is not something which people can be taught. They achieve success by hard work, courage and enterprise. My hon. friends were quite right, however, in saying that Government has a duty, as far as possible, to create conditions where those with courage, enterprise and the ability to work hard have an equal chance to succeed. There, my hon. friends are right. They are wrong, however, if they suggest that any Government can ensure the success of any particular businessman. Now, Sir, the second point I would make is this: many remarks were made about the funds that have been so generously provided by the International Co-operation Administration and, where the loans are made through the joint boards, met pound for pound by the local authorities. The remarks ranged from one remark that the rate of interest was too high at 5 per cent; all I can say is, it would be very convenient if governments at the present time, well-known companies, and, indeed, individuals of credit-worthy status could borrow at 5 per cent; secondly, that the loans were too small, and thirdly that there were not enough of them.

Now, Sir, I thought in speaking that I had made it clear, although I made my remarks briefer than I intended, to give my hon. friends plenty of time to speak. I thought I had made it clear that in my view, the best advertisement that the African businessman could have in his own interests as a businessman and for his future in the commercial and industrial development of this country was credit worthiness. It is no use one of my hon. friends saying "I suppose the Minister will reply, and say it is all a matter of credit worthiness"; it is precisely that in business. And a policy that has resulted in making, not as many loans as we would like to, but loans that have been repaid, loans that have been repaid by those businessmen who have kept the contracts they have entered into, I suggest is just about the best basis for African advancement in trade and industry that any community could have. It is little use to say that loans should

be made more freely. The word "given" was used by several of my hon. friends. Loans are not given; they are not charity; loans are made to people who are credit worthy. It is by the repayment of their loans that they become credit worthy for greater loans. I agree with everything my hon. friends have said in regard to the fact that there should be more loans but on that basis. Yes, I agree; but let us be quite sure that in expanding this policy, we do not destroy the basis that we have laid in the short period of 18 months to two years. I suggest that that progress has been considerable. I would hate to see what has been done destroyed, and nothing would destroy it more quickly than to bring a scheme of that kind into disrepute. Another hon. Member asked how much money was available. The answer is: £100,000 from International Co-operation Administration sources, which, as the schemes are made in the localities, is met pound for pound by the local government authorities. It is not at the present time a matter of having limitations due to finance. It is the way the scheme is being operated in what we believe and the joint boards believe and the African district councils believe is in the best interests of the trading community.

Now, Sir, many other points were made of the very greatest importance in regard to African training for trade. One hon. Member made the point, what was being done for the illiterate trader? Well, Sir, it is very difficult to give a course to an illiterate trader, and all I can say is that if he is successful and illiterate, let us not spoil him; he is a natural businessman.

Now, Sir, we are doing a great deal, and we would like to do more and intend to do more for the trader who wants to know modern methods of book-keeping, simple methods of book-keeping, how to buy and how to keep accounts. This training is being done at Maseno and at the Jeanes Schools and elsewhere. An hon. Member asked, were there any cheap booklets available? There are quite a number here which I will show him afterwards published at the very low cost of Sh. 1, or 75 cents, Sh. 1/60; all on sale in the various bookshops in Nairobi, sponsored by firms as well known as Sir Isaac Pitman and Sons Limited, and I would hate to suggest that the officers

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of my Ministry, able though they are, could replace with a firm of world-wide reputation and experience like Isaac Pitman and Sons in explaining accounting methods and simple business methods to people all over the world, for example, *Cash Accounting for the African Trader; Shopkeeping for the African; Business*—revised and enlarged edition by Mr. Cary Francis, whom we all know; *Companies—How to Form and Manage them*, by "a legal friend"—could it be my hon. friend sitting opposite? Well, Sir, these are some of the booklets available at a price everybody can afford. In addition to that, my Ministry—and I mentioned this in my speech—is preparing a Swahili version of our regular monthly publication; that is full of information. It has articles in, and will have articles in trying to explain the sort of problems faced by African business men and indeed other businessmen.

My hon. friend, the Member for Nyanza Central, made one remark which I personally failed to understand. If I understood it as I am afraid he meant me to then he made a remark that I feel that, on reflection, he will wish to withdraw. If he does not, some of his own friends, including the hon. Member for Nairobi Area—who made entirely different remarks at an earlier stage in the Budget debate—will perhaps put him right. He said—and I took it down as he said it—the importation of capital from overseas is a burden to this country. Now, Sir, he did go on also to say that, of course, capital formation within the country was a good thing. Of course it is a good thing, but I would disabuse my hon. friend of his belief or misunderstanding of the facts, that, in his opinion, the importation of capital from overseas is a burden. That was the word he used. Yes, he has nodded his head.

Now, Sir, I do not wish to bore the House with a long dissertation on this point. I believe the hon. Member for Central Province South could disabuse my hon. friend of his opinions probably more effectively than I could. I could quote the remarks of my hon. friend, the Member for the Nairobi Area, in which he said, not very long ago, that he and his colleagues welcomed the investment of foreign capital in this coun-

try because it was to the benefit of all the inhabitants. Of course, the investment of foreign capital must be controlled in the sense that it must be honest capital. Those who employ it must not employ it on the basis of exploitation. I could agree with my hon. friend on all those points, but he did not raise them. He said that the investment of foreign capital was a burden.

I will give way in a moment.

I hope that, on reflection, he will wish to withdraw what he has said and indeed welcome the investment of capital in this country in the interests of all its inhabitants.

MR. ODINGA: Mr. Speaker, I thank the Minister very much for giving way. What I said was that we should not be too proud of what we bring into this country in the way of capital, we should be more proud of what we manufacture in this country to earn us money from other countries.

THE MINISTER FOR COMMERCE AND INDUSTRY (Mr. Hope-Jones): Sir, I, like the hon. Member, am very proud of what we can do in this country, but no country, at a stage of development such as has been reached by this country, can do it all itself. I think that, on reflection, the hon. Member will agree with what I have said.

Mr. Speaker, spinning and weaving at Kericho: cottage industries and that kind of activity have long come under the aegis of the Minister for African Affairs. I want to say that he and I are interested in seeing those industries developed as rapidly as possible, and I thought my friend, the Member for Nyanza Central, and other Members who spoke, made a very good point as to the value of cottage industries as supplemental to the major forms of income.

I was pleased to see that a number of Members, including my hon. friend who sat down last, spoke of that great new industry, the Nubian gin industry. Now, Sir, I have often challenged hon. Members to be constructive in their ideas. Rarely have I heard such enthusiasm in this House for a particular industrial development. There are, of course, slight snags in this matter. I would only mention two very briefly. One is that neither my hon. Asian friends, nor my hon. European friends are free

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to distil potable spirits without licences and without paying tax. That brings me to my second point: there is another aspect of the distillation of Nubian gin, apart from its potability and the pleasure that it is supposed to give, and that is that it does not pay revenue.

Now, Sir, the hon. Member for Central Province South I thought, if I may say so, made a very constructive contribution. Of course, industrial development in African areas, as well as in other areas, is necessary and, of course, the Government bears that in mind in relation to developments which he touched upon, such as land consolidation and the growth of population. This brings me to the point mentioned by the Member for Central Nyanza when he said, "What about the industrial estates in the African areas?" He wanted to know whether the concerns would be run by Europeans, Africans or Asians. The answer is that those areas will be run by all who are in a position to do so irrespective of race. They will be administered by a township authority, as in the case of Karatina, or elsewhere, ultimately coming under the aegis of the African district councils.

Sir, I agreed with what my hon. friend, the Member for Nairobi Area, said about this. It is not the complete answer, it is a partial answer, but an important aspect of industrial development. We have had difficulties, which I mentioned when I was speaking before, in arranging for the very necessary compensation for the land that is taken over. It must be on a fair and square basis which the people concerned should agree with. It must not be something that is imposed. We have, in the case of Karatina, now reached what we hope will be finality in this matter. There is another project in another part of the Central Province and we are looking at an area in the Nyanza Province. It is not just a matter of difficulty in finding the funds—although that difficulty is always with us—it is seeing how it will work on an experimental basis. I hope and believe that it will.

One point that my hon. friend made—  
not the Member for Nairobi Area but the Member for Central Nyanza—was that I, as Minister, should spend 95 per

cent of my time—those were his words—  
thinking about the Africans.

MR. ODINGA: Yes.

THE MINISTER FOR COMMERCE AND INDUSTRY (Mr. Hope-Jones): Now, Sir, I would like to give him my reply if he would care to listen to me. My reply is this. Commerce and industry in this country is not a racial matter. Whether you are successful in business, in commerce or in industry, is not a matter of whether you are a European, whether you are an Arab, whether you are an Asian or whether you are an African. It is a matter of whether you have got business ability. I pay my attention to my job of dividing my time up on the basis of a percentage for Europeans, a percentage for Asians and a percentage for Africans—but by spending the whole of my working time, to the best of my ability, promoting commerce and industry on a non-racial basis in this country.

Having said that—and my hon. friend can relax, there is nothing very dreadful coming—I can say that I recognize that because the African community, so far, has not possibly had all the opportunities that the other communities I have mentioned have had, requires some special attention and some special help. Further than that, however, I believe my hon. friends would not wish me to go; they would not wish to be, in terms of commerce and industry, a small and protected community, allowed to continue behind a little wall where they would be protected from competition and expansion. They have got to be given the opportunities; that has not always been so in the past. However, given the opportunities, then success in business is a matter for the person concerned.

One interesting point raised was that of advice on wholesalers. There are many reputable wholesalers now who are willing to sell at wholesale prices to credit-worthy African traders. It would be invidious for me to mention the names of those wholesalers, but my officers will be quite prepared to give a list. We cannot say that A is better than B, or B is better than C, but we are quite prepared to give information on a non-discriminatory basis of those who are in a position to offer wholesale terms.

The question of raising the credit limit was mentioned by a number of African

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Members. As my hon. friend, the Minister for African Affairs, said, he and I are looking into the matter. It is his responsibility, but on a matter of this kind, we work together, and we feel the position is ripe for review.

The hon. Member for Nairobi Area raised the question of the Industrial Development Corporation, and he said: "What does it do; how can I find out?" There is an excellent annual report, and I would be very happy to give him a copy of it. It is in the library, and, I believe, goes to Elected Members. If it does not, I will ask my hon. friend, the Corporate Member for Commerce and Industry, who is chairman of this body, to see that it does. It is a well written and interesting report.

My hon. friend was under a slight misunderstanding. I agreed with him about the necessity for information and publicity, but that is not the job of this corporation. This corporation is essentially a finance corporation which makes investments with other investors—it does not manage businesses—to promote the development of commerce and industry. We have had considerable success. If by investing, shall we say, five or ten per cent of the total capital required for the extension or establishment of and existing industry we can bring in large sums of new capital from new private sources, we consider that that is a very successful example of what I would call "pump-priming" in terms of investment. If, on the other hand, we bring a proposition, a mining proposition, even an agricultural proposition, into a satisfactory stage and then turn our money over and make use of it again, as new investors take part, then again we feel that we have done some good for Kenya. We are not a management corporation nor are we a publicity corporation; we act as an investment trust which operates in the interests of the development of commerce and industry in this country.

I think my hon. friend would find the annual report interesting. I would be very happy—and I am sure the Chairman would be—to give him any further information in my power.

I think, Sir, that I have covered most of the points raised. There was one point made by the hon. Member for

Ukamba on the difficulties of small businesses. I am very well aware of that difficulty; it is not always easy to find the way to help. Nevertheless, we have, through the Industrial Development Corporation, as the hon. Member knows, and in other ways, been able to help some. As I say, I think it is a matter for considering individual cases. I do not think it is one upon which one can generalize.

The hon. Member mentioned customs officers at the airport. I think he will find the good word is filtering down to the levels to which he referred.

As regards water supplies and the chlorination of water supplies, Sir, we carry out the instructions of the Medical Department in that matter, and I understand that the matter is receiving attention. On the other hand, of course, we must carry out the health regulations.

I thought the hon. Member made a most interesting point on the values—the changing values—of minerals. In other words, whereas, we will say, copper was, and still is, of the greatest value, niobium ten years ago was of very little value and is of great value today. This affects the whole economic emphasis of the geological survey. It is a point I thought was very well made, and it is one that I have already brought to the attention of the Commissioner for Mines; and he assures me it is one to which he is paying attention. I thought that it was a most constructive suggestion, if I may say so.

The question of mines in national parks was dealt with by my hon. friend. Then there is the question of gold mine development loans: we make the loans but unfortunately the gold industry in this country, some of which is marginal, is depressed—as is the gold industry all over the world and as it will remain until gold ceases to be the one commodity that has not changed in value since 1939. They may be very good reasons, from the monetary point of view, why that has not occurred, but just looking on gold as a commodity, not as a medium of exchange, makes the position quite clear, I think, to the hon. Member.

I think, Sir, that I have covered the points made by hon. Members to the best of my ability. Before I sit down, I would like to thank hon. Members for

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the kind remarks many of them have made. I apologize if, in my opening remarks, I had to go a little more quickly than I intended. But I think that, in the event, it has shown that many Members wished to speak, and that therefore I could be excused for having done so.

Mr. Speaker, I beg to move.

The question was put and carried.

### COMMITTEE OF SUPPLY

Mr. Speaker left the Chair.

### IN THE COMMITTEE

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

### MOTION

#### VOTE 37—COMMERCE AND INDUSTRY

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): Mr. Chairman, I beg to move that a sum not exceeding £49,300 be granted to the Governor to defray the charge which will come in course of payment for the year ending 30th June, 1959, for Vote 37—Commerce and Industry.

#### Question proposed.

#### Head A—Personal Emoluments

MR. ALEXANDER: Mr. Chairman, Sir, item 1—Minister for Commerce and Industry: we are repeatedly reminded from the other side about the collective responsibility of Government, and it is somewhat bewildering to us on this side, from time to time, to find that when we deal with a particular problem under a particular Ministry it is not possible for anyone from the other side to give an answer for Government as a whole.

I am referring, Mr. Chairman, to the question I raised yesterday regarding the effect on commerce and industry today of the somewhat devastating proposals regarding undistributed income tax. I am very grateful for what the Minister did say in his reply. He went, I am sure, as far as he personally was able to do. But it would have been far more satisfactory—and Government would have displayed their sense of urgency—if, in his reply, he had been able to give at least an

indication, not only that Government were in course of consultation, but that, in fact, it was the wish of the Government, of our Kenya Government, that there should be substantial alterations in these proposals.

Accordingly, Mr. Chairman, and in the hope that we may progress just one step further along the road, I beg to move:—

THAT having regard to the damaging effect on commerce and industry of the proposals for undistributed income tax, the salary of the Minister for Commerce and Industry be reduced by £1 for the purpose of enabling the Government to give an indication that it is their wish that the proposals in Sessional Paper No. 5 of 1957/58, concerning undistributed income tax, should be substantially altered.

The fears and objections of commerce and industry and business to these proposals are, I think well known—

THE CHIEF SECRETARY (Mr. Coultas): Mr. Chairman, Sir, I really must protest and say that I do not consider that this is the proper place to bring up this matter and that it should come up both in Ways and Means and also under the Income Tax Bill.

THE CHAIRMAN (Mr. Conroy): I do not think it can come up under the Income Tax Bill because that Bill does not deal with it, as I understand the position. But I am in great difficulty with Mr. Alexander's Motion, because it seems to me not to be relevant to Vote 37—Commerce and Industry. The question of income tax is not within the portfolio of the Minister for Commerce and Industry; it was dealt with in the general Budget debate. It does not seem to be relevant to the issue we are now dealing with, and that is the Vote of the money to pay the salaries and other outgoings of this particular Ministry.

SIR CHARLES MARKHAM: On a point of order, Mr. Chairman, some remarks you made just a moment ago about income tax not coming up under Ways and Means—

THE CHAIRMAN (Mr. Conroy): No, I did not say that.

SIR CHARLES MARKHAM: Could I ask you to repeat those remarks, Sir; they are very important.

THE CHAIRMAN (Mr. Conroy): I said nothing about it not coming up under Ways and Means, I did not see how it could come up under a Bill in this House, because a Bill, as I understand it, to introduce provisions with regard to undistributed profits tax is a matter for the High Commission Central Legislative Assembly.

SIR CHARLES MARKHAM: Sir, on a point of order, and with great respect, Sir (and I am not wishing to challenge what you say in any way), there was a ruling made from the Chair in the course of remarks made by—I will not say my "late" friend—my ex-colleague, the Member for Nairobi North. He asked for a ruling from the Chair about when we could discuss this item. I do hope we get clarification now as it will affect both what my hon. friend says and, again, the future course of debates in this Council.

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): Mr. Chairman, I would like to add my small meed to this. I think that all you said, surely, was that it could not be discussed under the Bill. The Bill itself is purely a rates and allowances (Kenya) Bill. I think I did suggest to the Speaker, and the Speaker did rule—and I do not think you have departed from it, Sir—that in Ways and Means the Sessional Paper No. 3 recommendations with regard to undistributed income tax could be debated in full, because that would certainly meet the wish of myself and of the Government as that would be the one occasion on which we could get the expression of the opinions of the House.

Where I do support my hon. colleague, the Leader of the House, in this, Sir, is that surely this is a question of Supply and we are now getting down to attaching conditions of Ways and Means on to a Supply Motion in Committee of Supply.

THE CHAIRMAN (Mr. Conroy): I think I can clarify the position. It is not really procedurally very complicated. There can be no Bill in this Council dealing with undistributed profits. There cannot be, because it is not a matter that this Council has competence to deal with as far as legislation is concerned. That is what I mean when I say that I do not

see how it can come up under a Bill. There is a Bill coming up that deals with rates and allowances, which is something quite different.

The purpose of a Committee of Ways and Means is to consider what its title suggests, ways and means. And one of the means we are considering is whether the proposals set out in the Sessional Paper with regard to income tax are a good thing or a bad thing. It seems to me that the appropriate time for Mr. Alexander to raise his point is then. I do not think it is appropriate to raise it now, because we are considering now whether the sum of £449,300 should be granted to the Ministry of Commerce and Industry. The Ministry of Commerce and Industry neither settles, nor is responsible for, the policy on undistributed profits tax and income tax.

I know that Mr. Alexander has said that we must have some ruling, to find out the responsibility of one Minister for the collective responsibility of all Ministers. Well, with the greatest respect to him, if that argument were followed then when we are dealing with Legal Affairs we could get on to income tax—and heaven forbid that that should arise.

So, Mr. Alexander, I think I shall have to rule you out of order. But that does not mean that you will not be able to raise it at another stage.

MR. ALEXANDER: Mr. Chairman, may I be permitted to explain just why I did seek to press this here? Would you give me that indulgence?

It is this, Sir: next week, we are told that we will be debating Ways and Means. We are told that there are consultations going on obviously with other territories interested in this problem. This Council, we are told, will rise on approximately the 27th June. This subject, which is of grave concern, Sir, to commerce and industry in this Colony, as I see it, has the chance of passing through this Council without our having got any very definite indication of the attitude of our Government before it finds its way into the Central Assembly some time in September.

I believe, Sir, that an indication from our Government could have a profound influence on the attitude of Tanganyika and Uganda, and that is why I wished to stress this point today.

THE CHAIRMAN (Mr. Conroy): Mr. Alexander, you had 15 days in the policy debate on the Budget; we are going to have three days next week on income tax in Ways and Means. An opportunity was given during the 15 days' policy debate to deal with the Budget—which included this matter—and a specific opportunity of three days will be given next week. I do not see how three-quarters of an hour is going to carry the matter one way or the other.

In any event, I must rule, I have got no option but to rule, that this is irrelevant to the Motion which we are now considering.

Head A agreed to.

#### Head B—House Allowances

SIR CHARLES MARKHAM: Can we go back to A, Sir?

THE CHAIRMAN (Mr. Conroy): A? Yes.

SIR CHARLES MARKHAM: Have you ruled, Sir, that the Motion of reduction is out of order, Sir?

THE CHAIRMAN (Mr. Conroy): Yes.

SIR CHARLES MARKHAM: Could I ask a question on AS—Department of Trade and Supplies? Could I ask the Minister how it is that so few of the executive staff are permanent and pensionable? It is a very good Department, Sir, and I think most of the country supports it.

THE MINISTER FOR COMMERCE AND INDUSTRY (Mr. Hope-Jones): The answer to my hon. friend's point—and I thought it was a very good one—is that the Department has been built on the most economical basis possible, and we have only offered permanent and pensionable terms when the age of the people concerned is suitable—that explains, I think, the case of four of them (it may be three). Also, when we are quite satisfied that they are satisfactory, I was very grateful to my hon. friend for his kind remarks about the Department.

That is the explanation; I can give him the fuller details if he wishes, Sir.

MR. MATE: Mr. Chairman, Sir, AS—Department of Trade and Supplies (including Transport Licensing Board). Earlier, I asked the Minister for Commerce and Industry how many Kikuyu, Embu and Meru had got licences from the Transport Licensing Board.

Sir, I feel that that is a very important point, because all we are doing is consolidating and the people want to transport their crops and get other goods into the Central Province. These people should be given licences by the Transport Licensing Board and especially in this rebuilding period after the Emergency. We want them to be employed and to improve their trade.

The Minister claims that this is on a non-racial basis, but the question of who owns a bus or a lorry is very important in the distribution of wealth. I would therefore like to remind him that that is my main point and I hope he will bear this in mind in future.

THE MINISTER FOR COMMERCE AND INDUSTRY (Mr. Hope-Jones): I am glad that my hon. friend reminded me of this. When he asked the question, you will remember, I replied to him in the exact phraseology of his question. I also said that I would be happy to assist him to phrase it differently if he wished me to, and knowing or anticipating that he might raise it during this debate I spent last Saturday and Sunday in the Embu Meru District going into precisely the point the hon. Member has raised. I have had a word with my hon. friend the Chairman of the Transport Licensing Board, who is now out having his tea, and I believe that he will look into the matter.

Having said that, Sir, I must make it clear that of course the Transport Licensing Board cannot take purely racial or communal considerations into account.

However, I would say that I was most interested to see part of the hon. Member's constituency over the weekend.

Head B agreed to.

Heads C, D, E and F agreed to.

#### Head G—Subsidies and Contributions

MR. ANAP MOI: Mr. Chairman, I would like to refer to No. 7—Gold Mining Development. I think I can speak on the Minister's Motion but I would like to ask the Minister whether he knows something about geological survey and mining in the West Suk. I would like also to know how far the company went into this geological survey for

[Mr. arap Moi]

minerals in West Suk and in Nandi. What possibilities did they find so far as this Survey is concerned?

THE MINISTER FOR COMMERCE AND INDUSTRY (Mr. Hope-Jones): I am just looking at my brief to see if that rather detailed point has been included.

I am afraid that the details of the mining company to which my hon. friend referred are not here. I will have to look the details up and give them to him. I apologize to him for not having the facts at my fingertips but I will ask my people to get them and give them to him.

Head G agreed to.

Head H agreed to.

#### Head J—International Co-operation Administration Scheme

MR. MATE: Mr. Chairman, when the Minister was speaking earlier he said that the criteria for lending money to traders was the credit worthiness of the particular trade. While I have had a very short experience with this Joint Board I would like to remind him that our main difficulty is not the shortage of credit worthy people but the shortage of funds. I would like him to consider the question of increasing these amounts to the Board concerned in order to make it possible for these credit worthy traders to have loans.

THE MINISTER FOR COMMERCE AND INDUSTRY (Mr. Hope-Jones): As the Boards require additional money to implement their loans policy, which they very largely control themselves, as I thought I made clear in my reply, at the present juncture the money is available. At this stage there is not a shortage of money. It is a fact that the Boards, and I believe absolutely rightly, are determined to base their policy on a sound business basis of credit worthiness.

Now, Sir, the second point my hon. friend made, and again it was made by many Members, and I thought I had made myself clear, was that if a man—a trader for instance—has had a small loan and repays it over an agreed period or has even repaid half of it, over an agreed period, and if he has kept his contract that makes him credit worthy for larger loans. Some of the loans that

have been made—for instance to certain co-operatives, including the Kipsigis Co-operative—have been large loans. Some of the loans to individuals are considerable. Many of them are small. But the most successful of the larger loans in the future will be those that have been based upon the fact that a particular trader has proved himself credit worthy by meeting his contract in regard to smaller loans.

Now, Sir, I hope I have made myself clear. It is a very important matter of business principle.

MR. ODINGA: I should like more information about your plans for developing African business to come to the stage of competing equally with other immigrant races.

THE MINISTER FOR COMMERCE AND INDUSTRY (Mr. Hope-Jones): I will give the hon. Member the information very quickly. It represents refunds of customs duties on raw materials brought into this country to assist manufacturing industry. I will give an example. A particular industry uses five or six raw materials to make its produce. Of those six raw materials five are produced in Kenya and one has to be imported. Duty would normally be payable on that raw material but because it is raw material for industry we in this House—and this policy has been discussed on a number of occasions—and the Government has considered it good to allow a draw-back on that particular raw material. We bring the accounts back to this House so that the money can be voted.

MR. ODINGA: I was glad to hear that. Similar things should be considered in respect of the African traders because they are the people who are now coming up. They are not on the same footing as other people. You cannot compare them with other races because they are still down, and more assistance should be given to them.

THE MINISTER FOR COMMERCE AND INDUSTRY (Mr. Hope-Jones): This is completely non-racial in application. For instance, I would not have the slightest idea of how many Europeans, Asians or Arabs were getting draw-backs. I mean, this thing, Sir, is completely non-racial. If an African firm applied or if an

[The Minister for Commerce and Industry]

African industry applied they would be considered in exactly the same way as any other firm. There is no racial angle about this at all.

MR. ODINGA: No racial angle, only where the African is at a disadvantage.

THE CHAIRMAN (Mr. Contoy): You have had your two speeches, Mr. Odinga. You are allowed two speeches on each Head.

MR. ODINGA: I have only had one chance, Mr. Chairman.

THE CHAIRMAN (Mr. Contoy): You have already spoken twice.

Head J agreed to.

#### Head K1—Nairobi Airport—Personal Emoluments

LT.-COL. MCKENZIE: Sir, I would like to take this opportunity of saying one or two things about the airport. I availed myself this morning of going into one or two of the points that have been raised in this House, down at the airport. I would like to take this opportunity of saying that I am perfectly satisfied on the fire crash service which I raised yesterday. I have found that not only are we up to colonial standards but that we are far away and ahead of the minimum laid down internationally.

I would, Sir, like to take this opportunity of congratulating the airport manager and his staff, because of the great difficulty they have had in going to a new aerodrome which was not a completed aerodrome from the buildings point of view. I would like to congratulate them because, although they should have run up against a lot of snags, their good work has continued.

There is one point I would like to raise under K12 and that is that with the aerodrome that we have I wonder if the Minister would be prepared to undertake, in conjunction with the Ministry of Works and the Nairobi County Council and the City of Nairobi, to see that the entry to the Nairobi Airport is planted out with shrubs and trees right the way from the main road, and also that something is planted along the approach to the bridge to make it fit in

with the pretty picture which the Nairobi Airport makes.

THE MINISTER FOR COMMERCE AND INDUSTRY (Mr. Hope-Jones): So far as the Nairobi Airport is concerned as falling within my responsibility, as funds become available we will naturally try to beautify it in the way my hon. friend has suggested. Those funds are limited, and, Sir, as my hon. friend, the Minister for Finance and Development, would say, it is a matter of priorities.

In regard to the approaches which come under the control of the Nairobi Municipality and the Nairobi County Council, I would have thought that there are few places in the world where up to the municipal boundary there is a more magnificent floral display than the Princess Elizabeth Highway, which is the responsibility of my friends on the Nairobi City Council. I am surprised that the hon. Member did not pay some tribute there and to those who have done such magnificent work.

As regards the Nairobi County Council, I would personally be delighted to take up the matter with a very good friend of the hon. Specially Elected Member, who is also my friend, Mr. Peter King. I am sure that he will be sympathetic towards this.

As for my hon. friend the Minister for Works; I can always be sure of his sympathy, bearing in mind the point that I made when I first got up.

LT.-COL. MCKENZIE: One of the most unsightly parts of this route is within the Municipality of Nairobi, and that is from the end of the last roundabout on Princess Elizabeth Highway to the end of the City boundary. Perhaps the hon. Minister does not know where the boundary is. One of the most unsightly parts of the whole route is just there. I am willing to substantiate this—I would like to take Members along in my motor-car to come and look at it.

THE MINISTER FOR WORKS (Mr. Nathoo): I would like to mention for the information of the Honourable Member that a great deal of attention has been paid to shrubs and flowers round about the airport. I entirely agree with him that the patch which he mentions is a barren one and I will bring this matter to the

[The Minister for Works] notice of my Ministry, and am sure that, in conjunction with my hon. friend the Minister for Commerce and Industry, we shall do all that is possible, always remembering that our funds are very limited.

SIR CHARLES MARKHAM: Under K1—I do not know whether I can raise it, Sir, regarding the Appropriations-in-Aid. How do I do it regarding the expenses and the incomes?

THE CHAIRMAN (Mr. Conroy): You can refer to any matter which is shown under Head Z, if it relates to something under K1.

SIR CHARLES MARKHAM: Thank you, Sir; well, it does not, so it is a little difficult. It has been omitted. I will go on until you stop me, Sir.

The Ministry of Works Vote has the Aviation Landing Fees in that Vote: all I want to know really regarding the airport, is, can the Minister give the House any indication of what the income is going to be from this airport so that we can get an idea. It is a gross figure in the Ministry of Works Vote, Sir—I could not raise it under that. It is concerning Nairobi Airport, under the direct control of the Minister for Commerce and Industry.

THE MINISTER FOR COMMERCE AND INDUSTRY (Mr. Hope-Jones): The answer is that I can give you an estimate but we have had only, let us see, hardly three months' operations. Some of the concessionaires, the most important ones, were not really in a position to get going until very recently. The agreements to lease certain shops were only completed comparatively recently, and it is somewhat difficult to give more exact figures than the ones given.

Now, the point that my hon. friend raised about landing fees: there is, I think, an estimate in my hon. friend's Vote. I would emphasize that those, when grossed up with the estimates of grants-in-aid under my own Heads, are estimates only. Now, it would be very much easier after six months' operation, or a year I would have thought, to calculate more closely what these receipts are likely to be. I would not like to mislead my hon. friend by pretending we could be very accurate at this stage.

SIR CHARLES MARKHAM: Perhaps the Minister does not quite understand. Where is the income, such as fees for waving base, the rents of shops—which are known—rents charged to operators for having offices down there, I cannot see anywhere, other than this item, where it comes in under the Nairobi Airport.

THE MINISTER FOR COMMERCE AND INDUSTRY (Mr. Hope-Jones): You will see on page 168(A) of the Estimates at the bottom sub-head K1 and 2. I agree it is somewhat short—Recurrent Expenditure of £122,000 will be mainly offset by appropriations-in-aid of £67,290—it is at the bottom of page 168. It is not the complete answer but it is as far as we can go.

Head K1 agreed to.

Head K2 agreed to.

Resolutions to be reported.

Council resumed.

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

## REPORT

### VOTE 37—COMMERCE AND INDUSTRY

MR. CONROY: Mr. Speaker, Sir, I beg to report that the Committee of Supply has considered a resolution that a sum not exceeding £440,300 be granted to the Governor on account for or towards defraying the charges of Vote 37—Commerce and Industry, and approved the same without amendment.

Question proposed.

The question was put and carried.

## COMMITTEE OF SUPPLY

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

## IN THE COMMITTEE

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

## MOTION

### VOTE 26—POLICE

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): Mr. Chairman, I beg to move that a sum not exceeding £3,826,095 be granted to the Governor on account for or towards defraying the charges which will come in

[The Minister for Finance and Development] course of payment in respect of Vote 26—Police.

Question proposed.

### Head A1—Uniformed Services

SIR CHARLES MARKHAM: Mr. Chairman, what time does the guillotine come down?

THE CHAIRMAN (Mr. Conroy): At a quarter past five.

SIR CHARLES MARKHAM: If we had not got to this Vote in the 15 days I was going to raise this with the Minister for Defence as a matter of principle, under this Head—Uniformed Services. Over the past years the amount of uniformed police being used in Nairobi to enforce the Nairobi City Council traffic by-laws is becoming larger and larger, and with the latest traffic amendments approved by the Ministry of Defence I have noticed—I do not know how many, Sir—but I would say a very great many policemen being used to enforce—I do not mean regulations regarding dangerous driving: that must be their duty—but parking regulations such as one-hour parking. Now, Sir, we are here with an estimate of over £2,322,000 for the uniformed services. I understand the law, Sir, that the City Council have every right to ask the police to enforce their by-laws, but as the City Council themselves get half the income from the fines, I believe they should contribute towards the cost of enforcing their own by-laws, however stupid they may be and however wise they may be. I cannot see why the Minister can justify bringing estimates to this House for a considerable number of constables and upwards—corporals, sergeants, and up the grade—when some, a large proportion in Nairobi, do nothing more than enforce the City Council by-laws of traffic.

Now, Sir, I am allowed two minutes on this so must make my second point. Could I suggest that in view of the very difficult times with money, that the Minister of Defence might inform the local authorities—I think Nairobi, Nakuru and Mombasa are the main offenders—that unless they are prepared to contribute towards the cost of uniformed police, we will be unable to provide the services and prosecutions

under these offences. I feel very bitter that we in Nairobi should be harried on traffic regulations which are perfectly justifiable under a by-law—I admit that—and yet there is nothing I can see in Appropriations-in-Aid which gives any money back to the taxpayers. I think, Sir, if the Minister gave an analysis of what the cost of the police are *vis-à-vis* Nairobi and the rest of Kenya, it would be quite interesting. This has nothing to do with law and order at all—it is just a straightforward question on traffic regulations in Nairobi.

THE MINISTER FOR INTERNAL SECURITY AND DEFENCE (Mr. Cusack): I do not think I disagree with anything the hon. Member has said.

THE MINISTER FOR LOCAL GOVERNMENT, HEALTH AND TOWN PLANNING (Mr. Havelock): First of all I think the hon. Member is under an entire illusion when he contends that traffic by-laws, regulations of traffic, is nothing to do with law and order. In fact if you did not regulate your traffic under by-laws or any other kind of laws—of course, there are traffic laws which have been passed by this House; too—the public would suffer, and the police force is there in order to carry out and see that both by-laws and ordinary laws passed by this legislature are carried out properly. I personally believe that it may be that the police force as such, or my hon. friend the Minister for Defence, is generous towards the City Council in this regard. On the other hand the City Council does keep quite a considerable inspectorate force to help to see that its by-laws are carried out and it is only traffic which is the concern of the police. I would also like to put this to the hon. Member: the person who pays very often wants to call the tune, and I personally do not think that any local authority yet in this country has reached the stage where it should call the tune on any police work at all.

SIR CHARLES MARKHAM: I expected the Minister for Local Government would pop up there, making his plea; with great respect, he is accurate on one thing—I should not like this to go on the record—the only by-law they enforce is the one of traffic. That is completely untrue; they enforce a great deal more; including some of the curfew regulations going on at the moment. They can be called upon to

(Sir Charles Markham). enforce any by-law. My point is this, Sir: I accept I am not interested in a new police force being set up by the City Council. All I am saying is that very large sums of money building palaces, sewers and enormous memorial halls are being spent, and they might contribute a sum towards Central taxation to help the cost. In Salisbury, Sir, the only time you get caught for parking is when you park illegally when a policeman catches you, and you are heavily fined. If you are caught breaking a regulation such as parking too long in an authorized place the city inspectorate are the prosecutors in that case, and they are the people who charge you. Therefore, in view of that fact I would like to ask why, when they do nothing other than make the by-laws, the City Council receive the fees of fines? It seems to me to be a nice business—I might start one in Karen myself—make by-laws, get the Ministry to approve, get half of the fines, and the police would have to do all the work.

**THE MINISTER FOR LOCAL GOVERNMENT, HEALTH AND TOWN PLANNING (Mr. Havlock):** I do not think I stated that the police only saw to the traffic by-laws. If I did I did not mean that at all: I merely would like to re-emphasize the point that if you apply this to the City Council of Nairobi you would have to apply it to other local authorities, too, and first of all does the hon. Member think that the Nairobi County Council should pay towards the notice? They also have traffic by-laws.

Lastly, Sir, I would re-emphasize the point that if you are going to make the City Council pay then the City Council must have some influence in the direction of what goes on.

**THE EUROPEAN MINISTER WITHOUT PORTFOLIO (Mr. Harris):** I think the hon. Member is wrong in some of his statements, because the cases taken in the local courts are taken under the Traffic Ordinance: in fact, all the signs are in the Schedule to the Traffic Ordinance. It is therefore not a by-law offence at all that these guardians of the law are taking prosecutions under. It is in fact Central Government legislation, passed by the hon. Member for Ukamba.

**MR. MULIRO:** I have got numbers 16, 17, 18 and 19. The money here is also

called, but we do not know who is going to earn this money. There is a lot of money, but the people who are going to earn the money—we do not know their number. Perhaps that could be clarified by the Minister.

Another point I would like to raise in the same column is that of language allowance. At present the Africans in the police force who are drawing language allowances for English are required to pass another test every year at least before they are given the allowance. This is a very unsatisfactory position for the Africans in the police force: I do not know whether the Europeans also in the police force are required to pass tests every year before they can draw their Swahili allowance. I think the Minister should devise some card or certificate so that any person passing the test for the first time should be given that certificate, so that if he goes down very much in his command of English he does not get another examination. If there are to be examinations every year it should be uniform for all, both Europeans and Africans, and not merely African constables.

**THE MINISTER FOR INTERNAL SECURITY AND DEFENCE (Mr. Cusack):** Mr. Chairman, the reason why the numbers of personnel are not shown against these particular items 16, 17, 18 and 19 is because they are a varying numbers of personnel. You cannot write down that, a certain number of people will, on the 1st July, 1958, get language allowance or special duty allowance or uniform allowance or frontier allowance or any of these, because by the end of that month some of the men would be transferred out of the frontier, some will no longer be on special duty, and the whole thing is a changing picture. Different people get these allowances at different times.

With regard to the hon. Member's mention that language allowances should not be the subject of repeated examinations, I am afraid I cannot agree with him. If I may quote a personal example—I myself many years ago passed an examination called "Higher Swahili" which, if one were in the King's African Rifles, entitled one to call oneself an "Army Interpreter". I could not possibly pass that examination now, and had an allowance been attached to it I should

(The Minister for Internal Security and Defence).

certainly be drawing it under false pretences. We must admit that people work for examinations, pass them, go very stale on what they were examined on, and they cannot go on having language allowance when they can no longer speak the language.

**MR. ARAP MOI:** Mr. Chairman, I should like to speak for a few minutes, and I should like to raise Nos. 14 and 15. Mr. Chairman, I think it is high time, seeing that a lot of money is being voted for the police force, that the Minister should see that the constables and also the inspectors and the whole of the officers of the police force are rehabilitated.

There has been an Emergency, and that time has come when the Government should consider teaching them the kind of life before the Emergency. I think that many people agree with me here. I am not blaming them but they are bad and they do not know how to treat people in civilian life, but they are used to Emergency conditions and some other matters affecting the Emergency. I think it is time Sir, that the Minister should recognize the fact that there are some men who have been in the service for many years and have not been sent back for a refresher course. They should now be sent back to be taught what they should now do.

Furthermore, Sir, there is one very important point which the Minister ought to take into consideration, and that is housing for the lower staff—that is, constables, sergeants and others. It is appalling that this type of staff should be housed in three in rondavels, with their wives and children in these cottages. I think this is a fact. I am not blaming the Minister for not building houses, but it is time that the Minister should start building houses which are better for these officers. From year to year more houses should be added for them. I know that there is not enough money to allocate to this particular Vote but it is worth while trying to house them in a better situation. I need not add any more about this.

Now, Sir, I should like to remind the Minister that it should be found out whether the force is really up to date or out of date.

**LT.-COL. MCKENZIE:** Sir, regarding the uniformed services, I would like to say one or two words about the personnel who fly in the Air Wing. I would like to know from the Minister whether the personnel who fly—I see that they are civilians—in the Air Wing are in fact civilians. Or, if some of them are civilians, Sir, do I see that some of them are uniformed—

**THE MINISTER FOR INTERNAL SECURITY AND DEFENCE (Mr. Cusack):** No.

**LT.-COL. MCKENZIE:** Oh!

**MR. MULIRO:** Mr. Chairman, I think that the answer of the Minister is not satisfying. When I look at this number I see that a lot of money was voted even last year for these four items, but I see that there was no number there. This year we are again voting the money, but there are no people. The Minister should definitely say what they are doing with this money. We do not know the number of people who are going to be engaged for this, but yet even last year, with the Estimates which we had in June, we do not know what happened to that money.

On the question of the language, the Minister says that he could not pass the English test now. My contention is this: that if the African constables and African inspectors are to have a written English test every year then it should be applicable to all races and not only to Africans.

Again if your answer is unsatisfactory, then at least—

**THE CHAIRMAN (Mr. Conroy):** Order, order!

**MR. KHAMISI:** Mr. Chairman, Sir, I would like to know whether the time has not come for the Minister for Internal Security and Defence to consider recruiting literate Africans for the police force in view of the considerable number of boys who now have to be sent away from primary and intermediate schools and the need to improve the force.

**MR. ODINGA:** I see that the Minister is not here. I was just going to raise one question which I put to the Minister for African Affairs when we were debating the Tribal Police Ordinance. I see that a large number of the African police force are mainly stationed in the African reserves and I do feel that if the people

(Mr. Odinga) are paying large sums of money for the Tribal Police as is voted here and for the other Tribal Police in the African reserves then certainly the duties which they perform would just be the same and it would be—

LT-COL. MCKENZIE: Does this arise, Sir?

THE CHAIRMAN (Mr. Conroy): I have been listening very carefully and you are in order, Mr. Odinga.

MR. ODINGA: I am in order!

So I feel it would be a better thing for the Minister to withdraw the police who are in the African reserves and let their duties be carried on by the Tribal Police. At the moment their duties are greatly overlapping with those of the Tribal Police in the African reserves.

THE MINISTER FOR INTERNAL SECURITY AND DEFENCE (Mr. Cusack): Mr. Chairman, I would like to deal with the points which have been raised so far.

I am afraid that I must accuse the hon. Member who spoke first of tedious repetition. Time and time again in this Estimates debate reference to the complaints about the discourtesy of the police has been made, and time and time again, Sir, I have explained our policy on training and retraining. I really rather resent the hon. Member getting up and telling me that I should send the police to be trained or retrained at Kiganjo.

The details, once again, Sir, are that 145 men passed through the senior wing in 1957, 2,228 passed through the junior wing, and the courses were recruit courses, retraining courses and refresher courses.

I also mentioned at least twice in the earlier part of this debate that some £84,000 out of a total of £112,000 in the Estimates is being spent on police housing for African ranks. That is a very high percentage of the Police Development Estimates indeed.

Now, Sir, I think the hon. Member did mention in particular that he considered that roadvels were unsuitable. Well, Sir, you may be interested to hear something which has been explained to me and which I have never quite understood, but which indeed is, I am told, true. There is more room inside a round house than inside a square house. That

is to say, given an equal quantity of bricks and mortar to build a house with then the round house made out of the same quantity of material as the square house will have more room inside.

I would now like to touch on the question of the language allowances, Sir, and the suggestion that officers of all races should be compelled to take examinations annually. This language allowance is indeed racially discriminatory. It goes only to Africans.

The hon. Member for the Coast Area referred to the need to recruit literate persons for the police and especially the junior ranks. If he had attended during the earlier—

THE CHAIRMAN (Mr. Conroy): Mr. Khamisi, if you wish to raise a point of order you can do so. If you want to make a point of explanation, then it is up to Mr. Cusack as to whether he gives way or not.

MR. KHAMISI: I wish to rise a point of explanation.

THE MINISTER FOR INTERNAL SECURITY AND DEFENCE (Mr. Cusack): I do not propose to give way, Sir.

The hon. Member referred to the necessity to recruit literate people in the lower ranks of the police. Once more I would say the position is that we have found many qualities, such as courage, integrity and honesty, qualities which are very desirable qualities in the police, are possessed by many men who were not literate. Literacy is not the be-all and end-all in the making of a good police officer.

*The time being 5.15 p.m. the debate was interrupted in accordance with Standing Order 136 (f) and the question put.*

MR. ODINGA: You have not dealt with my question.

THE CHAIRMAN (Mr. Conroy): I am afraid that the Minister will not have time to do so, Mr. Odinga.

#### VOTE 26—POLICE

That a sum not exceeding £3,826,095 be granted to the Governor to defray the charge which will come in course of payment for the year ending 30th June, 1959, for Vote 26—Police.

Question put and carried.

#### VOTE 6—CHIEF SECRETARY

That a sum not exceeding £180,000 be granted to the Governor to defray the charge which will come in course of payment for the year ending 30th June, 1959, for Vote 6—Chief Secretary.

Question put and carried.

#### VOTE 28—LOCAL GOVERNMENT

That a sum not exceeding £30,440 be granted to the Governor to defray the charge which will come in course of payment for the year ending 30th June, 1959, for Vote 28—Local Government.

Question put and carried.

#### VOTE 33—LABOUR

That a sum not exceeding £272,000 be granted to the Governor to defray the charge which will come in course of payment for the year ending 30th June, 1959, for Vote 33—Labour.

Question put and carried.

#### VOTE 11—THE TREASURY

That a sum not exceeding £135,230 be granted to the Governor to defray the charge which will come in course of payment for the year ending 30th June, 1959, for Vote 11—The Treasury.

Question put and carried.

#### VOTE 15—CONTRIBUTIONS TO THE COST OF HIGH COMMISSION SERVICES

That a sum not exceeding £1,622,939 be granted to the Governor to defray the charge which will come in course of payment for the year ending 30th June, 1959, for Vote 15—Contributions to the Cost of High Commission Services.

Question put and carried.

#### VOTE 40—MINISTRY OF COMMUNITY DEVELOPMENT

That a sum not exceeding £255,645 be granted to the Governor to defray the charge which will come in course of payment for the year ending 30th June, 1959, for Vote 40—Ministry of Community Development.

Question put and carried.

#### VOTE 12—MISCELLANEOUS

That a sum not exceeding £365,235 be granted to the Governor to defray the

charge which will come in course of payment for the year ending 30th June, 1959, for Vote 12—Miscellaneous.

Question put and carried.

#### VOTE 25—PRISONS

That a sum not exceeding £1,304,850 be granted to the Governor to defray the charge which will come in course of payment for the year ending 30th June, 1959, for Vote 25—Prisons.

Question put and carried.

#### VOTE 14—PUBLIC DEBT

That a sum not exceeding £2,199,158 be granted to the Governor to defray the charge which will come in course of payment for the year ending 30th June, 1959, for Vote 14—Public Debt.

Question put and carried.

#### VOTE 1—THE GOVERNOR

That a sum not exceeding £44,200 be granted to the Governor to defray the charge which will come in course of payment for the year ending 30th June, 1959, for Vote 1—The Governor.

Question put and carried.

#### VOTE 2—JUDICIAL

That a sum not exceeding £140,910 be granted to the Governor to defray the charge which will come in course of payment for the year ending 30th June, 1959, for Vote 2—Judicial.

Question put and carried.

#### VOTE 3—LEGISLATIVE COUNCIL

That a sum not exceeding £100,550 be granted to the Governor to defray the charge which will come in course of payment for the year ending 30th June, 1959, for Vote 3—Legislative Council.

Question put and carried.

#### VOTE 4—EXCHEQUER AND AUDIT

That a sum not exceeding £64,173 be granted to the Governor to defray the charge which will come in course of payment for the year ending 30th June, 1959, for Vote 4—Exchequer and Audit.

Question put and carried.



**VOTE 5—CIVIL SERVICE COMMISSION**

That a sum not exceeding £17,834 be granted to the Governor to defray the charge which will come in course of payment for the year ending 30th June, 1959, for Vote 5—Civil Service Commission.

Question put and carried.

**VOTE 8—IMMIGRATION**

That a sum not exceeding £22,000 be granted to the Governor to defray the charge which will come in course of payment for the year ending 30th June, 1959, for Vote 8—Immigration.

Question put and carried.

**VOTE 10—LEGAL AFFAIRS**

That a sum not exceeding £69,405 be granted to the Governor to defray the charge which will come in course of payment for the year ending 30th June, 1959, for Vote 10—Legal Affairs.

Question put and carried.

**VOTE 13—ANNUITY TO H.H. THE SULTAN OF ZANZIBAR**

That a sum not exceeding £16,000 be granted to the Governor to defray the charge which will come in course of payment for the year ending 30th June, 1959, for Vote 13—Annuity to H.H. the Sultan of Zanzibar.

Question put and carried.

**VOTE 16—CONTRIBUTION TO EMERGENCY FUND**

That a sum not exceeding £1,600,000 be granted to the Governor to defray the charge which will come in course of payment for the year ending 30th June, 1959, for Vote 16—Contribution to Emergency Fund.

Question put and carried.

**VOTE 17—PENSIONS AND GRATUITIES**

That a sum not exceeding £1,302,914 be granted to the Governor to defray the charge which will come in course of payment for the year ending 30th June, 1959, for Vote 17—Pensions and Gratuities.

Question put and carried.

**VOTE 18—COAST AGENCY AND PASSAGES**

That a sum not exceeding £561,810 be granted to the Governor to defray the charge which will come in course of payment for the year ending 30th June, 1959, for Vote 18—Coast Agency and Passages.

Question put and carried.

**VOTE 19—PRINTING AND STATIONERY**

That a sum not exceeding £174,133 be granted to the Governor to defray the charge which will come in course of payment for the year ending 30th June, 1959, for Vote 19—Printing and Stationery.

Question put and carried.

**VOTE 20—SUPPLIES AND TRANSPORT DEPARTMENT**

That a sum not exceeding £93,201 be granted to the Governor to defray the charge which will come in course of payment for the year ending 30th June, 1959, for Vote 20—Supplies and Transport Department.

Question put and carried.

**VOTE 24—MILITARY**

That a sum not exceeding £1,420,150 be granted to the Governor to defray the charge which will come in course of payment for the year ending 30th June, 1959, for Vote 24—Military.

Question put and carried.

**VOTE 29—LOCAL GOVERNMENT CONTRIBUTIONS**

That a sum not exceeding £1,394,500 be granted to the Governor to defray the charge which will come in course of payment for the year ending 30th June, 1959, for Vote 29—Local Government Contributions.

Question put and carried.

**VOTE 30—HEALTH**

That a sum not exceeding £1,719,550 be granted to the Governor to defray the charge which will come in course of payment for the year ending 30th June, 1959, for Vote 30—Health.

Question put and carried.

**VOTE 31—OFFICE OF THE MINISTER FOR EDUCATION, LABOUR AND LANDS**

That a sum not exceeding £112,900 be granted to the Governor to defray the charge which will come in course of payment for the year ending 30th June, 1959, for Vote 31—Office of the Minister for Education, Labour and Lands.

Question put and carried.

**VOTE 34—LANDS**

That a sum not exceeding £139,533 be granted to the Governor to defray the charge which will come in course of payment for the year ending 30th June, 1959, for Vote 34—Lands.

Question put and carried.

**VOTE 35—SURVEYS**

That a sum not exceeding £176,000 be granted to the Governor to defray the charge which will come in course of payment for the year ending 30th June, 1959, for Vote 35—Surveys.

Question put and carried.

**VOTE 36—MINISTRY OF FOREST DEVELOPMENT, GAME AND FISHERIES**

That a sum not exceeding £598,230 be granted to the Governor to defray the charge which will come in course of payment for the year ending 30th June, 1959, for Vote 36—Ministry of Forest Development, Game and Fisheries.

Question put and carried.

**VOTE 39—MOMBASA WATER SUPPLY**

That a sum not exceeding £10 be granted to the Governor to defray the charge which will come in course of payment for the year ending 30th June, 1959, for Vote 39—Mombasa Water Supply.

Question put and carried.

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): Mr. Chairman, I beg to move that the Committee do report to the Council its consideration and approval of the Resolutions without amendment.

Question proposed.

The question was put and carried.

Council resumed.

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

**REPORTS**

MR. CONROY: Mr. Speaker, I have to report that the Committee of Supply has considered the following Motions and approved Resolutions in respect thereof without amendment:—

That a sum not exceeding £3,826,095 be granted to the Governor to defray the charge which will come in the course of payment for the year ending 30th June, 1959, for Vote 26—Police.

That a sum not exceeding £180,000 be granted to the Governor to defray the charge which will come in the course of payment for the year ending 30th June, 1959, for Vote 6—Chief Secretary.

That a sum not exceeding £30,440 be granted to the Governor to defray the charge which will come in course of payment for the year ending 30th June, 1959, for Vote 28—Local Government.

That a sum not exceeding £272,000 be granted to the Governor to defray the charge which will come in course of payment for the year ending 30th June, 1959, for Vote 33—Labour.

That a sum not exceeding £135,230 be granted to the Governor to defray the charge which will come in the course of payment for the year ending 30th June, for Vote 11—The Treasury.

That a sum not exceeding £1,622,939 be granted to the Governor to defray the charge which will come in course of payment for the year ending 30th June, 1959, for Vote 15—Contributions to the Cost of the High Commission Services.

That a sum not exceeding £255,645 be granted to the Governor to defray the charge which will come in course of payment for the year ending 30th June, 1959, for Vote 40—Ministry of Community Development.

That a sum not exceeding £365,235 be granted to the Governor to defray the charge which will come in course of payment for the year ending 30th June, 1959, for Vote 12—Miscellaneous.

That a sum not exceeding £1,304,850 be granted to the Governor to defray the charge which will come in course of payment for the year ending 30th June, 1959, for Vote 25—Prisons.

That a sum not exceeding £2,199,158 be granted to the Governor to defray the charge which will come in course of

[Mr. Conroy]  
payment for the year ending 30th June, 1959, for Vote 14—Public Debt.

That a sum not exceeding £44,200 be granted to the Governor to defray the charge which will come in course of payment for the year ending 30th June, 1959, for Vote 1—The Governor.

That a sum not exceeding £140,910 be granted to the Governor to defray the charge which will come in course of payment for the year ending 30th June, 1959, for Vote 2—Judicial.

That a sum not exceeding £100,550 be granted to the Governor to defray the charge which will come in course of payment for the year ending 30th June, 1959, for Vote 3—Legislative Council.

That a sum not exceeding £64,173 be granted to the Governor to defray the charge which will come in course of payment for the year ending 30th June, 1959, for Vote 4—Exchequer and Audit.

That a sum not exceeding £17,834 be granted to the Governor to defray the charge which will come in course of payment for the year ending 30th June, 1959, for Vote 5—Civil Service Commission.

That a sum not exceeding £22,000 be granted to the Governor to defray the charge which will come in course of payment for the year ending 30th June, 1959, for Vote 8—Immigration.

That a sum not exceeding £69,405 be granted to the Governor to defray the charge which will come in course of payment for the year ending 30th June, 1959, for Vote 10—Legal Affairs.

That a sum not exceeding £16,000 be granted to the Governor to defray the charge which will come in course of payment for the year ending 30th June, 1959, for Vote 13—Annuity to H.H. the Sultan of Zanzibar.

That a sum not exceeding £1,600,000 be granted to the Governor to defray the charge which will come in course of payment for the year ending 30th June, 1959, for Vote 16—Contribution to Emergency Fund.

That a sum not exceeding £1,302,914 be granted to the Governor to defray the

charge which will come in course of payment for the year ending 30th June, 1959, for Vote 17—Pensions and Gratuities.

That a sum not exceeding £561,810 be granted to the Governor to defray the charge which will come in course of payment for the year ending 30th June, 1959, for Vote 18—Coast Agency and Passages.

That a sum not exceeding £174,133 be granted to the Governor to defray the charge which will come in course of payment for the year ending 30th June, 1959, for Vote 19—Printing and Stationery.

That a sum not exceeding £93,201 be granted to the Governor to defray the charge which will come in course of payment for the year ending 30th June, 1959, for Vote 20—Supplies and Transport Department.

That a sum not exceeding £1,420,150 be granted to the Governor to defray the charge which will come in course of payment for the year ending 30th June, 1959, for Vote 24—Military.

That a sum not exceeding £1,394,500 be granted to the Governor to defray the charge which will come in course of payment for the year ending 30th June, 1959, for Vote 29—Local Government Contributions.

That a sum not exceeding £1,719,550 be granted to the Governor to defray the charge which will come in course of payment for the year ending 30th June, 1959, for Vote 30—Health.

That a sum not exceeding £112,900 be granted to the Governor to defray the charge which will come in course of payment for the year ending 30th June, 1959, for Vote 31—Office of the Minister for Education, Labour and Lands.

That a sum not exceeding £139,533 be granted to the Governor to defray the charge which will come in course of payment for the year ending 30th June, 1959, for Vote 34—Lands.

That a sum not exceeding £176,000 be granted to the Governor to defray the charge which will come in course of payment for the year ending 30th June, 1959, for Vote 35—Surveys.

[Mr. Conroy]

That a sum not exceeding £589,230 be granted to the Governor to defray the charge which will come in course of payment for the year ending 30th June, 1959, for Vote 36—Ministry of Forest Development, Game and Fisheries.

That a sum not exceeding £10 be granted to the Governor to defray the charge which will come in course of payment for the year ending 30th June, 1959, for Vote 39—Mombasa Water Supply.

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

Question proposed.

The question was put and carried.

## ADJOURNMENT

THE SPEAKER (Sir Ferdinand Cavendish-Bentick): That brings us to the end of the business on the Order Paper. The House will therefore stand adjourned until 2.30 p.m. tomorrow, Thursday, 12th June, 1958.

The House rose at forty-five minutes past Five o'clock.

Thursday, 12th June, 1958

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

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

## PRAYERS

### NOTICES OF MOTIONS

PRECAUTIONS AGAINST COMMUNISM  
GROUP CAPT. BRIGGS: Mr. Speaker, Sir, I beg to give notice of the following Motion:—

That having regard to the increasing threat of communism to Africa and to Kenya's particular vulnerability, this Council requests Government—

- (1) to maintain the utmost vigilance and all possible precautions against any development of communism in Kenya;
- (2) to continue with Her Majesty's Government and other African territories south of the Sahara in furthering co-operation, on an international and interterritorial basis, with a view to preventing any development of communism in those territories.

### CONVICTS AT LOKITAUNG AND ELSEWHERE

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

That this Council, not being satisfied with the statement made by the Chief Secretary on 11th June regarding allegations made by certain convicts in Her Majesty's Prison at Lokitaung and also being concerned about allegations from other prisons and detention camps, calls on the Government to institute an independent enquiry into the conditions obtaining in Her Majesty's prisons and detention camps with a view to making a report to this Council.

MR. ALEXANDER: Mr. Speaker, Sir, I beg to give notice of the two following Motions:—

### ADDITIONAL DAYS—WAYS AND MEANS

That in accordance with Standing Orders additional time as necessary, but not exceeding two days be allotted

(Mr. Alexander) ... to the consideration of proposals in the Financial Statement for imposing, renewing, altering or repealing any rate, tax or duty for the period 1st July, 1958, to 30th June, 1959.

#### UNDISTRIBUTED INCOME TAX

THAT this Council being alarmed at the economic repercussions to Kenya of the continued existence of the proposals for taxation, and principally undistributed income tax, contained in Sessional Paper No. 5 of 1957/58, recommends to His Excellency the Governor that, if there is any intention of approving these proposals in their present form in the East African Central Assembly, he exercise forthwith his powers under clause 97 and clause 11, sub-clause (2) of the East African Income Tax (Management) Act, 1952, by amending the provisions of that Act so far as is necessary to avoid such economic repercussions.

#### ORAL ANSWERS TO QUESTIONS

##### QUESTION NO. 129

MR. NOALA asked the Minister for Local Government, Health and Town Planning:—

(a) How many cases of children suffering from all forms of tuberculosis have been treated in Talita hospitals or transferred to the Port Keitz Chest Hospital during 1957?

(b) What steps is Government taking to prevent tuberculosis among children both at home and at school in Talita District?

THE MINISTER FOR LOCAL GOVERNMENT, HEALTH AND TOWN PLANNING (Mr. Havelock): (a) Twenty-five, Sir.

(b) An active search has been made and is being made for all cases suffering from infective tuberculosis, with a view to putting the patients under treatment and to stop the transmission of the disease. The prevention of cross-infection in the home depends on the patient effectively isolating himself from susceptible contacts, and on his following the advice given by members of the Medical Department. This department has carried out a campaign for many

years to encourage better housing standards which will ensure proper ventilation and light within the dwellings. Tuberculosis infection is very rarely transmitted in schools between pupils.

##### QUESTION NO. 131

MR. KHAMISI asked the Minister for Local Government, Health and Town Planning whether he has received representations concerning the visiting hours at the Coast Province General Hospital since it was moved into new premises?

If the answer is in the affirmative, what action does he propose to take in the matter?

THE MINISTER FOR LOCAL GOVERNMENT, HEALTH AND TOWN PLANNING (Mr. Havelock): Yes, Sir.

The representations have been considered, but it has been decided in the interests of the patients that the hours laid down by the Medical Superintendent of the Coast Province General Hospital should be maintained for general visiting. However, relatives of seriously ill persons can now see patients outside the normal visiting hours by arrangement.

##### QUESTION NO. 141

MR. ARAP MOI asked the Minister for Agriculture, Animal Husbandry and Water Resources what steps is the Minister taking to expedite the production of foot-and-mouth vaccine to avert the present situation in the African areas?

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): Tenders have been invited for building the Wellcome Foot-and-Mouth Disease Research Institute at Nairobi, which is financed mainly by a very generous grant from the Wellcome Foundation. Building will begin soon and provision for staff and other expenses is included in the 1958/59 Estimates. Mr. Macaulay, who will take charge of the Institute, returned recently from a study tour in the United States and will now concentrate on foot-and-mouth disease research in Kenya.

MR. ARAP MOI: Mr. Speaker, Sir, is the Minister aware that without expediting these kind of schemes the meat industry is going to be jeopardized?

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): Mr. Speaker, Sir, I am very well aware indeed of the necessity for expediting the provision of foot-and-mouth vaccine in this country. We are doing our utmost to accelerate the process of manufacture.

LT-COL. MCKENZIE: Mr. Speaker, Sir, arising out of the original reply, will the hon. Minister tell us whether this Institute will cover both European type foot-and-mouth disease and the S.A.T. type foot-and-mouth disease?

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): Mr. Speaker, Sir, the Institute will be able to undertake research into all aspects of foot-and-mouth disease, but whether we shall be successful in producing a vaccine for S.A.T.2 type is a matter which must develop from the research as it takes place.

SIR CHARLES MARKHAM: Mr. Speaker, will the Minister tell the House when this Institute will be in operation? He has told us about the Wellcome Institute, but how soon does he think the factory will actually be producing serum?

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): Mr. Speaker, when embarking upon these enterprises one encounters many difficulties and I do not wish to encourage the hon. Member unduly, I feel that we might begin production around February or the early part, at any rate, of 1959.

MR. ARAP MOI: Mr. Speaker, arising out of the Minister's reply, would he tell us what is the interim measure taken while the Foot-and-Mouth Research Institute is being built?

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): Mr. Speaker, this is a major subject, but, as the hon. Member knows, we have embarked upon a course of providing the holding grounds in African areas where animals can be inoculated with the existing foot-and-mouth vaccine. Once they have been inoculated with it, I have ruled that they may move down the stock routes irres-

pective of whether there is an outbreak on the stock route itself.

I have done that despite some considerable pressure in the matter because I believe it is essential to try to relieve, as much as possible, the pressure of stock in the African areas.

#### MOTION

##### LIMITATION ON PRIVATE MEMBERS' MOTIONS

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

THAT the resolution with regard to Private Members' Motions passed by the Council on 29th May, 1958, be amended by deleting paragraph (iii) thereof and substituting therefor the following:—

(iii) At 6.15 p.m., Mr. Speaker, having called upon the Mover to reply at 6 p.m., shall put the questions necessary to dispose of the Motion then under consideration.

Sir, hon. Members will remember that in view of Supply days which we have recently been having Private Members' Motions did not begin on Thursdays until 4.45 p.m. It was therefore suggested by the Sessional Committee that the House should sit until 7.15 p.m. In view of the fact that there is no Supply day today, and that the whole afternoon has been set aside for Private Members' Motions, I assume that the House would agree with the Sessional Committee that we cease at the normal hour.

I beg to move.

THE MINISTER FOR AFRICAN AFFAIRS (Mr. Johnston) seconded.

Question proposed.

The question was put and carried.

#### MOTION

##### COMPULSORY SWAHILI IN SCHOOLS

MR. MULIRO: Mr. Speaker, Sir, I beg to move that this Council urges that the teaching of Swahili be made compulsory in all schools in Kenya.

I am not going to talk for a very long time as many people would like to have a go at this teaching of Swahili.

[Mr. Muliro]

From the onset I want to make my position very, very clear and the reasons why I have put forward this Motion in this Council today.

First of all, Sir, there are many Africans, probably inside and outside this Council, who might feel that Swahili as one of the languages of Africans in Kenya will hinder the development of other African languages which are more on the tribal basis. This is not what this Motion aims at.

The African child can go to school and learn his own mother tongue up to the fourth standard. That I think will be very welcome by the Director of Education and all African Members. But, Sir, my feeling is that after Standard IV the African child, and any other child for that matter in Kenya, should be able to be taught some language or some knowledge of Swahili. In fact, Sir, if I had my own way the African child should start being taught Swahili in his second year of his education, probably, but not very seriously. I would content myself with that because the African children who now sit for their competitive entrance examination at Standard VI are completely handicapped in their communication with the outside world. These children who do not have any chance to get up to Standard VIII are unable to express themselves in any language effectively except their own mother tongue. But I cannot imagine a child, say from the Luo tribe of Central Nyanza, being able to go to Mombasa when he does not know the language, how could he communicate with the people there. They will have to have a third party to be the interpreter, probably, either in Swahili or into Dho Luo. So I feel that this is a serious drawback to the Africans.

If the Africans go out into the world they will not be able to listen to the district commissioners or the veterinary officers or even the traders, because they do not know any language which they have to speak to these people.

Another point I would like to develop under the same heading is that at present one finds that children who go on after Standard VIII and who take the Kenya African Preliminary Examination do write a vernacular paper and therefore

have no knowledge at all of Swahili. Now, when these people who have studied in their vernacular up to the Kenya African Preliminary Examination level—in other words the people who have never been taught any Swahili up to Standard VIII—are unable to carry on any conversation either in English or Swahili because their English is very, very limited. They cannot argue in English and therefore to develop any kind of good conversation in English is impossible for them.

Some of the opponents of the teaching of Swahili will say that English should be taught to African children, Sir, rather than Swahili. To me, Sir, I look upon Swahili as an African language, and that is very, very obvious.

To speak English properly you require English teachers and there are very few Africans now in the country who can teach English properly and in fact in order to teach English effectively to the African child it should be started earlier. But an African child, even if he is non-Bantu, will be able to learn much better in Swahili than in English unless this particular child is in a school where he is being taught English properly from the onset. For instance, you can find African children at the Hospital Hill School being taught English from an early stage—earlier, in fact, than many other children in African schools.

The stage at which I would like the African child to start learning English—for the convenience of African language probably—would probably be at Standard IV, and the tribal language can also be taught. But Swahili is a non-tribal language. There is no tribe in Kenya which is known as the Swahili tribe. I know that in South Africa anybody from East Africa is called a Swahili. I used to have very bitter arguments and I used to tell them that there was no such a tribe as a Swahili tribe. But they used to say that anybody from East Africa is a Swahili. However, Sir, here a non-tribal language has better advantages over the tribal languages.

Now, Sir, another point I would like to put across is that of the shortcomings in African education, the shortcomings in the teachers who cannot express themselves probably very well in foreign languages or even in English, and that is

[Mr. Muliro]

my insistence that in order to enable these people to be able to earn their living even they must be able to carry on communications with their masters.

Say an African child comes to Nairobi looking for employment. He must be able to speak to an Indian, say, in Swahili, in order that he can be employed. If he is unable to speak Swahili, then who will employ him? Nobody will employ him. How will he be able to carry out instructions?

Another point is that of the Africans at large there are very, very many Africans who are very sensible and balanced in their outlook, reasonable, but they find it very difficult to carry on conversations in English. In this Council I would probably rather have an old man, like Canon Awori, for instance, representing Nyanza North than myself because he will be looked upon as a man of experience. He is very experienced and very conversant with the problems of the world and he also knows Kenya far more than I do. But this old man, sensible as he is, cannot come to this Council because he has no language to express himself.

Now, Sir, I have been looked upon and regarded as inexperienced and immature and in all those terms, but I think that mature men cannot be here. What is at the bottom of the trouble? Nothing but the language. That is the whole bottom of the trouble, Mr. Speaker. I have borrowed that phrase from Mr. Ngome, who used it last week very strongly. Now, Sir, to get sensible people, probably even the Legislative Council could have people speaking either Swahili or English, like it is in Tanganyika.

Now, Sir, another issue is that in the business world. I was indeed very grateful and I must express my deep appreciation to the Minister for Commerce and Industry when he said that there is a certain report which should be available to Africans, that that is going to be translated into Swahili. The books he quoted to us yesterday here are already in Swahili.

AN HON. MEMBER: Question!

MR. MULIRO: There is no question. You can question the Minister for Commerce and Industry. I think he is a very

sensible Minister in Kenya to think of this language which is being neglected by various speakers.

However much we might wish to push him up, Sir, the African must have a language for the business world and even in the Government world. When the Ministers go on tours around the countryside they address the people in Swahili. Last year the present Governor of Tanganyika opened the Elgon Nyanza District Council and he addressed the people in Swahili. The people were very pleased to hear him speaking Swahili so well. Now, Sir, that is what the Government is discouraging. They use the very tool and yet they neglect and discourage it, Sir, that it should not be taught. More than three-quarters of the Africans in the police force do not understand any language other than Swahili. Now, Sir, if Swahili is not to be taught in African schools how are these people to go on being instructed in their various dialects.

In the army the Africans who are there do not usually understand any English. I would say that more than three-quarters of those Africans in the army can only speak Swahili. How are they to receive instructions if this language is neglected as it is being neglected? I think the Government should, to a very high degree support this Motion: Regarding Africans, the only means of getting to the Africans in Kenya, the effective voice of the Government in trying to put across the various doctrines and ideas of the Government to the Africans, in which language are they to be effective? It is in Swahili. I would say this, for instance, if my own tribe, Luhya-speaking—we have various dialects. These various dialects, if the information officer uses one of them, probably another region would not understand. But if they use Swahili, we understand that very well.

With this, Mr. Speaker, I beg to move.

MR. TOWETT: Mr. Speaker, Sir, I beg to second the Motion, and to say the Member who has just spoken was talking about one of the Bantu languages, and I do not think it would have been right for me to support this Bantu language if I did not place such special importance to it.

I am called by the anthropologists a man of the Nilo-hametic tribes, and we

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do not have many relations in our linguistic studies to the grammatical complexities of Swahili, but I think that Swahili is a very important language, not only in Kenya, but in the whole of East Africa. You see, we are building a country which is now very young, and this country is Kenya. We are here, some of us, saying that we want to live together harmoniously, but we have a diversity of languages, and I do not know how we are going to live harmoniously when we cannot even agree to use one language competently.

Now, the thing is, there are Asians with Gujarati and Hindustani; there are Europeans with their universal English, and then there are Africans with over 60 dialects. None of these dialects can be imposed upon any tribe, to cause it to be a language for the other tribes. But we find that Swahili came by itself—nobody created it—should actually not be ignored, but it should be taught and spoken in Kenya. I know that some people on the Government side might say that our recent and probably future cries for "Africa for the Africans" and Swahili are complimentary, but they are not.

Swahili as a language is different from Africa for the Africans as a political slogan. We should not confuse the two. So I think, when we speak of Swahili as a language, let us speak for it, favouring it and supporting it, using it in our schools and in our daily conversations.

Now, I know where the trouble came from, so that Swahili was pushed outside, more or less outside the curriculum, it was because of the Beecher Report. You see, in 1938, Swahili was a compulsory language in most of the African schools, and then when the Beecher Report came in 1945, it favoured that emphasis should be given to the vernacular languages, and that Swahili, which was the second lingua franca of East Africa at that time, should actually be ignored gradually. Now, the Beecher Report was wrong because there was no provision made in that report for the compilation of vernacular books of all the 60 African dialects; there was no provision made so that books would be written in those over 60 dialects. In the second place, the Beecher Report was wrong because no steps were taken to

seek a device from the universities of Great Britain, such as Cambridge, to ask them to include the over 60 African dialects in Kenya in their syllabus, so that when we go up to School Certificate, we can say, "All right. I am going to do my examination in Kipsigis, Muzi, Kikuyu, etc., as one of the subjects in the examination." The Beecher Report was wrong also because there were no steps taken to stop officers learning Swahili, and to encourage them with all force to learn the different dialects. I know that officers have the option of learning a vernacular where they work or Swahili, but Swahili of course is compulsory before they come to this country if they happen to be people of Great Britain, Well; I feel it is rather illogical to encourage officers coming to this country who go to Oxford, Cambridge or London Universities to study Swahili for nine months very seriously, and then when they come out here, they are told, "You know, we are not teaching Swahili in our schools. We are encouraging vernacular languages." Well, I do not see where there is any logic in that—I call it illogical. Ignoring the illogical—let us be realistic and say that at Cambridge, you are allowed to have Swahili as one of the second languages.

It is compulsory, you must have two languages for the Cambridge Overseas School Certificate; the first one is English, the second one is Swahili. If the Kenya Government could approach the Cambridge authorities to make arrangements so that it includes all the dialects in Kenya, I would have very little objection to the abolition of Swahili. But so long as you are asked to sit for two languages in the Cambridge School Certificate, we are going to have a second language, which, in our case, in East Africa, is Swahili. Also, the University of London and the University of South Africa, they have recognized Swahili as a language and you can study your B.A. examinations with Swahili included. You can even take B.A. honours in Swahili in London University and South Africa University. Swahili being one of the languages, and any other three Bantu languages—e.g. Zulu and some other South African Bantu languages. I think anyone here who will really say that we should not have Swahili as a compulsory language in our

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schools will not be speaking from the educated circles of the world. We should really take time and think about our boys and girls going up to School Certificate, and above that, and they will require a second language and which will it be: Arabic, Gujarati, Italian— which is included in the syllabus—Greek, Latin or Gallic, or what? I do not know. But I think we are going to support this language, Swahili, and have it in our schools as a compulsory subject. It could be compulsory in all the African schools; it must be compulsory in all the African schools—optional (that is my personal view) where Gujarati is taught, and optional in places where Hindustani is taught, and optional where Italian, French, German, Greek or Latin is taught.

Mr. Speaker, I feel that the House should really support this important Motion, and the Government will show its sagacity this afternoon by supporting the Motion. Now, other advantages of Swahili are as follows: when a man or woman learns this wonderful language of East Africa, Swahili, he comes to know the techniques of writing his own vernacular. He comes to study the phonetics of the language, the phonemics of linguistics, the phonology, the duresics, dynamics and tonetics of the language. You see, I was going to say, look at Swahili and see the advantages, and then you can write your own language knowing the technique. But I was going to say that Swahili is spoken in the whole of East Africa and some parts of the Belgian Congo, and I do not see why we should not have it in our schools as a compulsory language. I feel that before we do anything else, we should try to remember that Swahili was not created; there was no law made for it to come into existence, and there should be no law to cause it to disappear.

So let us have this interesting and nice language, but if you do not favour Swahili, let us obliterate the whole thing as from tomorrow, nobody to speak in Swahili anywhere, and no officer in no part of Government machinery should speak it.

Now, Mr. Speaker, I beg to second the Motion and to hope that the

Government will show, to repeat, its sagacity this afternoon when it supports the Motion.

*Question proposed.*

MR. NYAGAH: Mr. Speaker, Sir, I stand to support this Motion with a few words. I have every reason to believe that the Minister for Industry and Commerce the Minister for African Affairs will support this Motion also, because without extensive use of this language, all the trade of this country will come to a dead end.

Without teaching the officers of the Administration this language, one would find it very difficult to get in touch with the various tribes in this country. For those two reasons alone, I am sure that those two particular Ministers will support me, Swahili is one of these very rich and growing languages. It is a generous language in the way in which it adapts itself. In fact, it sets a very good example for us in Kenya of how to co-operate. It takes in English, Arabic, Hebrew, Aramic and I believe it takes in some of the Indian languages. If we can only follow the example of Swahili, we would be all right in this country.

I am made to understand that Swahili is spoken by more than 12,000,000—or rather, it is the twelfth language in the world. One can make himself understood if he travels from East Africa right across Central Africa to South-west Africa. In this country, the Government has been rather confused on the use of Swahili. In educational circles, Government legislates that Swahili should not be made compulsory in the schools. On the administration side, officers are forced to learn Swahili or a vernacular, and if they do not pass one of these languages, their increments are stopped. I think the Government must be clear on this point: either they abolish Swahili completely from all walks of life in this country, or stick to it, try to encourage it so that for commerce and industry, for administration, and even for cultural reasons, we have a growing language that will take its place alongside the other languages of the world. The world has recognized this. That famous broadcasting corporation known as the British Broadcasting Corporation has put Kenya on the map by taking two of our best announcers to go to announce to the

[Mr. Nyagah] whole Swahili-speaking world this good language of Swahili. While the British Broadcasting Corporation is doing that, why then should we in Kenya not encourage it? Let us have Swahili taught in our schools, the African, Asian and European schools—and Arab schools. I do not see any reason why anybody should accuse Swahili of not being able to meet the needs of the present-day scientific world. There is nothing that one cannot express in Swahili. Even sputnik, if you like me to give a description of it in Swahili, I can give it to you. I will give it to you outside this Chamber if anybody is interested. For, Sir, I see a danger if English is taught so early in the schools, especially the African schools. Some people argue that Swahili, as spoken up-country and as spoken by a group of people in this country, sometimes contemptuously called the *Kisella* or *Kibara*, is not a credit to this country, and that by being taught English, we will be able to avoid the use of this rather bad language. But if we introduce English, I think we are going to have another poor type of English, very much like the West African pidgin-English.

A child in this country starts learning Swahili from a common ground. If he is a Bantu child, it is easy for him. There are some words that are common. If he is a non-Bantu, he is surrounded by thousands of Bantu-speaking people and he is bound to be influenced; and as we know as teachers, one knows how to speak by speaking. They speak more with these Bantu people, and therefore, they learn more and more Swahili.

So, Sir, I have great admiration for Swahili. I would like to see it put first in the schools of this country, and English as a second language. Just as they have French in the European schools in the English language, I would like to see English placed in the same position in this country. It will be the language of the élite; the language of the Government people; the language of the international commercial people. But for the ordinary man, whom we want to develop in this country very quickly, both culturally and otherwise, Swahili is the language.

With these remarks, Sir, I beg to submit.

MR. TYSON: Mr. Speaker, Sir, I would have liked to have seen some recognition on the part of the African Members who have already spoken of the usefulness of substituting English for Swahili. Reference has been made by one or two Members, not only today but yesterday in the course of the debate on the Minister of Commerce and Industry's Vote, to the need for business training. I think the hon. Mover made some reference earlier on to the need for Africans to earn their living. But many of us owe our professional or technical qualifications to text-books, and those text-books today cover a very wide range of subjects, in which the Africans are just as much interested as the Europeans or the Asians. We talk about building construction, engineering, accountancy, book-keeping, and so on, and there are a large number of valuable books on these subjects which are written in English. Surely, it should be our object to bring the usefulness of those books within the reach of Africans, and particularly African children. Surely we all realize that these books which are published in English are not and are never likely to be reproduced in the vernacular languages. And to insist, as this Motion does, that teaching of Swahili should be made compulsory in all the schools would merely result in shutting out these African pupils from the knowledge which can be obtained from these text-books.

I would go further than this Motion does; I would like to alter it to making the teaching of English compulsory in all schools, and I would like to see this compulsion extended to children of the very youngest age, to the kindergarten schools. As I mentioned before in this Chamber, I believe and still believe that we could use broadcasting in English to start the little African children in the locations learning English at a very early age. We have an example in Nairobi of the value which the Africans in our locations here attach to the learning of English. We have evening classes here for the Africans in our locations, and today, there are approximately 1,500 Africans in our locations who are taking lessons in English in their spare time—not in the day-time—spending their evenings in the locations at the evening classes learning English. What is the

[Mr. Tyson] result of that? The Minister for Commerce and Industry yesterday produced some simple books on shopkeeping, trading, accounting, and so on, produced not by this Government, but produced by the Uganda Government; but produced in English, not in Luganda, or any other language—produced in English. And I do suggest that if the Africans are anxious to make progress, as I gathered from the hon. Member for Nairobi Area yesterday, or from the hon. Mr. Odinga, I think, in connexion with trading, I do suggest that there is the opportunity for them to learn the elements of trading at any rate from these books which are printed in English. But for goodness sake, let us not deprive the Africans of getting the advantage of those books by saying "You must learn Swahili", because we have not a hope of producing those books in Swahili or any other vernacular language.

Mr. Speaker, Sir, I oppose the Motion, and I would like the Mover to consider whether he should not substitute "English" for "Swahili".

THE ASSISTANT MINISTER FOR EDUCATION, LABOUR AND LANDS (Mr. Wanyutu Waweru): Mr. Speaker, this Motion cannot be accepted by Government. When the hon. Mover was speaking, he said that the children would like to get in touch with the children of other places like Mombasa, and he was referring to the children from his own area. During the policy debate of the Budget, parental control was very much exercised and spoken of by many hon. Members, and I do not see whether that argument of a child's leaving Nyanza and going to Mombasa, without the parents, whether there would be many parents who would surrender their children to be wandering about in the country like that. It was also referred to by the hon. Mover that a few Government officers would like to get in touch with the children in the reserves when they are speaking at *barazas* and they wanted to have a common language to express themselves with. Children do not attend *barazas*. As far as I know, Mr. Speaker, many children, when they see a car, or a bicycle, they all greet the vehicle with the word *Jambo*—because they have been taught that word by the teachers in school? I do not think so, because

many of them who do greet vehicles in that way are very young children who have not reached the age for going to school. In Nairobi, Mombasa, Nakuru, Kisumu, most of the children who are there do speak Swahili.

Mr. Speaker, Sir, I happen to be one of those who went to school in 1919; at that time we were taught all subjects in English, after we had learned the alphabet which was then written on a piece of cotton-cloth skin by the then missionaries. After learning the alphabet, we were straight away moved on to English. This went on, Sir, until early in 1930, when the then Director of Education suggested to the Africans that Swahili should be taught in all schools. It was taught voluntarily, and in 1936, it was made compulsory. A lot of argument went on amongst the African parents that they did not want their children to be taught Swahili, and on this, I think the hon. Member for Central Province South and the hon. Member for Central Province Central would support me, because they were at the time students at Kigumo then and they were amongst those who were complaining that Swahili ought not to have been taught.

However, Mr. Speaker, arguments on this went on and on until recently when the Advisory Council on African education had to seek the opinion of the African parents. I was fortunate to have attended the first meeting which was held at the European Primary School here in Nairobi, and all parents who had been elected by the educational groups in their respective areas supported that Swahili should come to an end, and so it did. When we had no teachers, we were not able to implement the recommendation of the Advisory Council on African education; but up to now, we have got qualified teachers to teach Swahili and to teach English, and I think that to go back to Swahili would not help the future citizen of this country. In fact, if we were to drop it, we must drop one other subject. I was interested to listen very carefully and heard no Member so far who has spoken suggest what other subjects should be dropped in order to be replaced by Swahili. The arguments against this, Mr. Speaker, would be (1) all office forms and application forms in various schools are

[The Assistant Minister for Education, Labour and Lands] written in English. It would be a step backwards if Swahili were to be re-introduced, (2) all races in Kenya do speak Swahili. As the hon. Mover said that he did hear our former Chief Secretary speaking very good Swahili at a meeting; I do not think he was taught his good Swahili in school.

MR. TOWETT: Yes—Cambridge.

THE ASSISTANT MINISTER FOR EDUCATION, LABOUR AND LANDS (Mr. Wanyutu Waweru): If one knows English, Mr. Speaker, he would be a citizen of the world; while if he knows Swahili he would be a citizen of East Africa only. Mr. Speaker, Sir, Kenya Preliminary Examination has been demanded by some of the hon. Members opposite, that it should be one common examination for all children in Kenya. If we do not go up and start teaching English from the very beginning, it would be a step going backwards. I would say, Mr. Speaker, that if I were the hon. Mover, I would withdraw this Motion and spare the Council's time.

With these few remarks, Mr. Speaker, I oppose the Motion.

MR. MATE: Mr. Speaker, Sir, I would like to put right the logic of the two hon. Members of the Government side who have just spoken. To me, they are speaking outside the Motion. The hon. Nominated Member, Mr. Tyson, pleaded for the usefulness of English in industry and trade only. He did not touch on the cultural aspect of Swahili; he is only thinking in terms of trade. At the same time, I would ask him how many Asian traders speak to their African customers in English. I give credit to English for being a language which is very rich in everything, but it is irrelevant here. The Motion does not suggest that we do not want English. We have not challenged the teaching of English at all. The only thing is that Swahili should be taught in schools, and for that matter all African schools in Kenya. Therefore his argument is rather irrelevant, much as I sympathize with his support of the teaching of English; we do not contradict that.

The other speaker who has been giving an historical background for the reason why Swahili was dropped did not give any convincing argument at all. He talked of a man who knows English

being a citizen of the world. What about a German, who speaks German and English and French? Or a Swede. Or take a nation like India, which speaks its own languages as well as English. Is he suggesting to us that by dropping our own languages and adopting English we automatically become Anglicized as a whole.

The point is that we are not opposing English here, we are trying to show that an error has been made and it is time Government put it right.

He argued also that the teaching of Swahili is equal to taking a step back. The Government has gone back already. To begin with, they taught Swahili and English as well. Now they have gone back, they have dropped one language. It is they who have gone back. I sympathize very much with the idea that we must promote the teaching of English and teach it as much as possible. I agree entirely; I feel there is a lot of good being done in African schools. But I wonder in the Asian schools and European schools why an effort is not made to learn Swahili as a language. Since we want to know all sorts of things written in English, why do not the Asians and the Europeans show any interest in learning grammatical-Swahili? If we are going to be Kenyans, together we must meet half way. My argument is this, that Swahili as a language, for Kenya today and East Africa as a whole, has equal merit with English.

My particular reason is not simply the question of getting some money by doing a bit of accounting. I feel it has got some spiritual value in it and that is why it must be encouraged.

The last speaker argued that there is no space for it in the curriculum. But you can put it back where you took it from. You could very well put it back and teach Swahili and English together. I do not see any difficulty at all in adjusting the curriculum and the syllabus and the time table because today they have even modified the K.A.P.E. programmes and the subjects of the syllabus to a very large extent. Before criticizing the whole educational way of doing things, they could easily make this adjustment and there is no serious technical difficulty involved here.

Sir, I feel this is a very important Motion today in that, unlike the allegations that have been made that Swahili

[Mr. Mate] is a dying language and is going to die, this supposition is very untrue, as my hon. friends have shown; it is very alive. It is alive in offices today and in day-to-day life in Kenya as a whole. So the allegation is really what I call a white lie. It is used by people who do not want to encourage it, in order to encourage English, in order to make it easier and easier for the other races to be able to get on with their work. It is also used by the very same people who want to see the African learn English.

I agree with the second group; we must encourage the African to learn English, but I do not want to agree with the first group who feel that they cannot be bothered to learn an African language. All they want is to be able to tell whoever they are talking to what they want, in English. That is where I would challenge the other communities here in this House to say why they are not keen to learn Swahili which, itself, has all the values that my hon. friend, the Member for Nyeri and Embu tabulated. The British Broadcasting Corporation recognizes it; the governments in East Africa here recognize it; the divinity school at Limuru teaches in Swahili; the Bible is in Swahili; we have got a lot of very good literature in Swahili, stories, even science books, and many other things. And we have the teachers. There is Tanganyika next door, to us which uses Swahili as widely and as effectively as possible. We have Zanzibar, we have Mombasa. I do not see why when you have got Members like my hon. friend, the Member for Southern Area, who is not even a Bantu, he is of the tribe he called Hametic whose language is not Bantu, yet he is supporting it. Why? Why, if we have got a non-Bantu advocating it, should other groups in Kenya not wish to see Swahili taught in schools?

The advantage I see in teaching Swahili in Kenya schools is this: that the Asian child will learn grammatical Swahili, he will not be forced to speak any Swahili late in life. The English child will do the same, and the Arab child and all the other children, at the same time as the African child is learning Swahili and English.

THE SPEAKER (Sir Ferdinand Cavendish-Bentinck): Order, order! I was only

attempting to reduce the hum of conversation so that the hon. Member could be heard.

MR. MATE: Thank you, Sir, I feel that the next argument in favour of Swahili is that it is not going to take all the time that the hon. Assistant Minister suggests to us in displacing English. It is going to be another subject taught in schools; it is going to be an additional asset to the students and to the country as a whole. Today in Kenya, the African child has only one language for higher examinations and School Certificate; I believe the other groups have, say, Gujarati or Hindustani in their School Certificate, or even Latin or French. What about the African child? Why should he be forced to learn English only? Mr. Speaker, the Government Benches shake, I feel I have hit the nail on the head. The point is that when a child takes the School Certificate, the African child would like to have two languages, just like the European child who has French or Latin, or another second language, in order to qualify for a pass. I believe many African students would gain a lot by having Swahili as a second language; and when universities like London, in their School of Oriental Studies, recognize the language, the Government of Kenya are using what I can only call ostrich tactics in trying to pretend that Swahili is of no account at all.

What I would like to ask Government is at least to give this Motion a second thought, and not to be in too great a hurry to get on with English which, after all, is not taught so well in the primary schools. Not many African children are going to learn all the English they wish them to learn and we are losing a lot of cultural value by running too quickly.

Mr. Speaker, I beg to support.

MR. MUMO: Mr. Speaker, Sir, I stand to oppose the Motion. I am very sorry to oppose my colleagues in saying that I differ from them, but it has been my conviction for many years, since I became a teacher in 1938. I have been a very strong opponent of Swahili, and therefore, for that reason, I think it is very important that we must oppose this Motion.

I do remember that English as a subject, a subject mind you, not as a medium of instruction, was put on the time table in

[Mr. Mumo]

Machakos in 1938. Now it remained as a subject for a long time until it was made the medium of instruction. I remember when I went to Machakos as a small boy in 1931 I had to learn Swahili, Swahili, Swahili, and I recall that I had to do my Kenya African Preliminary Examination twice before. I qualified to go to the Alliance High School, because I did not pass in English.

AN HON. MEMBER: Did you pass?

MR. MUMO: Yes, when I came to qualify I got a distinction. So I should like my colleagues to study the new syllabus which is now in operation, because anyone who likes the Africans to go forward should really be all out for English.

SEVERAL HON. MEMBERS: Hear, hear.

MR. MUMO: Thank you.

THE SPEAKER (Sir Ferdinand Cavendish-Bentinck): I think I must ask hon. Members to remember that they are adults! We are now discussing what I think is a serious Motion, moved by a colleague. I would therefore ask hon. Members to listen with courtesy to what is being said!

MR. MUMO: I oppose the Motion because many of my colleagues have gone overseas and they have been speaking English. Now for one thing, one of my friends said English or Swahili is a tool. I do agree. Now you use your tool when you are in need of it. After that, you can put it in your store and you can take it out when you want it. Right. The same applies to English and Swahili. Now the trouble is that if we have got no qualified teachers to teach English, it all depends on the course they take; they can learn basic English or they can learn natural English. I think I have done both.

I think the best English that is spoken in England is the dialect spoken in the south-east of England. One advantage of English is in commerce. You go where you like; if you are a trader, you go to China, you go to any part of the world, and you find that English is very widely spoken. I believe that since English is the language of the Commonwealth, we have got to encourage it. Certainly, I

think that English is a language with a utilitarian value, apart from its cultural value.

Because of this, I do, very briefly, oppose the Motion. I am very sorry to oppose the Motion!

THE MINISTER FOR COMMERCE AND INDUSTRY (Mr. Hope-Jones): Mr. Speaker, I only want to deal with one aspect of the Motion before the House, but I think it goes to the root of the matter. It is this: that we speak of African advancement in commerce and in industry and, indeed, in all forms of economic activity, and we wish to see that advancement. To emphasize, for the future, the teaching of Swahili—as some of my hon. friends have done—is, from an economic point of view, a blind alley for the African people.

Having said that, I do not wish to be misunderstood, and to give the impression that there is not a very strong case for preserving Swahili, and I would be the last person to say that Swahili has not got its place in the cultural life of our peoples here. Indeed, it is a language in which poetry has been written and, indeed, a language in which many important affairs—including spiritual affairs—have been transacted.

Now, I would like to give two illustrations of my point about it in an economic sense, and for the future, being a blind alley. I was in Holland about three years ago, and while I was there on business I had much business to do with one of the big oil companies which is situated in The Hague, the seat of Government of the Netherlands. Again, in Rotterdam, I had much to do with the Dutch half of Unilever. Now, the employees in those two great organizations were almost entirely Dutch. The Dutch language is one of the most famous, culturally, in the world. It is an ancient language and it is a language that is spoken in many parts of the world, not just in Holland. The fact remains that in those two great businesses even the inter-office memos were in English. Why? Because English is the language of business, it is the language of commerce.

I would very much like to hear the hon. Member for Central Province South explaining—as I know he does very well

[The Minister for Commerce and Industry]

—the late Lord Keynes's theory of money to his pupils in Swahili. It would be a magnificent exercise, but one which I believe even the hon. Member himself would find difficult. Now, I am not suggesting that Keynes's theory of money is necessary for all African businessmen or all European businessmen; it is not. But, nevertheless, I feel this most profoundly—and I believe that hon. Members who think, who believe in and hope for the advancement of the African people in business and commerce will agree with me that we must look forward to the dynamic developing and spreading international medium. That does not in any way mean that I derogate the importance of Swahili. I would have thought that hon. Members who support this Motion, having considered it, and having ventilated the subject, would probably withdraw it.

I beg to oppose.

MR. MBOYA: Mr. Speaker, Sir, I did not originally intend to speak in this debate at all. But I feel that there is a great deal of confusion at the moment as to the real meaning and purpose of the Motion before the House.

Members on the Government side have tended to give the impression that the purpose behind the Motion is to replace English with Swahili in African schools. That is not the case. All that is being asked here is that as you teach history, geography or any other subject, Swahili be one of the subjects that should be taught at these schools—as a subject. No one is suggesting—and no African would suggest—that English should not be taught or that an increasing amount of it should not be taught in African schools. I and my colleagues would like to see a lot of English taught, and we probably would like to see, in the immediate future, English being taught from a much earlier stage than it is today. We would like to see the stage reached when it is used as a medium of teaching from the very earliest stages, and at the very lowest levels of education.

But the point raised in this Motion is that, in addition to other subjects,

Swahili should be taught in the various schools.

AN HON. MEMBER: Why?

MR. MBOYA: Why? Why should we teach the other subjects? Is it being suggested, Mr. Speaker, that this country or this House does not appreciate that the percentage of literacy in this country at the moment is as low as, and probably lower than, 20 per cent? And that for the majority of the people of this country, for the time being, Swahili forms the only language which anyone can use if he wants to be understood? Members ask, "Why?" Then my question is, "Why should the Government insist that its civil servants learn Swahili for promotional purposes or for recruitment purposes?"

Are we suggesting that all this time spent by civil servants on learning Swahili compulsorily is wasted? Because if that is so, they should know about it, and the Government should stop the practice. If it is not, then it is an acknowledgment of the fact that Swahili is for the time being an important language.

Sir, there is just one very important point that Members seem to take very lightly. Our African students have to sit for higher examinations or university examinations and up to now most of them have been able to use Swahili as a second language which is necessary for these examinations. It would be a help for them if in this country we were teaching Swahili for these chaps who will need this second language for their examinations. It is easy for European Members in this House to say, "Why should they not learn French or Latin?" but, Sir, why should they not take Swahili, if the universities are prepared to recognize and accept it? It may go out, it may not be accepted in the future, but we are dealing with the situation as it exists for the time being.

The hon. Nominated Member, Mr. Tyson, was speaking about Swahili in relation to business training and the rest of it. Now I entirely agree with Mr. Tyson that Africans flock to evening continuation classes and to various other classes, trying to learn English. We encourage that; we want to see more of it. But is that anything in defence of



[Mr. Mboya] not teaching Swahili? Just because they naturally know Swahili does not mean that you should not teach the language properly. The hon. Assistant Minister for Education stands up and talks about his having gone to school in 1919. I am not surprised. Maybe he should go to school in 1958 for a change.

Mr. Speaker, Sir, I beg to support the Motion.

MR. WADLEY: Mr. Speaker, Sir, I rise to oppose this Motion. I should like to say that I have been very disappointed to find not a few ex-members of my own Department speaking in support of it.

I oppose it, Sir, for three main reasons, and the first of these is that as long ago as 1946, in its development programme, the Government of this Colony accepted English as the lingua franca on which we were to concentrate for the future.

Now, Sir, I should like to make it quite clear at the beginning that I do appreciate the various points made by hon. Members on the other side, when they say that Swahili is a growing language, a living language, and not a dying language. Indeed, it is used, as some of them know, in some of our schools now, where it happens to be the language spoken by the people of the area, mostly at the coast. It is also used in certain urban areas where there are a variety of languages, for which it would be impossible to supply adequate literature, and where, in the circumstances, Swahili is the only practicable language.

Since 1946, enormous strides have been made in pushing English and replacing Swahili with English both in schools and outside the schools. As hon. Members will remember, in 1946 the Kenya African Preliminary Examination was taken in Swahili and children in school were burdened, first of all, with learning their own vernacular, and then Swahili, before they went on to English. They now go from the vernacular to English as the medium of instruction.

As a result of all that has happened during those years, English is very widely known even if it is not always widely spoken, particularly by the Africans. In answer to one hon. Member who said, "What is the language which the Asian

trader uses to his African customers?" I would say that to a varied, growing extent it is English. And the point I would like to make is that we have now reached the stage when English is about to replace Swahili in a very big way, as a result of what we have been doing during recent years.

I should like to quote an example of what happened, Sir, in my own office the other day. I was there with only one other officer at about 5 p.m. and we needed our conference room for a meeting. But we found it was locked; no key could be found. So I asked the other officer, who was fluent in Swahili, to explain in his best Swahili to the head office boy that we wanted the master key. He did so, at considerable length, and the head boy then turned round and said, in English, "Oh, *bwana*, what you want is the master key." This shows that English is much more widely known than a good many people would suppose.

I should like to make this point too, that I am quite sure, from what I know of my African friends, from what I hear as I go round the country, from what has been said, particularly at meetings concerning African education, including meetings of the Advisory Council on African education, that most Africans want English as the main medium of instruction in their schools.

I should like to say that it is not so difficult as hon. Members have suggested to achieve this. We are pushing down the English language as a medium of instruction to a lower class year by year, and we shall soon have reached the stage when it is used as the medium of instruction in Standard III.

Now, I can only regard the insertion—I realize that my hon. friends do not mean the substitution—of Swahili into the curriculum as a retrograde step. I would like to make this one point also in reply to their assertion, which I appreciate, that Swahili is important as a second language at the School Certificate level. Now, although it is a fact that it is not taught lower down the school, it is possible for students entering the secondary school to start the study of Swahili and pass the School Certificate examination at the end of four years without any difficulty. And that is in fact done now.

[Mr. Wadley]

I should now like to come, Sir, to the second reason why I oppose this Motion, and that is that the insertion of Swahili into the curriculum would mean overloading that curriculum. I would have expected, if hon. Members were going to put forward a Motion of this kind, that they would first have asked that a day should consist of 48 hours or that teachers should work 25 hours out of every 24. You just cannot do it. It is only with difficulty that students, whose own language is not English, reach the requisite level at the School Certificate stage, and even though they pass with credit, they have nothing in reserve as yet; they just know enough to pass but there is nothing in reserve. The insertion of any other subject into the time-table, whether at the primary or intermediate stage, would mean that we could not achieve the desired level at the secondary stage. I assume that all hon. Members will agree with me that the only practical language for secondary education and higher education is English.

I should like to make one final point, Sir, and that is about the usefulness of the language—Swahili—which one hon. Member asserted could be used for scientific purposes, for commerce, and industry, and so on. Well, Sir, I am afraid that I must disagree with him. I read a comparatively simple passage in a news bulletin today as follows, if I may quote it, Sir, and it refers to a new breed of maize. "Mr. X, the university maize breeder, said that the characteristics of the new hybrid include high grain yield, better maturity, higher shelling percentage, better standing ability, uniform ear height, and outstanding smut resistance." I took this to a Swahili expert in my office and although he did, after a very considerable time, produce a translation it was not very precise or accurate.

May I also say, Sir, that even in mathematics Swahili is not suitable as an explanation. How would hon. Members on the other side explain to their class, or even to the man in the street, that the square on the hypotenuse of a right-angled triangle is equal to the sum of the squares on the other two sides? Sir, I am aware that this can be translated but I would say this: that to the man in the street the Swahili translation would bear

about as much resemblance to the real meaning as would the translation of "Don't talk shop" by "*Hapana sema duka*".

SHEIKH MAHFUD MACKAWI: Mr. Speaker, I rise to support the Motion, and I would like to make one or two points to this House.

My first point, Sir, is that firstly we want the English language and secondly that we want the Swahili language for all the schools in Kenya.

Mr. Speaker, in all Arab primary schools at Mombasa and at the coast the Swahili language is taught secondly after the English language. Many times in this House I have asked and pressed the Education for the Arab language in our Arab primary schools and I did not succeed on that point because the Swahili language is there in the Arab primary schools.

My second point, Sir, in explanation to this Council, about the Swahili language, is that there are two or three hon. Nominated Members in this House who are speaking very good Swahili rather than the Arabic language.

Sir, I remember that the hon. Nominated Member Sheriff Salim raised this point once in this Council about the Swahili language. Not only the Arabs, the Swahilis or the Africans of the coast are speaking very good Swahili. Also the Indian traders and children are speaking very good Swahili at the coast, and while we do not agree with the hon. African Members that they should not be taught Swahili in up-country schools we do agree with the hon. Member for Nairobi, Mr. Mboya, that English should be taught firstly and secondly that Swahili should be taught as the other subject of the schools.

Mr. Speaker, only for explanation, I would say that there are some Members of the Zanzibar and Dar es Salaam Legislative Councils who are speaking in the Chamber in Swahili. I hope one day it will come in this House that people can speak in Swahili when they do not know English.

Sir, I beg to support the Motion.

MR. COWIE: Mr. Speaker, I only want to put in a few words because I still think that this is a Motion which is in danger of becoming more confused than many I have heard in this House.

[Mr. Cowie]

As I see it, Sir, the main issue is whether or not Swahili is in competition with English.

HON. MEMBERS: No!

• MR. COWIE: There have been speakers on both sides who have commended the virtues of each language. I do not personally wish to join in with this. I praise Swahili. I learned it almost before I learned English. I also praise English. But what really matters is this. Are the two languages, if taught in schools, going to be in competition? Some of the hon. Members have said "No" and that there was plenty of time for both. I rather doubt that. But what is important is this. Human nature always takes the easy line and English is more difficult for tribes to learn than Swahili. If both are taught the tendency will be to swing over to Swahili and make it more into the lingua franca of this country than English.

We have already decided—and I think with good merit—that English must be the lingua franca therefore one should not encourage other measures which are going to retard the development of English. That to my mind, Sir, is the point—as to whether or not they can compete with success. I would like the hon. Members who have supported this Motion to consider carefully, not whether English or Swahili is better or necessary but to consider whether or not they will be so doing retard the development of English as a proper lingua franca.

For that reason, Sir, I oppose the Motion.

MR. ODINGA: Mr. Speaker, Sir, as I rise to speak in support of this Motion I should in the first instance, Mr. Speaker, say that this Motion was keenly supported by me and in actual fact it is I who introduced it before I went to Great Britain and I gave it to my friend to introduce it. I thought that he would introduce the Motion just while I was in Great Britain but unfortunately probably there were delays of time and he did not introduce it.

In supporting this Motion and in talking so strongly about it I should not like you to think that I am one of the best Swahili speakers. You will find that I

am one of the poorest speakers just as my friend is who has opposed it from this side. I was with him at school and I was just as poor as he was. But I do not take that selfish attitude which he takes about Swahili. The fact that I am poor in Swahili speaking should not actually be enough reason for me to oppose this. I am sure that even my hon. friend from the opposite side should be the same, because I was at school with him and I knew how poor he was also at Swahili, I think because of that selfish reason alone he is trying to oppose Swahili.

Well this, Mr. Speaker, would have been the Motion, I should have thought, which the Government should have not taken a negative attitude about, as they are taking. The Government is always blaming us on this side that we do not encourage the Government propositions or plans which they are trying to bring into the field. All the time they say, "We oppose". But if the Government takes such a negative attitude towards even the most reasonable things which we bring, like this, is it that we are going to pull ropes each time—that we are all the time going to pull ropes? I thought that this Motion was the simplest Motion which I thought that the Government should have given their consent to. I see that the Chief Secretary is worried.

THE CHIEF SECRETARY (Mr. COULTS): On a point of information, Mr. Speaker, concerning many Private Members' Motions, recently we have, after amendment, accepted two. Therefore it is not correct to say that we always take a negative attitude.

MR. ODINGA: I thank the Chief Secretary for saying that but I do not remember any of them which you have accepted without amendments.

THE CHIEF SECRETARY (Mr. COULTS): Wait and see!

MR. ODINGA: I shall wait, but it is too long.

Mr. Speaker, Sir, I would only say that I am very sorry to have heard the reason which the Director of Education has advanced about Swahili not being taught in the schools. I think he said that in 1946 it was established that English

[Mr. Odinga]

should be the lingua franca of this country and that there is not time for the teachers to teach Swahili and English—which I think he took to be the only reason for opposing Swahili.

Well, Sir, taking English alone to be the lingua franca and trying to impose it on people will not make it the lingua franca. It was tried in South Africa and still today you have got the Afrikaans language, Sir, being spoken in South Africa, and English is going down every day. It was also tried in Canada and even there, up to this time, French is being spoken and English also is being spoken. They are going side by side. I think that we, as Africans, know that we shall learn English but the chances of English becoming the lingua franca of East Africa is far too remote. Swahili is much nearer and stands first chance, but with English to become the lingua franca it is far too remote.

English has not become the lingua franca of Ceylon nor even of India. They are trying to get on with Hindi. As a result, I would say that I do not object to English because it is a commercial language. It is supposed to be taught as a commercial language. It is spoken by many people in the whole world, and as such we respect it. It is a respectable language. But we in East Africa must also have our own language and Swahili is the most precious asset that we, as East Africans, have got.

When recently I was in London we were in a different position from those Africans from West Africa because they could not talk in private when there were English people there. But we from East Africa, from Uganda, Kenya, Tanganyika and Zanzibar communicated with one another very easily and we conversed in Swahili so that no one could understand us if we did not want them to know what we were speaking about.

Now, Mr. Speaker, I could also say that regarding the Indian people, they went on for many years with only English and without any common language, and the people from the north and the south of India have got a lot of trouble in trying to get a common language to use. It understood that when they took up their independence they

gave themselves 15 years within which they should learn Hindi as the common language. Even Hindi is not still accepted by the people who live in the south. In Ceylon the people there are in great difficulties and recently an Emergency was declared as a result of the language difficulties. There has never been agreement on the usage of Sinhalese or Tamil as the official language.

I would say this: let us in Kenya not deceive ourselves but accept English as the first language to learn for commercial purposes and for the purpose of communicating with the outside world. But when we come into East Africa we know that our common language for all time will be the Swahili language and, as such, it ought to be taught in schools and taught properly. It ought to be taught and be preferred even more than my own language. You will find, for instance, that I am a man who comes from a Nilotic people and we are very remote from the Swahili language and we are always very bad at speaking it. But we have been requested there, and even the teachers and the people have requested me to support this Motion and, in fact, it was I who thought of this.

So, Mr. Speaker, without labouring far too much, with these few remarks I think that I have put something across to the Director of Education to see this with an open mind, and I will be surprised if the Government cannot change their mind and support this particular Motion.

I would say that if the Government's attitude towards our Motion is negative all the time, in my opinion nothing will ever be achieved and we shall never get where we shall really meet; and this is the meeting ground where we should have met for the first time today.

Mr. Speaker, I have one small point. I recently observed that my son, who is now about 15 years old, coming with him to Nairobi, I did not know, and I was not aware that he did not even know a little bit of Swahili. Coming to Nairobi he could not express himself in English and he could not express himself in Swahili. He only knew Luo. In trying to speak to people he was defeated and was a stranger in his own country. If they started teaching him Swahili, he would

[Mr. Odinga]

be able to express himself and meet the common man in the streets and talk to them.

Now, Sir, I would only again persuade the Director of Education that we are the fathers of these children and we prefer that they should learn Swahili and as such, our opinion should be taken seriously.

Now, Mr. Speaker, with these few points I support the Motion very strongly and I hope the Government also will consider or reconsider their opposition and do the same.

MR. NGOMI: Mr. Speaker, if we want the progress of African education in this country, then I think this Motion should be ruled out.

The Africans have no desire to learn Swahili in the schools and whether the Africans learn Swahili or not they are bound to know Swahili because that language is like the bazaar trade of this country. You find a good Swahili speaker in the streets who has not and has never been taught in the schools. To press that the schools should teach Swahili is a waste of time in this House.

With all intent and purpose, Mr. Speaker, I strongly oppose this Motion, Mr. Speaker. I would refer to the debate which took place in this House in 1953 where a similar Motion was in course of debate, and it was agreed that English should be pushed forward rather than Swahili in schools, and therefore I again wish to say that it is for the interests of the African in this country that they should learn English more than Swahili.

When I say Swahili, Mr. Speaker, what Swahili are we going to request to be taught in our schools? Zanzibar Swahili, Tanganyika Swahili, Lamu Swahili, Mombasa Swahili. What Swahili?

AN HON. MEMBER: Standard Swahili?

MR. NGOMI: People learn Swahili before they go to school or after they have gone to school. I think that if a boy or girl speaks good English after he leaves school, then his parent would be more proud, than to hear that he speaks good Swahili. The parent will never be proud of good Swahili.

We have had various complaints in this House against the Education Department that so many boys have

been thrown out of schools because they have failed their examinations and I would say that the subject they fail is English—not Swahili. Now, if we pursue that the Swahili language must be a subject to be taught to African children in schools then I again say that it is a waste of time to debate such a Motion.

Mr. Speaker, I strongly oppose the Motion.

SHERIFF SALIM: Mr. Speaker, the last speaker has taken the words out of my mouth. What type of Swahili do the hon. Members on the other side of the House wish to be taught? Coastal Swahili is not the same Swahili which is being spoken in the up-country areas. We call that Swahili broken Swahili.

Sir, it is going to be very difficult to say that we are going to teach children at the Coast Province the Swahili language. We have been very much against the teaching of Swahili in our schools in Mombasa for the simple reason that the boys themselves can speak it and they are taught it at home and they can speak better Swahili than the Swahili they are going to be taught in the school.

I was talking to the Director of Education, Mr. Wadley, yesterday, and I reminded him that always we were against the teaching of Swahili in our schools for the simple reason that we ourselves speak Swahili better than anyone can teach us in our schools.

I am sorry that my colleague here, the Arab Elected Member, has supported the Motion. If this Motion were not worded "all schools" I would not have much objection because it would not apply to our schools in Mombasa. As it is worded that all schools should be taught Swahili and as we are against it, then, Mr. Speaker, I oppose the Motion.

SHEIKH SHIKELY: Mr. Speaker, it seems rather odd that I who come from the Coast should stand to oppose this Motion. As the Motion stands, Sir, it leaves me no alternative but to do so.

The Motion calls upon this Council to make compulsory teaching of Swahili in all schools in Kenya.

I was very much surprised and disappointed to find that the hon. Arab Elected Member has done some very spectacular somersaulting in changing his

[Sheikh Shikely]

opinions. For many years he has been fighting for the teaching of Arabic in Arab schools. Now that something is happening—

SHEIKH MACKAWI: Thank you very much.

SHEIKH SHIKELY: Mr. Chairman, I have not understood what the hon. Member has said, but I still maintain that he has somersaulted and changed his mind. He has always been fighting for the introduction of Arabic in Arab schools. Surely it would be disastrous to have three languages taught in schools.

When he was introducing the Motion, Mr. Speaker, the hon. Mover did mention that there were no Swahili people. I am very surprised about this because I know of some people who are called Swahilis and this is recognized by the Government in many of their Ordinances. People are described as Swahilis as distinct, Sir, from Africans, Somalis and Arabs. I would have been very much surprised to find a language without a people.

Now, Mr. Speaker, the suggestion is that Swahili should be taught in all schools. My experience is that the people at the coast speak far better Swahili than they would have spoken if they had been to school and learned the language there.

There are various types of Swahili. There is the Lamu Swahili, the Zanzibar Swahili, the kitchen Swahili and then there is also the standardized Swahili and there is nothing I hate more than standardized Swahili.

Mr. Speaker, Sir, I feel that Swahili is a very useful language but it does have its limitations. Some points have been raised by the hon. Director of Education, Mr. Wadley, where he said that it was very difficult to make a translation from other languages into Swahili.

I would give an example of a translation which I read recently in the vernacular paper *Nicha*. I was surprised when I saw the word "*Mbe*" referring to an hon. Member and that was short for the word honourable. It was supposed to be an abbreviation. There are many examples that one could quote of modern

words that could hardly be translated into Swahili.

I was talking to a friend at Mombasa some time ago when he tried to translate the word football pool and the nearest thing he could come to was *Kidumbwi cha mpira*. That was nonsense.

Mr. Speaker, Sir, I oppose.

THE MINISTER FOR EDUCATION, LABOUR AND LANDS (Mr. Luyt): Mr. Speaker, Sir, I am grateful to the last two speakers for drawing attention to exactly what the wording of this Motion is, which is to make the teaching of Swahili compulsory in all schools. Neither the Mover nor the Seconder, so far as I could understand, suggested compulsion beyond African schools although the Mover might have had it in mind. The Seconder in fact specifically referred to the present optional privilege in European and Asian schools of learning Greek and Gujarati and he asked for a similar position to apply to Swahili. But we have been asked here, Sir, to accept the compulsion of Swahili as a subject in all schools in Kenya and I should like to make it quite clear that the Government cannot accept this Motion.

In saying this I do want to emphasize that it is not that I am taking the intention wrongly to infer that the Motion means Swahili in lieu of English, I am not taking it that way. But I am also asking the hon. Mover and his friends not to consider that our opposition to this Motion means that we are deliberately trying to drive Swahili out of existence, which has, I think, been suggested in one or two speeches. It is recognized by the Government that Swahili has a place in Kenya. It has its historical and cultural place, and will continue to have that. That does not, however, entitle it to be made a compulsory language in all our schools. It is also, Sir, at the present moment an extremely useful language in many parts of the country, badly spoken though it may be away from the Coast. But that also, Sir, does not entitle it to become a compulsory language in all our schools.

The hon. Member for Nairobi suggested that because we are yet at such a stage in which few African children have an adequate command of English, we should as a temporary measure make Swahili compulsory. That was not in the

[The Minister for Education, Labour and Lands]

minds of his friends who supported him, but that, too, Sir, would be completely beyond the possibility of acceptance by the Government. It would only throw us backwards, and in my opinion, not only would it retard our present programme of driving as hard as we can to make English the overall lingua franca; but would, in fact, mean that in the long run, we would find ourselves permanently going back on our programme, and going in the wrong direction. Although certain speakers on the other side of the House have emphasized that their Motion does not mean that they are asking for English to have a less important place in our schools, or in the country at large—and they have criticized speeches from this side of the House for inferring that this might be the case—the facts of the position are, Sir, that it will inevitably be the case. As far as the schools are concerned, as the hon. Director of Education has already made clear, it is not possible for the schools to take children right through to their present Cambridge School Certificate Examination with an extra subject thrown in, or even with Swahili thrown in in lieu of another subject, and achieve the same results that are being achieved at the present moment. The curricula would be overloaded if Swahili were added. Alternatively, nobody has suggested what should be dropped. Yes, something would have to be dropped which, in turn, would be to our educational loss. So the fact is that educationally, we would suffer a loss.

As the hon. Director of Education stressed, the children to whom English is not a home language have no reserve of educational strength or knowledge at the present moment that can be tapped and yet enable them still to compete adequately in their examinations. The introduction of Swahili in schools must therefore be at the expense of something else. That is an inevitable fact.

Then, secondly, Sir, if we do have Swahili as a compulsory language in our schools, is it not completely inevitable that it will be put into increasingly common use throughout the country? In the country at large, English will be used less if Swahili is given the sort of boost that Members are calling for. Members

have said, Sir, that English in fact would not suffer; they do not want it to suffer; they want English to retain the major place in the affairs of Kenya. But, the fact of life is, Sir, that if Swahili were boosted in all our schools, and being a much easier language for Africans to use, and in which to acquire efficiency, then inevitably, English would be used very much less. We do not believe, Sir, that it is to the advantage of the people of Kenya that Swahili should, in that way, make a major inroad into the use of English. Swahili, as I have said, has its place in the scheme of things, and there is no intention to injure Swahili. But we believe that the policy which the Government embarked upon a few years ago, and which it is still following, that of pressing English as hard as we can as the one lingua franca, is the right policy, and that nothing must be done to injure that policy. English gives our people not only an adequate lingua franca—we may not yet have reached that stage, but we are moving rapidly towards it, and we do not want to injure its attainment, English gives them access to the rest of the world; it gives them access to the professions, to commerce and it also, in the narrow confines of the school, gives them a far better opportunity to pass their examinations than any insistence upon Swahili would give.

I would, Sir, mention finally that I believe that countries that have two official languages and that have deliberately boosted two languages have usually done so only when the accidents of history have made it inevitable and impossible to do otherwise. I do not believe, Sir, that any country should deliberately and artificially embark upon such a line. I happen, Sir, to have lived a good deal of my life in a country where, through such an accident of history, we had two languages, and I from my own experience, Sir, know that there is no greater divider of people than to have two languages boosted in one country.

Sir, for all these reasons, I would reaffirm that the Government cannot accept this Motion.

Mr. NGALA: Mr. Speaker, Sir, I stand to support the Motion.

First, I would like to say the I appreciate that we must learn more and

[Mr. Ngala]

more English in our schools, and the teaching of English must start very early. That is something which is agreed by every African, and all people concerned with education in this country. But still, Sir, I feel very strongly that there is a need for the teaching of Swahili as a second language.

Now, hon. Members have said that people in the Coast Province already know Swahili. Therefore, there is no need for learning Swahili. When I was taking a course in England, Sir, in teaching, I used to see some English children learning English. They already knew English, but I just would like to ask the Members who stand on that why these English children are learning English which they already know?

THE MINISTER FOR COMMERCE AND INDUSTRY (Mr. Hope-Jones): They cannot speak at all when they are born!

MR. NGALA: I am not suggesting that an African child knows how to speak Swahili at birth, but it is, Sir, a language which has got its own grammar, its own phonetics and its own complications and its own culture which must be understood by the child. I have taught Swahili in many schools and I have known children coming from a Swahili-speaking family falling in English. This is because they must learn the language properly.

My friend, the hon. Specially Elected Member, Mr. Ngome, has said that all Africans learn Swahili automatically, just as if they pick it up at a bazaar. But, Sir, this is quite wrong. I think the hon. Member is very much limited in his experience of people in Kenya. Visiting many areas in Kenya, Sir, I find many people who cannot speak Swahili. I would like to state that "Jambo" is not a speech in Swahili, as the hon. Member on the other side has suggested. We would like people to understand Swahili through learning it properly in school. I want to emphasize that we do not want Swahili to be a medium of instruction or teaching. We want Swahili to be a subject just as history or many other subjects can be subjects in a curriculum. It is true that our children will learn more English because these days, more teachers are capable of starting to teach English from the beginning. Also, in subjects like mathematics and science, we are not suggesting that our children

should be taught those subjects in Swahili. We know that there are these difficulties, but what we want is that Swahili should be taught as a subject. Some people have told me, have said: "What type of Swahili are we going to learn?" Well, the English spoken by the Englishman in London is probably different from that spoken in Bristol and Dublin, but they have one type of language: they have a common English which perhaps the hon. Members know very well, known as the Queen's or King's English. Here in East Africa, Sir, we have the East Africa Literature Bureau; the East Africa Literature Bureau stands for that very purpose, and if any Member does not know what type of Swahili we should learn surely we could consult the East Africa Literature Bureau and I think they will give a Standard Swahili which could be learned by the Africans, and all the schools in the Asian and European communities as well.

Sir, my main contention for wanting Swahili to be taught is that it is a language which is very rich and is a language which can enable all people from all different races to communicate as easily as possible. I quite appreciate what the Director of Education has said about the difficulties in languages—and so on—and also I appreciate that there will have to be some alteration in the curriculum, but there are many people who have learned—I personally took my primary course in about four languages, and also took my intermediate and secondary course in not less than three languages, but still we managed to do it; and we did it in the same number of years. One Member has suggested that if we are to introduce this, the teachers will have to teach 23, 24 or 25 hours. I taught it in the Coast Province, and I have run a school—which is encouraging not less than three languages, and the teachers have not taught for more than 18 hours a day. For this reason, Sir, I feel very strongly that an African language which comes into being so naturally should not be ignored.

The Chief Secretary will remember very well that the Information Office, I think, would be of great service and would save a lot of time if there was concentration on Swahili instead of so many different dialects. I believe very strongly that when a paper like *Pamoja*

[Mr. Ngala]

is sent to some areas, nobody reads it because nobody understands the Swahili which is there. If the position were different and people understood Swahili, probably many Africans and other people would make use of these papers.

I find it very difficult, Sir, to understand why the Government does not want to endorse this Motion, or does not want to agree with this Motion because in practice, and at this time, it is very advisable that the Education Department and the Minister for Education look into the necessity of incorporating Swahili into the curriculum of all the schools. The times may change, we do not know when, but at the present time, this is a language which is greatly demanded by the people. I would like to emphasize again that English must be taught as much as possible, and become a medium of instruction, but Swahili must have a place in the curriculum. The Minister for Education has said that something must go away; I would like to remind him that the Mover, if I listened to him correctly, said that he supported the idea of starting with a vernacular for the first four years, and then taking up English. That really reflects that the Mover himself was aware of the different stages where Swahili could be introduced. The Director of Education has mentioned that in secondary schools, Swahili is introduced to enable those people who would like to qualify in Swahili for high education. I do appreciate that, but Swahili as a means of communication to the ordinary man is really very vital. The Director of Education could not communicate with his office boy just because the office boy did not know Swahili.

If Swahili had been taught he could have communicated with him very easily. He failed to communicate with him because the schools do not speak Swahili, and that is the very thing that we are asking for. I feel, Sir, that the Minister for Education and the Government will really think again before they completely throw out this Motion.

With these few words, Sir, I beg to support the Motion.

MR. WADLEY: On a point of explanation, the hon. Member suggested that the office boy to whom I referred did not understand Swahili; the whole point of

my story was that he did understand the Swahili explanation but replied in English. My point was that English is on the up-grade.

THE CHIEF SECRETARY (MR. COULT): I rise to deal with one point made by my friend the hon. Member for Central Nyanza, who accused the Government of negative action to such Motion. I tried to point out to him when I rose on a point of information quite recently that we have accepted two Motions put forward from the other side of the House, but I do feel that the hon. Members must consider what the wording of their Motions is going to be before they put them down, if they are to get the Government to accept them. My hon. friend the Minister for Education, Labour and Lands has pointed out that the wording of this Motion in any case, quite apart from another point which I will mention in a moment, is totally unacceptable to the Government. It could not be acceptable that Swahili be made compulsory in all schools in this Colony; you have already heard one Nominated Member take my hon. friend the Arab Elected Member to task for that very reason.

One other point that I do want to make is that it is very largely a technical matter—it must be a technical matter—and I must admit I am extremely surprised that hon. Members on the other side, many of whom have dealt with the technical aspects of this particular problem, should have supported this Motion as it stands at the moment. They must know the difficulties, first of all of being able to introduce this as another subject within the curriculum, and, secondly, to produce the teachers who will teach this subject compulsorily and properly. I ask you if these hon. Members who know the background want to support this, they must be supporting it for another reason. What I do want to say to my hon. friend the Member for Central Nyanza, is that if he will study the wording of his Motions and put them down in such a way that the Government can look at them as reasonable propositions, the Government is always prepared to accept them.

MR. MULIRO: Mr. Speaker, Sir, I have listened to various people speak from the Government side opposing this

[Mr. Muliro]  
Motion, for no reason at all, as the Chief Secretary says: But I think they have got some other reason which is an ulterior motive: I will deal with it but not in very great detail.

Mr. Wanyutu Waweru, the Assistant Minister for Education, Labour and Lands, I think, has been answered by my hon. friend the Member for Central Nyanza, by being told that he was just as poor in Swahili as he was, and he must have some other motives that prompted him to stand against this Motion. It was also very interesting to note my hon. colleague from this side opposing it. The Minister for Commerce and Industry argues that to teach Swahili in future is a blind alley: it is not a blind alley for the Africans in this country to learn Swahili, or anybody in this country for that matter—Europeans, Asians, Arabs—to learn Swahili. It is not a blind alley—they have to learn the language. Swahili has definitely its own value. For economic purposes we need it. Professors at the Technical College and Makerere people who know Swahili; is that not an economic value?

Now, those who oppose Swahili very much, particularly Europeans on the Government side, argue that we should teach other foreign languages. Why on earth teach Greek, for instance, to a Kenya child when actually that child is very ignorant of the language spoken particularly by his own people? You might say Greek has definite cultural values—nobody doubts that, but Swahili has also its cultural values. Swahili is a descendant at least of Aramaic, the language in which the Bible was first written, and I do not think that in cultural value there is any book which I treasure so much as the Bible.

Now I come to the Director of Education: he says that the Government accepted English as the lingua franca of this country. That is very true: we in this Motion have not asked the Government to accept Swahili as the lingua franca of this country but for it to be taught as a subject, or making English a lingua franca is something more than a mere motive. It is political rather than merely cultural. He argues that Swahili is being used by coastal tribes: well, those coastal tribes use Swahili, but all

Africans in the country are using Swahili, from Mombasa right to the Belgian Congo, but you want to narrow the scope to the Coast Province only. He argues that the state has now been reached where English will replace Swahili. I have never in my mind thought of Swahili taking over English but all that I want is that Swahili should be taught as an African language.

The Director of Education asked about this square on the hypotenuse of a right-angled triangle being equal to the sum of the squares on the other two sides: but the word "hypotenuse" itself is not an English word—it is a borrowing from Greek. If the English borrowed Greek to come and enrich their own language, why should we also not borrow the same thing to enrich Swahili. I know very well that there is no language in the world which is not nourished by borrowings from other languages—English itself has very many words of French, Greek, Latin, Spanish, and even Swahili words are spoken in English. When I go to see the Director of Education in his office his boy will tell me that he is on *safari*: is that not a borrowing from this African language?

The Nominated Member, Mr. Cowie, argues that it is human nature to take an easier course; and I believe that is so. I have no objection to Swahili replacing English, if human nature directs it in that direction. Now, should Swahili be sacrificed on the altar of English? Mr. Ngome, the Specially Elected Member, argues that Swahili should be abolished from Kenya schools. But Swahili is very rich: he himself cannot express himself very effectively in the English language. Why does he not use Swahili, which he knows better?

Finally, Sir, I have to say this to the Minister for Education, who says that the language divides the people more, but however much the Government might deceive itself that we can become one simply because of speaking English—no, we will never become one because of speaking English. Co-operation and a united front will solve our problems more than just turning us to speak English: I am opposing this from here—I am speaking all English all the time. Why do I not co-operate because I speak English?

[Mr. Muliro]

With these few words, Mr. Speaker, I beg to move that the Government accepts this Motion.

The question was put and negatived.

## MOTION

ELECTED AFRICANS ON LOCAL  
GOVERNMENT BODIES

MR. OLE TIPIS: Mr. Speaker, Sir, I beg to move that this Council urges the Government to make provision for adequate African representation on municipal boards and councils, county councils, urban and rural district councils, by African members elected by those people whom they represent.

Now, in moving this Motion I would appeal to all hon. Members to consider it in the spirit it is presented and that is the spirit of co-operation and fair play, without any racial bias or privileges, because I sincerely believe that it is very important that local government in this country should be placed on a proper footing, and especially at this stage of their development, so that they can carry out the heavy duties and responsibilities of providing all the essential services and serve all communities residing in areas under their jurisdiction to the best advantage of all and to the best contentment of all.

Now, Sir, the illogical argument used by the county councils and urban and rural district councils, and the municipalities, that there are no qualified Africans who could contribute efficiently to the deliberations of these councils, is as nonsensical as it is illogical, and I should add that to see the masses of people forgotten is quite intolerable, and that is only an excuse to debar the African community from playing their proper part, because, Sir, where it has been done, most of the African councillors have done a sterling work and contributed much without any reservations. An example, for instance, is my hon. friend, Mr. Khamidi, who has been a chairman of the African Housing Committee at Mombasa, and many other Africans in various county councils and municipal boards and councils throughout the country. Now I submit that the manpower is available if wanted.

Mr. Speaker, Sir, the other very lame argument advanced by those opposed to increase in the African representation is that the Africans pay very little in the way of rates.

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

[Mr. Deputy Speaker (Mr. Conroy) took the Chair]

Now, Sir, I should mention here their contribution in various rents and also licence fees is quite considerable and cannot possibly be overlooked.

Now, the other thing is that the Africans are in the majority in these areas and this is also a very important factor because I believe, and I think I am right in saying, that you cannot build a town and also have a council without the manpower or the population. After all, Africans are the people mainly affected by all the by-laws passed by these town councils, and it is only fair that they should have at least a fair share in the affairs of these councils. It is really alarming when we have only one African nominated member representing African interests in a county council, and three African-nominated members in a municipal council, and no African representative member on some of the rural district councils. This, Sir, clearly shows that the African has very little or no say at all in these councils, and I think we have heard quite a lot of talk about safeguards for the minorities, but here the facts are to the contrary: it is the majority who want to be safeguarded against the minorities. I want to make it quite clear, Mr. Deputy Speaker, Sir, that I am not for one moment asking for an African majority in county and municipal councils: I am only asking that Africans be given a fair say in these councils because if this is not done then it is useless, quite useless, talking all the time of working together, living together, and co-operating in this country, if Africans are not allowed to have an effective voice in the various councils, boards, and committees of this country.

Now, Sir, you have a few African nominated members on these councils and they are doing a very good job, but I see no reason why such members should not be elected by those people they are supposed to represent. For

[Mr. ole Tipis]

instance, we have three African nominated members in the Nakuru Municipal Council. They are nominated through a panel of names submitted to the District Commissioner there. Also in the Naivasha County Council you have one African nominated member who is nominated by the District Commissioner after consulting the African Advisory Council there or any other interested body.

Now, Sir, on the Gilgil Rural District Council and on the Naivasha Rural District Council, if I am right, I do not think there is a single African representative member there.

Now, Mr. Deputy Speaker, I think there is a case for an increase in African representation in these councils and that it is quite justified unless someone is determined to turn a very deaf ear to the facts and reasoning then surely I think we should consider this matter seriously and adjust our policy to suit the circumstances of the day.

Mr. Deputy Speaker, Sir, sometimes I am entirely at a loss. I fail to reconcile the Government policy and attitude. On the one hand they say that there are no qualified Africans who can contribute efficiently to the deliberations of these councils. On the other hand they go on to nominate people of their own choice and place them in a very awkward position. I do not think we can have it both ways.

Either the Government should tell us that we have no chance and that there is no chance for the African to elect those whom they want to represent them on these councils, and that the Government want to nominate these people to keep them within the lines they want, or let the people elect those in whom they have confidence so that their representatives will represent them to the best of their ability and knowledge.

Now, Sir, when it comes to say that there are no qualified Africans in such places like the Nakuru Municipality, Eldoret and Kitale, and for instance in these townships which I have just mentioned, I cannot swallow this.

Nakuru is the provincial headquarters of the Rift Valley Province and we have all the brilliant Africans in that town and if you can find some to stand for the

elections of the Legislative Council then surely you can find quite a number eligible to stand and capable of standing for the elections for the municipal council. The same would apply to Eldoret and Kitale as well.

Now, Sir, my other point is that the time has definitely come for us to consider seriously the affairs of this country, and I think, Sir, that there is no harm in becoming open and opening up our hearts and talk right from the bottom of our hearts. Why should we pretend and try to conceal our thoughts to the detriment of all communities. Let us be fair and see the facts and try to put our house in order.

MR. ODINGA: Yes, yes, yes!

MR. OLE TIPIS: If the training grounds on the various things are the local government bodies then surely you cannot train someone without, Sir, but you have got to train them within; and for this simple reason I think it is time that we adjusted our attitude or our policies and made the African feel that he is part and parcel of these councils and that his interests are safeguarded by those who have the interests of the African community and interests of the whole country at heart.

Now, Mr. Deputy Speaker, usually I do not talk much, but I think before I sit down I would honestly ask the Government and the Minister for Local Government for an answer about this. I do not think there is much in this Motion. All that is in this Motion is to give a chance to all of us to learn, to work and learn together, and to co-operate together, and that is all. We do not want to have any majority in these county councils or these municipal council or boards. Let us have a fair say! When you have such rural district councils without a single African representative member, Sir, surely that is not fair at all. It is not co-operation. When you have these nominated councillors sitting on these councils and boards I cannot say that they are not fit or that they are not capable because most of them are very, very good and even if the elections are introduced no doubt most of them will get in. But let us remove them from their awkward position which they are now in. Let them have the backing and the support of the African community whom they represent.

(Mr. de Tipes)

Now, Sir, with these few words, Mr. Deputy Speaker, I beg to move:

Mr. TOWETT: Mr. Deputy Speaker, Sir, I rise to second the Motion and we have to go out into the world and into meeting places and to *barazas* and to our eating-houses trying to propagate the idea of co-operation and that the other races are willing to co-operate, and then when we come with Motions which are appealing for co-operation then you tell me I am asking for too much.

I know that all of us here want co-operation. If we want full co-operation then it is better and wiser to remove the suspicion from both the Africans and the Europeans, and we Africans must educate ourselves not to suspect the Europeans. The only thing now this afternoon which I should like to tell the House is that this Motion is brought to appeal for co-operation.

When there is a majority of one race in a meeting of any kind then the African cannot help being suspicious. We want to be equal when it means sitting in a round-table conference with equal numbers. Then we shall have no cause for suspicion whatsoever. I am saying here that we must see to it that in all the councils we get Africans being elected by their own people whom they are going to represent. Then they should go and sit in the councils. That will remove suspicion in so far as the people in those areas are concerned. I do not see why we should not understand this very elementary way of human psychology. We cannot help being suspicious if our number on a council is smaller than that of any other race.

I feel that we should really consider this Motion very seriously because it implies equality and co-operation and the appreciation of each race by the other and human dignity, when you accept this Motion and say that the Africans will be elected to represent the other Africans in our rural district councils and urban district councils and county councils, we realize as well that equality has come in, co-operation has come in and we are appreciated by the other races, that we are not suppressed, as we have been saying all the time. It is usually difficult to understand the African mentality. If you refuse to give

me water, I suspect that that water is probably better than the other ordinary water somewhere else. That is the African psychology. You give us the simple things we ask you for and when you ask for other things, which might not be simple, we say: "Good, that is co-operation". But if you refuse me something and say: "Oh, no. Do not use this thing because it is only for Europeans and Asians", I will begin to be suspicious and say: "This is a damnable thing".

Well, I do not want to go into what I call high diplomacy or politics, I am only appealing that this Motion be accepted, that the Africans be elected by the people they represent to these county councils and rural district councils and urban district councils.

I would say something else. From time to time, I have come across some people who are appointed to represent the Africans, but those persons in these councils are employees of certain persons, and at the same time the employers are also elected by their fellows to the same council. Now, I find it extremely difficult to see how employees and employers agree with or contradict one another's point of view. How can an employee say "No" to his employer, who is a fellow-councillor at that particular time? It is ridiculous. So what I am aiming at here is, when it comes to elections the Africans should elect the person they want, whether he is self-employed in his own private work; it will be all right.

Now when it comes to appointment, usually the person doing the appointing seeks advice from other people and then employees are brought into the council and the employers at the same time.

I can give you an example. I know that in some places the district commissioner is the president of the African district council, and by virtue of that presidency he is, I say, running the council. But, as I say, when he goes to an urban district council—as a district commissioner he is a member there—he then asks the secretary of an African district council to go and sit with him in the same council. Now, either these two officers are of equal rank or not. If they are of equal rank, they go and contradict each other when things come up in that council, but if they are of different rank,

(Mr. Towett) If the district commissioner is higher-ranking than the secretary, of course, the latter will, as a human being, try to respect the opinions and views of the senior officer, who is the district commissioner. And while he does that, he is not exercising his rights and he is not doing his duty; therefore he should not be in that council.

I therefore hope the Minister for Local Government and his commissioners and other officers will work hard to see that no two officers, one senior and one junior, sit in the same council, whether it is an urban district council or a rural district council or a county council. That is really damaging; it kills the human mentality as regards the exercise of thought.

Now, Mr. Deputy Speaker, I think there is not much really to say except this: that if the Government accepts this Motion it means we have reached a stage where the African will always value the co-operative attitude of the Europeans and the Asians and we will likewise appreciate this and co-operate. That is the only thing which will save us from what I call "trouble in store". Let us co-operate and work together by putting these people in the councils, according to the wishes of the people in any particular area.

Sir, I hope everyone in this House will support this Motion, because they must try to take away suspicion from the African; then we will work together. Otherwise, I do not need to pretend: if you do not kill suspicion, I cannot help being suspicious.

Mr. Deputy Speaker: I beg to second the Motion.

#### Question proposed.

THE DEPUTY SPEAKER (Mr. Conroy): I would remind hon. Members that we have got another Motion on the Order Paper. It is not necessary in order to reinforce an argument to repeat a point several times. All hon. Members listen most carefully and if they hear a point the first time then there is nothing to be added by "tedious repetition" in the words of the Standing Orders.

COMMANDER GOORD: Mr. Deputy Speaker, I rise to oppose the Motion. There is a definite implication in this

Motion that Government have not, in fact, made adequate provision for African representation on these councils. That, Sir, Government cannot accept.

That is not to say, Sir, that on this side we have not considerable sympathy for the motives behind the moving of this Motion, and great respect for the way in which the hon. Mover put his case. In replying, Sir, my remarks will apply mainly to the aspect of county councils, since that is the aspect with which I have been most concerned. I should like to say, Sir, that I am not now concerned with the interests of any community, but I am very deeply concerned with the future of local government.

Now, this Motion resolves itself into two parts. The first is that of representation. A few days ago I stressed the very great importance of producing a community feeling, a community spirit built round the smallest possible local unit, and I recognize freely, Sir, that we cannot have that unless all sections of the community are adequately represented.

Now, Sir, I would like to look at some of the facts. The hon. Mover has referred to certain rural district councils on which there was no African representation whatsoever. That is perfectly true. But those rural districts are ones which include no towns or townships or villages whatsoever. And the affairs that arise in those councils are solely, or almost solely, the affairs of the farmers; affairs such as deciding the line of a road of access. But there is one very important exception to this, and that is the village centres which are now springing up. I am perfectly certain that rural district councils will be only too eager to associate Africans with the management of those councils.

In the urban district councils, a very different state of affairs exists, for here, in all cases, we have multifacial representation. There may, of course, be differing opinions as to its adequacy. But here I would like to deal with a point stressed very strongly by the hon. Mover, and that is the availability of suitable personnel. I know, Sir, from long personal experience, that it is not possible to find a large number of Africans ready and able to come forward and participate in local affairs. If, as the hon.

[Commander Goord] Member for Southern Area suggests, we exclude employees it will be quite impossible to get anyone at all. What all these councils have done is to institute a system of ward councils or African advisory committees, which do not necessarily have to speak English, and which are in fact making a very great contribution to local government in their areas.

Now, Sir, the constitution of membership in county district councils, which includes both rural and urban district councils, is in fact decided in a scheme which is put up by the county council itself to the Minister. I myself have no doubt whatsoever that as and when suitable Africans come forward for this work those schemes of administration will be revised in order to make places for competent men.

Turning to county councils, Sir, it is true that there is usually one of three nominated members representing African interests, but there is provision for African members to be nominated by the county district councils, and, in effect, this does sometimes happen. Nevertheless, I do admit—and I have said so to my own county council in the past—that there is a strong case for some increase in that direction.

Turning to the aspect of elections, Sir, this is a more difficult problem. First, we have the fact that a local authority is a government, a local government. They are all Front Benchers; there is no opposition without responsibility. Every member has to take some responsibility for policy. And in view of the fact that these councils have to spend a great amount of money, we have to ensure that responsible people serve on them. Further, Sir, rates are paid by a very small section of the community and we have to be very careful, in broadening the franchise, to see that we do not outweigh the ratepayer, so that we get a council whose one urge is to push the rates up all the time, because under those conditions local government could not possibly work.

Thirdly, Sir, I would like to refer to—this is a personal opinion—the danger of perpetuating the communal roll. We have seen the difficulties it has led to in Central Government. If we can possibly

avoid that in local government, I feel we should do so.

My conclusion, Sir, is that indeed we must have adequate representation for Africans and I believe that we might well, in the county councils preferably, examine the possibilities of getting away from communal rolls and finding some system whereby we may elect members and yet give due weighting to the interests of the ratepayer.

Finally, Sir, I would like to make a not very original suggestion, but it is one which, modelled on this House's example, might be useful. I believe that if in the county councils we could create a bench of specially elected members, or rather an aldermanic bench, that might serve a very useful purpose. There could be so many members from each race, and by that means I believe we could get very useful citizens, from all communities, who would have a great contribution to make.

I beg to oppose, Sir.

MR. HARRISON: Mr. Deputy Speaker, it cannot be denied that, of late, there have been marked gradual increases in African representation on the local authority bodies.

Mr. Speaker, there is no doubt that as time goes more and more African representation will be allowed on these boards.

In the circumstances, Mr. Deputy Speaker, I would like to move an amendment, "That all words after 'that' be omitted and the following words be inserted instead thereof: 'This Council urges Government to examine from time to time the adequacy of African representation on municipal boards and councils, county councils, urban and rural district councils and to provide for elected African members on such boards and councils according to the needs and conditions of each local authority.'"

I would like, Mr. Deputy Speaker, to put this amendment to the Motion.

MR. ODINGA: On a point of order, Mr. Deputy Speaker, I think that amendment looks to me like being in direct opposition to the original Motion.

THE DEPUTY SPEAKER (Mr. Conroy): It is not, in my opinion, a direct negative.

MR. HARRISON: Mr. Deputy Speaker, I would just like to move this amendment to the Motion.

Question proposed.

THE DEPUTY SPEAKER (Mr. Conroy): I am of the opinion, under the proviso to Standing Order 62, that the matter of the amendment is not conveniently severable from the matter of the Motion and I therefore direct that the two may be debated together. That means that Members who have not already spoken may speak both to the original Motion and to the amendment and that Members who have already spoken to the original Motion may speak on any matter which arises on the amendment only.

MR. KHAMIST: Mr. Deputy Speaker, I find myself in a rather difficult position, now that an amendment has been moved to the original Motion, because I had already made up my mind to speak to the original Motion since I can claim to have got very many years of experience in local government and particularly in the municipal councils and boards.

Sir, nobody can deny the fact that, up to now, the African representation on municipal boards and councils in this country is far from being adequate, although the Government Member on the other side has just said that Government does not accept the fact that African representation has not been adequate.

In 1945, 1946 and 1947, when Africans began to be given opportunities of entering local government, there were only two Africans in the Municipal Council of Nairobi. There were, of course, in Nairobi very many Africans who were quite willing, able and capable of taking part in the proceedings and the deliberations of the Municipal Council, but it is a fact that cannot be denied by Members opposite or on this side that two Africans in the Municipal Council in those days were far from being adequate. There was no excuse whatsoever, although the arguments were that the Africans did not pay sufficient rates, but this is not quite true because Africans were living in greater numbers in Nairobi and they used to pay, indirectly, the rates which used to go into the coffers of these local authorities.

In Mombasa, up to this day, African representation is only two in the Municipal Board whereas there is a total population of 90,000 Africans who are, indirectly, contributing to the rates of the Municipal Authority. As Members are quite aware, the whole of Mombasa is almost entirely owned by private landowners, and these landowners are renting their plots or houses to the Africans who are in the greatest majority and, therefore, these Africans who are paying these rates are the people who are contributing to the coffers of the municipality and not these landlords who own these lands, because every time the rates go up, the rents also go up, which is clear proof that it is they who are paying the rates to the municipality. So we can dispose of that argument as being incorrect.

Now, in Mombasa, there are very many Africans, and I have said that on the Municipal Board there, there are many who are able to come forward without any pay whatsoever to contribute their part to the running of the local authorities, but what do you find, you find the other members, particularly the European group who are entrenched in that Board do not want to move a bit thereby allowing a few extra Africans to go in to that Board. I do not know the reason for that and I have really not been able to understand the motive behind it.

Services, Sir, as you know, to the local authorities are given free and spontaneously—they are not paid for, and people are ready to come forward to serve, yet they are told they cannot do so.

Now, since 1944, when representation in this Council started with one African Member, we are today 14 African Members in this Council, yet in the local authorities the representation has not gone up at all. It looks as if the members of the local authorities do not want to give way whatsoever. I do not know the reason for that, and it is for that reason, Sir, that this Motion is before this Council.

Now, speaking to the amendment which proposes that the Government should examine from time to time the adequacy of African representation, let us first of all put the whole standard of representation in proper order and after



[Mr. Khamisi] that let us examine from time to time whether it is adequate or not adequate. At present it is not adequate, the numbers speak for themselves. There is no question of examining it. Every reasonable and thinking Member can see that for himself. In Nairobi where there are about 150,000 Africans, I think there are only two or three members in the local authority. What do you want to examine there? It is quite clear that the numbers are inadequate. The amendment to the Motion does not seem to me at all reasonable. All I can say about it is this—that the Government is all the time using its majority to try to defeat every move which is brought from this side of the Council. This is a very reasonable move. We did not say that we want a majority in the local authorities, we have only said that we want adequate representation which is not there. Now, if you want to defeat that, we did not go to any numbers, we only said adequate representation.

Now, for the Municipal Board of Mombasa, for instance, I would say that adequate representation would have been complete equality and parity of numbers and I think that is what we should aim at in all these local authorities, although we have avoided saying that at present.

Sir, if there has ever been a reasonable Motion before this Council, it is this one because it will not increase the expense of running local authorities; all that it will do is to make these organizations and bodies more representative and make them have the confidence of the Africans who are in a majority in this country and to put forward the views of the Africans to these boards to try to influence the correct procedure and correct methods of dealing with Africans in these local authorities.

Mr. Deputy Speaker, Sir, during the policy debate, one of the Ministers on the other side of the Council said, when I put the question of the way in which the local authority in Mombasa dealt with the Changamwe Housing scheme with the result that the houses even now are half empty—he said that I was the chairman of the Housing Committee. That was quite right, but as the chairman only, what influence did I have? I had nobody else to support me, I was

completely on my own, and whatever proposition I was able to put forward was rejected by the majority of other people who thought they knew what the Africans wanted better than I did. Because I had no other people to support me, it was impossible for me to do anything except to accede to the views of the majority and those views have proved to be quite wrong because to this day half the houses are still empty.

MR. NGOME: Mr. Deputy Speaker, I rise to support the original Motion as it was put by the Mover.

In rejecting the amendment to the Motion, it was suggested that after the word "that" et cetera, et cetera . . . the Government should examine from time to time".

Now is it suggested that the Government has not been examining what has been going on in the country? Is it not their duty to keep everything under constant review and not to rely upon this Council to examine? It is not up to this Council to examine. The Government are there to govern and to see that they have got everything under constant review. That is my contention, and therefore, Sir, I will not support the amendment which has been put because that is the duty of the Government.

Secondly, in that amendment, nothing has been mentioned as to whether there is some flaw in the Motion which has been put. It is straightforward, pure and simple and if there was a cut argument as to why that cannot be done, it should have been put forward by the Government Benches. As far as I am concerned, I think it is a just one to ask for and I do not feel we are asking for too much.

To avoid tedious repetition, I will only follow up one or two of the points raised by the Nominated Member who said, for instance, when giving an example of rural district councils which mainly deal with matters connected with farms, but at the same time, he mentioned the point of village centres. Who does he think will live in these villages? These villages are for the Africans living on farms, so naturally somebody has got an interest in them and in that instance, he has got no say.

Now, when he comes to the point of saying that ward councils should be a substitute for representation on the

[Mr. Ngome] African councils, then, of course, the ward councils are not there for that purpose.

COMMANDER GOORD: Sir, on a point of explanation. I did not say they were a substitute. I implied they were to be a precursor to fuller representation.

MR. NGOME: Granted. But you said they were doing useful work and advising the councils concerned, without hearing the people directly in the councils, they cannot get results.

I have been a member of the ward council and I know how much advice has been given to the local government in Nairobi and I know how much of it has been accepted and how much of it was thrown out—out of hand in most cases. Therefore, if the ward councils are going to be accepted as representation, then obviously it is not going to be in the interests of the people concerned.

I should like to add to the thoughts put forward by some of my friends that I think this is a fair Motion and I suggest that the amendment—asking the Government to examine from time to time is null and void.

Mr. Deputy Speaker, Sir, I beg to support the original Motion.

THE MINISTER FOR LOCAL GOVERNMENT, HEALTH AND TOWN PLANNING (Mr. Havelock): Mr. Deputy Speaker, the first point I should like to mention is that raised by the hon. Specially Elected Member who has just sat down. The reason for the amendment is that Government is always examining—that is the whole point of the amendment. The representation of Africans on different local authorities has been increased, is being increased and will be increased in different areas according to the times and conditions and according to the requirements of those areas.

All hon. Members must admit that the conditions in different areas in this country are not the same. Therefore the composition and constitution of the councils with jurisdiction over separate areas cannot be the same either.

Hon. Members have stated that the representation is very low, and I think the hon. Member for Mombasa Area stated that the representation at this

moment in Mombasa is only—I think he said—two: But the hon. Member knows very well, as he has been a member of the Mombasa Municipal Council, that long discussions have gone on and now have been finalized—and, indeed, I have stated in this House before that the new constitution for the Mombasa Municipal Council will be brought in next year, when there will be four elected African members and one African alderman. Now, it is quite unfair to get up and say that the present representation on Mombasa Municipal Board is not enough, without going on and recognizing the fact that the Government has taken that matter into consideration and has finalized negotiations to improve and increase the African representation and to bring in the elected principle in that area.

The other point of Nairobi has been discussed. On that, too, I have already told this House before that there will be a new constitution in Nairobi as well, next year. As I say, I have told hon. Members here previously, but they choose to ignore that fact when they try to make points from the Opposition Benches on the inadequacy—as they put it—of African representation. There will be four elected Africans on the Nairobi City Council next year. The delay in implementing those particular amendments is the drawing up of the rolls; I have explained this before to hon. Members two or three times in this House. I am glad to say that I have now been advised that the electoral rolls will be completed within a fortnight, so we can see that the elections and the increased representation will come off very soon.

[Mr. Deputy Speaker (Mr. Conroy) left the Chair]

[Mr. Speaker (Sir Ferdinand Gwendish-Bentinck) resumed the Chair]

Also I understand that it is very likely—although I certainly cannot commit the Council—I understand it is very likely an African alderman will be elected next year in the City Council of Nairobi.

Now, Sir, in other areas—the hon. Nominated Member, Commander Goord, has put a considerable number of points which I do not want to repeat, but I

[The Minister for Local Government, Health and Town Planning].  
do want to say this: that in the county council areas there is, I believe, in certain places, a need for increased African representation, and that matter is being examined and will continue to be examined, and something like what has happened in Nairobi will come before this House in due course.

I have found that there is no provision for direct elections of either Africans or Asians in urban district council areas of the county councils. That matter is now being examined by my Ministry and provision will have to be made by amendment to the Ordinance. Whether the election that might come out of all this should be on a communal basis—and here I should like to say that I think the hon. Nominated Member used the wrong word—when he said that a continuation of the elections in local authority areas on a communal roll basis might lead to trouble, I think he meant to say "on a communal roll basis"—whether the elections shall be on a communal roll basis, whether they shall be in some other way, whether it is the right and proper thing to adopt the suggestion that in councils there might be aldermen—those matters will be examined, and I am very pleased to hear suggestions of that sort being brought before this House.

For the interest of hon. Members in other areas, the local authorities—that is, the Municipal Boards—both of Eldoret and Kitale are re-examining their constitutions, and the spirit behind this particular Motion—and, indeed, the same spirit is behind the amendment—exactly the same spirit—will be kept in mind when we are discussing the changes of constitution there.

The Kisumu Municipal Board, I am informed, is also considering some amendment to their constitution.

I want to assure hon. Members that the spirit behind their Motion is agreed and accepted by the Government, but I cannot accept the flat statement that is in the original Motion—or the implication in the original Motion—that in all areas African representation is inadequate, because it is not in all areas. It may be in some. For that reason the amendment has been suggested and

moved, so that the whole thing is more elastic and we continue with our policy—which I repeat is our present policy—to increase African representation as and when it is right and proper as and when the conditions fit.

Now I also would like to mention, Sir, the point on availability, and on that matter of availability of members for local authorities there is a point that has not yet been brought up in this debate. Will hon. Members please remember that the work and the appointment of a councillor in a local authority is completely gratis. There is no remuneration for it. That is a principle which I have stated before in this House we wish to remain and to develop, because that, I believe, is the whole spirit behind local government. We have found that it is very difficult to find Africans to take on such responsibilities when there is really no remuneration at all. It does not apply in all areas, but it does apply in some, and I think hon. Members, if they think it over, will realize that in the smaller communities, with a smaller number of people—Africans—it would so apply, and it does.

Now, Sir, the point brought up by the hon. Seconder to the Motion, about a master and his servant, shall we say, sitting on the same council, was a very interesting point, and I am very glad he brought it to my notice. I know what he is referring to. I understand what council he is referring to and I will go into it.

I would also like to say that I thought the hon. Mover put his points very well and very reasonably, and I could not agree with him more when he stressed that his whole intention was to ease and help co-operation, and that, as hon. Members know, is exactly what I wish to do in local government.

I do not think there were any important points that I need to answer that were brought up, other than what I have touched upon. I merely wish to say that the wishes, the spirit and the thought behind the speeches of hon. Members have been truly noted, that Government has proved its purpose and the truth of what I have been saying—the sincerity—in the moves that have been made lately in Mombasa and Nairobi and the examinations that are going on in other

[The Minister for Local Government, Health and Town Planning].  
areas, and I assure hon. Members that the remarks they have made in this debate will be taken into consideration and they should have no fear that African representation will not continue to increase in local authorities as and when it is desirable and the people are available.

MR. ARAP MOR: Mr. Speaker, Sir, I shall not take much of the time of the House. I have got a very few observations to make on the debate and on points put forward by the Minister for Local Government, Health and Town Planning.

He did not convince us, Sir, that there is adequate representation on local government. I entirely agree that an African, as I have already said before, an African living in town, is prepared to devote his spare time to shaping the life of the town voluntarily. I should like an African to have a share in the process of governing in any local authority. I should have thought that the Minister ought to have given us a real survey of what is happening in all local authorities, particularly, rural councils and towns and townships and also municipalities.

He referred to Mombasa and to Nairobi, because of pressure brought about by Members from those areas. What about Nakuru? Nakuru is the second in seniority to Nairobi and where we have a mayor. He never suggested that there will be an African alderman, or whether his examination of local authorities is going to bring us more members on Nakuru Municipal Board.

Further, Mr. Speaker, the hon. Nominated Member suggested that we should give much more weight to people on local authorities—particularly those who pay more towards the development of rural councils. Well, I think Africans these days also contribute more towards paying for certain services. What I should like, Sir, is this—that in certain local authorities you find there are more and more nominated elements and a few appointed elements; and those few who are appointed to represent certain sections come in and the business and the proceedings are conducted in English;

after which the Africans who speak Swahili are told that the decision of the council has been such, and therefore the council should adopt such proceedings. What opportunity do they have? I think the Minister ought to formulate some sort of standing orders, as it is done in England for local authorities—ways which they should follow—which should bring about a greater understanding among all communities living in such areas. Furthermore, Sir, I should like to say that when bringing rational arguments to support any argument, put forward, no one denies such argument, but the fact remains, Sir, that most Africans are affected in many ways: there is control of the movement of animals—there are animals in certain townships—and also regulating markets, and also providing a water supply, and building and letting of houses. Such things are very important to African town-dwellers. Therefore, the Minister should take these things into consideration which might and would improve local amenities as such.

I need not say more, Sir, as I have already said that I need not say much at this stage. I have already pointed out that there should be adequacy of African representation on local bodies, and I would urge the Minister to consider an African alderman for Nakuru Municipal Board.

Mr. Speaker, I beg to oppose the amendment.

THE SPEAKER (Sir Ferdinand Cavendish-Bentick): According to the arrangements that have been approved by the House, I will now call on the Mover to reply.

MR. OLS TIPS: Mr. Speaker, Sir, I am really a bit disappointed at the way Government received my Motion, because I think as I put it before originally, the whole intention was to try to provide adequate African representation on the various local government bodies of this country. When the Minister for Local Government said that he has adjusted the procedure of African members on the Nairobi City Council, the Mombasa Municipal Board, surely that does not imply that the Africans are adequately represented throughout the other various bodies in the country? I think, Mr.

[Mr. Ole Tapis] Speaker, that we have got to be a bit cautious and careful in the way we handle the various affairs. I mean, where there is a case, let us accept it in all fairness. Where there is no case, let us reject it; but here, I still think that there is a case, whether the Government simply wants to amend it because it does not want to lose face. I still have to be convinced. For, Mr. Speaker, when you have no African representative member at all on a rural district council, and the excuse given there is simply that the deliberations of these rural councils have nothing to do with the Africans, except the European farmers—I cannot help asking—who are working on those European farms? Surely it is the Africans, and they have an interest as well.

MR. ODINGA: Yes, yes!

MR. OLE TAPIS: Now, on the other hand, you say that they are not paying anything in the way of rates in the small townships. Take a small township like Naivasha or Gilgil; there you have the Indian and Asian traders who pay more than the Europeans in the townships in the way of rates. Well, why? Is there no parity between the representation of the two communities? Well, as I have said before, surely I am completely disappointed, because when we go on talking about safeguarding the minorities, the interest of the minorities, when the time comes when it is not the interest of the minorities which is to be safeguarded, but the interest of the majorities, then the minorities of course have the upper hand—well, let them be on the top. Are we to ignore the majorities. That is not fair! It is not fair play at all, Sir! Now, Mr. Speaker, Sir, as I have said before, I am completely upset, and as such, I have even lost my sense of arguing the whole of this Motion, because I really thought that the case was there; it is still there, in all honesty, it is still there. If these county councils and the Government can find people to nominate to these councils, surely the same people can be elected? But simply because you want somebody of your liking or of your choice, they go on ignoring the facts.

Now, the other question mentioned by the Minister was that the councillors on this council are not paid at all. That is quite clear in the African mind. We

are out to serve the country without any regard to payment in the way of money or anything, and I believe most of us here have served on these councils and devoted our time and all our energy to these councils. There are quite a number of others who are as willing as we are if the chances and the opportunities are there, and are afforded to them.

As I was saying, I think when the hon. Nominated Member moved his amendment, I do not think he really moved it of his own—

MR. HARRISON: I moved the amendment out of my own conviction in the present circumstances.

MR. OLE TAPIS: Well, I accept that explanation, Mr. Speaker, Sir, with some reservations.

THE SPEAKER (Sir Ferdinand Cavendish-Bentinck): Order, order! You cannot accept specific explanations from any hon. Member with reservations.

MR. OLE TAPIS: Thank you, Mr. Speaker, Well, if you will allow me, Sir, I will put it in my own words. I think, even in Mombasa, in the Mombasa Municipal Board, there is room for more African representation, but since the hon. Nominated Member was playing the tune of his master's voice, I do not blame him for that, Mr. Speaker—

MR. HARRISON: Mr. Speaker, I object to that. (Hear, hear.) I would like to state that I moved the amendment, Mr. Speaker, on my own conviction, knowing full well the proposals of the Municipal Board of Mombasa next year to make more substantial increases in African representation.

THE SPEAKER (Sir Ferdinand Cavendish-Bentinck): I think, Mr. Tapis, you should withdraw your remark.

MR. OLE TAPIS: Mr. Speaker, Sir, I had no intention whatever of hurting my hon. friend at all, and I withdraw.

Now, Mr. Speaker, I do not think there was very much for me to reply to in this debate, because it went to the extent of showing that really there is a case for an increase in African representation, and I can only at this stage urge the Minister for Local Government really to go into the matter and make all necessary adjustments because there are many to be adjusted—adjust the

[Mr. Ole Tapis] whole machinery, overhaul it if you want to, and let us have something better than having no representation at all on some of these councils, having only one on the whole county council, and having two on a municipal board, and so forth—surely, we are really perturbed when this is so.

Before I sit down, I should only like to thank my hon. friends on this side of the House who have contributed so much to this Motion: I would also like to thank the hon. Members opposite—

AN HON. MEMBER: For what?

MR. OLE TAPIS:—for an excellent defence which they tried to put up for a case which does not exist, and I hope that the Minister will do something to put things right.

With these few words, Mr. Speaker, I beg to move.

The question that the words proposed to be left out be left out was put and carried.

The question that the words to be inserted in place thereof be inserted was put and carried.

The question on the Motion, as amended, was put and carried.

#### ADJOURNMENT

THE SPEAKER (Sir Ferdinand Cavendish-Bentinck): That brings us to the time for the interruption of business. I therefore adjourn the House until 9.30 a.m. tomorrow, Friday, 13th June.

*The House rose at fourteen minutes past Six o'clock.*

Friday, 13th June, 1958

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

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

#### PRAYERS

#### MOTION

#### ADDITIONAL DAYS FOR WAYS AND MEANS

MR. ALEXANDER: Mr. Speaker, Sir, I beg to move that in accordance with Standing Orders additional time as necessary but not exceeding two days be allotted to the consideration of proposals in the Financial Statement for imposing, renewing, altering or repealing any rate, tax or duty for the period 1st July, 1958 to 30th June, 1959.

Mr. Speaker, Sir, this Motion is purely formal in order to extend the days of Ways and Means, to give us an opportunity to have a full discussion, particularly on income tax; but I am bound to say, Mr. Speaker, that in this context and in relation to the Motion of which I gave notice yesterday, I have had certain discussions with Government Ministers and I believe that if they were prepared to agree that that Motion be taken as part of the time of Ways and Means, that in fact the time in Ways and Means for the debate on rates and allowances would be considerably reduced and that we would not really need this time. I am hoping we may come to some successful conclusion in that respect, Mr. Speaker.

SIR ALFRED VINCENT seconded.

#### Question proposed.

THE CHIEF SECRETARY (Mr. Coutts): Mr. Speaker, Sir, in answer to the last point which the hon. Mover has just made, I think I really must make the Government's position clear in this matter.

The Motion of which notice was given yesterday was a wide Motion, covering a great number of points in respect of income tax generally. I have discussed this matter both with yourself and with the Chairman of Committees, and we feel that these same points can be covered in Ways and Means. Therefore the House will have the chance of debating

[The Chief Secretary]

all these points for the three days which the Sessional Committee has allotted to the discussion of Ways and Means of income tax. If, however, Ways and Means in itself closes before the five days allotted for it in our present programme, I cannot, on the Government side, without consulting the Sessional Committee, say that necessarily that that Motion—which is a group Motion and therefore must be taken in Government time—will necessarily be allotted the priority, and therefore hon. Members must consider this point very carefully.

MR. STADE: Mr. Speaker, I would ask Government first of all to agree to this Motion, secondly to consider the desirability of allotting to the hon. Member for Nairobi West's Motion, any time that is saved on Ways and Means by reason of his Motion.

It is perfectly logical, because his Motion covers part of what might have otherwise been discussed in Ways and Means, but will now be excluded on account of the rule against anticipation. The effect of doing what he and I suggest is simply that over the same period you allot the discussion to two separate parts; one dealing with the subject matter of legislation of this Council, the other dealing with the subject matter of Central Legislative Assembly, instead of dealing with it all in one piece over the proposed period. It will not take any longer. It will make, I believe, Sir, a very desirable separation of the two principal subjects.

The question was put and carried.

#### COMMITTEE OF THE WHOLE COUNCIL

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

#### IN THE COMMITTEE

[Sir Ferdinand Cavendish-Bentick, K.B.E., C.M.G., M.C., in the Chair]

*The Native Lands Trust (Amendment) Bill*

Clauses 2, 3, 4, 5 agreed to.

Clauses 6, 7, 8 and 9 agreed to.

Clauses 10, 11, 12, 13 and 14 agreed to.

#### Clause 15

THE MINISTER FOR AFRICAN AFFAIRS (Mr. Johnston): Mr. Chairman, I beg to move that clause 15 be left out of the Bill and that the following clause be inserted in place thereof:—

15. The First Schedule to the principal Ordinance is amended—

(a) by substituting for the first paragraph thereof a new paragraph as follows—

The Native Lands, the boundaries of which are set forth in this Schedule, are more particularly delineated on Boundary Plans Nos. 156, 179 and 352, copies of which, sealed with the seal of the Survey of Kenya, are deposited in the Survey Records Office, Survey of Kenya;

(b) by substituting for the several items which appear therein the corresponding items set forth in this Ordinance; and

(c) by adding thereto the new item 10 set forth in the said Schedule.

The reason for this amendment is to avoid possible confusion in the reference to the boundary plans involved.

*Question proposed.*

Question that clause 15 be left out and carried.

Question that new clause 15 be inserted put and carried.

Clause 15, as amended, agreed to.

#### Clause 16

THE MINISTER FOR AFRICAN AFFAIRS (Mr. Johnston): Mr. Chairman, I beg to move that clause 16 be left out of the Bill and the following clause be inserted in place thereof:—

16. The Second Schedule to the principal Ordinance is amended—

(a) by substituting for item (7) therein a new item as follows—

(7) The Kipsigis;

and

(b) by adding thereto a new item as follows—

(10) The Meru.

*Question proposed.*

[The Minister for African Affairs]

Question that clause 16 be left out of the Bill put and carried.

Question that—be inserted put and carried.

Clause 16, as amended, agreed to.

#### Schedule

THE CHAIRMAN (Sir Ferdinand Cavendish-Bentick): There are several amendments to the Schedule. Will somebody propose them?

THE MINISTER FOR AFRICAN AFFAIRS (Mr. Johnston): Mr. Chairman, Sir, I beg to move that the Schedule to the Bill be amended—

(a) by substituting for paragraph 40 to 49 (both inclusive) of item (4)—Boundaries of the Kerio Native Land Unit—the following paragraphs—

thence up-stream by that river to its intersection with the eastern boundary of Lembus Forest Reserve (L.R. No. 503);

thence northerly by part of that forest reserve boundary to its north-eastern corner;

thence westerly by the northern boundary of that forest reserve to a beacon A.1 at the south-eastern corner of L.R. No. 8003;

thence northerly by the eastern boundary of that portion for a distance of 624.3 feet to its intersection with Koinoihi River;

(b) by substituting for the word "LUMBWA" which appears in the heading to item (7) thereof, the word "KIPSIGIS";

(c) by deleting the final paragraph thereof, which begins "All the aforesaid boundaries. . ."

*Question proposed.*

Question that the words proposed to be deleted, be deleted, and carried.

Question that—be inserted put and carried.

Schedule, as amended, agreed to.

Title agreed to.

#### Clause 1

THE MINISTER FOR LEGAL AFFAIRS (Mr. Griffith-Jones): Mr. Speaker, Sir, before completing the consideration of this Bill in Committee may I draw your attention to two small formal errors in the new clause 15 which has been replaced in the course of the Committee's proceedings? There is in paragraph (b) of that clause an omission where it says ". . . set forth in this Ordinance". It should say ". . . set forth in the Schedule to this Ordinance".

In paragraph (b), Sir, purely for clarity, may I suggest that the figure "10" be enclosed in brackets, because it is in brackets where it appears in the Schedule? And in order to avoid any confusion, as between the Schedule to the principal Ordinance and the Schedule to this amending Ordinance, may I suggest that instead of the words "in the said Schedule" in paragraph (c) we say "in the Schedule to this Ordinance"? These are purely formal corrections, Mr. Speaker, which I think will avoid any ambiguity or confusion.

May I possibly suggest that in the exercise of your powers, Sir, these being formal errors, and having been drawn to the attention of the Committee, the Committee would be agreeable probably to your making these formal corrections in exercise of your powers under Standing Orders.

THE CHAIRMAN (Sir Ferdinand Cavendish-Bentick): There does appear to be a slight typing error in the one case, and a slight further clarification would be achieved if we accepted the verbal alterations proposed by the Minister for Legal Affairs. Therefore, subject to the agreement of the Committee, under Standing Order 98 (2), I would propose in sub-section (b) of a new clause 15 which we have just agreed to insert the words which were accidentally left out, which are "the Schedule to", which means that sub-section will read "by substituting for the several items which appear therein the corresponding items set forth in the Schedule to this Ordinance". And in sub-section (c) of the new clause 15 making the alteration suggested, which will read as follows: ". . . by adding thereto the new item 10 set forth in the Schedule to this Ordinance", instead of "in the said Schedule".

[The Chairman]

If nobody has any objections, I will make these alterations under my powers.

Clause 1 agreed to.

**THE MINISTER FOR AFRICAN AFFAIRS** (Mr. Johnston): Mr. Chairman, Sir, I beg to move that Committee do report to Council its consideration of the Native Lands Trust (Amendment) Bill, and its approval with amendment.

Bill to be reported with amendment.

The question was put and carried. -  
Council resumed.

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

## REPORT

### *The Native Lands Trust (Amendment) Bill*

**THE MINISTER FOR AFRICAN AFFAIRS** (Mr. Johnston): Mr. Speaker, I beg to report that a Committee of the whole Council has considered the Native Lands Trust (Amendment) Bill and has approved the same with amendment.

Report ordered to be considered to-morrow.

## COMMITTEE OF WAYS AND MEANS

[Sir Ferdinand Cavendish-Bentinck, K.B.E., C.M.G., M.C., in the Chair]

## MOTION

### EXCISE DUTY

**THE MINISTER FOR FINANCE AND DEVELOPMENT** (Mr. Vasey): Mr. Chairman, I beg to move:—

THAT, subject to the enactment of the legislative provisions set out in a Bill entitled the Excise Tariff (Amendment) Bill, 1958, published in the Official Gazette on 8th May, 1958, and to be introduced in the present session, the rates of Excise duty be amended in accordance with the provisions of the said Bill.

This, Sir, as I am sure the Council is well aware, is the procedure whereby before the introduction of a financial bill, the Committee is enabled to express its opinion upon the general financial principles and proposals expressed in that bill. This particular Motion, Sir, deals with the proposals under the Excise

Tariff (Amendment) Ordinance. I did say, Sir, in the Budget speech on 7th May that it was intended within the import duty field proposed to increase the rate of customs duty by one cent per pound. That will be dealt with at the time of the Customs Tariff.

It is also proposed that the rates of excise duty should be fixed at Sh. 6/72 per hundredweight, which replaces the present figure of Sh. 5/60 per hundredweight; if my arithmetic is right, that is one cent per pound. At the same time, however, the Sugar Consumption Tax is proposed should be repealed, and that, Sir, will be found in the Motion which is, I think, at the present moment third on the present Order Paper. Of course, the question of whether the Sugar Consumption Tax will be repealed will depend on whether this particular Bill is passed.

At the same time, Sir, in this Bill, it is proposed to make a small concession to the peasant farmer, on which all three territories have agreed will be of value to those small producers of sugar, although it will not have a significant effect in so far as loss of revenue is concerned. It is proposed therefore to exempt from excise duty brown sugar produced by the open-pan method by peasant farmers; that is, in plant and in premises approved by the Minister in the manufacture of which neither a vacuum pan nor a vacuum evaporator has been employed.

I think, Sir, that is all one need say upon this particular resolution, and I beg to move.

*Question proposed.*

The question was put and carried.

## MOTION

### CUSTOMS DUTY

**THE MINISTER FOR FINANCE AND DEVELOPMENT** (Mr. Vasey): Mr. Chairman, I beg to move:—

THAT, subject to the enactment of the legislative provisions set out in a Bill entitled the Customs Tariff Bill, 1958, published in the Official Gazette on 8th May, 1958, and to be introduced in the present session, the rates of customs duty be amended in accordance with the provisions of the said Bill.

[The Minister for Finance and Development]

This, Sir, I imagine, will not go through with as little comment as did the previous resolution. It does, however, cover the situation which I outlined in the Budget speech in so far as the need for customs revenue is concerned.

I did say then, Sir, that I would like to pay tribute to the Commissioner of Customs for the tremendous work that he has undertaken and carried through in consultation with the Treasuries of the three East African territories in undertaking this Bill which is indeed a complete revision of the Customs Tariff. The aims of the revision have been to remove anomalies by adopting as far as possible a consistent flat rate to achieve the greatest possible administrative simplicity and certainty for the convenience of the public and to exempt from duty the largest possible range of producers' materials, implements and tools in order to encourage local industry and development.

Now, Sir, neither the Commissioner of Customs nor myself—nor I imagine anyone in the Treasury—would pretend that a major operation of this kind could go through without there being some mistakes at some point, and some anomalies created which will have to be remedied in the time to come. But these have been the aims of the policy behind the revision of the Tariff in so far as the public are concerned. So the rates structures have been examined and most of the items liable for import duty now fall into one of three categories; a general rate of 22 per cent *ad valorem*; a general assisted rate of 11 per cent *ad valorem*, which will apply to those goods that it is felt should pay some duty but not at the general rate; and a protective rate of 30 per cent *ad valorem*. There are, of course, in addition the special rates of specific and *ad valorem* duties which apply to such goods as spirits, tobacco goods, toilet preparations, motor vehicles and piece-goods; and in those cases, either the special rates have been introduced or retained in order to protect revenue while ensuring as far as is humanly possible that the heaviest burden falls on those goods which are best able to bear it.

The Commissioner of Customs submitted his proposals to the three East African Governments, and as is common between us, where we have got to arrive at some uniform level of operation, we had many consultations which we may say were carried forward almost entirely in a spirit of understanding of each other's troubles and difficulties, and in the end the Governments modified these proposals, and have put them forward in the Bill which is the subject of this particular Motion.

Now, Sir, in the main Budget speech, I explained the arguments with regard to the various alterations on duties almost in detail and I do not propose, Sir, to go quite into so much detail today because I am sure that hon. Members would enjoy reading that speech again in the light of events that have since happened, if they wish to, and in any case, they can look at the Bill now and see for themselves the proposals that are before the Committee. A number of items, ranging from, as I said at the time, biscuits to coco matting, and wireless sets to umbrellas, will cease to appear in the Tariff under specific items, and they have been transferred to the final omnibus item under which duty at the rate of 22 per cent is imposed.

For a full range of items at present exempted from duty, the scope of the exemptions has been enlarged mainly to encourage local industry and to remove anomalies. The suspended duty on frozen or refrigerated meat has been increased from 22 per cent to 30 per cent, to protect local production; and the duties on bacon and ham have been reduced to the general protective rate of 30 per cent. The rate of suspended duty on wheat, sacks, gunny bags andessian has been increased to 22 per cent to conform to the general structure of the tariff rate. The suspended duty on these items is not at present enforced.

It is also suggested in the Bill that the rate of suspended duty on rice in the grain should be amended to Sh. 18 and on maize and maize-meal to Sh. 8 per 100 pounds. The amounts of duty which have actually been put into effect are, of course, as hon. Members well know, Sh. 10 and Sh. 3/50 per 100 pounds.

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I did, Sir, at the time outlining the reason for the suspended duty on rice being an applied duty. I pointed out that it was the result of a Government policy of many years, trying to encourage the growth of rice in Kenya by guaranteeing a favourable producer price under the Agriculture Ordinance, and also that it was part of an exercise in interterritorial co-operation, since this will assist Tanganyika which has protected its own rice industry in this way since 1956. I think, Sir, that that point has been made perfectly clear. I did, at the same time, say that there would be no restrictions on the importation of rice from any destination after 31st May, and it was believed by the Government—with, I think, a certain amount of reasonable hope—that the profit margin which had been enjoyed by retailers under the restriction method would now shrink under the pressure of free competition.

Hon. Members will notice that there are in the Bill minor amendments in certain groups such as shall, onions, garlic, currants, dates, ghee and margarine. The duties on special foods for children have been removed. Now, the duties have been entirely removed from a number of goods in order, as we said, to assist local industry and development. These are mainly constructional items, such as bolts, nuts, scaffolding wire, printing ink and mechanics' tools, but they also include lawnmowers.

I have already had representations from certain local firms that there are groups within this particular field of the removal of duties which may be adversely affected. I shall listen to their representations and have an investigation made into them, and then discuss it with my colleagues in the other territories; I will then get some idea of the overall picture, and if it is felt that there is something in their case it will mean, at some future time, an alteration and amendment of that part of the tariff. But I must emphasize that the case has still to be investigated.

During the main debate, the hon. Acting Corporate Member for Commerce and Industry raised a point with regard to the exemption of gypsum, asbestos roofing and tiling, and he ex-

pressed the opinion that the exemption of these particular items, especially gypsum, from customs duty might place the local industry at a disadvantage. I did say, Sir, in my reply that we found this just a little strange, because, of course, it had been largely, I think, an advice from the industry in which the hon. gentleman was interested that we had taken this particular step. We are, however, looking at it as I promised, and if the case is considered to be a good one and the exemption from duty proves to be doing harm to a local industry, as the hon. Member suggested, then we shall certainly take steps to rectify the anomaly and put our local industry back on a good footing—if it is a good footing.

I must, however, again say that the investigation is not yet complete and that we shall have to wait until it is before any action can be taken. My hon. friend, the Secretary to the Treasury, has, however, been going into it in detail and it may well be that we shall be able to make the decision before the Committee stage of the Bill is reached.

This too, Sir, might be a good time to say that we have also had representations from paper bag manufacturers in Kenya who say that this relief from duty which had been put on certain groups of paper bags has had, or is going to have, a detrimental effect on their trade. We have asked them to put their case forward. Sir, we have already had the first investigations into it, and again, if it is proved that their case is a good one, we shall try to take steps to rectify the position.

The fact that in all these cases the rectification of the position will mean a small addition to the revenue is, I assure the Committee, quite coincidental.

The next point, Sir, which I think is of interest should be mentioned, however shortly, and that is, of course, the measure designed in this Bill to assist the whole hotel industry by the exemption of all lifts from duty, instead of only passenger lifts, as at present. I did say in the main speech, Sir, that the bulk of fixed equipment used in hotels was already duty-free. I said that we had not found it possible—and I can assure the Committee that it was gone into at very great length—to exempt, or to find a formula to exempt, certain other items,

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such as stoves, from duty, although we were satisfied that they were for use in the type of hotel that would cater primarily for the tourist industry. As we have not been able to find a formula which would not leave a very large loophole in the tariff structure, we have taken the step—and I take this opportunity of repeating this and again bringing it to the attention of the people concerned—of saying that we do wish to afford assistance in cases of this kind, appropriate cases, and that therefore the Government is prepared to consider the ex-gratia refund of customs duty paid on fixed permanent equipment, such as stoves, in major hotels catering for the tourist trade. I hope, Sir, that the hotel industry—which is not usually backward in coming forward in these matters—will not forget that that offer still stands.

I think, Sir, that, as I am perfectly sure that it will be raised by certain hon. Members opposite, I must, of course, draw the attention of the Committee again to the fact that the duty on ghee will be changed, and that it will be included with margarine, vegetable fats and compounds, etc., now to pay a duty of 30 cents per pound or 22 per cent *ad valorem*, whichever is the better.

Now, Sir, another item, to which I must draw the attention of the Committee, is the fact that, in previous years, cheap wireless sets were imported duty-free, because it was thought that this would help the listener, particularly the African listener, to obtain a cheap set without having to bear the burden of customs duty. Unfortunately, as is sometimes the case when one makes a concession of this kind for a particular purpose, it began to be subject to very severe abuse and a lot of sets came into the country conveniently just under the margin, and the benefit was not passed on to the consumer. This was even done to the extent, we found, of sets being imported under this regulation, the parts then being broken down, being set up again and sold as the more expensive type of set, customs duty having been evaded in that way. This, Sir, is one of the difficulties when Government starts to make a concession on small items, which can be easily, shall we say,

manoeuvred to the benefit of the gentlemen concerned.

Under the circumstances, Sir, we have therefore removed the duty-free exemption from those wireless sets.

Now, Sir, the most important of the proposed changes which were gone into in great detail in the policy debate, were, of course, those connected with blankets, boots and shoes, cardigans, shirts, stockings and hose, other clothing and cotton piece goods. I do not propose, Sir, to weary the Committee by again reading through in detail all the alterations which have been made in this class of goods. We did have considerable debate on this, and figures were thrown backwards and forwards across the Floor of the Council, which tended to prove to the minds of some hon. Members that the duty had gone up 500 or 600 per cent, but which, on investigation, also tended to prove, certainly to the satisfaction of the Government, that, whatever was happening to the duty, the effect on the goods, except in a very few cases, was a minor effect, and that the effect on the general cost of living structure was negligible.

However, Sir, we must try to be honest with ourselves, and address ourselves to the problem which is the real problem in the imposition of duties of this kind, the need to produce revenue. Now, Sir, I have had the pleasure—not altogether undiluted, I admit—of sitting on these benches now for some 15 Supply days, listening to expenditure being debated. With very, very rare exceptions, and then only in an undertone, have I heard anyone suggest any reduction of expenditure. The hon. Member for Mombasa will note that I said: with very rare exceptions and then only, I think, in an undertone. I cannot remember—maybe my memory is at fault, Sir—any hon. Member getting up and moving a reduction in expenditure on any specific point.

AN HON. MEMBER: It would have been waste of time.

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): No, Sir, it would have been no waste of time, for at least we should have known that the hon. Members opposite were prepared to sacrifice some particular service. We have, of course, no indication from them

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as to what service they would sacrifice, except possibly the services of one or two of the hon. gentlemen on the Front Bench this side! But, Sir, if we are going to carry on with the level of expenditure which is being demanded, then the revenue must be raised, and it must be raised in the way which will do the least possible harm to the overall structure of the country. I do not propose, of course, Sir, to think that anyone is likely to get up and say: "We welcome taxation", and it would indeed, I suggest, be rather a foolish dream to think that any measure which imposed taxation upon a people would be welcome. But if, as I repeat, we are to have the services, then the revenue has to be found. If the country is content with a lower standard of service, then it is possible that taxation such as this could be avoided. But even then we must review continuously the position as to where the impact of this revenue raising falls.

At a later stage in the Committee, I have no doubt that we shall hear views expressed as to the fact that it should not fall in other areas, just as I imagine we are about to hear views expressed that it should not fall in this particular field either.

I think, Sir, that covers the main points which are dealt with in this particular Ordinance. If this Ordinance is passed, then indeed there will be an accrual to the revenue, we hope, of something like £1,000,000 to £1,500,000, if the present trade figures are maintained. That is important and that is essential. And I would ask hon. Members to remind themselves in this, as in all other debates on the raising of revenue, that if the Government yields to demands that the revenue shall not be raised from this particular point, or in this particular way, the Government can only do so if it is prepared—and the Committee with it—either to accept the sacrifice of services or to recognize that the revenue will have to be produced from some other channel and source of taxation.

As an example on this, I would repeat what I said in the general policy debate, and this I would leave as my concluding point: for several years now the Government has been faced with an ever-

increasing cost of education, and I am not talking now about the general, overall cost of education, I am talking about the *per capita* cost of education; which indeed, in the case of boarding, which by some 18.2 per cent in the past four or five years. The Government has chosen, as its policy, to meet that cost from general revenue and general taxation, rather than increase the fees to the individual parent, on the grounds that to increase the fees to the individual parent would have been, in many cases, to have added to the family man—to the most hard-pressed people of all—an additional, heavy burden from which he could not escape. I suggest that that is a far wiser policy. It is better, I believe, to raise revenue by these general methods and bear burdens, such as the cost of education, as far as we can from the general revenue, than, at this stage of our existence, to impose upon our family people the heavy burden that would have been imposed had the other policy been accepted.

Sir, I beg to move.

*Question proposed.*

MR. USHER: Mr. Chairman, Sir, I do myself, like most members of the Committee, admire the skill with which this tariff has been devised. We have been told and we believe and we can see that it has removed many anomalies, but, Sir, I think it will be stated here and there that other anomalies have been created.

I should like, Sir, to call particular attention to one of them; I think it is a matter of detail but the hon. Mover mentioned the matter of gypsum and that leads me on to another commodity, that is, lime. We have here a lime industry which, I am informed, is sufficient to supply the needs of all three territories. Now, lime used to bear a duty of 11 per cent, which can hardly, I think, be described as a protective duty, it is not sufficient; 22 per cent might have been regarded as a protective duty. The position is a little complicated regarding this commodity because lime for building purposes bore this duty whereas lime to be used for other purposes did not. One bag of lime looks just the same as another. The real consequence of it was that it all—or practically all—came in duty-free. And, of course, the difficulty

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of discriminating is now removed because there is to be no duty at all.

There is, however, Sir, quite a considerable import of lime, which I hold to be unnecessary, and for that reason I would ask for a very careful investigation into this particular industry. There are three well-spaced industries of this kind in Kenya itself and there are others in Uganda. I think there are possibly none to speak of in Tanganyika. The trouble, of course, Sir, is that although the trade statistics may have been examined so far as the customs is concerned, it is not possible, when altering the tariff, to consult the trade fully, for reasons which are sufficiently obvious. It is that investigation beyond the mere statistics which the customs will produce monthly which I am wanting to be known in this particular case, and in any others of a like nature.

Sir, the hon. Mover spoke in his opening remarks of the overall effect of certain of the major changes, particular, I think, in regard to clothing. I think we were told, Sir, that it would make a *per capita* difference of about 70 cents to the African population. I can only say, Sir, that I am a profound disbeliever, not necessarily in the statistics themselves, but in the effect, because after all 70 cents a month is all it is, you say; if only 10 per cent of the population are affected, and in fact purchase these goods which enter the country, then the picture is very much altered. I do hope, Sir, that that is another matter which will be studied.

Now, how are we going to deal with the results of these studies and when? I believe that we should have these special questions raised and discussed before the end of this year, or February at the latest. What would be the manner in which they should be brought before this Council? I do not know. Possibly by a Motion from this side of the House, but anyhow now I wish to ask that there will be a guarantee that these matters can be discussed and by February at the latest. By then one hopes that it will have been possible to study the effects of many, at least, of the new duties upon specific commodities.

Before I sit down, Sir, I would like to say that I may myself have to leave

the Council this morning before the close of the sitting, but there is no discourtesy in it, Sir, and my spirit will be here to welcome the guarantee for which I have asked.

MR. PANDYA: Mr. Chairman, I listened again with great interest to the points made by the Minister for Finance with regard to the aims of the changes in the customs duties and the need of the Government to produce revenue to meet the expenditure of this Colony.

Most of the points have been raised in the main policy debate, and I do not wish to labour over them at this juncture. But I do wish to emphasize, Sir, the drastic effects that the changes in the customs duties are going to have not only on the economy of the country but on the cost of living of most of the people in this Colony.

The Minister, Sir, when replying to the main policy debate, did not, unfortunately, deal with the effect the drastic changes in duties are going to have on the merchants who have been, in their small way, carrying on this trade for a great number of years. The new rates of duty which it is intended to impose are going, in fact, to run many of them out of business, if they have not already helped to start that tendency. I feel, Sir, that there is no doubt about this fact. I do not believe that this will improve the position, but what will happen is that it will enable the merchants of unlimited means to have an advantage over those who have only limited means of credit, and the people with these advantages will be able to control the market to the disadvantage of the people of small, limited means, who in their small way have been endeavouring to earn an honest and decent living, having been in this trade for a number of years. They will just be unable to pay the large increases in the amount of duty that will be demanded from them. I do not think the Minister has got any answer to this difficulty which is going to have serious repercussions on the economy of the country.

Now, Sir, I would like to look at this problem from the point of view of the consumers. The Minister, Sir, in the main policy debate—and, indeed, the Secretary to the Treasury—did give many examples, particularly with regard

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to *kikoi*s and children's frocks, as to the tax which these articles will have. And, indeed, it would have been best to illustrate them by the examples that they gave. It was also suggested that there will be a schedule of customs tariffs prepared at a later date, to serve as a guide to the people of this country.

Now, Sir, I do not wish to quote only magnified percentages, of which the Minister is so much afraid, but I do propose to quote further, Sir, actual examples—several of them, about half a dozen—which will prove my point of view, by examples which I feel will better serve to show the point that I am trying to make—that the effect of increases upon the ordinary people of this country is quite important.

I would like, Sir, first to take the example of vests. If the Minister is interested, I have got samples of these articles which I will be prepared to produce on demand. I would like to take first the adult's vest. The c.i.f. price was Sh. 8; the old rate of duty was Sh. 1/80; the new rate of duty is Sh. 18; the landed cost will be Sh. 9/80 at the old rate; the present cost Sh. 26. Now, this article is Sh. 1/25 retail; with the new rate of duty—Sh. 3 retail, which is an increase of over 150 per cent.

Now, a child's vest; Sh. 6 c.i.f. price; Sh. 1/20 is the old rate of duty; the new rate is Sh. 18; the cost is Sh. 7/20 at the old rate; at the new rate, Sh. 24. I am quoting these figures, Sir, per dozen. The wholesale price at the old rate is Sh. 8, at the new rate Sh. 27, and the retail price is Sh. 1 per article, and Sh. 3 under the new rate—an increase of over 300 per cent.

With regard to children's knickers—Sh. 8 c.i.f. price; Sh. 1/80 was the old rate of duty; Sh. 18 is the new rate; Sh. 1/25 retail price, Sh. 3 under the new rate—an increase of over 150 per cent.

I am still going to carry on, Sir. Printed spun—which is 9½d. per yard c.i.f. The pre-Budget cost at the old rate of duty is Sh. 1/03; the post-Budget cost Sh. 1/63, which is over 50 per cent. Grey spun—94 cents per yard was the cost at the old rate; Sh. 1/54 at the new

rate. This is an increase of over 60 per cent.

Now American, Sir, which has several uses for the poorer sections of the community—I would like to enumerate quite a few of them. Firstly, Sir, it is used for covering dead bodies at the time of their burial. Secondly, it is used by the poorer sections of the people for mosquito nets. Thirdly, it is useful for protecting coffee-bearing trees from drying up. Fourthly, it is used for wear by the poorest sections of the community. Lastly, Sir, it is also used as dressings in hospitals.

Now, the cost at the old rate is 49 cents per yard. The new rate is 87 cents, which is an increase of over 75 per cent.

Muslin—the old price is 93 cents, the new one is Sh. 1/53; an increase of over 60 per cent.

Now, Sir, I wonder whether the Minister still seriously means to suggest that increases of over 50 per cent and, indeed, in some cases of 150 and 300 per cent on the landed cost, not in the ratio of the increases of duty, do not fall heavily on the poorer sections of the community. He suggested, Sir, that most of these essential purchases are required over a period of time, but they are necessities and will hit the people hardest, particularly the poorer sections of the community.

I quite realize, Sir, that many of the expensive items will also be affected by the increases in these duties. That is quite obvious from the many advertisements we have seen in the newspapers asking people to buy at pre-Budget prices and just trying to cash in on customers. But, Sir, these people can afford, to a certain extent, these increases, and if they cannot they have just got to go without some of these luxury items that they might be buying liberally in the old days.

It only emphasizes the point, Sir, that the poorer sections of the people will be very much hard hit by these increases.

Now I should like to turn, Sir, to another matter which I did raise in the policy debate and which was very satisfactorily answered by the Minister, and that is the point of protecting the local industries. I should like to quote from the speech of the Minister when he said,

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on the question of the possible effect of the duties upon materials in so far as secondary industry is concerned: "I can only say, Sir, that if any of the secondary industries of local import can place a case before me showing that the interests of the particular local industry are hurt by the new duties, I will be pleased to consider the case on special grounds (or ex gratia relief, but the case will have to be a good one if exception is to be made and it will have to be made administratively possible and easy".

I say, Sir, I welcome this attitude and approach and would like to quote for the record and for the information of the Members of this House, the resolution that was passed by the Mombasa Tailors Employers' Association which reads: "That this association views with concern the effect the newly proposed import duties will have on the tailoring industry, especially that part of the industry which is engaged in the making of garments for sale to Africans. The association draws the Government's attention to the fact that instead of assisting the local tailoring industry, in many cases it will be more advantageous to import ready-made cheap garments and that, on the contrary, African tailors will be deprived of a chance to earn a living in this industry. This association urges the Government to appoint, without delay, a commission to enquire into the effect which the new import duties will have on the very important local tailoring industry".

Now, Sir, the Minister, I think, will agree that this industry does require consideration, in view of the resolution which I have quoted. I do not want to go into any great detail, but I would like to give one example for the benefit of this House, which will prove the effect that the new rates of duty will have on the textile industry.

I will just give one example, Sir, of shirts made of spun rayon, finished with resin; the imported ready-made article from Hong Kong is Sh. 59/85 per dozen—that is the landed cost price. But the same article, made with the same material, tailored locally would cost Sh. 83/90 per dozen. I think it is quite obvious that it does not encourage the

production of local industry, as was suggested.

Now, Sir, I have quoted many figures just to illustrate the points that I have made, and I await with much interest the Minister's observations on the points that I have raised, and I hope he will act according to the best interests of the greatest number of people of this country as a whole.

Mr. Chairman, Sir, I oppose very strongly, the increases in customs duties as proposed by the Minister.

Mr. SLADE: Mr. Chairman, Sir, I support this Motion and I particularly agree with the remarks made by the Minister when he reminded us of two important principles of taxation. One is that where possible you should spread the burden over the whole community, instead of thrusting it upon some important element of the community, who can afford least to pay and are not in a position to avoid the obligation to pay. The other point, Sir, he made was important, I think: that is, where possible you should have a tax which arises out of voluntary activities of the public, rather than something which again they cannot avoid. That, I understood to be his second principle.

I agree that you cannot please everybody in this matter of taxation, but I am very much disturbed by what has been said by several hon. Members on this side by way of evidence that in our choice of customs duties now, we are tending to put too great a burden on the poorer sections of the community. That is disturbing not only because they deserve our special protection, but also because they come back into that class of people who cannot avoid paying. What poorer people buy is mostly what they have to buy. So it is an inescapable tax for them, whereas if one had put a rather greater burden on to the more luxurious articles, then people only buy them if they want to and feel they can afford to pay the tax.

On these matters generally I want to support strongly what was said by the hon. Member for Mombasa, in his appeal to Government not to place too much reliance or too much exclusive reliance on statistics. It is very tempting, Sir, to rely on statistics. There they are to hand, and they seem so conclusive. But, Sir, they are far from conclusive.



[Mr. Slade]—They are only one kind of evidence—one kind of circumstantial evidence—and there is much other evidence—direct evidence—that may be of equal or even greater value. That struck me very forcibly, Sir, in our policy debate, when we were discussing to what extent, if at all, this country was facing a recession. It seemed to me then that Government was asking for figures and relying on figures to the exclusion of any evidence as to whether, in fact, people are finding it harder to afford what they are used to than they found it a year ago.

In all these cases, Sir, it is important for Government to keep the closest possible contact with that section of the public who can tell them what is actually happening, as well as looking at the figures provided by statistics. I certainly do not want to discount the value of statistics, but I want to ask that they be compared with other direct evidence from people—not necessarily of figures, but of facts—as to what is going on in the country. If they find as a result of that comparison that the direct evidence of members of the public is consistent with statistics, well and good; you will have a fairly strong case on which to build. But if you find that direct evidence from the public conflicts with statistics, then at least you know you have got to look a good deal deeper. And in this particular matter of customs duties, Sir, and the extent to which they affect different sections of the public and the way in which they affect different sections of the public, I do support the hon. Member for Mombasa in his plea that Government will make a point of seeking evidence from responsible sections of the public in good time before deciding upon any future alterations in rates of duties.

I beg to support.

Mr. COOKE: I should like to say, with regard to the last speaker, I listened to the hon. gentleman without any interest whatever because I knew exactly what he was going to say, and I have been listening to the same sort of speech now for the last four or five years and I recognize the old clichés coming out—such as spreading the burden of taxation. Of course we all acknowledge that, it being one of the canons of taxation for many hundreds of years.

Now, my hon. friend, the Member for Eastern Area, Mr. Pandya, has produced some very strong figures to show that my hon. friend's new duties have put up the cost of various articles from 75 to 300 per cent. Now if that is true, Sir, and I must assume that the hon. gentleman is responsible for his figures; he comes from a very distinguished firm—distinguished in commerce and industry in Mombasa for many years—and no doubt has gone carefully into these figures—if the figures that he has produced are correct, well—it is putting a tremendous burden, especially on the African community of this country. What we are liable to forget, Sir, is that these percentages are accumulated—magnified four or five times—and they are not just percentages but actual higher costs—when you consider that a man has to provide these clothes for himself, his wife and three or four children, which makes a very much bigger burden than it would be for a single man who has just to provide for himself. When you consider it from that aspect as well, it is a tremendous additional burden on the poorer sections of the community, and I do hope that my hon. friend—if these figures are true—will try to derive taxation from some other source and relieve the burden that he is now suggesting on clothing, et cetera.

I have already suggested one or two points in the policy debate—for instance, on minerals such as Coca-cola and so on—which could well bear a small taxation.

Mr. ODINGA: Mr. Chairman, I am very sorry indeed to have heard what the Minister has said about the increase in taxation, especially on the customs duties. On the other hand I do appreciate the Minister's zeal in trying to find a way of raising revenue for the development of the Colony. But I should again say that he, as a businessman, understands also very well that you cannot extract a very big revenue from a place where you have not invested, either in capital or even in labour. As such—my friend the Member for Eastern Area has spoken about the poorer communities of our country who would suffer seriously—I thought that this step should have been taken into consideration by the Minister, because it was only at the end

[Mr. Odinga] of last year that he introduced graduated personal tax. That affected the Africans and they are still complaining even at this very moment about it, because they find that the taxation is far too heavy. And when it comes again, on the duties, I am sure that all of us here understand that the African community form the bulk of the population of this country, and as a result they are the biggest consumers of all the imported piece goods particularly.

As my hon friend here said very well, if we take something like american—american is the ordinary clothing for the ordinary African in the country, and any duty which is raised will go right direct to hit this very man in the country—the very man who has recently been hit by graduated personal tax, and this is being considered at the same time. I thought the Minister, immediately after having introduced the graduated personal tax, should have waited a period of time before he considered raising the customs duty on these very vital goods which are used by the ordinary man in the country.

If I may go on again to support my friend, I hope the Minister will find that in graduated personal tax, it is the African businessman who has been able to pay more than the minimum—Sh. 50 or Sh. 100 or Sh. 150. That African businessman—I am sure that my friend here was just being very polite in saying that the poorer section of the community will suffer—it is this African businessman—the smallest in the business world—who will be hard hit. I am sure that many of them will have to go out of business. If they go out of business, the graduated personal tax will suffer on the other side.

The Minister again mentioned that because of increased expenditure on education, the increase in taxation must also be necessary. We quite agree that education must be pursued, and pursued relentlessly, but on the one hand the ordinary African man in the country at the moment is also contributing in his own free labour in building schools and at the same time paying fees. That should also be considered as taxation. It is another part of taxation, which should also be considered. He is already doing a great deal on that, and if that

is not taken into consideration, if again it comes on the ordinary goods which he uses in his day-to-day life, the taxation is increased, and again on the other hand the property which he has in his home has already been taken into consideration when the graduated personal tax was being assessed, and again he is requested to give freely his labour in building the schools. He is already giving a great deal in his own free labour to build the local schools in the country. All these are going to be far too much for the economic development of the ordinary man in the country and I should say that the Minister, before very long, will find that instead of trying to do what he wants or to develop this country, he might be putting it a little bit backward, because these people will just be helpless—they will not know what to do as a result of this heavy taxation.

I am sure the heavy taxation will only fall on the ordinary man and it is pitiful that the Minister seemed to be very keen to tax only the very ordinary man in the country and not the other people. We do not fear the taxation if it is all right, but it would really be pitiful if the ordinary man should be put off by this heavy taxation which is going to hit him just direct.

Mr. Chairman, with these few remarks, I reserve my support for this Motion.

Mr. HASSAN: Mr. Chairman, I quite agree with the Minister that we should find out ways and means of raising revenue which should put an equal and proportionate burden on the people in this country. Also I agree with him that we should raise our customs duties in a way that would protect and assist the local produce. But, Sir, by raising revenue by these means, we have to keep to a certain limit according to the capacity of the person to pay.

First of all I would like to deal with certain local produce. We agree with the principle that local produce must be protected, but if there is no local produce or if it has not the quality which the people want, or if it is not produced in sufficient quantity for the consumers in this country, then to put a heavy duty on such articles imported from overseas—particularly when it is consumed by one community—is not appreciated by the members of that community.

(Mr. Hassan)

For instance, I take this question of rice. We are not producing what is consumed by Asians in this country, and because the Asians do want a particular type of rice they have been importing it from overseas. We must assist the production of rice in this country, but no attempt has been made to produce the type of rice which the Asians want in this country. Therefore I welcome the Minister telling us that there will be free import of rice into this country from any source.

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): I thank the hon. Member for giving way. I only wanted to correct the hon. Member. Not "free" rice—an import of rice free from licensing restrictions.

MR. HASSAN: Freedom to import, which was not permitted in the past, is appreciated, but a duty of Sh. 18 for 100 pounds is prohibitive, and particularly when it is known to Government that it is consumed by one community. It amounts to a duty which is discriminatory.

Another point is onions, Sir.

Sir, we are not growing onions in this country and yet the onions which are practically consumed by one community—although the other communities do consume a few—and the Asians do make much greater use of these things—

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): Question!

MR. HASSAN: I feel, Sir, so far as my information is concerned, it is a fact—

THE CHIEF SECRETARY (Mr. Coutts): For the hon. Member's information, I eat them every day of my life.

MR. HASSAN: Well, I doubt whether you are eating a fraction of what an Asian would eat.

I feel that when we do want a protective duty then we must have it for things which we are growing in this country. We are growing hardly a fraction of our demand here. Therefore, this commodity should not have carried such a heavy duty.

The other point I wish to raise, and this has been spoken about before by my hon. friends here, is that concerning piece goods. One thing which I find will create hardship—and I brought it to the

notice of the Minister for Finance on the Budget Day—is that articles which are valued at Sh. 1 or less and to pay duty at Sh. 1/30 on each piece: that is going to create very great hardships for the poor people of this country.

We want the poor people to make use of the modern things for their children, like underwear and cardigans, and the commercial people very cleverly have started importing very cheap commodities so that all the low income groups, particularly the Africans, can make use of this for protecting their children. There have been imported articles of the value of Sh. 6 per dozen, and it is really a very great hardship on the poor people when they find that Sh. 18 a dozen duty is put on articles which are worth Sh. 6 a dozen in actual value before this Budget was introduced.

I am in favour of the revenue being an equal burden, and if possible indirectly through customs and excise duty, Sir, as one of the methods which will be felt least by the low income groups. But, Sir, with a view to having an equal burden on all the people living here, we introduced the personal tax, and that is a direct tax; and by maintaining the direct tax and again to raise further revenue from the lower income group by this type of duty is sure to cause very great hardship on that group. Therefore, Sir, as I suggested before, I would like to bring to the notice of the Minister that he should give serious consideration to this fact that the articles which are in value Sh. 1 or less should have less duty. It is far better that the duty on these things should be up to 50 per cent *ad valorem* instead of putting on a duty of Sh. 1/50 per article which will increase the actual value of that article by 300 per cent.

With these few points, Sir, I support the Motion.

MR. MOHINDRA: Mr. Chairman, Sir, I must confess that I have been caught napping on this one. I thought that this Motion would come before the House next week.

However, Sir, there are a few points which I would like to make on the customs tariff, because I am particularly concerned, Sir, about the rate of duty on ready-made garments, cardigans, jumpers, singlets, etc., for children. I do not agree with the hon. Member for the

(Mr. Mohindra)

Eastern Area when he quoted the example of vests because we have a local industry producing vests and any duty that is levied on vests for protective purposes I think is justified.

There is one very serious omission, Sir, and that is that the Minister, or the Commissioner of Customs, when compiling this tariff omitted to differentiate between garments for the use of adults and garments for the use of children. So far as children's items are concerned, a specific duty of Sh. 1/50 per article, I think, is going to be very high because garments for children are usually about 66 per cent of the price of an adult garment. I can understand a specific duty on garments for adults, but when the same thing applies indiscriminately to garments for children, then I think that is highly objectionable.

Furthermore, Sir, we have an ever-growing school-going population and definitely we do not want these children to go to school naked. There are a large number of very poor parents who would be hard put to find this extra money to clothe their children when they are sent to school. This rate of duty therefore requires revision or a special provision made in the tariff whereby children's items can be differentiated from adults' items. I know that the answer we are going to get is that it is going to be administratively difficult. I do not agree with that. We have standard sizes used by manufacturers in Britain and it would be quite enough to put an item in the customs tariff to distinguish these particular sizes which would then qualify for a lower rate of duty. If any merchant or importer is caught taking advantage of a loophole of that nature then heavy penalties should be therefore raised on these people.

Under the old tariff some second-hand clothing which is a very large item of import into this country, and which is mainly used by the poorer Africans in the rural areas, was dutiable to the extent of 11 per cent. Under the new tariff there is this specific rate of duty amounting to Sh. 1/50 per garment or 30 per cent *ad valorem*, whichever is higher.

I know of women's dresses that used to come from England at around sixpence per dress and I submit that to put

this item on to that specific duty of Sh. 1/50 per article is going to be heavy.

[The Chairman (Sir Ferdinand Cavendish-Bentick) left the Chair]

The Deputy Chairman (Mr. Bechgaard) took the Chair

Now, Sir, I come to item 40 where it is stipulated that mixtures with spun rayons or artificial silk will be subject to a duty rate of 80 cents per square yard. I think it would have been better if the tariff had specified the percentage of the mixture of artificial silk which is with either pure wool fibres or with cotton fibres. As it is, an artificial silk mixture of up to, say, 40 per cent, together with woollen fibres, is going to be levied at a duty rate of 80 cents per square yard.

In this cold climate of Kenya, Sir, there are a lot of poor people who cannot buy a pure wool suit or who cannot go and make a suit from pure woollen material but they do go in for making a suit from mixtures—wool and spun rayon, wool and nylon—and these are relatively much cheaper in price. But under the new tariff if the wool fibre is mixed with spun rayon then it will be liable to a duty rate of 80 cents per square yard.

I see that a specific rate of Sh. 36 will be levied on bicycles. Here again, Sir, children are the sufferers. Adults do not use tricycles. Children's bicycles are about £5 10s. c.i.f., whereas adults' bicycles are £8 to £10 per bicycle c.i.f. Under the new tariff the adults' bicycles will not be affected but it will be the children's bicycles which will be largely affected. Perhaps the Minister would be good enough to have a look into this.

I now come to blankets, Sir. I can understand that a blanket size 48 in. by 78 in. or a blanket size 60 in. by 90 in. paying a specific duty rate of Sh. 1/50 per blanket. But when the same duty is applied to a little baby's blanket, size 20 in. by 30 in. or by 32 in., then, Sir, I think that that, again, is inequitable. Specific provision should be made in the tariff for babies' blankets.

I now come to item 144, Sir, and I see that bona fide baggage is admitted duty free. I also see that there is a specific reference made to tourists coming

[Mr. Mohindra] into the country bringing various things for their own requirements. I am led to think, Sir, that the customs officers are trying to follow the letter of the law rather than the spirit of it. I have heard of instances of people, coming into Kenya and stopping off here *en route* on a world trip, who were fond of playing either on a trumpet or a clarinet. They came in by air and the customs officers at the airport have insisted that either a duty is paid or that a deposit duty is paid on these items, the deposit to be refunded when the items are taken out. Common sense should tell these officers, Sir, that, if a man goes to the trouble of taking a trumpet around the world by air, he is not bringing it here for purposes of sale. If the administration is anxious to have tourists and visitors coming to Kenya then all these petty annoyances should be removed and administrative action should be taken to see that people are not put to the inconvenience of either having to furnish a banker's guarantee or putting up a deposit.

This point, Sir, requires very careful consideration. In this instance I am reminded of treatment that was meted out to me at London. That is the type of behaviour that I would like to recommend, Sir, to our customs officers. I would, Sir, even at the risk of taking up the time of the House, like to mention this particular experience which I had at London Airport.

In 1946 I happened to go to the Continent. You could not even buy a handkerchief without a coupon in London or in England, but in Italy you could buy the most beautiful damasks and velvets—any amount you wanted. Naturally, after having been starved of textiles for almost eight years I had to buy a lot of such stuff, including watches, jewellery and so on. I had a little case, Sir, which I filled up with these things and, in order not to be troubled over all the frontiers that I was going to cross, I registered it to Victoria Station, London. On reaching Victoria Station I went to claim my baggage and the customs officer came along and said, "Well, have you anything to declare?" I said, "Yes—all this is dutiable but I do not want to pay duty". He said, "That is very funny". I

said, "No, that is not funny at all. These goods are not for consumption in England. I am taking these goods home for my people". He said, "May I have a look at them?" I opened my case and he saw them. He said, "What is their value?" I said, "£300". He looked at me and said, "You seem to have a very honest face. I accept your word and out you go!" That is the type of behaviour that these customs officers at the airport and at Mombasa should have towards the public. Otherwise, Sir, these little annoyances are going to get us a very bad name and all our efforts to foster the tourist industry in this country, I think, are going to prove futile.

Now, Mr. Deputy Chairman, I do not know whether I will be in order in raising this point of the new method of valuation. A new method of valuation has just been published and it will come into force as from 1st July, 1958.

THE DEPUTY CHAIRMAN (Mr. Bechgaard): It would not be in order.

MR. MOHINDRA: Then I will not talk about that, Sir.

[The Deputy Chairman (Mr. Bechgaard) left the Chair]

[The Chairman (Sir Ferdinand Cavendish-Bentinck) took the Chair]

I listened to my hon. friend the Member for the Coast Area when he described to you, Sir, the hardship to which the merchant community will be put. I wish I could have agreed with him on that point. I would like to make it clear that I am not speaking as a member of the Government Bench on that one. I am speaking, Sir, from my experience as a businessman in this country.

I think it is the smaller people, who my hon. friend referred to, who are going to feel the hardship. When he said that there were merchants with unlimited means at their disposal who would benefit by this, Sir, I think that is right. For the last ten to 12 years the base of business in this country has been restricted importation by any Toon, Dick or Harry. Business has suffered because of that, and combined with the lax bankruptcy laws and the easy credit that is obtainable in this country the position became so bad that I have had opportunities of going round to people and telling them that we were heading for

[Mr. Mohindra] disaster. If anything, Sir, these new rates will achieve a restriction or a reduction into the amount of imports into this country, especially in consumer goods. I think that will be to the good of everybody. The smaller merchant will now be able to go to the wholesaler to buy his requirements and we shall be able to re-establish the established channels of trade.

There is some hardship, however, Sir, as some people who have been caught at a very inopportune moment. People had placed order for various quantities of wearing apparel without even dreaming that these very high rates of duty were going to be imposed. I have heard of a merchant who had 2,000 dozen pairs of underpants which happened to arrive at the coast the day the duty was raised. In the ordinary course of events he would have had to pay, on these 2,000 dozen pairs, Sh. 4,000. However, under the new tariff the duty amounted to Sh. 36,000. He knew that even in a year of blue moons he would not have been able to sell that quantity at even cost price. He was a wise man: He made a gift of 2,000 dozens to the Red Cross Society and wrote off that Sh. 7,000 as a donation instead of paying Sh. 36,000 to the customs.

I would suggest, Sir, that if there are cases of this nature, where people have large quantities of these goods which are either on board ship or on order and which they cannot dispose of in East Africa under the new duty rate, permission should be given to them to re-export these goods either to Aden or to any other territory, and that the question of Japanese exchange should not come into the matter. I do hope that the Minister for Finance will use his influence with the Department of Trade and Supplies to see that these people do not suffer from this inconvenience, because a person who has, say 5,000 dozen singlets valued at Sh. 40,000, and who is asked to pay a duty of Sh. 90,000, will never be able to sell those singlets in East Africa; at least for the next ten years to come. He cannot afford either to drop his Sh. 40,000, which was the original price of the singlets, or to pay the duty. Therefore, Sir, if he can find a customer for these either in the Belgian Congo or even in Rhodesia or, for that

matter, in Timbuktu, Sir, then he should be allowed to re-export those goods.

At the moment, Sir, the re-export of goods of Japanese origin is not allowed because the question of exchange comes into the picture. But I suggest, Sir, that that particular condition should be relaxed.

When I spoke during the policy debate, Sir, I welcomed the protective duties that have been levied on various items. I was surprised to see, Sir, that there was one glaring omission, and that was the aluminium industry. I understand that we have a rolling mill in Mombasa. I understand that that concern is prepared to manufacture aluminium corrugated and flat sheets. Those people are prepared to put £1,000,000 into this factory if they are given an assurance of protection. At the present rate of 11 per cent duty it is just not worth their while to put in that money and employ another 500 to 1,000 people but I am sure that if an appropriate rate of duty was imposed on corrugated and flat aluminium sheets that industry would become a very great advantage to Kenya.

There was a suggestion made in this House, Sir, that the Government should see that the merchant does not add on a profit to the new duty that he has to pay. I would take this opportunity, Sir, of refuting very strongly that particular suggestion. I do not know what made the hon. gentleman bring it before the House. Does he really expect, Sir, that a merchant would pay the bank 7 to 8 per cent interest, in order to pay that duty, and then not take his new share of profit on the investment he has made in cash, in duty, on that particular transaction?

I see, Sir, that under the Valuation Order the Customs people would want to charge duty on air freight. They want to have their pound of flesh on the little merchant spends in order to get the goods out here. To deprive the merchant of a share of profit on an investment he is making in cash I think is something which is absolutely inequitable. I would ask the Minister and the Government to be very wary of suggestions of this nature. These suggestions come from laymen who consider business to be a charitable institution—which, Sir, it is not.

With these words, Sir, I beg to support.

MR. USTIE: There is just one point which I wish to make, Sir. It arises out of what has been said by the hon. Member who has just sat down. He spoke about musical instruments.

Now, Sir, the effect of musical instruments on the public generally depends, of course, on the way in which the performer comports himself and I would not say in general that I would favour these things. But there is one anomaly, Sir, to which I have called attention to before. I may be a little late. It may be that this is already being considered by the authorities.

We have this strange situation that whereas I, as a resident, may bring in certain personal effects for my own use, particularly anything with which I may recreate my body, I may not bring in a piano duty free with which I may refresh my soul and the souls of my neighbours.

I think that that, as a point of importance, should be considered, along with other matters, for revision.

MR. MACKENZIE: Mr. Chairman, Sir, I would like to begin by dealing with a number of points that have been made during the course of the debate.

First of all, Sir, as my hon. friend, the Minister, mentioned in his opening speech, where the Government's notice is drawn to any anomalies that may have been created by the completion of the new tariff—and we were of course aware that there were likely to be some, that is unavoidable in an exercise of this kind—and where it is shown that a local industry has been damaged in its interest or for that matter, where there is some previously exist tariff item that could be amended in the interest of local industry, in that type of case, the Government will look at the representations which have been made and which may be made and will decide in the light of those representations and a full investigation whether there is a case for making amendments. I think it would be difficult, Sir, to go quite so far as my hon. friend, the Member for Mombasa, suggested and give an assurance that all these matters will be settled by some particular fixed date, but I can say that if he or any other Member cares to keep in touch with the Treasury, we will be only too

glad to let them know what the position is from time to time.

Now, Sir, I also agree that the effects of the various duties on general conditions on living costs and that kind of thing are of great importance. But, Sir, I think there is one point that I should make now. One hon. Member—I think the hon. Specially Elected Member who used to sit for the Aberdare—suggested that the beauty of indirect taxation was that it affected a person's voluntary activities, and therefore, he could pay it or not to a certain extent according to those activities, according to what he decided to consume. Well, Sir, that is true if the indirect taxes were imposed mainly on luxury articles or on things which can be dispensed with; but I think I should remind my hon. friend—and I am glad to see he has come back now that I am dealing with his point—I think I should remind him that the main object of a customs tariff is to collect revenue, and if one includes tariff only those goods with which people could dispense, or even with which they could dispense to a considerable extent, for the levying of customs duty, then the revenue would be jeopardized to quite a considerable extent. For an import duty to be really effective, it must be imposed, Sir, on goods which are in general supply and fairly regular supply. Anything else would be far too uncertain for the purposes for which a revenue duty is intended.

Now, Sir, there were one or two other particular points which I would like to deal with at this stage. My hon. friend, the Member for East Electoral Area, welcomed and I am glad to see that he did welcome it—the fact that rice would be now admitted without licensing, but he deplored the fact that there was to be an Sh. 18 duty, as he thought this was prohibitive, and he also suggested that the right kind of rice should be provided locally before this duty came on. I would like to point out for the record, Sir, that as is shown in the Second Schedule to the Customs Tariff Bill before the House—at least, it has been published, and will be coming before the House—on page 36 of that Bill, there are the suspended duties imposed, and it is made quite clear there. Sir, that the effective duty on rice will not be the full Sh. 18, which is the maximum, but will be Sh. 10 per 100 lb.

[Mr. Mackenzie]

As regards the production of the right kind of rice, I am sure that the Ministry of Agriculture is doing everything possible to improve the quality and of course one of the main reasons for this particular measure is that there shall be an adequate protection, and that our people will have the encouragement to grow a better quality of rice.

One or two Members, Sir, mentioned the effect of the new customs duties on children's clothes, and suggested that it might be possible to take action to differentiate between adults' and children's items. I do not think, Sir, that at this particular time, I would like to enter into a detailed argument on whether that would be technically possible or not. It is obviously something on which one would have to consult the Commissioner of Customs; but I would not like any hon. Member to feel that it is going to be very readily possible to take any action of that kind, because we have to protect the revenue.

This leads me, Sir, to one of the most important points that has arisen in this debate; that is, the suggestions that have been made that when one is dealing with the cheaper valued goods, the specific duties fare very unfairly, particularly when compared with the previous very low specific duties or with the *ad valorem* duty. Of course, Sir, the Government was fully aware when it proposed these specific duties that they would hit the cheaper quality goods harder than any others. In fact, Sir, the reason why this specific duty was increased considerably was that that is the only way in which the revenue can be protected when large quantities of very cheap garments are being introduced. Hon. Members will remember, Sir, in this connexion, that I drew attention in the main policy debate to the effect of the variations in prices of textiles on the revenue during recent years. On that occasion, I mentioned that in so far as piece goods are concerned, the quantity being imported in 1956 was 26,000,000 square yards more than in 1952, but that in spite of that, the revenue from textiles, from cotton piece goods, has fallen by £250,000. I am afraid I have not got the comparable figures for ready-made clothing, but my guess is that it would be found that there has been to a certain extent a similar

movement in so far as those were concerned in that the very cheap goods, which probably were not available in the same quantity immediately after the war, have been coming back to the market in recent years, and it has been necessary to impose fairly stiff specific duties if the revenue is to be safeguarded at all.

Now, Sir, another point that was made by my hon. Nominated friend, who spoke just before I did, was in regard to bicycles, and in particular, to children's bicycles. Here again, Sir, the object in imposing a fairly heavy specific duty was to protect the revenue and I am afraid that I can give him no sense of hope that it will be possible to make any change in so far as that particular item is concerned. It was found that the previous duties were not being as effective in looking after the revenue as they should have been. As regards, Sir, the question that my hon. friend also made in connexion with administration of the provisions of item 144, respecting tourists, I am very glad that he brought these matters to our notice, and we will naturally pass on what he said to the Commissioner. He, I am sure, is always anxious to administer the customs laws in as reasonable a manner as possible. As regards, Sir, the question of merchants being left with large quantities of goods which they will find it difficult to sell, and re-export, I am afraid I cannot give any answer at this stage. It is a question, as my hon. friend said, of exchange and it is one that would have to be looked into. It would be important, however, to make sure that both the revenue and the interests of the sterling area generally were properly safeguarded before anything could be done.

My hon. friend did also mention that the customs authorities added air freight in full and buying commission when valuing goods—or at least, were proposing to as from 1st July—all I need say there, I think, Sir, is that the new methods of valuation are those—I do not think this is generally known—they are those adopted internationally at Brussels in 1952, and they are those that are used throughout most of the western world.

Now, Sir, I would like to deal with one or two points that were made by

[Mr. Mackenzie] The hon. Member for the Eastern Area regarding the effects of the various changes in textile duties on the prices of various types of goods. In my earlier speech during the general policy debate, I did point out that the use of percentages can be extremely misleading; and particularly when dealing with these goods of relatively low value which are not things that people buy every day, it is probably much more meaningful to deal with them individually and in actual terms of money, rather than in percentages. The fact is, Sir, that if the price of something increases from—the example I used on the other occasion is that if the price of something increases from one penny to sixpence, that is, it is quite true, an increase of 500 per cent; but at the same time, it is only fivepence, and I think it is important to keep to actual prices if we are to keep this thing in perspective. As I mentioned at that time, I did have a schedule of examples prepared; I think it has been used in certain ways by the Information Department, but I do not know that it has been generally published. To give some of these examples I think, taken at random, will show that the position is not quite so catastrophic as has been suggested. Looking in front of me, the first point that does catch my eye is an importation of white cotton drill; the c.i.f. value per square yard was Sh. 3 65 cents; the duty under the old tariff was 73 cents; under the new tariff, it was Sh. 1 09 cents per square yard, an increase of 36 cents per square yard. This of course—white cotton drill—is not something that the average consumer is going out to buy every day. There are various other examples which could be given but generally speaking, glancing down the whole of this list which has some 40 or so items in it, all of them taken at random from imports immediately before the Budget—actually in January 1958—I see that the differences in duty per square yard in the whole range of cotton piece goods vary from round about 24 cents per square yard to an outside maximum of 60 cents per square yard. The average seems to be in the orders of the 30 and 40 cents per square yard. That, Sir, cannot be regarded as unduly burdensome.

To turn, Sir, to artificial silks, there the increases per square yard are somewhat larger. They range from the lowest one in these examples which is 28 cents to the highest—but it is an exceptional one—which is Sh. 1/21 per square yard. The average, here again, seems to be round about 50 to 60 cents per square yard and, once again, people are not going out buying square yards of cotton piece goods at every hour of the day or even weekly or monthly.

Coming now, Sir, to the ready-made clothes: there, the differences in duty per piece vary according to the value of the goods. Naturally, where the value was very low, the landed cost was very low, and the specific duty operates most fully, there is, if one chooses to express it in percentage terms, what appears to be a very large increase. But when one comes to actual prices, the increases are not very great. On the earlier occasion, for instance, I gave some examples of what would happen under the new duties on clothing, and I pointed out that in so far as the more expensive goods were concerned, the total increase in most cases would be about 8 per cent. I have one or two further examples; for instance, on shirts, the total increase would be 75 cents, or 10 per cent *ad valorem*, whichever was the greater. On cheaper goods, the increase of 75 cents would apply. Elsewhere, as things become more expensive, the maximum increase would be about 10 per cent.

Looking here at one or two cases taken at random, I see that in so far as a consignment of T-shirts imported from Hong Kong is concerned, c.i.f. value was Sh. 1/17; the old duty per piece was 23 cents, the new duty is Sh. 1/50, and the difference in price there is, it is true, Sh. 1/27. But there again, Sir, one does not go out buying T-shirts every day, and also, I think one thing hon. Members should bear in mind is not necessarily that these new specific duties are unduly high, but that the public has probably been very fortunate in that the old specific duties were unduly low; in fact, they were so low, Sir, that they were endangering the revenue.

Now, Sir, having dealt with that particular aspect of the matter, there is one other that I would like to deal with:

[Mr. Mackenzie] My hon. friend, the Member for Eastern Area, was good enough to give me notice that he intended to mention the question of the protective value of the new duties in so far as ready-made goods were concerned, and that he was also going to mention the resolution of the Mombasa Tailoring Employers' Association, suggesting that the new duties were going to mean large numbers of people out of work. I was very glad that my hon. friend did give me notice of this, because he was also good enough to mention the examples which he was going to quote and, therefore, it was possible to me to look at them in a little detail. I have done so, Sir. I think, Sir, that the example he quoted was that under the new duties, the cost per dozen after duty has been paid of spun rayon shirts imported from Hong Kong was Sh. 59/85 per dozen; whereas the cost of manufacturing/spun rayon shirts in Mombasa from Japanese material was Sh. 83/90 per dozen. He suggested that this showed that the new duties in their general effect were not going to protect local industry, because the suggestion was that if you can import ready-made things from Hong Kong at Sh. 59/85 a dozen, and it costs Sh. 83/90 a dozen to make them locally, you are obviously not going to sell the local produce. Well, Sir, I did a little arithmetic with that particular example, and my hon. friend was good enough to make sure that I got the detailed breakdown of how these various prices were arrived at, and so I was able to see what was the position before we altered the tariff. Of course, the position before we altered the tariff was exactly the same in respect of these particular examples as it is now in that before the tariff was altered, the cost of these particular shirts, imported ready-made, from Hong Kong, would be Sh. 50/58 a dozen, whilst the manufactured goods from Mombasa would still be Sh. 67/65 a dozen. So, even before the tariff was altered, it was still uneconomic on the face of it at any rate, it was apparently uneconomic to make the shirts in Mombasa as compared with importing them from Hong Kong. But, Sir, the reason for that is quite obvious if one has a look at the breakdown, because, Sir, in the examples that the Mombasa Tailoring Employers' Associ-

ation have quoted, the position is—to take these particular shirts—that the price per dozen c.i.f. Mombasa was Sh. 39, that is excluding duty and the cost that we are tending duty would come to, landed at Mombasa, was Sh. 38/75. That is, the material alone landed at Mombasa in this particular example is the same price before either of them have paid any duty as the imported ready-made shirt. Of course, to make the shirts one has to expend labour on it, so that by the time this particular material given in this example has been made up and labour has been spent on it, the price of the cloth plus the labour immediately puts its cost well above that of the imported shirt, without any question of duty.

I do suggest, Sir, that an analysis of that kind shows that the example in question is not a particularly good one; all that it does show is that it is extremely difficult to compete with Hong Kong, which was, of course, a matter of which we were fully aware. I could give one or two other similar examples of these comparisons between the cost of an imported ready-made article and one that is locally made up to show that they do not particularly prove anything more than that, because, the position was, in all the three examples I was given here—and I have no reason to believe that there would be the same difficulty in pretty well any number of other examples—broadly similar before the tariff was changed to the new tariff today. In some cases, the differential may have shrunk; in other cases, the differential has increased somewhat. But the basic fact is that if one brings in material to make a shirt that costs as much as a ready-made shirt costs, its cost price, by the time the material has been turned into a shirt, is going to be greater than that of the ready-made one.

I would like to say this: that, as I said at the beginning of my speech, the Government will watch the effect of these various duties on local industry. We have got every desire to assist local industry to develop and if it is found that any adjustments are necessary, we should not hesitate to consult with all concerned with a view to doing whatever proves to be needed. I must point out that in so far as protecting local industry

[Mr. Mackenzie] is concerned, we cannot do that in a considerable range of goods and also please the people who would like ready-made goods to be brought in at a very low rate, as well. But, in so far as the protection of local industry is concerned, Sir, the Government does consider this very important; it has taken many steps to encourage it, through the tariff, through customs drawbacks and in many other ways in the past; and it will continue to take similar action now and in the future.

Sir, I beg to support.

SIR EBOO PIRBHAI: Sir, I rise to make one or two points. We heard a very good speech from the hon. Nominated Member on the custom tariffs and I will not go into details, because the hon. Minister for Finance and the hon. Secretary to the Treasury have put them very clearly.

What I would like to say is this: when the hon. Minister brought the Budget proposals before the House, I was very much perturbed. Sir, so perturbed that I felt that this was going to affect the community a great deal. After going over the thing carefully and studying it, I thought to myself: "This is not going to affect us in the exaggerated way people have made out", and I was very much relieved.

We have talked about garments and all sorts of things, but one thing we must remember, Sir, is that there are goods of inferior quality coming into this country from other foreign countries, and this, in the long run, is expensive. It is not only an uneconomic way of dealing, it is also expensive, for this reason: If you compare the stuff coming from foreign countries with the stuff coming in from the United Kingdom, you will find that the latter kind lasts longer than the foreign kind. The foreign goods sell more cheaply, say at 1s. 6d. or 1s. as against the English price of four or five shillings, but the United Kingdom goods last longer. If we want the United Kingdom manufacturers to keep on sending us the goods, then we have to do something about it.

At the same time, we want aid from the United Kingdom, and yet we want to keep on importing the inferior and cheap articles from elsewhere. If these articles were of the same quality as those at the United Kingdom, then I would say:

"Yes". But when they are of the inferior kind, you will find them dearer in the long run.

If we look at the overall picture of the taxation, Sir, we will see that it is hardly going to affect the cost of living of the people of the country. As the Secretary to the Treasury has very rightly said: "How many shirts are people buying every day?" Certainly, they may buy six shirts a year, if those shirts are of inferior quality, but if they buy two shirts, one of good quality and one of the inferior quality there is very little difference in the long run as they will see that a good one will last longer.

Another point has been raised by the hon. Members here which hon. Members have mentioned time and again in lengthy speeches. But no one has been able to convince me and say: "Right, we are not going to alter the tariff, but we are going to get our revenue from elsewhere". We all want to reduce custom tariffs, but how are we going to balance our Budget? Where are we going to get the additional revenue from? I have not heard any hon. Member say: "Right, we are going to reduce our tariff as we will also reduce our services".

As we all know, the Members on the other side of the House all want education, and they are right. They rightly said that they needed education, they needed medical facilities, but we have to foot the bill for all these facilities and for all these services, we have to find the revenue from some source or other. I believe, Sir, that in this country, with mixed communities, indirect taxation is the only answer. There is no other way of doing it, except by loading extra on to the income tax. The indirect tax will give the community the opportunity to contribute towards our expenditure.

We have been told that we should cut down on our administration. Really, Sir, without going into the merits and demerits of the subject, does the Government wish to have unnecessary staff and people? No business concern would like to keep more people on their staff than required. Do we want an inferior establishment in our administration? At the moment, the standard of our administration is high and well respected all over the country and indeed throughout East Africa.

[Sir Eboo Pirbhai]

Sir, I would like to pay a very sincere tribute to our Minister for Finance because he has prepared the Budget in a most balanced and even manner, and I do not think there are any grounds for grouching about it.

I beg to support.

MR. JONES: Sir, I think there is just time left to develop one point in this matter. The Secretary to the Treasury was very lucid and gave us a good deal of very valuable information, but there was one point which I think deserves a little more specific data. When my hon. friend, the Nominated Member, Mr. Mohindra, was going to touch upon the manner in which goods would be valued for the assessing of duties, it was considered that he would have been out of order, but as the Secretary to the Treasury has referred to this matter and said that we should now be following the procedure adopted internationally at a Brussels conference, I was wondering whether we could have, when the Minister replies, a definite indication of how distributors' rebates will be considered.

Sir, it is practice in commerce for many importers to get invoices on which a discount is shown and hitherto they have always, I think, declared the net price on their customs duty submissions. Now, if I read the new regulations correctly, it is open to a good deal of interpretation as to whether the customs will not add back that discount before they assess the duty. It is quite an important point, Sir, and I do not know how that was dealt with by the Brussels meeting. But the continental nations have been playing a poker game with another using customs tariffs as chips for so long that they are now calling each other's bluff and having a customs union because there is nothing more they can teach one another.

So, Sir, if we are going to follow the procedure adopted by them, are we going to have the net price as the value for assessing customs duties or are we going to have the gross price? Or are we going to do what several of these continental countries do and that is, when the net price is declared add back what they call a "notional figure" for discounts and then assess the duty on the total?

With that point, Sir, I support.

THE SPEAKER (Sir Ferdinand Cavendish-Bentley): Mr. Vasey would you reply?

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): Mr. Chairman, there is not really much time now.

Rising to begin to reply to this particular debate, I would like first of all, Sir, to deal with a point made by my hon. friend, the Specially Elected Member, Mr. Slade, when he spoke about statistics being treated as evidence. I can assure the hon. gentleman that we do not take statistics alone, it is not a mere matter of figures. In fact, before we get those figures, in a small parish like this we have to interview and discuss and talk these matters over with many dozens of interested people. At the present moment, the Statistical Division of the Treasury has been—and also for some time past—going into a special study of individual African family budgets to see indeed whether the figures that we are producing are the correct figures. And it is a matter which is being constantly reviewed. That is why I feel that one can say that in so far as the minimum wage figures are concerned, the figures that we have quoted are factual.

I would suggest, with your permission, Mr. Chairman, that I now beg to move that the Committee do report progress and ask leave to sit again.

The question was put and carried.

Council resumed.

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

#### REPORT

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): Mr. Speaker, I beg to report that the Committee of Ways and Means reports progress and asks leave to sit again.

THE SPEAKER (Sir Ferdinand Cavendish-Bentley): I take it that it is wish of the House that leave be granted?

The question was put and carried.

#### ADJOURNMENT

THE SPEAKER (Sir Ferdinand Cavendish-Bentley): It is time now for the interruption of business and I adjourn the House until 9.30 a.m. on Tuesday next, 17th June.

The House rose at thirty-one minutes past Twelve o'clock.

**Tuesday, 17th June, 1958**

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

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

### PRAYERS

### BILLS

#### FIRST READINGS

##### *The Customs Tariff Bill*

Order for First Reading read—Read the First Time—Ordered to be read the Second Time tomorrow.

##### *The Income Tax (Rates and Allowances) (Amendment) Bill*

Order for First Reading read—Read the First Time—Ordered to be read the Second Time tomorrow.

##### *The Excise Tariff (Amendment) Bill*

Order for First Reading read—Read the First Time—Ordered to be read the Second time tomorrow.

##### *The Sugar Consumption Tax (Repeal) Bill*

Order for First Reading read—Read the First Time—Ordered to be read the Second Time tomorrow.

### REPORT

##### *The Native Lands Trust (Amendment) Bill*

**THE MINISTER FOR AFRICAN AFFAIRS** (Mr. Johnson): Mr. Speaker, Sir, I beg to move that the Council do agree with the Committee in the said Report.

##### *Question proposed.*

The question was put and carried.

Bill ordered to be read the Third Time tomorrow.

### COMMITTEE OF WAYS AND MEANS

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

### IN THE COMMITTEE

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

### MOTION

#### CUSTOMS DUTY

*Resumption of consideration interrupted on 13th June, 1958*

**THE MINISTER FOR FINANCE AND DEVELOPMENT** (Mr. Vasey): Mr. Chairman, when the Committee adjourned on

Friday, I had only had time to refer to one point raised by my hon. friend, the Specially Elected Member, Mr. Slade, on the question of what I would say is the human touch with regard to statistics. This is so, Sir—as I attempted then to assure him—that we have continual regard to the human side of statistics and do not merely deal in figures of the arithmetical kind. We do have enquiries from time to time amongst individual groups and with individuals in order to check our figures. Indeed, as I said, the Statistical Department, that which is under the Kenya Unit, has been for some time going through the whole question of the African family budget to check with the changing pattern that occurs over the years. I only wish to assure him, Sir, that we do not merely quote figures as figures, but within the limitations of the staff and personnel we have; we do try, by consultation and discussion, to make certain that those figures have some relation to the human problems involved.

My hon. friend, Sir, the Member for Mombasa; the Secretary to the Treasury did deal, I think, with the points that he raised, particularly with regard to periodical review. I did say in the very beginning, Sir, that when we indulged in a major operation—and this has been a major operation, this revision of the customs tariff—we were not so complacent as to believe that some mistakes had not been made and, even within 24 hours of the publication of the Bill, people began quite readily to point out to us the mistakes that we had made.

Strangely enough, most of those mistakes were mistakes of concession where apparently we should not have conceded at all. Very few of the mistakes appear to have been mistakes of imposition; but of course, a mistake of concession is one that is more readily rectified with gratitude by the Treasury than one that calls for action the other way round.

However, Sir, we do have periodic reviews. I can assure him that all the three Treasuries of the three territories do: we have periodical meetings of the Ministers for Finance, and the permanent officials, in order that these things shall be reviewed from time to time. What would be a little difficult to do—and I am sure that he would understand this—would be to announce the

[The Minister for Finance and Development]

conclusions of those reviews before action had been taken, particularly in the customs tariff world.

My hon. friend, Sir, the Member for East Electoral Area, did deal with a number of points that have, I think, been answered also by my hon. friend, the Secretary to the Treasury. There is, however, one thing that I would like to say on this matter generally, Sir, and that is, there is a tendency to forget the direction in which we have endeavoured to aim these burdens. We have had regard to the frequency of use. It would have been quite easy, Sir, to tax a number of things which would have brought us in revenue which would really have fallen very hardly upon the population, because they were absolute necessities which have to be, as it were, consumed at regular periods rather than things which did, in case of the very poor, leave them the choice of the frequency of use. Another point I would like to repeat, Sir, is that it is foolish to believe that a regular and assured revenue can be obtained from the taxing of luxuries. If you tax a luxury article, you immediately tax an article which, beyond a certain price, will not be purchased. And revenue—particularly when you are in the position that we are in—tax is to be an assured revenue, and therefore, you have to choose articles where there is a certainty of use and purchase.

My hon. friend the Member for the Coast also raised, I think, what he called the human point. He did suggest that I might have a look at such things as Coca-Cola and motor-cars. I will not refer to motor-cars, but Coca-Cola, Sir, is an annual in this struggle of taxation. It is annually suggested from the other side that all soft drinks should be taxed. All the hon. Members opposite believe that we have not left this particular avenue unexplored; that we have looked at this matter, and a great deal depends upon the question of administration and again, the level of price which will ensure purchase by the population? It might be of interest to hon. Members to look at the history of the South African case where the South African Government did try a tax upon mineral waters in the soft drinks group, and had to withdraw it before very long because of the

disastrous effect it had had upon the industry itself which was in many cases in danger of going out of business. There is a limit: one may be prepared to pay 50 cents to quench one's thirst, but at 75 cents, one stops and probably does not purchase at all.

My hon. friend, the Member from the Eastern Electoral Area, started to refer to onions, and then left the point in mid-air. I am not certain, Sir, what happened to the onions, but if he will let me know what his particular point is, I will be pleased to discuss it with him. There seemed to be some suggestion that onions were a racial matter. I have never looked upon onions in that way, but I do remember in my early days, when I was playing parts as a professional on the stage, that onions were taboo, particularly if you went anywhere near the leading lady. That is the only time I have heard onions debarred as a particular grievance.

The hon. Member for Nyanza Central dealt, as was to be expected, with the question of taxation in these measures and its burden on the African. I cannot too often repeat, Sir, that the whole of the taxation structure of Kenya now has moved away from a racial basis, in so far as the Central Government is concerned, and it is not a question on taxation on the African—it is a question of taxation on the man or the person according to his means and according to his ability to pay.

Where I would agree with the hon. Member, is that the measures—and I think this should be remembered that have been taken in the last two or three years in the adjustment of this taxation structure have, by their very nature, placed a greater burden on the African than he faced before. That, I think, should be remembered in this taxation structure. That is not to say, Sir, that there should not be some argument that perhaps the burden was not being borne sufficiently by the higher paid groups of Africans before that; that, indeed, there was something wrong in, for instance—my hon. friend referred to it—the personal tax structure; where, shall we say, the Asian working in a place like Magadi and earning exactly the same as the African who worked by his side on the same job, was compelled to

[The Minister for Finance and Development]  
pay £10 personal tax, whilst the African was paying £2 or even Sh. 20. That was not right, but we must not forget that in this adjustment there has been an impact upon our African population at this stage.

I believe that my hon. friends, the African Elected Members, will accept this as part and parcel of the development of this country—that taxation should not be based upon a racial foundation at all; but in this adjustment let me agree with the hon. Member for Nyanza Central, that the taxation measures that he referred to have fallen hardly on the African population in particular. What I cannot agree with him, Sir, is when he says that this particular measure will fall most heavily on the African. It will fall heavily, by the very nature of things, upon the poorer section of the population at one point, and that has been as a result of the fall of prices which had taken place over the years, largely by very, very cheap production of very, very cheap and shoddy material, which had an effect upon the revenue, which has to be replaced.

But I must come back again to my hon. friend, the Member for Nyanza Central, and ask him this particular question—I stated—and he did not refer to it in his speech—I stated at the opening of the debate on this particular Motion, Sir, that the Government, as a deliberate policy, had not put up educational costs to the individual parent and the family man, and I ask him, Sir, which would have fallen most heavily upon the population—if we had specialized by putting up educational fees, rather than taken this line of action so that the cost of these services shall be borne by the population as a whole according to their use and their expenditure on the articles involved. I still contend, Sir, that this, from the point of view of the family man, is the better way.

My hon. Nominated friend, Mr. Mohindra, Sir, whose speech I enjoyed, although at times I was a bit puzzled as to which side of the House he was really speaking from—I should like to say to him that it is refreshing to hear a man speak with knowledge of his sub-

ject. If a man speaks with knowledge of his subject he must inevitably gain the respect of the House, even though one may not always agree with all the views he is putting forth. I certainly will take up the case for the aluminium industry, if he will be good enough to place the facts before me and give me the full outline of the case. There is indeed, I think, on first glance, a great deal in what the hon. Member said, but I would like to reserve the position of the Government until we have had a chance to explore this in detail.

Sir, I could not agree with him more than when he spoke about the question of merchants' profits. If a man lays out his capital in the purchase of goods and takes the risk that he may not sell those goods—that they may indeed lie in his store for months and sometimes years—he has a perfect right to expect a reasonable profit upon the money he lays out. That, I think, should be recognized and accepted. I say "a reasonable profit", but business involves the use of capital; it involves the use of money, which sometimes has to be purchased by the trader at quite a high price. He is entitled to recover—that and make—a reasonable profit on the use of his money, just the same as any other citizen expects—if he employs his money to productive purposes—to make a reasonable profit upon it.

It is sometimes rather amusing, Sir, to see that when customs duties rise, everybody seems to say to the trader: "Of course, you must sell at the old price, because you are profiteering if you do not". On the other hand, when that rare and exceptional thing happens, that customs duties fall, everybody says: "Why are you not selling at the new price? You are profiteering because you are selling at the old price". I think, Sir, we must keep something in the nature of a balance in this regard.

Now, Sir, my hon. friend, the Nominated Member, Mr. Jones, raised a point on the customs duties' basis of charge. On this, Sir, I can only say that I will make representations. I will convey what he has said to the Commissioner for Customs. But, of course, the Commissioner will undoubtedly say that the object of the changes was to bring him in line with the United Kingdom and with international usage in this respect.

[The Minister for Finance and Development]

He will no doubt tell me that if you do not agree with the valuation, there is provision for an appeal to the courts. He certainly will tell me that these follow the recommendations of the Brussels Convention which, as my hon. friend, the Secretary to the Treasury pointed out, have been applied pretty generally throughout what is known as the western world, which of course covers a large part of the eastern business trading world as well.

I think, Sir, I have only one other point, and that is amongst the things that I pointed out that we might possibly have made a mistake on, in my opening speech—the question of paper bags. We do recognize, Sir, that in the line that we have taken on this, we might unwittingly have endangered the position of the local paper bag industry. Therefore we are taking the very unusual step, Sir, of giving advance notice of a change in the customs tariff, but that is to try and give those people who might be arranging to import paper bags a chance to save themselves from the effect of the change that we are likely to suggest. So that, Sir, when we come to the actual Bill itself, it is more than likely that we shall be proposing an amendment which will have the effect of imposing an 11 per cent duty on paper bags, including multiple and waterproof bags, under Tariff Item 165. That will restore the position to the 22 per cent which we have previously enjoyed. Other packing materials will remain free. That, Sir, I think is something which can be debated in detail—if there is any opposition to it—at the Committee stage of the Bill, but judging by the representations that I have had, I think this is one of the modifications that, although it may bring in a small amount of money, will not be opposed by many, if any, of the hon. gentlemen opposite.

Sir, I beg to move.

The question was put and carried.

#### MOTION

##### REPEAL OF SUGAR CONSUMPTION TAX

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): Mr. Chairman, I beg to move that, subject to the enactment of the legislative provisions

set out in a Bill entitled the Sugar Consumption Tax (Repeal) Bill, 1958, published in the Official Gazette on the 8th May, 1958, and to be introduced in the present session, the Sugar Consumption Tax be repealed.

This, Sir, I think may be regarded now as formal, from the point of view that the Committee has already passed a Motion approving of the Excise Tariff (Amendment) Bill; it has already passed a Motion approving the Customs Tariff Bill; both of which contain the upward adjustment in the sugar tax. This Repeal Bill, Sir, is to level up the situation to its previous position by repealing the sugar consumption tax. Thus, whilst we have increased on the one hand we shall have reduced on the other and left, in so far as the tax position is concerned, sugar in its previous position.

That, of course, does not allude in any way to the reduction in the price of sugar which I announced on 7th May and which was put into effect the next day.

Sir, I beg to move.

Question proposed.

The question was put and carried.

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): Sir, I beg to move that the Committee do report to Council its consideration and approval of the resolutions on the Order Paper without amendment.

The question was put and carried.

Council resumed.

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

#### REPORT

MR. CONROY: Mr. Speaker, I beg to report that the Committee of Ways and Means has considered the following Motions:

That subject to the enactment of the legislative provisions set out in a Bill entitled the Excise Tariff (Amendment) Bill, 1958, published in the Official Gazette on 8th May, 1958, and to be introduced in the present session, the rates of excise duty be amended in accordance with the provisions of the said Bill.

That subject to the enactment of the legislative provisions set out in a Bill



[Mr. Conroy] entitled the Customs Tariff Bill, 1958, published in the Official Gazette on 8th May, 1958, and to be introduced in the present session, the rates of customs duty be amended in accordance with the provisions of the said Bill.

That subject to the enactment of the legislative provisions set out in a Bill entitled the Sugar Consumption Tax (Repeal) Bill, 1958, published in the Official Gazette on 8th May, 1958, and to be introduced in the present session, the sugar consumption tax be repealed.

The Committee of Ways and Means has considered those Motions and approved them without amendment.

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

Question proposed.

The question was put and carried.

#### COMMITTEE OF WAYS AND MEANS

Order for Committee read.

#### MOTION

Mr. Speaker do now leave the Chair.

#### INCOME TAX RATES AND ALLOWANCES SURCHARGE

MR. SLADE: Mr. Speaker, Sir, on a point of order, and with reference to this order, is it permissible for the Council to debate subjects which, strictly speaking, fall within the legislative jurisdiction of the Central Legislative Assembly but which materially affect the individual interests of the people of Kenya?

I am, of course, referring particularly, Sir, to those income tax proposals which, although appearing in Sessional Paper No. 5, will involve amendment of the East African Income Tax Management Act and, therefore, are not specifically mentioned in the Motions on the Order Paper, such as the proposals concerning undistributed income of companies. It appears to me, Sir, that our right to debate the provisions of the East African Income Tax Management Act is recognized by sections 11 (2) and 97 of that Act, which expressly enable territorial

governors to refer to territorial legislatures for approval of territorial exemption from provisions of the Act.

Nevertheless, Sir, the issue raised by this point of order is wider than the scope of those sections, and I feel that we need the benefit of your ruling on the wider issue.

THE SPEAKER (Sir Ferdinand Cavendish-Bentick): There are certain specific subjects on which the High Commission may legislate with the advice and consent of the Central Legislative Assembly. One of such subjects is the administrative general provisions of the law of income tax, but not the law prescribing actual rates and allowances, which, in so far as Kenya is concerned, have to be passed by this Council. If the Kenya Legislative Council were to pass an Ordinance which was repugnant to the provisions of a High Commission Act dealing with such a specified subject, the repugnant provisions of that Ordinance would be void and inoperative. Only to this extent is the legislative jurisdiction and authority of the Kenya legislature limited.

In my opinion there is, however, no limitation on the capacity of the Kenya Legislative Council to debate general matters of principle on subjects falling within the legislative jurisdiction of the High Commission. Such debates fulfil one of the principal functions of this Legislative Council, in that they provide a forum for debate on matters of importance to Kenya and they permit the Government to receive and consider the views of the representatives of the people of Kenya.

I therefore rule that quite clearly, under our existing Constitution, the principles of proposals such as those contained in Sessional Paper No. 5 of 1957/58, whether strictly falling within the legislative jurisdiction of the Central Legislative Assembly or of this Council, may properly be debated in this House.

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): Mr. Speaker, I beg to move that Mr. Speaker do now leave the Chair. This, Sir, is an unusual step to take in so far as a Ways and Means Committee is concerned in this House. Nevertheless, Sir, with your permission I take this unusual step because

[The Minister for Finance and Development].

We are faced with this unusual situation of a resolution which deals, in Ways and Means, only with our own Rates and Allowances Ordinance, whilst, at the same time, there are proposals abroad—or should I say afoot—set out in the income tax Sessional Paper No. 5 of 1957/58, which are of considerable interest to a number of the population of Kenya.

I take this step, Sir, because we on our side are desirous of hearing the opinion, which we know will be expressed in this debate, the responsible opinion of the representatives of the various people and interests who are affected by these particular tax suggestions.

The first point I would like to state, however, Sir—and I trust hon. Members will remember that these are proposals which are to be dealt with on an East African basis—is that when we have listened to the criticisms and, we hope, the suggestions—constructive suggestions—from the other side of the Council, it will be necessary for the Government to have discussions with the other governments concerned. We have to do this continually, Sir; it is a process which is always going on in the East African territories. And I would say, Sir, that, whilst we may differ from time to time in our points of view, nevertheless, over the years, we have, as governments, worked out, I think, a very good process of discussion, of compromise, of agreement and, occasionally, of disagreement, but always in the atmosphere of understanding the problems with which the other governments are faced.

Sir, it is no good entering those negotiations in any other spirit than that of friendliness and a desire to reach a reasonable compromise or agreement. The interests of the territories are so bound up over so many spheres that an atmosphere of discordance would only be harmful to the interests of the territories as a whole. I wish, Sir, to put that on record at the very beginning.

The other point, Sir, is this: I hope that the expressions of opinion in this debate will be made in a level-headed manner and directed towards the particular subject in which we have got an

interest. I do not think I will say any more on that particular point.

Exaggeration can do as much harm to the economy of this country as anything else, even the proposals themselves, if they can indeed be, and are indeed harmful.

Before dealing with what I think is the main reason for this peculiar step, that is the desire of hon. Members opposite to ventilate their opinions on the undistributed income tax suggestions and its ramifications, I would like to say two other things.

It has been forgotten, I think, during the past few weeks that the Government has, in its adjustment in a downward direction of the burden of income tax on the individual, sacrificed something like £957,000, possibly, of revenue. £850,000, it is estimated, will be lost as a result of the revised personal allowance, the rates of tax and the merger of income tax and surtax; £6,000 in the improved passage deduction; and £100,000 as the net cost of the pensions and self-employed—retirements—benefit proposals. As, Sir, the concessions are to be made retrospective, it will fall on the year of income for 1957, that loss falls immediately upon the revenue. Against that, Sir, the increase suggested in the charge on annual value brings us in £167,000 and it is estimated that the gain from undistributed income tax will be £270,000.

Now, Sir, I am sure that hon. Members will realize that if we are to give that away and maintain the services that the people of the country demand we shall have to find the revenue from some other source. That, I trust, Sir, is something which will be kept in mind, and I shall look forward to hearing constructive suggestions from the hon. Members opposite, as to the way in which the revenue, if there is to be a sacrifice in this regard, will be replaced or can be met.

I am reminded, Sir, very much at this stage of a statement made by the Chancellor of the Exchequer, the Rt. Hon. Mr. Heathcoat Amory, in the House of Commons only last Thursday. He said "What I think we must all remember is, striking reductions in taxation call for substantial reductions in expenditure. That was by no means easy. Reductions in expenditure were by no means as

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popular as reductions in tax'. This seems to be a problem and attitude which seems to face most chancellors and most ministers of finance in most territories.

Now, Sir, let me turn to the undistributed income tax and the Coates Commission, and I must apologize to the hon. Members of this Council if I do quote at fair length from the Coates Commission Report in setting out before the Council and before the country the basis of this suggested tax. The rate, of course, is a matter which must be settled by this Council in so far as Kenya is concerned: even if the tax is brought into being it would have to be moved in a resolution of a similar kind at some time in the future.

Now, Sir, hon. Members will remember that as a result of suggestions and pressures the Governments of East Africa in unison appointed a Commission to enquire into the present system of taxation, profits and income as applied in the income tax legislation and to consider the best way of raising the revenue required by each of the East African territories from the taxation of profits and income, due regard being paid to the points of view of the taxpayer and of the Governments and of the desirability of encouraging productive enterprise; also to consider the present system of allowances, reliefs and rates of tax as a means of fair distribution of the income of the tax, and to take into consideration when reaching its conclusions the effect of tax imposed under the Personal and Poll Tax Ordinances.

We had, Sir, a very distinguished Commission appointed. We had Sir Eric Coates as Chairman, Mr. Brookes, Mr. Knox, and we had with them a man of very, very great experience in the inland revenue and income tax spheres in Great Britain in Mr. Habbajim. Their report was submitted and published.

Perhaps, Sir, it would be interesting to read their comments and place them on record as the opinion of these experts from outside the country who are usually heralded as being of greater value than those people whom we have at our disposal when it is thought that their report is likely to be more favourable to the point of view that is being put forward.

Paragraph 407, Sir, chapter XII, which is headed "Undistributed Profits of Private Companies. A—The Main Issue" says: "We propose to follow the example of the Gill Committee and use the term 'private company' in this chapter to mean a company in which the public are not substantially interested. The United Kingdom Royal Commission called it a 'close corporation'. The term 'private company' has a different meaning under the Companies Ordinances".

Paragraph 411, Sir, reads: "East Africa is not exceptional in having special legislation to deal with the problem of the taxation of undistributed profits of private companies. Many countries have found it necessary to have specific provision in this field. The reason is not far to seek. Because an individual is liable to surtax and a company is not, individuals are liable to tax at progressive rates which rise far beyond the rate charged on a company's profits. An individual trader who is liable to surtax can turn over his business to a private company in which he holds virtually all the shares; he can restrict dividends to a minimum and so arrange matters that the bulk of the profits never reach him in the form of taxable income and consequently never become liable to surtax. It is true that even a public company with shareholders interested in it only as an investment does not distribute all its profits as dividends, but the directors of a public company are influenced by the needs of the business on the one hand and the interests of the body of shareholders on the other, and as a result achieve a policy which is dictated mainly by commercial and not tax considerations. Something then must be done to counter the opportunities for surtax avoidance which the mere formation of a private company presents. But this can be done in either of two ways. The legislature can determine that for tax purposes they will ignore, in effect, the existence of a private company and charge the shareholders to surtax as if they received the profits direct. Alternatively, they can decide that though they will not seek to ignore the company they will impose special rules because the company is so constituted that it can easily avoid the tax which would accrue if the company and the shareholders were at arm's length".

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That, Sir, is paragraph 411. It sets out, and I would like hon. Members to notice that I have expressed no personal opinions, the opinion of the expert gentlemen who were appointed to investigate into this matter, and they say in effect that it is possible and quite easy for an individual trader to turn over his business to a private company to restrict dividends to a minimum and so arrange matters that the bulk of the profits never reach him in the form of taxable income and consequently never become liable to surtax. They go on to say that something must be done to counter the opportunities for surtax avoidance which the mere formation of a private company presents.

Now, Sir, they then go into the great deal of argument and I do not propose to trouble the Council with reading all the paragraphs as I imagine that most hon. Members will, of course, have read the Coates Commission Report, particularly this chapter, for themselves.

I will now turn to paragraph 426 which says: "South Africa has recently passed legislation to deal with the undistributed profits of companies on a different basis. The broad scheme is to make all companies, whether public or private, liable to an undistributed profits tax of Sh. 5 in the £ in respect of the year of assessment ending 30th June, 1955, and subsequent years. The 'distributable income' of a company is considered to be 60 per cent of its profits, less the income taxes payable on the profits. The excess, if any, of the 'distributable income' over the dividends paid is subject to the new undistributed profits tax at Sh. 5 in the £. Companies whose reserves do not exceed £15,000 or 30 per cent of capital and companies whose profits for the year do not exceed five per cent of capital are exempt. There are other exemptions but they do not appear to be extensive. It is of interest that South Africa apparently recognizes no valid distinction between a public and a private company as regards the risk of loss to the revenue by failure to distribute profits. The South African legislature has sought by the recent introduction of this undistributed profits tax to encourage a distribution of dividends by companies, whether public or private,

that will ensure a satisfactory flow of super-tax from shareholders. If the company does not distribute a specified proportion of its profits by way of dividends it has to pay the undistributed profits tax. It can avoid liability to the undistributed profits tax by making the distribution and rendering shareholders subject to super-tax".

That, Sir, was paragraph 426, and let me read just two lines again. "It is of interest that South Africa apparently recognizes no valid distinction between a public and a private company as regards the risk of loss to the revenue by failure to distribute profits."

The paragraph then goes on: "The South African legislature has sought by the recent introduction of this undistributed profits tax to encourage a distribution of dividends by companies, whether public or private, that will ensure a satisfactory flow of super-tax from shareholders". That, Sir, is different from the proposals which have been put forward in Sessional Paper No. 5 and which will be considered by the Central Legislative Assembly, inasmuch as it means not concentrating, as it is suggested here, on the private company, where it is believed that the steps have been taken as an avoidance of the super-tax, and it means spreading this over all companies, public or private, with, of course, the yield from a consequently greater field of people. I shall be interested to hear the opinion of hon. Members opposite on that particular point and that particular paragraph.

Now, Sir, let me turn to paragraph 429 which has direct reference to some of the suggestions which have been put forward by various bodies and people.

"429. Both the United Kingdom and the East African provisions proceed by levying a special charge on shareholders of companies of the one-man or family type if they have not made a reasonable distribution of profits by way of dividends. The difference in method is that the East African provisions proceed from the standpoint that a private company has acted unreasonably if it has distributed less than 60 per cent of its profits, whereas the United Kingdom provisions leave a reasonable distribution undefined and require each case to be judged on its merits. The Special Commissioners,

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“not only to the current requirements of the company's business but also to such other requirements as may be necessary or advisable for the maintenance and development of that business.”

In the circumstances of East Africa, possessing no margin of skilled staff in its Income Tax Department and no expert appellate tribunals comparable with the Special Commissioners and the Board of Referees in the United Kingdom, the greater simplicity and certainty of the Indian model (as it existed when section 22 was based upon it) make it much to be preferred from the administrative point of view. Simplicity and certainty are merits from the viewpoint of the taxpayer as well as of the department. A changeover to the United Kingdom model would therefore be an undesirable step even if accompanied by some safeguards, e.g. to enable settlements to be reopened where funds intended for development have not been so used. On this account we do not favour the solution proposed by the Gill Committee in paragraph 145 of their Report, as the legislation there proposed closely follows the United Kingdom model, with modifications only on points of detail.”

Now, Sir, that was the Commission's opinion on the question of appellate tribunals on the lines of, for instance, the Board of Referees in the United Kingdom. I shall look forward to hearing, again, hon. Members' opinion upon this, and I am sure that all hon. Members will remember the words “... possessing no margin of skilled staff in its Income Tax Department, and no expert appellate tribunal”. We must have regard, Sir, to the field of personnel from whom we can draw for matters of this kind.

Now, Sir, I will not go through all the next lot which are there, not because I think there is anything detrimental to the argument in them but because I do not want to take up too much of the time which hon. Members opposite, I am sure, will like to use usefully. But it is important to put on the record the opinions of this Committee at the very start of this debate so that the House

and all people who read the HANSAARD can be fully apprised of these decisions.

Paragraph 435, Sir, reads, “We have already mentioned in paragraph 429 that both the United Kingdom provision and the provision drafted by the Gill Committee direct that regard should be had not only to development of the type we have been discussing but also to requirements for the maintenance of business. We agree that in addition to the financing of fixed assets development, a company must consider its current needs and its requirements for liquid assets expansion. A company may, indeed need to spend nothing at all on fixed assets and yet need to retain profits to pay its suppliers, to finance stock replacement or expansion and to give credit to customers. The extent to which profits have been employed in this way could probably be measured but measurement would involve complicated comparisons of capital year by year and elaborate rules to deal with the introduction of new capital, movements of loans, and so on. Capital computations of this kind would destroy the simplicity of the present scheme and give additional work both to the Department's assessors and to the auditors of companies. We much prefer that some conventional practice should be introduced into the scheme to take account of these factors without weighing them exactly in each case. We propose for this purpose that there should be a percentage deduction from the profits, as there is, in effect, and on different grounds, at present. The percentage which we have decided to recommend for this end, viz.: to meet the requirements of a company to retain profits for purposes other than fixed assets development, is 20. Taking one company with another and one year with another, we hope that this percentage deduction will do substantial justice and avoid elaborate calculations. We believe that for the present purpose the limitations which are inherent in any conventional basis are outweighed by its advantage; it will be simple to calculate and companies will readily know how they stand”.

That, Sir, is another point upon which one would like to hear the opinion of the hon. Members—and on the last sentence in particular. “We believe that for the present purpose the limitations

[The Minister for Finance and Development] which are inherent in any conventional basis are outweighed by its advantages; it will be simple to calculate and companies will readily know how they stand.”

Now, Sir, we come to paragraph 439—a paragraph of which there was some deletion at a later stage and amendment. The first four lines of paragraph 139 read, “For these reasons we think that shareholders in private companies whose income consists mainly of investment income should be taxed as if 100 per cent of the profits had been distributed to them. This is already done in the United Kingdom, as the following extract from paragraph 1021 of the United Kingdom Royal Commission will show”. That was paragraph 439. Section 22 makes no distinction between one company and another by reference to the activities they carry on. Most companies are engaged in trade and it is natural to think of them when discussing the general problem. But there are companies whose main purpose is the holding of investments and whose income consists mainly of investment income. Such companies have much less need than a trading company has to retain profits to provide funds for recurrent requirements or for development. They have no problem of replacing stock-in-trade at enhanced prices or of providing increased credit to customers. They may wish to reinvest part or the whole of their income or to vary investments, but they do not depend for their success on a policy of expansion as do many trading companies. If such a company is virtually owned by a single individual or by members of a family, it is difficult to see any justification for allowing the income to pay a reduced tax because it is retained and reinvested instead of being distributed as dividend and then returned to the company as additional capital. The shareholders seem to be in much the same position as if they had not formed a company and it pays the investment into a special banking account used solely for the purchase of additional investments. There is no reason why an individual should escape surtax on his private investment income because he creates a company to manage his investment. A man may have genuine business reasons for turning his business

over to a company. There is little tax avoidance to cause him to turn over his investments to a company. For these reasons we recommend that shareholders in private companies, whose income consists of mainly investment income, should be taxed as if 100 per cent of the profits had been distributed. This is already done in the United Kingdom as the following extract from paragraph 1021 of the United Kingdom Royal Commission will show. Then it goes on: “In the case of the investment company that is in a few hands, the income from its investments is now treated as the income of its members and the special commissioners have full discretion to look beyond the legal ownership of shares in deciding who is to be treated as a member and to apportion the company's income for assessment purposes in accordance with this discretion. Moreover, income arising to such a company in liquidation can be treated for surtax as the income of its members. We observe also that the Gill Committee in paragraph 129 of their report remarked that the trading company, that is the company which actually operates an enterprise, has a prima facie greater title to relief than has the investment company which carries on no trade or business but which invests its funds principally in other undertakings”.

Now, Sir, to conclude this I would turn to page 131, paragraphs 447 to 450—“G—Definition of Company”.

“447. Section 22 applies to a company resident in the territories unless the public are substantially interested in it, or it is a 100 per cent subsidiary of a company in which the public are substantially interested. A company is deemed to be one in which the public are substantially interested if shares (other than fixed dividend shares) carrying not less than 25 per cent of the voting power are held by the public and are freely transferable. For this purpose the ‘public’ excludes, *inter alia*, any person who is a director or secretary of the company and any relative of a person who is not a member of the public. This very brief summary omits some refinements but indicates the broad position. We do not regard this definition as satisfactory. It rests too much on a distinction between a holding of shares by a member of the public and a holding by one

[The Minister for Finance and Development] who is deemed not to be such. This is a difficult distinction to draw in East Africa where the whole apparatus of stock exchanges and official lists of share transactions is lacking. It also ignores the fact that a private company can be effectively controlled by more ways than the mere possession of votes. It is not surprising in these circumstances to learn that some companies have found ways of issuing sufficient shares of a particular type to bring them outside the purview of the section although the previous owners still retain complete control and own a very large proportion of the share capital. Devices of this kind would be discouraged if the percentage were increased from 25 to 50 and we note that this step has been taken in India in connexion with the amendment of Indian law mentioned in paragraph 425. But we think this course might bring in some companies which are not of the type for which section 22 is intended, while others might still escape by an extension of the use of existing devices.

"448. We prefer to suggest that the emphasis should be on control rather than on the size of any shareholding by the 'public'. The definition should in our opinion be revised with the object of ensuring, as far as possible, that any resident company which is under the control of not more than five persons is subject to the operation of section 22. This was the original test in 1937 and it seems to us to be a sound one. The wording, however, should be wide enough to include the various direct and indirect ways in which control can be maintained. For instance, whatever the voting position, a company should be caught by the section if not more than five persons possess, or are entitled to acquire, the greater part of the share capital or if they would be entitled on a distribution of the whole income of the company to the greater part of the amount distributed. There are detailed provisions in the relevant United Kingdom definition (section 256 of the Income Tax Act, 1952) which should be studied if our suggestion to redefine the type of company affected by section 22 is accepted. The Gill Committee took the same view as we do of the inadequacy of the present definition and of

the need to place emphasis on control by a few persons. We are in agreement with the observations in paragraph 143 of their Report.

"449. We have mentioned in paragraph 447 that there is a special provision which ensures that a relative of a person with control shall not be regarded as a member of the public. We think there should also be a provision that persons related to one another should count as a single person in deciding whether a company is controlled by not more than five persons. Further, we think that the definition of 'relative' should be widened, not only to include spouses of the relatives at present mentioned but also to add certain degrees of collateral relationship such as uncles, cousins and nephews". That serves, I think, to underline that particular paragraph.

"450. We accordingly recommend that sub-sections (2) and (3) of section 22 should be revised to ensure that companies which are under the control, whether direct or indirect and however exercised, of not more than five persons (counting persons who are relatives of one another as one person) are subject to the provisions of the section."

Now, Sir, I have read out those paragraphs in order to put on the record and before this Council—and I trust, through the medium of the Press—before the people of the country, the arguments of this expert body known as the Coates Commission upon the very factors that we are now considering; and it is to answer those arguments and to constructive suggestions as to how and why those arguments and decision should be altered, and as to how, if the sacrifice of revenue is to be made, it should be replaced that I hope this hon. Council will address itself in the coming debate. I have not dealt with the question of net annual values, because I rather think that that has been accepted to some extent by hon. Members here, but if hon. Members wish me to, I will go on to page 150 and read out paragraphs 532, 533, 539, 542, and 543. If the hon. Members wish me to put on record the fact of the opinions—

MR. ALEXANDER: I have read them.

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): Yes, the hon. Member for Nairobi West says he has read them, but I am now attempting

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to reach the wider public and show them the reason why the expert commission which was asked for from abroad and which sat here and considered these matters came to these conclusions. They are, Sir, very well set out in these paragraphs. I can, of course, arrange to head them equally well in reply, I know, as at the opening of the debate, but I have purposely addressed my remarks at this particular stage to this particular problem.

Now, Sir, the hon. Members of the Council will notice that I have expressed no personal opinion in this matter so far. I have put before the Council the opinions of the Coates Commission on these matters, this impartial body from outside which was asked for by hon. Members of this and other councils, which came, saw and went away, leaving its facts and recommendations.

MR. ALEXANDER: What about your opinion?

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): My opinion, Sir, will wait until I have heard the hon. Members opposite and the arguments which they, I am sure, will direct to the opinions, reasons and arguments of the Coates Commission.

I, Sir, shall have, as will the Government as a whole, plenty of chance to listen and no doubt adequate opportunity either now or in the immediate future in which to express our opinions of the arguments we have heard.

Sir, I beg to move,

MR. CONROY seconded.

Question proposed.

SIR ALFRED VINCENT: Mr. Speaker, Sir, at the outset, I would like to express my personal appreciation, and I am certain the appreciation of Members of this House, on your very wise decision to allow this debate to take place today in this free manner which is in accordance with the traditions of Parliament, and I would also like to thank the Government as such, whether it be the Council of Ministers or just those who sit on the Front Bench, for accepting the method of debate; but I do hope that in my remarks, which will be confined to the machinery as between this House and

the Central Assembly, that you will not need to have another occasion to adopt what has been described as an unusual attitude in this way.

Now, Sir, I am certain we all very much appreciate the remarks and the further underlining of various paragraphs of the Coates Report, but may I say this to the last speaker, Sir: that I am certain that this occasion, as I hope every occasion, is completely free from any personal attack either on the Minister or on the Finance Ministers of the other territories. I believe, having heard a tremendous number of the arguments to and for, that a mistake has been made, and it is our purpose to see that the mistake is rectified. As far as evasion is concerned, of course, Members will know that I have done everything I can, over the last few years in the Central Assembly to get evasions grappled with by the authorities, and I think that this has been done very well by the Special Investigation Branch of the Income Tax Department. But I believe that the present proposals are unwieldy and are not in equity taking the whole of the businesses of this country in the picture. They all vary to a very great extent. But nobody is disputing that there is very grave concern about certain avenues of escape from just taxation.

I am certain, although the Minister quoted so much of the Coates Report, that he, like myself, does not believe that the expert body who came out here, stayed and then went away, were altogether infallible, because they must have lacked a certain amount of knowledge of local conditions which of course cannot be compared on various grounds to the conditions pertaining elsewhere.

Now, may I carry Members back, Sir, to White Paper 210, which was much debated, and was finalized in the debate on 16th April, 1947. Now, had an occasion such as this been envisaged at that time, the Order in Council would have been amended, I am sure, before the end of the first four-year period, and I claim, Sir—probably the legal Members on the other side may dispute it—that because of the Central Assembly's life being reviewed every four years, there is nothing to debar the Order in Council being rectified if it be found to be wrong in a certain respect at the end of or before the end of this four-year period.

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The speaker did point out, Sir, and remind us of method of consultation and introduction of these measures; the three Finance Ministers have a very great responsibility, and I agree with him that they do overcome a very grave problem by their discussions, although I have twitted them on occasions and said that the only thing they can readily agree upon is to agree to disagree. But nevertheless, much has been done for the good of the territories in that way. But I think in this particular subject, Sir, that the three territories are not equally affected; I believe that Kenya is likely, and its population is likely to be affected to a much greater extent than the other two territories. Of course, in that, Sir, I am referring to Sessional Paper No. 5, page 11, paragraphs 43-53, which I will dwell on only in this speech.

Now, Sir, these provisions contain alterations and additions which are material in the structure affecting income tax by way of legislation, and the proposals are closely allied to rates and allowances; in fact, in substance they dictate them. In dealing with the history of Paper 210 and the creation of the Central Assembly, one must associate with it the despatch from the Secretary of State, dated 9th November, 1946, as it had a great bearing on the ultimate decisions made regarding the creation of and the legislative powers of the Central Assembly. Now, Sir, throughout that despatch, and indeed in Paper 210 itself, it was clear that the objective of setting up the Central Assembly, one condition was recognized fully, certainly by me, and I am certain my friend, the Minister, who was present at the debate, that the setting up of the Assembly must not interfere with the integrity of the Interterritorial Legislative Council; and it was also made clear that the power and duty of levying taxation should rest on the territorial Legislative Councils, and not on the Central Assembly. Curiously enough, Sir, in that Paper there is a very direct reference to a most valuable body which has not been used and which I understand has now disappeared, which was the Central Revenue Advisory Board. In that respect, it said "A central revenue advisory board should be established to advise on the administrative procedure to be followed in the collection of customs

and excise duties and of income tax, and on other matters referred to the board from time to time". Now, Sir, this, I believe, is one of the few occasions when this board could and should have been consulted, but because of, I understand, the expansion of the membership of the Central Assembly, and the fact that the Coates Commission Report had been digested and commented upon by many public bodies, the Coates Report as such was not referred to it. But I do maintain, in all seriousness, Sir, that had the Revenue Advisory Board, consisting as it does of men of very high repute and considerable knowledge in these matters, been consulted at the right time before irrevocable decisions on the nature of this White Paper had been made, a lot of the criticisms would now have not come about, because I am certain that many of the suggestions which now emanate from those members in their private capacity would be in this Sessional Paper, Sir, which we are discussing today. I am not laying any particular blame on anybody at all, but I do feel that it was a mistake that this should be rushed through because of the element of time and I doubt whether new officers who have just arrived in the country were fully aware of the great use of this particular body and the value of their knowledge of local conditions and repercussions which not only would occur here, but against investors overseas. Now, Sir, I might well be told "Well you did accept Paper 210, and you were a party to it". It was my privilege then to accept it on behalf of the European Elected Members in 1947. But taking everything into consideration and having thought out every possible contingency which might arise and which, of course, until this time I would remind Members has stood the test of time for a considerable number of years, we took refuge in the fact that under clause 29 of Paper 210, it does provide that "... no bill shall be introduced into the Assembly unless its introduction has received the approval of the High Commission, and subject to the provisions of the Standing Rules and Orders, and save as otherwise provided thereunder has been published in the Gazette with a view to such introduction". Then it goes on, Sir, in paragraph 33, in which the Governor under special circumstances is empowered to override

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the rejections of any measures which he considers imperative to be passed—again, there is a saving clause to this effect: "If any unofficial member of the Assembly objects to any declaration made under this section" (which I have just described, Sir), "he may, within seven days of the making thereof, submit to the High Commission a statement in writing of his reasons for so objecting, and a copy of such statement shall if furnished by such member, be forwarded by the Commission as soon as practicable to the Secretary of State". Where we did make the mistake, Sir—and I always find it is best to acknowledge mistakes—is that we were misled by the paragraph which appears in the Third Schedule, item 5, which is not all-embracing. It says "Income Tax: administrative and general provisions, but not including the rates of tax and allowances", that is to say, the Central Assembly dealt with everything else; but did not include the rates of tax and allowances. But, Sir, with all due deference to the considerations at that time, I find that it has become necessary for both this Council and the other Legislative Councils—and also the Central Assembly—to consider having that paragraph amplified, because had it been amplified at the time, your decision today would not have been necessary, Sir. I submit—of course, my wording may offend the legal luminaries on the other side, Sir—I submit that "Income tax; administrative and general provisions, but not including the rates of tax and allowances nor any specific interpretation, definition or provisions governing rates and allowances". Now, if that had been in, Sir, then this Council and every other council would have had a normal course to adopt in the discussions of these proposals. I do feel that we are being objective in this debate; we intend to be objective all the way through, but I am equally certain, from a very fair judgment in the matter—and I will reiterate: a mistake has been made, because the repercussions in various forms on companies state both here and elsewhere were not realized at the time. Therefore, Sir, I do hope that Members will support me in reconsidering the point that I have made, that the powers of the Legislative Councils shall be added to in the respects I have mentioned.

Otherwise, you will have regulations and legislations passed which have an effect, indeed, of increasing taxes and decreasing allowances without actually in character being clearly defined as a tax or an allowance.

Once again, Sir, I wish to express my very great thanks to you for your very wise ruling this morning, and I beg to support.

MR. ALEXANDER: Mr. Speaker, Sir, I am grateful to the hon. Corporate Member who has just sat down for his exposition on the background concerning the Central Legislative Assembly, and undoubtedly, this on our record will, I believe, be most useful in achieving amendments to that legislature that will make easier the procedure of this House.

Mr. Speaker, I am extremely honoured today to have been given the chance by my European colleagues to make the main contribution in this debate although in acknowledging that honour, I do realize that I am trying to tackle what is an uninspiring, an uninviting and an unwanted subject. I have said at another time that death and taxes must always remain with us, but at least death does not get any worse. Today, I am going to try to speak on what is indeed a deadly subject. I had hoped I would also be able to speak for my hon. African and Asian colleagues, but I have not been invited to do.

Nevertheless, it is my hope that they will be able to agree with most or all of what I have to say. And perhaps for the first time in this House, since all the new Members arrived, we may be able to produce a united front. It would indeed be extremely timely for us to do so on a subject of this nature, because it is long overdue for our Government to get a real shaking from this side. They have thrived for too long on the differences between us; but today, we have a great opportunity to show what one voice in opposition can really mean in stimulating and keeping objective a Government that operates with the mighty steamroller of this one.

Mr. Speaker, as you know, I have indicated to you, I have confirmed to you, that the Motion I tabled the other day is not withdrawn. That is, the Motion calling upon His Excellency, the Governor, to invoke particularly clause

[Mr. Alexander]  
97 of the East African Income Tax Management Act. But I do wish to make it clear, Mr. Speaker, that I have only withdrawn that after consultation with the Government Members in order to facilitate the business of this House; and that if necessary after this debate, it may be that I will wish to reintroduce that Motion.

I do understand, Mr. Speaker—and perhaps before we go into Ways and Means, you will be able to give us a definite ruling—but I do understand that the procedure to be adopted in this debate and its continuance to ways and means is that we will be able to discuss in Ways and Means matters concerning this Sessional Paper as a whole. That, indeed, will be most useful, Mr. Speaker, because of course on this Motion the Government—the Minister for Finance—has the last word, and it may be very useful for us to be able to query any of his remarks, if we have to do so, in Ways and Means.

I know, Mr. Speaker, that the Minister for Finance has made a considerable point of this introduction of experts from abroad and particularly in connexion, of course, with the composition of the Coates Commission. He emphasizes it in such a way as to infer that we, on this side, are always attracted to experts from abroad, whereas he knows very well indeed, Mr. Speaker, that that is not so. In connexion with my Motion on a fiscal enquiry, I made it very clear that that was a case—a clear case—where we had not got—I did not think—the expert experience in this country, and we needed to bring it from abroad. I made that very clear. But in very many other respects, Mr. Speaker, we have emphasized time and again that we have the experience here. In fact, only six months ago a debate was staged on the Lidbury Report and the suggestion made by us, particularly by my friend, the Specially Elected Member from the North Kinangop, was that a mistake had been made in introducing outside experts in that particular instance. In this particular case, Mr. Speaker, if in the first instance our Government had been more thorough and more objective about the Gill Report, they need never have brought out experts to deal with the Coates Report—a report which I believe

has cost the three territories something like £20,000.

So, Mr. Speaker, I hope we will hear no more arguments about this side of the House being always ready and willing to accept recommendations by anyone brought from overseas.

Before I embark on the main question of taxation, I would just for a moment, Mr. Speaker, wish to refer to some remarks last Friday morning by the Minister for Finance, when he was talking about customs duties, and this is what he said. I quote: "However, Sir, we must try to be honest with ourselves and address ourselves to the problem, which is the real problem, in the imposition of duties of this kind, which is the need to produce revenue. Now, Sir, I have had the pleasure, not altogether undiluted—I must say when I read that word "undiluted" I was reminded of the type of democracy that everybody is asking for here—"not altogether undiluted, I admit, of sitting on three benches now for some 15 Supply days, listening to expenditure being debated, and, with very, very rare exceptions—and then only in an undertone—have I heard anyone suggest any reduction of expenditure."

That, I imagine, Mr. Speaker, will be his same argument when he has listened to many moments of points being made from this House on this taxation. I do submit, Mr. Speaker, that it is a most unfair, a most ungenerous and a misleading statement, and I would ask the Minister to modify it, because he knows that it is not expenditure on this side of the House that we wish particularly to tackle. We are really not competent to do so. But what we do attack, and persistently have attacked, is the question of the proper use of expenditure.

Several attempts have been made—I have made at least three and other hon. Members have made many more—to have our Government agree that in respect of human efficiency we have an expert staff and a Committee of this House to deal with the problem in the same way as is done with the Public Accounts Committee. It is strange indeed, that when Government have an audit—a financial probe—they are perfectly ready to accept the procedure—a long procedure—a long historical procedure—adopted from the House of Commons,

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of a financial probe with a Committee of this House; but when we ask for a probe into human efficiency, we are told "No, you cannot go about it in the same way as you do on the Public Accounts Committee because that would undermine ministerial responsibility".

So, Mr. Speaker, our return on this side of the House is the consistent one of asking Government to let us see how efficiently or inefficiently this Government machine is working. It has been clearly said time and time again from this side of the House—I said it in the debate on my fiscal enquiry Motion—that it is not economy that we want in the sense of refraining from useful expenditure, but it is economy in the sense of the wise use and organization of our national resources. And, Mr. Speaker, if our Government will only give us the chance to look at it in this way, with officials to do the initial probing and a committee to assess the results, then indeed we will be in a position to tell our Government just where they are using expenditure unwisely and uneconomically.

Turning now to taxation, I want to refer first to some remarks of the famous Henry George, who said that the best taxes by which the public revenues could be raised were such as to conform most closely to the following conditions, and I wish to quote him. "Firstly, they must bear as lightly as possible on the production of wealth. Secondly, they should be easy and cheap to collect and fall as directly as may be on the ultimate payers. Thirdly, they must be certain and give the least opportunity for corruption and also for evasion. Fourthly, they should bear equally so as to give no citizen an advantage or put him at a disadvantage as compared with others." Mr. Speaker, there can be very little quarrel with these four requirements and it will be interesting to discover how far they have been fulfilled in the income tax proposals that we are now considering.

Henry George spoke of the necessity for taxation to bear as lightly as possible on the production of wealth. The same idea must have prompted the words in the terms of reference to the Coates Commission by the significant mention of the phrase, which I quote: "the disir-

ability of encouraging productive enterprise". That phrase, Mr. Speaker, was in the terms of reference to the Coates Report—the report upon which the Minister himself has relied so much this morning in quoting to us at considerable length. I am bound to say that his speech was a magnificent example of how to reproduce words from what other people have written, delightfully spoken and delightfully presented.

It is in this very important respect—the encouragement to productive enterprise—that the present proposals have failed miserably, and I will show later, when discussing particularly undistributed profits tax, just to what extent these proposals have failed to encourage productive enterprise. Mr. Speaker, not only are existing enterprises and businesses depressingly hesitant at this moment, as the result of these proposals, but new enterprise is obviously and clearly avoiding these territories whilst these particular proposals remain.

The proposals have failed in another important respect, namely concerning tax avoidance. It had been hoped that the nature and rates of tax would be sufficiently wisely balanced so as to discourage avoidance. As it happens, my opinion is that certain of the present proposals will be the cause, in fact, of more avoidance than there was previously or there is at present. And what is more serious—far more serious—is that it will be avoidance of a type which is new and novel and fascinating to some people, and which will sadly—sadly—deplete the wealth of Kenya. What it will not deplete, Mr. Speaker, is the activities of my own profession. Let me say at the outset, from that purely selfish point of view, how much I welcome these proposals to add to my earning capacity.

What a sad reflection that is, on the wisdom of our Government in introducing these proposals in this way. In fact, Mr. Speaker, I would go so far as to tell hon. Members that in August I am going specially to the Seychelles Islands to see what the possibilities are in this particular respect. That is a part of the world where they really know how to deal with benefits in kind, for I am told that over there fish—fish—those things that our Nominated Member from the seaside is always talking about—are six for a shilling and women are six for one fish.

[Mr. Alexander]

That Mr. Speaker, is the type of hidden benefit that is considerably difficult to assess. But that is not why I am going to the Seychelles. I am going so that I can discover how useful it will be for residence to be created over there and, in fact, Mr. Speaker, I think this particular type of fictitious trade will become so remunerative that it may well be necessary to reintroduce a special flying-boat service over to the Seychelles. Already, before these proposals are even law, there are, for instance, stories of control and residence already being technically removed from Kenya.

Here I am bound to have a somewhat frivolous thought on those of our African friends who are continually shouting: "Africa for the Africans", because it will be an amusing day, Mr. Speaker, when they wake up to these repercussions of the tax proposals to discover that, after all, it is better to be here and yet not to be here—to be somewhere else instead.

A short quotation from the report of the Royal Commission on Taxation of Profits and Income in the United Kingdom in 1955, and I know that the Minister when he was speaking, referred several times to this report—and on this particular subject of avoidance it will help to explain to hon. Members better than anything that I can do if I quote from it, with your permission. Slightly amended and slightly abbreviated, the particular quotation reads as follows, and I quote: "Avoidance of tax is a problem that is likely to continue, when rates of tax are high and the burden of tax is seen to have a major influence upon the affairs of business and upon every aspect of social and personal life".

In this particular context, I beg of our Government to withdraw the proposals concerning rates of tax, life assurance and savings for retirement, undistributed profits tax and the income from profits; and that having done so, our Government should think again—think again, with the help and ready co-operation of those outside Government who are only too anxious to assist in the discovery of the fairest and wisest remedies to these complex problems.

I do believe, Mr. Speaker, that it is because there has not been sufficient consultation with bodies and persons out-

side Government on these complex problems that they have come to us in this somewhat, in many places, objectionable manner. I do realize, of course, when I make that plea, what the Minister himself told us when he began to speak about the need to co-operate with the other territories. This, I do appreciate, is East African legislation and I realize how delicate is the negotiation for our Minister with these other territories, and how carefully he must proceed. But, nevertheless, Mr. Speaker, there must come a time when it may be necessary for Kenya to invoke clause 97 of the Management Act and go it alone. Because, after all, many of the businesses that are affected by this taxation have their headquarters in this Colony and I doubt very much whether the other two partners in these schemes are affected to the same extent as we are.

When speaking on the 21st of last month, the Minister told us that the demands for services are limited by the level of taxation which it is felt that the economy can bear. It seems clear that this sense of feeling by the Government must have been deadened when it accepted the proposals for undistributed profits tax, because I can assure the Minister in his own words—his own words—that this is a level of taxation that the economy is unable to bear, or Mr. Speaker, to accept.

The Minister for Finance said on the 7th of last month, and I quote: "The first matter of concern to the Government is evasion and avoidance of tax". Hon. Members will discern from what I have already said that this ideal of concern—concern by our Government—has been unwisely interpreted and will misfire; in fact, it will back-fire if the present proposals are allowed to prevail.

What of the proposals in detail, which are contained in Sessional Paper No. 5 of 1957/58. So far as concerns rates and allowances, I do not propose to deal with the general issue at this moment, because there will be an opportunity, Mr. Speaker, when we come to the Motion in Ways and Means, for there to be a thorough and full discussion at that stage.

The first paragraph of these proposals tells us that the Management Act is being revised. What we would like to know is when it is being revised. There

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has been an indication that the revision will come before the Central Assembly, I think in September, but then there seems to have been another indication that the legislation proposed will go to a Select Committee. If that is so it means that it will not be until some time towards the end of the year that we will know what is to be exactly the law on these proposals, and yet they are retrospective in certain respects, either to 1957 or 1958. I would make a plea, Mr. Speaker, that owing to the difficulty of considering this legislation before the end of the year, that our Government should consider deferring the introduction of any of it until the 1st of January next year. That should give us reasonable opportunity for discussions on proposed legislation, which at the moment we are completely in the dark about.

In point of fact, Mr. Speaker, it is very difficult for us to discuss the present proposals without knowing a great deal about the exact details.

Proposal No. 2 concerns the company rate, which is to be increased to 5s. 6d. in the £. It is important to appreciate that in cases where we have a double tax agreement, that in fact that extra sixpence in the £ will be borne by countries who export their business capital to Kenya, and that in most instances, of course, will mean the United Kingdom. But in respect of foreign capital there is a clear discouragement to this type of capital in this proposal to increase the tax by sixpence in the £, because foreign governments with whom we have no double tax agreements—their individuals investing here will find that in fact they have to pay effectively our higher rate without any possibility of recovery or offset in their own countries.

Proposal No. 3 concerns double taxation and unilateral relief. At the moment, Mr. Speaker, income into these territories from countries which have no double tax agreements suffers tax twice, as I have just explained, and is thereby seriously discouraged from coming here. It is therefore very difficult to understand why the proposals do not admit this system of unilateral relief; namely, the set-off of overseas tax against our

local tax on the same income, as was in fact done in the United Kingdom in 1950. They did it there in 1950 to overcome this particular problem and so encourage foreign investment. A considerably weak argument on this subject is that such a system—a system of unilateral relief—induces investment outside the Commonwealth. I doubt, Mr. Speaker, whether even our Minister takes that particular argument with any seriousness, and I would ask him to reconsider this particular problem.

Proposal No. 4 concerns individual rates of tax and personal allowances. As I have said, I do not wish to discuss now the general, but there are one or two questions that arise here which we may not be able to discuss in the Motion in Ways and Means. It firstly concerns the increase of the marriage allowance to a figure between £500 and £750 per annum, and this linked with other allowances extends the unfairness in the link between personal tax and income tax. The unfairness, Mr. Speaker, arises because as regards personal tax, all incomes above £201 per annum bear the same rate of personal tax of Sh. 150. I have a scheme for the adjustment of personal tax rates in co-ordination with income tax, on total incomes between £201 and £1,000 a year. I have handed to the Minister for Finance a graph on which are some notes showing these proposals, and also, Sir, I have handed to the Clerk of the Council a typewritten copy of the same graph with the same notes. I do so with the request that they be included in the record of this debate.

This particular system would have four main advantages. Firstly, these rates would yield a greater return to the Colony revenues.

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): Sir, could I ask the hon. Member to read out the rates suggested in the graph because many people will not see the graph until after they have spoken in the debate?

MR. ALEXANDER: Mr. Speaker, I am thankful for that request from the Minister. In a few seconds, I will be precisely at that point.

Firstly, as I said, the advantage would be to yield a greater return to the Colony's revenue. Now with that suggestion I on this side can almost

[Mr. Alexander]—The Minister's heart give an extra flutter, because I know how dearly he loves any system that will increase the Colony's revenue. I hope he will remember this in the context of the challenge he put to us, that if we had any proposals for reducing taxation we might tell him where the extra revenue was going to come from.

The second advantage would be to retain, within the revenue net, but on a far fairer basis, those individuals who are now to be relieved of income tax under the new proposals. The third advantage would be to give persons within the total incomes of £201 and £1,000 a year a greater relief than those whose total incomes are above £1,000 a year. But at the same time it would bring their percentage relief—it is important—down to more reasonable proportions.

Lastly, it results in a greater simplicity of tax collection, and here I can feel the Minister for African Affairs' heart giving a flutter. It results in a great simplicity of tax collection, particularly insofar as the lower income groups are concerned. Without going any further into this somewhat technical matter, I merely offer to discuss the scheme with the Minister at his convenience.

Briefly the idea is for a new scale of rates of personal tax as follows. Up to £120 a year, Sh. 25; between £120 and £160, Sh. 50; between £160 and £200, Sh. 100; between £200 and £500, Sh. 150; between £500 and £700, Sh. 200; £700 to £800, Sh. 250; over £800, Sh. 300, with the proviso—and this is very important—that those paying income tax will be allowed a rebate from income tax of the excess of personal tax paid over Sh. 150. This is limited, as of course it must be, to the amount of income tax payable. In other words, there will be no relief on what would otherwise be the income tax payable.

Proposal No. 4 (e) deals with dependants' allowance and is to remain as previously at £60 per annum. Mr. Speaker, this allowance has remained at this figure for very many years. It is a grossly inadequate figure, and I do ask the Minister seriously to consider a change in this respect.

Proposal No. 4 (f) increases the passage deduction from £125 per annum to £150 for each single journey to and from East Africa, or a total of £300 for the return journey. My point, here, Sir, is that this still does not compare with the value of £361 to those who are provided with first-class air passages to the United Kingdom as part of their terms of service. Hon. Members will notice that in this particular example there is a hidden benefit of £61 for each return journey. The important point of this is that each of those £61 is tax free in the hands of those who have their passages paid for them.

Answering a point raised on this subject on the 21st of last month, the Minister said, "The civil servant normally only gets one return passage every three years, while the passage deduction may be claimed every two years", the reference there to claiming being in respect of the individual who has to pay for his own passage. The answers to this argument are many. Firstly, although the theory is that an individual may claim every two years, there are very few individuals—an almost negligible number—who can afford to go every two years. Therefore, Sir, that particular point is somewhat hypothetical.

Secondly, senior civil servants, for example, now go on leave every 15 to 24 months, according to the pleasantness or otherwise of the area in which they serve. Thirdly, an individual who pays his own passage is entitled to allowances for only himself, his wife and one child, which compares unfavourably with an employee who is provided with passages for more than one child. Any extension of the benefit, of course, increases the tax-free element in it.

The fourth answer to this is that the monetary value of benefits in kind of this nature improves with any increase in the cost of passages. As we know, there has been a persistent increase in passages in recent years.

The fifth reason is that leaves at more frequent intervals still further increase the tax gain in free passages.

I now come, Sir, to the parts of the proposals in section B, which concerns capital deductions, and in section C, which concerns life assurance and savings schemes.

[Mr. Alexander]

Section B of Sessional Paper No. 5 deals with capital deductions, that is, allowances for the depreciation in, and obsolescence of, capital assets.

Proposal No. 17 concerns a welcome new allowance for capital expenditure on hotel buildings. But why, may we know, is this allowance confined to buildings erected after 1957? Why is it not possible to extend the allowances to hotel buildings erected since 1944, when the present more realistic treatment on capital expenditure commenced? I am not suggesting, Sir, in case it should be misunderstood, that all the capital expenditure since 1944 and up to this year should be recovered in income tax, but only that the wear and tear on those assets created before 1957, which is still unexpired, should be included.

Proposal No. 18 concerns expenditure on housing for employees, but in its present form the proposal is confined to working-class housing, only, to housing only for the lowest wage earners. This narrow restriction, and I am sure here that the new Minister for Housing will be interested in what I say, is bound to discourage employers from a bold and imaginative policy for employee housing generally. I do ask the Minister to consider seriously the removal of the present proposed limitation. I ask him to do this in the national interest, because it is conceded time and time again—and the Coates Report concedes it—that taxation sometimes has to be used to encourage particular activities in the national interest.

A taxation policy that openly encourages employers to build housing for all classes of employees must, in the end, relieve both the Central and local governments of much capital and recurrent expenditure in this particular respect. I see the Minister for Local Government listening carefully on this; I trust that he will accept what I say, and bring his influence to bear on his colleagues.

For this reason the proposed limitation is unrealistic and is inconsistent with that part of paragraph 246 of the Coates Report which reads as follows, "It has now come to be accepted, not only in East Africa but also in the United King-

dom and many other countries, that capital deductions due on the grounds of depreciation of a business asset may properly be accelerated or even increased in order to further the economic policies of Government".

Sir, I wish to digress just for a moment on the question of leasehold land. Why, may I ask, is there no annual allowance for the reducing value of leasehold land? The Coates Report, paragraph 245, does say, "No deduction is given in respect of expenditure on assets which do not depreciate, the most obvious, important example being land". I accept this; it is obvious in respect of freehold land. But why is it applied to the cost of leasehold land which depreciates as each year draws nearer to the reversionary date?

Another digression, Sir—if I may digress again—concerns the question of basing capital deductions on replacement costs. The argument for this is that if allowances are limited to the cost, the historical cost of an asset, the business will not have a sufficient accumulated tax-free fund to replace the asset at inflated prices when replacement becomes necessary as is the case in the history of all businesses. I would like an assurance from the Minister that he will initiate a serious study of this problem. I know, Mr. Speaker, I realize, that it is not an easy problem, but there are many who are prepared to help the Government in coming to a reasonable conclusion.

The proposals are silent on the question of capital deductions for commercial buildings, that is, as distinct from industrial buildings and farm buildings, which already attract the annual deductions. The Coates Report, at paragraph 256, admitted that there is a case for giving deductions in respect of all kinds of buildings which are used to produce income, that is, such buildings as offices, showrooms, stores and the like. In other words, what the Coates Report agreed was that it is only fair to put commerce on the same basis as the farmer.

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): Sir, I am sorry to interrupt the hon. gentleman, but I wonder if he would amplify on paragraph 257 which refers to the paragraph he has just mentioned: "There is



[The Minister for Finance and Development] in our view no fiscal reason whatever for giving initial deductions for commercial buildings". I wonder if he would just amplify that one. Paragraph 257. I am sorry to interrupt like this.

MR. ALEXANDER: Now, Sir, it is a long paragraph; it has got about 20 lines in it. Could the Minister tell me where I begin?

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): Just the first two, in amplification: "Moreover, the theoretical argument which may be held to justify the grant of annual deductions does not extend to initial deductions. There is in our view no fiscal reason whatever for giving initial deduction for commercial buildings". Would he deal with that?

MR. ALEXANDER: The answer, of course, is, Mr. Speaker, that I was not talking about initial deductions, I was talking about annual deduction for commercial building.

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): Sir, the hon. Member misunderstands me; I was asking if he could deal with that as well.

MR. ALEXANDER: Sir, I am not at this moment particularly concerned as to whether commercial buildings should have an initial deduction. I think if they are to be brought completely into line with their industrial and agricultural friends, that they should be allowed initial deductions. But I believe that it would go a long way to meeting this particular objection if the Government agreed that, at any rate, annual deductions are permissible, as, in fact, they have done with the hotel industry to the extent of agreeing that an annual deduction shall be 6 per cent, as against 2 per cent which is allowed for industrial buildings at this moment. They have conceded an advantage to the hotel industry of 4 per cent in that particular respect and I do suggest that all this does indicate that the Minister should consider this particular problem.

Turning now, Sir, to residential houses and flats, there is no mention in the proposals for tax relief for the depreciation, the wear and tear, of residential properties, that is, for houses and flats. There is, as we all know, some of us

bitterly know a serious shortage of houses and flats, and I submit that development activity in this respect should be encouraged just as much, for example, as it is for hotels. It would be useful here again to know from the Minister what the particular attitude of Government is in this respect. I do submit, Sir, that this problem of hotels and of accommodation generally, by way particularly of flats, is one that can be associated.

Proposal No. 21 of section B concerns capital deductions in respect of agriculture. The proposal at 21 (c) does in fact eliminate the balancing adjustments for the farmer on the sale of assets and goes so far as to bring the system into line with that in the United Kingdom. It is not clear from the proposal in 21 (c) whether this system is to be applied to the sale of individual assets or only when a farm as a whole is sold. I think it would be helpful, particularly to my farming friends, if the Minister would clarify this one when he replies. I think he knows what I mean. If a farmer sells two tractors, does the principle apply? Or does it only apply when he sells his farm as a whole as a going concern? It will be interesting to see if this system does in fact encourage development and whether—this is an important one—whether, in the words of the Minister, on 21st May last, "the purchase price would normally be lower since the outgoing farmer has not to provide the tax on substantial balancing charges."

The theory of his argument is that in future new farmers buying existing farms should find that because there are not these balancing charges on the outgoing farmer, the price should be lower. It will indeed be interesting to see whether in fact that happens, because if it does not, again serious harm will be done to a newly developing country such as this. Suffice it for the moment for me to refer to some words in the Coates Report, at paragraph 303, on this particular point, where it says, "Moreover, the abolition of balancing charges and deductions in relation to the categories of asset to which our recommendations apply would often mean in practice, that the purchaser of a farm would get smaller allowances than he would otherwise do, and it is he, rather than the vendor, whom it is in the

[Mr. Alexander] interests of East Africa to encourage." I have said sufficient on that for the Minister, when he replies, to give us some useful observations.

As regards the extent of the items in agriculture which rank for capital deductions, Sir, there is real need of a clarification and elaboration. The list in its present form requires careful review to make certain that it includes all—all—capital expenditure on agriculture, and I am sorry to see that our friend the Minister for Agriculture is not here to help us on the sort of items which at the moment are missing from the list. At present the omissions of which I have a note, just as an example, include some of the following: expenditure on farm ponds and reservoirs; expenditure on drainage and camber bedding; expenditure on the planting of forest trees and other moisture conservation measures; and lastly expenditure on anti-tesse clearing.

The comprehensiveness of this list is also very important when we come to deal with the question of undistributed income tax, and the particular proposals there of the extent to which capital deductions are to be allowed or, rather, capital expenditure is to be allowed as a deduction from the profits in ascertaining the figure that is to be subjected to undistributed income tax.

I now come to what I regard, Mr. Speaker, as a particularly objectionable and iniquitous proposal. It is that contained in proposal 21 (e) concerning gifts of livestock and produce. It is objectionable in so far as it suggests that a man, a farmer, can in fact make a profit out of himself, by pulling an egg out of his left pocket and putting it into his right pocket. The suggestion is that profit can accrue to him. It is illogical, it is crazy, and it will only lead to ill feeling; and I do urge upon the Minister today, when he replies, to withdraw this.

If it is thought that there is substantial evasion in this respect then at least, at least, the limit of its application of this particular proposal should be to the cost—cost—to the farmer of gifts of livestock and produce and not—not—the market value.

Section C of Sessional Paper No. 5 deals with insurance and savings for retirement—an extremely complex and intricate subject, particularly when it related to this even more complex subject of taxation.

So far as the proposals for pension schemes are concerned, I submit that proposals Nos. 24 to 30 should be withdrawn immediately, and then be re-introduced with effect from 1st January, 1939, after a careful study with those who do this type of business.

I am just wondering, Mr. Speaker, particularly from these proposals, how far the income tax officials have tried to discuss this very intricate subject with those who really know what it is all about. In fact, Sir, I go so far as to suggest that the Minister himself should now invite these insurance experts to form a small committee to work with his own officials and produce new proposals before the legislation on the subject goes to the Central Assembly.

An immediately serious proposition, Sir, is contained in proposals Nos. 24 and 28. The last part of proposal 28 reads—and I quote it—"If new employees are admitted to an old scheme and it is not approvable under the new rules, neither they nor the employer will be entitled to any relief in respect of contributions on this behalf".

This proposal, Mr. Speaker, would bring very real hardship in the case of new employees who have joined schemes which were already in existence on 1st January of this year and in respect of whom premiums have been paid and accepted in good faith. It means that a new employee, having paid premiums—and his employer on his behalf—for the last six months, and these proposals are not yet approved, is going to find that all those premiums are inadmissible under this particular clause.

Surely it would be simpler to leave old approved schemes as they are for all members—old and new—as was, in fact, done when the pension charges were made in the United Kingdom.

As regards the pension proposals generally, Sir, they seem to be based on recommendation No. 20 of the Coates Report, which reads—and I quote—"It should be a condition of approval of a

[The Minister for Finance and Development] pension scheme that the aggregate value of the benefits afforded is reasonably comparable to the aggregate value of benefits provided for public servants in East Africa in like circumstances—in other words, Sir, relate everything to what happens in the Civil Service.

This advice seems to have resulted in conditions of approval which would, in certain cases, be quite unworkable and, in most cases, be quite undesirable. Some random observations will, I hope, prove to hon. Members how necessary it is for these proposals on pension schemes to undergo a surgical operation. For example, proposal No. 26 (c) requires that on the death of an individual the benefit to his widow or dependents should be a pension—presumably for life. Very considerable difficulty is envisaged in paying a life pension to a minor. Provision should be made, I suggest, for the payment of the value of the pension in the case of minor dependents so that the guardian of the child is enabled to meet the cost of education.

Under proposal 26 (e) there should be discretion to commute a higher proportion or, in fact, all of an annuity, particularly in cases of serious ill health. It would be most unfortunate if folk find themselves with an asset of value in times of serious ill health which they are not able to turn into cash.

In connexion with proposal 26 (f) the period of 30 years is unreasonably long as the qualifying period for a two-thirds pension, and a pension in excess of one-thirtieth for each year of service should be allowed for newer and short-service employees.

Proposal 26 (g)—and these are some of the random observations on the pension scheme—limits the death penalty payable to £6,000. As provision is made under proposal 26 (f) for a pension of £2,000 a year, the value of an individual's pension could be considerably more than £6,000 before he reaches retirement, even if the cash value of that part of the pension purchased by the employers' contributions is excluded. It would seem, therefore, that underwriters of a scheme will be compelled to provide a pension with no return of contributions in the event of death before retirement and then

separately obtain the benefit for a widow or dependants by the addition of short-term insurance, limited, of course, to £6,000.

This application of what the insurance world call routine insurance to the contributions made by the employers is not only undesirable but is quite wrong in principle. It is quite difficult—completely difficult—to understand why an individual who may have a cash value of £9,000 in respect of his contributions should, at death, leave his wife or dependants only £6,000, which might provide his widow with a pittance of a pension for life of £30 per month and, in effect, the effect of it would be to subscribe £3,000—that is the difference between £6,000 and £9,000—to enlarge the pensions of surviving members of the scheme.

Mr. Speaker, I would just like to finish this bit on pensions so that it is complete before we break up.

THE SPEAKER (Sir Ferdinand Cavendish-Bentinck): How much time would you require?

MR. ALEXANDER: I would like to speak for about another minute on this subject, Mr. Speaker.

The reason for this limitation of the death benefit is, perhaps, to avoid tax concessions that are too generous. But as has been expressed in the Sessional Paper itself it would result in the confiscation of the individual's own savings, which surely has never been the intention. It must be remembered in this context that the civil servant's pension is non-contributory and provides no benefit—no benefit—at death, the benefit being obtained from the Widows' and Orphans' Pension Fund to which the civil servant contributes.

Mr. Speaker, that concludes the section of my speech dealing with pensions.

#### ADJOURNMENT

THE SPEAKER (Sir Ferdinand Cavendish-Bentinck): That brings us to the time for the suspension of business. I accordingly adjourn the House until 2.30 p.m. this afternoon.

*The House suspended business at thirty-two minutes past Twelve o'clock and resumed at thirty minutes past Two o'clock.*

#### ADMINISTRATION OF OATH

The Oath of Allegiance was administered to the following Member:—

Zafrud Deen.

#### STATEMENT

THE CHIEF SECRETARY (Mr. Coult): Mr. Speaker, Sir, before the debate on this present Motion proceeds, I have been asked by the Sessional Committee to remind Members of both sides of the House that this Motion is taking time out of the period allotted for Ways and Means and therefore all speakers should remember that the longer we spend on this Motion, the less time there will be for other matters in Ways and Means.

#### COMMITTEE OF WAYS AND MEANS

#### MOTION

#### INCOME TAX RATES AND ALLOWANCES SURCHARGE

*Continuation of debate interrupted at 12.30 p.m.*

MR. ALEXANDER: Mr. Speaker, Sir, I understand that this morning at one point I used the expression "death penalty" when in fact I should have been talking about "death benefits". Of course, I did remind the House, Sir, when I started this morning that this was a deadly subject, and it is quite apparent that I have had death so much on my mind that this is what has happened. I would like to say, however, that if there is any suggestion of a death penalty, I would certainly be glad to impose it upon those who have been responsible for many of the objectionable parts of this Sessional Paper.

Before we broke off for lunch, Sir, I had finished talking on the limitation of the death benefit in the pension proposals. I now go on to proposal 26 (j), where clarification is required of the exact position on the death of a member, particularly as regards the method of payment and the tax position on the return of contributions. Concerning proposal 26 (k), again clarification is required of the last sentence of this proposal and also of whether the 20 per cent referred to in the first paragraph on

this page will be enforced for each individual or as a percentage of the total staff salaries.

As regards proposal 26 (m), a definition is required of the rules for past service pensions and what the limits would be if in fact any limits are to be imposed. Proposal 30 is most unfortunate; it contains a most unfortunate threat, and I ask the Minister to look at it again with a view to the exclusion of this distasteful clause.

Proposals 31 to 34 deal with provident funds. The worst feature of these proposals is contained in paragraphs 33 and 34, which eliminate provident funds completely, other than those for the lower paid employees. This elimination is grossly unfair and does require immediate review. Many undertakings, both commercial and agricultural, are not sufficiently large to justify pension schemes, and the administration that goes with them, and it really is unreasonable to exclude provident funds from the tax concessions. It is this type of undertaking that provides for saving in retirement for its employees, by way of provident funds.

If the proposals are made law, they will inflict real hardship on very many existing employees of all classes of wage and salary. Would the Minister agree to reconsider these particular proposals?

Proposals 35 to 42 concern retirement benefits for the self-employed, that is, those who, in most cases, are precluded from earning their living in corporate form. These proposals, because of their nature, concern mainly the professions and as it is a complex subject I would like merely to leave some notes for the Minister to look at rather than elaborate on this intricate subject here. It only concerns very few people, such as people like myself.

I now come to sections D, E, F and H, concerning respectively undistributed profits tax, ascertainment of total income, the scope of the charge, particularly as regards net annual value, and the dates of implementing these various proposals.

Turning to what is perhaps the most alarming and damaging of all the proposals, I refer to section D concerning

[Mr. Alexander]

undistributed income tax. These proposals, in my estimation, represent a major error of judgment and must be withdrawn immediately to avoid any further harm to our economy. Mr. Speaker, I did say in the main Budget debate that I considered an unfair advantage had been taken of those who had readily agreed the principle that income deliberately withheld should be subjected to some form of undistributed profits tax. I said that advantage had been taken of that to the extent of producing proposals that are crazy, having gone from the mild to the malicious, from the meek to the absurd. Speaking again on the 10th of this month, I said in this Council, concerning the Minister for Commerce and Industry: "I am sure he does realize the extent to which the present proposals on undistributed income tax are damaging commerce and industry in this country at this very moment. Whilst these proposals remain in being, that damage will continue day by day and grow more serious day by day."

Those words, Mr. Speaker, are proving true with the stories and the experience that are coming forward with each new day.

As aspect that is becoming desperately urgent is the case of companies whose individual shareholders are predominantly overseas investors. Here, Sir, if I may be permitted, I would like just to relate a story that happened to me as recently as last Saturday morning, when I received a telephone call from someone I had not know before, to tell me that he was Mr. X, that he was out here representing the interests of Lord Y, that they already had investments in these territories, and that he was now here looking at tea propositions in both Kenya and Tanganyika. To cut it short I said, "I know what your problem is: it is the case of the individual non-resident investor." He said, "Yes, it is." I said, "In order that I may use it as an example, can I quote a figure—the sort of figure you are considering with the possibility that it will not in fact be invested in these territories." I said, "Is it £250,000" and his answer, Sir, was, "No, it is £1,000,000." I have invited that particular gentleman to this House this afternoon and I hope that he may have an oppor-

tunity of telling this particular case to several responsible Ministers on that side of the Council. It indicates quite clearly that what is required, without any delay, is an announcement that companies controlled by genuine overseas investors will be exempt from this tax. I would commend to the Minister the wording of the Act in South Africa concerning such companies, remembering of course that he himself today has said quite a great deal about the legislation in South Africa. On this particular point, this is what is said. "Exemptions from the Tax Sub-clause 4. Any company which satisfies the Commissioner that not less than 50 per cent of its issued capital was held throughout the specified period (a) by one or more persons (not companies) not normally resident nor carrying on business in the Union, or (b) by one or more companies registered outside the Union and deriving the greater proportion of its profits from sources not within the Union, or (c) by one or more of each of the above".

I can understand that the Minister would be worried about the case of the non-genuine non-resident, but I do suggest to him in all seriousness that to impose legislation that is designed to drive literally millions of pounds away from these territories—and that is no exaggeration—simply because of the worry over the non-resident who is not a genuine character is, I consider, completely short sighted. If that is the worry, all that has got to happen, of course, is that legislation must be introduced to deal with the bogus non-resident. The very worst consequences could happen to the United Kingdom investors—and remember that is where most of this sort of capital comes from—if the present proposals became law, because they in turn will become liable to United Kingdom tax on the dividends declared whether or not they are remitted. And that tax, of course, in most cases, would be at super-tax rates.

As regards the undistributed income tax proposals as a whole, the fears and objections to that should now be well known to all the East African governments and I was very disappointed, Mr. Speaker, this morning when I realized that the Minister had nothing new to tell us. He quoted at length from the Coates Report, but I was living in great hopes

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this morning of really hearing from him something new and something objective.

The objections that I refer to comprise mainly the following. Firstly, the rate of the tax at Sh. 9/50 in the £ which, of course, is the difference between the company rate of Sh. 5/50 in the £ and the proposed highest individual rate of Sh. 15 in the £. The second objection is in regard to the proportion of profits to which undistributed income tax should apply. Thirdly, the third objection is the definition of the companies affected; and fourthly, there is the matter which I mentioned just now concerning the companies controlled by non-residents.

The statements by the Minister on the 21st May have not lessened these fears; rather have the fears been worsened by these statements because they clearly indicate an intention only to postpone certain objectionable features without altering their basic policy. This is what the Minister said on 21st May, and I quote: "I consider that in the long run there is every reason to provide that only companies which should be free from this tax incentive to distribute income are those where the control of the dividend policy is completely in the hands of directors or appointed by the public. All that is necessary to achieve this and to escape the additional tax is for the majority of shareholders to dispose of a sufficient number of their vote-carrying shares to ensure that the controlling interest lies largely with the public".

A little further on he went on to say, "It is proposed, therefore, to reconsider the definition of controlled companies suggested in the Sessional Paper. The aim of the definition will be to meet the difficulties which would otherwise arise from the attempt to dispose immediately of control in those companies whose shares are at present dealt with on the local stock exchange". I would draw the attention of hon. Members to the word "immediately" there. It is important because it does suggest that this is only a deferment.

Then, later on, concerning property investment companies, he had this to say, and I quote, "I should mention in regard to this 20 per cent reduction generally that its effect will be reviewed from time to time to ascertain whether it has, in

fact, been used for development purposes and if not to consider withdrawal of the relief in the case of the non-developing companies". Here again, the operative words are, I suggest, "consider withdrawal"—in other words, Sir, the possibility of this being a temporary measure.

I realize, of course, Mr. Speaker, that our own Minister for Finance is not alone responsible for these proposals. They are, quite clearly, an interterritorial responsibility; and when I spoke in the Budget debate right at the beginning I tried to make it very clear that these proposals were interterritorial, but it was with deep regret that the Minister, Sir, has in fact misunderstood me because he had an inferred criticism when he replied to say that I had not particularly congratulated Kenya on the proposals. Of course, Sir, everybody else had done that and there was no need for me to do it. I was trying to help him, and I hope he now sees this very point, and quite clearly we have got to attach blame for these proposals on all the territorial governments and all the ministers for finance.

Before we proceed any further on this subject it is perhaps as well that we understand what is meant by undistributed profits. A limited company does not regularly distribute all the profits that it makes. Since the annual profit, representing as it does, a balance between gross income and expenditure, is ascertained by account and does not consist of an identifiable sum of money or other assets like bags of gold in a treasure chest, the part retained is an undistinguishable part of the total assets of the company. These assets are summarized in the balance sheet and in it there are set against them various accounts. Of these various accounts in the balance sheet the retained or undistributed profits will be one, the paid-up share capital will be another, and the creditors and liabilities the third. While the company is a going concern it is entitled, if it so desires, to draw upon its assets for the purpose of paying dividends to its shareholders up to the amount of the figure of undistributed profits. So that in that sense the reserve of profits can be regarded as a fund which is available for the shareholders

[Mr. Alexander] who would get the dividends if they were distributed but which, for the time being, are invested in some of the company's assets.

Having understood the meaning of undistributed profits, it is easy to see that individuals who control the destinies of such profits can, in certain circumstances, withhold them from distribution for the purpose of lessening the incomes of individual shareholders who would otherwise be liable to the highest personal rate of income tax which would, in most cases, be well above the company rate of 5/6d. in the £. It is these sort of individuals that the proposals seek to embrace.

In principle, as is well known and as I have said before, there is no particular quarrel with that. But there is considerable quarrel—very considerable quarrel—with the proposals when they extend the principle to the taxing of the fund of undistributed profits which the company's directors, acting prudently and wisely and quite normally, consider they should not part with, since the directors reckon they are needed to support or further the business of the company. This is particularly likely to be the case in times of price inflation since, under those conditions, the company's stocks or fixed assets will have to be renewed at cost in terms of money far greater than their original cost on the basis of which the profits will normally have been ascertained. There will be no great quarrel with these proposals if they were aimed at profits which would normally—normally, that is the word I emphasize—be distributed, but which are being withheld to avoid surtax in the hands of individual shareholders.

There is a temptation in the consideration of this question of undistributed profits to companies to try to compare the position with individuals who are prevented normally by professional regulations from turning themselves into a limited company. I can speak with some feeling on this because I happen to be one of those; my good friend opposite, the Nominated Member who practises this art of tax at the Bar is also one of those, and he knows it with considerable feeling to his bank balance. But what must be remembered is that we

are a minority, and is it right that taxation for all the peoples of a country should be decided on what is happening to a very small minority? And what is more, we have in these proposals a concession in the form of retirement benefit for the self-employed which goes a considerable way to alleviating the particular problem of those who cannot turn themselves into corporate form. The Minister for Finance himself fell into this temptation of comparison with the individual when replying to the Budget debate on 21st May last. He said—I quote—"The East African proposals are designed in the main to bring the tax burden on the 'one-man company' more into line with that on the individual. Even so, the company has a decided advantage. A married individual with a business making £20,000 per annum would pay £12,644. If a controlled company made this profit and distributed a 50 per cent dividend, the combined tax of a single shareholder and the company would be £10,319. And, Sir, the Government feels that in fairness to over-all and to the individual structure, something has to be done."

The fallacy, of course, in that example is that a business making £20,000 and not turning itself into a company certainly needs its head seen to, or it is just about time it changed its accommodation. It is a purely hypothetical illustration, and I would like to learn from the Minister how many examples in real life of this kind exist. If he is able to tell me more than two, I will be surprised.

It is a purely theoretical argument from the particular that has little or no validity in the general of normal practice and astute business. A fairer assessment of the reasons for the existing legislation and the present proposals is contained in the Coates Report, paragraph 427, where it reads, and I quote: "It seems clear from what we have said that neither the East African legislation on this subject, nor the United Kingdom and Indian legislation on which it was based, has aimed at equal taxation of an individual and a private company."

Mr. Speaker, having established what we mean by the phrase "undistributed profits", and having discussed what the proposals seek to do about them, it is now appropriate to list more specifically

[Mr. Alexander] Now, the Minister did speak much about South Africa; let us see what happens there. And in the Budget debate, I did quote to him certain figures considerably lower in their incidence in South Africa than these proposals here; and the legislation in South Africa for ascertaining undistributed profits is as follows in the main: a primary allowance of 40 per cent; company tax, which there amounts to 32½ per cent—that is a total of those two of 72½ per cent, plus development expenditure. Then, after all that, the tax is only at five shillings in the pound. Now, as the Minister did choose to talk much about South Africa, I would like to quote, Mr. Speaker, with your permission, what was said by the chartered accountants of South Africa through the Committee of Enquiry into the Income Tax Act in 1949, and I quote from their memorandum: "This tax was introduced as a matter of expediency to discourage the limitations of dividend and to prevent a resultant fall in super-taxable income. The Joint Council thinks that many companies have been forced by this tax to pay dividends higher than a prudent policy demanded, and the fact that the tax produced only £127,844 in the 1947/48 tax year supports this view. The Joint Council considers that the inflationary aspect of these high dividends should not be overlooked. In this respect, it should be pointed out that in the United Kingdom where companies have been asked not to increase their rate of dividends, the policy is entirely opposite to that encouraged by this tax. Under the conditions prevailing in the Union at present, companies should be encouraged to conserve profit. Costs have risen to the extent that many companies are today seriously undercapitalized, and must remedy this position by building up reserves, issuing fresh capital or borrowing. Every encouragement, therefore, should be given to companies to build up their reserves. A company can become liable for undistributed profits tax when it is unable to distribute a dividend because of the necessity for recouping a capital loss, while in law, dividends can be paid from current profits before capital losses are made good; such a distribution would be contrary to the principles of prudent finance and sound practice. The Joint Council recommends that the tax should be abolished".

The manner in which the undistributed profits are to be calculated is also open to very serious objection. The proposal is for a primary deduction of 20 per cent to represent working capital, plus development expenditure and dividends; but—this is very important—no reduction from company tax as is the case in South Africa. The 20 per cent for working capital might in fact be quite unrealistic in some cases; it might in fact be too much as well as being too little. The result of only this 20 per cent is that companies without development expenditure are subject to the tax on 80 per cent of their profits unless they declare a dividend.

(Mr. Alexander)

In Australia, it is interesting to discover what the legislation is. I am quoting now, Mr. Speaker, from a little booklet "Establishing a Business in Australia" issued by the Bank of New South Wales. The formula there for calculating undistributed profits tax is as follows, and I quote: "The undistributed profits tax is levied on the amount remaining from the taxable income after payment of primary tax, payment of dividends within one-year period ending 10 months after the close of the year, and reduction of a retention allowance. The retention allowance is calculated as a percentage of a sliding scale of the taxable income after primary tax, except that no allowance is permitted in respect of income from dividends from other companies."

There, Mr. Speaker, are two illustrations from both South Africa and Australia, and what is not generally understood is that the 20 per cent allowance proposed here for working capital is likely to be misleading because after a deduction of company tax at 5/6 in the pound, the net amount available for ploughing back is only 144 per cent, infinitesimal to most companies.

The 20 per cent reduction for property-owning companies announced by the Minister on 21st May last is also quite the wrong approach to that particular question. The answer surely must be an annual allowance for amortization plus any development expenditure and the company tax.

The abatements mentioned in paragraphs 49 (e) and (f) which concern adjustments to the total development expenditure allowed in a year must surely mean, if they have any meaning at all, that over the life of each asset, there is in fact no such deduction of capital expenditure, and the whole arrangement becomes a myth.

Proposals 51 and 52 are exceedingly obscure in their present form and it would be useful if the Minister will elaborate on these. They concern optional adjustments to distributable income in respect of what appears to be abnormal capital expenditure. That is, capital expenditure, heavy capital expenditure in the year of small profits.

The proposal to give companies only to 30th September, 1958, to deal with

their undistributed profits is totally unreasonable and I am sure that the good sense of the Minister has already decided upon an extension of this date. It is difficult to know how to avoid an extension, in any case, because we are told that the High Commission legislation is not likely to have been passed by then.

The items to be included in development expenditure require—and this is very important—require specific listing as merely to relate these to the present Second Schedule is quite unrealistic. I have already spoken of the incompleteness of the list in respect of farming when I was dealing with capital deductions generally; so far as the Second Schedule is concerned, and in its relation to commerce, it does not include items which for calculating undistributed profits should in fact be calculated, such as land, godowns, show rooms, offices and retail shops.

Dealing now with the rates of undistributed income tax, at 9/6 in the pound. All I would say, Mr. Speaker, is that it is penal tax, I have already said that in South Africa, the rate is Sh. 5 in the pound, and that is a far more realistic rate. What perhaps has been forgotten is that any rate above the standard of 8/6 in the pound in the United Kingdom is bound to discourage enterprise capital from our main source of such capital.

It is interesting to note that this rate of 9/6 in the pound should be a penalty and not adjustable on a subsequent dividend distribution like company tax. If this happens, then it is possible in the top income brackets for the total tax to amount to 25/3 in the pound. That is, company tax at 5/6 in the pound plus personal tax at 9/6 in the pound, and thence emergency surcharge, plus finally undistributed income tax at 9/6 in the pound; total, 25/3. Just to quote an example, a very quick one, of what would happen on the difference between the present system and the new proposals on a company of profits of £50,000: in the first place, with a 25 per cent dividend, one might say, with the shareholder in both cases holding 70 per cent of the share capital, in the first place, with a dividend of 25 per cent, which is a good dividend, under the present system, the liability to the individual shareholder on a 25 per cent dividend

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would be £2,000. Under the present proposals, the same company with only a 20 per cent primary reduction and no development expenditure, the liability to the individual would be £11,267, a difference, Mr. Speaker, on the same income, of some £9,000-odd.

Undoubtedly, the allowance for development expenditure in the present proposals will lead to unnecessary and extravagant expenditure on development in order, of course, to avoid the tax, a most unfortunate and inflationary consequence.

A very serious omission from the proposals is in respect of companies which have already incurred heavy development expenditure out of borrowed money, and today, are in no position to think of dividends, be they on paper or in money. Mr. Speaker, in all that I have said on undistributed income tax, on a very complex question, I have tried to prove that the present proposals should be withdrawn immediately, and that second thought be brought before us in due course. I hope, Mr. Speaker, that I have succeeded.

In his opening speech, the Minister did invite us to comment on the system whereby each case is dealt with on its merits as distinct from the system in these proposals which is defined with mathematical certainty I believe, Mr. Speaker, that it is this very question that today has perhaps become the real issue on this subject. The Coates Report, I know, rejected the idea, it was quoted by the Minister, on the grounds that it was impossible or difficult to administer it. But I believe, Mr. Speaker, before we can dispose of this argument, we must have some real facts on which to dispose of it. I do not believe frankly that Coates really looked into the problem that he posed, that is, that it was administratively impossible or difficult to have a system relying on each case being judged on its merits. I have already heard of a reliable figure that it would require at least six highly paid tax specialists to administer it, and those are the sort of facts that we require before we dispose of this particular way of dealing with this problem. When Government has decided what it would take for them to administer it in personnel and money, we must of course be certain that out-

side Government, there is the ability and the skill also available to the extent necessary to administer it. The Minister, in speaking to this, did refer, in fact he referred to it through the Coates Report, to the Royal Commission in Britain concerning the justification for a system of undistributed profits tax. What he did not tell us from the Royal Commission Report from Britain on taxation of profits and income is contained on page 310, sub-paragraph 4, where it reads: "We are disturbed by the criticism that much of the anti-avoidance legislation is obscurely worded and drawn more widely than its purpose requires. No one who tried to read through and understand the gist of chapter 3 of Part IX of the Income Tax Act, 1952, dealing with surtax on undistributed income of certain bodies corporate would say that the 20 sections concerned are readily intelligible. We doubt if many lawyers could expound with confidence on the effect of the 26 sections that make up Part XVIII of the Act".

We have been told, Mr. Speaker, that this tax will gain the revenue £270,000 per annum. Perhaps when the Minister replies, he will be able to tell us what crystal gazers, what particular magicians, were able to pull this particular figure out of the hat. I am wondering if in fact there may not be a loss to the revenue, particularly if all these companies in which the public are now substantially interested, spread their investments, their shares to a whole lot of shareholders whose personal liability is less than the company rate of 5/6 in the pound.

Proposal 54: this now deals with the ascertainment of income, concerns the non-admissibility of legal costs incurred by taxpayers in appealing against an assessment, and this particular proposal is quite unfair, particularly when it concerns a successful appeal. Here is a point the Minister could concede with dignity.

Section F of the Sessional Paper deals with the scope of charge to tax, and it is concerned only with income from residential property, normally referred to as net annual value. Here, Mr. Speaker, is the perfect example of taxation on hypothetical conclusions and hypothetical amounts, so much so that it leads in some cases to anomalies and inequitable

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taxation, such as I have listed today in a paper to all hon. Members. I have also handed that paper to the Clerk and, Mr. Speaker, I would ask that it be included in the record. It shows many instances of where, in fact, more tax is to be paid than at present. Why, may it be explained, is a person taxed for owning and occupying his own home? If he is fortunate to live in Mombasa—and we have got 25 hon. Members of this House from the Coast—he can own and live in a yacht. And yet, in those circumstances, he is quite rightly exempt from tax on the value of the yacht. I would commend to my friend, the Nominated Member opposite, Captain Hamley, that what he should do—and I do not expect any fee for this—(Laughter)—is to build a house in the sea and having done so, make certain that it is mobile, and then he is exempt from tax. Similarly, a person who buys a truck and travels on *safari* is not taxed on the value of the truck. It is an illogical tax, and its worst features demand that it should be removed. The Minister will immediately say, I know, that he needs the cash to produce the necessary revenue. My contention is that if the tax is removed, it will in time benefit the Government financially both in respect of capital and recurrent expenditure; in respect of capital as a result of a lesser demand on the resources of the Government for the provision of houses, as of course people will be encouraged, and find it an immense advantage to own their own homes.

Capital thus saved by Government can well be used for other urgent purposes. In respect of recurrent expenditure, the Government would benefit as it is more economic to Government for civil servants to own their own houses. This was confirmed a few days ago by the Secretary to the Treasury who I am glad to say is trying to estimate the figure of how much might be saved to Government in this way. The estimated gain to Government from the increase of net annual values is £167,000. It will be interesting to know how much of such a figure could be saved in expenditure if say 60 per cent of all civil servants owned their own homes.

In Appendix A to the Sessional Paper, there is a number of examples of the tax payable on a variety of incomes. The Minister for Finance quoted some of these in his Budget Speech. The examples show either a saving or no increase to the taxpayer as compared with the present rate. From this, unfortunately, taxpayers are likely to assume that they will all get some benefit out of the new tax. This is not so. Some taxpayers will have their tax increased, and it would therefore be advisable for every taxpayer to ascertain what is the exact effect of the new proposals on his or her income.

The differences arise in most cases from the treatment of net annual value. For example, in Table A, it is not only unrealistic, but quite absurd, to take as an example a person with an income of £250 a year as living in a house costing £5,000. Equally, it is likely to be unrealistic to take an example of a man with an income of £10,000 a year living in the same house, costing only £5,000.

I know of many civil servants who are adversely and most unfairly treated by the new tax proposals on residential properties. These new proposals will certainly discourage very substantially the individual urge for home ownership and thereby discourage what would otherwise be a much wanted stabilizing factor in this Colony.

There are many countries which raise no charge on this notional income from the occupation of residential property, and why cannot we, in Kenya, do the same? I realize that the Minister said that other allowances will compensate for this additional taxation. That is largely true of those at present in their own homes. But for all others, that is those to come, he has fallen into the same fallacious argument as he did over comparisons with taxation in Southern Rhodesia. The answer, of course, is that those about to build their own homes, or those in the future, will consider only what they personally gain if they do so. They will not be the slightest bit interested in what happened in respect of allowances granted in this Colony in 1958.

The Coates Report, in paragraph 529, and in many other paragraphs, concedes the policy, in its own words: "It is desirable in the public interest to give

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certain encouragements through taxation". It has been done for agriculture and certain basic industries. Why, Sir, should this not be done for home ownership?

One small point on agriculture: may we be told how the magicians are to define and discover and establish the value of a farmer's house in excess of that which is considered to be normal? What a futile and time-wasting exercise! In all sense, this proposal must be abandoned.

Finally the Sessional Paper in section H deals with various dates for the application of the proposals. I strongly urge upon the Minister and his inter-territorial colleagues to abandon these and start again from 1st January, 1959. That is perhaps the easiest way to overcome all complaints.

Mr. Speaker, in all that has been said so far on taxation, there has been no thanks, so far as I know, extended to Mr. Coates and his colleagues for the work that they have done.

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): On a point of order, Mr. Speaker, the hon. gentleman is wrong. All the Governments, individually and collectively, have thanked Sir Eric Coates.

MR. ALEXANDER: Mr. Speaker, I am grateful for that correction, but perhaps it is that from the Opposition side there have been no thanks. I certainly would like to record them, on behalf of my colleagues. I have said that if the Gill Report had been treated objectively and earnestly, there would have been no need for the Coates Commission, but, however, that does not detract from the great ability and readability put into this report.

Other thanks I would like to convey before I sit down—because I do not think it is generally known to hon. Members—is for the amount of personal work and time and advice contributed to the Government, in his own time, by my friend, the hon. Nominated Member opposite, Mr. Bechgaard. I know he does enter into conference with the Government, at no fee whatsoever, and thereby is of considerable benefit to this Colony.

As I said when I started, Sir, I am speaking only for my European colleagues. I have not been invited—I had hoped I might be—by my African and Asian colleagues. But I do earnestly hope, Sir, that they will agree with me sufficiently to put all their weight behind what I have said.

MR. OBIOLA: Mr. Speaker, Sir, I thank the last speaker, the Member for Nairobi West, for his compliments and on his speech which I think was a marathon speech on this particular Motion. I listened very attentively to his talk from the very beginning this morning until now, with only a short absence, but it seems as if his speech misses one very vital point, and that is that he has dealt at length with capital and skill, but he very much forgot to deal with the labour which is also another essential part of that capital if it is to produce something profitable.

As a result, Sir, I want to deal with the labour part of the question, because I know that capital needs skill, and in order to produce undistributable capital it must have labour, the labour which sometimes is greatly exploited. I know that even those people from outside who invest money will always first of all consider this, because they know they have skill and they know they have capital but they must, before they bring money to this country, consider whether the labour is available and available at a cheap rate.

So, now I would like to turn to the hon. Minister for Finance and his famous statement which he makes each time he replies to our allegations or our speeches here; he makes it quite clear that the taxation in this Colony has been devised on a non-racial basis. Generally, he forgets to explain what that non-racial basis is, where it is based. Is it based on the European social structure or on the African social structure? Because, it seems to me here that it is always based on the European social structure and the European social way of life. So the African social life is missing a great deal.

For example, when he was considering personal tax, we have told him that he based its upper limit very low indeed by putting it only up to £200 per year. Over £200 a year then those people will pay Sh. 150, up to £800, per year. I do

[Mr. Odinga] not know what you would put it at, perhaps £700 a year. I thought the Minister should have put another stage between £200 and £700 a year, to pay Sh. 200 or Sh. 300 so as to relieve the lower income group.

Now the Minister for Finance, after considering or making an allowance of £700 to the higher income group, then begins putting conditions on income tax. He has already made provision, for example, on married life. He made provision for £500 a year up to £700 for a man who is earning Sh. 2,500 per month. Well, Mr. Speaker, the Minister should have considered that an African, in most cases, does not only have one wife. Some of them have got three or four or more women. Therefore, if he was considering taxation here, provision should have been made. Of course, this is very serious; you might say it very queer but it is not very queer, it is what is happening. Probably the mothers of many of us here are the seventh or eighth wives of our fathers. Yet we are here. Those people who are working on the farms, those people who are working here, whose labour is being exploited, some of them have mothers who are the twelfth wives. And they still also form through their labour the part of the taxable profits which is debated. These things must be taken into consideration. At the same time, these women, their dowries have to be paid for, our fathers do not get them free. They have to pay dowry, and that dowry has to be considered.

I can see here that when someone is married he is given an allowance of £500, and for the first child is given £120, and for the next three children he is given £60, which together makes up a maximum of £300 per year. That is quite absurd from the African point of view because many of the Africans have not only got three children. This is based on the European kind of life, you see, not the African way of life. An African may have eight or even 12 children sometimes. That also should have been taken into consideration.

You know, Mr. Speaker, these points may seem funny really to some people but they are real life because you are in real Africa, and since you are in Africa

taxation must be based on the African way of life.

Mr. Speaker, there are several allowances which are given to these people in the higher income group. They are given allowances for the education of children and I am still waiting to hear from the Minister for Finance how these things will also apply to the Africans, who form the lower income group. When we recently considered taxation on the Africans, we counted up everything that they have; and I do not know how these allowances for education, for old age, for insurance and pensions, and all sorts of other allowances apply to the Africans. And we shall wait very keenly indeed to hear from the Minister for Finance how they do apply.

Mr. Speaker, we know that with the other higher income group their interest in taxation and so has actually been looked into for a long time, ever since the beginning of this Legislative Council. It is time that the question of African form of taxation and the allowances to be given to them was gone into thoroughly and put into a proper system, so that the Africans also have proper security when they get to old age.

Now, I will not take a long time, Mr. Speaker. While my hon. friend who has just spoken should not mistake me, I am a director of a company just as he is a director of a company. But I would not take the selfish attitude of trying to defend companies just because I am one of them, because I know that if you have undistributed profits, why do you not allow a fair amount to go to the future development of the company and so on. It must be understood that that amount which is being amassed and kept is kept because someone is exploited somewhere. If all this money was being distributed fairly and the labour was being paid properly, and if Government saw that all this was done, there would not be all these undistributed profits.

Therefore, I am still appealing to the Minister for Finance to go into this question and see that the African side of it is put on a proper basis, and that the taxation is spread equally. I still believe that the Minister for Finance in years to come will be blamed for having put the heavier burden on the lower income group rather than on the higher income

[Mr. Odinga] group. The Minister should not forget that, for all their complaints the higher income group are better off than the lower income group. These are the people who are suffering as a result. Therefore, I am asking him to go very carefully into this thing and not actually to be blinded by the arguments and deflected by the shouts of the higher income group; but rather keep himself cool and clear and see that he plans the economy round the lower income group which forms the bulk of the population of this country.

Mr. Speaker, with these few remarks, I beg to support.

THE SPEAKER (Sir Ferdinand Cavenish-Bentinck): I would draw hon. Members' attention to the fact that we have departed from the normal practice which does not permit of general speeches in Ways and Means, because you are tied down in Committee to certain Motions. The last speaker has dealt largely with questions which arose from a Motion which is on the Order Paper and which will be discussed in Committee in due course.

The objects of the exercise today was to give certain Members the opportunity of discussing very precisely—not generally—certain suggestions for taxation and alterations of taxation.

I must ask hon. Members in future not to go on to generalities, but to refer only to precise suggestions which have been contained either in the White Paper or in the Motion before the House, regarding specific suggestions about taxes.

LT.-COL. MCKENZIE: Mr. Speaker, Sir, I am authorized on behalf of the Specially Elected Members on this side of the House to agree in general with all which was said by my hon. friend, the Member for Nairobi West. I have a little to add, Sir, before I sit down. I would like to congratulate Mr. Alexander on his long innings; he most certainly must have done his homework. I think he took the matter to task sincerely, and did it very well.

Sir, much as I would like to agree with the hon. Member for Nyanza Central, I am afraid I could not agree with him as to the pleasure of having ten children, even if it is cheaper by the dozen.

DR. KIANGO: Mr. Speaker, Sir, I shall not in any way try to compete with the Member for Nairobi West in the discussion of this question of taxes. I do feel, however, that a number of points have been raised which I think I should comment on. These have to do with personal tax and tax on undistributed profits and various exemptions that are included in the Sessional Paper.

I would like to support the Member for Nairobi West as far as the question of personal tax is concerned. I am not saying that I agree with the table he gives here, but I do feel that the question of personal tax has raised a lot of misgivings in the African areas, where they find that a man who earns £201 is paying more or less the same amount as a man who earns more than £1,000. I do feel that the Member for Nairobi West definitely had a case when he called for the revision of this.

I would like to add to his suggestion that perhaps we have reached a stage when people earning £60 or less per year should be exempt from personal tax completely. When a man earns only £60 a year, I wonder how he even supports his family. I know the Minister might say: "Well, where am I going to get the money from to compensate the Government for exempting these people from paying any taxes at all?" I think it is at that point, Sir, that we can restudy his schedule and see whether the people in the very high income group could be the persons to be requested to pay a little more than Sh. 150.

During the Budget Speech, Sir, the Minister for Finance indicated to us the various tax reductions he proposes for the people of the very high income groups, and I do not think it is too much to ask them to be at least considered as a source of compensation if we are to exempt people who earn £60 or less from paying the Sh. 25 that they do.

I am glad to recall that, although I was not a Member of this House last year, the Minister for Finance did say that some sort of review on this question of personal tax might be undertaken some time this year.

Another point I would like to emphasize has to do with this question of deductions for companies which do provide houses for their employees. Now I would like to make it clear that, on the

[Dr. Kiako]

whole, I am not very much in favour of the private companies shouldering the burden of housing their own employees. On the whole, although this is a necessity, perhaps, at this stage of our development, that the various companies must provide houses for their employees, it is not really the type of policy that should be considered as permanent because it really means our Government—both Central and local—running away from their duties and leaving them to private companies.

I would prefer that instead of the suggestion given by the Member for Nairobi West, which I believe was that the allowances to companies should be made larger, the Government set up a kind of Government housing fund, to which these companies could contribute so that the houses are built by the local government and the Central Government concerned, and the African employees can rent those houses directly from those organizations instead of having to depend on the company for housing. You know, if the company gives you a house, you more or less tend to feel tied to it, and even when you are unhappy in your job you may find it impossible to leave because your very existence, your very shelter, is provided for you by your employer.

THE SPEAKER (Sir Ferdinand Cavendish-Bentley): Dr. Kiako, you are getting a long way from the subject of the debate when you talk about tied housing—a long, long way.

DR. KIANO: Thank you, Sir, I was just referring to the point made by the hon. Member for Nairobi West.

THE SPEAKER (Sir Ferdinand Cavendish-Bentley): I recognize that. But I must try to cut these all-embracing discussions down.

DR. KIANO: Now, Sir, I come to the question of taxes on undistributed profits. I would like to make the position of my colleague Mr. Tom Mboya, the Member for Nairobi Area, clear on this issue, Sir. Some time ago, the Member for Nairobi Area criticized the Government and, I think, very ably, on this question of undistributed tax. But the point he made seems to be substantially different from the point made by the Member for Nairobi West because, from the point

of view of the Member for Nairobi Area, what was important was to be assured by the Minister for Finance that this proposal of his will not be so full of loopholes that it will not accomplish the purpose he has set it to accomplish—the was felt also that he should satisfy this House that the proposal itself will not in any manner be a way of reducing the amount of funds that could have been put back into business in the form of investment.

I do not think that any person in this House—or the Minister for Finance—could agree to any idea which would be responsible for scaring capital out of this country. We have all known the record of the Minister for Finance, and we know that he is as concerned as anyone else to see that capital comes to Kenya and not that it goes out of Kenya. I think, therefore, that we cannot believe that he proposes, knowingly, to take any measure which would be responsible for scaring capital out of the country. We do feel, however, that he has not satisfied us as to how he is going to see that his proposal will not accomplish the very thing he is trying to avoid. If the Minister in his answer could tell us how he proposes to see that this undistributed taxation will not discourage capital-owning people from further investment, if he can assure us that this will not happen, then certainly we will not quarrel with the question of taxation of undistributed profits. Rather we will join the Member for Nyanza Central, in saying that this is a country where we have a small number of people who have means and a large number of people who do not, and that those people with means, who have incorporated themselves into limited companies should be treated as individuals as far as possible, so long as this does not have any adverse effect on the investment in the country.

The last point I would like to make is to re-emphasize the point made by my colleague the Member for Nyanza Central, that in the question of exemption we should, as much as possible, see that the exemptions, when put into practice, will need to be on a non-racial basis, which is supposed to be the principle according to which we raise our taxes. We must see that the exemptions, when put into practice, will affect

[Dr. Kiako]

only one community but all communities, the Africans, the Europeans and the Asians. We do have the feeling that this is not the case at present.

With these words, I support.

MR. MACKENZIE: I hope that the hon. Member who has just spoken will forgive me for not being here for the whole of his speech. I am sure, however, that the points which have been raised will be answered by my hon. friend when he replies to the debate.

I would, Sir, like to deal with a number of the points which were made by the Member for Nairobi West in his speech. In the first place, Sir, he did make a suggestion at one stage that the Government should abandon the whole of the proposals in Sessional Paper No. 5 and to start again bringing in experts of one kind and another to assist him. That, Sir, rather surprises me, because in the past on several occasions the hon. gentleman has urged the Government to hurry on with dealing with the Coates Commission Report and has been somewhat critical of the fact that more haste has not been made. For example, on 20th June, last year, nearly a year ago, Sir, the hon. Member said, "Mr. Chairman, I have a series of questions and comments on this subject and I think it will be clearer if we take them one by one. The first one arises out of what has become of the usual friendly liaison between myself and the hon. Minister for Finance in relation to the question of the cost of the Coates Commission". I answered actually the point about the cost of the Coates Commission. Then, Sir, the hon. Member went on to say that the public had been waiting for some five years to be told the policy of the Government on major changes of income tax policy, and he suggested that my hon. friend's statement that the policy would be brought before this House from time to time was quite unsatisfactory and that greater speed should be shown. On that particular occasion he did not go any further because the Chairman decided that that was not the particular matter being debated at the time, but I do remember other occasions when the hon. gentleman has raised this and has urged the Government to take action as quickly as possible.

Well, Sir, the Government has come along with its proposals and I think I should be right in saying that there are very many members of the community—of all communities—in the Colony who would be extremely disappointed if the Government were to take the whole of these proposals back, as was suggested, including those on rates and allowances, and take no action until 1st January, 1959, after having consulted many experts.

Then, Sir, dealing with the question of experts from abroad, it did seem to me that when the hon. gentleman was speaking he was speaking of experts and it did occur to me, that possibly an expert in the hon. gentleman's mind is someone who agrees with him. That is a good expert, Sir, because if he were here he would remember that when he raised the question of bringing in an expert on his fiscal Motion, and he was very keen on that as he mentioned this morning, I did point out that there are experts and experts. I asked pointedly whether in the event of an expert coming and giving the Colony advice on fiscal matters the Government could have an immediate assurance that the advice given by that expert would be unconditionally accepted by everybody in the House, including the hon. gentleman himself. I never got an answer to that point, Sir, so far as I remember, but this is a very good case in question.

We have here a most important matter to be considered and the Government got the best experts who could be obtained to come out here to study the matter, take evidence throughout the three mainland territories and Zanzibar and to make very careful recommendations supported by a mass of reasoned detailed argument. The result is the Coates Report as we have it before us at this stage.

I suggest, Sir, that to have a proper survey of a question of this kind—suggest that it was necessary to have a survey of this nature as searching as the Coates Report—and this was one of the occasions where it probably was necessary—to look abroad. I think that my hon. friend the Member for Nairobi West, if he thinks about it, will, as indeed at the end of his speech he admitted, agree that that was so. I think the only difficulty he would make about



[Mr. Mackenzie]—In this case not that the people concerned were not sufficiently expert but that their conclusions did not coincide with his.

Now, Sir, to move on, another point that the hon. gentleman made early in his speech was in reply to my hon. friend the Minister's suggestion that it was all very well to suggest that taxation should be reduced but at the same time nobody during the Supply debate had made any serious suggestions for considerable cuts in expenditure, without which it is necessary to obtain the revenue we need. The hon. Member said that Members on the other side had constantly pressed the Government to look at human efficiency and to set up a committee of the House, rather like the Public Accounts Committee, with an expert staff, to look into these matters, but that this had always been refused. He said, Sir, that the hon. Members opposite did not wish to cut expenditure which was useful but they wanted to make sure that the money that was going to be voted was well spent.

So far as that is concerned, Sir, as my hon. friend knows, the Government is and has been for some considerable time very anxious to make sure that its machine is working efficiently and it is for that reason that an organization and methods organization has been set up, and that staff inspection and other such matters have been introduced.

It is also a fact, Sir, that the Government—both ministers and permanent secretaries and heads of departments—are always anxious—I think it can say this quite sincerely—to do everything possible to improve their administrative efficiency. That is a continuing process.

As regards the suggestion that there should be something on the lines of the Public Accounts Committee to deal with this matter, I am afraid, Sir, that I have never been convinced by that argument. The point is, Sir, and the great value of the Public Accounts Committee is that it is dealing with a report of what has been happening based on quite hard facts, and undisputable facts, and which have been investigated by an expert body of auditors.

I have said this before, Sir, but I think it is part of the auditor's function to bring to light through the accounts

cases of inefficiency—to bring them to the notice of the Public Accounts Committee; and that has been done, Sir.

MR. ALEXANDER: Is it not his technique.

MR. MACKENZIE: He is perfectly capable of spotting inefficiency when it arises. But, Sir, it is the question that it is for the executive to ensure that, and it is the executive's job, things should be put right when inefficiency has been brought to its notice. It is completely the job of the executive and I think it would be quite wrong and I doubt very much whether hon. Members of the House, on the other side, would really expect to be associated with the Government in saying that this organization is inefficient and that another one was not, because quite obviously they would have some considerable difficulty afterwards in criticizing the organization when it went wrong.

Now, Sir, to move on, I do not propose to deal with all the points that the hon. Member made in his speech: it would be rather difficult for me to do that. He did mention, however, on more than one occasion, that the proposals contained in the White Paper had failed to encourage initiative and development and the production of wealth in this Colony, and that existing enterprises were hesitant and new enterprises were avoiding the Colony.

I would only like to make one point at this stage on that, and that is to suggest that the comments which have been made on these proposals, some of which have not been entirely as well-founded as they might have been and many of which have been, to say the least, a fair distance away from objectivity, that probably, if there has been any hesitancy on the part of business, it has been as much due to this misleading comment as it has by the actual proposals in the White Paper.

Now, Sir, to move on again, the hon. gentleman begged the Government to withdraw all the proposals at present before the House and to think again. He suggested that there had been insufficient consultation before producing these proposals. I can assure the House, Sir, that there has been no lack of consultation.

[Mr. Mackenzie]

In the first place the Coates Commission, on whose recommendations most of the proposals that went before the House were based, took evidence from an extremely large number of people, both written evidence and verbal evidence. I notice in fact that they even took oral evidence from the hon. gentleman himself. In addition to that, Sir, since the Report has been received the Government has been in touch with various professional bodies and with representatives of commerce and industry throughout Kenya, so far as the Kenya Government is concerned, and similar action has been taken in the other territories, and in addition to that the Commissioner of Income Tax and his staff have had many discussions, chiefly of an informal nature, with experts in this matter. It is quite incorrect to suggest that there has been a lack of consultation.

As regards the suggestion, Sir, that the whole of the proposals should be scrapped, as I said just before the hon. Member came back, I am quite sure that there are many people who stand to benefit by the proposals regarding rates and allowances, who would be extremely disappointed if his advice were accepted.

Then, Sir, there was a suggestion that there were occasions when one territory should go it alone on a matter of this kind: So far as that is concerned, Sir, the hon. gentleman himself agreed that it was undesirable to do this if it could possibly be avoided. There is, of course, provision under section 97 for a territory taking unilateral action, but I think it is something which he will agree should be avoided if it is at all possible, and I can assure him that there would be very much heart searching on the part of the Government of Kenya and the other Government involved in this matter before there was any question of going it alone.

When he dealt with the detailed proposals, Sir, the hon. gentleman mentioned among other things—he suggested that if the recommendations which he had made were accepted, if there were a loss of revenue, and if it was really necessary to make this good, a new scheme should be introduced to make the link between personal tax and income tax fairer.

So far as that is concerned, Sir, I think I should point out that there are a number of difficulties. In the first place, Sir, income tax and personal tax are different taxes and there never has been any serious link between them except at the bachelor level, and that is maintained. The personal tax does not give allowances and it will of course be realized by everyone that it would be quite impossible to introduce allowances into that tax: it would make for inefficiency and it would make for greater expense in collection. But, Sir, if allowances were not made, and I did not suggest that my hon. friend ever said that allowances should be introduced, I think it would become unfair to the married couple in the ranges in which it has been suggested that personal tax should be extended. We should immediately have requests for relief from that quarter, and in all justice they might well be difficult to resist if the maximum level of personal tax was increased at all considerably.

MR. ALEXANDER: Offset.

MR. MACKENZIE: The hon. Member suggests that that could be avoided but the difficulty of course there is that the off-set would not be of very much assistance to the considerable number of people on incomes of between £200 and £1,000 per year who this is intended to catch.

There are, Sir, further objections. The introduction of additional grades in the personal tax would make that tax more complicated and more expensive to collect and it would be in fact turning it into a kind of miniature income tax. There is objection to any tax of any kind which is aimed at the broad mass of people having anything but the simplest structure. The proposal that has been made would have that effect.

There is the further point, Sir, that if, as was suggested, an offset against income tax were to be allowed then the additional revenue which would be collected from this source would not be very great.

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

[Mr. Deputy Speaker (Mr. Conroy) took the Chair]

[Mr. Mackenzie]

I do not think it would be at all great because the mass of people would still be paying at more or less the same level as they are today and the wealthier people who would normally be caught by the higher level would have the offset.

Finally, Sir, there is the point that I am quite sure that none of those people with incomes between £200 and £1,000 a year, who the hon. gentleman wishes to catch in this way, would really appreciate the fact that they were being asked to pay additional taxation in order to offer relief to those people whose incomes are sufficiently great to make it even worth their while to become private companies.

MR. ALEXANDER: Thank you for giving way.

On a point of explanation, Sir, I was not suggesting that he should pay additional tax. In fact, he would not pay any more tax than now. If the Secretary to the Treasury will study my draft very carefully he will see the savings that they are making as a result of the present proposals.

MR. MACKENZIE: I understood that the idea was that this would affect married people who did not pay income tax under the new proposals and that it would have the effect of making them pay more through the personal tax.

MR. ALEXANDER: They are paying tax today.

MR. MACKENZIE: They are paying tax today. That is quite true, Sir, but the Government proposes to relieve them. The hon. gentleman, Sir, intends to go and get the relief which the Government is affording back through increasing the personal tax. I can hardly think, Sir, that those people—and there are large numbers of them in the Colony—would be particularly happy at the thought that that was being done in order to enable greater relief to be given to those who were better able to bear it. There are considerable numbers of these people, with incomes between £200 and £1,000 per annum, including large numbers of pensioners and others who live on relatively small fixed incomes. They are the people, Sir, who would suffer particularly from a proposal of that kind.

Now, Sir, to move on, my hon. friend referred to passage deductions and he

suggested that the relief offered here compared very unfavourably with the relief enjoyed by those people who are fortunate enough to be provided with free passages by their employers. He suggested, Sir, that all the people who were so provided with free passages benefited to the extent of 561 times the number of passages up to three that they had.

The hon. gentleman shakes his head, Sir, but certainly that is the note that I have—that he said that every one of these 561 was tax free to the person who obtained a free passage. Well, Sir, as I mentioned the other day, and I thought the hon. gentleman was here when I mentioned it, the cost to the Government of free passages is £280 per head, which is less than the maximum allowance. It is less than the £300 allowed which is granted to the general public. In addition, Sir, there is the further fact that it is possible to obtain passages for £300 by air to the United Kingdom. I understand that there are several passages which can be obtained that way and I would remind the House that ordinary members of the public are not under the same compulsion as Government servants to travel by one particular route. They can choose their route and they can make savings that way. So it is quite possible that it is more than probable that they can make their £300 allowances go considerably further than the Government servant can with his three passages.

MR. ALEXANDER: On a point of explanation, Sir, I did not say "all people" in connexion with that 561. I merely used that one as an illustration. The second point was that we were talking about value to the individual—not what it costs the Government in concessionary fares.

MR. MACKENZIE: I must thank the hon. gentleman for those corrections, but I must say, however, that I can only speak of this thing in the way the impression was left on my mind, and I feel the facts, in so far as they affect others, must be set out and the main fact is that for £300 certainly someone who is free to choose his own route can get the same benefit in terms of travel value for himself and his family as can, for example, a civil servant who is entitled to three adult first class passages, and still more

[Mr. Mackenzie]

than a junior civil servant who is only entitled to three tourist passages. Further, Sir, in dealing with this question of passage allowances, the hon. Member said that very few individuals could afford to go on leave every two years, whereas senior civil servants were on 15- to 24-month tours. Well, of course, in so far as the 24-month tour is concerned, that is two years; and so far as the rest is concerned, the fact is that the comparison must be with the average. In picking out the typical man in the street, the Government does not look round for the heads of our largest commercial and industrial organizations as being the typical man in the street; and equally, I would not expect the senior civil servants to be taken as the most senior and the normal, average civil servant. For the question of these comparisons, it is necessary to look at the averages. I see the hon. gentleman wishes to make a further point of explanation, and I will give way.

MR. ALEXANDER: Mr. Deputy Speaker, I did explain that the Secretary to the Treasury said he had still got the wrong impression from me. If, Mr. Deputy Speaker—I have got the HANSARD here—I may just quote what I did in fact say for the record, it will get it right on this particular point: "Proposal No. 4 (f) increases the passage deduction from £125 per annum to £150 for each single journey to and from East Africa, or a total of £300 for the return journey. My point here, Sir, is that this still does not compare with the value of £361 to those who are provided with first class air passages to the United Kingdom as part of their terms of service. Hon. Members will notice that, in this particular example, there is a hidden benefit of £61 for each return journey. The important point of this is that each of those 561 is tax free in the hands of those who have their passages paid for them". I hope we are now right.

MR. MACKENZIE: I am very sorry, Sir, but I cannot see that what my hon. friend has just said in any way affects my argument that the man who has an allowance of £300 probably does rather better than the one who has to travel by a particular route and gets what any

rate costs his employer £280. Then, Sir, there was one other point. The hon. gentleman said that one of the unfair things about passage rules was that passages were only allowed to the individual, his wife and one child. I understand, Sir, that the normal measure is three adult passages, which is exactly the same as certainly the civil servant, who is entitled to three adult passages and, as I understand it, any unofficial person in the Colony affected by these rules can obtain up to three times £300 during any period of two years for passage purposes. I understand that is the position—I see my hon. friend is going to check it up—but I think he will find that that is so.

Finally, Sir, he said that the advantage which those who got three passages had improved every time the cost of passages increased. Well, of course, the answer to that is that the passage allowances have also been increased from time to time to offset the increase in increased cost of passages. Now, Sir, to move on to another point, hotels—

MR. ALEXANDER: Mr. Deputy Speaker, just to get this point right, the fact is, I have only got the Coates Report here; I will just read what it says: "Under these rules, the reduction—"

THE DEPUTY SPEAKER (Mr. Conroy): Order, order. Mr. Alexander, are you explaining something which you yourself said this morning?

MR. ALEXANDER: Yes, Sir, the Secretary to the Treasury said just now that he thought I was wrong in what I had said about the allowances for passage deductions, and in order to substantiate what I did say and explain the point, I was just going to quote three lines from the Coates Report on this very matter.

THE DEPUTY SPEAKER (Mr. Conroy): All you are entitled to do is to repeat what you said if you have been misrepresented.

MR. MACKENZIE: Well, Sir, so far as that particular point is concerned, I am sorry if I have in any way misrepresented the hon. gentleman, but I am assured that my statement on what the passage rules provide for—that is, up to three times £300 for a person who has a wife and family—is the correct position.

[Mr. Mackenzie]

To deal, Sir, now with hotels; I was just going to deal with hotels when the hon. gentleman asked me to withdraw. He complained, Sir, that the proposed relief for hotels was confined to new buildings, and suggested that this should not be done. I would remind the House, Sir, that the object of this particular concession is to obtain new hotel accommodation for the tourist industry. Of course, it is obvious that the concession in its present form will be able to assist in that way.

As regards, Sir, the question of the deduction in respect of housing being confined to working-class houses, this was of course one of the proposals of the Coates Commission. The hon. gentleman this morning quoted part of section 246 of the Coates Commission Report and I think he went on to mention that in paragraph 256, it was stated that there was a case for giving deductions in respect of all kinds of buildings. I think, Sir, it might be useful if I could quote from what the Commission actually said in this matter. I think it would be useful to have it on record. I am afraid it is rather a long quotation; I hope the House will bear with me. The Commission says:

"256. It was represented to us by many witnesses that the exclusion of commercial and residential buildings was unjustified. As a matter of pure theory—and I would ask the House, Sir, to note the words "pure theory"—we think that the case for giving deductions in respect of all kinds of buildings which are used to produce income is a good one. But there are a number of practical considerations to be taken into account. In the first place the rate of depreciation suffered by most commercial and residential buildings is small and the normal rate of the annual deduction would have to be less than that appropriate for industrial buildings, so that the amount of relief would not be large. Moreover," they say, "it would be a necessary consequence of the introduction of any such deduction that there should be, "as there is for industrial buildings, a system of balancing charges and balancing deductions when the building changes hands. In many cases it would happen that there would be a balancing charge which would take away most or all of the

deductions previously granted..." They went on, Sir, to say that the taxpayer might in the end be worse off if the rate of tax on the balancing charge were greater than the rates at which he had previously got relief. Further, there would be great practical difficulty, and this, Sir, is the important point; "there would be great practical difficulty in ascertaining the original capital cost of many commercial buildings, particularly the smaller types such as shops, and a great deal of work would be imposed on the Income Tax Department and on taxpayers and their advisers". I think it is these practical points, Sir, which have to be taken very seriously into consideration whenever we are dealing with matters affecting income tax in this Colony and in East Africa. It is quite impossible to expect the Department to be able to introduce all the refinements that have been introduced in a developed country such as the United Kingdom. In actual fact, I am quite sure that the average taxpayer would not wish that all those complications should be introduced, many of which, of course, affect the taxpayer adversely, as well as the other way.

In addition to that, from the point of view of the revenue itself, it is important that our structure should be kept as simple as possible and that is what is done.

To go on to deal with this question of capital deductions, the Coates Commission in paragraph 257, went on to point out that the theoretical argument which may be held to justify the grant of annual deductions does not exist for initial deductions. Then they deal with residential property. They said: "It was represented to us that tax relief for the depreciation of residential property would stimulate the building of houses and flats for letting and would thus help to alleviate the shortage. The extent to which this would in fact happen is impossible for us to gauge. But as a matter of justice the relief could not in our view be confined to new properties built for letting. It would in the first place have to be given on all existing "let properties. Again, while it might be possible to exclude owner-occupied houses on the ground that they were already under-assessed"—and the House will note that

[Mr. Mackenzie]

those are the terms that the Coates Commission was thinking of—while this was so, they said, "if the present inadequate annual values were retained, this reason for excluding them would lose force if our proposals below computing the annual values of such properties on a more realistic basis were accepted. It would therefore probably be necessary to include in the relief all residential properties. To the extent that the object of the relief was to provide a stimulus to new building the greater part of the loss of tax would therefore be wasted because it could have no such effect in relation to existing buildings. Our conclusion therefore is that, despite the theoretical merits of the case for some form of deduction and the possible incentive that the relief might provide to the building of houses and flats, the present position should in general be maintained."

They went on from there, Sir, to make their recommendation that some allowance should be made for capital expenditure incurred in the provision of houses of African employees, and recommend that housing of this kind should be brought within the definition of "industrial buildings" for the purposes of Part I of the Second Schedule. I have, in the quotations which I have just made, already dealt with this—they also cover the argument regarding the case for capital deductions for commercial buildings.

I would like now to go straight on to deal with what was said about life assurance and retirement. Here again, Sir, the hon. Member suggested that paragraphs 24 to 30 of the Sessional Paper should be withdrawn. All I can say there is that the Government has been under pressure for a very long time to do something about the Report of the Coates Commission, and proposals have been put forward to cover non-official pension schemes both for employees and for the self-employed person, and that these, having been brought forward, I am very surprised to find any hon. Member suggesting that action should be put off and that we should have further delay. It was suggested here again, Sir, that there have been insufficient consultations: all I can say is that the matter has been given a very

great deal of thought and that I do not agree that there have been insufficient consultations.

It was suggested, Sir, in one point that the hon. Member made, that the last sentence of paragraph 28 was inequitable: that paragraph, if I may read it, says:—

"Where any pension scheme has been approved up to 31st December, 1957, it will continue to be approved so far as it relates to employees who were contributors at that date. Employees will, however, only be entitled to insurance allowance as at present. If new employees are admitted to an old scheme and it is not approvable under the new rules neither they nor the employer will be entitled to any relief in respect of contributions on their behalf."

The hon. gentleman mentioned that this was inequitable for the employee who joined an old scheme after the 1st January, 1958. I am glad that he has drawn attention to this particular point, and I am quite sure that it is one to which attention will be paid in the drafting of the Law. Obviously Government has no intention whatsoever of damaging the interests of people in that position: I am sure that that point will be looked into when the drafting is being done. But, Sir, apart from that—to move on from that—on the other points, my hon. friend is labouring under a number of misapprehensions about these pension proposals. He said for instance that a number of the conditions of approval were unworkable: one instance he cited was in paragraph 26, where it stated that the scheme shall have for its whole or main purpose the provision of pensions for employees at retirement at a specified age or earlier on incapacity or death for their widows and dependants, and he asked how did this work: was it intended that there would be life pensions for minors and would not that make for considerable difficulty. Well, Sir, the proposal here is enabling and it is to enable pension schemes to make proper provision for the minor children, for the widows and minor children, of people of employees—who die, and it is assumed—and I should imagine that this will be brought out when the Law is drafted and when the schemes go up

[Mr. Mackenzie] for approval—it is assumed that just as in the public service, a minor's pension ceases at a certain age, the same would be provided under this type of scheme. I do not see, Sir, anything particularly unworkable in that.

Then, Sir, it was suggested that there should be discretion to allow someone to commute a higher proportion or the whole of the annuity that was granted, whereas under paragraph 26 (e) the total sum for commutation is £6,000. Well, as far as that is concerned, there is the question of principle that the idea of these rules is that tax relief should only be granted in order to give people comparable benefits to those enjoyed by the members of the public service and it was with that in mind that this particular proposal was made. It would give people enjoying pensions under these rules vastly more favourable terms than the civil servant if they were allowed to commute the whole of a pension of, shall we say, £2,000 a year.

Then, Sir, it was suggested that 30 years was too long to qualify for a two-thirds pension, and that more than 1/20th should be allowed for employees who joined later in life than the normal age; I thought my hon. friend meant that. All I can say there is that it takes a civil servant 33 years I believe, on the present pension computation, to earn the maximum pension and therefore this is a concession to other people. If salaries go up for civil servants they will first also go up for other people: that is the normal way of life.

SIR CHARLES MARKHAM: Question!

MR. MACKENZIE: Then one further point on this: my hon. friend suggested that the proposal under paragraph 26 (g) —and I hope he will correct me if I am wrong—but if understood him he suggested that it was wrong that any death benefit payable may not exceed £6,000. He mentioned the death penalty I think. He suggested, and I think I got the impression, that he believed that the £6,000 was the only death benefit payable. I hope he will correct me if I am wrong, but that was the impression that I got, and in fact he suggested that this was very unfair since an employee's pension contributions might have already exceeded that figure. I should point out

that the £6,000 death benefit is not the sole benefit that the family of a deceased employee would get at that time. In addition there is the provision for a pension for widows and orphans, pensions under paragraph 26 (c), and as I understand it the idea of this is that just as in the public service, a civil servant is paid, in addition to his widow getting the benefit of the widows' and orphans' pension for which he has contributed, a civil servant gets a year's salary—his widow gets a year's salary—when he dies. Similar provision would be possible in non-Government employment. That is the position as I understand it, and do not think that it is unduly ungenerous.

The final point, Sir, was that my hon. friend pointed out that civil servants' pensions were non-contributory, whereas most of these would be contributory. Of course there is the other side of the medal, and that is that civil servants' pensions, being non-contributory, their salaries are lower than they would otherwise have to be.

MR. ALEXANDER: Question!

MR. MACKENZIE: Now, Sir, as regards provident funds, the hon. gentleman said that it was unfair that provident funds should be eliminated except for the lower paid employee, and that this would hit very hard the smaller undertakings including farms, that hardship would be caused to many employees. I think, Sir, the answer here is that the Government is anxious that as far as possible, people should turn over to pension schemes which do give greater security to the employee, and that is why this particular proposal was put forward. It is an act of policy to encourage pension schemes. But I do not think anyone who is contributing to a provident fund will find that he is worse off when these proposals become law than he is at the present time. The proposals are designed on the whole to improve the position of the provident fund contributor, and one of the great advantages will be that whereas at the present time a certain amount of the benefits is taxable, when the provident fund payment is made, under the new proposals it will be so arranged that the sum received is received free of income tax. That of itself will be a considerable advantage, but as regards the provident fund schemes being retained

[Mr. Mackenzie] for the lower paid employee, I think there again it will be realized by the House that if the more highly paid employees were allowed to contribute to provident funds, and if provident funds were placed on the same basis for taxation purposes as pension schemes, the whole point, for example of not allowing the commutation of the whole of the pension—would be lost. These are intended for people who can best make use at the end of their term of service of a lump sum and are not intended to provide for the sort of person who would normally expect to be pensionable.

Now, Sir, I do not intend to go into any great detail into the question of the undistributed income tax: I would, however, point out that many of the problems to which the hon. Member drew attention—many of the points which have been incorporated in the recommendations here—are very firmly based on closely reasoned arguments in the Report of the Coates Commission. They have argued this position, for instance, of the definition of a company, in paragraphs 447 to 450, and they have pointed out too the difficulties in the present position given the conditions in East Africa. They point out how some companies have found ways of issuing shares of a particular type to bring them outside the purview of taxation, although the previous owners still retain complete control and own a very large proportion of the share capital, and they do go on to suggest that items of this kind would be discouraged if the percentage were increased from 25 to 50, as has been done in India. But they say that this course might bring in some companies which are not of the type for which section 22 is intended, while others might still escape by an extension of the use of existing devices. It is the Coates Commission, Sir, that suggests the emphasis should be on control—I think that should be noted. This is not something which the East African Finance Ministers have conjured up in their own minds: this was a proposal put forward after very careful examination after the hearing of a great deal of evidence by an expert and responsible Commission, who felt that the definition should ensure that any resident company which is

under the control of not more than five persons is subject to the operation of section 22. They also point out that this was the original intention in 1937. That, Sir, is a point which I think should not be lost to mind.

Similarly, Sir, the arguments in favour of having only a 20 per cent deduction in working out what is the level of the undistributed income tax are not something which the Government thought up overnight but that again is supported by very careful reasoning in the Report of the Coates Commission. The Commission examined very carefully the position in the United Kingdom and in India, and came to the conclusion—as my hon. friend the Minister has said before now—that “in the circumstances of East Africa, which possesses no margin of skilled staff in its Income Tax Department and no expert appellate tribunals comparable with the special commissioners and board of referees in the United Kingdom, the greater simplicity and certainty of the Indian model as it existed when section 22 was based upon it, makes it much to be preferred from the administrative point of view. Simplicity and certainty are merits from the point of view of the taxpayer as well as of the Department. A change-over to the United Kingdom model would therefore be an undesirable step even if accompanied by some safeguards. On this account we do not favour the solution proposed by the Gill Committee in paragraph 145 of their Report, as the legislation there proposed closely follows the United Kingdom model with modifications only on points of detail”.

Now, Sir, my hon. friend suggests that these administrative difficulties have been seriously exaggerated. He suggests that if we were to obtain half a dozen experts it would be possible to overcome these difficulties and that also it would be possible to find from non-official sources the people to put on the Board of Referees. All I can say, Sir, is—

MR. ALEXANDER: That was not my point.

MR. MACKENZIE: I am sorry, Sir, but my hon. friend says that he did not make that point. But he did suggest that the administrative difficulties could be overcome. All I can say is that here we had a Commission including Sir Eric Coates

[Mr. Mackenzie]—with his very wide administrative experience in many fields as Chairman, with representatives of the Board of Inland Revenue available. The Commission had the full advice of our Income Tax Department who presumably have as good a knowledge as anyone else of what is administratively possible here and they came to the conclusion to which I have just drawn attention. It is a question of opinion but with every respect to my hon. friend in this particular case I would prefer to accept the opinion of the Coates Commission and of the East African Income Tax Department. Well, Sir, I have dealt with a number of the points which the hon. gentleman raised. I have not attempted to deal with them all but I am quite sure that my hon. friend the Minister when he replies will do this. What I hope I have done has been to show the House that the Government only produced this Sessional Paper after very careful thought, that there has been consultation, and that we on this side of the House cannot accept the implication raised by the hon. gentleman that the whole of the proposals put forward here are so thoroughly bad that they ought to be withdrawn. I am quite sure, Sir, that that could not be accepted and that to do so would be anything but popular with broad sections of the community.

Sir, I beg to support.

SIR CHARLES MARKHAM: Mr. Deputy Speaker, the hon. gentleman who has just sat down talked about and alleged that my hon. friend the Member for Nairobi West had objected to every part of this Sessional Paper. I think, Sir, that he has taken the opportunity of discussing—in some detail I will agree—certain aspects of that Sessional Paper. I think, oddly, Sir, that he is about the only person on this side of this Council who has done a great deal of research and work on that Paper. I say that because I think there has been some misunderstanding in some of our minds that we were here today to discuss mainly the question of the undistributed profits tax. However the fact remains that he discussed the whole of the Sessional Paper—which he was entitled to do.

If I may say so, Sir, I think that the Secretary to the Treasury is wrong on

one thing. Talking about some of the proposals being accepted, some of them are very highly objectionable and I can assure him that that is the feeling of the country. They are particularly concerned with the profits tax which I will mention in a minute.

Sir, we have two more days after this on Ways and Means to discuss some of the actual details and so I propose now, Sir, not to reiterate anything at all which has been said by my hon. friend the Member for Nairobi West, but just to talk about some of the principles behind these new proposals regarding taxation.

I think it is a pity that as so much of the Coates Report is being quoted today by everybody this House was not given an opportunity of debating the Coates Report previously. Personally—and I am no finance expert, Sir, nor am I an accountant—I do not agree as an individual with some of the Coates proposals. But it must not be taken by the Government that because we have not debated it we have necessarily accepted their views. I think a specific example was given a moment ago by the Secretary to the Treasury when he answered my hon. friend about the question of the board of referees.

Personally, Sir, I think that the Gill Report was just as able as the Coates Commission to be constructive; their recommendations were just as effective. But as so often happens in this country we know from our own experience that Government does not accept reports which are not particularly palatable to the Government.

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): It is often the other way round.

SIR CHARLES MARKHAM: No, I do not think so.

There are two things which, despite what the Minister for Finance read out this morning justifying his proposals by quoting extracts from the Coates Report. I think are totally unrealistic, and if we had had a debate on the Coates Commission Report I would have made this same point in this House.

Sir, looking at the hon. Members opposite and some hon. Members on this side of the Council who have been in Kenya many years, I would like to ask them to think back to those early days

[Sir Charles Markham]

when I first came to Kenya and look at the great change today; and what has caused that development to take place. Sir, in Kenya, I would suggest to this House that what has really caused the development, to a large extent, has been the fact that people have not distributed their profits but have ploughed them back. If you will look at some of the small companies which existed when I was a boy here 30 years ago you will see that they are flourishing concerns. With this new penal tax of 80 per cent I do not think there will be any development at all.

I would like to ask the Minister to give the House some reason why it was necessary to think of this proposal. He quoted the figure of £271,000 which would accrue to revenue through this proposal but will he tell the House—and my hon. friend made the same point—how this figure has been arrived at? Would he also tell us if there are any major cases—I do not want him to mention them by name—of the bogus public company taking steps of tax avoidance.

Now, Sir, what about these private and public companies? I always thought that section 22 was one of the most unfair clauses for any developing country because the prosperity of the farmer, of the businessman, of the industrialist, has always depended on ploughing back these profits. He is not, of course, in the position of being in England where he has so many services provided free by the Government, and, looking around at some of the public companies who will be affected if these proposals become law next year, the part they have played in the development of Kenya has been far in excess of what they might not have paid in taxation. I do hope that the Minister will realize that there is considerable public disquiet at these proposals, both from the private companies who are about to become public, those companies who have for many years been public companies with substantial shareholders outside the family, but which have, nevertheless, retained their family interests, all of whom will be doing what my hon. friend has said, namely taking steps to avoid this tax.

At the moment there is really a premium on evasion, and I use those words very reverently.

How well do we know what happened in England when they made the taxation structure too high. What happened was that Bermuda has now become extremely rich through people having all their companies registered out there. The same thing happens in other parts of the world: as soon as you have too high a taxation structure, immediately people take steps to avoid it.

Now it is, of course, grieved to the mill to the professional men, the accountants, to give their clients advice as to how to avoid paying this tax, but what is wrong, Sir, is that in a young country like Kenya we should have to take such steps. We should try and retain every shilling we can in Kenya for the development of Kenya, and not drive it out deliberately by penal measures which are purely designed to bring into the net those people who have been evading tax. As Sh. 15 in the £, I would have thought that you would have encouraged evasion rather than caught the people who were evading.

Now, my hon. friend quoted one example of £1,000,000 to his knowledge not coming here because of these proposals. I can quote two examples, Sir, of not quite such high figures; they are more modest figures. One is £500,000 and the other is £100,000. Because there is some doubt as to what the law will be when it appears even in draft form, people say: "We are not prepared to take that risk; why should we put money into Kenya when we are going to be liable, because of this ambiguous control, to pay this penal tax of Sh. 9/50 in the £?"

I know two examples of companies who are subsidiaries of English companies—private companies in England, Sir—who have for the last five years reinvested their money in Kenya, including one company, Sir, with the Kenya Government. They have now no intention of doing that and they will take their profits out of Kenya, which will not be to the benefit of Kenya at all.

Now we have been told, Sir, when the Minister introduced this Motion that this was East African legislation. Sir, I remember when Kenya put up the company tax to Sh. 5, Tanganyika kept theirs at Sh. 4 and they reserved the right of being independent—does the hon. Minister want me to give way?

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): Sir, I must correct the hon. Member—Uganda, not Tanganyika.

SIR CHARLES MARKHAM: Sir, I apologize to Uganda, and I will substitute the word Uganda for the word Tanganyika. Thank you, very much.

If one country can do it, I do not see why we should not do it in this particular instance, and if the Ministers for Finance of both Tanganyika and Uganda think that these present proposals are the right ones, then let them think so, and let us carry it out in their own territories, but we in Kenya, Sir, are different in the sense that it is the general opinion, I think, of all the unofficials in Kenya—and I feel quite sure that many Members on the Back Benches of Government feel the same—that this tax is quite unnecessary and will do more harm than good.

I cannot see why we must rely, in this instance, on something which can be desperately important to our financial future, on legislation to be interterritorial and undertaken by the Central Legislative Assembly. It was explained to me, many years ago, Sir, that Kenya had every right to retain its own initiative in matters of taxation. I would have thought that here was an example where we had every right to reject the advice or the proposals of the other territories, if they are going to be detrimental to our good.

Sir, there is plenty more to say later on in Ways and Means, but I would like to suggest one final point which is in support of what my hon. friend the Member for Nairobi West said I do not believe we can afford to allow this incision to drift on until such time as the legislation is brought before the Central Legislative Assembly. There is this great danger that, through not knowing the facts and not understanding the proposals, through not having even yet seen the draft Bill of this Assembly, money which might be coming into Kenya will go elsewhere. We know examples, Sir, and they are available to the Minister and can be made public at any time with the consent of the people concerned. But, Sir, if there are those few examples known to us on this side of Council, how many more of them are known elsewhere, including in the City

of London? I would beg the Minister to accept, on this issue alone—and this is the only one I am going to raise now, Sir, because I have not perhaps given the other proposals the study I should have done—these arguments, I beg him to think again on behalf of Kenya in this instance. Sir, he announced in the Press the other day that he is staying on as our Minister for Finance. What a wonderful tribute it would be to him if, during the years he remains with us, he can say how he managed to squash these proposals because they are unfair to Kenya. I hope he will do that, Sir.

I beg to support.

MR. SLADE: Mr. Speaker, Sir, while supporting many of the points that have been made from this side of the Council, I only want to underline one; that is with regard to the undistributed profits tax, which, after all, is the major issue. In moving this Motion, the Minister quoted to us a number of paragraphs from the Coates Commission Report, but there was one which struck me most forcibly. That was the paragraph which distinguished between retention by a company of profits in order to avoid payment of tax by the shareholder, and retention of profits through the sheer necessity of the company or through ordinary business prudence. Now, that obviously is the touchstone, and I know it is what the Minister has in mind, with regard to this tax. But it is apparent that, as the proposals now stand, they are not achieving that distinction, and the proposals are going to trespass on those profits which should legitimately be retained for the ordinary purposes of business.

Now, Sir, I am going to ask the Minister, in reviewing these proposals, to see if he cannot devise some formula which really does get that distinction clear, that distinction between the retention of profits in order to avoid tax and the retention of profits for the real needs of a business.

I will go further and say that if he finds it really very difficult or indeed impossible to mark that distinction and to ensure that profits needed for legitimate business purposes are protected, then I do suggest that it will be better to leave the whole thing alone than to

[Mr. Slade]

Another point I would like to support is the idea of the unilateral action taken by Kenya in bringing this Motion today. I think it is not fair on any one in this country to say that the Government is mistaken in trying to assume the powers of the East Africa High Commission in taxation matters. We owe a responsibility to Kenya and as Kenyans we must devise a method of taxing ourselves in any particular direction, so that we can develop this country in the way we want. We cannot leave it to the East Africa High Commission. In fact, if we could go further and say that all proposals for taxation must come from the East Africa High Commission, we would be giving powers to that High Commission which were probably not intended. Therefore, this unilateral taxation of the Kenya Government is welcomed by many of us and I support the Government.

MR. MULIRO: Mr. Speaker, Sir, I congratulate the Member for Nairobi West on his long speech and I think he was a genius to talk for two hours and more. I would congratulate also the hon. Secretary to the Treasury who has dealt with the speech of my hon. friend very adequately and very lengthily, too.

I have only a few points to raise on this undistributed profits tax. I do not see any real case why my friends on this side are arguing that these profits should not be taxed.

MR. ALEXANDER: That is not our argument.

MR. MULIRO: If I have misunderstood you, you should put it right. We want money for the development of this country, and if we want that money we have to devise some way of taxing ourselves or taxing those people who have surplus profits after dividends have been paid to the shareholders. I think it is very fair to say this, that since the Government already is giving an allowance of 20 per cent to those companies which want to reinvest their money in this country for further development, it is only fair in this country that any individuals who are trying to evade this higher taxation, by calling themselves companies with undistributed profits, should be taxed.

I have another point which I would like to thank the Government for, and that is relief for capital expenditure on agricultural works. I think our whole economy in this country depends very much on the development of our primary industry, which is agriculture, and any relief in that direction is fully welcomed by all people who are interested in the development of this country. I have to thank the Government for that.

Another point I would like to support is the idea of the unilateral action taken by Kenya in bringing this Motion today. I think it is not fair on any one in this country to say that the Government is mistaken in trying to assume the powers of the East Africa High Commission in taxation matters. We owe a responsibility to Kenya and as Kenyans we must devise a method of taxing ourselves in any particular direction, so that we can develop this country in the way we want. We cannot leave it to the East Africa High Commission. In fact, if we could go further and say that all proposals for taxation must come from the East Africa High Commission, we would be giving powers to that High Commission which were probably not intended. Therefore, this unilateral taxation of the Kenya Government is welcomed by many of us and I support the Government.

MR. MBOYA: Mr. Speaker, Sir, the whole day has been spent discussing this subject, during which I think from both sides of the House have emerged a number of what I might call very useful points in making it more clear to some of us, who are less fortunate in being able to grasp the intricate and delicate aspects of the economic argument on this particular subject.

The hon. Member for Nairobi West, addressing the House for a large part of the day, brought out a number of points of general interest, including what I think all of us expected to be discussed—undistributed profits tax. I think, too, Sir, that on the Government side we heard this morning the Minister, as he said, not giving us his own observations, but quoting from the Coates recommendations. I was myself convinced, in the course of the debate, that there is something to be said from both sides.

I think, Sir, that one cannot completely ignore the arguments that were produced from the quotations of the Coates recommendations. One cannot also ignore the fact that Government is concerned with trying to eliminate, as far as possible, that element of tax evasion—if I may call it that—that may be existing at the moment as a result of the present taxation policy or structure. On the other hand, Sir, we have heard from this side of the House a number of, I think, very convincing arguments and points raised

[Mr. Mboya]

which tend to give the impression that the present proposals—as some of us stated earlier in the Budget debate—would probably result in a loss of capital to the country.

Now my own position, which I tried to make clear during the Budget debate, was that we should be, as far as possible, concerned with introducing proposals or a structure that would encourage the further investment of capital in this country; a structure that would attract additional capital from outside Kenya and also encourage or stimulate the re-investment or the ploughing back of capital in the nature of profits made in this country.

I am very much concerned with any system—and this has been one of my fears in the present proposals—any system that will encourage or give greater stimulus to the distribution of profits to the extent that this might be lost in the general desire of everyone here to see greater investment. I think that a case has been established for a review of the present proposals to some extent. I am not suggesting what should be done; I am not quite sure that I would be in a position to do that at this stage, but I am suggesting that it seems from what has been produced in the House here and in the country generally, that there is need to review the proposals that have been put forward by the Government.

There is a difficulty, I think, in that the Government is very desirous of ensuring that that element of tax evasion that existed is eliminated, but probably this could also be met by ways other than the present proposals and may I venture to suggest that one of the points that might be usefully examined is our present definition of the word "company". Probably when we have a better definition of this or a definition that would be appropriate in eliminating that element or that aspect of the present definition that allows or makes it possible for a certain type of company or business to get away with an element of tax evasion, we might be able to reduce this particular position. I do not think I can go beyond saying, Sir, that the Government will be well advised to take into consideration some of the points that have been made. On the other hand, I am very much in sympathy with the

Government's attitude that they should eliminate, as far as possible, the element of tax evasion that exists today.

I have just one or two other general points that have been mentioned. I think in his speech this morning the Member for Nairobi West touched on the question of the deductions—I think he was referring to deductions in respect of allowances for employer housing schemes—and I thought he advocated that this should not be limited, as is the case in the present proposals, and made the suggestion that it should be extended even further to enable companies or employers to provide houses even for the higher groups of employees. Now on this I must say I am in complete disagreement with my friend, the Member for Nairobi West. I believe that housing schemes by employers should be accepted only as the last resort, as the only alternative to local government housing. I believe that housing should be the proper responsibility of local authorities and that it is not, and should not be made to appear, the responsibility of employers to provide houses. I am therefore unable to agree with the suggestion that we should give licence to what might appear to be giving a blessing and accepting as policy in this country that employers should provide housing for our various peoples.

I think, Sir, that what is necessary is to examine ways and means whereby employers can help and assist in this, but I would be very much against any inclusion in our tax proposals of what might amount to a policy of employer housing schemes in this country. I support the present proposal in its limited sense, because of my acknowledgment of the fact that in the present position there is an acute problem of housing, and that this element of help from, or assistance from, employers is necessary, but only in this way would I support this type of housing.

The other point that arose in the hon. Member's speech was that relating to taxation, and income tax in particular. He made out a case—and I have a certain amount of sympathy—for a revision of the personal tax structure with a rebate on income tax, I thought, Sir, he should have gone further, and this, I think, is one point of difference between myself and the hon. Member for Nairobi West, that I have seen him make very

[Mr. Mboya]

good points in the House, but rarely have I seen him make points that cover the lower income group of our community. I would have thought that in advocating a higher bracket on the personal tax with rebate on income tax, he should have suggested what we did advocate for last year, namely the exclusion of the lowest income groups in our community, say, up to—my suggestion would have been those earning under £60—not to pay any tax at all. This, I think, is a suggestion that can be made realistically now, and that could be met by the country now instead of waiting for another year, two years or three years.

I thought, Sir, the brackets which the hon. Member suggested were very interesting, except I think they would have to be looked at in relation to the various allowances that we are trying to give in the income tax structure, particularly to the family man, lest it amounts to a matter of giving family men an allowance on their income tax structure that we take away from them on the personal tax structure.

Mr. Speaker, Sir, with these few remarks I beg to support.

MR. BECHGAARD: Mr. Speaker, I propose to deal only with one or two points of detail which emerge from the speech of the Member for Nairobi West, so that the burden of dealing with the main issue of the debate may be left to the hon. Minister for Finance. Perhaps, if I deal with these details now, it will not be necessary to go into them at a later stage.

First of all, in the course of his speech this morning, the Member referred to a paper which he had circulated to all Members of this Council. I have only just seen that a few moments ago, but with your permission, Sir, I propose to refer to it.

It reads as follows: "In the Schedules numbered I to VII of Appendix A, there are a number of examples of income and of tax payable thereon. These, I contend, are misleading in part, mainly because the annual value of housing is, in most cases, inappropriate to the income group quoted".

Referring to the Sessional Paper, there are seven Schedules, and I am afraid two of them do not refer to annual value of

all, that is I and V. Dealing with the ones that do, it will be seen that Schedule II, for example, deals with the hypothetical example where £5,000 is invested in a residence, the present net-annual value of which is £98. The total incomes there range between £500 and £10,000. That Schedule deals only with married persons.

The Third Schedule deals with a slightly smaller range of incomes—£1,000 to £10,000, for married persons with two children. The Fourth Schedule—the same range of income—married persons with two children boarding at school. The Fifth Schedule, as I have already said, is inappropriate. The Sixth—married person, self-employed, no dependants; range of income—£3,000 to £5,000. The Seventh Schedule—self-employed, two children at school, range of income—£2,000 to £5,000.

In all these cases the same net annual value factor of £5,000 has been used. I submit, Sir, that that is not inappropriate for this range. But to turn to the paper itself, it goes on to say: "A more realistic assessment of the annual value of housing or accommodation results in the Schedule below". Well, with all the good will in the world and with all the respect due to the Member for Nairobi West, he has not given the sums—the actual amounts of annual value—and without those it is impossible to comment on the realism of his examples. We do not know what the net annual values are on which these various sums are based.

To turn to his comments on the proposals contained in Sessional Paper No. 5—the third paragraph is that dealing with double taxation. If I understand the Member for Nairobi West correctly, he criticized the decision not to allow unilateral relief. I am, of course, aware that in—I think it is—paragraph 159 of the Coates Report, there was a recommendation, but I would ask the House to bear two factors in mind: first of all that the Coates Report was carried out in 1956, and secondly, that the wording of this paragraph 3 is as follows. I will quote it in full as it is only brief. "It is not proposed to introduce unilateral relief since this is not considered to be appropriate to the present circumstances of East Africa". To the present circumstances.

[Mr. Bechgaard]

Mr. Speaker, There has been an adverse change in the last two years, and it is not now considered that this particular relief can be afforded.

The reason is very simple, because the relief under discussion is a unilateral one which would be available only to East African residents. The inevitable consequence would be to encourage, even if only in a small measure, the investment of capital urgently needed in East Africa, outside it.

Another criticism of the hon. Member for Nairobi West was in regard to Dependants' Allowance in paragraph 14. He criticized the amount of the dependant's allowance which remains at £60. I can do no better than to refer to the Coates Report, paragraph 217 which deals with dependant's allowance. I will not read it all as we have already had enough out of this Report I think. "We received a number of representations urging that (a) the amount of allowance should be raised to keep step with the increase in the cost of living since the present figure was fixed; and (b) that a taxpayer should be able to claim for two, or even more dependants. We have already indicated in paragraph 69 the reasons why the allowances given for varying domestic circumstances must necessarily be limited and we do not recommend any alteration in the present allowance." The point was considered in great detail and reference to paragraphs 217 and 69 give all the reasons quite fully.

The Member then went on to deal with Capital Deductions. That is a rather difficult subject as a whole because it will be appreciated that capital deductions are really anomalous. They are allowances given for capital expenditure and the theory of giving such allowances is in reality foreign to the whole concept of a taxable income. These special allowances are given in special circumstances, but they bring with them the necessary evils of what are called balancing charges and allowances. They are necessary safeguards and the result of having these balancing allowances and charges is that where the capital deduction would be a small one and the assets involved are of some durability the gradual inflationary tendencies of historic times anyway,

swallow up any allowances which would be granted. It is also, of course, obvious that in considering what very special allowances can be granted as capital deductions the field must not be too wide, because they are in the nature of a subsidy and you cannot, of course, subsidize everyone. That is the reason why no allowance can be given for such interests as leasehold land. If once a deduction were given for that it would be much too general in its application and in most instances would be infinitesimal.

The Member went on to deal with agricultural recommendations—Recommendation 17, paragraph 21 of the Sessional Paper. These allowances are to be given in respect of the purposes set out in paragraph 21 and the term "works" is defined there to include such things as farmhouses, farm building, employee houses, fences, dips, drains, water and electricity supply installations and shelter belts of trees. That particular definition, of course, covers some of the particular items listed by the Member in his speech when he asked for more precision in definition. He referred to ponds and reservoirs—well they would come under the heading of water supply installations; forest planting—shelter belts and trees, or where they are not shelter belts, they will probably come under erosion measures; drainage—again under water; and tsetse fly clearing I understand is already allowed. But the particular question which he posed which was one of whether allowance would be given for tractors—I think that is correct and I have him right—the question posed, by the Member for Nairobi West was whether when these allowances were given under paragraph 21 (a) and a farmer disposed of his tractors would be given any allowance for the tractor. The answer is, of course, that tractors are dealt with under quite a separate schedule, they would not come under the new regulations at all. It is only agricultural works as defined that are involved and tractors and agricultural implements will continue to be dealt with under the wear and tear provisions.

Reference was made to 21 (c) and I think that the proposal there was stigmatized as being iniquitous. It says: "Where livestock or produce is given away free, or at less than its commercial value, the

[Mr. Bechgaard]

market value will be treated as a business receipt as at the time of disposal". This comes directly from recommendation 17 (v) of the Coates Commission which reads as follows: "The market value of livestock and produce given free or sold for an uncommercial price should be chargeable under section 16 (2) of the Act if, in the same circumstances, amounts received on sale of livestock and produce would have been chargeable". I think that is quite a reasonable measure, because if it were not included considerable evasion could take place in mutual exchange of free benefits, for example.

Going on to C of the Sessional Paper, we come to the question of pensions and I would ask the Council to bear in mind that as far as the premiums paid for the insurance of the life of the taxpayer and his wife are concerned, there are no amendments contemplated by the present proposals. I think a comparison of the Bill now before the Council and the old Rates and Allowances Ordinance would show that the provisions are, word for word, identical, probably in the same type even. But, under paragraph 24 provision is made for a new type of allowance—I read from paragraph 24: "New rules are to be made governing the approval of employees' pension schemes. They will have effect from 1st January, 1958. Contributions to such schemes will be allowed as an expense to the employee, not, as at present, being aggregated with private life assurance premiums and only ranking for relief at Sh. 5 in the £ on the first £200 and Sh. 2/50 in the £ on any excess. Employers will be entitled to deduct their contributions as at present. The income of approved funds will be exempt". The proposals set out in paragraph 24 are, therefore an advance on the present allowance and paragraph 25 goes on to say: "The consequence of the more generous nature of the relief is that somewhat more stringent conditions for approval must be laid down and that limits must be set to the amount of allowable contributions and to the benefits payable". It is only because a wider measure of relief is afforded by new proposals that these schemes have to be tightened up.

The Member for Nairobi West mentioned, paragraph 54 in which it is pro-

posed to abolish the present concession in respect of the legal costs of appeals, and I think it might be considered unseemly if I were to comment on that.

As far as the scope of charge to tax is concerned, I propose only to say this in regard to F, that the proposals whereby the value of a farm house is to be considered reasonable is in my submission a necessary safeguard because otherwise you have the position where you have a £20,000 or £30,000 mansion erected on a five-acre plot with four acres of maize or something like that.

So far as the other points mentioned by the Member for Nairobi West are concerned, I think they have been dealt with by my friend the Secretary to the Treasury. I think it was the Member for Central Nyanza who mentioned his misgivings that the tax proposals were not sufficiently fair to all races. I can say this, Sir, that having had an intimate acquaintance with the operation of the income tax legislation for some years, I can assure him that they are completely and utterly impersonal and non-racial in their effect. The only measure that I know which could be called at all discriminatory was a concession which operated some years ago in favour of African controlled companies.

Mr. Speaker, I beg to support.

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): Mr. Speaker, Sir, I might have misled the hon. Member for Ukamba because he said to me did I think I was likely to be on my feet tonight because he wished to hear what I had to say. Sir, I had not anticipated that the debate would end quite as rapidly as it has.

However, Sir, I would like, first of all, to deal with one or two of the general points; and I will endeavour, Sir, in this reply, not to waste the time of the Council by scoring debating points as to whether things which have been said here are fallacious or not—I would, of course, say that at one time when the hon. Member for Nairobi West was speaking, I thought I was listening to the hon. Member for Nairobi Area because the word "unacceptable" appeared so many times in the part of his speech to which I was listening.

I will endeavour, Sir, to cover the basic points—at any rate in the time left



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to me this evening, although I am afraid I may not finish speaking all together.

Sir, the hon. Member for Nairobi West, I will not say he twitted me, but he referred to the fact that in my opening speech I had spent most of my time quoting the Coates Report and its arguments on undistributed income tax and its reasons. He said it was an example of using other people's words. Well, Sir, the fact is that a great deal of the proposals which are before the country and before the East African territories today are based upon the Coates Commission Report and their recommendations. And, Sir, I can think of no better reasoning and argument to place before this Council to counter what I think has been a rather exaggerated propaganda, not against always the effect, but against the reasoning behind these proposals.

Now, Sir, let us look at the Coates Commission, and see what evidence they took before they arrived at these conclusions. My hon. friend, the Secretary to the Treasury, did, I think, point out that Appendix 3 has one, two, three, four, five pages of the leading personalities of East Africa who appeared before the Coates Commission, and gave hours and hours of evidence so that those experts could assess the value of the recommendations that were being made to them in leading them to their own conclusions. And, Sir, let me quote, so that it can be seen that they had absolutely available to them the leading commercial, industrial and professional advice, whether they accepted it or not, of East Africa, some of the bodies who gave evidence before this Commission: the Association of Accountants in East Africa; the Association of the Chambers of Commerce and Industry of Eastern Africa; the Association of the Chartered Institutes of Secretaries in Uganda; the Coffee Planters' Conference; the Dar es Salaam Chamber of Commerce and Agriculture; the Federation of Chambers of Commerce and Industry of Eastern Africa; the Kenya National Farmers' Union; the Indian Merchants' Chambers of Dar es Salaam, Kampala, Mombasa; the Mombasa Chamber of Commerce and Agriculture; the Nairobi Chamber of Commerce; the Nakuru District Chamber of Commerce and

Industry; the Royal Institution of Chartered Surveyors, the 'East African Branch; the Tanganyika Sisal Growers' Association; the Uganda Association of Building and Civil Engineers; the Uganda Sugar Manufacturers' Association, to say nothing, Sir, of representatives from the Civil Service Associations and many other bodies, such as the European Parents' Association, the Housewives, the Hotel Keepers' Association. All these people, Sir, gave evidence before this Commission and put before them, I imagine, the very points of view that are now being argued in this Council and in this country. And this Commission, at the end of all that evidence, and in full regard to that evidence, did in fact place before us a large number of the recommendations that we are debating. So that, Sir, the Government, must place before this Council and before this country at any rate the facts and the reasoning and the evidence on which the proposals we are discussing were based.

Now, Sir, in my opening speech, I deliberately—and I tried to indicate that I was doing it deliberately—tried to confine my remarks to the one thing which I felt was of major and important interest to the people of the country at the present moment; that was, the undistributed income tax—and the proposals made for its implementation. But, Sir, alas, most Members did indeed cover many other points and having covered those points, Sir, I am afraid that once again, we must put the facts and the Government's point of view on the record for, as my hon. friend, the African Corporate Member for Commerce and Industry will remember, it was our policy when we were colleagues in other years on the same side of the House—we always said that if one man stated an incorrect fact 100 times, we should have to state the correct fact 101 times however wasteful it appeared to be, because this is the record of the history of the country.

My hon. friend, the Member for Central Nyanza, did, I think, rather imply that the taxation structure was not a non-racial one: I think, Sir, he produced some of the most wonderful arguments I have heard for tax evasion in my life, that is, that you do not have one wife; you have one, two, three, four, five, six

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wives if you can afford to pay for them, and you get an allowance for the lot. I dread to think what would happen to the taxation structure of the country, Sir, if that were accepted as a general principle. Sir, it might almost be called taxation evasion with pleasure! But, Sir, let me assure the hon. Member that he is totally wrong in all these wonderful arguments that he put forward about these allowances not applying to the Africans—the fact is that they do not apply to the African if he does not pay income tax. That is the solid basis. Just the same as the income tax rules do apply to the African if he is in the income tax structure.

Now, Sir, whether it is personal tax, which is now on a non-racial basis, whether it is income tax, which is now on a non-racial basis, or whether it is customs duty, the fact is that this applies on a non-racial basis right throughout. The hon. Member is perfectly entitled to argue, Sir, that this or that tax may hit the poor people harder than it hits the rich; that is an argument which he is fully entitled to develop. But I do suggest that he must stop trying to develop his arguments that the taxation structure is on the basis of race. Now, let me give him, if I may, Sir, another example from his own colleague, the Member for Nairobi Area, who did make the point that if indeed there was to be any increase in the graduated personal tax at the higher rate, it should be used for the relief and abolition of tax at the lower rate. Sir, that is a perfectly logical development of the argument, and I assure the hon. Member for Nairobi Area will recollect that when I was making the Budget speech in the final stages last year, I, myself did say that in my opinion, this was the field in which relief should next be looked for. I think it is correct, Sir, to accept that if a man is earning less than £60 a year, the burden, small as it may seem, of Sh. 25 is indeed a very heavy burden. But the fact is that there again, we cannot continue to give the services unless we spread the burden of taxation, and if this debate has shown anything, it has shown that in the opinion at any rate of a large number of Members of the House, the taxation certainly as far as the commercial structure

is concerned may be reaching a danger point. That, I think, has to be remembered when we are dealing with taxation generally.

Now, Sir, before I end tonight, there is only one point, Sir, that I would like to make; and then, with your permission, Sir, I would wait to develop the rest until tomorrow.

This was the hon. Member for Ukamba who spoke about this much-debated question of debating a taxation report of the Coates Commission kind. Now, Sir, on this, the Government has taken its example from the House of Commons and from United Kingdom practice. Neither the Royal Commission on Income Tax nor indeed any of the big commissions on taxation reports are debated on the Floor of the House of Commons. The time arrives when the Government having considered the report and feeling that it can implement this or that portion of it, it is placed before the House. It would have been a very great waste of the Council's time if there had been a debate of this kind and the Government would have been in the position of merely getting up and saying "Well, thank you very much; we cannot express an opinion. We have noted what you have said";—And I can imagine the justifiable reaction of a large number of hon. Members opposite if we had taken that step. But of course, Sir, it was indeed open to hon. Members opposite to put down a Motion themselves on the Coates Commission Report and have it debated. I may say, Sir, they would have had to meet with exactly the same position if they had done it as we should have been in if we had done it. That is, Sir, that we could not at any time then have forecast in the future or committed the Government in the future to any of the lines of policy that it would have taken on these principles and proposals.

Sir, with your permission, I will continue tomorrow.

#### ADJOURNMENT

THE SPEAKER (Sir Ferdinand Cavendish-Bentinck): The time has come for the interruption of business, and I will adjourn the House until 2.30 p.m. tomorrow, Wednesday, 18th June.

*The House rose at thirteen minutes past six o'clock.*

Wednesday, 18th June, 1958.

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

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

#### PRAYERS

#### ADMINISTRATION OF OATH

The Oath of Allegiance was administered to the following Member:—

Frederick William Gwinnett-Bompas.

#### PAPERS LAID

The following Papers were laid on the Table:—

The Kenya Regiment (T.F.) Annual Report, 1957.

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

The Usain Gishu County Council (Rating) Rules, 1958.

The Application of Trading Centres Rules.

The African District Councils (Suspension of Members) Rules, 1958.

The Public Health (Drainage and Latrine) Rules.

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

The African Teachers Pension Fund Accounts for the period 1st January, 1956, to 31st March, 1957, and Report thereon by the Controller and Auditor-General.

The Survey Regulations (Amendment) Rules, 1958.

(BY THE MINISTER FOR EDUCATION, LABOUR AND LANDS (Mr. Luyt))

#### NOTICE OF MOTION

AFRICAN (LIFE ASSURANCE CONTROL)

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

THAT this Council, being aware of the existence of the restrictive practice imposed under the African (Life Assurance Control) Ordinance, 1946, and further being aware of the critical attitude to this restriction among the Africans and the insurance companies actively engaged in African insurance business, calls on

the Government to rescind the objectionable clauses in the said Ordinance.

#### COMMITTEE OF WAYS AND MEANS

#### MOTION

That Mr. Speaker do now leave the Chair.

#### INCOME TAX RATES AND ALLOWANCES (SURCHARGE)

Resumption of debate interrupted on 17th June, 1958

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): Mr. Speaker, last night before the Council adjourned I listed bodies—commercial, professional, etc.—from which the Coates Commission took evidence, evidence which, as an impartial body with no interest in the country other than that of doing well the task assigned to them, they accepted or rejected. It seems to me, Sir, that having listened to the debate we ought now to arrive at a new definition of expert—an expert being "one who says what you want him to say".

Sir, I would like to repeat what I said yesterday. "Perhaps, Sir, it would be interesting to read their comments and place them on record as the opinion of these experts from outside the country who are usually heralded as being of greater value than those people whom we have at our disposal when it is thought that their report is more likely to be favourable to the point of view that is being put forward." I would like to underline the last sentence—when it is thought that their report is more likely to be favourable to the point of view that is being put forward.

Sir, I did deal with some of the general points raised by hon. Members and I will now try to deal with others raised in the course of the debate before coming to points on the undistributed income tax to which I had hoped that debate would be confined. However, Sir, I would point out to the Council that this particular smoke-screen is not one that has been created or blown across the situation by the Government.

The hon. Member for Nairobi West, Sir, said that I was "unfair" when I pointed out the failure of hon. Members opposite to move, at any point, a reduction of expenditure. I always find it, Sir,

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something amusing that when criticism is directed—one might almost say hurled—at the Government it is "justified". If Government, however, returns the ball over the net, particularly at a pace that renders an easy smash difficult if not impossible the criticism then becomes "unfair".

Let me make it perfectly plain, Sir. The Government would not accept a Committee to interfere with the executive responsibilities of Ministers on staff or in their day-to-day administration. That is the responsibility of Ministers for which they are prepared to answer individually and collectively on the Floor of this House.

Expenditure springs from policies and I would remind hon. Members that two or three years ago I quoted the remarks of the then Chancellor of the Exchequer, Mr. Butler, in a speech in which he pointed out that if you wanted a drastic reduction of expenditure then there must be a drastic change of policies. So, Sir, if Members continue to press for policies of expenditure on schools, hospitals, roads, on police and for increased capital expenditure then money must be found to meet the cost and that money must come from taxation.

I must say, Sir, that I was interested though slightly alarmed when the hon. Member for Nairobi West quoted the famous economist Henry George and I would just like to repeat what the hon. Member said. "Turning now to taxation I want to refer first to some remarks of the famous Henry George who said that the best taxes by which the public revenues could be raised were such as to conform most closely to the following conditions, and I wish to quote him. "Firstly, they must bear as lightly as possible on the production of wealth. Secondly, they should be easy and cheap to collect and fall as directly as may be on the ultimate payer. Thirdly, they must be certain and give the least opportunity for corruption and also for evasion. Fourthly, they should bear equally so as to give no citizen an advantage or put him at a disadvantage as compared with others. Mr. Speaker, there can be very little quarrel with these four requirements." That, Sir, was the remark of the hon. Member.

The strange and rather amusing thing to me, Sir, is that Henry George used those principles in justifying national ownership of land and let me quote a short extract from Henry George's life history. "The rising values of Californian land after the gold rush of 1849 directed his attention to real estate and his idea of a single land tax to replace all other taxes gradually evolved. The single tax theory is based on the belief that private ownership of land is an evil. 'Land' wrote George, 'is as free to man as air and sunlight and belongs to everyone.' But since people must live on land he suggested that everyone pay rent for the use of the land to the community instead of owning or renting it from private individuals. He elaborated these theories in his two books "Our Land Policy" and "Progress and Poverty". Well, Sir, the conclusion derived from the four principles can indeed show that anything can be used to justify almost anything if one wants so to use it. Whilst one might agree with the reasoning of Mr. Henry George I doubt very much whether any of us would be prepared to carry it to the logical end that he apparently did and that he was directed to.

In a speech lasting some two hours and 20 minutes, Sir—and it was almost a dead heat with the Budget Speech which I think lasted two hours and 22 minutes—although I trust that he got lunch in between—the hon. Member raised many points a great many of which have been dealt with by my hon. friend the Secretary to the Treasury and my hon. friend the Nominated Member Mr. Bechgaard. He used many descriptive adjectives—objectionable, iniquitous, illogical and crazy. He even, I understand, advocated the death penalty for some members of the Government and public service!

SIR CHARLES MARKHAM: Hear, hear! Very good thing!

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): I was not quite sure, Sir, how far that was in order, but I did not think it worth while pursuing. But I would remind the Council, Sir, of what I said on 17th June, yesterday: "exaggeration can do as much harm to the economy of this country as anything else, even the proposals themselves, if they can indeed be

[The Minister for Finance and Development] and are indeed harmful." These proposals, Sir, have, I think, been subjected to a rather one-sided Press campaign. It has, Sir, reminded me very much of the story of the Communist who was discussing his theory with another farm labourer, and the farm labourer said "What is this Communism?" The Communist said, "Well, you see, the squire up there, he's got a big house. Now under Communism, you would go and you would share that house with him, because everybody shares everything". "Well, that sounds very good." He said, "Well now, just take a case: suppose you have £5,000. You see, you would share it with me, and if I had £5,000, I would share it with you. That's Communism". He said, "That sounds very good". And then the Communist turned round and said "Just suppose if you had two pigs—" whereupon he said "You shut your mouth, I've got two pigs".

I think, Sir, the answer is that if you are going to ask certain people certain questions, one can almost be certain of the answers one will get.

Now, Sir, I would like first of all to deal with the position of net annual values. I would like to read paragraph 527 from the Coates Report which puts this situation into, I think, its full perspective: "In regarding the annual value of owner-occupied property as taxable income, East Africa follows a long-established practice in the United Kingdom. A good many other countries raise no charge on this notional income. The matter was considered by the United Kingdom Royal Commission which recommended that the charge should continue there. They pointed out that an owner-occupier with a given income, paying no rent, has a larger taxable capacity than a tenant with the same income out of which he must meet liability for rent. We may add that he has the same taxable capacity as he himself would have if he let his house to a tenant and rented a similar house at the same rent as he received. The United Kingdom Royal Commission agreed that there was a certain element of discrimination involved in attributing an income to the possession of a house and not to the possession of other property, such as

a motor-car, but the practical impossibility of estimating the annual value to a particular owner of the possession of a car or other chattel did not, in their opinion, invalidate the existing charge upon the value of residential occupation. We respectfully agree with the Royal Commission that the assessment of the annual value of owner-occupied property is sound and we recommend that it should continue in East Africa. If the ownership of houses for occupation is a practice to be encouraged in the public interest, we do not think that this should be done by exempting their annual value from income tax". And, Sir, we have accepted that recommendation and those conclusions.

My hon. friend, Mr. Bechgaard, did refer to a table which had been supplied by the hon. Member for Nairobi West in which he contends that the tables in Sessional Paper No. 5 are misleading and goes on to say: "... a more realistic assessment of the annual value of housing or accommodation". Well, Sir, it depends upon who is the realist. You can, of course, arrive at almost any sum like this if you are going to produce notions of your own as to what the income from a house for a particular income group should be. But, nevertheless, Sir, the hon. Member will forgive me if I say that I prefer to rely upon the Sessional Paper tables with a published and known basis of assessment which have been drawn up by an experienced Income Tax Department. The hon. Member, too, Sir, said that he knew a number of Government civil servants who were going to be penalized very heavily in this regard. All I can say, Sir, is that on page 15 in the figures presented by the Income Tax Department with the grades of house and with the total income adjusted for increased annual value with the minimum of allowances, there is only one case stated where there is not a saving in tax and in that particular case, the man comes out all square. Sir, the Government must rely and does willingly rely upon its expert advisers who have the information necessary to deal with these figures at their fingertips.

Now, Sir, on the point of pensions, my hon. friend, the Secretary to the Treasury, covered most of the points raised. But with regard to the proposals

[The Minister for Finance and Development]

for retirement benefit, I would like to emphasize that what we are doing is to restrict the contributions for which income tax relief will be given. This is inevitable in view of the much more generous relief which is proposed. No employer is, however, debarred from making more generous provision for his employees. Neither he nor the employee can, however, be allowed any tax relief for the cost of such additional provision.

Sir, on the point of agricultural capital deduction, my hon. friend, Mr. Bechgaard, stated in answer to a point raised by the hon. Member for Nairobi West that farm ponds and reservoirs were allowable as capital deduction. I think I am right—because I pay particular attention to the Member for Nairobi West, his smiles, his frowns and his nods—I think I am right in saying he shook his head at that particular moment. Well, Sir, I am assured by the Income Tax Department that the facts as stated by my hon. friend are correct. And indeed, the Department invited the Kenya National Farmers' Union to draw their attention to any item omitted so that consideration could be given to it. So far, they—the Kenya National Farmers' Union—have not found it necessary, or at any rate, they have not communicated to the Department, any omission on that list. Sir, the hon. Member for Nairobi West—I think I have got to refer to him, Sir, because he was the main spokesman—quoted from the evidence of the South African Accountants' Association in 1949 that undistributed income tax in South Africa should be abolished. Well, Sir, I am reliably informed that despite their representations, the tax is still in existence and that the South African Government continues with this tax, but of course, going much further than we have done here inasmuch as they cover both public and private companies. Now, Sir, at this point I would like to quote from what I said yesterday. "The paragraph then goes on: '... the South African legislature has sought by the recent introduction of this undistributed profits tax to encourage a distribution of dividends by companies, whether public or private that will ensure a satisfactory flow of super-tax from shareholders.' That, Sir, is different from the proposals which have been put forward in Sessional

Paper No. 5 and which will be considered by the Central Legislative Assembly inasmuch as it means not concentrating as it is suggested here on the private company where it is believed that the steps have been taken as an avoidance of the super-tax, and it means spreading this over all companies, public or private, with, of course, the yield from a consequently greater field of people. I shall be interested to hear the opinion of hon. Members opposite on that particular point and that particular paragraph". I did not hear any opinion expressed on that particular point, Sir. I heard a lot of people quote the fact that the South African rate was Sh. 5, and that was a reasonable rate; but what I did not hear was whether we were prepared to accept the South African parallel as well that this should apply to all public companies as well as to all private companies.

Now, Sir, the hon. Member for Nairobi West accused me of falling into fallacy about Southern Rhodesian taxation by linking company tax with the individual burden. I am sure, Sir—unfortunately this needs to be said again and again—the hon. Member will forgive me if I say that the fallacy is his. For in an economy, it is the overall burden of taxation that counts. One can argue that taxation does the least harm or most good if it falls or does not fall at any particular point, but the overall level of taxation with regard to national income is the point that has to be watched.

Now, Sir, I will turn to the points which several Members have made about undistributed income tax. I must repeat again that one must have regard to the Coates Commission, to their arguments and their conclusions, reached by an impartial body after much evidence and careful deliberation. I must also remind hon. Members that customs revenue, individual reliefs, company tax and undistributed income tax have all been balanced for the production of the necessary revenue, and that the yielding of one must lead to an increase in the other.

One or two hon. Members, including, I think, the hon. Member for Ukamba, though he did not use this particular phrase, asked "what crystal gazers and what particular magicians produced the

[The Minister for Finance and Development]  
estimate of revenue from this tax as £270,000" in a full year. The answer, Mr. Speaker, is that the people best qualified to know from the experience of past years of the collection of tax in Kenya and East Africa, produced after very careful consideration the estimate of what they believe the tax would produce in the form presented. How careful was their consideration can be shown from the fact that the accounts of every company with an income over £20,000 per annum were examined; that a 25 per cent sample of the smaller companies was taken and examined. From the summary of that information, the profits, dividends and the capital expenditure were extracted and summarized to enable comparisons to be made of the yield on the new basis as compared with the old basis of section 22. This is therefore no magician's figure; it is one extracted, as most Government figures have to be extracted, after plain hard work and dealing with comparatively cold facts.

Now, Sir, I will endeavour to deal with some of the more contentious points raised. Sir, I listened to the opinions expressed both inside and outside this Council very carefully, for of course, during the past fortnight, I have been continually meeting individuals, deputations and associations to listen to their points of view on this particular tax. Having listened to those opinions, and having heard them put forward, I will discuss them with the governments and administrations concerned at the earliest possible date. I am sure that hon. Members will realize, and understand, that during the Budget debate, when the Minister for Finance has to sit 90 per cent of his time on the Front Bench listening to the criticisms, suggestions and comments of hon. Members, it is not easy to find time to wander round the territories having discussions, I cannot therefore commit any of my colleagues or the Government of Kenya through the opinions I am not about to express, and I wish that to be perfectly clearly understood.

It is, I understand, hoped that the East African Income Tax Management Act will be published some time in August, to be presented to the Central Legislative

Assembly in September, to go from there to a Select Committee whose report will be dealt with by the Central Legislative Assembly at its meeting later in the year. After that has been done, the Bill fixing the rate will still have to come back to this Council.

Now, Sir, Sessional Paper No. 5 stated: "that companies likely to be affected by the undistributed income tax would have until the 30th September, 1958, to pay dividends out of the profits of accounting periods ending more than 12 months before that date". I feel certain, Sir, in the light of these facts that all the governments concerned and the Department will be prepared to consider extending that date to a date not earlier than the 31st December, 1958.

Now, Sir, the discussions I have had over the past fortnight, as well as in speeches made by hon. Members opposite during this debate, many anxieties have been expressed as to the position of the non-resident shareholder. I must repeat once again that the tax is designed as an incentive to the distribution of profits which would otherwise escape taxation at the shareholder's appropriate rate. Nevertheless, it would not be the intention of the Government to place the genuine, non-resident shareholder in a position of disadvantage which might tend to reduce his interest and investment in the country. I listened with great interest to the hon. Member for Nairobi West reading out the South African way of dealing with this matter, though I must again underline the fact that the South African legislation treats both public company and private company alike in its imposition of undistributed profits tax which is much wider in its application than we have suggested. There are a number of countries, of course, with which we have a double taxation agreement, actual or pending, agreements which provide that dividends received by residents of the country concerned shall (subject to the fulfilment of certain conditions), be exempt from surtax. Where a non-resident shareholder resides in one of those countries, no additional East African tax would be gained as a result of distribution to those shareholders. It seems to me, therefore, that a possible line of action which might indeed be even more advantageous than the South

[The Minister for Finance and Development]  
African definition would be to consider that in the computing of undistributed income a deduction should be made of that portion of the distributable income which would be payable to residents of such countries and which would be so exempt from further East African tax.

This, I think, might be a possible line of Government thought in the coming discussions.

Another of the more important points which have been raised has been the basis of the computation of undistributed income. Here again, Sir, I have listened with great care to the representations made by various bodies and individuals in the discussions (which have included many talks with the people responsible for the administration of this tax) during the past fortnight, and to the arguments raised in the House. The intention is that the charge should extend to the amount which would be chargeable on shareholders if after allowances for development and expansion the balance of the profit were distributed as dividend. After careful thought, it seems to me that this would require that regard should be had to the net amount after deduction of those allowances and of the income tax payable by the company. If this line of thought proved acceptable, the computation would accordingly allow deductions of 20 per cent of the profit, allowable development, the company tax and the net dividends paid. The net amount resulting would, of course, be grossed up at the standard rate to arrive at distributable income. It would seem to me—and I must emphasize that I can commit no one at this stage—that this would meet most, if not all, of the objections raised on this point.

Amongst the other points which seemed to have created some anxiety and doubt is the question of the definition of a controlled company. In my speech of 21st May, I said that I felt it would be necessary to reconsider this definition and tried to indicate what might be the trend of Government thought in this respect. Now, Sir, I would like to remove any feeling of uncertainty that might have been created about a progressive alteration in this definition and would

like to be able to say definitely what the final definition would be, but this will, of course, be a matter for discussion between all the governments concerned. The result of the discussion will appear in the proposed new Act and will go to a select committee which can receive further evidence. Until I have consulted my colleagues, and had further discussions with the Department which has to administer this law, I cannot be definite. But it seems to me that a solution might be reached on the lines where genuine members of the public—and I stress "genuine"—hold shares carrying not less than 25 per cent of the voting power in a company and where those members of the public hold also a substantial interest in the income of the company, then such a company should not be liable to the tax. I hasten to say, Sir, that I am committing no one, but I am putting this forward as a possible solution to the problem.

Now, Sir, two points to conclude. For many years, Sir, most of the important bodies, chambers of commerce, both local and East African, have pressed for economic co-operation and co-ordination on the East African scene. We have now achieved uniform rates of tax and an almost completely uniform customs tariff. It is very easy to say, "Kenya should go it alone," but for the general prosperity of East Africa, economic co-ordination and the spirit of compromise and understanding is essential. That spirit has been uppermost in almost all of our deliberations with the other governments, with consequent benefit to the economy of East Africa as a whole. Let me say bluntly, Sir, that it is in the interests of Kenya, as much as of Uganda and Tanganyika, that that spirit should prevail.

Finally, Sir, the Kenya Government could not accept any suggestion that the whole of its taxation proposals, with their great benefit to the majority of income tax-paying individuals, should be withdrawn because an important section of the community wishes to see one of the proposals modified and amended. Such a step would harm a great number of individuals in this country and to the Government it would be really objectionable, iniquitous, illogical and crazy.

[The Minister for Finance and Development]  
Sir, I beg to move.  
The question was put and carried.  
Mr. Speaker left the Chair.

## IN THE COMMITTEE

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

## MOTION

INCOME TAX (RATES AND ALLOWANCES) (SURCHARGE)

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

THAT, subject to the enactment of the legislative provisions set out in a Bill entitled the Income Tax (Rates and Allowances) (Surcharge) (Amendment) Bill, 1958, published in the Official Gazette on 15th May, 1958, and to be introduced in the present session, sub-section (1) of section 2 of the Income Tax (Rates and Allowances) (Surcharge) Ordinance, 1954, be amended in accordance with the provisions of the said Bill.

SIR, I do not propose to keep the Committee very long on this particular one; I did say in the main Budget debate and in my reply that there had been in the lower regions concessions in this regard, and that the burden would not now press as heavily as it had. I also said that at this particular stage the Government cannot dispense with the revenue represented by this particular surcharge, particularly whilst Her Majesty's Government is prepared to carry the greater proportion of the Emergency expenditure.

SIR, I beg to move.

## Question proposed.

MR. ALEXANDER: Mr. Chairman, Sir, I beg to move the following amendment, as it is in fact stated on the Order Paper, that after the last word delete the full stop and add "subject to the substitution of the date 1997 in place of the 1957 as it appears in clause 1, line 4 of the said Bill".

The purpose, of course, Mr. Chairman, of this amendment is to give positive effect to complete rejection of the Motion and of this taxation that will be subsequently introduced—

THE CHAIRMAN (Mr. Conroy): Order, order, Mr. Alexander. I am in some difficulty when I hear you say that, because if the purpose of the amendment is to defeat the Bill, as you say it is—and it obviously is—then your amendment is, in fact, a direct negative of the Motion.

SIR CHARLES MARKHAM: On a point of order, Sir, could you advise the Council on the ruling you have just given?

THE CHAIRMAN (Mr. Conroy): It is not a ruling yet.

SIR CHARLES MARKHAM: Well, again, Sir, on a point of order. The Minister for Finance, Sir, has goaded the House twice, today and yesterday, about why we had not moved reductions. If you are going by Standing Order 105, Sir—

THE CHAIRMAN (Mr. Conroy): No, Standing Order 35 (2).

SIR CHARLES MARKHAM: Sir, on a reduction—is this a negative, Sir?

THE CHAIRMAN (Mr. Conroy): No, the thing that worries me on what Mr. Alexander has said is Standing Order 35—(2):—"No amendment shall be permitted if in the opinion of Mr. Speaker it represents a direct negative of the question proposed".

MR. ALEXANDER: Mr. Chairman, I accept your ruling. The remedy now, of course, is to oppose this Motion.

THE CHAIRMAN (Mr. Conroy): You have got two remedies, Mr. Alexander: either to oppose the Motion and persuade other people to do so or to move, on the Second Reading of the Bill, that instead of being read now it be read this day six months.

MR. ALEXANDER: Mr. Chairman, Sir, I beg to oppose this Motion. Before I speak to it, I would just like to say that it is most unfortunate that we did not have yesterday what the Minister has just told us. I am sure we are all deeply grateful to him for the way in which he has sensed the urgency of this matter, which is shown in the announcement he has just made, but I do hope, Sir, that when we have had time to look at what he has said we will have an opportunity in this Ways and Means Committee—which I understood was to be the case—of commenting on what he says, because

[Mr. Alexander]  
this would be our last opportunity before we close on 27th June—unless, of course, my Motion is reintroduced or the matter is raised on the adjournment.

However, I think, Sir, for the guidance of the Government, for the sake of the Minister, and for the sake of all of us, it would be helpful if today we could have a stencil of this statement so that we can comment on it before the business leaves this House.

Dealing with this particular Motion, so far as I recollect, there is no reference whatsoever to it in the Coates Report, and therefore I do understand that we are not likely to have quoted at us this bible of Coates on this particular one. The Minister for Finance, when delivering his Budget statement on 23rd April, 1954, said in connexion with this tax, "It will be seen that I have designed the surcharge to prevent it pressing too heavily on the lower income groups and at the same time have endeavoured to level it off at the income sector where I believe the burden of surtax is heavy at the moment, and where further addition might prove a discouraging factor to the development and the re-employment in development of any surplus income and might prove a deterrent to investment in this country. I propose to consider allowing some set-off of the increased amount of personal tax paid by an income tax payer against the surcharge on income tax".

When the Minister used those words which I have just quoted—"I have endeavoured to level it off at the income sector where I believe the burden of surtax is heavy at the moment"—he was referring, quite obviously, Sir, to the limitation of this tax to the amount applicable to a total income of £8,750, the surcharge on which, at the present, under the present system, for a single man, is £298 and for a married man with two children £278.

The burden of surtax, to use the Minister's own words, at the time when he used them in 1954 reached a rate of Sh. 9 in the pound on the income sector at £8,750 a year. To this rate is added the maximum rate of income tax of Sh. 5 in the pound, making a total rate of Sh. 14 in the pound. Those are figures, Sir, based on the rates at the time that the Minister made his state-

ment, and in fact they are the rates at the present time.

Therefore, in April, 1954, the Minister considered a total rate of Sh. 14 in the pound as having reached a level which he believed to be a heavy burden. That was only four years ago. Today the proposal, when we come to deal with the next Motion concerning new proposals for rates of tax, is that, at this same figure of £8,750 a year, the rate should be Sh. 14 in the pound. If, four years ago, this rate of Sh. 14 in the pound was believed to be a heavy burden, then surely it is perfectly logical that today, with the inflation of the intervening period, the same rate must surely be considered as an even heavier burden. Why then are there not the same compelling reasons today for limiting the total amount of surcharge payable? Where is the logic and consistency in the Minister's thinking? And in his own words of four years ago, it is not today equally as serious that "further addition might prove a discouraging factor to development and the re-employment in development of any surplus income and might prove a deterrent to investment in this country"?

Mr. Chairman, if logic and fairness have any meaning, hon. Members must agree that this tax should not apply to any income now beyond £8,750 a year. I do ask the Minister to accept this contention.

I now wish to refer to what the Minister said in his Budget Speech on the 21st of last month. "Last year, I cut the Emergency element in the graduated personal tax by a considerable amount, up to Sh. 50 per individual in the top rank, and this year the income tax proposals, as I have said in my Budget Speech, will bring a measure of relief on the Emergency surcharge side." Mr. Chairman, there are two unfortunate weaknesses in this statement. Firstly, any relief in personal tax is a benefit to all with incomes up to £200 a year, that is, that it includes all the lower income groups, whereas individuals with chargeable incomes over £800 a year continue to suffer the Emergency surcharge of 75 cents in the £. The vast majority in this latter group—that is, those with chargeable incomes above £800 a year—are the people who were not responsible for the start of the Emergency and they are people who have suffered greatly from it.

[Mr. Alexander] Surely, it is time—long past the time—that these folk deserve consideration and relief.

The second weakness in the Minister's statement is in the words—and I quote—"and this year the income tax proposals, as I said in the Budget Speech, will bring a measure of relief on the Emergency surcharge side". The unfortunate inference to be drawn from these words is that the Minister now seeks to establish the Emergency surcharge as part of the general tax structure by linking it with additional personal allowances for income tax because that was the relief he was referring to, the reduction in the chargeable income as a result of the proposed increased personal allowances. I ask the Minister to confirm that this surcharge is the direct result of, and only related to, the Emergency, and that there is no intention of absorbing it into the general tax structure.

Mr. Chairman, I beg to oppose.

THE CHAIRMAN (Mr. Cotiro): If no other hon. Member wishes to speak, I will ask the hon. Member to reply.

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): Mr. Chairman, I listened with interest to the hon. Member for Nairobi West. At the time this Emergency surcharge was introduced—which I think was 1954—my colleague, the European Minister without Portfolio was at that time the Member for Nairobi South, sitting on the Opposite Benches. He asked the question whether I could assure the House that this would not be taken into the ordinary tax structure. I had to reply to him then as I shall have to reply to the hon. Member for Nairobi West now. I cannot predict what the future will bring; what I can assure the House—as I assured the hon. Member for Nairobi South then—is that it will not be taken into the ordinary tax structure without a special reference to this Council.

Well, Sir, the hon. Member says it has been taken, but had it been intended to take it into the ordinary structure, it could, at this particular juncture, have been moulded into the rates proposed in the measure we shall be debating before very long. The mere fact that we have kept it as a separate Bill, to deal with it purely on an Emergency surcharge basis, is a measure of the Government's intent

that as and when the relief of taxation becomes possible, this, together with the measure asked for by the hon. Members opposite (that the personal tax in the lower groups should have relief) will be one of the priorities that Government will consider.

It is not intended to regard this as part of the ordinary and permanent structure of the Colony's income tax system.

Now, Sir, regarding the statement about the pressure on the higher income groups. In 1954 it was important. It still is important. But in the opinion of the Government at the present moment the most important thing has been the relief in the income groups of the middle range calibre and, Sir, if I may—I will just place on record the figures which will show that the fair amount of relief has been granted in respect of the payment of Emergency surcharge.

In 1956 a single person began to pay surcharge when his income exceeded £840. In 1957, if the Income Tax (Rates and Allowances) Bill is passed, he will not begin to pay surcharge, as a single person, until he has an income of £1,025. A married person in 1956 began to pay Emergency surcharge when his income exceeded £1,150. In 1957 he will not begin to pay the 75 cents Emergency surcharge until his income exceeds £1,500. A married person with one child—the figures are £1,270 and £1,620. With two children the figures are £1,330 and £1,680; and married with two children, with maximum educational allowance for each, whereas in 1956 he would have begun to pay surcharge on £1,405 he will not now pay Emergency surcharge until the figures are £2,030. Let us repeat just the one schedule of those figures; that in future the Emergency surcharge will not fall upon a taxpayer, if he is single, until he has got £1,025 income, a married person, £1,500 income, a married person with one child, £1,620 income, with two children, £1,680 income, and married with two children and getting the maximum education allowance for each, £2,030. So that for the vast majority of those taxpayers there will be a relief from the Emergency surcharge, and it is indeed only when one begins to reach the higher brackets that an extra burden is felt.

[The Minister for Finance and Development]

The fact that the old surtax rate was Sh. 15/50 cents in the £ when the total income was between £20,000 and £50,000 means that people in this income range will eventually pay an additional 25 cents in the £ for every £ in this rate. The married man begins to lose on total income of approximately £17,000 and as against this loss there are, however, substantial benefits for the self-employed as well as increased passage allowances and education allowances to be set off against the loss involved.

Now, Sir, let me quote two of what I would regard as fairly high income groups and the effect, the difference, between the present proposals, always accepting that the Rates and Allowances Bill is passed, and the old proposals. In the case of a man with an income of £10,000, before and after, the difference is £4 more minus—in the case of a married man with an income of £10,000 he will pay £270 less; married plus two children—he will pay £368 less. That is on an income of £10,000 and without taking into account benefits for the self-employed and increased passage allowance and the education allowances.

Now let me come to the man with an income of £20,000 which, I suggest, is a reasonable, fair level of income for a man to be able to exist and enjoy himself, Sir. If he is single the difference between the new proposals and the old proposals will be that on an income of £20,000 he will pay £770 more. If he is married, with no children, the difference is, on an income of £20,000, he will pay £97 more. If he is married, with two children, the difference between the new and the old proposals will be that he will pay £7 more; that is not, I may suggest, with an income of £20,000 an intolerable burden.

This I would say, Sir—that against this fact there is the fact that I have stated, that in the lower income groups—I mean the lower income tax paying groups—there will indeed be a great relief because the point of entry will in some cases be increased by 50 per cent before they begin to pay the Emergency surcharge.

Now, Sir, the hon. Member quoted the remarks I made about personal tax

and the personal tax reductions. He said that that had affected the whole of the lower income groups. Sir, I must repeat what I said yesterday and what I have said several times before. That is not accurate, because the African community, before the introduction of the personal tax, whatever their income, was paying a flat poll tax, whereas when we introduced the graduated personal tax their tax went up from the Sh. 20 and Sh. 25 to Sh. 150. There could be no question of giving relief to the African by that measure, and the relief that was given by the reduction in the higher levels of the graduated personal tax was entirely to the non-African population. This, Sir, must be repeated, because we must not make misstatements or, I will not say that, or misinterpret the facts in this House. So that, Sir, I do repeat that the measures of reducing the graduated personal tax in the higher level last year which resulted in a reduction of Sh. 50 at the top level to all the non-African personal tax-paying population, and the measures of relief in income tax this year, which will bring the surcharge so much later in the income total before its operation, justifies the measures which we have proposed in doing away with the Kikuyu, Embu and Meru Special Tax without inflicting any harm or damage upon the other part of the community.

Finally, Sir, I must repeat what I have said so many times in this Council. Strange as it may seem, the Kikuyu, Embu and Meru special tax never was a tax for revenue purposes. It was introduced as a punitive and penal tax, and that has been made perfectly clear time and again on the Floor of this Council. The tax was indeed introduced by my hon. friend the Minister for African Affairs and it is the opinion of the administration that the time has now come when this sore should be abolished. It should be recognized that the measures of taxation which the Government have imposed over the past two years have indeed pressed as hardly upon the African side of the population as upon anyone else and that therefore the Government is perfectly justified in removing what was a penal tax, feeling that the situation is now so restored that it is no longer necessary.

The question was put and carried.

## MOTION

## INCOME TAX (RATES AND ALLOWANCES)

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): Mr. Chairman, I beg to move that subject to the enactment of the legislative provisions set out in a Bill entitled the Income Tax (Rates and Allowances) (Amendment) Bill, 1958, published in the Official Gazette on 8th May, 1958, and to be introduced in the present session, the First, Second and Third Schedules to the Income Tax (Rates and Allowances) Ordinance, 1952, be replaced by the First, Second and Third Schedules respectively of the said Bill.

Sir, I dealt at fairly great length with these proposals in my Budget Speech of 7th May, and I do not feel, Sir, that I should repeat all the arguments which were then put forward. Most of these measures are, of course, measures of relief to the individual taxpayer and I should, I think, to that extent be welcomed as lessening the burden to the individual.

Sir, I beg to move.

## Question proposed.

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): Mr. Chairman, I wonder whether I might, with your permission, now, not make a speech, raise a point of discussion, Sir.

The hon. Member for Nairobi West said that this would be the last chance that they might have to discuss and look at the statement that I have just made with regard to the undistributed income tax. I think, Sir, if this is so, if this particular debate were to collapse and end quickly the situation would be that the hon. Members opposite who are very interested in this would not have had a chance to have looked at the papers of the statement that I have made.

I think, Sir, there will be no doubt about it so far as I am concerned, that we should endeavour to find some chance for them to discuss the matter again. But it would be extremely difficult, and I wondered, Sir, whether we might have your guidance as to whether it would be possible to find some way of postponing this debate for a short time in order that the hon. Members may look at the papers or whether I might take the unusual step of handing copies

of my speech across the Floor of the House. I have two copies of the main statement.

THE CHAIRMAN (Mr. Conroy): I am in the hands of the Committee in this matter. There are three courses which I suggest we might follow. One is if the papers which the Minister for Finance said he could circulate are a matter which people could assimilate with fair ease then we might suspend business, say, for half an hour. The second proposal might be that we should report progress and ask leave to sit again. The third proposal might be that we should see how far we get with our debate today and report progress and ask leave to sit again if necessary. But I am entirely in the hands of the Committee in this matter as it is obviously a matter for the convenience of the Committee.

MR. ALEXANDER: Mr. Chairman, I am truly grateful for the concern the Minister for Finance is showing to us on this side in this respect. We do have available to us another day on Ways and Means. This is only the fourth day. I do think that if some way can be found without us going beyond our time—in other words, using the line that we make up—it would be helpful.

The difficulty, Mr. Chairman, with the suggestion that we should suspend business for half an hour is, as you will realize, that this subject of the undistributed profits tax is an extremely complex one and I would not like to start producing answers with only half an hour's look at this. Personally, I would like to go to my office to get a few tables and mathematical calculating devices. I wonder if we might have tomorrow to which to deal with this.

THE CHIEF SECRETARY (Mr. Coutts): May I suggest, Sir, that we report progress and ask leave to sit again. That would mean that we could deal with this debate tomorrow in Ways and Means time and take the Appropriation Bill immediately after the return of the Speaker.

MR. ALEXANDER: Yes.

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): Mr. Chairman, I think—

MR. ALEXANDER: Mr. Chairman, I have a fair amount to say on rates and allowances which can be disposed of

(Mr. Alexander) today. I do not want to wait until tomorrow for those.

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): The hon. Member has two speeches. Could I suggest, Sir, that we might follow the course suggested by the Chief Secretary—that at the moment the speeches should be addressed specifically to rates and allowances. It would then mean that we could take the Appropriation Bill and adjourn, and hon. Members would have whatever copies I could provide, plus what copies HANSARD provide, in order to study them before speaking to the debate tomorrow.

Could I suggest, Sir, that we address ourselves to rates and allowances only?

THE CHAIRMAN (Mr. Conroy): I must confess that I am in a certain amount of muddle over this. Is the proposal now that we should deal with rates and allowances now this afternoon, and then, when we have dealt with that, I do not put the question, and someone will move that we report progress and ask leave to sit again? When we sit again we shall allow debate on other matters as though people wishing to speak on that had not already made a speech. Is that right? Or should it be one speech now and one speech tomorrow?

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): Could I suggest that hon. Members use their second speech tomorrow?

THE CHAIRMAN (Mr. Conroy): Well, I must say that finds favour with me, because if we do not use our two hours today then we have not had a day in Committee of Ways and Means today.

MR. ALEXANDER: Thank you very much indeed, Mr. Chairman, for your indulgence and guidance and help on this. I am very grateful to the Government Members on the other side for the consideration they have shown—I mean both the Chief Secretary and the Minister for Finance.

I am glad that it has emerged that in Ways and Means we are in fact allowed to speak twice. I was trying to get up when the Minister was speaking on the surcharge in order to make one or two points but unfortunately I did not get near enough to your eye.

My understanding now, Mr. Chairman, is that we will discuss rates and allowances and that the Minister will, if he wishes to do so, reply to me immediately and then tomorrow we will only deal with this other matter concerning his today's statement.

Coming to the rates and allowances proposals in the Bill before us, Sir, I turn first to education allowance which is dealt with under the first schedule, clause 4. The allowance is linked to clause 28 of the Management Act which in turn is tied to children's allowances, with the result that only the first four children of school age are entitled to the education allowance. I do suggest a closer study in respect of families with more than four children of school age so far as it concerns education allowance. I am not proposing—and I wish to make this clear—that it should be extended to any other allowance concerning children, but in respect of children over four in a family I do suggest that there are grounds here—compassionate grounds—for looking at this.

In respect of the allowance for boarding fees, the inference may be that it can only be claimed for boarding away from home—in fact, clause 2 (f) refers. As there is little or no choice available to parents, at the moment, as regards sending children to boarding school, it does seem unreasonable that children who are forced to be day scholars and thereby incur extra costs in the home should be excluded entirely from any claim to the allowance for boarding. The Minister's observations on this would be very welcome, remembering that the proposals do provide for an allowance where only boarding fees are paid—that is, when boarding fees are paid but tuition fees are not paid, as stated in clause 4 (c).

I must say that I find it difficult to understand the circumstances under which boarding fees will be paid but tuition will not be paid. Perhaps we can be enlightened on that.

I have done a small calculation arising out of these allowances and the anomaly that I am going to refer to does arise mainly as a result of these education allowances. Firstly, Sir, I would refer to a married man with no

[Mr. Alexander] children whose present marriage allowance is £350 a year and who is now going to get the maximum of £700 a year—that is, if his income is upwards from £1,500 a year. In that case he will have gained in allowances £350. Now, Sir, the man with four children, his gain with child relief and education allowances—this is four children over the age of six attending Government primary schools—is from £830 per annum, today, to £1,120. That is a gain in allowances of £290 a year. Therefore, Mr. Chairman, you see the point I am trying to get at, which is that a married man without children has gained in allowances £350 per annum while the married man with four children—who is the man we should be worried about looking after—has only gained £290. I give this as one illustration, but I do suggest that there are possibly many illustrations of this anomaly in the new rates and allowances structure.

I would like to repeat that to make it clear, a married man with no children is gaining a marriage allowance of £350 a year and the man with four children, with marriage allowance, child relief, and education, is only gaining £290 a year.

Another point in this Bill that requires clarification is in sub-clause (2) of the provisions in clause 4 of the first schedule where the word "indentures" is used. This does require much closer definition, because I can assure the Minister that in relation to the Personal Tax Ordinance it is already causing some confusion and doubts. There is an opportunity here to make this perfectly clear as to what type of document constitutes an indenture.

Now, going on to the rates and allowances more generally I do first of all wish, Mr. Chairman, to refer to some statements that were made yesterday concerning the Coates Report and I do so because I imagine that as this particular subject has covered many pages of the Coates Report we will have it quoted again to us from the Government side.

I think that the Secretary to the Treasury, when he was speaking, did try and infer that, having persistently pressed the Government to consider the Coates proposals, I was objecting, now that they had been considered, to the fact that it had been considered. I

do want to have that clear, Mr. Chairman, because it is not the consideration of the Coates proposals that worried me—and I congratulate the Government for having moved with some speed to produce the answers—but what is worrying me is the application, the practical application, of those recommendations in the present proposals.

Firstly, Sir, I want to refer to what the Secretary to the Treasury said, and I quote him. "In the first place, Sir, he did make a suggestion at one stage that the Government should abandon the whole of the proposals in Sessional Paper No. 5 and to start again bringing in experts of one kind and another to assist him."

Then, later on, he said, "I can assure the House, Sir, that there has been no lapse of consultation; in the first place the Coates Commission, on whose recommendations most of the proposals that went before the House were? took evidence from an extremely large number of people, both written and oral." After that he said, "It is quite incorrect to suggest that there has been any lack of consultation".

I, Mr. Chairman, was not referring of course to the evidence taken by the Coates Commission. What I was referring to was the need for co-operation between or with the business and with the professions since the Coates Report and before arriving at the particular proposals. The principles, many of them, have been agreed by several of us on this side of the House and many people and bodies outside the House: where we are at difference, is in the practical application of the recommendations. And this, Mr. Chairman, will again become apparent, as it was in the general debate, when we consider these rates and allowances proposals.

I believe that if there had been this close consultation with those affected before the proposals were published, certainly those parts of the proposals that need never have been particularly secret, it would have been possible to assess their practical effect. For example, we have been given a figure that will be a gain to the revenue in respect of this particular profits tax, but what I find difficult to understand—and although the Minister, when he spoke earlier on, did

[Mr. Alexander] refer to this—is how in fact the Government were able to discover the practical effect of the proposals, because when I say that of the total companies in Kenya, 3,797, it is only known that the companies at present liable to section 22 number 2,200, and of the difference of 1,597, there is no knowledge so far as I know of how that is broken down between what are genuine public companies—that is, those who would be outside these proposals in any case—and how many of these companies relate to those controlled by less than five people. And it is only the publication of the proposal, the one that has been doing so much damage, that has begun to produce the evidence of the practical effect of this in business industries and in agriculture. There is no doubt about it, that after the publication of the Coates Report, there was considerable comment by, for example, the Nairobi Chamber of Commerce, the Kenya National Farmers' Union, my own professional body, the accountants, but so far as I know, none of these people was consulted other than perhaps the Farmers' Union in relation to the types of items for development, but none of these bodies was consulted before the particular proposals were put into print, and I do suggest that it would save considerable heartache if that had been done. Now, the Secretary to the Treasury also said this—I quote: "I think the only difficulty he would make"—he being me—"about that is that in this case, not that the people concerned were not sufficiently expert, but that their conclusions did not coincide with his".

Of course, Mr. Chairman, the conclusions have also not coincided in every case with the Government. And so, I am not peculiar or exceptional in this particular respect. The Secretary to the Treasury also said this, and I quote: "I would only like to make one point at this stage on that, and that is to suggest that the comments which have been made on these proposals, some of which have not been entirely as well founded as they might have been, and many of which have been, to say the least, a fair distance away from objectivity. Probably, if there has been any hesitancy on the part of business, it has been as much misled by misleading comments as it has

by the actual proposals in the White Paper".

What I would like him to state, Mr. Chairman, is what misleading comment is he referring to? Is he referring to misleading comments having been made from this side? Is he referring to misleading comments having been made by a body as responsible and as able as the Nairobi Chamber of Commerce? Is he referring to any comments made by a body as responsible as the Council of the Association of Accountants in East Africa? Is he referring perhaps to misleading comments made by the Law Society? I think in fairness to us over on this side of the House, Mr. Chairman, we do deserve to know just where this misleading comment is, and at whom he is aiming his attack.

Then he did say this: I quote: "I am quite sure that there are many people who stand to benefit by the proposals regarding rates and allowances who would be extremely disappointed if his advice were accepted". Of course, Mr. Chairman, he is quite right; there are many, very many people to benefit from these proposals, and particularly from these proposals for rates and allowances. I do not deny that; but—and I am sure he is sufficiently responsible to accept it—that there should be no one, no one who should suffer individually and personally as a result of these particular proposals. And just now, when the Minister spoke, he did criticize me in respect of that first paper I circulated yesterday, and went on to say that he preferred to rely on the calculations made by the experts in the Tax Department. I can assure him, Mr. Chairman, that the figures that I produced—and they were only a brief summary of six pages of foolscap—were compiled by equally expert advice. In point of fact, perhaps, Mr. Chairman, the Minister would be very surprised to learn where they were compiled.

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): Not in the Department?

MR. ALEXANDER: And if I may just read the final summary—and I will gladly, Mr. Chairman, hand the whole of these papers, a mass of figures and complex calculations. I will hand the whole document to the Minister, and in point of fact with your permission, I



[Mr. Alexander]

would like it to be finally handed to the Clerk for inclusion in the record—but the summary of all these conclusions, from a very expert source is as follows: "While it is a fact that circumstances alter in almost all actual cases, and that examples can but cover a small proportion of them, those shown in the previous paragraph show that there will be increases in the tax payable under the Budget proposals as follows: firstly, single persons with incomes over £2,250 a year; secondly, widows or widowers with one child with incomes of about £15,000 a year and upwards; three, single persons owning their own houses; four, widows or widowers with one child owning their own houses with incomes exceeding about £1,750 a year; five, married men owning their own houses with incomes of about £12,500 to £15,000 upwards; six, single employees occupying rent-free houses with incomes over about £1,350 a year; seven, widows or widowers with one child occupying rent-free houses with incomes over about £1,500 a year; eight, by reason of the imposition of the surcharge without limits of income, practically all incomes of £20,000 to £50,000 upwards; and ninthly, in a number of examples, the saving is negligible and different circumstances may still cause an increase in cases where reductions are suggested by the examples".

I am sure, Mr. Chairman, that the Secretary to the Treasury will agree that just as much as it is necessary that people should benefit from these new proposals, equally and more so perhaps, he will agree that no one must suffer, and may I have an assurance from the Government that in fact they are prepared to look at these individual cases where there is a serious anomaly and serious inequity, and make that sufficiently public so that those who are likely to suffer will at least have the immediate relief of knowing that their particular circumstances will be carefully considered. I realize, Mr. Chairman, that in a major change of this kind, it is quite impossible to produce proposals and formulas that do not at some stage affect somebody, but I believe if I could have that assurance from the Government side that these people—and there are several,

there are many who are concerned—will be considerably relieved.

The Secretary to the Treasury would like me to give way, merely to give me that assurance, I hope.

MR. MACKENZIE: I am sorry to dis-appoint the hon. gentleman, Sir, but what I was going to ask was that as he had quoted at great length from someone he says is a great authority, I think he might tell the House who the authority was.

MR. ALEXANDER: Mr. Chairman, it is not in my competence to do so, but I had hoped that the Secretary to the Treasury, having had so much to do with my own profession, would certainly have had sufficient respect for us that when I make a statement of that kind, he would accept it without pressing me to go any further.

Now, Mr. Chairman, the next matter that he mentioned concerned the rates so far as the link with personal tax is concerned. And this is what he said, I quote: "Income tax and personal tax are different taxes, and there never have been any serious links between them except that as to level, and that is maintained". I give way again.

MR. MACKENZIE: For the hon. gentleman's information, the actual words were "except at the bachelor level". Obviously, the hon. Member had read the uncorrected speech. I noticed that one myself this morning—it should have been "except at the bachelor level".

MR. ALEXANDER: Thank you, Mr. Chairman. I am glad to see the Secretary to the Treasury sufficiently concerned with these people who are sensible enough not to get married.

But I understand then this should read as follows: "Income tax and personal tax are different taxes, and there never has been any serious link between them except at the bachelor level, and that has been maintained"—we have got it right; thanks very much indeed.

Now, in reply to that. Mr. Chairman. I can do no better than quote the Minister for Finance—"his master's voice"—and remembering what the Secretary to the Treasury said to us was that there was no serious link between them, and this is what the Minister for Finance said on 1st May last year when he was

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making his Budget statement; I quote: "There is another aspect which the Government has had under consideration for some time, but again, it is a measure to which effect cannot be given at present because of our financial position. 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 there 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 taxpayers to set off their personal tax against income tax payments. I am aware that there are counter arguments to this view expressed . . . —now, this is interesting—" . . . expressed in the recent Commission, but I am not convinced that these counter arguments are necessarily decisive. The matter will therefore be kept in mind with a view to taking appropriate action as and when it is possible".

There, Mr. Chairman, of course, is another delightful example of where the Minister himself found he was not in accord with the Coates Commission.

There is one other matter for the record, Mr. Chairman: that it is very important should be put right. On the question of whether it was possible to administer undistributed profits tax or undistributed income tax on the basis of dealing with each case on its merits, the Secretary to the Treasury said of me, and I quote: "But he did suggest that the administrative difficulties could be overcome". Now, Mr. Chairman, it is extremely important that this be put right for the record, because what I believe in the weeks ahead, as I tried to make very clear yesterday—and I know the Minister for Finance appreciated the significance of what I said—in the weeks ahead, the main issue on this problem will become, I am quite certain, one of whether in fact we can administer a system both inside and outside the Government that deals with the problem by considering each case on its merits, or to stick to a system that has, as the present proposals have, mathematical certainty. Now, this is extremely fundamental. What I did say is this, in reply to the Secretary to the Treasury, who

said of me—I quote—"But he did suggest that the administrative difficulties could be overcome". I quote myself yesterday from HANSARD: "But I believe, Mr. Speaker, before we can dispose of this argument, we must have some real facts on which to dispose of them. I do not believe frankly that Coates really looked into the problem that he posed; that is, that it was administratively impossible or difficult to have a system relying on each case being judged on its merits. I have already heard of a reliable figure that it would require at least six highly paid tax specialists to administer it. And those are the sort of facts that we require before we can dispose of this particular way with this problem. When Government has decided what it would take for them to administer it in personnel and money, we must of course be certain that outside Government there is the ability and the skill also available to the extent necessary to administer it". That, Mr. Chairman, I am sure you will agree, is a very different inference from the one drawn by the Secretary to the Treasury.

Now, turning to the Minister for Finance, he said this, and I quote: "It would have been a very great waste of the Council's time if there had been a debate of this kind and the Government would have been in the position of merely getting up and saying: "Well, thank you very much. We cannot express an opinion; we have noted what you have said". I have already thanked and congratulated the Minister on the opinion that he has expressed in his statement this afternoon concerning this important matter of undistributed profit. But I must say that in all other respects, nothing more very much has happened beyond what he himself said would have happened if we had discussed the Coates Report, that is, for Government to have said: "Well, thank you very much. We cannot express an opinion; we have noted what you have said", in respect of annual values, in respect of pensions schemes, provident funds, and no doubt in respect of rates and allowances when we have finished this today. As I said, Mr. Chairman, the Government have relied completely on the Coates Report to answer the criticisms and the suggestions that we have made from this side. In fact, it has been their bible;

[Mr. Alexander] and in order to lend weight to the argument, they have at considerable length told us about the evidence that was taken by the Coates Report, but what they did not make clear, Mr. Chairman, was those instances where the Coates Report ignored the tremendous weight of evidence that was brought before them.

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): Mr. Chairman, if the hon. Member will look at what I said, I did say that they accepted or rejected the evidence.

MR. ALEXANDER: Mr. Chairman, but the argument of the Minister as I understood it was that because the Coates Report had taken all this evidence, there was no longer any need to seek consultation after the publication of the Coates Report, because Coates has taken all the evidence.

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): I would remind the hon. Member, with your permission, Sir, of what I said: "Last night, I listed the bodies, commercial, professional, etc., from which the Coates Commission took evidence which as an impartial body with no interest in the country other than that of doing well the task assigned to them—they accepted or rejected". Those were the words I used.

MR. ALEXANDER: Exactly, Mr. Chairman, I am no further on. The inference from that was that the Coates Commission had in fact taken all the evidence that it was ever necessary to take, and after the proposals were published, that in fact it was not really necessary for Government to seek any further advice. I merely said that of course there was as much evidence, and weight of evidence that was brought before the Coates Commission that was not accepted. It is interesting to read the *Financial Times* of 13th June just as an example on this question of pioneer industries relief. You remember, Mr. Chairman, that Coates rejected that completely, although there was a weight of evidence in favour of it, and I picked this paper up to read that although Coates in his wisdom has rejected it, nevertheless "in Malaya on 12th June, the Pioneer Industries Relief from Income Tax Bill will be introduced in the Malayan Legislative Council on 18th

June", a Government statement said today the Bill is designed to encourage investment by relieving new industries from income tax for between two and five years. There was a weight of evidence here in favour of that and of course, as I already said, Government itself does not agree with all of Coates. And yet when we disagree with the Government proposals as a result of that, there is no sense seen in what we are saying. And, of course, finally, the Coates Commission were inhibited by their terms of reference which did contain these words: "To consider the best ways of raising the revenue required". In other words, their recommendations could not go beyond the point at which they or rather by that term of reference, they would confine to recommendations that would produce the revenue required.

There is, Mr. Chairman, on the Order Paper an amendment in my name. I understand that it is causing some difficulty as to its admissibility, and I would, Mr. Chairman, with your permission, and with the leave of the House gladly withdraw it on the understanding that it is to give you, Sir, particularly, an opportunity, and the Speaker, to consider this particular problem in connexion with our new Standing Orders. And on that basis, to facilitate the business of the House, I gladly withdraw it. In doing so, I unfortunately have to oppose the Motion which of course means opposing the whole Bill, which is not my intention because I wish to confine, of course, my opposition to the rates and allowances—not allowances; Mr. Chairman, the rates which are in the Second Schedule of Head A which deals with individual rates for income tax for residents rising from Sh. 2 in the £ on £400 of chargeable income to Sh. 15 in the £ on chargeable income over £9,000 a year.

There are three main reasons why the rates proposed in the Second Schedule must be amended and my notice of amendment at least has given a very clear indication of the way in which I think they should be amended. Firstly, since the last overall legislation on rates by the Council in 1948, the purchasing power of money has fallen very substantially and the proposed new rates on the basis of money values are considerably—very considerably—higher than they were ten years ago, other than

[Mr. Alexander] the one exception, of the highest income groups. The proposed graduations of income also rise far too sharply.

The second good reason for reducing the proposed rates is that they still do not remove the disincentives to the importation of skill and enterprise, and the third reason for amending the proposed rates, and particularly the maximum rate, is that these personal rates tend to influence other rates as, for example, the proposed rate of undistributed income tax. That is why, of course, Sir, it is exceedingly difficult to forget undistributed profits tax when talking of personal rates of tax.

The fourth reason is that the maximum rates must be amended from the present Sh. 15, the present proposal for Sh. 15 in the pound to a figure nearer the present effective maximum, in most cases, of Sh. 11/60 in the pound.

Dealing with my first reason for a reduction of the rates proposed, it is, as I have said, because they are too high in comparison with ten years ago and also because the income groups rise too steeply. The Coates Report, at paragraph 60, which I have abbreviated, has this to say on the growth in the rate of income tax. I quote: "It is clear that the real impact of income tax must have been greater than the increases in the rates of tax alone can suggest. The impact of income tax on the individual has thus grown, not as a result of a conscious act of public policy but owing to an inflationary movement in income and prices. It is a matter for consideration whether a taxation system which can shift burdens in this way is a good one. Our present concern is to emphasize that it is one thing to make the redistribution consciously and to be forced to weigh publicly its implications in terms of fairness and the effects of investment; it is quite another matter to let it happen without due public consideration and even unconsciously".

Today it takes approximately £170 to purchase what £100 purchased in 1948, that is, ten years ago. On that basis of money values, and relating comparisons to chargeable income, £1,000 in 1948 attracted a tax rate of approximately Sh. 3/50 in the pound, and on the same value, the rate proposed today is Sh. 6,

This is ignoring today's hospital contributions and Emergency surtax, £2,000 in 1948 was at Sh. 5/50 in the pound as against today's proposals of Sh. 9 in the pound for the same value. The comparative figures for £3,000 of chargeable income are at Sh. 8/50 in the pound in 1948 and Sh. 11 in the pound under the present proposals, £5,000 in 1948 is equivalent to £8,500 today in money values, resulting in an increase of tax rates from Sh. 11 in the pound to Sh. 14.

Anyone assessing such figures fairly must surely conclude that the burden resulting from personal rates of income tax has, and is proposed to be, shifted too harshly and must be altered. The middle income groups are the main sufferers in this shift of the tax burden, as the value of their earning has remained relatively inflexible, and it is this group that is now entitled to fair treatment.

My second reason for lowering the proposed rates is to induce individual enterprise and know-how to come here; We need it so much; we need it very, very urgently. On this theme of disincentives, some extracts from the Coates Report read as follows: I will quote first paragraph 92: "... we have grounds for suggesting that the individual rates, and particularly the higher ones, are open to criticism." Paragraph 78: "... it would appear that in the East African context personal rates are extremely important. The great importance of the taxation of individuals, in this matter and in other matters relating to capital formation and economic development in East Africa, arises from the fact that the small business is very important in East Africa". Paragraph 73: "The conclusion emerging from these statistics is ... that ... the East African individual tax is fairly high in relation to comparable taxes in other countries. A preliminary conclusion that may be drawn is that the East African tax is possibly unfavourable to the entry into the territories of people, and therefore skills". Unfavourable to the entry of skills.

Note very carefully those words, because, having recorded all that wisdom, the Coates Report proceeded to give insufficient weight to it, perhaps because of this particular inhibition that they suffered from. In turn, the East African

[Mr. Alexander]

Governments, although improving on the Coates proposals, the Coates recommendations, have not been sufficiently realistic in their proposals.

The present proposals on personal rates do not go far enough to be alluringly attractive to managerial and technical skills from abroad. I did say in this Council on 1st May last, on measures to attract capital to Kenya, "Capital in this sense must include individual skill as well as money capital". Then I went on to quote, "As an example of the type of discouragement envisaged in the Royal Commission Report, I would refer hon. Members to the comparisons between Kenya and Southern Rhodesia of the taxation of individuals which I quoted in this Council last November. A veterinary surgeon or civil servant, married with two children, offered a salary of £2,000 a year in either territory has to choose whether he will pay income tax in Kenya of £207 or £114 a year in Southern Rhodesia". Of course, as I went on to quote, and the Minister answered this earlier, the individual, and I say it again with emphasis, "the individual is not the slightest bit interested in what the Minister for Finance in Kenya has to say about company tax in Central Africa".

Another substantial advantage to the individual in Southern Rhodesia is in respect of schooling with its free tuition and only £66 a year for boarding fees.

The present proposals before us are an improvement but they show that the difference in tax for a married man with two children, under school age, is the difference between the £164 a year in Kenya and the £114 in Southern Rhodesia, a difference of £50 a year. This is further increased in Kenya by the Emergency surcharge of £12 a year and the hospital contribution of £14 a year. Thus the total difference is £76 a year.

On £1,000 a year, Southern Rhodesian tax is nil and in Kenya it is a proposed total of £28 per annum.

Then there is still the advantage in Rhodesia of free tuition and only nominal boarding fees of £5.10.0 a month. Who, in such circumstances, is likely to choose Kenya in preference to Southern Rhodesia? That, Sir, is the whole crux of this particular problem.

There is, I know, Sir, a temptation to make comparisons with Britain, where taxation is higher, but also where social services are very considerably greater. To be realistic, we must make comparisons nearer our own boarder, comparisons with those that compete with us for capital and skills, such as Central Africa, Ghana and South Africa.

The third reason I gave for a reduction in the proposed rates, and particularly the maximum rate, is to reduce the basis on which undistributed income tax is fixed. That there is a definite link between the two was clearly confirmed by the Minister when he said in his Budget Speech on 7th May: "It follows from the change in the company rate and from that in the maximum individual rate of tax that the rate of undistributed income tax will be Sh. 9/50 in the pound". I am sure, Mr. Chairman, that hon. Members will now be clear that the maximum personal rate does govern the rather iniquitous proposed rate of undistributed income tax, and I trust they will appreciate the wisdom of accepting my amendment.

The fourth reason for this amendment is to reduce the present proposed maximum rates of Sh. 15 in the pound to a figure nearer the present effective maximum rate, in most cases, of Sh. 11/60 cents in the pound. The reduced proposed maximum of Sh. 15, that is, reduced from Sh. 16, if it is to be made effective, is considerably higher than the maximum rate of Sh. 11/60 cents in the pound that need be suffered by any normally astute individual who carries on business in corporate form as a private limited company.

Mr. Chairman, the hon. Members may wish to know how I arrived at this figure of Sh. 11/60 in the pound, which in most cases is today paid. It is an average figure resulting from the application of the present section 22 and is calculated, as to company tax, at Sh. 5 in the pound on 40 per cent of the profits and the maximum individual rate of Sh. 16 in the pound on the remainder of the profits—60 per cent—which are distributed to the shareholders. This alone, this effective rate of Sh. 11/60 in the pound, is surely overwhelming justification for fixing a maximum personal rate of Sh. 12 in the pound, as

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the clear understanding and certainly that Sh. 12 in the pound will be effectively collected. Any rate above this is a discouraging extension of the already heavy burden to the highest income groups.

Another justification for this maximum rate, at Sh. 12 in the pound, is to enable us to compete with other territories in Africa for attracting individual enterprise and resources and for attracting business initiative and managerial skill. For example, the tables in the Coates Report show that on the highest personal incomes the average rates are between 9s. 6d. and 12s. 6d. in the pound, based on Ghana, Central Africa, and South Africa, as against our proposed maximum of Sh. 15 in the pound. I know the Minister will wish me to say how I consider that the revenue lost by these proposed allowances will be made up: my answer to him is that it will be made up by the extra business—commercial, industrial and agricultural activity—that will result in Kenya as a result of fair and realistic personal rates. There has been a guess figure thrown at us of £270,000 a year as the extra from undistributed profits. I am prepared to make an equally wild guess and say that if these rates were introduced, within three years the extra revenue that would accrue from the additional economic activity could amount to as much as another £1,000,000.

Now, Mr. Chairman, just before I close on this I want to say, in the same way as the Minister did in his statement just now, that what I am going to say now is my own personal opinion; that in this I am representative of nobody else but myself; and I say this as a great challenge, realizing how much opposition it may produce upon me in certain quarters. I say that if firstly we have what we want on this side, in the method and system for undistributed income tax; and secondly that our ideas on annual values and the assessing of income from properties is accepted—and that is of course the abandonment or the substantial reduction in the annual values—and thirdly that personal rates are amended, are reduced, on the scale that I have proposed, then I personally am of the opinion—personally of the opinion—that there may be substantial

agreement by the public to a company rate of tax of 6s. 6d. in the pound. Mr. Chairman, if those conditions, and those conditions alone—that must be made perfectly clear—were acceptable both to the Government and to the public of Kenya, it would in my estimation produce somewhere near another £1,000,000 of revenue a year. It would of course be offset by concessions in the heading that I have listed.

Finally, I here would like to make an appeal to the Unofficial Back-benchers before I sit down. I am opposing this Motion so far as it concerns rates and allowances, and I do hope that Back-benchers on the other side, the Unofficial Back-benchers, many of them with considerable business experience, will support me in this. They have a heavy responsibility in this respect because they know, better perhaps than some of their very excellent civil servant colleagues on their side, what these tax proposals mean, and I look to them to guide the Government in this respect. I have made it very clear that the highest personal rate of Sh. 15 in the pound does govern and guide the rate of undistributed profits tax. If today we accepted this high rate of Sh. 15 I believe we will be giving a lead, an acceptance, to the Government that we also agree the rate of 9s. 6d. in the pound of undistributed profits tax. I am sure I can rely on the good sense of the Government Unofficial Back-benchers to throw their weight behind us all on this side in this respect.

Mr. Chairman, I beg to oppose.

THE CHAIRMAN (Mr. Conroy): There are two matters raised by Mr. Alexander: firstly, leave was not wanted for him to withdraw the Motion of Amendment of which he has given notice because the Motion had not been proposed. With regard to the point of order he raised on that, I should like to consider it and give a reasoned ruling at a later date.

The second point was that he asked for a certain document to be included in the record of the debate. I do not think that is possible but what he can do is to leave it in the library for the convenience of Members. That is the normal procedure on such a matter.

MR. MACKENZIE: Mr. Chairman, Sir, in supporting the Motion before the Committee I would like first of all to

[Mr. Mackenzie]

mention one point which my hon. friend the Minister overlooked when he was moving this particular Motion, and that is that when the Committee stage of the Income Tax Rates and Allowances (Amendment) Bill comes before the House, when this Bill is before the House in Committee, he will move that the detail under Head C of the Second Schedule be amended by substituting for paragraph 2 thereof the following paragraph:—

"Where the chargeable income exceed £800, tax on the chargeable income in excess of £800 shall be charged at the rate set out in Head A of this Schedule, and applicable to chargeable income in excess of £800."

The reason for this, Sir, is that it was originally agreed that the rates of tax on non-residents should remain unchanged, that is at Sh. 2 in the £ on the first £800, thereafter at the same rate as resident individuals. At some stage in the various proceedings a proposal was put forward that the rate should be the same as for residents with total income exceeding £800. It was not, however, appreciated at that time that this would mean that the rate on the marginal pound would be excessive. For example, under the original proposals, on £800 of chargeable income the tax would be Sh. 1,600, and on £801 it would have become Sh. 2,004. Obviously that would be completely inequitable and it is to rectify this particular anomaly that the original proposal—that is that the rates of tax on non-residents should remain unchanged—has been reverted to.

Now, Sir, I am glad I have at least one new point to deal with, because I am afraid that a great deal of what I have to say this afternoon will be somewhat tedious for the House to listen to, as it does touch on a number of the points which we dealt with yesterday, and just as yesterday I had a refrain in my speech referring to my hon. friend, the Member for Nairobi West, I am afraid that since apart from the Minister's opening remarks, since no other Member has spoken, the same refrain will have to be heard this afternoon. I think the best thing is to go through the various points that my hon. friend made when making his speech.

He dealt first of all with education allowance, and suggested that there was need for a closer study of the case for assisting further people with more than four children of school age. That sort of thing is studied from time to time by the Government, but I do not think that I could give an assurance that it will be possible to take any action on those lines. It would not be particularly easy to do so without affecting the revenue, and I cannot give any assurance that action on the lines proposed will be possible.

To turn now to the boarding fees. It was suggested that the fact that boarding allowances were being increased was rather unfair to day children who had no option but to go to school as day students and could not be boarders. The answer to that, Sir, is that the allowance for boarding purposes is intended to cover the additional cost to a parent of having his child at school as a boarder. It is not intended to cover what would be generally assessed to be the normal cost of maintaining the child at home: it has never been considered that that should be done. It has always been thought that the parent has got an obligation to maintain his own children, and where the child lives at home no allowance is therefore given: except the normal child allowance which every parent gets, and this additional boarding allowance is intended to cover that additional cost which has to be met by parents whose children are at boarding school.

The hon. gentleman also asked when the occasion arose—which is covered in paragraph 8 of the White Paper—when boarding fees are paid but tuition fees are not paid, and there is an allowance of up to a maximum of £50. The answer there is that there are cases where a child may have obtained a scholarship for tuition and would not therefore be paying tuition fees, but parents may still be having to meet the cost of boarding. It is to cover that sort of case that this particular concession is being made.

To come now, Sir, to the example that was given of the case in which the hon. gentleman said that whereas a married man without children would get, under the new proposals, £700 a year marriage allowance, under the existing law he got £350 a year, thereby gaining £350. He says he has worked it out that where a

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married man has four children that are over six at Government schools, under the existing law he would get allowances of £830; under the new proposals £1,120, with a gain of only £290; and it was suggested that that was manifestly unfair. I have not been able to check the hon. gentleman's arithmetic but accepting that it is correct, I think that the reason for that is that these proposals do relate the education allowance payable much more closely to the actual fees which have to be paid. I do not know, but I should imagine in this example it was a child who was attending a primary school where the fees are exceptionally low and where, of course, there is an extremely heavy Government subsidy in favour of the parents. This does go some way towards rectifying the position at which, in addition to the large education subsidy that is enjoyed by parents, they were also obtaining considerable relief this way. In future the education allowance will be strictly related to what the parent is actually having to pay out of his pocket and will not be at a more or less flat rate in every case. That is the reason for this particular apparent anomaly and I think that hon. Members will agree that it is probably fair to all taxpayers.

There was one further point dealing with this particular section on education allowances, and that was that the term "indentures" should be more clearly defined when the Act was being prepared. I will certainly see that that is brought to the notice of the people who are responsible for preparing the new Act, and I hope that it will be possible to meet my hon. friend's requirements over that particular point.

Now, Sir, after dealing with the education allowance, my hon. friend spent quite a considerable time in dealing with various points that I had made during the debate yesterday and I am afraid that in order to reply to those I shall also have to refer back to yesterday's debate to a certain extent. I will, however, try to be as brief as possible in doing so.

Now, Sir, the hon. gentleman said that I had inferred that he wanted to throw out the whole of these proposals lock, stock and barrel and did not want to

give any immediate relief to the taxpayer, whereas, he said, that was not his idea—he was worried by the practical application and he did merely want to make sure that the Government would consult with people who were experts. He wanted the Government to consult those who would be affected by the taxation. I am glad, Sir, that I have got it right at last. The difficulty, of course, is that if we are to give relief quickly it is necessary to go along with these proposals and I am afraid that it would not be possible just to pick out one part which people happen to like and to leave aside the others which people did not happen to like. These proposals must generally be taken as a whole. They were devised as a whole and, as my hon. friend has said, many aspects of taxation were taken into account at the same time. So I am afraid that it would be very difficult to defer quite considerable portions of these proposals.

Now, Sir, to go on from that point, he also said that when he was dealing yesterday with the lack of consultation he was not referring to the evidence that Coates had taken but to the need to co-operate with business and the professions since the Report had been published before arriving at decisions. The answer there, Sir, is that since the time when the Coates Commission Report was published the Government has received a considerable number of memoranda from representatives of the various businesses and professions in the Colony. The Government has received memoranda from the chambers of commerce and from professional associations, and in addition to receiving these memoranda the Government has also received deputations from these bodies and has listened to what they had to propose and has taken very careful note of what they had to say. But having done that, Sir, the Government has done the one thing that is normally expected of Governments—that is, they, having taken all the evidence that they could take and having done all the consulting, have had to sit down and decide, together with the Governments of the neighbouring territories, what would be done. That is, I am afraid, Sir, something which the Government generally have

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to do. There are occasions when they have to sit down and take decisions and this is in fact what the Government has done. But there has been no question, Sir, of not looking at the practical effects. The Government has the advice of the Income Tax Department who, as hon. Members know, are extremely expert in this matter and through their advice the Government has been able to get countless examples of how the various proposals in this White Paper on Rates and Allowances would work out. It is quite obvious that the Government would not be prepared to accept proposals without knowing how they would affect the public in general. That has been done.

The hon. gentleman suggested that the Government's calculations were probably crystal gazing and cited the case of section 22 companies—the numbers. He said that it was all very well knowing the number of existing section 22 companies but what about those who were not at present section 22 companies but might be caught under the new proposals.

Of course, the people who have been advising the Government on this have the custody of and access to all the company cases—and naturally they are able to look at all types of companies and to find out which would be caught and which would not be caught. That is something which, with the knowledge of the proposals that were coming forward, could obviously be done.

MR. ALEXANDER: Do I understand from what the Secretary to the Treasury has just said that the Government have in fact been able to work out the number of companies which will come under the new definition of control?

MR. MACKENZIE: I am afraid that I am not able to answer that particular question. All I can say, and I would not like to try to answer that question without notice, is that it is possible to look at the position generally and assess how the matter will come out.

Now, Sir, there was another point. I do not propose to go into the dispute as to who we think are experts and which are the experts which my hon. friend likes and which are the experts that I

like, but I would like to deal with the point that he made in commenting on what I said yesterday about misleading comment. What I said was "I would only like to make one point at this stage: on that, and that is to suggest that the comments which have been made on these proposals, some of which have not been entirely as well founded as they might have been, and many of which have been, to say the least, a fair distance from objectivity, have probably, if there has been any hesitancy on the part of business, it has been as much due to misleading comment as it has by the actual proposals in the White Paper".

The hon. gentleman asked me, Sir, to specify the comments I was thinking of and to say whether they have been made in this House. Well, Sir, I would first of all like to say that on the whole I cannot think of any comment that has been made in this House that has been misleading. Generally on the Floor of this House we have a high standard of sticking to the facts, but there has, Sir, been an extremely widespread, and I do not think it is going too far to say, vicious campaign against these particular proposals; and there has been a Press campaign and there have been letters in the Press and wherever one has gone one has heard various garbled assertions regarding these particular proposals. You have heard people coming along and saying, "Isn't it frightful, the Government is going to make everyone pay Sh. 15 in the pound". That is the sort of idea that certain people have been trying to get across in this country. They have had extremely little regard to the facts and that was the sort of thing I had in mind.

MR. ALEXANDER: Who said it?

MR. MACKENZIE: I trust that the hon. gentleman is equally capable of reading his newspaper as I am.

There has been an extremely vicious attempt to put across to people who are not very conversant with this kind of thing that everyone who was a shareholder in a private company would be made to pay at the maximum rate. That is the sort of impression that one has found in certain places. I do not say that it has been put in quite those words, but that is the impression that has tended to be put across.

[Mr. Mackenzie]

Now, Sir, the hon. gentleman said that I had told the House that many people stand to benefit from these proposals, and he asked me to agree with him that no one should suffer in any way. Well, of course, one can never give an assurance of that kind. All I can say is that the Government has done everything possible, in working on these rates and allowances, to ensure that the maximum benefit would be given to the greatest number. I am unable—and I think the hon. gentleman will agree with me on this—without having had time, to comment on the various figures he gave when he read from a certain document. I did challenge him at the time, Sir, to tell us where that document came from and he was not prepared to do so.

Well, of course, we have a rule in the Civil Service that if one gets an anonymous document one puts it into the wastepaper basket. That was why I asked for its identity to be given because I am afraid that an anonymous document cannot carry the same weight as one, the authorship of which is generally known. I see the hon. gentleman is going to tell me who the author was.

MR. ALEXANDER: Mr. Chairman, is the Secretary to the Treasury suggesting that I brought to this House something that I had not got the slightest idea where it had come from?

MR. MACKENZIE: No, Sir, I am suggesting that if the hon. gentleman knows where it has come from he might share the secret with the rest of us.

MR. ALEXANDER: Mr. Chairman, in the same way as I asked him just now who was making these statements and he was not able to tell me.

MR. MACKENZIE: I did not quote any particular statements in the House. I did not read from a document. Sir, I did merely refer to what I suggested was a somewhat vicious Press campaign.

MR. ALEXANDER: (Inaudible).

MR. MACKENZIE: You cannot? Mm, pity.

Now, Sir, to go on to deal with the point made about the integration of income tax with the personal tax, he quoted what my hon. friend the Minister had said last year about the possibility

of people who paid income tax having their personal tax set up against it. He said at that stage my hon. friend the Minister had said he would like to do this but he was not convinced that the arguments against this could be substantiated. I think I should make it clear that when I was speaking yesterday, what I said was that these taxes were completely separate taxes and that up to now there had been no link except at the bachelor level and that that position had been maintained. That is the fact at this present moment. There has so far not been any particular link. But in addition to this, the Government, in consultation with the governments of the other territories, went into this question of allowing an off set between personal tax and income tax, and came to the conclusion that it was far better to give these very much more favourable rates and allowances of personal income tax and to deal with the matter that way than it would have been to introduce the additional complications that would be inevitable if an off set were to be allowed. The matter was not lost from sight, but it was decided that it was much better to deal with it this way.

Now, Sir, the next point that the hon. gentleman dealt with was the administration of the undistributed profits tax. I am afraid, Sir, that this is getting a little away from what I thought we were going to discuss this afternoon—that is, rates and allowances—but since my hon. friend dealt with these matters, I am afraid that I shall have to follow him to a certain extent.

He suggested that what was needed was a full investigation as to whether the Government was capable of dealing with each case of a company falling within the limits of the undistributed income tax on its merits. I hope that I have got the statement right. I think that the answer to that is, as I said yesterday, that the Coates Commission went into this at very great length and they produced extremely cogent arguments against it. I read them out yesterday, Sir, and I do not propose to repeat today what I said then, except that the conclusions reached by the Commission were that in the circumstances of East Africa and given the existing weight of work on the Department it would not, in their opinion, be possible to administer

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the law in such a way as to follow the United Kingdom model. In fact, they came to the conclusion that to follow the United Kingdom model would be an undesirable step in the circumstances of these territories, even if accompanied by safeguards.

That was gone into, I said yesterday afternoon, and I repeat it now, that we have on the one side the opinion, the considered opinion, of this Commission, the members of whom had wide administrative experience. They had at their service the advice of the Income Tax Department; they took evidence from members of the public; and they reached the conclusion that this would not work, and even if it did work it would be undesirable in our circumstances. I said yesterday, and I repeat it today, that in a case of this kind I would prefer to accept on an administrative question the opinions of the Coates Commission and of the East African Income Tax Department, rather than the opinions of people who, however able and wise they may be in many directions, cannot have the inside knowledge that is necessary to decide a point of this kind.

Now, Sir, after having finished with me, my hon. friend went on to deal with the Minister, and he suggested in one instance that the Coates Commission had ignored a considerable amount of the weight of evidence. Actually, I think he corrected himself later and suggested that, in fact, they had not ignored the evidence, but they had not accepted it. That, of course, as he agrees, I am sure, is a vastly different thing and I am glad that he did correct that particular impression.

He also said that there were points in the Coates Report which the Government did not accept, and he instanced relief for infant industries. I am sorry; not I think on that one he suggested that the Coates Report had turned down the case for relieving infant industries, but that this had been accepted elsewhere; he instanced Malaya. The question is that admittedly expert opinions differ, but, if I remember rightly—and I have not been able to look it up—the Coates Commission's reasons for doing this were that on fiscal grounds they did not think that that was the best way of assisting industry in the Colony, while keeping the

revenue at the level at which they felt it should be kept. It may be that in other places, different conclusions have been reached, and without knowing what the complete tax structure was in Malaya—which was the instance given by my hon. friend—it would be quite impossible to comment any further on this matter.

Now, Sir, the hon. gentleman went on to refer to his amendment on the Order Paper and to say that there were three reasons for wishing to amend the rates. The first was that there had been a fall in the purchasing power of money and that if this was taken into account the rates in real terms were higher than they were ten years ago. He went on, Sir, to give a great many examples. I do not want to comment on those in detail. We all know that there has been inflation over the last ten years; in fact, had the hon. gentleman gone back to 1939 he would have been able to produce even more startling examples than he did by merely going back to 1948. We all know that money has decreased in value and that is something over which I am very glad to say that the Government of Kenya has had no particular control, and for which they at least can escape condemnation.

The fact remains that the revenue has to be raised in one way or another, and that on a comparative basis and taking one thing with another, the levels of taxation in East Africa have generally kept pace with those in other parts of the world. The inflation has affected us just as it has affected other places—very little more and very little less—from year to year. I hardly think, however, that this can be used as an argument against the rates and allowances which the Government is putting forward in this White Paper.

The fact is that the Government has, in order to give greater relief to the individual in East Africa, gone very much further—both on rates and allowances for individuals, that is, for the average individual—than did the Coates Commission. It may be true that it has not gone quite so far as people for whom my hon. friend has so much solicitude—it may not have gone quite as far as some people who are paying at the maximum rate—would like, and perhaps it is a pity that the Government could not have gone further.

[Mr. Mackenzie]

The fact remains, as my hon. friend, the Minister, said this afternoon: the additional amount which even at the top rates anybody is going to have to meet—even at the levels about which the Member for Nairobi West objected—even at those levels the additional amounts which are likely to have to be paid are not exceptionally large, particularly for a man with a family and everywhere else, and certainly in so far as the managerial class—for whose interests my hon. friend so often speaks—that in so far as they are concerned there will be all-round benefits.

There was one point, Sir, that the hon. gentleman made which rather amused me in view of what he had suggested yesterday—that the rates of taxation bore too heavily on the smaller people—on fixed income people. This, I must say, amused me. Of course, it may be that his idea of what a middling and smaller person is, and mine, are different, but it did amuse me in view of his suggestion yesterday that what we should do is increase the personal tax "in so far as" people of incomes between £200 and £1,000 a year were concerned. He also went on to say that the Coates Commission Report itself criticized the rates. I think I have given the answer to that, in that the Government went, as the hon. gentleman himself agreed, considerably further than Coates. Perhaps the Government did not go as far as the hon. gentleman would have liked to go, but then I think that no Government in its tax policy, particularly with direct taxation, is ever likely to please any taxpayer in his individual capacity.

Comparisons were made between Kenya and Southern Rhodesia and it was suggested that the individual was very much worse off here than he would be in Southern Rhodesia. All I can say is that no doubt conditions in many things are different between the two Colonies. The case of company tax comes to mind. I agree that towards the end of his speech the hon. gentleman did say that he personally would be prepared to accept a company rate of 6s. 6d. in the £. In Southern Rhodesia the company rate is 7s. 6d., and I wonder whether he would be prepared to accept that rate too.

MR. ALEXANDER: No.

MR. MACKENZIE: He then, Sir, said that another thing wrong with the rates was the link with other rates, and in particular with that affecting the undistributed income tax. The answer there is, of course, quite simple: that since any undistributed income tax—since anything affecting the profits of private companies must look through the company at the individual—quite obviously there must be a relationship between anything affecting the profits of private companies and the individual rates of tax. That is quite unavoidable in any circumstances.

Now, the final point that he made on the rates, was that the maximum should be reduced to the present effective rate—that was the effective rate which astute chaps with good financial advisers could make effective by using the present section 22. Astute people using the existing section 22 would be able to get away with that. Sir, was extremely interesting, since it does help to show why so many people have shown such exceptional violence in their opposition to the proposals the Government has put forward to close these loopholes.

Now, finally, the hon. Member said that he was quite prepared to show us, I think he offered us £2,000,000 in place of what he called this guess figure of £270,000. When, Sir, he mentioned the proposed amount which will be obtained from the undistributed income tax as being a guess figure, the only conclusion I can reach is that he cannot have been listening when my hon. friend the Minister was speaking earlier this afternoon.

MR. ALEXANDER: I was not convinced.

MR. MACKENZIE: He was not convinced. Well, since he did hear what the Minister said and since that is already on the record, I do not need to repeat it. But the hon. gentleman was not convinced.

He did offer us in exchange for this, he said he would be prepared to take a guess that by doing various things that he would like us to do and by reducing taxation all round, we would soon get an extra £1,000,000 from additional activity, and he went on very generously to offer us a further £1,000,000 by increasing company tax to a rate of Sh. 6/50.

[Mr. Mackenzie] That is £2,000,000. Well, his first £1,000,000, of course, that he is getting from additional activity. I must say I much prefer the very careful study that the Income Tax Department made in coming to its assessment of the additional revenue likely to be obtained from the undistributed income tax than to rely on the guesses of my hon. friend, which are supported by nothing at all.

As regards the other suggestion, that we should give him everything he wants on the undistributed income tax—and on that he knows perfectly well what the position is—that there should be a reduction in the annual values, thereby making those who are not fortunate enough to have a subsidized house or to live in their own house, thereby making them subsidize the other more fortunate people, making the person who has to rent his house subsidize the others—he suggests that we should do that.

MR. ALEXANDER: I never did.

MR. MACKENZIE: That would, Sir, be the effect of reducing the annual values. By reducing the personal rates as he was proposing, if all these were accepted, he was prepared, very generously, to agree to an increase to Sh. 6/50 in the company rate.

MR. ALEXANDER: Not an increase.

MR. MACKENZIE: I can only say, Sir, that the Government has considered various matters concerned with the company rate, but came to the conclusion that it was in the best interests of the Colony that this rate should be at Sh. 5/50 and should not be increased to a higher level.

Sir, I beg to support.

SIR ALFRED VINCENT: Mr. Chairman, I did not want to interfere or come into this debate at all, but I cannot get over this consuming curiosity on the part of the Secretary to the Treasury as to who is the author of this document. This document, Sir, is a recital of facts and figures. Whoever the author is, surely it does not matter at all. I think Members are entitled to get the best brains they can to check up Government figures, Sir, and I cannot see any iniquity in that. I would like to satisfy the curiosity of Government Ministers as to who were

the authors of this document, but as I cannot do that I would ask Government merely to check the facts and figures. If the facts and figures prove the Government to be wrong, then that will be very satisfactory from our point of view. If they do not, then I think Government will realize we have taken the greatest care to see that their figures have been checked and have been carried far enough in order to give the right impression.

Surely, Sir, there is nothing against anybody working overtime in their own interests if they think they are going to be affected in any particular way? This carries me back many years to a similar occasion, when I quoted figures to the equivalent of a Minister on the other side. He arose and demanded that I should give the source of my information. I refused to do so until the House rose. Then I showed him the official letters from his own department which gave me the information, of which he was completely unaware. I am not going to say that that is so in this case, but I really think that too much stress is placed on personalities in this matter.

There is another question—if I could just put a point to the Minister for Finance—that is this: that he will know on the question of companies that are on the verge of section 22 or come within the new interpretation, that there are a great many which have made arrangements with banks and other finance houses to restrict their dividends whilst loans are in existence from the source of supply, whether it be a bank or finance house, to the company. This is going to be an added complication in this question of the amount which one has to declare, because very often you will find the companies have undertaken irrevocably, by legal agreement, not to declare dividends in excess of X per cent whilst those loans remain. Thank you, Mr. Chairman.

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): Mr. Chairman, I should like just to cover those two points and then, with your permission, report progress and ask leave to sit again.

In the first place, Sir, the last point raised by the hon. Corporate Member for Commerce and Industry, is a point that, whilst it had not been put to me,

[The Minister for Finance and Development] I had already looked into from my own experience of the past, and it is being considered. I cannot, at this stage, say more than that: that there is full recognition of the difficulty of the immediate cash difficulty with which some of these companies might be faced. That is the first point.

On the second point, in so far as the document is concerned, the hon. Member for Nairobi West said we would be surprised if we knew who the author was. Well, Sir, we have a certain amount of intuition and instinct, and we would not perhaps be quite as surprised as the hon. Member imagines. All we are saying, Sir, with all due respect, is that he cannot expect, nor can any hon. Member expect, the Government, or indeed this Council, to treat the document and the facts with quite the same respect and authority unless we know the origin of the documents. And, Sir, the fact that if a document is quoted in this Council, and I think you will agree with me here, it is within our right to ask that it should be laid upon the Table. I think, Sir, that should be remembered. We will check the figures. There is no doubt about it. But we are still at this stage prepared to say that we prefer to rely on our own experienced advisers and we do not think that anybody in that department would have been so disloyal as to provide a different set of figures for anybody else.

SIR ALFRED VINCENT: I am not suggesting that, Sir.

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): I am glad to hear that, Sir, because that clears one matter right out of the way.

Now, Sir, in view of the fact that we are going to discuss this again tomorrow, I would, with your permission, move that the Committee do report progress and ask leave to sit again.

THE CHAIRMAN (Mr. Conroy): Mr. Vasey, I think it would be better if we reported consideration of Motion—"Income Tax (Rates and Allowances) Surcharge"—on the Order Paper and got

that out of the way, and ask leave to report progress in respect of Motion—"Income Tax (Rates and Allowances)".

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): I will move it in two sections then—that we do report consideration of the Motion "Income Tax (Rates and Allowances) Surcharge" on the Order Paper and approval without amendment.

Question proposed.

The question was put and carried.

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): Mr. Chairman, I beg to move that the Committee do report progress on the Motion "Income Tax Rates and Allowances" and ask leave to sit again.

Question proposed.

The question was put and carried.

Progress to be reported.

Council resumed.

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

## REPORT

MR. CONROY: Mr. Speaker, Sir, in respect of Motion A on the Order Paper, I beg to report that the Committee have considered that Motion and approved the same without amendment.

In respect of Motion B on the Order Paper, the Committee has directed me to report progress and ask leave to sit again.

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): Sir, may I move that Council do agree with the Committee in the said Resolution regarding Motion A?

Question proposed.

The question was put and carried.

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): Sir, may I move that the Council do agree with the said Resolution in regard to Motion B.

Question proposed.

The question was put and carried.

## BILL

## SECOND READING

## The Appropriation Bill

Order for Second Reading read.

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): Mr. Speaker, Sir, I beg to move that The Appropriation Bill, 1958, be now read a Second Time.

Sir, this has been regarded in the past as usually being a formal Bill, and deals with the appropriation necessary to cover the supply granted by the Committee of Supply which sat for about 15 days in this Council. During that time the whole of the votes were discussed at reasonable length, except those which fell under the gullotine.

Sir, I beg to move.

THE CHIEF SECRETARY (Mr. Coutts): Seconded.

## Question proposed.

MR. ALEXANDER: Mr. Speaker, Sir, I wonder whether the Minister would like to take this opportunity of telling us just what progress we are making at this moment with our borrowing. I understand—I cannot remember the exact figures—some £6,000,000 to be borrowed in respect of last year and some £7,500,000 in respect of this coming year. Perhaps he would like to take this opportunity of telling us where we are.

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): Mr. Speaker, Sir, this particular Bill does not, of course, cover anything to do with long-term borrowing. It merely authorises the raising from time to time of short-term loans which are intended to cover the period between borrowings.

Now, Sir, I think I am right in saying that in the Budget Speech of 7th May, I did set out the position. I said: "The 1957/58 Development Estimates envisaged expenditure of approximately £10.6 million, or including Supplementary Estimate No. 1, little over £11,000,000. The revised estimate of expenditure is £9.8 million. When it became apparent that it was unlikely that the Government would be able to raise a loan on the London Market during the financial year, it was necessary for expenditure to be limited to the level which, after taking into account the proceeds

of local loans, could be financed on a short-term basis from the Government's own resources, or by short-term borrowing until a London loan could be raised. It was decided that if expenditure from loan funds shown in Table II of the 1957/58 Development Estimates of £6.6 million could be kept down to £5.6, the deficit in the Development Funds at the end of the year" that is the financial year, Sir, "would be of the order of £4,000,000 so that it would be possible for the Government to carry this expenditure." I then went on to point out that indeed the expenditure in any year had never exceeded the Estimates.

The situation therefore, Sir, is very much as I outlined it on the 7th May. We have tried to get on the London Market, but we have been unable to raise a loan on the London Market and so far we have been able to order our affairs so that the short-term finance necessary to see us through until we do get on the London Market has been available from our own resources or from the short-term borrowing resources which we have organized and they do stand at the present moment within the limit authorised by this Bill.

I regret to say, Sir, that no more information than that which I gave on the 7th May and which I have given now can be given on this matter.

The question was put and carried.

THE SPEAKER (Sir Ferdinand Cavendish-Bentinck): Do you wish to proceed to Committee Stage, Mr. Vasey?

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): I would respectfully suggest, Sir, with your permission that we adhere to the ordinary procedure and proceed with the Committee Stage tomorrow.

The Bill was Read the Second Time and committed to a Committee of the whole Council.

## ADJOURNMENT

THE SPEAKER (Sir Ferdinand Cavendish-Bentinck): That completes the business on the Order Paper. I therefore adjourn the House until 2.30 p.m. tomorrow, Thursday, 19th June.

The House rose at fifty-seven minutes past Five o'clock.

Thursday, 19th June, 1958

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. 134

MR. NOALA asked the Minister for African Affairs what provision is Government making regarding chiefs' night allowances in Taita and Pokomo Districts where chiefs are unable to spend nights at their own homes?

THE MINISTER FOR AFRICAN AFFAIRS (Mr. Johnston): The payment of night allowances to chiefs in the more remote areas is being examined by the Government.

MR. MBOYA: Mr. Speaker, Sir, arising from the reply, would the Minister indicate how soon we can expect a decision from him?

THE MINISTER FOR AFRICAN AFFAIRS (Mr. Johnston): I hope in the near future, Sir.

## QUESTION NO. 146

DR. KIANO asked the Minister for African Affairs:—

(a) For how many days a week is an adult member of the Kikuyu, Embu and Meru tribes required to undertake communal work in the various districts of Central Province at the present time?

(b) For how many months after childbirth is a mother who is a member of these tribes exempt from communal labour?

(c) What steps are taken to protect the welfare and health of pregnant women of these tribes who are required to perform communal labour?

THE MINISTER FOR AFRICAN AFFAIRS (Mr. Johnston): (a) An adult male member of the Kikuyu, Embu and Meru tribes may lawfully be required to perform a maximum of 64 days' communal labour per annum—40 days under the Emergency (Communal Services) Regulations, and 24 days under African district council by-laws.

An adult female may be required to perform a maximum of 40 days under Emergency Regulations, but it is not subject to African district council communal labour by-laws.

The number of days' communal labour carried out each week varies not only between districts, but also within districts. In the majority of areas the maximum requirement is six hours per week.

(b) and (c) Expectant mothers and mothers with very small children are exempted from communal labour at the discretion of their headmen.

MR. MBOYA: Mr. Speaker, Sir, will the Minister indicate when the 40 days under the Emergency Regulations will come to an end?

THE MINISTER FOR AFRICAN AFFAIRS (Mr. Johnston): It is hoped that we will be able to dispense with those Regulations shortly, Sir.

DR. KIANO: Mr. Speaker, Sir, would the Minister inform us whether there have been any situations whereby the expectant mothers have not been exempted?

THE MINISTER FOR AFRICAN AFFAIRS (Mr. Johnston): I am afraid I am unable to say, Sir.

MR. MATE: Mr. Speaker, Sir, arising out of the reply to the second part, the Minister said that the women are not subject to the African district council by-law communal labour; is the Minister aware that this is not the case in some areas?

THE MINISTER FOR AFRICAN AFFAIRS (Mr. Johnston): If the hon. Member will bring specific cases to my notice, Sir, I will look into them.

MR. COOKE: Has communal labour under the Native Authority Ordinance now ceased? This is a special communal labour, is it?

THE MINISTER FOR AFRICAN AFFAIRS (Mr. Johnston): Sir, I think I have indicated in my reply that in quite a number of areas, the district councils do pass communal labour by-laws.

MR. MBOYA: Mr. Speaker, Sir, is the Minister aware that communal labour is generally very much objected to by the Africans; and if so, what is Government doing to review the situation?



THE SPEAKER (Sir Ferdinand Cavendish-Bentick): That does not arise out of the question at all.

DR. KIANDI: Arising from the original answer, are the headmen and chiefs given any directives which they could follow for the exemption of these mothers?

THE MINISTER FOR AFRICAN AFFAIRS (Mr. Johnston): Sir, the chiefs and headmen are informed and reminded of their powers on numerous occasions.

#### QUESTION NO. 147

MR. NYAGAH asked the Minister for Education, Labour and Lands how much land was originally set aside specifically for use by:—

- The Education Department at Kanguru, Embu?
- The Agricultural Department at Kanguru, Embu?

THE MINISTER FOR AFRICAN AFFAIRS (Mr. Johnston): 637 acres were set apart at Kanguru, Embu District for a Primary School, Agricultural School and Teachers Training Centre; of this area 400 acres are used by the Agricultural Department and 237 acres by the Education Department.

#### Question 146 resumed.

MR. COOKE: Mr. Speaker, Sir, on a point of order, I did ask a question under No. 146, a supplementary question. Was I ruled out of order?

THE SPEAKER (Sir Ferdinand Cavendish-Bentick): I think if you attend the House of Commons, you will find that after an answer to a question has been followed by a good many supplementaries, the Speaker then usually passes on to the next question. As I have ruled before a question does not denote the beginning of a sort of general all-embracing debate. The object of putting a question is to obtain a succinct short reply from a Minister.

MR. COOKE: I wanted to ask, Sir, because I think the hon. gentleman had obviously misunderstood my question about the Native Authority Ordinance. However, I will see him about it later on.

THE SPEAKER (Sir Ferdinand Cavendish-Bentick): If you wished to explain what you asked or said I will allow you to explain what you said or make your

point after these questions if you wish, Mr. Cooke.

#### Question 147 resumed.

MR. NYAGAH: Mr. Speaker, Sir, arising from the answer to the first part of the question, is the Minister satisfied that the 237 acres are being used for the specific purpose for which they were set aside?

THE MINISTER FOR EDUCATION, LABOUR AND LANDS (Mr. Luyt): Mr. Speaker, Sir, I think I should perhaps best reply to that. The 237 acres are not at the moment in full use for education purposes, but I understand that the future plans for the schools for expansion both for school buildings and for teachers' residences do require the full acreage.

MR. MATE: Mr. Speaker, Sir, is the Minister aware that there is a general feeling that this land may not be used, all of it, for educational purposes amongst the Embu people?

THE SPEAKER (Sir Ferdinand Cavendish-Bentick): That does not arise out of the question.

SIR CHARLES MARKHAM: Mr. Speaker, can the Minister tell the House whether he does not consider that the amount of land he has given a moment ago as the acreage excessive for a school?

THE MINISTER FOR EDUCATION, LABOUR AND LANDS (Mr. Luyt): Sir, I will reply to that. My advice is that the layout of the land and the present needs and the future needs both for residential purposes and school building purposes do not indicate that this acreage is excessive.

MR. NYAGAH: Mr. Speaker, Sir, would the Minister make an assurance that 237 acres will be used for nothing else other than the purpose for which they were set aside?

THE MINISTER FOR EDUCATION, LABOUR AND LANDS (Mr. Luyt): As far as I am aware, Sir, there is no intention to use them for any other purpose?

MR. MBOYA: Mr. Speaker, Sir, will the Minister give the assurance that it will be used only for that purpose?

THE MINISTER FOR AFRICAN AFFAIRS (Mr. Johnston): Mr. Speaker, Sir, the land was set aside on certain conditions, one of which was that it should be used for school purposes.

MR. NYAGAH: Mr. Speaker, Sir, is the Minister aware that there is an establishment of another department on the 237 acres?

HON. MEMBERS: Answer!

THE SPEAKER (Sir Ferdinand Cavendish-Bentick): Mr. Cooke, if you want to give your explanation, or make your point would you care to do it now?

MR. COOKE: The point I wanted to make was this: that under the old Native Authority Ordinance, communal labour was legal. Has the Native Authority Ordinance in that respect now been abrogated, and is the communal labour entirely under this Emergency Regulation?

THE MINISTER FOR AFRICAN AFFAIRS (Mr. Johnston): No, Sir, The communal labour by-laws are made under the African District Councils Ordinance, not under the Native Authority Ordinance. In the Central Province, the Emergency communal labour regulations are entirely separate, Sir.

#### 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 Appropriation Bill

Clauses 2, 3, 4 and 5 agreed to.

Schedule agreed to.

Title agreed to.

Clause 1 agreed to.

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): Mr. Chairman, I beg to move that Committee do report to Council its consideration and approval of the Appropriation Bill, 1958, without amendment.

Bill to be reported without amendment.

The question was put and carried.

SIR CHARLES MARKHAM: On a point of order, Mr. Chairman, would you care to give a ruling under this rather ambiguous Standing Order—I think it is 35, Sir—according to how I read it, we have

no power this side of Council without getting the consent of His Excellency, the Governor, to move any reduction on any deletion of items and I am wondering, Sir, what is really the point of having these financial bills at all as far as this side of Council is concerned.

THE CHAIRMAN (Mr. Conroy): There is, of course, ample opportunity to move reductions in these specific items in the Committee of Supply.

SIR CHARLES MARKHAM: With respect, Sir, the way that thing is worded, it is almost a block to anything.

THE CHAIRMAN (Mr. Conroy): No, I do not think so. There is ample opportunity for everyone to move reductions in Committee of Supply, and that is the purpose of having your Committee of Supply before the Bill comes in.

SIR CHARLES MARKHAM: I realize that, Sir, but items which we have not got to in the Committee of Supply before the guillotine comes down and we are now bringing them up in the Appropriation Bill—as I read that Standing Order, Sir, it excludes anybody from moving the deletion of any item.

THE CHAIRMAN (Mr. Conroy): Which Standing Order are you referring to?

SIR CHARLES MARKHAM: The one, Sir, referring to the consent of the Governor to move any deletion—I thought it was under 35—oh, 105, I apologize, Sir.

THE CHAIRMAN (Mr. Conroy): No, I do not think that arises on this; I do not think 105 applies to this.

MR. SLADE: Sir, I do not think the hon. Member was here when the hon. Member for Nairobi West yesterday withdrew his proposed amendment on the understanding that we should have a considered ruling from Mr. Speaker on this point.

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): Mr. Chairman, I would like to speak to a point of order. Surely, Sir, Standing Order 105 deals only with money grants and taxation and refers to the revenue, Sir. But there surely has never been doubt in anyone's mind in this Council that the Members on the other side are entitled to move a reduction in expenditure at any time, surely, even at the Appropriation Bill stage.

THE CHAIRMAN (Mr. Conroy): That is certainly my understanding, and that was why I said that Standing Order 105 does not apply to this.

MR. ALEXANDER: Mr. Chairman, on this, what is the use of moving a reduction or achieving a reduction in expenditure if on the other side we are unable to achieve a reduction in revenue? It would mean—

THE CHAIRMAN (Mr. Conroy): Order, order. We are not dealing with a reduction in revenue now. I have been asked a specific point of order which is, "Can one, at the Committee stage of the Appropriation Bill, move an amendment which would, in fact, be a reduction?" And my answer is, "Yes, one can".

Council resumed.

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

## BILL

### REPORT AND THIRD READING

#### The Appropriation Bill, 1958

MR. CONROY: Mr. Speaker, Sir, I beg to report that a Committee of the whole Council has considered the Appropriation Bill, 1958, and approved the same without amendment.

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): Mr. Speaker, I beg to move that the Appropriation Bill, 1958, be now read a Third Time.

MR. MACKENZIE seconded.

Question proposed.

The question was put and carried.

The Bill was accordingly read the Third Time.

## COMMITTEE OF WAYS AND MEANS

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

### IN THE COMMITTEE

(D. W. Conroy, Esq., O.B.E., T.D., Q.C., in the Chair)

## MOTION

### "INCOME TAX RATES AND ALLOWANCES"

Progress Reported on the 18th June, 1958

#### Resumption of Consideration of Resolution

MR. MACKENZIE: Mr. Chairman, Sir, I would like to take the opportunity at this stage of clearing up one or two points that were dealt with yesterday, and I am doing so now in order that the latter part of this debate—which will be entirely connected, I understand, with the undistributed profits tax—shall not be interrupted by my coming in to make these points, which concern mainly rates and allowances.

I have two points that I would like to deal with. The first, Sir, is that my hon. friend the Member for Nairobi West yesterday referred in his speech to a number of categories of people who, he said, would be worse off as a result of the Budget proposals owing to the new net annual values which were being introduced. He had also, at an earlier stage, provided all hon. Members with a table giving examples of such cases.

Yesterday, when I was speaking, I said that it was impossible to give an assurance that no one would suffer from the rates and allowances proposals. The Government have, however, done everything possible to ensure that the maximum benefit would be given to the greatest number. We have now had an opportunity of looking—

MR. ALEXANDER: Mr. Chairman, I did not ask for an assurance, so far as I remember, that no one would suffer. What I did ask for an assurance on was that Government would undertake to consider those cases where they did suffer.

MR. MACKENZIE: I take the hon. gentleman's point, Sir, but I think it is very difficult at this stage to give any complete assurance that anything will be done. As I say, there has been an opportunity of looking more closely at the position and at the figures which my hon. friend worked out, and the Government does not dispute their accuracy, although, as I think the hon. gentleman will agree,

[Mr. Mackenzie]

some of the factors on which they are computed have not been stated fully in the paper.

However, the figures do not, in my submission, in any way alter the statement which I made regarding the greatest benefit to the greatest number. Indeed, Sir, a certain difference in the treatment accorded to various categories of taxpayers arises inevitably from the approach taken by the Coates Commission. The main principle to be observed is, in their view, that people with similar taxable capacity should bear the same tax burden. Everyone will accept that a person with an income of, say, £2,000 a year, owning his own house, has a similar taxable capacity to someone with an income exceeding this amount but who has to pay rent for his house. The aim has been to reduce the tax burden of the latter until it approaches that of the former.

Inevitably, however, in any system of rates and allowances which may be devised, there is a small field where the burden of tax on the former may have to be increased so as to bring it nearer that of the latter. The field is, indeed, small and, in the Government's view, no substantial hardship is likely to arise in any individual case.

I think, Sir, that in support of what I have said, it is only necessary to refer to Appendix A to the Sessional Paper and compare it with the tables which my hon. friend supplied to us. The figures given in Appendix A must, I think, be regarded as being more typical. For instance, the first of the tables, referring to a single person, deals with single people with incomes of between £300 and £2,000 per annum. On the whole, those are likely to be the typical single people paying tax among taxpayers. On the other hand, my hon. friend's tables go from £500 to £50,000, and I should be very surprised if one does get a large number of single men and women proportionately in the groups from £2,000 to £50,000 a year as compared with this group of £300 to £2,000, to whom reference is made in Appendix A.

Similarly, Sir, with the other tables. The maximum incomes that are shown in the tables in the Sessional Paper are

in tables 2, 3 and 4, referring to married people, and in those cases they are carried as far as £10,000. But they do not go beyond there. The reason for that is that so far as the normal man in the street is concerned, the £20,000 and £50,000 category where, admittedly, people can be worse off, are anything but typical cases. Indeed, Sir, I think my hon. friend will agree that the cases given in these tables are not the typical ones of the whole field. And I think he will agree with me when I say that the overwhelming bulk of the people affected by this income tax, the married people, do stand to benefit, particularly the ones with children.

MR. ALEXANDER: Agreed.

MR. MACKENZIE: Sir, I am very glad to see that my hon. friend and I have, as usual, reached agreement on this particular point.

MR. ALEXANDER: My schedule is still correct.

MR. MACKENZIE: Yes.

There is one further point that I would also like to deal with. Yesterday afternoon, the hon. gentleman suggested that if certain other rates of tax were to be accepted, it would be very much better for people generally. I said at the time that I was not able to calculate what this would cost, but I have had the matter gone into since. The amended table of rates which was placed on the Order Paper appears, so far as I have been able to find out, to be identical with certain proposals which the Government had already seen and which were submitted by the Nairobi Chamber of Commerce. These proposals had already, therefore, been considered, both by the Government and by the Income Tax Department. I thought the House might be interested to know that the cost of adopting those particular rates would be of the order of £1,000,000, even if the existing personal allowances, that is, those in force under the present, unamended Ordinance, were retained. With the adoption of the personal allowances proposed in the Bill at present before the House, the loss of revenue would, of course, be even greater. Of course, I think it is clear that not even an increase in company

[Mr. Mackenzie] rates to Sh. 6/50 in the £ would offset a loss of this particular order.

Sir, I beg to support.

MR. ALEXANDER: Mr. Chairman, my understanding is that at this point we are only dealing with what the Minister had to say yesterday in his statement about his own ideas, his own opinions, on undistributed profits tax. Therefore, I do not intend to comment on what the Secretary to the Treasury has just said.

Just before I go on, Mr. Chairman, there are two words of thank I wish to convey. Firstly, to hon. Members for having listened with great patience and great forbearance to all that I have said, and felt I had to say, in this debate.

I did mention when I started that it was an uninviting and an unwanted subject, and I certainly was not able to put into it any of the inspiration that this House would generally warrant. However, I am deeply grateful for the way in which hon. Members have listened.

Also, Mr. Chairman, I have had my first experience of the efficiency of our palatypists. After my speech on the first morning, which I think lasted about an hour and a half, I had my copy for correction in my hands about three o'clock that afternoon, which is a magnificent performance. I do wish to congratulate them on their work.

Now, Sir, on this complex question of the taxation of the profits of companies, profits which are considered to be withheld for the purpose of avoiding sur-tax in the hands of individual shareholders, on that particular aspect you may remember, Mr. Chairman, that a few days ago I said this: "There is considerable quarrel—very considerable quarrel—with the proposals when they extend the principle to the taxing of the funds of undistributed profits which the company's directors, acting prudently and wisely and quite normally, consider they should not part with since the directors reckon they are needed to support or further the business of the company."

Later in the same speech, when discussing the method of calculating or ascertaining the amount of profits that are considered unreasonably withheld from the shareholders for this purpose, I said, and I quote again—"In his open-

ing speech the Minister did invite us to comment on the system whereby each case is dealt with on its merits as distinct from the system in these proposals which is defined with mathematical certainty. I believe that it is this very question that today has perhaps become the real issue on this subject. The Coates Report, I know, rejected the idea—it was quoted by the Minister—on the grounds that it was impossible or difficult to administer."

Mr. Chairman, the weakness and the objection to any system such as the one now proposed, which attempts to define mathematically by law, how the undistributed profits should be ascertained, is that with conditions and circumstances between the activities of different companies varying so widely it is impossible to devise a mathematical formula that will suit all companies, that will suit every company, or even that will suit the majority of companies.

So long as it is thought, either inside this House or outside it—and there is considerable thought on this—that it is possible for a procedure to be devised whereby the ascertainment of undistributed profits can be treated on the basis of judging each case on its merits then so long there will be emphatic objections to any system relying on a purely mathematical formula. Therefore, Mr. Chairman, I beg of the Minister to agree today that he will appoint a small and experienced committee to make a quick study just of this particular one issue and decide whether it is possible, or whether it is able, to recommend a procedure of each case on its merits as a practical and realistic proposition.

The sort of committee I have in mind, Mr. Chairman, is one of official experts—perhaps three in number—and perhaps three drawn from commerce and agriculture. It should make a report, say, within the next month to six weeks, I believe, Mr. Chairman, that if the Minister will agree to that then he certainly will have agreed to something or to the dealing with or study of something which is of considerable benefit and doubt at this moment.

Regarding the Minister's statement yesterday, may I say how much I welcome the two major modifications in his thinking, and it is his thinking—he made that perfectly clear to us—concerning the

[Mr. Alexander]

principle of the exemption of the non-resident individual shareholder from undistributed income tax and also exemption for those companies in which the public are substantially interested to the extent of 25 per cent of the voting power and—this is important—of the profits.

Mr. Chairman, these are two very important amendments and will I am sure go a long way toward reviving in Kenya the interest in business expansion and new enterprise, and reviving outside Kenya—this is most important of all—the interest and enthusiasm for Kenya by overseas investors.

Mr. Chairman, yesterday I said how deeply grateful we would all be to the Minister for having sensed the urgency of this matter. It is a tribute to his political and parliamentary wisdom and his astute thinking that he has had the good sense and the courage to express his own opinion on these two very major modifications.

Dealing with his statement more precisely I note that companies affected by the new proposal will have until a date not earlier than 31st December, this year, to pay dividends and thereby to clear themselves from the undistributed profits tax if they want to. That, indeed, is a big improvement on the present proposal as published, which limits the date only to 30th September this year. I do suggest to the Minister that he considers fixing this date after the legislation has been approved in the Central Legislative Assembly and making it a date three months after the rate for undistributed profits income has been approved in this Council and become law.

This limit, Sir, would give all those concerned ample opportunity to make the necessary decision once the law on the subject is known. Also I am sure the Minister appreciates that, in the case of companies the year ends of which have long passed and where in most cases the annual general meetings have been held, they should be given an opportunity of adjusting their shareholdings with retrospective effect in order to cope with legislation which in itself is, as I am sure he will appreciate, retrospective.

Concerning companies with non-resident shareholders, Sir, I have already

said that in principle the Minister's opinion is welcome—very, very welcome. Nevertheless, the idea to tax the resident shareholders of such companies with undistributed income tax will lead to many complications, and, in my own opinion, in this particular aspect, may well prove unworkable.

This morning I had a very short time to juggle with some permutations and some ideas on this particular aspect, that is the taxation with undistributed profits tax of the resident shareholder in a company with non-residents, and I can assure the Minister that there are some very fascinating results to be achieved and I ask him to think carefully before he really puts this one into practice. Although I appreciate that this has been tried somewhere else, nevertheless I do consider that it may be a bad example to Kenya.

One particular difficulty will be clear to the hon. Members if they recollect my description of undistributed profit as being, and I quote: "ascertained by account and does not consist of an identifiable sum of money or other assets like bags of gold in a treasure chest". Undistributed profits belong to a company as a whole. It is a fund of the company and any taxing of it in a form that is not subsequently recoverable by its shareholders means that all shareholders, including overseas shareholders (that is, those whom it is his idea to seek to relieve) will in fact through the company suffer and which by its nature will become an expense of the company like any other expense in those particular circumstances.

I do suggest to the Minister that he think again on this, only on this particular aspect of this very specific question; and when he does I ask him to associate his rethinking with the rate of undistributed profits tax because if this is reasonable at about Sh. 4/50 in the £ I doubt whether this problem I have mentioned will particularly worry anyone. But whilst the rate remains on the paper at a proposed Sh. 9/50 in the £ it certainly will, in this particular aspect, be of considerable worry and concern to many residents of Kenya.

Concerning the calculation of undistributed profits, I thought yesterday when the Minister was speaking that he was advocating the same principles as in

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South Africa. I am very glad that I did ask for time to think about this and get on to the calculating machine, and, as I have said, I am very grateful to the Government for having conceded that point, because a study of his words showed that although he is now prepared to concede ordinary company tax as a deduction in the calculation—that is, at Sh. 5/50 in the £, or a gross 27½ per cent—he goes on with a subtle qualification. Here is the sting in the tail. I quote: "The net amount resulting would of course be grossed up at the standard rate to arrive at distributable income". The effect of this will be seen in a simple calculation. On £10,000 of profit there would be a primary allowance of £2,000, plus the amount of the company tax at Sh. 5/50 in the £, amounting to £2,750, making a total of £4,750 of deduction. That calculation, Sir, assumes that, of course, no development expenditure does occur for the purposes of this simple illustration. The result is a net figure after the deduction of this £4,750: a net figure remains of £5,250—in his own words—to be grossed up, and that grossing-up is at Sh. 5/50 in the £. This would be regarded as undistributed profit or alternatively, distributed as a dividend.

Crossing up the dividend at Sh. 5/50 in the £ would mean a gross dividend of £7,241 to enable the company, if it declared that dividend, to be free of undistributed income tax. The result therefore is that in this illustration the company would have paid out normal company tax of £2,700 plus a net cash dividend of £5,250—that is, a total of £8,000—leaving it with working capital of £2,000, as against the result of the calculation in the present proposals in the Sessional Paper of £1,450.

Hon. Members will remember that previously I gave the sum of £1,450 as the 20 per cent primary allowance to be allowed which had already suffered tax at Sh. 5/50 in the £, Sir, which in other words would be a net 14½ per cent. The suggestion now is that it should be a gross 20 per cent.

The Minister said of this idea—and I quote: "If this line of thought proved acceptable." Mr. Chairman, a system which only leaves a gross sum of 20 per cent of profits free for working capital is

certainly, very definitely, not acceptable, and not acceptable to a great many businesses. Here again, I ask the Minister to think again.

Concerning the question of control, I would like the Minister to confirm today that his idea is to abandon completely any suggestion of proposals aimed at the control of a company, and that his opinion should rely on whether the public are substantially interested to the extent of 25 per cent on a definition which will read much like this. "A company should be one in which the public is substantially interested and where shares in the company are so held that the public are entitled to both (a) not less than 25 per cent of the voting rights attaching to the shares in the company and (b) not less than 25 per cent of the whole profits of the company, on the assumption that the whole of the profits are distributed amongst the members."

That particular definition would be aimed at those, perhaps, who have caused us all this trouble and who have very cleverly overcome the present section 22 by creating two types of share—one type that has a voting interest and another type which can claim all the profit: this is a very cunning move but I do not think that anybody has got any particular sympathy for that type of gentlemen. This particular definition which I have quoted would, we hope, deal with them.

Finally, Mr. Chairman, I would like to say that I think it is unfortunate that both the Minister and the Secretary to the Treasury chose to cast doubt and criticism upon those who had objected, in some cases somewhat vehemently, to these proposals, and particularly to proposals regarding undistributed income tax. I think that the Secretary to the Treasury made it very clear that there was no reflexion on anybody on this side of the House, but there are still a very great many responsible people and responsible bodies outside this House who have objected, somewhat emphatically, to these proposals, and it would be a great pity if their reputations and their names were brought into doubt.

MR. MACKENZIE: Sir, could I just assure my hon. friend that there has been no intention of attacking, unduly, responsible criticism, for which the

[Mr. Mackenzie]

Government have been most grateful. As regards my remarks, we have a saying in Yorkshire that who the cap fits should wear it. That, Sir, is where I will leave it.

MR. ALEXANDER: I think it is a very peculiar Yorkshireman who comes from there with a name like Mackenzie!

MR. MACKENZIE: On a point of personal explanation, Sir, I am a detribalized Scot.

MR. ALEXANDER: I can claim the same. I am an African with the name Alexander!

However, I do think it has been unfortunate, Mr. Chairman, and most unfortunate that that criticism—and somewhat vehement criticism—should have extended to a Press which I believe in this particular instance has really tried to be of help to the public, to ventilate this particularly complex and intricate subject which of course is of vital concern to everybody in the country.

That, Mr. Chairman, I hope—and I am sure all hon. Members will hope—is the last that I have to say on taxation, Sir, before we proceed to the next piece of business, and again I do thank hon. Members for listening so carefully and I hope they believe that I have tried to do a job of work.

THE EARL OF PORTSMOUTH: Mr. Chairman, I would like to say that some people from both sides of the House are very grateful indeed to my hon. friend who has just sat down for the bulldog tenacity with which he has worried these matters out. We owe a great deal to him. If we get suitable modifications of these proposals then the whole country will have good cause to be grateful to him because he has been the only man on this side of the House with the knowledge and experience to deal with this subject. We are also grateful to the Minister for Finance for his undertaking to think again.

I do not have the intricate knowledge or machines at my disposal to go into the questions which my hon. friend has just dealt with, but I want in a very few words to put a possible alternative, or parallel proposal, to the Minister for his consideration.

I have mentioned this in this House once or twice before, but it seems to me

that there should be an alternative means of keeping within the just limits of taxation and at the same time of adding to the country's capital expansion or development. By that I mean that some proportion over and above the 20 per cent which has just been spoken of might, by option—and not by compulsion—be lent to a Kenya Development Corporation or Development Bank on condition that that money would be left there for ten years or some such period as that, that that money—and it might be 20 or 30 per cent of undistributed profits—with safeguards against abuse or withdrawal too soon could be used for development. The proportion of income so lent would be untaxed. By this means, for development purposes, the Government and people of Kenya would have the use of the whole of such money and not merely the proportion which was taken by Government in tax.

If this is an attractive proposition, not only in times like this when money from abroad is very hard to come by, it is an equally attractive one by which to build up reserves in times of easy money and greater prosperity. It would do much to build up confidence in Kenya's financial soundness. But now is a time when it was most necessary to develop during a recession period, Sir, I think that that is a question of great importance and that it ought to be considered.

Another advantage that I can see is that while we know we have a great many invisible exports in the form of services, port facilities and so forth, we also know that we have a considerable amount of invisible exports of another nature which are on the wrong side of the scales. There is a loss abroad, sometimes due to pressure of families living overseas, of the profits made in this country, sometimes these surpluses are exported to lower taxed countries where greater confidence prevails. This is not universal, but spare capital is sometimes, not always, taken out of this country, where it should remain. My proposals I believe would tend to lessen such losses.

I believe, Sir, that that would be a great encouragement to keep that capital which now goes out of this country in the country for its permanent benefit in development.

SIR CHARLES MARKHAM: It is perhaps a sad moment in this Council that the

[Sir Charles Markham] one subject which was so dear to an old Member of this Council, Mr. Tommie O'Shea, should be debated on the very day that he died. I think, Sir, this is the first opportunity I have had inside the Council of mentioning someone who served for very many years here and who was so critical of Government and Government expenditure. He died yesterday, Sir, and perhaps there is a chance now to raise some of the points which he would have raised at the Convention of Associations next Friday, had he remained to do so.

Sir, being an Irishman, he used to put his case very eloquently and far more eloquently than I am capable or will be capable of doing. He, Sir, had two things which he raised at Machakos at the last general meeting and which I will try—and I say "try", knowing how inadequately I will do it—to raise now. The first one, Sir, was the question of the Government policy of fixing what they want to spend as the goal and then raising money whereby they can spend that sum. There is some doubt—I need not have an argument again with the Minister for Finance as to what times we are in; it is interesting to note that His Excellency the Governor called it a slump the other day at the Nakuru Show. But we will accept the fact that it is something of that order at the moment. And I am wondering very much in view of the financial stringencies before the country today whether the Minister for Finance has gone far enough, even in his latest statement, regarding the revision of the undistributed profits tax.

I would like to ask him because so much does depend—I accept the fact—on what we will have when we see the draft Bill, whether even now we will not drive out capital, particularly the sort of investment which was raised the other day, in his long speech, by my hon. friend, the Member for Nairobi West. I am thinking particularly of those people who are fortunate, may be, in England who have family trusts and who wish to put money into Kenya as an investment. Some of those people—I accept this fact as well—have, by not paying dividends, built up large trusts to the benefit of Kenya. There are certain names we know well who have large interests in tea. The word "control", Sir, even if they are

companies, is ambiguous to the extent that they are not public companies in England, they are private companies, and will be liable either to pay the dividend or pay this high tax.

Now, I realize, Sir, that finance is a matter about which all amateurs profess to know a great deal, but I would like to suggest to the Minister for Finance that he might accept the suggestion of the hon. Corporate Member about the question of reinvesting money for development purposes. I believe his suggestion, Sir, has great merit and should be considered very seriously in the light of our difficult times.

The second point I wish to raise, Sir, on matters of taxation is the point under the Income Tax Management Act, the question of who is going to interpret the law. We have had trouble—I even got criticized in the *Kenya Weekly News* not so long ago by a prominent lawyer for criticizing the law. I did not mean that at all, Sir. What I meant was: who is going to interpret the law? I do hope that the Minister for Finance, when he goes through the new Management Act with his colleagues at the High Commission, will make it perfectly clear that it is not going to be up to the discretion of any individual Tom, Dick or Harry how it is going to be enforced. It has had some amazing rulings in the past from different gentlemen, regarding what a certain clause means, and I hope that we may get it perfectly clear now, when we see the draft Bill in August, as the Minister told us, and that there will be no doubt at all as to who is to be the arbiter on some of these particularly difficult clauses.

Now, Sir, the word "control" as regards companies was explained yesterday by the Minister for Finance, but I did ask—and I never got an answer—when I spoke on the Motion on leaving the Chair how many public companies were involved which necessitated the introduction of this new measure of the undistributed profits tax, affecting what I call, Sir, the bogus public companies. I would like to get that answer, Sir, and I will apologize now that I have to leave very shortly to go elsewhere. I would like to get that answer because I think it is important.

[Sir Charles Markham]

The Minister mentioned yesterday 25 per cent, plus the question of voting. Now there are, to my knowledge, one or two very prominent companies who have a large outside interest in preference shares. They would not qualify, I presume, under the measures the Minister mentioned because the control still remains with the family.

I would also like to ask, Sir, whether the company concerned has avoided paying any tax, because my information is that the very large majority have paid their fullest share of taxes for many years. I would like to have that information for the record, namely how many companies are involved, who have caused the others to suffer by this new measure.

Before I sit down, Sir, my final point concerns generally the one item on income tax regarding the amount of money allowed against development purposes, particularly for the farmer. There has always been some doubt in the minds of many farmers as to how you are expected to develop your farm by any means other than profits. There seems to be some peculiar impression in Government circles that a farmer can build up his farm by borrowing as much money as he likes. Well, Sir, if the Minister for Finance will make facilities available for farmers to get as much money as they want to develop, I am quite prepared to leave the subject, but as the only source at the moment is the Land Bank, which is limited, and the commercial banks, who seem reluctant, the only way the farmer does develop his farm is out of profits.

If, Sir, he can do that development and then is penalized by paying tax on that development, the result will be that he will be reluctant to do any development at all. I would have thought my hon. friend the Minister for Agriculture would have made strong representations to the Minister for Finance for the position to be altered, so as to encourage the farmer to plough back every penny he can. At the moment, Sir, there is going to be a premium, as I said earlier on, on erosion. There is going to be a premium as well on being a bad farmer and spending one's money on holidays at Malindi rather than spending it by putting it back into the land.

This may be considered a joke, Sir, but I can quote four specific examples. I will only quote one today—that of a person who four months ago bought a small coffee farm in very bad heart indeed. That particular person has planned for the next five years to put every penny he gets from his coffee crop off that farm back into the farm, both by trying to start a method of irrigation—he has the water, by drastic pruning and also by the total eradication of the couch grass. If, under these proposals, he is going to have to pay tax on that, he is going to turn round and say—well, I cannot say what he is going to say, Sir, it would not be parliamentary language. But he is certainly not going to spend that money on that farm.

I would perhaps urge the Minister, where there are genuine cases of people putting money back into a farm, that that should be allowed against income purposes and not be taxed. When the person has deliberately cheated, on the other hand; then, Sir, go at him as hard as you like. There is always the "honest Joe", as you might well call him; who is always the sufferer, while the "clever Dick" gets away with it. I hope if we are to have amendments to the Management Act, it will encourage the farmer to put back into his land what he should put back, rather than discourage.

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): Mr. Chairman, I have tried very hard, Sir, to cut short the debate by hoping that everyone would speak before I got to my feet.

I would like, Sir, to cover one or two of the points made by my hon. friend the Member for Ukamba, and regret that he has had to leave for reasons which I quite understand, but will do what I can to put on the record the answers to his problems. One of the first points he raised was, could I tell him how many companies had brought about this position where it was thought that steps against evasion and what I would call legitimate or semi-legitimate avoidance was necessary. Sir, I cannot tell him the number of companies; I can only tell him it was a problem of such proportion that the Coates Commission and everybody else who investigated this matter, indeed, I think, even including the Chamber of Commerce and the

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 Association of Accountants thought that this had reached a point where some alteration should be made. Therefore, Sir, we do know that it had reached a very large sum of tax, which should have been coming into the coffers, but was not—the result of which might have been in those very happier years financially, that the tax structure need not have been as high for the ordinary citizen as it is.

The next point he raised, Sir, was the question, I think, of agricultural development. Well, Sir, I understood that the Government had been accused of going too far along the path of assisting the agricultural community, and that we had gone really further than we should. I do not think the hon. Member for Ukamba was here yesterday when I tried to point out that the Department of Income Tax had indeed invited the Kenya National Farmers' Union to draw their attention to any omission on the list of items allowed for capital deduction and development expenditure, and that so far, the Kenya National Farmers' Union had not corresponded with the Department in drawing their attention to any omission, from which one imagines that the Kenya National Farmers' Union, at any rate as far as this aspect of it is concerned, is reasonably satisfied. However, Sir, again, to add to the record, such things as irrigation will be allowed over nine years with the 20 per cent in the first year. And lest he should be worried about it, pruning and eradication of couch grass is also allowed as the expense is incurred; so I think that covers the particular point of the hon. Member for Ukamba.

On the question of non-resident effect, Sir, I do not think the hon. Member could have been in listening to what I said about the non-resident position. He asked me if I thought the proposals as now put forward would indeed drive away investment. My own feeling is, Sir, that if—and I keep on repeating it—If the lines that I have put forward are accepted, then I do not think that will be driven away. There is a point made by my hon. friend, the Member for Nairobi West, and my advice is that the net amount is that which can be paid out to shareholders and which

would be grossed in their hands when included in their total income. Not non-residents, residents—and that the point made is one of which note has been already taken, and which will receive careful consideration in so far as—I am referring now to the taxation of resident shareholders—where there are not resident shareholders implicated in the same company. I think that covers that point, Sir.

There is another point which must, I think, be made; that is concerning the information available to the Government on the number of companies which would come under the new definition, and yesterday my hon. friend, the Secretary to the Treasury, said that it was possible to look at all types of companies and find out which would be caught and which would not be caught, at any rate in a general way, and assess how the matter would come out. To put this question beyond doubt, I would now like to make it clear that there has been no question of examining the structure of every company which is at present designated as a public company to see whether they would be caught. It has, however, been possible to pick out a number of companies which would definitely be affected and examine them. A sample selection of marginal cases has also been examined. From this, a fair appreciation of the position can be obtained. It will, of course, be necessary to re-examine the matter completely if the new definition is adopted.

Mr. ALEXANDER: Thank you, Mr. Chairman. I am sorry—I did try to catch the Minister's eye at that point where he was explaining in connexion with non-residents. I think for the record it will read very confusingly if he goes from dealing with the Member for Ukamba on non-residents to answer me about how the calculation arising in connexion with his words "... the net amount resulting would of course be grossed up at the standard rate to arrive at distributable income". I think, Mr. Chairman, if he could read what that explanation is, so it is related directly to this, we will be quite clear.

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): Yes, Sir, perhaps I am jumping about too quickly but I was trying to make the speech in one composite whole. In so far as the

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 hon. Member for Nairobi West's point concerned the taxation of resident shareholders where there are non-resident shareholders: the point which the hon. Member made in this regard is one which has already been taken up. I can assure him it will receive careful consideration in the discussions which are to take place. That, I think, covers that one. Well, Sir, I tried, I think, to isolate that particular point now, and I think when the hon. Member reads the speech, he will see it is now clear. If he wants me to repeat the other point which was dealing with the result of the computations—

Mr. ALEXANDER: That is the one!

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): —then the answer is, Sir, the net amount is that which can be paid out to shareholders and which would be grossed in their hands when included in their total income. Right?

Mr. ALEXANDER: Yes.

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): Now, Sir, the hon. Member for Ukamba did refer to taxation and the question of slumps and financial stringency, and questioned "Was the expenditure being cut as severely as it could?", but as, Sir, we have had six days of main debate and 15 days of Committee of Supply, I do not propose to do other than refer to the arguments and replies that have already been given from both sides of the House. He did raise the point, however, of the interpretation of the law. That, of course, Sir, is something which will appear in the new Income Tax Management Act, but if I can express a personal opinion at this point, it is wiser in the circumstances of small territories like this, I think, to leave most of the discretion in the hands of the impartial official who has to administer the law and bring forth the income.

I would like also, Sir, before leaving the speech of the hon. Member for Ukamba, to pay tribute to the late Thomas O'Shea. Those of us who knew him, knew him as a good fighter, a clean opponent, and someone whose company was always enjoyable and whose ideas were always worth listening to.

Now, Sir, to deal with my hon. friend, the Corporate Member for Agriculture, the noble Earl. He has raised his point before, and I can assure him that we have noted it; but, of course, it is like all these problems at the present moment: it is complicated by the amount of return which we should actually be paying for a loan of this kind. As I am informed, on very reliable information, that the bank rate in the United Kingdom has just gone down to 5 per cent, one can see that the price of money is, we hope, gradually reducing. This is the difficulty with all these tax-free loans, whether they are done this way or whether they are done the direct way: the price which in the final issue the country is paying for the money it is borrowing. But the idea is one which has been noted and will be looked at.

Now, Sir, I am moving to the completion of this to deal with my hon. friend, the Member for Nairobi West. I would like to thank him very much indeed, Sir, for his words; he knows well enough, as he has emphasized, that all I have done so far has been to put forward ideas in the hope that they will be found possible of adoption when the discussions take place. I did, in that speech yesterday, use the words, as he said: "... will be prepared to consider extending that date to a date not earlier than the 31st December, 1958". I would say that having regard to the circumstances and the timing of the legislation that there should be an ample period given, and the implication that I tried to give in those words "not earlier" was that at least it should not come before that, implying that it should indeed come after.

We do know, Sir, as I have already mentioned, that there will be this complication on the non-resident and resident shareholders and it is something that we will look at. On the point, Sir, of his "look at each case on its merits": I agree with the hon. Member that this is a difficult point, a very difficult point indeed to settle. We have, indeed, got the arguments of the Coates Commission who were complete in their rejection of this particular point. We have, indeed, gone into it several times with the departments concerned to see whether the Coates Commission's decision was correct. But it is, as I am

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my hon. friend will agree, a problem which has to be taken in its East African context and not in the Kenya context alone. Therefore, I cannot give him the assurance that a small committee will be set up to look at the procedure; I can only say that I will carry the point forward and make representations on this point with my own opinion that there should be some rediscussion of this point in order to ease the mind of public opinion.

MR. ALEXANDER: Excellent.

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): I do think it is going to probably prove at the end of the discussions between the two groups that in a—and I use it as no derogatory term—in a small parish like this, the situation of the special committee to consider each case on its merits may well prove to be difficult and not a workable one. That is as far as I can go; I hope it satisfied the hon. Member. I will put it forward, and I will put it forward supporting it as an idea which should be carried out.

I think, Sir, now that I have covered all the points except that I think he did refer to my hon. friend the Secretary to the Treasury—and myself—when he thought we had been rather hard on the people who had criticized these particular proposals. Well, Sir, I did use the words myself "a one-sided Press campaign". I do think in fact—and I think quite understandably, perhaps—that the weight of publicity has been on the one side. They had a case just the same as the hon. Member had a case. It was a case that merited consideration, and I think the hon. Member will agree, having heard the arguments, that it has received consideration. The words that I used particularly were that exaggeration in that criticism might be more harmful than indeed the proposals themselves. That, I think, is right, Sir, because confidence in a country like this is such a very tender thing. But at no time in the remarks we have made have my hon. friend, the Secretary to the Treasury and myself cast any doubts upon the sincerity and the integrity of those who were putting forward the case. We have tried, I think, justifiably, perhaps, from our point of

view, to cast doubts upon the wisdom of the vehemence and emphasis they have used; but we realize and we always endeavour, I think, to give credit to the fact that the criticism is usually coming from people who believe sincerely in their point of view and who are afraid of the damage that might ensue if what they consider a wrong policy is adopted.

I hope my hon. friend will now agree that we have not in any way cast any doubts, as I have said, upon the integrity or the sincerity of the people who were putting forward this particular opposition to these particular proposals.

Sir, unless any other hon. Member has any other point that he wishes me to answer, I will say no more upon a subject which may have been a long subject, may have been a wearisome subject, but, I think, has been a very fine example of the way in which the House should work slowly and steadily towards a solution of problems, however complicated and difficult.

The question was put and carried.

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): Mr. Chairman, I beg to move that the Committee do report to Council its consideration and approval of the Motion on the Order Paper without amendment.

The question was put and carried.

Council resumed.

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

### REPORT

MR. CONROY: Mr. Speaker, I have to report that the Committee of Ways and Means have considered the question on the Order Paper and approved the same without amendment.

The question was put and carried.

### BILLS

#### SECOND READINGS

*The Excise Tariff (Amendment) Bill*  
Order for Second Reading read.

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): Mr. Speaker, Sir, I beg to move that the Excise Tariff (Amendment) Bill be now read a Second Time.

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Sir, this has been discussed in Committee of Ways and Means and the resolution dealing with it has been approved by the Committee. As I said in the Committee, Sir, it exempts from excise duty brown sugar produced by the open pan method by peasant farmers, and it imposes an additional duty on sugar by this method of one cent per pound, although the duty on sugar is reduced by another measure which already appears on the Order Paper.

Sir, I beg to move.

THE CHIEF SECRETARY (Mr. Couits) seconded.

Question proposed.

The question was put and carried.

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

*The Sugar Consumption Tax (Repeal) Bill*

Order for Second Reading read.

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): Mr. Speaker, Sir, I beg to move that the Sugar Consumption Tax (Repeal) Bill be now read a Second Time.

In the excise duties Motion on sugar Bill which we have just passed, there was an increase, and an increase is proposed in the customs Bill with which we shall presumably shortly be dealing. In order to reduce the tax on sugar to the previous level it is now necessary to repeal the sugar consumption tax. This resolution, Sir, was discussed in Ways and Means and was approved.

Sir, I beg to move.

THE CHIEF SECRETARY (Mr. Couits) seconded.

Question proposed.

The question was put and carried.

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

*The Customs Tariff Bill*

Order for Second Reading read.

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): Mr. Speaker, I beg to move that the Customs Tariff Bill be now read a Second Time.

Sir, in the Committee of Ways and Means I made a speech on the principles and details of this Bill at some considerable length. I also replied at some considerable length to the questions raised in that debate. My hon. friend, the Secretary to the Treasury, also covered a great number of these points in detail.

The matter, Sir, has therefore been discussed in Committee of Ways and Means; it was discussed at great length in the main policy debate, and I will not repeat the arguments already put forward in this matter.

I would merely inform the Council, Sir, that in the Committee stage I shall be moving an amendment which will impose a duty of 11 per cent upon paper bags, including multiple and waterproof bags, so that the protection required by the paper bag manufacturing industry in the country can be assured.

Sir, I beg to move.

THE CHIEF SECRETARY (Mr. Couits) seconded.

Question proposed.

The question was put and carried.

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

THE SPEAKER (Sir Ferdinand Cavendish-Bentinck): I understand that there is a supplementary agenda and that it would be to the convenience of the House if we were to have a suspension of business for fifteen minutes.

I therefore suggest we suspend business until twenty-five minutes past Four.

*The House suspended business at ten minutes past Four o'clock and resumed at thirty minutes past Four o'clock.*

### BILLS

#### SECOND READINGS

*The Civil Service Commission (Amendment) Bill*

THE SPEAKER (Sir Ferdinand Cavendish-Bentinck): This Bill was adjourned at a time when there was an amendment before the House under Standing Order 86 which had been proposed by Sir Charles Markham.

MR. SLADE: Mr. Speaker, shortly after this amendment had been moved,

[Mr. Slade] the Chief Secretary proposed that the debate be adjourned in order to give us an opportunity of consideration and discussion, for which we on this side of the Council are very grateful. That opportunity has borne fruit. I hope that we are now in a position today to come to an agreed conclusion.

Sir, we all appreciate on this side of the Council the desire expressed in the Memorandum of Objects and Reasons to remove the activities of the Commission altogether from considerations of race. On the other hand, we still adhere to two principles. One is that where the Governor has to take advice with regard to appointments, as he must on almost every occasion when an appointment is made, it is preferable that the law should have laid down at least some of the people he is required to consult. The other is that in this particular Commission we do want to see some members who can claim the confidence of the Civil Service—the Civil Service with which this Commission is exclusively concerned.

**THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell):** Mr. Speaker, on a point of order, is the hon. Member for Akamba in order in reading the *East African Standard* in the House?

**MR. MUMBI:** I would like to explain that I was referring to something to do with this debate.

**THE SPEAKER (Sir Ferdinand Cavendish-Bentinck):** The hon. Member is, of course, quite out of order.

**MR. SLADE:** I believe, Mr. Speaker, that all these considerations could be met, both the desire of the Government to remove the Commission from racial influences and our desire to adhere to the principles which I have just described, if the Government would accept a small amendment of clause 3 of the Bill as it now stands; whereby the Governor in appointing the three members mentioned in clause 3 (b) of the Bill is required first to consult the chairman of the staff side of the Whitley Council. That, Sir, would quite clearly remove the appointments from any racial influence, because the staff side of the Whitley Council is itself a non-racial aggregate of all the three racial civil servants' associations, and one

of its large functions is to deal with problems of the Civil Service in a non-racial attitude. At the same time, Sir, it would mean that we would be sure that the Governor, in making these appointments, would have first enquired whether the proposed members of the Commission were acceptable to the Civil Service as a whole.

If that could be accepted, then the other point which I expressed the other day—that the Governor should still make his decision in Council of Ministers, because of our desire that he should be advised by someone to whom reference is made in the Ordinance—would now be covered by the requirement of consulting the chairman and the staff side of the Whitley Council. There is no need to require consultation twice over.

I hope that, if the Chief Secretary can tell us that this suggestion is acceptable, then my friend the hon. Member for Ukamba will be able to withdraw his present amendment.

There is just one other point I would like to make before I sit down, and that is with reference to this expression "consultation". We are proposing that the Governor should be required to consult the chairman of and the staff side of the Whitley Council before making appointments. There seems to be from time to time a misunderstanding of the meaning of the word "consultation", though its actual meaning is of course quite clear.

In making this suggestion we mean by "consultation" exactly that and no more. We mean that the Governor should ask the chairman whether the people he has in mind are likely to be acceptable to the Civil Service, but we do not mean that he is bound in all circumstances to accept the advice that he then receives. Consultation never does mean that. It would require another word to be used if the Governor could only make the appointment with the consent of the chairman. Indeed, Sir, if the Governor consults the chairman and is told that one or more of the people he has in mind do not carry the confidence of the Civil Service then it might be very unwise to ignore that advice. But he is absolutely entitled to do so and that must be clearly understood in the suggestion as it is now made, Sir.

**MR. MBOYA:** I too would like to reiterate, or support, the views expressed by the Specially Elected Member who has just sat down. When the Bill came before the House I expressed very strong feelings about the necessity for the retention of a certain degree of consultation, however remote and however indirect. I am glad that I had the opportunity to take part in the discussions that followed during the adjourned debate, and that I am prepared to accept if the Government will accept it, an amendment that would include consultation at least with the chairman of the staff side of the Whitley Council.

There is just one additional point I would like to make, and that is that although it is not written in the law, it would be I think clearly understood that when appointment is made of the three members of the Civil Service Commission, that consideration will be taken of the fact that the moment there are three racial staff associations, and whether we like it or not we have to acknowledge that fact, and we have to acknowledge the fact too that we are still facing some of the problems that arise from the existence until 1954, of a structure in the Civil Service on a racial basis. We are, despite recommendations of the Lidbury Report, still now passing through the stages of bringing our Civil Service structure to a unified service, and that for some time there will exist problems that necessitate consideration in these terms. Consequently, and especially in relation to the fact that all of us desire to see a Civil Service Commission in which all the civil servants have confidence, that means confidence by the groups as organized at the present time, that there will be consideration during the appointments of the racial composition of the staff side of the Whitley Council. As I say, I am not pressing that this should be written in the law—I am only saying that it should be borne in mind so long as the present situation exists, because the immediate tendency is to think and theorize too much on our desired goal, which is a non-racial Civil Service.

**MR. SPEAKER,** with these remarks I beg to ask the Member for Ukamba if he will withdraw.

**MR. HASSAN:** Sir, I rise today to support the previous Members regarding

the suggestions that the amendment in the Civil Service Commission Bill which will meet the demand, or at least the desire of the Civil Service Association. I think I would mention here today that opposite Benches have always been looking upon this side with suspicion—

**HON. MEMBERS:** No!

**MR. HASSAN:**—that we unnecessarily attack the civil servants and the Civil Service and their Association, but today it is proved that we are here championing the cause of the civil servants. That will prove that we are very sincere and always look upon the civil servants as the backbone of this country.

**SIR CHARLES MARKHAM:** You used to be a civil servant!

**MR. HASSAN:** There is no doubt, Sir, that when the Civil Service Commission was appointed it was never appointed for the satisfaction of the Government: it was appointed for the satisfaction of the Government and the civil servants, and the suggestion that was originally put forward in this was that the Government wanted to satisfy by bringing about a revolutionary change in which the three members appointed on the Commission should have nothing to do with the Civil Service Associations. Now that would have created a position which would have proved that the Government only wanted something to satisfy themselves, and they did not care two hoots whether it satisfied the civil servants' associations or not. We did put up representations in a talk with the chief Minister, and I am very glad to say that every co-operation was offered to us to agree to certain amendments, which has been satisfactory both to the Government and to the Civil Service Associations.

I have very great pleasure in asking the Member for Ukamba to withdraw that amendment of his, which asked for a delay of six months.

**THE CHIEF SECRETARY (Mr. Courts):** Subject to a reply to the debate as a whole, I would like to say at this point that if the hon. Member for Ukamba will withdraw his amendment, then this side is prepared to accept the amendment put up by the hon. Specially Elected Member, Mr. Slade.



SIR CHARLES MARKHAM: In view of the assurance given by the Chief Secretary, I would beg leave to withdraw my amendment.

Amendment by leave withdrawn.

MR. CONROY: Mr. Speaker, Sir, my intervention in this debate is something in the nature of a personal luxury because normally I get up to raise the most deadly dull points of law, or pompously to draw attention of Council to some Ordinance, but on this occasion I am going to speak on something which I feel personally, and which has nothing to do with law at all.

I have for many years been personally interested, as a civil servant, in what I think is improperly called "civil servants' politics"; that is to say, the machinery set up to express the views of the civil servant to his employer and allow the employer to find out what the civil servant's views are. In another colony I was for some years president of the Civil Service Association and for many years on the Whitley Council and on the Civil Service Commission, and therefore, Sir, I am speaking from the heart today and not from the book.

If we look at the existing section 3 of the Ordinance we find that it seeks to perpetuate a situation which is in my view wholly wrong: it seeks to perpetuate three vertical, racial civil servants' associations. Sir, I think it is wrong, unfortunate, because the Civil Servants' Association, I am informed, only has a membership representative of about seven per cent of the permanent and pensionable Civil Service as a whole. I think it is lamentable: I think the membership should be very much higher. But what is even more lamentable is that (I speak as a head of a department which has a substantial number of professional officers in it, I have European professional officers, Asian professional officers and African professional officers): it is quite wrong that each of them should belong to a different association, quite wrong. All I am concerned with, as head of the department, is are they good officers? By that I mean, are they good lawyers, and are they good chaps, and by good chaps I mean do they co-operate with the members of the public, do they co-operate well with other officers. If they fulfil those tests then

they are good officers and merit promotion.

Now, Sir, it is my view, and I express this as my personal view, that we should move to a number of horizontal societies, and I am trying personally to start a professional officers' association, primarily designed to look after lawyers. We are told most wonderful things about trade unions, but when you get down to it basically you find the only real purpose of a trade union is that it looks after its members. It is no good me belonging to the European Civil Servants' Association—it is too wide, too deep and deals with too many people. I want an association which looks after lawyers. Having looked after lawyers, I expect to pull the ladder up.

If we continued with the present set-up established by section 3 of the Ordinance, which we are seeking to amend in this Bill, it would be almost impossible to achieve the very desirable object of horizontal associations. We would not be able to have a professional officers' association, clerical officers' association, administrative officers' association, as you have in England, and it works very well there—three or four associations to deal with all the people in that way. I think that is what we want here, and if we preserved the present constitution set up by section 3, then I think we would be doing a very wrong thing, and for that reason, Sir, I support this Bill.

MR. MUCHIRA: It is true that it is desirable, and as the Member for Nairobi has said, it is desirable to have horizontal positions. But where we are today we are not at that stage where we have the corresponding associations. I remember taking part in discussions in trying to create an association of such a kind in the East Africa High Commission, and there were representatives of all three main associations at those discussions. It was probably easy to suggest: it can be done, but it is another thing doing it because the service has lived for as long as the Civil Service has been in Kenya in three or four strict compartments, and if Government can give an assurance that they will tomorrow break down the barriers and amalgamate (in practice) these into one, then that may be considered. I know it from the African Civil Servants' Association's

(Mr. Muchura) point of view: up to very recently they have been struggling to get their doctors put at a salary point near the European and Asian counterparts. It was not the European professionals or the doctors who suggested that these colleagues were not working at a salary in keeping with their position. Not only that, Sir: it is also true to say that in the present policy of industrial unions the Civil Service in forming industrial unions will still continue to have a lot of Africans in the Civil Service who will have to belong to an association of some kind within the Civil Service by themselves. You will find the problems of Africans will not necessarily be up-country ones, but the problems of up-country will still be looked after by the association that primarily may call itself the subordinate service working for the Africans, but if that happens they will have been decapitated. The people who know about it and what to do and say will not be there to lead the masses and therefore, desirable as it may be, the time is not here when we can say we will do away with these things. I know some examples I could cite which are still the subject of differences within the Service itself, let alone between the Government and the employees, and therefore—I think it will be right, at this moment, to allow what I may call a racial organization. The Whitley Council (non-racial) should be consulted and not to go down to the level of consulting the individual associations but the staff side of the Council.

For the very reasons that I have given, there is a lot to be gone through before we come to a point of having one association for everybody.

I beg to support.

THE CHIEF SECRETARY (Mr. Coutts): In rising to reply to the general debate on this Ordinance, I would like to thank hon. Members for what they have said and for a good deal of constructive criticism which they have put forward, not only inside the House but outside it. But there are one or two points I would like just to go over again to make quite certain—more for the record than for anything else—that people understand the underlying intention of this Bill.

If I could start first of all with consultation by the Governor with the

Council of Ministers: it is obvious, Sir, by the way in which this Colony is progressing, that at a point in the not too distant future the Council of Ministers will be predominantly political and the Government side felt it was wrong that the Governor, in a matter which concerns so intimately the Civil Service, should be bound to consult with his political ministers. Therefore, I am glad that when speaking to this point the hon. Specially Elected Member, Mr. Slade, was prepared to concede it.

As regards the other main point I think it has been dealt with very adequately indeed by the Solicitor-General when he talked about race persisting in staff associations. I would like to say that I wholly agree with what he has said and I have said so publicly in addressing, quite recently, the Asian Civil Servants' Association. I feel that the time must come in the very near future when we must depart from our present system of having three entirely compact associations dealing purely with racial matters within the civil service; and in that respect, although I understand very well the arguments he put forward, I do not agree with the hon. Specially Elected Member, Mr. Muchura, in this regard.

I would like to apologize to Mr. Muchura at this stage for trying to suggest that he had already taken part in this debate. I do not agree with him, for this reason—that I think it would be very possible indeed, by using clerical associations, professional associations, etc., which have been suggested, to get people more interested in their own particular line of work and to fight for their own particular rights in that particular line. I would prefer to see that, rather than the present slightly amorphous associations which exist and to which as my hon. friend the Solicitor-General has pointed out, very few members of the whole service belong.

There is a further point which was raised in the original debate to which I would like to reply and that was the suggestion that there would be some difficulty in the members of associations having approach to Government. I would like to point out of course that they always have got the right of approach all the time through the Director of Establishments, through myself, to the Governor.

**[The Chief Secretary]**

Finally, Sir, in saying that, I will agree to the amendment which has been proposed by the hon. Specially Elected Member to section 3 (b) of the Ordinance as it stands, I would like to underline a point which he himself made and that is that when the Governor is required to consult it is in fact consultation, because I have noticed—and he has made his point himself and therefore it is not necessary for me to labour it—that recently one side or the other is inclined to think that consultation means agreeing with what they feel and not what anyone else feels. Therefore, Sir, on that note, saying that the Government is prepared to accept this amendment—providing consultation means consultation—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 tomorrow.

**The Income Tax (Rates and Allowances) Bill**

Order for Second Reading read.

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): Sir, I beg to move that the Income Tax (Rates and Allowances) Bill be now read a Second Time.

Sir, we have spent many many days in Committee of Ways and Means in discussing the basic factors of this Bill. The arguments have been passed backwards and forwards across the Floor of the Committee of this Council and they are engraved on the record for all to read, I do not at this stage, therefore, propose to repeat all the arguments and all the replies that have been given from this side of the Council, and I shall not detain the Council very long.

I would only wish to say, Sir, that the Government will be moving an amendment in Committee in connexion with Head C of the Second Schedule, which is to right an anomaly that had arisen in the original document. This amendment will be that where the chargeable income exceeds £800 the tax on the chargeable income in excess of £800 will be charged at the rate set out in Head A of this Schedule and will be applicable to chargeable income in excess of £800.

In the original definition it was not appreciated that the rate on the marginal £1 over the £800 set out in C.1 would be excessive. For example on £800 non-resident chargeable income the tax would be Sh. 1,600 and on £801 it would be Sh. 2,004. It was obvious that this was not the correct interpretation of what was intended and therefore the Government proposes to move an amendment to rectify this position.

Sir, I beg to move.

MR. CONROY seconded.

**Question proposed.**

SIR CHARLES MARKHAM: Mr. Speaker, I would like to support this Bill, but I have some points of detail to raise which I will reserve for the Committee stage.

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): I would only say to the hon. Member for Ukamba, Mr. Speaker, that if they are complicated details on which he wishes complicated answers I do hope he will be good enough to let me have some information in advance. It is very difficult sometimes to answer these technical queries straight "off the cuff".

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 tomorrow.

**ADJOURNMENT**

THE SPEAKER (Sir Ferdinand Cavendish-Bentick): That terminates the business for today and I therefore adjourn the House until 9.30 a.m. tomorrow, Friday, 20th June.

*The House rose at ten minutes past Five o'clock.*

**Friday, 20th June, 1958**

Council met at thirty minutes past Nine o'clock.

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

**PRAYERS****COMMITTEE OF THE WHOLE COUNCIL**

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

**IN THE COMMITTEE**

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

**The Excise Tariff (Amendment) Bill**

Clauses 2 and 3 agreed to.

Title agreed to.

Clause 1 agreed to.

**The Sugar Consumption Tax (Repeal) Bill**

Clause 2 agreed to.

Title agreed to.

Clause 1 agreed to.

**The Customs Tariff Bill**

Clauses 2, 3, 4, 5, 6, 7, 8 and 9 agreed to.

**Schedule**

SIR CHARLES MARKHAM: Mr. Chairman, I have got two items in the Schedule which I would like to raise under this particular Bill. The first concerns item No. 30, which is found on page 9, and the second concerns items 31, 32, etc., to be found on page 10.

I am raising the question first of all of item 30 regarding wines, realizing fully that it would be quite impossible for the Minister to make a decision today; but I would like him to consider this in this coming year so that perhaps he might be able to make amendments next year.

My objection at the moment is the fact that we have on these wines a duty fixed at so many shillings with, in brackets, or 66½ per cent *ad valorem*, whichever is the greater. That is what I object to, Sir, the words *ad valorem*, and that is what is causing great hardship to many merchants in the wine business.

In England, duty is fixed at so much a gallon regardless—I am talking about still wines for the moment, Sir—of the quality of the wine. But in Kenya we have this unpleasant habit of charging duty on the value of the straw, the bottle, the packing case, the freight, the wharfage and everything, which virtually prohibits any of the good wines being brought in at an economic price.

Now, Sir, I do not know how many Members of the Government Front Bench are interested in wines as opposed to the more—

CAPT. HAMLEY: W-H-I-N-E-S?

SIR CHARLES MARKHAM: I said the Government Front Bench. The naval captain over the other side likes his rum neat—we are not talking about him!

What I would like to suggest, Sir, is that, in view of the ever-increasing charges now being made by France for wines, the Minister should really reconsider whether he could not fix a duty at so much per gallon and leave it at that. The idea of charging this *ad valorem* duty is making the cost of certain of the better class wines virtually double what it is in England. I would have thought that that is unfair, to say the least.

My second point, Sir, concerns—he is here, I am very glad to see—tobacco, and I hope the hon. Nominated tobacco king will support me on this. Sir, item No. 35 is Tobacco, unmanufactured, at the duty of Sh. 14/50 a pound, while, just above, item 32—Cigarettes—is Sh. 33 a pound. Now, when I was in Rhodesia last year, I was talking to quite a few people, including some of ministerial rank, and I was asking them to take more of Kenya's produce in the way of bacon and butter, etc. But they turned round to me and they said, "Why don't you take more of Rhodesia's tobacco?" I understand that last year Kenya did lose quite a nice contract for butter, which went to the Australian Government, because they, in turn, took quantities of tobacco.

I hope, somehow, Sir, we can reduce this duty on No. 32 to encourage the Rhodesian tobacco manufacturers to sell their wares in Kenya. I think I am about the only person, Sir, who actually smokes

[Sir Charles Markham]

Rhodesian cigarettes in Kenya at the moment, but I import those through the gracious consent of the hon. and Nominated tobacco king. At the same time, there are masses of English cigarettes being sold here, and I should have thought that we could have increased that trade with our neighbour the Federation. This present duty, Sir, makes the position quite impossible.

Under item 35, however, Sir, you have unmanufactured tobacco, and looking through the Statistics Department's list of imports, I find quite considerable quantities of American tobacco being imported into Kenya, presumably paid for with dollars, whilst very small quantities of Rhodesian tobacco are imported. I would have thought that this is worthy of the Minister having a look at some of these items to see whether there is not an anomaly which can be rectified.

MR. ARAP MOI: Mr. Chairman, I have points on two items here which I hope the Minister will take into consideration next year, because during the Budget debate we expressed some concern over certain items which affect the African people, particularly item 39, articles such as clothing and blankets. Most of my constituents go about in blankets and they enjoy wearing them. I feel they will be very much hit if these items, under 39 and 40—that is, piece goods (including scarves, *shukas*, *chadders*, *saris*, *khangas* and bed-spreads like the like). I feel the Minister should take into consideration the fact that these people have not got much money to spend on these items. I feel that 30 per cent or Sh. 1/50 would create hardship among the majority of the African people.

MR. KIYAMISI: Mr. Chairman, Sir, I would like to make perhaps an eleventh-hour plea to the Minister, in particular with regard to *shukas* and *khangas*.

Now, Sir, *khangas* down at the coast are perhaps the only important clothing that the African women wear and I know how difficult—and I am quite sure the Minister knows how difficult—the financial situation is for the poor people. I would ask the Minister to relieve these items so that at least for this year, when things are getting on better, the women can be able to enjoy their dresses without any extra charges; and that the

*shukas*, which are very widely worn by all the African Muslims at the coast, could also be brought into the country and used by these people without any extra expenditure.

I think these are the two items which worry me very, very much indeed, and I should be glad if the Minister could consider withdrawing these two items from the Schedule.

MR. MOHINDRA: Mr. Chairman, Sir, I refer to the point I raised before in Ways and Means. I wonder if the Minister would give his consideration next year to putting in another item under 39—Blankets—it could be (a) or (c)—Baby blankets, with a lower specific duty.

Under the same item, Sir, I would refer to items (c) and (e), and I would request the Minister to consider putting in extra new items referring to children's clothing at a lower specific duty rate.

Under item 40, Sir, under (a)—made of silk or material containing silk, and under (d)—made of artificial silk or synthetic fibres and admixtures—I wonder if it would be possible next year to put in the percentage of these other fibres that would incur the higher duty rate.

MR. HASSAN: Mr. Chairman, Sir, I wanted to say a word on item 8—rice in the grain, but we are now on items 39 and 40. Would I be in order to raise the point I wanted to.

THE CHAIRMAN (Mr. Conroy): I did not call the parts of the Schedule because we deal with each Schedule as a Head. We are dealing now with the First Schedule and you are entitled to raise any matter in the First Schedule.

MR. HASSAN: I wanted to talk on that. During the debate I mentioned the excessive duty on rice. This type of rice which we are importing from India and Pakistan is a rice which is not produced in this country. It is of a special quality, and because Europeans have no idea of the quality of the rice they do not understand. Until people produce this in Kenya and give the seeds to the Africans we are not likely to get this quality here. A duty of this nature, which is almost prohibitive, is very, very undesirable.

I have suggested on more than one occasion that it would pay the country to get the seed of the better quality rice, which we like, in this country and distribute it among the Africans so that within

[Mr. Hassan]

one season we can improve the quality of the rice, which is so urgent and so necessary. But no action was taken. Wherever rice is produced in the reserves today, I find the quality is very, very inferior indeed.

Good quality rice can grow in this country. I myself produced it on the Tana River and we had a certain amount of it produced for a season or two; then unfortunately it disappeared because nobody followed it up.

To penalize people over their main item of diet, which is essential for the Asians, and to put this duty on to it—an excessive duty—is very, very undesirable and is causing unnecessary hardship and expense to the Asian consumers. I should like, Sir, that if at all duty is necessary—which is really meant to encourage the produce of the country—that the duty should not be more than Sh. 4 or Sh. 5 per bag, instead of Sh. 18.

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): On a point of information, Mr. Chairman, the hon. Member is entirely wrong. He has been told three times in this debate that the duty is only Sh. 10.

MR. HASSAN: Well, I am sorry, Sir, I may be wrong in looking through this table which is given here, but it is certainly not less than Sh. 9 per 100 pounds; so it is Sh. 18 a bag. I am not wrong, Sir, a bag is 200 pounds.

The other thing which I pointed out in my previous speech is the question of ghee. Now, we have protected ghee by producing all ranges of ghee—the best ghee, the medium ghee and the third-grade ghee—and duty has been put on to 30 cents a pound for ghee to be imported from overseas.

SIR CHARLES MARKHAM: Why import it?

MR. HASSAN: If anyone likes to have an import of good things coming from the country where they started producing centuries ago, which is a good stuff, and if people pay a heavy price for it, if it is not going to flood this country or interfere in the local produce by any means, there appears to be no necessity to put any duty on it, because we are producing enough for the requirements

of the country—and if some people do get a little with a view to having something coming from their own country, it should not be carrying such prohibitive duties on it.

The question of piece goods, Sir—cardigans and so on—on which I spoke in the first instance—I do not in the least intend to suggest that these customs duties should not contribute something from all people, rich and poor; but what I felt was that I saw certain articles imported from the United Kingdom—

—and merchants told me that this was the first attempt made in the United Kingdom to produce such very low priced stuff to compete with countries who were getting away and almost controlling this type of trade. It looks as if the United Kingdom producers who did produce these articles will have to wait, and probably will never have another merchant importing them, because with the present duty they will be Sh. 2/50 instead of Sh. 1/05 or Sh. 1/10 as before.

So this prohibitive duty on low-priced goods—Sh. 1 and under—will not only be causing a loss to the producer in countries other than the United Kingdom, but it will also be causing a loss to the producers in the United Kingdom.

What amount of tax we expect to get out of it is problematical, but I personally feel that with this tax now being imposed, I am positive nobody is going to import these things any longer, and actual loss will be suffered by the low income groups in this country. Because it happens to be very cheap, I find the low income groups, particularly Africans, have been using it in very large quantities, particularly for their children, and if the price is being raised 150 per cent by this duty I am afraid the use of it may be suspended altogether.

With these few points, Sir, I support.

MR. NURMOHAMED: Mr. Chairman, Sir, I should like to speak on the question of rice. My views, Sir, are different from those held by my hon. friend, the Member for East Electoral Area. Only last week, Sir, I was in Kisumu. I went to see a rice mill and I was very pleased to see that the quality this year is much improved and much better than it was two years back.

(Mr. Nurmohamed)

Sir, I was told that this year the rice would be 35,000 bags—the estimate for 1958—but next year the crop will increase and it will be about 60,000 bags. The first class quality of the rice, which I saw, had only five per cent breakage, and I myself brought a few pounds here to see how the rice tastes after the last two years when I ceased to eat Kisumu rice.

Sir, I was pleased with its quality. However, in the past it was sold at a much higher price owing to the ten per cent duty, but I now think it will settle down to a proper level.

I believe that the people of this country will always purchase the local rice and even the rice which is produced in Tanganyika, and if the Minister for Agriculture becomes interested in the growing of a better quality rice then I do not think there will be any need to import any more rice, except for a certain quality of rice, which is difficult to cook, and onions, which my hon. friend likes so much.

MR. ROGERS: As one of the tobacco merchants in this country, Sir, perhaps I might make some comments on the remarks of the hon. Member for Ukamba.

The tax structure of the tobacco industry in any country in the world is of necessity an extremely complicated matter. The hon. Member suggested that the import duty on cigarettes be reduced but since the taxation structure hangs together as a whole on the industry it is impossible really to change one without changing the other. That is of course particularly so when you have a local industry, which is the case in this country, which caters for 99 per cent of the total consumption in the country. If, for instance, you reduced the duty on imported cigarettes then it would inevitably affect the local industry which of course provides a considerable amount of revenue, indirect revenue, to East Africa, and Kenya, in the shape of tobacco being grown, employment and taxation.

Now, as our Minister for Finance well knows, we as a tobacco industry would be very pleased indeed to have all the taxes cancelled at once on imported cigarettes, tobacco or excise on local cigarettes. But for some extraordinary

reason he seems to be rather reluctant to do this and perhaps it stems from the fact that this industry yields over £6,000,000 a year to East Africa and over £2,000,000 to Kenya.

Now, Sir, as regards the duty and the tobacco imported into this country, which the hon. Member mentioned, whether we like it or not the finest tobacco in the world is grown in America. That is nothing to be ashamed of, that Rhodesia cannot produce as good tobacco; no doubt they can produce things which America cannot produce. It is rather like French wine—it is a combination of soil, climate and experience. Naturally, being merchants, we have to look at the profit angle and buy the best we can consistent with other considerations.

Following—and here I speak of course only for my own company—a gentle exhortation from the Minister for Commerce and Industry and the Minister for Agriculture we have increased the amount of Rhodesian tobacco we are using from about a quarter to a half of the total imported. For even apart from these gentle reminders from the Ministers that we export to these countries, naturally, Sir, we trade in Kenya, and if Kenya can export to Rhodesia then naturally the trade of the country will improve and our trade will improve with it. I can assure the House, Sir, that if it will be any help for us to increase the imports from Rhodesia beyond 50 per cent we are quite prepared to consider it.

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): Sir, before moving the amendment that stands in my name on the order paper, Sir, I would like to deal with one or two of the points that have been raised. I do not hope, Sir, that the Committee does not expect me to embark upon a complete customs tariff debate all over again. So in answer to a number of the points which have been raised, Sir, I would refer them to the speeches of 7th May and 21st May, speeches which took place from the Government bench during those days, and the speeches which were made during the 15 days of Supply, which covered these points from time to time. I trust, Sir, that they will find in those the answers to certain questions. I will try to deal with other points.

(The Minister for Finance and Development)

I listened with great interest, Sir, to my hon. friend the Member for Ukamba on the question of still wines and the method of applying the duty. Sir, I am afraid that I could not accept the gentleman's implication that you must leave all the various things like freightage out of a duty generally because of course they are part of the merchant's costs, and, as I said, when I think I was defending my hon. Nominated friend Mr. Mohindra, if the merchant lays out the costs then he has the right to expect profit on them, and just the same the Customs must base its charge on the landed cost, because if it is possible to take an awful lot of things away it is then possible to whittle the duty away.

Strangely enough, Sir, we have gone into this on one or two occasions and the expert advice that the Government has always had has indeed been against transferring to this basis, but I will assure the hon. Member that during the coming year the Treasury will get both sides together and listen to both sides of the argument and, if convinced, it will not hesitate to change its mind.

On the question of tobacco, Sir, I think my hon. Nominated friend Mr. Rogers has indeed answered for the Government in great measure. I personally would like to express the thanks of the Government to him because I do know that during the visit of Mr. Owen, the Rhodesian, Federal Minister of Commerce and Industry, and during the time that I was down in Rhodesia, this point was raised and I know that when the Government made representations to my hon. Nominated friend he did very quickly do what he could to help by the purchase of additional Rhodesian tobacco.

I would express just one personal note of regret here, Sir, and that is that nobody seems to have found it necessary to attack the duty on cigars. I deeply regret to see, Sir, this somewhat selfish attitude, if I may so put it, on the part of some hon. Members of the Council.

On the question of the items under 39 and 40—the points made by the hon. Members for the Rift Valley North and the Mombasa Area—I regret, Sir, that at this late day we cannot change our minds,

nor, Sir, can we in fact give any undertaking other than the natural one that during the forthcoming year we shall watch with great interest the revenue derived from these goods, the price movements and, at the time of the next Budget, the whole position will be reviewed. But more than that, Sir, cannot be said.

I would again remind hon. Members that we have got to have revenue to cover services. It is a monotonous song, Sir, but it has to be said so very often.

My hon. friend the Nominated Member, Mr. Mohindra, dealt with the question of whether we could put in child or baby blankets and bring in therefore separate classes for children's clothing and goods. I can only say, Sir, that this was raised in the original discussion and that the administrative difficulties were thought to be so great that it was undesirable to separate the classes in this manner. When we have had a little more experience of what happens under the new tariff I can tell him that we will look at this again. But it is something in which one must be guided by the experts who have to administer the tariff. I will draw their attention to the point raised about the percentage of fibres, which is one that has not come to my notice before.

Sir, my hon. friend the Minister for Agriculture may indeed, I think, have something to say about rice and ghee which were the two points raised by the hon. Member for the Eastern Area. I would only say, Sir, that, so far as I am concerned, if there is a sufficiency of a certain commodity in the country then there is every reason why we should prohibit its import—or at least if we do not prohibit its import there is every reason why we should turn round and say, "If you want something better than this country can produce at the cost of the local production you must be prepared to pay a higher price for it".

On the question of the indirect customs point which he raised, Sir, at no time has it been suggested that these duties were to protect the United Kingdom manufacturer. These duties are the duties which it has been considered necessary to raise the revenue required by the country in the most certain and,

[The Minister for Finance and Development] we believe, despite all the arguments, the least harmful measure to the economy as a whole.

Now, Sir, before I sit down I would like, if you think this is the right time, to move the amendments to the First Schedule in case any hon. Member wishes to refer to them as well.

I beg to move that the First Schedule be amended as follows—

- (a) by adding at the end of item 133 the abbreviation "n.e.s.";
- (b) by deleting item 165 and substituting therefor the following Items—  
165. Packing Materials—  
(a) Empty metal drums and tins, parts thereof and fittings therefor; metal foil ... Free  
(b) Cardboard boxes; cartons, discs, labels; wrapping paper ... Free  
(c) Paper bags, including multiple and waterproof bags ... 11%  
(d) Paper and cardboard imported for the manufacture of paper bags, corrugated cardboard and cartons ... Free  
(e) Other, not elsewhere provided for ... Free.

I did in the Committee stage and at the Second Reading outline the reasons for this amendment which were to meet representations made to us by the paper bag manufacturers of Kenya. I do not now propose to repeat those arguments.

Sir, I beg to move.

#### Question proposed.

Question that the abbreviation "n.e.s." be added at the end of item 133 put and carried.

Question that item 165 be deleted put and carried.

Question that new item 165 be inserted put and carried.

SIR CHARLES MARKHAM: Sir, am I allowed two goes on this?

THE CHAIRMAN (Mr. Contoy): Yes, as many as you like.

SIR CHARLES MARKHAM: Just, Sir, back to cigars. I apologize to the Minister for Finance for not mentioning this very sticky point to him, Sir. I would like to

tell him, Sir, that I have got another consignment on the way from England—if he likes to reduce the duty, it will be a great deal cheaper.

But, Sir, on that, as he did raise it, there is one small point which I had forgotten on cigars: the very cheap cigars which are being imported from Burma are being quite penalized by this duty; I understand that for the expensive cigar, there is no reason at all to amend it; but for the cheaper one, which perhaps my hon. friend the Minister for Finance will have to go back to very soon if he goes on raising the cost of living in this country, he might like to reconsider that one. But I will assure him, Sir, that the day he reduces the duty on wine, I will give him a box free of Henry Clay's cigars.

First Schedule, as amended, agreed to.

Second Schedule agreed to.

Title agreed to.

Clause 1 agreed to.

#### The Income Tax (Rates and Allowances) (Amendment) Bill

#### Clause 2

MR. ALEXANDER: Mr. Chairman, a very serious matter has arisen, and usually, on Friday mornings, we do tend to deal with these deadly serious matters. It is a bleak and cold day on which such a matter, I think, should be dealt with.

This particular example concerns a trader who received his income tax assessment form all written out in red ink. He took no notice of it, and some weeks later, he got a reminder about this assessment notice which annoyed him somewhat, and he went along with considerable indignation to the income tax office to demand his money, only to discover that it was not in fact a credit note that he had received.

SIR CHARLES MARKHAM: Mr. Chairman, I did say yesterday on the Second Reading that I would have some detail to raise; as it happened, after the Council adjourned last night very early, I discussed matters with both the Minister for Finance and the Secretary to the Treasury; they have given me the answer, so I will not waste the time of the House.

Clause 2 agreed to.

First Schedule agreed to.

#### Second Schedule

SIR CHARLES MARKHAM: Sir, could the Minister very briefly investigate one thing for me? It is not a question of any controversy this time. A form has just been sent out to taxpayers in Kenya asking them to give a lot of details including the reference number of your own file; at the end of it, it says give the source of your income for—I think it is the last six or five years, and they give you one small line, about that big, to fill in the details. It says on that, if you put it in the envelope and address it to the income tax, you have not got to pay postage for your reply. I would like to ask what the point of that form is because all of us have been paying taxes—and I see the Secretary to the Treasury is going to get briefed—it seems to me a form which is just again another form-filling operation, and I must say, I put mine straight in the waste-paper basket.

HON MEMBERS: Shame!

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): As we seem, Sir, to have arrived at something in the nature of a state of levity at the end of the Budget period, and whilst my hon. friend the Secretary to the Treasury gets the detailed information that the hon. Member has asked for, I would say to him that, when in India, I had discussions with the income tax people there, and I find that their form is 15 pages!

MR. MACKENZIE: Mr. Chairman, I am assured that the form which my hon. friend refers to, asking all these questions, is one which is only normally sent out by the Income Tax Department to people they have never heard of before, and they would like me to assure my hon. friend that if he has received one, it must have been in complete error.

SIR CHARLES MARKHAM: In view of the fact that they do not know about me, Sir, will they please return me the money they have taken off me, then!

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): Mr. Chairman, I beg to move the following amendment: that the detail under Head 3 of the Second Schedule be amended by substituting for paragraph 2 thereof the following paragraph: "Where the chargeable income exceeds £800, tax on the chargeable income in excess of £800 shall be charged at the rate set out in Head A

of this Schedule and applicable to chargeable income in excess of £800.

I did explain, Sir, in the Committee stage, and in the Second Reading the reason for this, which was that without this amendment, the marginal charge between £800, for instance, and £801 would be ridiculous and entirely out of line.

Sir, I beg to move.

Question that the words to be left out be left out put and carried.

Question that the words proposed to be inserted be inserted in place thereof put and carried.

Second Schedule, as amended, agreed to.

Third Schedule agreed to.

Title agreed to.

Clause 1 agreed to.

#### The Civil Service Commission (Amendment) Bill

Clause 2 agreed to.

#### Clause 3

MR. SLADE: Mr. Chairman, Sir, I beg to move an amendment of this clause following on the discussion we had yesterday on the Second Reading. The reasons for the amendment were given quite clearly then, I think, and as the Chief Secretary has intimated that Government would accept an amendment of this kind, I will simply move it: it is that clause 3 be amended by adding to the new paragraph (c) of sub-section (1) of section 3 of the Ordinance thereby proposed, at the end thereof, the words "after consultation with the Chairman of the staff side of the Whitley Council".

There is only one further point I would like to make, Sir, that is: in supporting this proposed amendment on the Second Reading, the hon. Member for Nairobi did ask the Chief Secretary for an assurance that in the ordinary way, these three members would be African, European and Asian. He did not ask for it to be inserted in the law, Sir, but he asked for confirmation that that practice of the past would be continued in the future. The Chief Secretary did not actually answer that question yesterday; perhaps he would tell us the position now.

I beg to move, Sir.

Question proposed.

THE CHIEF SECRETARY (Mr. Coutts): Mr. Chairman, Sir, as I indicated yesterday, the Government is quite prepared to accept this amendment.

In referring to the point which has just been made; "my hon. friend the Specially Elected Member, I, of course, am completely unable to give an absolute assurance of what the Governor would do in a specific set of circumstances, but I can assure him, as Chief Secretary, in recommending appointments of this nature to the Governor, I would point out to him that there are three races in the Civil Service; and, therefore, it would only be normal and natural to see that there should be representation of each race on this Commission.

Question that the words to be added be added was put and carried.

Clause 3, as amended, agreed to.

Clauses 4 to 6 agreed to.

Title agreed to.

Clause 1 agreed to.

THE CHIEF SECRETARY (Mr. Coutts): Mr. Chairman, Sir, I beg to move that this Committee now do report to Council that they have considered the Excise Tariff (Amendment) Bill, the Sugar Consumption Tax (Repeal) Bill, and approved these Bills without amendment; and that they have considered the Customs Tariff Bill, the Income Tax (Rates and Allowances) (Amendment) Bill and the Civil Service Commission (Amendment) Bill and have approved these three Bills with amendment.

Bills to be reported, two without amendment and three with amendment.

The question was put and carried.

Council resumed.

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

## REPORTS AND THIRD READINGS

### *The Excise Tariff (Amendment) Bill*

MR. CONROY: Mr. Speaker, Sir, I have to report that a Committee of the whole Council has considered the Excise Tariff (Amendment) Bill and approved the same without amendment.

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): Mr. Speaker, I beg to move that the Excise Tariff (Amendment) Bill be now read the Third Time.

Question proposed.

The question was put and carried.

The Bill was accordingly read the Third Time.

### *The Sugar Consumption Tax (Repeal) Bill*

MR. CONROY: Mr. Speaker, Sir, I have to report that a Committee of the whole Council has been through the Sugar Consumption Tax (Repeal) Bill and approved the same without amendment.

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): Mr. Speaker, I beg to move that the Sugar Consumption Tax (Repeal) Bill be now read the Third Time.

Question proposed.

The question was put and carried.

The Bill was accordingly read the Third Time.

## REPORTS

### *The Customs Tariff Bill*

MR. CONROY: Mr. Speaker, I have to report that a Committee of the whole Council has considered the Customs Tariff Bill and approved the same with amendment.

Report ordered to be considered tomorrow.

### *The Income Tax (Rates and Allowances) (Amendment) Bill*

MR. CONROY: Mr. Speaker, I have to report that a Committee of the whole Council has been through the Income Tax (Rates and Allowances) (Amendment) Bill and approved the same with amendment.

Report ordered to be considered tomorrow.

### *The Civil Service Commission (Amendment) Bill*

MR. CONROY: Mr. Speaker, I have to report that a Committee of the whole Council has considered the Civil Service Commission (Amendment) Bill and made amendments thereto.

Report ordered to be considered tomorrow.

## BILL

### SECOND READING

#### *The Stamp Duty Bill*

Order for Second Reading read.

MR. MACKENZIE: Mr. Speaker, Sir, I beg to move that the Stamp Duty Bill be now read a Second Time.

This Bill is being introduced, Sir, by the Treasury since stamp duty is a form of revenue. But although in the last paragraph of the statement of Objects and Reasons, it is stated that the rationalization of the stamp duties effected by the Bill may result in a slight increase in the revenue from this source, the main object of the Bill is, I understand, to bring the law on this subject up to date, and to rationalize the position. The work on it has therefore been done entirely by my learned friends and all I would like to do is commend the Bill to the House and to say how very nice it is to have one's work completely done for one on certain occasions.

Sir, I beg to move.

MR. BECHGAARD: Mr. Speaker, Sir, as this is a Bill of limited dramatic content, I am sure the House will bear with me if I adopt a course of not dealing in detail with the 122 clauses, or the 34 categories of instruments listed in the Schedule. Instead, I propose to deal only with new provisions of more than passing interest.

First, however, a brief historical background may be of use. Up to 1923, stamp duty in Kenya was collected under the applied Indian Acts of 1879 and 1899. This brought with it certain technical difficulties which apply to all Acts of this kind. Firstly, this type of Act can only be applied with reservations in regard to the local conditions and secondly, there is the thorny problem of amendments which have to be separately applied. In the United Kingdom, the law governing the collection of stamp duty was consolidated in the 1891 Act, and kept up to date in the annual Finance Acts. In 1923, the Indian Acts, which had not been so kept up to date were re-enacted in the form of the Ordinance which is now Chapter 259. At the time of enactment, therefore, the legislation was not absolutely up to date and this is shown by the fact that since 1923, no less than 11

amending Ordinances have been passed. The result is a rather unsatisfactory patchwork. The particular local conditions for which the Indian Acts were designed do not now obtain in Kenya, and this has led to great difficulty and uncertainty in its administration and possibly to some slight loss of revenue. It was therefore in 1957 decided to improve matters by producing a Bill designed more closely to meet the requirements of the commercial and legal fraternities. In the main, that Bill, the 1957 one, was based on the United Kingdom 1891 Act as brought up to date from time to time by the annual Finance Acts. But recourse was also had to the New Zealand Stamp Duty Act of 1954 which provided the most up-to-date example of Commonwealth legislation on this specialized subject. Certain Kenya provisions which had been found of particular practical value and which did not appear in the other models were retained. The general effect aimed at was the simplification and rationalization of collections, and any increase in revenue was coincidental rather than intentional. As originally drafted, the Bill was first published in October, 1957. After publication, numerous comments and recommendations were received from responsible commercial and professional bodies, such as the Law Society and the Nairobi Chamber of Commerce. Many of these comments were, needless to say, found to be of considerable merit. It would have been a complex task to give effect to the resultant amendments at the Committee stage, because with numerous amendments, there is always a danger of overlooking some consequential amendment of far-reaching effect. Accordingly, Government decided to withdraw the Bill and to redraft and republish it in a form which gave effect to all acceptable recommendations. In its present form, the Law Society has commented on the Bill as follows: they consider that the Bill adequately meets existing requirements and represents an improvement on the existing law.

Turning now to the Bill itself, Part I, which covers clauses 1 to 4, deals with preliminary and administrative provisions. It should, however, be noted that it does away, or rather, proposes to do away, with the commissioners which exist under the present Ordinance. Under

[Mr. Bechgaard] section 36 of the present Ordinance, a dissatisfied member of the public would forward a case for the opinion of the commissioners. The commissioners were *ex officio* the Attorney-General and the Financial Secretary; and thereafter, there are complex provisions for reference to the Supreme Court and other civil courts.

Now, under later provisions, clauses 17 and 18—there is first of all an adjudication by the collector. I should explain that that is a collector of stamp duties, and not a collector of stamps. There is first an adjudication by the collector, and any member of the public who is dissatisfied with that can appeal directly to the Supreme Court, cutting out intermediary reference.

The second part of the Bill deals with provisions applicable to instruments generally. Clause 6, sub-clause (4) is of interest in that it fixes the person who, in relation to the Government, is responsible for the payment of stamp duty. Those persons are also specified in column 3 of the Schedule, which I will deal with in due course. Persons can, of course, notwithstanding this provision, agree between themselves who is to bear the cost, but as far as Government is concerned, it is essential to have the person primarily responsible for payment clearly designated in the first instance, leaving the parties to sort the position out afterwards.

Clause 11, sub-clause (2), enables rates of exchange to be prescribed where an *ad valorem* duty is charged in respect of foreign currency. This is in accordance with the practice which obtains in the United Kingdom. Clause 12 provides that every instrument shall be either in English or have annexed to it a full and accurate translation in English certified to the satisfaction of the collector. I have already referred to the provisions of clauses 17 and 18 which provide firstly for the adjudication by the collector, and secondly, for the redress of dissatisfied persons.

Clause 19 provides that where documents are not stamped in accordance with the provision of the Bill, they shall not be admissible in evidence. There is the usual exception to that in the case of criminal proceedings, or, of course, the necessary one where the collector him-

self brings a suit to recover stamp duty. Sub-clause (5) provides that the penalty shall be Sh. 10 in the £ for every three months for which the instrument is out of time.

Clause 20 gives relief in respect of certain instruments where the omission to stamp does not arise from any intention to evade the payment or to defraud. Sub-clause (3) provides that any person who is, shall we say, mulcted under the preceding sub-clause can apply to have the matter referred to the Minister.

Clause 21 gives relief in the case of an instrument which bears the correct amount of duty but is otherwise improperly stamped.

Clause 24 provides for the assessment to be conclusive in all circumstances, but this is to a certain extent mitigated by the provision of the immediately succeeding clause, clause 25, which enables the senior collector of stamp duties to correct obvious errors. He can then refund where he is sufficiently satisfied on that point.

Part III of the Bill deals with the regulations which apply to particular instruments. Clause 31 provides that hire-purchase agreements are to be stamped, and consequently nullifies the exemption in respect of sale of goods which is set out in the Schedule and which would come into operation if it were not for this proviso.

Clause 37, following upon the United Kingdom practice, provides that where there is a set of bills, which is not unusual occurrence in commerce, only one of the set needs to be stamped.

Clauses 40 to 42 inclusive deal with the subject of contract notes covering the sales of shares, and follow closely upon the provisions of the United Kingdom Finance Act of 1910. If the broker fails to stamp in accordance with the provisions of these clauses, he has no legal claim to any brokerage or agency. Clause 42 extends those provisions in the case of options.

To continue, clause 48, sub-clause (4), following upon a New Zealand provision, cuts out the direct transfer from a first vendor to a subsequent vendor where there is an intermediary. In other words, under the present provisions, you can jump one, two or even more intermediary

[Mr. Bechgaard] persons and just stamp a series of transactions as one transaction. Following on the New Zealand model, this sub-clause seeks to provide that each one of these transactions shall be separately stamped.

Clause 52 is rather complex; it is based on no less than three United Kingdom Finance Acts—those of 1910, 1942 and 1947. It provides that the duty is paid on gifts *inter vivos* (amongst living persons) as if it were a transfer for valuable consideration. There are certain exceptions, the normal ones, in respect of charitable bequests and public trusts.

Clauses 55 to 63 inclusive deal with leases and licences. Clause 58 provides for the stamping of a lease in perpetuity as if it were a conveyance on sale. The importance of that is, of course, that in the case of a conveyance on sale, it is stamped by reference to the value, whereas in the case of a lease it is stamped by reference to the amount of rent. Clause 60, sub-clause (2), seeks to stop up a loophole in the present law whereby, when in accordance with the articles of association of a company, a shareholder in a company is entitled to call for a lease, the separate consideration for the shares which pass on such a transaction is stamped at a lesser rate. Under the present provisions, the considerations for the shares is treated as a premium on the lease and the whole is stamped at the same rate.

Clause 63 provides that a licence is treated, for the purposes of stamping, as if it were a lease.

Clause 68, sub-clause (3), introduces a new situation in the case of equitable mortgages. It requires that every equitable mortgage shall either state the amount secured or shall have attached to it a certificate setting forth the greatest amount which is at any time secured by the mortgage. This is necessary because this Bill introduces a sliding scale in accordance with United Kingdom practice, as compared with the situation under which there is a fixed duty.

The remainder of Part III deals with specific instruments and the provisions governing those are in the main based on the United Kingdom provisions and call for no particular comment.

Proceeding to Part IV, which commences at clause 95, clause 97 provides for the exemption of certain building society documents from stamp duty, and follows the practice which obtains both in the United Kingdom and in the neighbouring territory of Tanganyika.

Part V deals with the allowances for stamps in certain cases and these are based on the existing provisions. Part VI—Miscellaneous—which commences at clause 103 is of a little more interest. Clause 105 deals with the compounding of duty on cheques. The present provisions, which were introduced in 1955, provide for the compounding of cheques and for the payment of the duties at half-yearly intervals, on 1st January and 1st July each year. Under paragraph (c) of sub-clause (1) there is a change in that, and payment now has to be made at the end of every month.

Clause 106, which is based on a Northern Rhodesia model, enables the Minister, by notice in the Gazette, to exempt any instrument or class of instrument from the provisions of the Ordinance. That is designed to deal with difficult situation, which arises suddenly, on an *ad hoc* basis.

Clause 110 empowers the collector to administer oaths or affirmations and is, of course, necessary and consequential on his increased responsibility in regard to adjudication.

Part VII deals with the criminal offences and the incidental procedure. Clauses 111 and 112 are based on the existing provisions. Clause 113 introduces the penalty of imprisonment for the offence there, which is fraud in relation to stamp duties. It is based on the United Kingdom Act of 1891, and apart from the fact that it does introduce the penalty of imprisonment which is, I submit, a very necessary amendment, it is on the lines of the present section 67 (c).

Clause 114 is procedural in the sense that it deals only with the liability, the criminal liability, of companies and firms. Clause 115 empowers a magistrate to issue search warrants where offences against the provisions of the Ordinance are suspected. Clause 116 provides for rewards to be paid to informers and is on the lines of the United Kingdom Inland Revenue Regulation Act of 1890.

[Mr. Bechgaard]

Part VIII deals with exemptions and with repeals. The exemptions are based on the existing exemptions contained in section 4 of Chapter 259. The regulations under clause 119 may be made by the Minister on certain procedural matters. Clause 120 deals with the transitional provisions. The new Ordinance will apply to instruments executed after the commencement of the Ordinance, which, under clause 1, will be 1st July, 1958. Otherwise, the old provisions will continue to apply as if the old Ordinance remained in force.

The Schedule details the instruments which are liable to stamp duty. Column 1 of the Schedule designates the person who is responsible for stamping. Column 4 specifies the time for stamping when that differs from the general time which is set out in clause 6 (1).

The provisions which relate to bills of exchange, which is item 5, have been amended and simplified to follow the United Kingdom model. Under the present provisions, both time and amount govern the amount of stamp duty payable; under the new ones, the duty will be related only to the amount.

I think that sufficiently covers the Bill at this stage, Sir. I beg to second.

#### Question proposed.

MR. SLADE: Mr. Speaker, Sir, I should like to thank the hon. Member for the brevity of his speech, and the hon. and learned Nominated Member for his clear exposition of this unexciting subject.

In matters of this kind, Sir, our principal watchdogs, as the hon. Nominated Member has told us, are the Law Society of Kenya and the Chamber of Commerce. Few people, I think, realize the many hours spent gratuitously in the interests of the public by the busy professional men and men of commerce who make up those two bodies. I should like to take this opportunity of paying a tribute to them for the way in which they look after our interests.

Now, Sir, I know that this Bill as it now stands is the result of long and patient negotiations between those bodies and the Solicitor-General and his officers; and there is occasion for thanking someone because I know that the

Solicitor-General and his staff have been very patient in this matter, and have taken immense pains to ensure that they fully understand every point that has been made on behalf of the public. The result is, as the hon. Nominated Member has said, a Bill which is accepted by the Law Society as a satisfactory piece of legislation, in spite of all its complications. It only remains for me to ask the Solicitor-General or the Minister for Legal Affairs for one or two assurances, which the Law Society of Kenya would still like with regard to certain provisions of this Bill. I am afraid they are a little bit stodgy, but I will try to make them as short as possible.

Referring first to clause 6 (1), which deals with the time for stamping documents, and provides that the time is within 30 days of the first execution. However, most documents require execution by more than one person, and the actual practice in the past in this Colony—and the practice still in the United Kingdom—is that you had to stamp within 30 days of the date inserted in the document; and it is an accepted practice that you do not insert the date until it has been executed by everybody. I should be grateful if the Solicitor-General could give me an assurance that that practice will still be accepted now, in spite of the wording of clause 6 (1) of this Bill.

Then, Sir, coming to clauses 32 and 33, we find definitions of bills of exchange and promissory notes which are very wide, and would, in strict application, include a number of documents which are already dutiable under some other head. Now the assurance that the Law Society of Kenya asks for here is that where the document falls within either of those definitions in clause 32 or clause 33, but is already liable to stamp duty under some other heading in the Schedule, it will not have to be stamped as a bill of exchange or a promissory note.

Then, Sir, clause 98, which deals with certain allowances and refunds, provides, by paragraph (g) (iii), that there shall be an allowance for the stamp used for any instrument "which has not been made use of for any purpose whatever and which, by reason of the inability or refusal of some necessary party to sign the same or to complete the transaction

[Mr. Slade]

according to the instrument, is incomplete and insufficient for the purposes for which it was intended". The point raised on that is the case where there is an agreement for sale of land, providing that a purchaser may, if he likes, ask the vendor to accept a mortgage to cover all or part of the purchase price, instead of having to make immediate payment of that purchase price.

That agreement, as I understand it, will now, under the Bill, carry *ad valorem* duty in respect of the potential mortgage which the purchaser is entitled to require. The Law Society of Kenya asks for an assurance that if that provision requiring mortgage becomes abortive, either because the sale never goes through at all, or because in the end the purchaser does not want the extended time and therefore pays cash instead of asking to be allowed to give a mortgage, or because the credit on mortgage that the purchaser requires is eventually less than that for which the agreement originally provided; if the provision becomes abortive through any of these reasons, the Law Society would like to be assured that there will be a refund of the stamp duty paid in respect of that mortgage, to the extent that it has proved abortive.

I have only one further point, Sir, which raises rather a general issue. At present, under the law as it has stood, an agreement for the sale of land, by which the purchase price is to be paid in instalments, is chargeable only as an agreement for sale, but it has been suggested that this Bill will make such an agreement chargeable also as a bond because of the provision for payment by instalments. Now if that is the strict effect of the Bill, the Law Society are yet asking for an assurance that the English practice will be followed, because the relative provisions of the present Stamp Act of the United Kingdom are exactly the same, I understand; as those in this Bill, but in the United Kingdom, it is accepted that an agreement for sale of that kind is chargeable only as an agreement for sale.

That brings me to the more general proposition that I have been asked to put to the Solicitor-General, Sir, and that is that wherever we find in this Bill provisions that correspond exactly to the provisions of the law in the United

Kingdom, then in the application of those provisions here the Stamp Office will, in general, follow the practice of the United Kingdom as regards interpretation. That is important because the practice in the United Kingdom is, on the whole, very lenient and certainly gives the taxpayer the benefit of any doubt. It is, I suggest, Sir, very much according to our practice in other matters here, and very desirable, that where we have precedents in the United Kingdom, arising out of legislation which we have followed precisely in wording, we should follow the precedent of practice likewise, because it is so advantageous to have the benefit of precedents recorded in books, to which the practitioner can refer, so that he knows where he stands.

Subject to those few points, Sir, I beg to support.

MR. TOWETT: Mr. Speaker, Sir, clause 18, section 2, was the thing I actually wanted to speak about, but I find that there is an impending amendment of that same section and it says that a sum of Sh. 300 shall be lodged with the collector as security for the costs referred to in sub-section (6) of this section. I think that Sh. 300 is a rather excessive amount. It used to be Sh. 40, in accordance with the Stamp Ordinance, 1923. Now I find it difficult in my mind to see the wonderful reasons which have caused the thinking people who drafted this Bill to raise the sum from Sh. 40 to Sh. 300. You see, the idea here is that Sh. 300 is a bit discouraging. Some people would feel that they would like to appeal, but when they know that they may not be very successful or they may be only partly successful, they say they might lose their Sh. 300; and under such conditions they will refrain from appealing because it says in section (6) of clause 18 that "If the assessment of the Collector is confirmed wholly or in part, the court may make an order for payment to the Collector of the costs incurred by him in relation to the appeal".

Now I agree that if the assessment of the collector is confirmed wholly, that would be all right; but if it is confirmed only in part I find that there is no justification for this man, the appellant, to forfeit Sh. 300. So I am asking the author of the Bill to reconsider whether



[Mr. Towett] it will be possible, at the Committee stage, to think of a way of reducing this excessively colossal amount of Sh. 300 to something below half that amount. Or if he is quite satisfied in his opinion that the would-be appellants are extremely rich and need not worry about their Sh. 300, of course, I will have no objection.

Mr. Speaker, we do not want to discourage people from appealing, because I feel that when you appeal you are trying to look for some form of justice, so if you are handicapped, from the financial point of view, you are discouraged from looking for that form of justice.

Now, clause 86 demands that receipts shall be dutiable. I accept that. Duties must be imposed on receipts. But I feel that there are some bodies, such as charitable organizations and bodies like missions, which are not actually making money or which are not business concerns, which should be considered for exemption from putting stamps on their receipts whenever they receive any donations. If someone goes out to beg for Sh. 10 or Sh. 20 and someone agrees to give Sh. 40, I find it is not proper to tax that Sh. 40 in the form of a receipt; so that ten cents is removed from it and you have Sh. 39/90. I think we should consider that.

Then clause 115 gives powers to magistrates. Now I would like to know in precise terms what a magistrate is. There are what are called first class magistrates, second class magistrates and resident magistrates. The term "magistrate" is rather loosely used in this country and I should like to hear some precise definition of that.

With those few remarks, Mr. Speaker, I beg to support the Bill.

SIR ALFRED VINCENT: Mr. Speaker, Sir, referring to the undertakings requested by my hon. friend, the Specially Elected Member, Mr. Slade, I come back to something which I have often said over the years in this and other legislative councils. The ordinary man in the street is at a great disadvantage when a Bill appears unaccompanied by the undertakings which are given in debate in a legislative council. Sir, especially the

following of precedent in the United Kingdom.

I was wondering whether the Solicitor-General could tell us whether there is a possibility of putting clauses at the bottom of a Bill—explanatory clauses—detailing intelligently or intelligibly the undertakings which have been given in debate; otherwise the value of debate fails and the clarity of undertakings given by Government, accompanying the Bill, are lost to a very great extent.

MR. MACKENZIE: Mr. Speaker, Sir, in terms of Standing Order 52 (2), I propose to cede my right to reply to my hon. and learned friend the Solicitor-General.

MR. CONROY: When I listened to the hon. and learned Seconder of this Motion explaining that this was a Bill of limited dramatic import, I really disagreed with him—I thought it was a fascinating Bill—and as he went through it and dealt with a clause here and a clause there, I noticed a look of disappointment on the faces of hon. Members opposite that he was not going through it clause by clause. I feel it would not be right for me now to deprive Members of the excitement of going through all these other clauses— which I am quite prepared to do if they have the slightest inclination to ask me to do so. Perhaps I might deal with the Corporate Member for Commerce and Industry's point first as it is at the top of my note-book. He asked whether it would not be possible to write into the Ordinance, somehow, or other, the undertakings which I have been asked to give and which I shall, in due course, give.

Sir, that is not possible, but I do not think it makes any practical difference because the whole purpose of this Bill is to bring our law into line with the law in England. That is a fundamental purpose of the Bill. The reason for that purpose is that businessmen, merchants, commercial men and lawyers shall be able to go to the English text-books and find out what our Ordinance means. There are two or three very excellent text-books on the English Acts, and if our Ordinance is the same in words as the English Act, then you go to the text-books and you can find the answer. Therefore, it is possible for me to give merely with one minor exception, the

[Mr. Conroy] assurances which my hon. and learned friend the Specially Elected Member sought, and which I shall, in due course, give to him.

Now, Sir, the hon. Member for the Southern Area raised some points on the Bill. First of all he dealt with clause 18 (2), in which he complained of the very heavy forfeiture—"forfeiture" was the word he used—imposed by this clause. Well, Sir, if we turn to the clause we find that it says that anyone who does not like what the collector has assessed as a stamp duty and wants to appeal, has to give security—security—of Sh. 300 for the costs of the appeal. It is not a forfeiture, it is a security. £15 is not very much to pay for security in costs for an appeal to the Supreme Court: If the appeal succeeds, the successful appellant has his costs paid by the Collector of Stamp Duties and, in addition, he gets his £15 back. It is only security, and that is the purpose of the amended form which I propose to move in the Committee stage. I think that meets the precise point that was raised.

Then the hon. Member referred to clause 86, in which he says it is very hard to impose duty on receipts over Sh. 40 when the receipts are given by charitable organizations in respect of donations to those organizations, and he gave as an example a mission. We have specifically included for the first time—in order to allow us to meet cases, and we have had them in practice, of charitable organizations who might be mulcted in heavy stamp duty for a large number of stamp duties in clause 106 to give power to exempt.

I can give you an example of the type of thing that has arisen twice in the past few years, where a charitably minded person has given a large sum of money or property to be used for charitable purposes for a charitable trust. Under the existing provisions of the law, that charitable gift attracted very substantial duty, and the way the Government got round the difficulty—because of course it is quite wrong that the donor should bear that duty—was to say: "You have got to pay the duty and we will make you an *ex gratia* payment of the amount back", which of course is nonsense. So we now have power, under clause 106, to deal with it.

Then the hon. Member asked, under 115—(which gives the magistrate the power to issue search warrants in respect of possible offences under the Bill), what "magistrate" meant. The answer is that a "magistrate" means a magistrate with power to issue search warrants.

Now, Sir, turning to the hon. and learned Specially Elected Member, I join with him in my tribute to the Law Society and the Chamber of Commerce in this matter. Sir, we had long and dogged and delightful arguments with members of the Law Society on the most erudite and minute points on this Bill, and I think we eventually have either been persuaded by them that we were wrong or managed to persuade them that they were wrong, with one or two possible exceptions where we agreed to differ.

Sir, the assurances which my learned friend seeks were four in number, and I can give them to him. The first assurance was that in regard to clause 6 (1); present practice is that you take as the date of execution the date which is written into the document. If two people have to execute a document, the first one executes it and does not write the date in; the second one executes it and writes the date in. Sir, I unhesitatingly give the assurance that the stamping authorities will continue the practice which has prevailed under similar words under the present Ordinance, and which prevails in England under similar words: they will continue the present practice. That is, I think, the exact assurance that my learned friend seeks.

The second one is that the expression "bills of exchange" and "promissory notes" under clauses 32 and 33 will continue to be narrowly interpreted by the stamping authorities and, Sir, I give that assurance. The wording in clauses 32 and 33 is the same as the wording in the present two sections of the existing Ordinance and is much the same as the wording in the analogous sections in the English Act, and we shall continue to interpret those words in the same narrow way as they are interpreted at present, both in England and in the Colony.

With regard to his third point, I am afraid I cannot give him the whole of the assurance he seeks, but I think I can give him the greater part of it. Where a

[Mr. Conroy]

sale of land takes place under which the purchaser is entitled to leave some of the purchase price on mortgage, the proposal is that the instrument should attract duty both as a conveyance and as a mortgage—he asked that if the mortgage is not taken it up it should not attract duty. I can give the assurance that the refund of the *ad valorem* mortgage duty will be obtainable under clause 98 (g) (iii), where it has been paid in the circumstances he envisages, where the failure to take up the mortgage arises by reason of the sale not having been completed.

Sir, I did discuss this at very great length with the Law Society, in respect of the second and third parts of the assurance which my learned friend seeks, and I have regretfully to say—in spite of the most honeyed persuasion from them—that I was unable to meet them on the second and third ones.

Now, Sir, the fourth assurance that he sought was that in the application of the provisions of the Bill, the stamping authorities will, in general, regard themselves as being bound to conform in practice to the practice prevailing in England under identical provisions. Sir, I do give that assurance. That really is one of the fundamental purposes of this Bill—that we should know where we are rather than grope in the dark as we are at present. Therefore I do give the assurance that, in general, the stamping authorities in Kenya—where the English provisions are the same as the Kenya provisions—will regard themselves in practice as bound by the English practice. Sir, we are no less lenient than English civil servants. That, I think, deals with all the points that my hon. friends have raised.

Sir, I should like to finish by joining hands with the hon. and learned Specially Elected Member, and say indeed how grateful I am to both the Law Society and the Chamber of Commerce for the very great assistance they have been to Government in this matter.

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 tomorrow.

### MOTION

#### REMOVAL OF PRODUCE AND LIVESTOCK RESTRICTIONS

MR. ODINGA: Mr. Speaker, Sir, with your permission, I beg to move that this Council urges Government to remove restrictions at present exercised over the movement of produce, poultry and livestock in so far as these restrictions are detrimental to the development and expansion of local producer and consumer interests.

Mr. Speaker, in moving this Motion, it should not be misunderstood that we do not appreciate the Government's intentions in the restrictions of movement. At the same time it should be understood that this is not the first time that we have tried to raise this matter here. We have raised it on several occasions, and each time we have had answers which have not quite satisfied both our constituents and even the producers and also the traders in the country. As such, we thought it most opportune at this time again to approach the Government and properly to put our case, if we had not put it much clearer this time, we put it a little bit clearer in order to make them understand really what we mean.

I remember that last time when we mentioned something about these restrictions—how detrimental they are both to the producer and consumer interest and even the trader group in the country—well, the Minister replied that he is only very much interested in the producer whom he would like to protect from the trader and people like that.

While I do say that I appreciate also his keenness to protect the producer, it is on the other hand also a very important factor which he should consider, and that is the trader—the African trader in the country who is at the moment many of them, are also the producers. It should also be his interest to try to encourage this man, because by encouraging this man to come up, he will lose his interest in the land and get completely his foot into the business, and by doing that he would relieve the ordinary congestion on the land and that will probably also help farming in the country.

At the same time, Mr. Speaker, we know that with the producer at the moment, the producer is also dissatisfied.

[Mr. Odinga]

because his case is not treated as the case of the European producer. With the European producer there is a certain guaranteed price and that price generally goes directly back to him; but with the African producer there is a certain cess which has to be taxed and that is called the Agricultural Betterment Fund. Well, the Agricultural Betterment Fund has been imposed on this producer against his own will, because he believes that if he produces anything well the price which has already been guaranteed—that price should just go directly back to him in his home. The Government also knows that this same producer is also again a source of revenue to the Government. The Government cannot expect to get revenue without also investing something back to the land, and that investment which Government should put back to the land should not be represented with what he reduces from the prices which the producer should get.

Now, Mr. Speaker, the producer himself feels that the time has come, if it is the marketing organization, which probably we may not have serious quarrels with, if the marketing organization had to exist it must be composed of the producer himself and it must be run by the people who are actually approved by the producer himself. As such we thought the time had come, and it is long overdue, to have started—if the Government had to encourage the African co-operative societies and co-operative unions—I thought it was long overdue. This would have been the most ideal place of starting such co-operative societies and co-operative unions. After all, if the co-operative societies and the co-operative unions could succeed well in the Chagga country, we do not see why they should not succeed with the African producer in this country.

We know that at the moment the marketing boards generally employ the African traders in the market to buy produce and after buying the produce then there is a middleman—again generally he is an Asian trader also—to handle the produce after that. Well, we take it that if the Government was really very keen about it, the African traders in the country should have been encouraged to form themselves into co-operative societies, and after forming them into

the co-operative societies then the present marketing organization should have been under co-operative unions to help them market this produce by themselves and that would have been much more ideal.

At the moment the marketing organization—let us say, if I may just mention the Nyanza Marketing Board—handles all the produce for the small African traders and then the middleman—that is the Asian trader—gets all this produce into his store, and after getting them into his store there is a surplus which he will try to find a market for outside or in other areas of the Colony or in East Africa. But instead, after collecting all these things into the store, then he goes back to the local markets and he restricts the local markets by putting all sorts of restrictions that you cannot move with so many bags of maize; you cannot move with a certain amount of such and such. That has been detrimental both to the producer himself and the consumer—because the producer—or even the local consumer—needs to get his goods from the trader who is next to him. He needs to get what he wants for his consumption from the trader who is next to him. By that way the trader could benefit also—by helping the producer the trader will also be progressing and at the same time serve him, the producer, to certain other things.

Mr. Speaker, without labouring so much on that point, I will only ask the Minister to see if it is not time to stop these restrictions on the movement of produce in the districts and also, if he can, in the Colony itself and even in East Africa, if he can, because we feel that it is time that the Africans should be able to move to all sorts of places, and by moving to get the market for what he has got to dispose of. By that we will also develop his sense of money-making and at the same time he will also try to think of the best way of either organizing themselves to compete equally with other races in the commercial world.

You know, Mr. Speaker, that the African at this time has got his produce and it is the only thing where he can compete with other people. I remember recently when I was in Great Britain traders and businessmen had got so many of their friends there and on on in the

[Mr. Odinga]

The African has not travelled so extensively to permit him to go to other people, and as such he is only at the mercy of that trader who comes with imported materials. He can only compete well if he can handle his own produce properly. If he can handle his produce properly then he can always compete with other racial groups in the commercial world.

Now, Mr. Speaker, I will go on to mention, for example, poultry and egg dealing. We have mentioned it here many times to the Minister that we thought—and we know and we believe it is true—that the small African producer who is keen actually to try his hand even again in the commercial world will find it easy to move with his eggs, to purchase or to get eggs, and he would prefer to move with the eggs to Nairobi or to Mombasa or even to Uganda or to other places in order to find the most reasonable market possible for him. As such he should not be controlled—not to move with poultry, and not to move with eggs—to any part of this country where he can get a better market for it. At the moment it is surprising that—let me say, only in Nyanza Province or in Central Nyanza ever since 1955 the Africans have not been allowed to move with poultry—to Nairobi or even to other parts of the country, with the reason that in Central Nyanza there is the Newcastle Disease. It is surprising that ever since 1955 up to now there could be that disease in existence. If it is so, it means that the Veterinary Department is not doing their work. They are not doing their work at all or if they are doing their work then there must be something wrong, because you do not expect the people who are dealing in these eggs and poultry to wait ever since 1955 for this disease to be stamped out.

So, if the efficiency of the Veterinary Department could not be seen to, and it is detrimental to the African businessman or to the African people, it is detrimental to the commercial development of the country.

Now, Mr. Speaker, the same thing also applies to livestock movement. The livestock movement, according to many African businessmen and traders in cattle and other small animals, they say

that they experience greatly the trouble from the Veterinary Department—that it does impose restrictions; against the movement of stock far too often after only a few months with the tedious reason that there is disease at such and such an area. We say that the Veterinary Department should be brought into efficiency to be able to see to these diseases wherever they are, and at the same time it should not take so long when there is a disease somewhere—well, of course, they have got to deal with it as soon as they can and let these people go on with their business.

At the same time, Mr. Speaker, we find the restriction in movement of animals from, let us say, Rift Valley to Nyanza Province or even from Tanganyika to Nyanza Province or even from Nyanza Province to Uganda—these restrictions should be removed. The Minister, Sir, has also contended that these movements, especially to Uganda, are stopped by the Uganda Government. But many of these traders have to go to Uganda and when they go there the people there, those responsible there, tell them that if they can get permission from the Kenya Meat Commission then they would be allowed to bring cattle to this country. I think that it is not wise, not correct, for the Kenya Meat Commission simply to protect their supplies, that they should restrict the Africans also. Let them trade and let the Africans also trade and take animals to those places.

Now, Mr. Speaker, on the point of this livestock business, I should also say that if the Government had to encourage the Africans the African Livestock Organization should be an organization run entirely by the Africans, and they will also try their hands, they will also, by trial and error, know how they can compete freely. The Government should not all the time take these things into their hands, and after taking all these things into their hands the Africans who are interested in the trade are restricted in their movement. It is time that such an organization should be put on to co-operative societies and unions and then let them run them, and then the Africans will know the difficulties and they will also see, by trial and error, the difficulties and advantages and disadvantages of those organizations.

[Mr. Odinga]

Recently the Minister for Finance said that they fear that they cannot go on by trial and error and immediately after that we had to write off about £4,000 which were given to another trader by the Provincial Commissioner there, and that was not an African. If the Government trust and try to help people like that, then they should not be afraid to lose money on the African side because by that method the Africans will also come up.

Mr. Speaker, I have only one point to raise. I know that with the European producer, especially with maize, generally when they have the maize and they put it into the store the Government pay them about 80 per cent of the price of the maize and when the maize is ready they store it until later on when it is required to be brought into the stores and then the balance of 20 per cent would be paid. Well, Sir, if the Government can do such things for the European producer then I am sure that the Africans can organize themselves also, and then with help from the Government, and with some money, they will come up also just as other people.

Now, Mr. Speaker, without labouring far too much on this point, I hope that, with these few remarks, the Minister will see fit that this restriction should be removed and let the Africans also to try their hands freely on dealing with their produce.

Mr. Speaker, I beg to move.

MR. ARAP MOI: Mr. Speaker, in seconding this Motion I should like to add some points to my hon. colleague the Member for Central Nyanza, Mr. Odinga, and these points, Mr. Speaker, have already been expressed.

Swynnerton Plan has produced remarkable economic changes upon the African farmer, and when the African farmer has produced sufficient produce he is told that he cannot market his produce freely but he has to be restricted in one way or another, and if I may, Mr. Speaker, refer to maize control, which is a Government trading concern, I thought that the maize control was brought about during the last war in order to protect certain people during that time. I think it is now time that the Government should cease having maize

control which is controlling produce over the Colony. It is, Sir, that all producers, whether European or African, should be allowed to bring to market their produce. I am not saying, Mr. Speaker, that other produce such as wheat or barley or other produce should not be controlled. They should be controlled in the interests of the producers. But in the case of maize, where consumers are mainly Africans and where most producers also are Africans, Government should consider removing these restrictions in the interest of the African.

In certain areas in Nandi, Mr. Speaker, maize is restricted to locations, and Minister recently agreed to free Africans to remove their maize—five bags of maize—within the district. I am wondering what reasons are advanced by the Government not to allow even 30 bags of maize to be marketed within the district and consumed by the consumers.

Mr. Speaker, it is also difficult for the Africans to get a fair price for their produce. For instance, when an African district council puts a cess on maize the Maize Control Board steps in and then the producer remains with a very little amount of money per bag of maize. I feel that—the Minister—for Agriculture should protect producers as well as consumers.

If one sells maize at Sh. 22 and the *posho* is sold at Sh. 56 then it is very ridiculous that *posho* should be sold at more than 50 per cent. I would urge the Minister to put these matters right.

You will find that the Africans are not well organized so far as marketing organizations are concerned. Marketing boards are controlled by the Government itself. You will find a European farmer having control over their own boards—the Cereals Board, the Beef Council, the Sheep Council and other councils and boards. When the African district agricultural committees, which are run by the Department of Agriculture—their produce is not discussed by the farmers themselves, because they are not adequately represented. If they were allowed to organize themselves and have co-operative societies they could run them and sell their produce through it and it would be far much better and the farmer would be satisfied.

[Mr. arap Moi]

Now, Sir, I would like to go on to the livestock side. In the Rift Valley North, Mr. Speaker, we have more than 150,000 cattle surplus and there is no other way to destock or sell stock without a market.

I do realize the difficulties which the Minister has as regards the disease and some other complicated problems, but I would urge the Minister to contact the Uganda Government and find out what could be done over this matter. I understand that the Uganda Government is destocking Karamojong stock and they would not accept Kenya stock to be sold in Uganda. That is incorrect. So far as Uganda is concerned they require a lot of meat from Kenya.

Of course, if the Africans market their stock freely then the problem of measles will arise and thereby spoil the marketing of livestock. Further, Mr. Speaker, I should like to add to what Mr. Odinga said earlier, that the African Livestock Marketing Board, the name African implies that it an African organization, whereas it is a Government organization.

I should like the Government to consider this—not because we have brought this matter into this House, but since the Government takes interest in destocking the Government should assist Africans and hand over the African Livestock Marketing Board to an African organization and see how it works.

In Samburu a good number of livestock could be sold and fetch higher prices anywhere. It would look rather unfair for a Government organization to dictate prices that suit them. Traders should be allowed to enter into Samburu and buy stock at a competitive market. Furthermore, Mr. Speaker, I should like to urge the Minister, together with the Minister for African Affairs, that this matter is very serious. It is a pressure which has been brought about by the Government in most African areas. Africans complain that there is no market for their stock. How can we destock if there is no free market?

Mr. Speaker, you will find an area declared a livestock controlled area. If there is no market for such livestock then it would be very difficult for Africans to get rid of their stock.

Mr. Speaker, I beg to second the Motion.

*Question proposed.*

MR. ROGERS: Mr. Speaker, I would urge the Minister to accept this Motion. I think, however, I should emphasize that he should accept it as tabled and as worded because the Motion does emphasize that the Minister is asked to remove restrictions where these restrictions are detrimental to the development and expansion of the local producer and consumer interests; for I think we should be clear on one point—that if we agree with the principle of organized marketing and price stabilization, and I think that the House does agree with that principle, then I do suggest that we cannot have this unless we have other restrictions, without which it will not work. What it boils down to broadly, perhaps, is that personal interests must be subordinated to those of Kenya as a whole.

Now, Sir, the freedom of trade, movement, land, prices, in all forms of goods—in other words, the world of Adam Smith—is, of course, something which has quite a fascinating appeal for the theorist, the person who is perhaps not wholly aware of the facts.

Now, I am certainly not calling the astute merchant and that political expert and man of the world, the Mover of this Motion, a theorist; and indeed I think his Motion is entirely sensible, and it is perhaps really the basis of the proposed Free Trade Area which will, if the scheme goes through, operate in much of Europe. It will mean that the duties between the countries of Europe will gradually be reduced until they finally disappear altogether and trade will move from one country to another freely.

Assuming that that scheme does go through, nevertheless there must be certain aspects of trade which it is assumed will be excluded. For instance, it is virtually certain that agricultural products will be excluded from the Free Trade Area in Europe. And the same applies to us in East Africa, we must, ourselves, have certain restrictions running throughout the East African territories and amongst those, restrictions on the movement of goods in certain places is necessary. If we do not have these restrictions

[Mr. Rogers]

I would suggest that the whole principle of our free trade will in fact break down and operate contrary to the interests not only of the producer but of the consumer.

Another point which I would like to make clear is that the organizing of markets and producers is not peculiar to Kenya—indeed, it is common to virtually every developed country in the world. Even America, which I should think is probably the most individualistic country in the world, controls not only the export but also the internal consumption of agricultural products on a system which is called the Commodity Credit Corporation under which a producer, if he wishes to enjoy a guaranteed minimum return, must only produce the acreage which the C.C.C., as it is called, allows him to produce. Unless this is done there will be gluts in one market and the goods will be taken to another market. That market will be flooded and the prices will be cut.

The same thing will apply where there is scarcity. If there is scarcity in one area then the goods will be moved to that area and sold at exorbitant profits which can long run on the consumer and to the producer.

Now, Sir, Members may be interested to know that in the case of certain merchandise—certainly imported and locally manufactured goods, particularly perishable ones—the merchants who are selling these goods also do their utmost to prevent them moving from one area to another and for exactly the same reason as this is done in the case of agricultural products. If this is not done there are fictitious shortages, sometimes organized, there are gluts in other areas when goods are moved in there with the result that prices are cut and many retailers are badly hit—some can even be ruined. Where there is a glut, in the case of perishable goods, in one part of the country, these goods will go bad on the market with, of course, a disastrous effect on the consumer and, from the point of view of the merchant, a worldwide and very valuable trade mark might well be lost.

I think, therefore, Sir, it will be seen that although we wish to engage in free trade as much as we can there are certain

cases where this cannot be done and where if it was done it would act contrary to the interests of the consumer and of the producer.

1 Sir, I beg to support.

MR. NGALA: Mr. Speaker, I would like to support this Motion. I am supporting the Motion because I feel very sincerely that it is a Motion that is very much needed by the African in Kenya at the moment.

Sir, as you very well know from last year, we have been talking quite a lot about African produce and the possibility of removing the restrictions from agricultural produce as well as livestock.

The Minister has been answering our questions in his replies during the various debates, but we have felt all along that we are not fully satisfied by the replies of the Minister on this particular point. It is that which has moved us to bring about this Motion, and I hope in this Motion today the Minister will be so sympathetic as to accept it and that the Government as a whole will accept the Motion.

Firstly, I would like, Sir, to point out one specific aspect of this Motion, particularly as it affects the traders in some parts of the coastal area with regard to maize. Many African traders at the coast have got to buy maize that has been purchased by the Nyanza Marketing Board, and by doing that they buy very expensively and they sell it very expensively to the people who consume the maize. In some places, Sir, we are buying maize at the price of Sh. 55 to Sh. 57, but if this restriction was removed I believe very strongly that the African traders in maize would be in a position to take maize from places like Kitui at a cheaper rate, even at the rate of about Sh. 30 per bag. They would then be able to sell this maize to the consumers at a lower price and also they would be able to do this business on a larger scale.

The other point I wish to touch on is the restriction as from one district to another of agricultural produce—things like rice. We have many other people who produce rice—not on a very large scale, it is true, but up to ten bags, in a season—on their own plots. These people wish to sell their rice in Mombasa township. As has been pointed out by the Mover, Sir, the restrictions which are

[Mr. Ngala] now existing do not allow these people to move the amount of rice they would like to sell in places like Mombasa. This, to the producer, is a restriction which is entirely unnecessary because after he has produced what we want him to produce, in my opinion, Sir, it is completely unfair to stop him from getting the market that he would like to get. I hope the Minister will lift this restriction which, I think, is entirely unnecessary.

The other point I would like to raise is that of livestock. My hon. friend the Member for Rift Valley North has already touched on this but I would like to point out that although we very much appreciate the usual reasons that are given—control of disease, etc.—for the restriction of the movement of stock from one area to another, we do feel very strongly that in some places these reasons are just excuses.

For instance, Sir, in Kwale District, which is adjacent to Tanganyika, many people owning goats or sheep would like to trade freely with Tanganyika because it is near. They can do that very easily without having the alleged disease danger that is so much talked about by the Government. In these places, Sir, the stock even breeds together on the boundary between Kenya and Tanganyika and I do not feel that we should go on restricting these people if they wish to trade with Tanganyika people.

There are, Sir, central markets where people can sell their stock. I very much appreciate that arrangement, but I do not feel that the livestock owners should be made necessarily to go to these places if they can find other places where they can get a better market for their stock.

These centres, which have been established by the district African district councils, are much appreciated for the service they are rendering to the people, but I feel very strongly that if a producer of stock feels that he can get a better price elsewhere then he should be free to move it whether to Uganda or Tanganyika or any other district in Kenya.

When there is disease, Sir, we are not saying that disease should be spread, but all that we are telling the Minister is that such incidents should be gone into and the necessary steps should be taken

so that it does not continue to be an excuse for years and years.

I would like to underline the question of marketing, Sir, and what the other Members have said, because there is a real weakness in so far as the marketing system of produce and even of livestock is concerned in Kenya. I hope that the Minister will pay particular attention to the marketing system of African produce. I know that these things can be very helpful to the ordinary producer and in one province, for example, which I know very well, there is only one marketing officer, and I feel that this one marketing officer, as I have already pointed out, should have real co-operation and a working together with the co-operative officer so that the marketing officer can make the marketing system a success, as the Africans would like it to be.

With these few words, Sir, I beg to support the Motion.

MR. MATE: Mr. Speaker, I would like to feel that the Government is going to accept the Motion as suggested by the Nominated Member, Mr. Rogers, but I have got my own fears about this. One of them is the experience we have had of amendment to amendment on Motions. My other fear is that the Government will accept the Motion under conditions, pending review.

My fears, Sir, are these—that what the African producer and trader want is something positive done so that they can move the produce and sell it outside. It is the organization of the local market, as opposed to the export market, which I believe is the main excuse or reason for Government having produce control. Sir, I remember in the Central Province, we have been told that a provincial marketing organization is being formed, but, Sir, we are justifiably suspicious of this organization. I would like to be assured by the Minister that this organization is going to be positive and not just another form of maize and produce control. I need not repeat the various arguments against the recent produce control because there are many. But, Sir, the African grower and trader, as the Mover of the Motion said, are one and the same person. They are the producers who want to be encouraged if there is market facilities, but with

[Mr. Mate] the Maize and Produce Control, it is they who suffer. We have the produce collected by this organization; it is later auctioned somewhere in the open market, and they get very low prices in some cases. Take the question of the green gram. We have this commodity produced in some parts of Central Province which, when bought from the producer is bought at about Sh. 50, and later on sold at about Sh. 100. We do not know where the Sh. 50 go to; I presume it goes to the Maize and Produce Control or some other traders. The African trader is very aware of these extra profits which go to Government and to other organizations, and he does not see why his sweat should be so wasted. I hope very sincerely that the new organization in the Central Province will solve just these problems. We would like to see movement from district to district, from province to province, and into Nairobi and out again. We are not going to be satisfied by just another form of organization, and I would like a most sincere assurance from the Minister regarding these local markets here in Kenya.

On the question of the export market, I have no quarrels with the Minister. I believe, as the Nominated Member, Mr. Rogers, said, that we need to organize our outside market. We need to collect so much coffee, so much maize, so much whatever else it is, in order to make sure that we can compete with the outside markets, but what have the Government done about the local markets? Practically nothing, in the sense that so far, what we know of the Maize Control is that they collect all they can store in their stores; what they do not want—well, they give an excuse to the producer, "We have no room for it", or "It is humid", or something like that, and he has to go and store it. It is true; I have seen it, and I have seen examples of it. On the other hand, what happens is that the Maize and Produce Control burdens the trader with having to store—

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): Mr. Speaker, the hon. Member must make certain of his facts. He alleges that when the Maize and Produce Control cannot store produce, they return it to the producer on

the grounds that it is humid. Well I would like the hon. Member to substantiate that.

MR. MATE: Mr. Speaker, Sir, I will give the Minister information on the treatment of these people, both traders and growers by the Maize and Produce Control as a result of these kind of things—shortage of stores, and I am quite prepared to give him the information to that effect.

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): I think the point, Mr. Speaker, that the hon. Member must substantiate is this: that in order to prevent the Maize Control from having embarrassment when their stores are full, they arbitrarily down-grade for humidity. Now, the hon. Member must substantiate that.

MR. MATE: Mr. Speaker, Sir, I am quite prepared to give the Minister information.

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): Mr. Speaker, may I ask the hon. Member to bring it when the Council assembles next week. The hon. Member will have to prove that the stores are full and the down-grading was due to the stores being full, and not to the humidity.

THE SPEAKER (Sir Ferdinand Caven-dish-Bentinck): When an hon. Member makes a statement of this kind, publicly, it is not sufficient to say that he may, behind closed doors, eventually say something to justify his remarks. You must substantiate your statement before the same people before whom you made the suggestion, that is, this House.

MR. MATE: Mr. Speaker, Sir, I am going to get the Minister the facts to substantiate my remark.

THE SPEAKER (Sir Ferdinand Caven-dish-Bentinck): And this House.

MR. MATE: And this House, Sir.

Mr. Speaker, Sir, if I may go on, the other question is, when the traders find the stores are full, they are asked to go and store this produce in their own stores. They need this space for other work, and I feel here that Government have a responsibility. If they are the marketing organization, they ought to be qualified to take the produce and not

[Mr. Mole] make it difficult for the producer to have his produce in a store far too long. Here, Sir, we have no quarrel with the disease control or the grading of produce or even encouraging the farmers to produce more, but the marketing side of it is very difficult. Furthermore, when a trader cannot give away his produce to the Maize and Produce Control, he is not allowed to sell it outside. There are markets, for example, in, I think, Meru District, in Nanyuki, or Isiolo, or any other part of the Central Province or any part of Kenya. When the man goes to the marketing officer, he cannot be given a permit to go and sell his surplus produce outside, and that is what I mean by organizing the local market.

Mr. Speaker, the prices of the produce like maize have been dealt with, and I hope the Minister is going to try to make sure that the farmer gets a better deal for his produce; in this particular case, the African producer, I feel that if the African grower is going to get the most benefit after meeting the other charges for his produce, because on that depends his standard of life, on it depends whether he will be able to farm better and better—it is a very important thing as far as the African is concerned.

On the question of co-operative societies which handle a lot of produce, I feel that these might be encouraged, not only as collectors, but as marketing organizations. If they cannot do it, then companies, African companies, should be encouraged by the Ministry of Commerce and Industry in order to help handle this produce.

The other objection to these controls is the competition that is put against the ordinary trader by the Maize and Produce Control. They have the law behind them, but the small trader has not the resources and has not the power to be able to compete, and I am sure that this law should be amended in reorganizing marketing and it should help the trader to be able to take out his produce in order that he can sell it, and feel that he is not handicapped by this organization.

Mr. Speaker, I would only like to raise the question of the difficulty of having to produce, according to the new accelerated plan, the reason for

having to produce more and more, and having the difficulty of marketing and storing. It is very distressing to the farmer and to the trader, and even to the consumer, who may be wanting this particular type of commodity and cannot get it. I feel here, Sir, as I did before, that they are not encouraged by it; yet the Minister could assure the House that the steps to be taken to reorganize these local markets are going to be positive and that the traders and the producers are going to say "Hear, hear," because of the new change in policy.

Mr. Speaker, I beg to support the Motion.

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): Mr. Speaker, Sir, the Government accepts the Motion, and I should like to take the opportunity of indicating to the House the policy which the Government is following in regard to marketing generally, and after that, deal with some of the points which hon. Members have raised. I had hoped that perhaps we could have finished the debate today, but hon. Members have raised a number of points which I know they will forgive me if I say stem, I think, from ignorance allied with emotion. I would like to take opportunely next week of actually indicating where some statements made to the House have not been quite correct.

Now, Mr. Speaker, the Government believes that if the producer is to get the best price for his produce, we must have some form of organized marketing.

I propose to give my reasons for that to the House. It is true that producer and consumer interests do not always coincide. On the whole, consumer interests are best served by the cheapest possible prices which may eventually bankrupt the producer. When that process takes place, the consumer is subsequently damaged, and organized marketing attempts to preserve the fairest possible balance between the producer and consuming interests, and stimulate at the same time a wide expansion of the Colony's economy. If we cannot give producers good prices, producers will reduce production and the overall wealth available to everybody including traders must diminish. Now, we believe, as a Government, that organized marketing

[The Minister for Agriculture, Animal Husbandry and Water Resources] helps the producer to get better prices and thus stimulates production. If the producer cannot make a profit—and I will tell hon. Members later that today, the removal of some of these restrictions would immediately force the producer out of business—if he cannot make a profit, then the whole of the economy of the country must stand still or even contract. Now, I can remember between 1930 and 1937, when that process took place, and the economy of this country contracted to such a severe degree that many Government services had to be reduced; many officers were disposed of; many businesses went bankrupt, and many farmers went out of production. I believed that organized marketing can prevent that happening. I will give an actual instance of what would happen today in dealing with some of the allegations which have been made about maize.

There are in the country at the present time something like 900,000 bags of maize surplus to local consumption. That maize has to be sold, as the hon. Member for Central Province North said, overseas; when sold overseas, it comes into competition with other maize-producing countries, and the present price is about Sh. 14 a bag. If we allowed free movement of maize, then the whole of the maize producers of this country would indulge in a cut-throat competition to secure the benefit of the local market. Now, the hon. Member for the Coastal Area mentioned that it was possible to get maize in Kitui—I think the figure he put was about Sh. 32 per bag, whereas in Mombasa, it was moving to the consumer at about Sh. 55 to Sh. 56 per bag. The real point, Mr. Speaker, is this; that if we removed some control on maize—and I do not say for one moment that maize control is the proper way to do it—if we removed the control on maize, then the two great producing areas which are the European areas of the Highlands and Nyanza itself, would struggle amongst themselves for the benefit of the local market, and the price of maize would—

MR. ARAP MOI: What about Nandi?

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): Sir, the pastoral

areas of the Rift Valley produce very little maize indeed. The production of Nandi, Sir, in terms of the general production of maize is infinitesimal; it is merely a drop in the ocean.

MR. ARAP MOI: Is 50,000 bags a drop?

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): Sir, the hon. Member is quite right to boost the attractive qualities of the Nandi people, but he cannot do that in regard to their maize production.

MR. ARAP MOI: I can.

#### MINISTERIAL STATEMENT

VALEDICTORY—MR. W. J. D. WADLEY

THE CHIEF SECRETARY (Mr. Coultis): Mr. Speaker, at the close of business today, this is the last appearance in this House as a Nominated Member and as Director of Education of Mr. Wadley, and I feel that all hon. Members would like me just to say a word of appreciation for the work which he has done in this House, and the great struggle which he has put up on behalf of his own Department in dealing with debates particularly on education. Together with perhaps the Director of Agriculture, he is probably the "most over-worked" Nominated Member on the Government Back Bench. He has always dealt with his problems, I think, in an extremely sincere way and he has always applied to work in this House the same vigour and energy which he has applied to his own job.

In one of Robert Louis Stevenson's books, "The Wrong Box", there appears the heading of a chapter "Positively the Last Appearance of the Broadway Grand"; this was in reference to a piano which kept getting mixed up with a corpse. I would like to feel, Sir, that this is not positively the last appearance of Mr. Wadley in this House, because after his retirement, perhaps as an ordinary member of this community, he might still find his way back into this House in order to assist with the work that goes on.

On behalf of us all, Sir, I would like now formally to wish him and his wife good health and a very happy retirement. (Applause.)

MR. WADLEY: Mr. Speaker, Sir, I trust that despite the lateness of the hour, I may be forgiven if I say a few words,

(Mr. Wadley)

I should like to say how very sincerely indeed I appreciate the valedictory remarks just made by my hon. friend, the Chief Secretary, and the support given to them by this House. It is only about a fortnight ago that many hon. Members, in the course of the debate on the Education Head, made more complimentary remarks and tributes to my service since I arrived in this country. I cannot help feeling that I have been treated more kindly than I deserve.

I would like to say one more thing, Sir. It is now about ten years since I first entered this House as a Member, and I have since then enjoyed being a Member very much indeed, and appreciated the honour. I have found that my contact with Members here has been extremely invaluable to me in my work, and the friendships I have made, I value very highly. I am very glad to say that I shall be staying in Kenya; that I shall therefore be able to continue to take an interest in the affairs of this country, and also, to continue the friendships I have made here.

Thank you, Sir.

THE SPEAKER (Sir Ferdinand Cavendish-Bentinck): That brings us to the termination of business.

I would like, however, prior to adjourning the House to be allowed to add not only as Speaker, but also in another capacity in which I was privileged to be very closely associated with Mr. Wadley for a good many years, to add my own personal regret at his departure at the moment, and my sincere hopes that he will one day be back amongst us.

#### ADJOURNMENT

THE SPEAKER (Sir Ferdinand Cavendish-Bentinck): I now adjourn the House until 9.30 a.m. on Tuesday next, 24th June.

*The House rose at thirty-five minutes past Twelve o'clock.*

Tuesday, 24th June, 1958

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

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

#### PRAYERS

#### ADMINISTRATION OF OATH

The Oath of Allegiance was administered to the following Members:—

William David Gregg.  
Anthony Michael Francis Webb.  
Mohamed Azziz Alamoody.  
Karsanji Dahyabhai Travadi.

#### ORAL ANSWERS TO QUESTIONS

##### QUESTION No. 162

MR. MBOYA asked the Minister for African Affairs what Government's intentions are with regard to the future of the Sudanese settlement at Kibera.

THE MINISTER FOR AFRICAN AFFAIRS (Mr. Johnston): The future of the Sudanese settlement at Kibera is under consideration by the Government.

MR. MBOYA: Mr. Speaker, Sir, arising out of the reply, would the Minister not consider that this matter, having been raised in this House many times before and having been raised with him by two delegations of Sudanese elders, should be given immediate consideration?

THE MINISTER FOR AFRICAN AFFAIRS (Mr. Johnston): Mr. Speaker, Sir, the main difficulty in the Kibera settlement is the question of town planning, and the Government is now taking soil tests in that vicinity with a view to taking active steps.

MR. MBOYA: Mr. Speaker, Sir, is the Minister aware that whilst the Sudanese appreciate what the Government is trying to do in taking soil tests, that their immediate concern is the future of their settlement, and not so much what lies within its soil?

THE MINISTER FOR AFRICAN AFFAIRS (Mr. Johnston): Mr. Speaker, Sir, as I said in my reply, the intention of Government is that the area should be town planned.

MR. MBOYA: Mr. Speaker, Sir, arising out of the reply, is the Minister aware that the question involved is not so much what the town planning is going to be, but the future and the immediate security of

(Mr. Mboya)

of the Sudanese people? That has not so far been indicated by the Ministry or the Town Planning Authority.

THE MINISTER FOR AFRICAN AFFAIRS (Mr. Johnston): The position, Sir, is that Kibera is Crown land, and when a plan is made and a town plan is made for it, then the question of security of tenure will be considered.

#### QUESTION No. 145

DR. KIANO asked the Minister for Internal Security and Defence how many persons, sentenced in connexion with Emergency offences, are still serving prison sentences, indicating the categories of offences for which sentences are being served.

THE MINISTER FOR INTERNAL SECURITY AND DEFENCE (Mr. Cusack): On 6th June of this year 3,339 convicts were serving prison sentences for the following general categories of offences connected with the Emergency:—

Unlawful killing including murder	82
Unlawful possession of arms and ammunition	364
Consorting with or being a terrorist	732
Oath administration—compulsion or assisting	292
Taking unlawful oath	779
Being member of <i>Mau Mau</i>	714
Other offences	376
Total	3,339

DR. KIANO: Arising out of that reply, would the Minister inform us whether these sentences must be served to the end, or whether there is any provision for early release on account of good behaviour?

THE MINISTER FOR INTERNAL SECURITY AND DEFENCE (Mr. Cusack): I did not quite hear. You were asking about remission of sentence?

DR. KIANO: Whether there are any provisions for releasing some of these people earlier than the time scheduled, for good behaviour.

THE MINISTER FOR INTERNAL SECURITY AND DEFENCE (Mr. Cusack): Sir, the ordinary provisions of the Prisons Ordinance apply to them and that allows a form of remission for good behaviour.

MR. MBOYA: Arising out of the reply, would the Minister state whether any remissions have actually been given? Secondly, would he state whether prisoners of this category have in fact passed from prisons to detention camps?

THE MINISTER FOR INTERNAL SECURITY AND DEFENCE (Mr. Cusack): The answer to both parts of the hon. Member's question is "Yes".

MR. MATE: Would the Minister state what arrangements are made for the rehabilitation of some of these people?

THE MINISTER FOR INTERNAL SECURITY AND DEFENCE (Mr. Cusack): Mr. Speaker, I have already said frequently here that rehabilitation is not a function of my Ministry.

MR. MBOYA: Mr. Speaker, when the Minister for Internal Security is unable to answer or is not aware of the conditions, would the Government give us a reply, because we have asked these questions to the Government.

THE MINISTER FOR AFRICAN AFFAIRS (Mr. Johnston): Mr. Speaker, I regret that I was not listening, but the position is that we are proposing to rehabilitate all the *Mau Mau* convicts by putting them through a similar pipeline that the detainees are now going down.

DR. KIANO: Arising from the reply of the Minister for African Affairs, does that include all prisoners, including those at Lokitau?

THE MINISTER FOR AFRICAN AFFAIRS (Mr. Johnston): It only includes a certain category of prisoner.

MR. MATE: Arising from the reply of the Minister for African Affairs—

THE CHIEF SECRETARY (Mr. Coult): Surely, Mr. Speaker, this does not arise out of the original question.

MR. MATE: Mr. Speaker, arising out of the original reply, would the Minister for Internal Security and Defence consider working with the Minister for African Affairs to get this started?

THE MINISTER FOR INTERNAL SECURITY AND DEFENCE (Mr. Cusack): Mr. Speaker, I was unable to hear what the hon. Member said.

THE SPEAKER (Sir Ferdinand Cavendish-Bentinck): Would you please speak slower. Perhaps we may then be able to hear you.

MR. MATE: Mr. Speaker, arising out of the original reply, would the Minister

[Mr. Mate] for Internal Security and Defence consider collaborating or working with the Minister for African Affairs to get rehabilitation started before they finish their prison sentences?

The SPEAKER (Sir Ferdinand Cavendish-Bentinck): That arises out of the supplementary.

THE MINISTER FOR INTERNAL SECURITY AND DEFENCE (Mr. Cusack): Mr. Speaker, that has already been done.

#### QUESTION No. 152

Mr. MBOYA asked the Minister for Internal Security and Defence to state what reasons led to the banning of the film *Martin Luther*.

THE MINISTER FOR INTERNAL SECURITY AND DEFENCE (Mr. Cusack): The reasons, which have already been supplied by the Chairman of the Film Censorship Board to the applicants to exhibit, and of which a résumé has appeared in the Press were:—

- That the film would have unsettling effects on unsophisticated audiences, which might cause breaches of the peace;
- That it would seriously prejudice the excellent work being done in Kenya and Uganda by Christian Churches and Missions of all denominations;
- That it would disturb the existing good relations between different Christian denominations in Kenya and Uganda.

I should add that this film was previously banned in 1955.

Mr. MBOYA: Mr. Speaker, Sir, arising out of the reply, is the Minister aware that the Christian Churches to which he refers have urged that the film should be shown in Kenya?

THE MINISTER FOR INTERNAL SECURITY AND DEFENCE (Mr. Cusack): Mr. Speaker, the answer is that not all Christian Churches have so urged.

Mr. MBOYA: Mr. Speaker, would the Minister not agree that the responsible voice of the Christian Churches has urged that the film should be shown and that this voice is in a better position to establish the—

THE SPEAKER (Sir Ferdinand Cavendish-Bentinck): You are making a speech.

THE MINISTER FOR INTERNAL SECURITY AND DEFENCE (Mr. Cusack): There are other responsible voices which are taken into account.

#### QUESTION No. 153

Mr. MBOYA asked the Minister for Internal Security and Defence to state what films were banned in 1956 and 1957 and give reasons?

THE MINISTER FOR INTERNAL SECURITY AND DEFENCE (Mr. Cusack): Out of approximately 1248 films viewed by the Film Censorship Board in 1956 and 1957, 23 or approximately 1.8 per cent were refused licences because in the opinion of the Board they depicted matter which in the words of Rule 5 of the Cinematograph Films Censorship Rules, 1953, was "contrary to public order or decency, or the exhibition of which would... be undesirable in the public interest".

#### FILMS WHICH WERE REFUSED LICENCES IN 1956 AND 1957

Nine films in 1956: *Son of Sinbad; Golden Mistress; Voodoo Tiger; Tarzan and the Devil; War Path; Savage Mutiny; Vira Zapata; Destination Danger; Bhowani Junction.*

Fourteen films in 1957: *Black Pirate; Han Bhi Insan Hain; Sheep Has Five Legs; Cid 2435; Death Row; Ramar of the Jungle; Fastest Gun Alive; The Steel Cage; The Raiders; Silver Lode; Flaming Feather; Hut; Mollwack; Seminoles; Devil's Doorway.*

#### QUESTION No. 154

Mr. MBOYA asked the Minister for Internal Security and Defence to state the present composition of the Censorship Board and the basis on which the members are appointed.

THE MINISTER FOR INTERNAL SECURITY AND DEFENCE (Mr. Cusack): The composition of the Film Censorship Board is laid down in Rule 2 of the Cinematograph Films Censorship Rules, 1953, and is as follows:—

- A Chairman and a Deputy Chairman.
- The Chief Native Commissioner, or an Administrative Officer deputed by him.
- The Director of Education, or an officer of the Education Department deputed by him.
- Two of a panel of ten European women, ten Indian women and two Africans.
- Two members of the Board of whom one shall not be a paid member, shall form a quorum.

[The Minister for Internal Security and Defence]

The members are appointed on the basis of their common sense ability to judge what material is in the words of Rule 5 "contrary to public order or decency, or the exhibition of which would for any other reason be undesirable in the public interest". The panel members must also, in practice, be available to attend cinematograph exhibitions during the mornings and at times when people with other employment are at their normal work.

Mr. MBOYA: Mr. Speaker, Sir, would the Minister state why it was thought fit that there should be ten European and ten Asian women and only two Africans?

THE MINISTER FOR INTERNAL SECURITY AND DEFENCE (Mr. Cusack): Mr. Speaker, Sir, it has hitherto proved an entirely adequate and representative Board.

Mr. MBOYA: Mr. Speaker, is the Minister aware that he has not answered my question? Would the Minister consider reviewing the composition of the Board?

THE MINISTER FOR INTERNAL SECURITY AND DEFENCE (Mr. Cusack): Yes, Sir.

#### QUESTION No. 144

Lt.-COL. MCKENZIE, on behalf of Mr. Slade, asked the Minister for Local Government, Health and Town Planning to state:—

- What is the present formula (if any) for grants from public funds to mission hospitals?
- Is this formula applied equally to all mission hospitals, regardless of denomination of the mission concerned?

THE MINISTER FOR LOCAL GOVERNMENT, HEALTH AND TOWN PLANNING (Mr. Havelock): (1) There is a formula, based on the cost of approved technical staff, for paying maintenance grants to mission hospitals from public funds. In addition, capital grants are usually made on a £ for £ basis in respect of approved capital projects. There are also training grants of a fixed amount payable to mission hospitals approved by the Nurses and Midwives Council as being able to undertake the training of Assistant Nurses, Grade II.

(2) The formula for maintenance grants is only applied to those approved

hospitals which were sited and planned in co-operation with the Director of Medical Services, and has nothing to do with the question of denomination. As these hospitals formed part of the pattern of basic hospital services in the Colony as a whole, the Government accepted an obligation to assist in meeting the cost of maintenance. However, in acknowledgment of the fact that there is a need to increase the number of hospital beds in the Colony over and above the basic pattern, the Government assists other mission hospitals in meeting their maintenance costs on an *ad hoc* basis.

Mrs. HUGHES: Can the Minister state whether this formula has been applied equally to mission hospitals, the conditions being similar?

THE MINISTER FOR LOCAL GOVERNMENT, HEALTH AND TOWN PLANNING (Mr. Havelock): The formula does apply equally. The question of denomination does not enter into it—it is all a matter of planning and siting.

Mr. MATE: Mr. Speaker, arising out of the reply, would the Minister state what arrangements are made to make sure they are kept in touch with the general position?

THE MINISTER FOR LOCAL GOVERNMENT, HEALTH AND TOWN PLANNING (Mr. Havelock): That is a new question and I would like to have notice of it.

#### WAYS AND MEANS PROCEDURE RULING

THE SPEAKER (Sir Ferdinand Cavendish-Bentinck): I will now ask Mr. Conroy to give a ruling on procedure for which he was asked in Committee of Ways and Means.

Mr. CONROY: I was asked to rule, in Committee of Ways and Means, on the following point of order:—

Where a substantive motion has been moved in that Committee (with the consent of the Governor) to increase a tax, is it open to any Member to move (without such consent) an amendment to alter the proposed increase?

Sir, having considered the provisions of Standing Order 105 (1) and Standing Order 115 (2) and the practice of the House of Commons, and having had the advantage of being able to discuss the matter with you, Sir, I rule that such



[Mr. Conroy.]

an amendment may be moved, provided the effect of the amendment would not be to reduce the tax below the current level, nor to increase it above the level proposed in the original Motion for which the Governor's consent had been signified.

The power of the Committee of Ways and Means to consider such an amendment is complementary to the power of the Committee of Supply to consider an amendment to reduce, but not to increase, the amount of a Vote.

SIR CHARLES MARKHAM: Mr. Speaker, Sir, could I ask a question.

THE SPEAKER (Sir Ferdinand Cavendish-Bentinck): For further elucidation, yes.

SIR CHARLES MARKHAM: Regarding the Bill, Sir, I will produce an example of the Emergency surcharge.

MR. CONROY: As I understand the Bill, Sir, it is to increase the tax?

SIR CHARLES MARKHAM: We want to reduce that.

MR. CONROY: I would like to consider that.

## BILLS

### FIRST READINGS

*The Income Tax (Rates and Allowances) (Surcharge) (Amendment) Bill*

Order for First Reading read—Read the First Time—Ordered to be read the Second Time tomorrow.

*The Dairy Industry Bill*

Order for First Reading read—Read the First Time—Ordered to be read the Second Time tomorrow.

*The Promissory Oaths Bill*

Order for First Reading read—Read the First Time—Ordered to be read the Second Time tomorrow.

*The Legislative Council (Amendment) Bill*

Order for First Reading read—Read the First Time—Ordered to be read the Second Time tomorrow.

*The Maize and Sorghum (Imposition of Cess) (Amendment) Bill*

Order for First Reading read—Read the First Time—Ordered to be read the Second Time tomorrow.

*The Banks' Title to Land (Amendment of Laws) Bill*

Order for First Reading read—Read the First Time—Ordered to be read the Second Time tomorrow.

## BILLS

### REPORT AND THIRD READING

*The Customs Tariff Bill*

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): Mr. Speaker, I beg to move that a Committee of the whole Council having considered the Customs Tariff Bill, the Council doth agree with the Committee in the said Report.

*Question proposed.*

The question was put and carried.

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): Mr. Speaker, I beg to move that the Customs Tariff Bill be now read a Third Time.

*Question proposed.*

MR. ALEXANDER: Mr. Speaker, I beg to move that in the place of the word "now", "this day six months" be inserted.

I do this, Mr. Speaker, because I think that the inadequacies and anomalies in this Bill are only now coming to light. I attended yesterday a meeting of the Nairobi Chamber of Commerce where, for the first time, I began to hear some of the shortcomings of this particular Bill. Undoubtedly, the commercial community do not seem to have had adequate time in which to consider these matters, because I understand that the first intentions of the territorial governments were included in a High Commission Gazette which received limited publication and limited circulation, and commerce generally was obviously not aware of the full implications.

Undoubtedly as well, a serious matter has come to light regarding the duty to be imposed on the full cost of air freight.

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): Mr. Speaker, on a point of order, Sir, I do not think these arise out of this particular Bill at all, the arguments of the hon. Member. This deals with the rates; it does not deal with the customs management and interpretation.

MR. ALEXANDER: Mr. Speaker, my point is that if we can limit the rates, perhaps, automatically, it will not be possible for the Management Act as well to be introduced.

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): Mr. Speaker, on a point of order, the Management Act Rules that the hon. Member was talking about have already been passed by the Central Legislative Assembly.

THE SPEAKER (Sir Ferdinand Cavendish-Bentinck): I am afraid, Mr. Alexander, that I had not got the Bill in front of me when you spoke; I was not expecting you to raise this matter. If you would pursue your arguments for a short time, I will consider whether you are in order or not in so far as your arguments are concerned; but you are definitely in order in moving the Motion you have moved, though possibly your arguments may not prove relevant.

MR. ALEXANDER: Thank you very much indeed, Mr. Speaker, for your indulgence. My understanding of this Bill is that it follows the lines of the income tax procedure; namely, that we have a Management Act which is a High Commission act, and that we fix the rates as Kenya Colony. My understanding is that customs follows the same rules: that we have the Management Act which concerns the general administration of customs, but we fix, as in fact this Bill is doing, we fix our own rates.

Now, my purpose, Mr. Speaker, is if I can embarrass the situation by doing something awkward to this particular Bill, we might thereby be able to give commerce a chance really to study this particular subject, and I was just about to say when I was interrupted—I will not say rudely, Mr. Speaker, because quite obviously the Minister for Finance has discovered that I may be on the wrong track—but I was just about to explain how customs duty at the rates in this Bill are to be imposed for the first time on the full value, or rather, the full cost of air freight, and the likelihood is that air freight, which has become a great service and facility to this Colony, is likely to diminish considerably, and to deprive this Colony of a quicker turn-over in goods. What is worse, I am assured, is that if this freight service is diminished, it will mean that livestock—

and this will concern my good friend, the Specially Elected Member for Solai—you will find that freighters find it no longer possible to fly there, and that facility will be removed from the Colony.

There is also, Mr. Speaker, a very serious objection regarding the form—I think it is No. 57B, I am not quite certain of that number—on which this duty is assessed and there is also a considerable objection regarding the interpretation of value, and in point of fact, business and commercial people fear that they may not know exactly what customs duty is involved for perhaps upwards of a year after the goods have arrived in the Colony. They, in the meantime, have had to store them, and to fix a price at which to sell them. That also is an embarrassment to the business community.

Mr. Speaker, Sir, I beg to move the amendment.

THE SPEAKER (Sir Ferdinand Cavendish-Bentinck): I think I must rule that it is quite in order that a Bill which it is proposed should be enacted by the legislature of this Colony which we are now debating can under Standing Order 96 (2) be opposed in the manner in which this Bill is being opposed.

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): Mr. Speaker, the hon. Member for Nairobi West seemed to think that I was rude in interrupting him; Sir, I raised a point of order on this matter. Points of order, Sir, I suggest are not questions of rudeness; they are questions of whether a thing is correct or not, Sir, and we are entitled to ask for your ruling.

The hon. Member has, in fact, referred to a number of points which are indeed nothing to do with this Bill at all, Sir, with due respect. The manner and the interpretation of the management is a question for the Central Legislative Assembly and the Commissioner of Customs. Not only that, Sir, I was surprised to hear my hon. friend, the Member for Nairobi West, who is so well informed in these matters as a rule, turn round to address the hon. Specially Elected Member for Solai, and paint a terribly black picture about how now, if we did this, there would be air freight on all living animals and that the hon. Member would not get his animals in

[The Minister for Finance and Development] because the freight cost would not let him. If the hon. Member would merely look for one moment at the Schedule, he will see that animals and living birds come in free; therefore, the question does not arise.

MR. ALEXANDER: Thank you, Mr. Speaker. That was not my argument. My argument was not that there would be customs duty on livestock, but because the air freight service would be diminished and perhaps abandoned, that facility would be removed from the farming community to enable them to bring their livestock in.

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): Well, that seems to me a somewhat different argument now from the argument that was being put forward a few minutes ago. The Schedule is completely clear, Sir; it says "free". Now, Sir, the Government obviously cannot accept this particular Motion. It could rob the country of a great deal of revenue; it would mean, indeed, that we should have to readjust the whole structure because if we cannot find the money from these proposals, we should certainly have to look to other sources of taxation.

Therefore, Sir, it may be that the hon. Member who is moving that the Bill should be postponed would like us to have a look at the other taxes and move them in an upward direction. But as I understood the argument that has been going on for some considerable time in this Council, Sir, that is not the object of the hon. Member at all.

However, Sir, the point is that the hon. Member has made his point; he has drawn the attention, I imagine, of the Central Legislative Assembly and the Commissioner of Customs to the point he wished to draw their attention to, and that the Government cannot accept the amendment.

Sir, I do not propose to repeat all the arguments that have been repeated over the past few weeks, including, Sir, the fact that the point that the hon. Member is raising now was raised in debate by my hon. friend, the Nominated Member, Mr. Jones, and my hon. friend the Secretary to the Treasury did reply to it also in the course of that debate.

Question that the words to be left out put and negated.

The question was put and carried.

The Bill was accordingly read the Third Time.

### REPORT

#### THIRD READING

*The Income Tax (Rates and Allowances) (Amendment) Bill*

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): Mr. Speaker, Sir, a Committee of the whole Council having reported its approval of the Income Tax (Rates and Allowances) Bill with amendment, I beg to move that the Council doth agree with the Committee in the said report.

#### Question proposed.

The question was put and carried.

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): Mr. Speaker, Sir, I beg to move that the Income Tax (Rates and Allowances) (Amendment) Bill be now read the Third Time.

#### Question proposed.

The question was put and carried.

The Bill was accordingly read the Third Time.

### REPORT

#### THIRD READING

*The Civil Service Commission (Amendment) Bill*

THE CHIEF SECRETARY (Mr. Coutts): Mr. Speaker, Sir, I beg to move that a Committee of the whole Council has considered the Civil Service Commission (Amendment) Bill and has reported it with amendment.

I beg to move that this Council doth agree with the Committee in the said report.

#### Question proposed.

The question was put and carried.

THE CHIEF SECRETARY (Mr. Coutts): Mr. Speaker, I beg to move that the Civil Service Commission (Amendment) Bill be now read the Third Time.

#### Question proposed.

The question was put and carried.

The Bill was accordingly read the Third Time.

### COMMITTEE OF THE WHOLE COUNCIL

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

### IN THE COMMITTEE

[Sir Ferdinand Cavendish-Bentinck, K.B.E., C.M.G., M.C., in the Chair]

#### *The Stamp Duty Bill*

Clauses 2, 3 and 4 agreed to.

#### Clause 5

MR. CONROY: Mr. Chairman, I beg to move that clause 5 be left out of the Bill and that the following clause be inserted in place thereof:—

Liability to Stamp Duty.

5. Subject to the provisions of, and to the exemptions contained in, this Ordinance and any other written law, every instrument specified in the Schedule to this Ordinance and either—

(a) executed in the Colony, or

(b) executed elsewhere and relating to any property situate or to any matter or thing done or to be done in the Colony,

shall be chargeable with the stamp duty specified in the said Schedule.

As hon. Members will all have seen, in comparing the amendment with the existing clause, the purpose of the clause is to put the wording beyond the possibility of doubt. There was a possibility, under the existing wording of the clause, that it might be misconstrued and the amendment is to make that meaning clearer.

I accordingly beg to move.

#### Question proposed.

Question that clause 5 be left out of the Bill put and carried.

Question that the new clause 5 be inserted in place of the clause 5 which has been left out put and carried.

Clause 5, as amended, agreed to.

Clauses 6, 7, 8, 9, 10, 11 and 12 agreed to.

Clauses 13, 14, 15 and 16 agreed to.

Clause 17 agreed to.

#### Clause 18

MR. CONROY: Sir, I beg to move that sub-section (1) of clause 18 be amended by inserting therein, immediately after the word "therewith", the words "or on securing the same to the satisfaction of the Collector".

I am sorry to see that my friend from the Southern Area is not here, because this is a matter he raised the other day. The purpose of the amendment is that if anyone is dissatisfied with the assessment made by the collector, he can appeal, but he should obviously pay or secure the payment of the stamp duty pending the appeal. Originally, the Bill said that he would have to pay. Well, that seemed to the Government and to the Law Society to be a little unfair, because the stamp duty might run to many thousands of pounds, and if a man subsequently won an appeal it would mean that he might have had to realize securities to find the stamp duty and pay it, when the Supreme Court held that the assessment was wrong and he got his money back.

Therefore, it seemed to all concerned that it was much fairer to allow him to make a deposit, possibly of his securities, in order to secure the payment of the stamp duty. That is the purpose of this amendment.

#### Question proposed.

Question that the words proposed to be inserted be inserted put and carried.

MR. CONROY: Sir, might I move a further amendment, which is that sub-section (2) of clause 18 be left out of the Bill, and that the following sub-section be inserted in place thereof:—

(2) A sum of Sh. 300 shall be lodged with the Collector as security for the costs referred to in sub-section (6) of this section.

Sir, sub-section (2) as originally drafted provided that anyone who wanted to appeal had to deposit the sum of Sh. 300. If his appeal succeeded, he got the Sh. 300 back; if the appeal failed, the Sh. 300 was forfeited. That seems a little unfair, and so we proposed to amend it to say that he shall deposit the Sh. 300 against the costs which he may subsequently be ordered to pay. If he is ordered to pay no costs, he gets his Sh. 300 back; if he is ordered to pay

[Mr. Conroy]

less than Sh. 300 costs, he gets the balance back which, to the Law Society and to the Government, seems to be a fairer method.

*Question proposed.*

Question that sub-section (2) of clause 18 be left out of the Bill put and carried.

Question that the new sub-section (2) be inserted in place of the sub-section (2) which has been left out put and carried.

Clause 18 as amended agreed to.

*Clause 19*

MR. CONROY: Mr. Chairman, I beg to move that sub-section (2) of clause 19 be amended by substituting for the words "acted upon, filed, enrolled or registered" the words "filed, enrolled, registered or acted upon".

Sir, as all hon. Members will see at a glance, this is to apply the provisions of the *ejusdem generis* rule.

I accordingly beg to move.

*Question proposed.*

Question that the words proposed to be substituted be substituted put and carried.

Clause 19 as amended agreed to.

*Clause 20*

MR. CONROY: Mr. Chairman, there are two amendments. Might I move them as one, because it is to add a new sub-section (6)?

THE CHAIRMAN (Sir Ferdinand Cavendish-Bentick): Yes, please.

MR. CONROY: I beg to move the following amendment that the following sub-sections be added at the end of clause 20:—

(6) Notwithstanding the provisions of this section, no bill of exchange or promissory note shall, except as provided in sections 21, 22, 34, and 36, be stamped after execution;

(7) In this section the term "Collector" shall not include the Senior Collector of Stamp Duties.

Sir, the purpose of the first amendment is to make clear that the provisions of this section do not apply to bills of exchange or promissory notes and therefore to amend an omission that

was made in the Bill as originally drafted. The second amendment—that is to say, the addition of the new proposed sub-section (7)—is to ensure that if the Senior Collector exercises his discretion under the proviso to sub-section (2), to remit or to refuse to remit a stamp duty which is payable, that exercise of discretion shall not be the subject of an appeal.

I accordingly beg to move.

*Question proposed.*

Question that the two new sub-sections proposed to be added be added put and carried.

Clause 20 as amended agreed to.

Clauses 21, 22 and 23 agreed to.

*Clause 24*

MR. CONROY: Sir, I beg to move that clause 24 be left out of the Bill.

This is to meet the Law Society, who pointed out that the original clause 24 made assessments conclusive in favour of the Government; and they did not see why they should be conclusive in favour of anyone. With that, Government has agreed, and accordingly wishes to delete clause 24 from the Bill.

*Question proposed.*

Question that the clause proposed to be left out be left out put and carried.

*Clause 25*

MR. CONROY: Sir, I beg to move the consequential amendment to clause 25.

That clause 25 be amended by deleting the words "Notwithstanding anything contained in section 24 of this Ordinance";

*Question proposed.*

Question that the words proposed to be left out be left out put and carried.

Clause 25 as amended agreed to.

Clauses 26, 27, 28 and 29 agreed to.

Clauses 30, 31, 32, 33, 34, 35, 36 and 37 agreed to.

Clauses 38, 39, 40, 41 and 42 agreed to.

Clauses 43, 44, 45, 46 and 47 agreed to.

*Clause 48*

MR. CONROY: Mr. Chairman, I beg to move that paragraph (b) of sub-section (4) of clause 48 be amended by inserting

[Mr. Conroy]

immediately after the word "same", the words "knowing that it does not contain that recital (which knowledge shall be presumed unless the contrary is proved)".

The purpose of this amendment, Sir, is to prevent an innocent person from being convicted of an offence and will therefore, I trust, commend itself to all members of the Committee.

*Question proposed.*

Question that the words proposed to be inserted be inserted put and carried.

Clause 48 as amended agreed to.

Clauses 49 and 50 agreed to.

*Clause 51*

MR. CONROY: Sir, I beg to move that clause 51 be amended by adding at the end thereof a proviso as follows:—

Provided that the duty chargeable on the instrument so determined shall be the highest duty which would be chargeable in respect of any of the said instruments.

This, Sir, is for the purpose of clarifying the meaning of the section and putting it beyond possibility of doubt.

*Question proposed.*

Question that the words proposed to be added be added put and carried.

Clause 51 as amended agreed to.

Clauses 52, 53 and 54 agreed to.

Clauses 55, 56, 57, 58, 59, 60, 61, 62 and 63 agreed to.

Clauses 64, 65, 66 and 67 agreed to.

*Clause 68*

MR. CONROY: Sir, I beg to move that paragraph (d) of sub-section (1) of clause 68 be amended by deleting the words "any agreement for a mortgage or" therein.

This, Sir, appears to be a very small amendment; in fact, it is a very large concession by the Government and it meets a point raised by my hon. and learned friend from the Aberdares, the Specially Elected Member, who spoke on this Bill the other day. You will recall that he asked me to give three undertakings, and I said that I regretted I could only give one. This amendment meets him on the second and third undertakings.

We have again been approached by the Law Society, and they have ultimately convinced us that we are wrong and they are right, Sir.

*Question proposed.*

Question that the words proposed to be left out be left out put and carried.

MR. CONROY: Sir, I beg to move further that sub-section (3) of clause 68 be amended by renumbering paragraphs (b) and (c) as paragraphs (c) and (d) respectively, and by inserting, immediately after paragraph (a), a new paragraph as follows:—

(b) In the case of an equitable mortgage to which the provisions of sub-section (2) of section 70 of this Ordinance apply, where any advance or loan is made in excess of the amount covered by the *ad valorem* duty impressed thereon, there shall be presented with or endorsed on the equitable mortgage, when it is presented for stamping, a certificate setting forth the amount of the advance or loan so made.

Sir, this clarifies the procedure which has to be followed in the stamping of equitable mortgages in these circumstances, and, I think, of assistance to all persons engaged in the registering and execution of mortgages.

I accordingly beg to move.

*Question proposed.*

Question that the paragraphs proposed to be renumbered be renumbered, and that the paragraph proposed to be inserted be inserted put and carried.

Clause 68 as amended agreed to.

Clauses 69, 70 and 71 agreed to.

Clause 72 agreed to.

*Clause 73*

MR. CONROY: Sir, I beg to move that sub-section (1) of clause 73 be amended by inserting immediately before the word "made" the words "(including re-insurance)".

Sir, this is an amendment made, I understand, at the request of the Chamber of Commerce.

*Question proposed.*

Question that the words proposed to be inserted, be inserted, put and carried.

Clause 73, as amended, agreed to.  
 Clauses 74, 75, 76, 77, 78, 79, 80 and 81 agreed to.

#### Clause 82

MR. CONROY: Sir, I beg to move that clause 82 be amended by substituting in sub-section (2), for the word "twenty" the word "thirty".

Sir, that is to correct a mistake in the Bill.

#### Question proposed.

Question that the word proposed to be substituted, be substituted, put and carried.

Clause 82, as amended agreed to.

Clauses 83, 84, 85, 86, 87 and 88 agreed to.

Clauses 89, 90, 91, 92, 93 and 94 agreed to.

Clause 95 agreed to.

Clauses 96 and 97 agreed to.

Clauses 98, 99, 100, 101 and 102 agreed to.

Clauses 103, 104, 105, 106, 107, 108, 109 and 110 agreed to.

Clauses 111, 112, 113, 114, 115 and 116 agreed to.

Clauses 117, 118, 119, 120, 121 and 122 agreed to.

#### New clause

MR. CONROY: I beg to propose that a new clause, which has been circulated, be inserted in the Bill as follows:—

Penalty for evasion of duty splitting. Any person executing an instrument in contravention of the last preceding section shall be liable to a fine not exceeding five thousand shillings.

New clause read the First Time.

MR. CONROY: I beg to move that that clause be read a Second Time.

Sir, I might perhaps explain, for the benefit of the Committee: you will recall we deleted clause 24 and amended clause 25 which will now become clause 24. What is now 26 (but will be 25), deals with splitting, and it is proposed that the new clause should be inserted after the present clause 26 (which will be clause 25), and the new clause will become clause 26. We thus get "Any

person executing an instrument in contravention of the last preceding section"—that is to say, under the new clause 25—"shall be liable to a fine not exceeding five thousand shillings".

I accordingly beg to move that it be read a Second Time.

Question proposed that the new clause be read the Second Time.

The question was put and carried.

New clause read the Second Time.

Question proposed that the new clause be inserted in the Bill.

The question was put and carried.

#### Schedule

MR. CONROY: Sir, I have a number of amendments to move to the Schedule. They all are only verbal amendments for the purpose of clarifying what the Schedule means, and they are moved at the request of the Law Society. I think perhaps I should just explain where they go in, because it is very difficult to see otherwise.

The first amendment is that the word "Bond" in column two—that is the first line of the Schedule—be deleted, and the words "Bond, etc." be substituted.

The second part of this amendment is that for the words "Exchange of Property", which is line six of column two, the words "Exchange of Property and Agreement and section 49.", be substituted.

The third part of this amendment, Sir, is that for the word "Agreement" opposite the words "Agreement for Hire of Goods"—that is one line below the last amendment—we substitute the words "Agreement and section 31".

Then, Sir, five lines below, that for the words "Conveyance, etc.", the words "Agreement and Conveyance, etc." and section 49.", be substituted.

#### Question proposed.

Question that the words proposed to be substituted, be substituted, put and carried.

MR. CONROY: We then go on to page 69. You see the item 20 in the first column—"Exchange of Property", and then the line below—"Extract"; opposite "Extract" column two says "See Copy". That should read "See Copy or Extract".

[Mr. Conroy]

Then, Sir, we go down five lines; column one—"Hire Purchase Agreement"; column two says "See Agreement". That should read "See Agreement and section 31".

#### Question proposed.

Question that the words proposed to be substituted, be substituted, put and carried.

MR. CONROY: We then turn to page 80, Sir. Item 34. Column one reads "34. Superannuation Annuity". Column two reads "See Bond, Covenant, etc.". For that column two I propose to move an amendment—to substitute for the words "Bond, Covenant, etc.", the words "Bond, etc.". In other words, the word "Covenant", is deleted.

Then, Sir, at the bottom of column two on that page, the present words are "See Declaration of Trust". That should read "See Declaration".

Sir, those are all the amendments I beg to move as my first amendment to the Schedule. There are, however, two other amendments I would like to move separately.

#### Question proposed.

Question that the words proposed to be deleted, be deleted, put and carried.

MR. CONROY: Sir, I beg to move an amendment of which notice was given in the Supplementary Order Paper for today, which relates to an item at page 60, Sir.

Line four, page 60 in the Schedule, reads "Agreement for Equitable Mortgage or Charge: See Mortgage, etc.". The amendment is that those words be deleted.

#### Question proposed.

Question that the words proposed to be deleted, be deleted, put and carried.

MR. CONROY: The second part of this amendment is that the words "Agreement for Legal Mortgage or Charge: See Mortgage, etc.", which is four lines below the last amendment, be deleted.

#### Question proposed.

Question that the words proposed to be deleted, be deleted, put and carried.

MR. CONROY: Then I beg to move that the words "Agreement for Contract accompanied with a deposit: See Mort-

gage, etc." be inserted in that item; I think they should come after "Administration Bond".

I beg to move.

#### Question proposed.

Question that the words proposed to be inserted, be inserted, put and carried.

MR. CONROY: Sir, there is a further amendment which I beg to move at page 74, Sir, and 75. The amendment is numbered paragraph 14 in the notice which was given, and the amendment is that item 27 of the Schedule be amended by substituting for sub-item (1) thereof, so far as it appears in the first and second columns thereof, the following sub-item, which relates to "Policy of Sea Insurance" and of which notice has been given.

Sh. etc.  
 "(a) Where the premium or consideration does not exceed the rate of one-eighth per centum of the sum insured, but excluding reinsurance . . . . . 30  
 (b) Reinsurance . . . . . 2 00  
 (c) In any other case—

(i) For or upon any voyage, for every Sh. 10,000, and also for any fractional part of Sh. 10,000, of the sum insured . . . . . 50

(ii) For time—  
 (A) Where the insurance is made for any time not exceeding six months, for every Sh. 10,000, and also for any fractional part of Sh. 10,000, or the sum insured . . . . . 1 50

(B) Where the insurance is made for any time exceeding six months but not exceeding 12 months, for every Sh. 10,000, and also for any fractional part of Sh. 10,000, of the sum insured . . . . . 3 00

[Mr. Conroy]

## Exemption—

Policy of insurance on baggage or personal and household effects only, if made, or executed outside the Colony.

And see sections 72 to 81."

*Question proposed.*

Question that sub-item (1) be deleted, put and carried.

Question that the new sub-item (1) proposed to be inserted, be inserted, put and carried.

MR. CONROY: There is one further amendment which I beg to move, which is at page 81 of the Bill. It is headed "SCHEDULE—GENERAL EXEMPTIONS".

I beg to move that the Schedule be amended by deleting item (18) "Note or Memorandum in the General Exemptions. That is paragraph 16 of the amendments which were circulated with the Order Paper.

*Question proposed.*

Question that the item proposed to be deleted, be deleted, put and carried.

Question proposed that the Schedule, as amended, be approved.

The question was put and carried.

Schedule, as amended, agreed to.

Title agreed to.

*Clause 1*

MR. CONROY: Sir, I beg to move that clause 1 be amended by substituting for the word "July" the word "October".

It is unnecessary to remind Members that it is the length of the debate on income tax which is the reason for this amendment.

*Question proposed.*

Question that the word proposed to be substituted, be substituted, put and carried.

Clause 1 as amended agreed to.

MR. CONROY: Mr. Chairman, Sir, I beg to move that the Committee do report to Council its consideration and approval of the Stamp Duty Bill, with amendments.

*Question proposed.*

The question was put and carried.  
Council resumed.

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

## REPORT

*The Stamp Duty Bill, 1958*

MR. CONROY: Mr. Speaker, Sir, I beg to report that a Committee of the whole Council has considered the Stamp Duty Bill and has approved the same with amendments.

Report ordered to be considered tomorrow.

## MOTION

## REMOVAL OF PRODUCE AND LIVESTOCK RESTRICTIONS

*Resumption of debate interrupted on 20th June, 1958.*

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): Mr. Speaker, when Council adjourned on Friday, I was dealing with the point which was raised by the hon. Member for Central Province North in regard to the indiscriminate sale of maize. In order just to cast the minds of the Council to Friday, I would like to start by pointing out that if we abolish some form of organized marketing of maize, undoubtedly the price today—with a surplus of 800,000 to 900,000 bags in the country—would fall to the export level. Export level was recently around Sh. 14 a bag.

Exactly the same situation developed in the 1930's, when there was no organized marketing of maize, and the price of maize in those days fell to export parity which was about Sh. 3/2d.

Now, the hon. Member really wants to have within the controlled system a flexibility which enables individual producers to sell outside control, and I must explain to him that that is impossible if he is going to retain organized marketing and some form of organized price structure. The persons from Meru who wish to sell five bags at a time in Nanyuki, under the arrangements the hon. Member has put forward, must immediately come into competition with persons from Nyeri who similarly wish to sell five bags of maize. Those persons will compete against each other in the

[The Minister for Agriculture, Animal Husbandry and Water Resources] Nanyuki market, hawking their maize from *duka* to *duka*, and the only result which will happen will be a continuing drop in the price of the maize which they are hawking round, until it reaches the export level. If there is no maize offering from Nyeri, then it will offer from Fort Hall, Kimbu or further afield, according to the seasons. So it is essential, in the producer's interest, to have some form of organized marketing if the producer wants to have stable prices.

Next, dealing with the reasons which made Government support a policy of controlled marketing—I have listed the first two and I would now like to move to the third. Agricultural production is seasonal and farmers' capital is limited. Unless the farmer is to be open to the exploitation of the speculative trader, there must be some method by which he can store and hold his produce over a year so that he can move it into the market month by month, as demand develops.

When the farmer wishes to sell his crop, every farmer wishes to sell at once because he wants cash. The result of that is that the whole of the farming community enters the market, competes with one another, the prices drop and the trader is the only person to benefit. In other words, without organized marketing we have a glut of produce at harvest time with cut-throat prices to producers and subsequently deficits in produce offering which lead to substantial rises in the price of the produce.

An instance of that has occurred recently in Uganda where maize bought at Sh. 16/50 a bag from farmers, by speculative traders have now been sold later to the consumer at more than Sh. 38 per bag.

Therefore, Sir, I do submit to the Council that it is better for us to have organized marketing and see that that differential is spread as far as possible over the primary producer and that the speculative trader, who merely battens upon the farmer in times of glut and upon the consumer in times of scarcity, should be eliminated from the scene.

We therefore intend to continue to organize marketing and I do not accept

some of the arguments which have been advanced. It may be of interest to the Council to know that the Nyanza Marketing Board has not eliminated the trader, either Asian or African, from its activities. No less than 2,000 traders are used by the Nyanza Marketing Board in the carrying out of its functions and, similarly, it is a popular comment that the Kenya Meat Commission have eliminated the trader. That is not so. Something like 1,800 permits are given annually by the Kenya Meat Commission to individual traders for trade in stock products.

Lastly, Sir, if we are to abandon organized marketing then we abandon much of the benefit of scientific storage. We have in this country, under the very efficient management of the Maize Controller, largely reduced to negligible proportions storage losses due to the deterioration of the grain in the stores. That is far better done, far more efficiently done, far more cheaply done by bulk storage by producer marketing organizations than it is in the back yard of the small trader or *duka* all over the country when losses must inevitably increase. Those losses must be paid for by somebody—either the consumer or the producer. I submit to Council that organized marketing, which eliminates those losses, is of benefit both to the producer and to the consumer.

Now, Mr. Speaker, before ending I would like to deal with some specific points which hon. Members have raised, because one or two of them are erroneous.

I have already explained that 2,000 traders are used in Nyanza for marketing products under the *agris* of the Nyanza Marketing Board. It is incorrect, therefore, to say that the trader is eliminated by organized marketing.

The hon. Member for Nyanza Central said that the African producer was not satisfied with his price and that there was a differential between that paid to the African producer and that to the European. There is no such differential and if hon. Members will look at the White Paper on the Maize Industry, which I shall be laying, they will find a table clearly indicating to them the breakdown of prices to producers. In the case of African producers, because they are often peasant producers, we provide

[The Minister for Agriculture, Animal Husbandry and Water Resources] services which larger producers provide for themselves, and there is a deduction in that degree.

Secondly, Sir, it is erroneous to say that there is any such thing as the Agricultural Betterment Fund existing today. That was a wartime measure which was carried on until a few years ago and has now been abandoned; and the only deduction on that account from African maize is one which is organized by Africans themselves through the African district council cesses. It is not a matter for the Central Government.

The hon. Member also said that he had no serious quarrel with the Nyanza Province Marketing Board but he wanted the organization to be run by producers. He may like to know there is a majority of Africans on the Board. The African producers are five in number and outnumber the other members of the Board, other than the Chairman. I entirely agree with him that co-operatives should play a bigger part in African marketing. We have a good example of that in the Meru Coffee Growers' Co-operative and I think that is efficiently run and it employs Mr. Benson, lately of the Agricultural Department, as its chief executive. I would like to say that the Government is wholeheartedly behind that policy, and the advance of African co-operatives largely depends on ability to organize, to find staff and to get Africans to support the co-operative movement.

AN HON. MEMBER: It should be faster.

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): Well, we are doing it as fast as we can, Mr. Speaker, and although the hon. Member urges me to do more I have certain difficulties to handle. One, of course, is that we have to educate the Africans in some areas to an acceptance of the co-operative movement.

Now, Sir, the hon. Member urged that the restrictions in maize should be removed altogether and I have tried to show that removing the restrictions on the movement of maize and removing the control of maize would automatically completely disrupt maize marketing and the price would fall to a level which

would be very damaging indeed to producers. The hon. Member, also, Sir, said that he felt that the movement of poultry and eggs controlled by the Nyanza Province Marketing Board should be lifted. That is largely a matter for that Board and I would have no objections to lifting them and I would take the advice of the Board which has got a majority of African producers on it. If those African producers like to recommend that poultry and eggs should be removed from control in Nyanza I would be prepared to accept their recommendation. But I must make two points. Last year, according to my records, I think they only handled about 670-odd head of poultry—in other words, Sir, the poultry side merely moves into the scope of the Board when the normal trade channels fail—but they did handle something like 1,500,000 eggs. I therefore think that they would be wise to consider whether they should disrupt such a highly efficient marketing organization for eggs.

Again, Sir, the hon. Member attacked the Veterinary Department because he said that the controls on the movement of stock and poultry were due to the inefficiency of the Veterinary Department. Mr. Speaker, that is not true. I believe the hon. Member was a member of the Veterinary Department at one time and I think it is a tribute to the efficiency of that Department that he is no longer a member of it.

The responsibility of the Director of Veterinary Services is to see that disease is not spread, and if there is any danger of disease spreading then he obviously cannot allow movement. That applies—and I arrived here this morning from that area itself—to the Samburu where we had a hold up due to S.A.T.2 and pleuro-pneumonia. We will do our utmost to get freer movement but not at the expense of disseminating disease over the country. In the case of Newcastle disease I think I am correct in saying that we can inoculate today, but unless we are satisfied that the area from which the animal is moving is free of Newcastle disease, it is a highly dangerous, indeed completely destructive, disease, and nobody who has any sense of responsibility at all would agree to restrictions for disease control being lifted unless he was satisfied that the disease would not be spread.

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

I am prepared, Mr. Speaker, to look at the question of African representation on the African livestock marketing organizations. I have put or added African membership to most of the boards under the direction of my Ministry and I would only like to make one point on this. The hon. Member Tor Rift Valley Province indicated to me that he thought it was Africans who were marketing their livestock. The truth of the matter is that the adjective applies to the livestock and not to the Board. It is African livestock and not an African livestock Marketing Board. However, I certainly will look at that to see whether, by introducing African representation on to that Board, we might indeed get over some of the suspicions of the Africans in using it as an organization.

Now, Sir, the hon. Member for Central Province raised one point which I would like to deal with. I think he implied that there were cesses on maize outside (imposed by the Maize Control) those which are covered by the African district council cess. I have touched on that already. The African district council cess is a matter for the African district councils themselves and the export cess is not a matter for the Maize Controller at all. He should not be landed with such an unpopular measure. It is entirely my responsibility and it is that cess, which is Sh. 5 at the moment and which will be Sh. 8 at the end of the year in African areas (probably maximum), which will meet the deficit in the Maize Fund which arises from the disparity between local sales and the export market.

The hon. Member also touched on the restriction of livestock marketing in the Samburu District, and I have gone into that personally. I indeed would have preferred to have stayed there rather than have come to deal with this Motion today. All I can tell him is that we will do our utmost to move animals from Samburu. I think it is essential. But we have two great difficulties. We cannot risk the spread of S.A.T.2 foot-and-mouth and we cannot also risk the spread of pleuro-pneumonia. Therefore some form of controlled onward movement of stock from that area will continue to be necessary. I see the hon. Member for the Eastern Area for once

on a marketing matter nodding his head. I am delighted to see that the sense of responsibility which he always had in the Veterinary Department is still with him here in this Council.

Now, Mr. Speaker, I do not think I need deal with many of the smaller points, but there are two of the points raised by the hon. Member for the Central Province which I would like to deal with because, they may give the Council an erroneous impression.

It is true that the produce control sometimes makes a profit on produce trading. I want to emphasize that it is not a Government profit. He said in so many words that the Government took the profit on the produce control. That is not so. That profit made by the produce control either meets losses incurred in other produce which has been sold, or, better still, is paid back to producers in better prices next year, or as specific assistance for particular activities. For instance, Sir, this year we have handed over to the Nyanza Marketing Board, from produce control, more than £20,000 to assist that Board, and a further £17,000 will probably be available as a result of the year's trading ending in 1957. I would assure the hon. Member that profits on maize and produce control go back to the producer. If the profits are made in the consumer account then they go to the consumer either in reduced prices or in development facilities such as closer and better storage to areas of consumption.

Now, Sir, on the general question of maize control, refusing to take in produce on the alleged ground of humidity, I called the hon. Member to order, and I think rightly Mr. Speaker, because I think it is wrong to make an allegation that the Maize and Produce Controller would deliberately downgrade produce in order to save himself the embarrassment of storing it. If the hon. Member has got chapter and verse and proof then I will look at it for him, but I would ask him to substantiate it.

MR. MATE: Mr. Speaker, with your permission, in answer to the Minister's question I would like to make a statement of the situation as it is.

In support of the statement I made last week during my speech on this Motion with regard to refusal

[Mr. Mate] to accept produce from African traders on the part of the Maize and Produce Control, Sir, the position is baffled at the inconsistency of the procedure as to the determination of whether or not a certain lorry or bag of produce is dry and therefore acceptable or that another is not dry and therefore not acceptable.

After grading, drying and storing, a crop as old as two seasons can be turned out by the Produce Control and bags and bags have been rejected, and there are bags in the Gakoromere stores at Meru which have been returned. I have seen them myself.

The instrument used, which is known as a moisture meter has proved to be inconsistent, and in Meru, after the produce has been rejected—the traders have gone back to the market and then returned it and the same instrument has said that it was acceptable. The view of the farmers and traders is that the crop which is two seasons old in a market is returned as not dry—my witnesses include farmers and traders at Kagio, Kimbiambi, Runyesjis, Gakoromere, Ruirii, Thimengiri, Mikinduri and other places, and the situation has become very baffling. This is common when there is an abundant crop. My informants include farmers and traders in those markets.

I feel that it would be of help if the Minister could look into this situation and have it clarified and I would like to assure him that it is not going to be a personal attack on any of his staff, but that it is rather an attack on a system and a situation that is confusing farmers and causing a lot of worry to the African farmers and traders.

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): Mr. Speaker, I did not interrupt the hon. Member because I realized that he was making his statement, but nothing he has said takes away from him the charge which I made to him. I am quite prepared, as Minister, to say that there may, indeed, be mistakes in moisture reading. There may be mistakes in grading. There may be ordinary human mistakes by the grading

staff. What I am not prepared to admit, and the hon. Member has not cleared this, is his allegation that because the stores were full the Controller deliberately down graded or made mistakes. I think that that is a wrong allegation to make, unless the hon. Member can substantiate it.

I think we can leave that, Mr. Speaker, and I will look into the hon. Member's details, of individual farmers who may have suffered, with the Maize and Produce Controller, but I want to reiterate to the hon. Member that he has not substantiated the statement he made that there was an abuse of the grading system to avoid embarrassment in the stores.

Mr. Speaker, I said that the Government would accept this Motion and I think it would be no good accepting it unless I can give the hon. Member for Nyanza Central some hope that there will be some relaxation of these controls. I would like to tell him that I hope very shortly to be able to introduce a very much freer movement of rice. It is a matter that we have been looking at for some time and we have discussed it with the other territories and we will be able, I hope to remove much of the restriction now inherent in the movement of rice.

Secondly, Mr. Speaker, I am prepared, at the end of the year, because we are now moving in a current crop year in which the Government has guaranteed prices, to take off a form of price support altogether for crops such as beans, grams, millet, sim-sim, sorghum, red and black wimbe, groundnuts, cassava and possibly ghee, eggs and poultry. In other words, Sir, I would lift altogether the responsibilities of the Central Government for guaranteeing a price for that produce. If I did so, I want to make two points quite clear to the Council. If we lift control then I cannot accept the responsibility of guaranteeing the price. On the other hand, Sir, I do not want to commit the regional provincial marketing boards to abolishing all control on that produce within the jurisdiction and control of the region itself which is largely advised by producer majorities of Africans. The reason I do not want to give the hon. Member that assurance is this. If we lift all marketing control on those smaller elements of produce, these

[The Minister for Agriculture, Animal Husbandry and Water Resources] undoubtedly we may well find a situation where the market is flooded in the early days immediately after the harvest, the price drops catastrophically and producers will suffer very considerably. What I am prepared to do is to take my own responsibilities for those crops away altogether and leave it to the free will of the people in the area concerned organized through the positive marketing system which the hon. Member for Central Province North has advocated so strongly.

Mr. Speaker, I beg to support the Motion.

MR. COOKE: Mr. Speaker, I did not have the pleasure of hearing my hon. friend on Friday. I did wish to speak, but I could not catch your eye, Sir. I have been reading his speech and there seems to be a misconception in his mind with regard to the proper functions of a control.

Now, he has said—or at least I understood him to say so from reading his speech—it was the duty of control to get the best prices for the producer. Well, Sir, I cannot agree with that. It is the duty of the Controller to get a fair price for the producer, but not the best price.

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): If the hon. Member would allow me to interrupt him, Sir, I am very sorry that I was not able to speak after him. But those particular words were used by one of the hon. African Members, because I noticed the inconsistency in them.

MR. COOKE: Because one of the African Members said those words that does not make them correct. I am merely pointing out that the Controller has as much duty to the consumer as he has to the producer.

Then the hon. gentleman went on to say: "If the producer cannot make profit he will be forced out of business". Nobody is contesting that the producer should not make a profit. All that we are saying is that it should not be an excessive profit.

Therefore, Sir, my hon. friend is begging the question in both those contentions of his.

Now, Sir, I am very disappointed that my hon. friend is not going to lift the maize control. It will cause very bitter and deep disappointment right throughout this country. For I will say, I think with full truth, that 99 per cent of the peoples of this country want the abolition of this control.

Now, he certainly conveyed implicitly, if not explicitly to the country that he was thinking along those lines. At any rate he conveyed to the country that he was doing his best to reduce the price of *posho*.

My hon. friend talked about 1930 when so many farmers had to go out of production. There is no analogy whatever between 1930 and now. In 1930 there was a complete slump and no matter what controls we could have had in this country for maize and other produce their prices would still have been affected by that world slump.

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): I thank the hon. Member for giving way, but, Mr. Speaker, I must emphasize that there is an analogy. If the hon. Member will consider the then purchasing value of the pound and the purchasing value of the pound today, with maize at Sh. 14, he will find very little difference between the export price of maize today—and that in 1933.

MR. COOKE: I will repeat that there is no analogy. There might be a slight parallel but there is, Sir, no real analogy.

Now, my hon. friend knows as well as I do, without divulging any secrets, he must know perfectly well, that from 1948 on, it was the policy of this Government to encourage farmers not to grow too much maize, especially the sub-marginal farmer. The encouragement was put on the emphasis that he should turn to mixed farming. Well, Sir, ten years have elapsed since then and whatever sympathy I would have had with the farmer producing maize today has greatly diminished; because he had every opportunity to produce maize—a small amount of maize—on a mixed farm. Now, as you know, Sir, and everyone knows, the sub-marginal farmer was even encouraged in those days to the great detriment of the land, and the Director of Agriculture in those days

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[Mr. Cooke]

had the courage to point it out most emphatically, that not only were the Europeans but also the Africans in the Nyanza area, ruining their land. Yet in spite of that, and with the high prices that the Control people, were offering to farmers, they were tempted to grow more and more maize. There was also the Guaranteed Minimum Return which also encouraged the farmers very often to take unreasonable risks at the price, I might say, of the consumer, the man who was paying the rates and taxes. The ordinary farmer too who did not grow maize was being penalized in the issue of maize to his employees. He was, and is today, very severely punished.

I do ask my hon. friend to give further consideration to this matter. It is not as though we are in the midst of a war when we must have supplies of maize. If there happened to be a famine in this country—a maize famine—it would, I imagine, be too easy to import maize from abroad and therefore one would not be under the obligation to encourage people all over the country to grow this crop, especially when the price is based on eight bags an acre instead of ten bags an acre, which it should be based on.

The other day I was saying to an African what a fine man I thought—Mr. Blundell was as a Minister for Agriculture and he said, "*Huyu maneno ju!*" but I said that I hoped it would not be that this time. I hope that something will be done soon to abolish maize control.

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): I thank the hon. Member for his words, but I did not deal specifically with the maize position in detail because, as I told the House and as I have indicated to the hon. Member for Ukambani, I hope to lay a White Paper very shortly. That will give an opportunity to the hon. Member to raise all these points.

MR. ODINGA: Mr. Speaker, before I deal with various points raised, and I do not actually intend to be very long. I should thank the Government for having accepted this Motion. I should take this opportunity to express to them that this might be the beginning of real co-operation.

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): Do not frighten me!

MR. ODINGA: The Minister has raised several points which I thought I might not have made very clear to him, but which I should also comment on briefly.

His comments on the maize control, I see that he is very keen on the control of maize movement simply because the Government will continue to give the guaranteed price. But on the other hand the Minister should consider that we, as the African people, we do not regard maize as a cash crop, but we regard it as our staple food. It is the main food of the African and, as such, we produce it for our local consumption and also to sell surplus locally to get money. We do not actually consider that it is something which we shall export to get money from abroad. We need to get other ways of getting money from outside, but with maize we consider it to be our staple food and the food which should circulate among us.

He mentioned that he has now got about 900,000 bags in store. Yes, certainly, he has got 900,000 bags in store. But is he sure that that maize could have been put to a reasonable price, could not have been consumed by the local people? I know so many Africans, because I come from the area where I think we do not produce enough maize for our consumption, and we form a very large consuming area for the maize. As such, I know so many Africans go without maize simply because they cannot afford the present price. If the price could possibly be reasonable, because I know the price is raised much higher simply because the Government is the dealer, and as you know, the Government cannot be flexible in dealing with these things, and as such, whenever they have calculated all these prices, then they stand to that, and they will not consider whether there is a fluctuation of the prices or any other form like that which an organized market, which is organized by the producers and traders backed by the Government, would do much more, and would consider fluctuating the prices.

For example, I quite agreed with the Minister when he mentioned that he

[Mr. Odinga]

wanted the organized market; in maize alone, I think he is very keen about that. But that organized market—he seemed to be sure that the African farmers, the European farmers and the African traders could not organize themselves and combine together and see that they market this produce properly, rather than the Government meddling inside it. I am sure, if he says probably he is satisfied that the European farmers could organize themselves and in actual fact, they have organized themselves in what we call the Kenya Farmers Association. They are dealing with their maize and their produce through the Kenya Farmers Association. They are, I think, a little bit satisfied more than the Africans. But the Africans on the other side want—and I am sure probably the Minister himself is not satisfied that the Africans at the present moment are capable of running their own organization. I think if he has got that in him, I am assuring him that the Africans themselves do not hold such views. They know that they can organize themselves and they can co-operate with other people who want co-operation, and they will find how they can market their maize and other produce just as competently as other people.

It is time, Mr. Speaker, for the Minister at the same time to consider that the Africans, while disposing of the maize to the marketing boards, they do not all dispose of their produce at the same time. There are some people who have some balances in their stores, some people generally being induced by the cash returns which they get, dispose of all their produce which they have had in the store. But, the time comes all at once when they want more, and when that time comes, it is a time when they want to approach the man who probably had some stock in his store, and he gets that back to use purely for his own consumption, for his domestic consumption. And as such, these people should be left free to move to their friends who have stored this maize in the country and get what they want.

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): Mr. Speaker, I rise on a point of order. I do not

want to interrupt the hon. Member unfairly, but I do submit that much of what he is raising now is new matter, and he is not answering the debate; I feel he should deal with the points which I raised. If the hon. Member raises new matter now, it is hardly fair because there are answers to the points he has made which I am now unable to give. I would like your ruling, Mr. Speaker.

THE SPEAKER (Sir Ferdinand Cavendish-Bentinck): The hon. Member is discussing new matter; he is not really replying to the debate. He is going far beyond the subject-matter of the Motion which relates to removal of "restrictions of movement". He is going on to discuss intricacies of marketing and all sorts of things.

MR. ODINGA: Thank you, Mr. Speaker. But if the Minister had thought I was moving a new thing, I am very sorry; but what I was trying to reply to is what he said. He said that if he allowed the people in the local markets moving, somebody getting maize from one area, or another area, and that would be dangerous to the farmer and producer; that would be dangerous to him, and that might affect his returns to production. I was just trying to show him that if you allow, if he lets the local market find its own level, then what he has got in store—if he wants to help the producer, what he has got as surplus should be considered for export. He should consider it for export to the outside market, but not on the local market. The local markets should not be restricted. That means that the maize control or more precisely the Maize Marketing Organization should concern itself with that alone.

Now, Mr. Speaker, he is worried about the farmer being exploited by the trader, but I do not accept that allegation, because the farmer is just an experienced trader just as any other ordinary trader. How could he be exploited by the trader, and why should he need to be protected from the trader? They are both people of the same country, and as the people of the same country, the farmers themselves if they wanted to protect themselves, they are also competent to form themselves into an organization and see if they can guard themselves against the trader.

[Mr. Odinga]

Mr. Speaker, the Minister mentioned often the point that he is still very much in support of continuation of marketing organizations. There, I do not oppose him, in saying that there should be marketing organizations. But I do say that this organization should come from the people themselves not from the Government. The Government should just stay at the back to help them. For example, if they approach the Government for guaranteeing any overdraft from the bank, or something like that, the Government should support them. I do not think that if Government supports them in that way, Government should also expect something to be got from them immediately; they will get it in the form of taxation.

The Minister mentioned something about the Meat Commission. Well, I would only say that, you know, such an organization like the Meat Commission becoming authority themselves by issuing permits, they are the marketing organization, and they are also competing for markets somewhere, and at the same time, they become the controllers. It is really evil; it is not something which should happen. As a marketing organization who are not also going to compete in the market, they should not be the deciding factor, to decide that so-and-so should trade in such-and-such a place. I think that is most unfair. They should act as a marketing organization, they have got so many other facilities. The Government gives them a large overdraft; they have also all sorts of facilities of competing with the ordinary man. I do not think that is right—that they should mind about small men, one or two or three men, joining together to compete against them. That should not bother them in any way. They should leave that free, and I was very pleased when the Minister mentioned that that would be investigated. I think it is better to look into this and let the African trader, who is not at the moment dealing so much with the Kenya Meat Commission, to move freely with his animals wherever he can in East Africa and dispose of them at the best price possible for him.

Mr. Speaker, the other point is, I am glad he had corrected me in the Agricultural Betterment Fund, but it was

replaced by the African District Council Cess which was also not necessary. It should not have been, and I think it is time that such cesses—they are completely unnecessary, and should be abolished.

THE SPEAKER (Sir Ferdinand Cavendish-Bentinck): Order, order. This has nothing whatever to do with the debate. Cesses have nothing to do with this Motion.

MR. ODINGA: Oh, I see.

Well, I thought he mentioned it, Mr. Speaker, but anyway, I will leave it, as probably it is not something which really matters very much.

I know that if the control is removed, they will automatically also go.

Mr. Speaker, I have few points; it is almost coming to the end of this, but he mentioned something also about eggs and poultry, that he would consult the board. Well, but if the board is dealing in poultry and eggs, and when one goes to consult the board, how could they possibly give impartial answers or to satisfy—

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): Mr. Speaker, I said I would consult the producer representatives on the board who are Africans.

MR. ODINGA: Thank you for reminding me of that, because I had something to say about that too.

Well, Mr. Speaker, these producer representatives are not really producer representatives; they are the boards rubber stamps. You will not find that the producers know them. Go to the country, you will not find producers that know them; they are people picked up, probably by some authorities who are members of those boards, only to satisfy that there are some Africans there, and I thought that they should not be regarded as the producers' representatives. They are not, because the producers have no say in their nomination.

I think, if the Minister would take our reasons here, we would be better representatives of the producers than those whom he regards in that form.

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): You are a trader.

MR. ODINGA: Yes, I am a trader but, at the same time, I am a large producer. If you come, you will find probably that my trade gives me almost negligible returns.

Now, I would only say: while I would not object to our still considering or discussing with the Minister about the maize control, as he seems to be very keen about the maize marketing organization, but the other local produce which is only consumed locally which he has mentioned, such as eggs, poultry—such things, he should have just included them without saying "perhaps eggs and poultry". He should have just included them among those he had considered to lift the controls, he should have considered eggs and poultry, because we consider that eggs and poultry are the simplest form of produce which any trader or any producer could move with to any market anywhere; and upon which he can stand to build up a small capital which might help him to go on later on.

Now, Mr. Speaker, I do not think the Minister has satisfied me in the Newcastle disease, because I claimed that this restriction had been there ever since 1955, and it embraces so wide an area, whereas we are told that Newcastle disease is only in a small spot somewhere. As such, the whole district is excluded from exporting the poultry and eggs to other parts of the Colony, and even to East Africa. I think, if the Veterinary Department was doing its work properly, they should have seen that that small area is confined and restricted, but not the whole district or even a larger area than this. At the same time, Mr. Speaker, the Minister mentioned, I think, more or less in his last remark, he mentioned that any profit which is made by the maize control, if it is made from the producers, will go back to the producer; if it is made from the consumers, it will go to reduce the next price. I do not think that that is the right way of going about it, because these people are taxed in the ordinary way, and if you go on again, then that also might be a form of double taxation, which should not actually be the case. That is why we say that the Government, it is time that the Government should not bother so much about the control, but should leave the people

themselves to organize themselves, and let the Government sit at the back and help them to carry on.

Now, lastly, Mr. Speaker—I see he is nodding his head; probably the Chief Secretary would like me to stop at that. I would only say this: that I thank the Minister and the Government Benches for having accepted this Motion, and particularly the Minister for having put it down here that all those produces which he had enumerated, such as millet, cassava, ghee, sim-sim, wimbi and all those things, would immediately be removed from the restriction—

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): On a point of explanation, I must not allow the hon. Member to be deluded. I did not say immediately. I said at the end of this year when the present guaranteed price structure could be reviewed.

MR. ODINGA: I thank the Minister for having made that much clearer to me, but I thought he made it that he will just do that immediately, because I know that people are really waiting for this. Immediately you do that, lift all these restrictions, let these people move, you will see that they will be more interested in the agricultural development than at the present moment.

Now, Mr. Speaker, I beg to move.

The question was put and carried.

#### MOTION

##### ADJOURNMENT OF DEBATE

THE CHIEF SECRETARY (Mr. Coultis): Mr. Speaker, Sir, with your permission and the indulgence of the House, I would like to ask whether this Motion which I have on the Order Paper could be postponed until 2.30 p.m. The reason for that is that the Sessional Committee, in agreeing that Motion No. 18 should be restricted to a certain length of time, did assume that normal business of the House before Motion No. 18 came on would have been concluded about 10.45 a.m. Therefore, there is approximately an hour and twenty minutes by the clock which has been denied to the Mover of Motion No. 18. I would ask Members of the Sessional Committee to consider this with me at 12.30.

I would, however, add, Sir, that the hon. Member for Central Nyanza did take up a great deal of the time which

[The Chief Secretary]

I felt he perhaps might have cut down and, therefore, my sympathy is not so great perhaps as my suggestion may make out.

Motion, by leave, withdrawn.

### MOTION

#### ROUND TABLE CONSTITUTIONAL CONFERENCE

MR. MULIRO: Mr. Speaker, Sir, I beg to move:—

THAT in view of the vital necessity of evolving a Constitution acceptable to all communities in Kenya, this Council urges His Excellency, the Governor, to invite Her Majesty's Government in the United Kingdom to take immediate steps to appoint a constitutional expert to examine the present constitution and make recommendations, which will form the basis of a round table Constitutional Conference; with a view to creating harmonious, stable, political and economic development for this country.

Mr. Speaker, I must say that the Council from the very onset will be patient to listen to my historical survey of the whole constitutional problem in Kenya, and then they will be able to make up their minds as to which direction the wind should blow today.

When one looks upon Kenya constitution, one has to go back as far as 1895, when Kenya was declared an East African protectorate. When this country was declared a protectorate, of course at that time, the Europeans had not settled here yet; the Africans and Asians had not become so interested in the problems of this country yet; and in 1902, this country was declared fit for the European settlement. In that year it was announced that any European from Britain or South Africa who wanted to make his home in Kenya could come out here and settle in the country, as a farmer.

Now, our constitutional problems actually arise or start from that date, and as a result of that, in 1905, the administration of Kenya was transferred from the High Commission to the Colonial Office. In 1906, the new Kenya legislature was constituted as well as the executive council, in which two European unofficials, because the Europeans had now made their homes in

Kenya, two European unofficials were appointed by the Governor to represent the European interests in the country. I, Mr. Speaker, will advise the Council that I will be using the word "settler" more than "European" for that period, because, from historical background, actually the word which was used was settler representatives. Now, when in 1906, the settlers were given two unofficial representatives at that time the Asians or the Africans were never thought of as far as representation was concerned at all. That question came only later on. As early as 1910, the European unofficials, who were members of the Legislative Council, had already seen that nominated members could not do for them. They demanded at that time that we should form a settler association, and the direct demand of the settler association was that the settlers must have a direct representative, and not Government-nominated members. That demand grew stronger and stronger during the First World War, because with the fighting of the Germans in Tanganyika here, our Kenya settlers—Africans and Asians—played a very important part in warding off the German menace from coming to Kenya. Therefore, they were at that time quite justified to demand that if we have to defend this country, we must be fully represented in order to defend this country. We have been defending this country, and now we demand that we must be directly represented in the legislature.

It was in the course of the war that some commission to investigate and make recommendations as to the Europeans' or settlers' representation in Kenya Legislative Council was made. In 1916, the European population in Kenya, which was 9,000 at that time, was divided into 11 electoral colleges or constituencies. Now, in that year, the Europeans, because the convention of settlers had been demanding all the time that they wanted direct elections, in that year, they were granted universal franchise. That was not implemented until after the war, and in 1919, an Ordinance was passed to legalize the 11 electoral colleges of the Europeans in Kenya Legislative Council. The important organization at that time was the Convention led by Colonel Grogan and Lord Delamere. The demands of the

[Mr. Muliro]... Convention were about five; one of them was, they demanded representative council of settlers to which the Legislative Council of the Colony should be responsible. In other words, they had said very clearly "The only way in which we can carry on in this country effectively is to have responsible government". The second point was that the Convention demanded that its meetings and the opinions of the members of the Convention must be taken very seriously.

Now, one can see very well that that was not a clash between people in Kenya against the official Government majority. Now, another point was that the Convention also at that time demanded that official support must be given to European settlement in Kenya. They demanded that European settlement must be given an official acknowledgment. The fourth point was that they demanded at that time—they had seen very well that the expansion of the settlement in Kenya and successful settlement of Europeans in this country depended very much on the railway, therefore, that was also one of their demands: that the railway must be extended and manned by Europeans. The last point is also very significant, which brings more collision between the European and African later. That is, they demanded that the system of native registration must be established, that natives should be registered, and that was one of the demands, which led to the *kipande*, or the pass system, among the Africans. That went on until 1920; in 1920, for the first time in Kenya, the Europeans had direct elections; in other words, the people who actually adopted Kenya as their own country had direct elections. Now, when they had those elections, Mr. Speaker, the Governor of the country felt very relieved at that time that since now he had got the European unofficials who are directly elected by their constituencies, he was going to have co-operation. But still the Government's official policy was not favourable to the European settler community at that time. Therefore there was a definite stand against the Government official policy. Lord Delamere and a batch of others resigned from the Legislative Council. What led to this resignation was that he felt he did not want to debate in this Council any

Motions or Bills which were rendered ineffective because of the Government official majority. So his resignation with his other friends changed the political atmosphere in 1920 to a very high degree.

In the same year, those Europeans who remained in the Council made very bitter speeches against the Government official majority and that actually led to a new party which was known as the Reform Party. The Reform Party at that time demanded to be reckoned with; they demanded that the affairs of Kenya should be transferred from London to Nairobi so that the people who were on the spot could deal with their problems without having the interference of London. So far, that was a very legitimate demand of the people and of those champion settlers of Kenya.

Now I would say that this ended in their victory in 1923. But before I come to that I will go on.

So far, I have put only the Europeans in the picture up to 1919. Now with the 1919 constitution, the Indians for the first time realized that they were being left behind. They were very indignant about the 1919 constitution. They felt that the Europeans were no more justified in getting direct elections or in having representation than were the Indians, and so in that year the Indians also demanded equal elected representatives; that is they demanded that the European and Asian representation in the Council should be equal.

Another point in their demands was that there should be a common voters' roll for all Asians and Europeans. Actually, they were arguing that: "We, the civilized communities of the day, must govern this country. Therefore we must be on the same common voters' roll."

There might have been some contradictions in the Indians' demands at that time because when they demanded direct elections on the common voters' roll one could not help criticizing those leaders of the day when they could not talk of equal representation.

Now another point in their demands was the abolition of residential segregation. They said, "We should not be segregated, we are civilized; let us live together".

[Mr. Muliro]

The fourth point which the Indians brought up again was that there was a restriction on Indian or Asian immigration at that time.

With that insistence from the Asian community, there was an immediate reform in the 1919 constitution and that reform gave the Asians two unofficial Members elected on a communal roll of the Asians alone. Now that was greatly opposed by the Europeans at that time and the Indians also did not want at all to have only two people. They said they should have equal numbers with the Europeans and therefore they demanded that they should have more than two people to represent them. I should say that in the constitutional reform of 1919 the Africans were to be represented by one missionary, appointed by the Government to represent African interests.

The whole thing, as I see it, up to that time was very arbitrary without any logical planning behind it.

Now the conflicts between the Asians and the Europeans from 1919 to about 1923 led to what is known in Kenya's constitutional development as the Devonshire Declaration of 1923. That Declaration, to a very great extent, was to bring about an appeasement of both the Europeans and the Asians. It declared that Kenya was primarily an African country and, as such, when the interests of the African native clashed or conflicted with those of the immigrant races those of the Africans had to prevail. That was a Declaration which is known as the Devonshire Declaration. But in the same year, for the first time again in the history of the country, the Asians received their first political defeat. In 1923, Lord Wood and Lord Winterton—one was Under Secretary of State for India and the other was Secretary of State for the Colonies—came to an agreement in London and that agreement was that the Asians would get five representatives on a communal roll. The Asians objected to that but that had been settled and eventually they accepted the position in 1930. But in the same year there was the greatest victory of the settlers' representatives. They received official acknowledgment that nothing of importance could be passed through

Kenya Legislative Council without prior consultation with the European representatives. That is why I say it was a victory, and a defeat on the part of the Asians.

Now, Sir, I will come to Africa representation. As I have said, from the very beginning until 1919 the question of African representation or Asian representation never came into the picture, but with the amendment the Africans were to be represented by one missionary. Therefore, a missionary sat in Kenya Legislative Council from 1920 until the early 'forties, in fact the late 'forties, when more Africans were nominated to this Council. As far as African representation and the Africans' constitutional demands are concerned, the position was very quiet from 1919 until the 'forties. Now in the 'forties, an organization known as "KASU—Kenya African Study Union" which was later on converted into "KAU"—Kenya African Union—demanded that the Africans in this country must be represented by Africans themselves in Kenya Legislative Council. They said then that it was high time the voice of the African himself was heard in that Council, expressing what the African wanted. The Kenya African Union initiative started with Sir Henry Moore, who left this country in 1944 to go overseas as Governor, and in 1944, when Sir Phillip Mitchell became the Governor of Kenya, the Africans were given Mr. Eliud Mathu as the first nominated African representative. That went on until 1948. In 1948, each of the four provinces had one person as representative. Then, the Central Province and the Southern Province were still one province including the Nairobi Area, and had one representative, the Nyanza Province had one and the Coast Province had one.

Now that did not stop the Africans of the Kenya African Union from demanding that they actually wanted more Africans in the Council. Here, I might be positive and criticize some of the Africans. The Africans themselves, when they were demanding representation in the Council, never specified by what method they wanted representatives returned to this Council. What they were interested in at that time was: "We should have a black face in the Council rather than a white face representing us".

[Mr. Muliro]

That was the whole interest of the Africans.

Mr. ODINGA: Direct.

Mr. MULIRO: One of my friends tells me that it was direct elections. Well, I am giving an historical survey and I am subject to correction from anyone.

That, Mr. Speaker, was the case until 1952. In 1952, more Africans were added to the list of Africans. In that year, Nyanza Province was divided into two constituencies, Nyanza South and Nyanza North. Nyanza South consisted of South Nyanza and Kericho and Central Nyanza, and Nyanza North consisted of the present Elgon Nyanza and North Nyanza. Also in that year, because of the insistence and the growing political atmosphere and social unrest in Nairobi, the Nairobi Area was given one representative.

I must also say that up to 1952 the Europeans were represented by 11 people. The Asians were represented by five. When the Africans got six, the Europeans were represented by giving them another three and the Asians were given another one, so that they balanced the figure. There were 14 Europeans, six Africans, six Asians and one Arab. That was the position as it stood in 1952. That went on throughout a great portion of 1953 and 1954.

I think, Mr. Speaker, that this is a point where I could stop, as we are due to break.

THE SPEAKER (Sir Ferdinand Caven-dish-Bentinck): I will now adjourn Council until 2.30 this afternoon.

Council suspended business at thirty minutes past Twelve o'clock and resumed at thirty minutes past Two o'clock.

## ADMINISTRATION OF OATH

The Oath of Allegiance was administered to the following Member:—

Arvind Baboobhai Jamidar.

## MOTION

### LIMITATION OF DEBATE

THE CHIEF SECRETARY (Mr. Courts): Mr. Speaker, Sir, I beg to move that the following limitations be put upon the debate on the Motion under Order No. 18 to be moved by the hon. Member for North Nyanza—

- That the Mover be allowed one hour to introduce his Motion.
- That all other speakers be limited to twenty minutes.
- That the Mover be called upon to reply at 6.45 p.m. today.
- That Mr. Speaker do put all questions necessary to dispose of the Motion under consideration at 7.15 p.m.

There are two points, Sir, I would like to make in introducing this Motion about which I spoke this morning. The first is that when we suggest that all speakers be limited to twenty minutes, we mean a maximum of twenty minutes. And we do not intend that as an indication for everyone to talk for twenty minutes.

The second point I wish to make is that we are allowing for one extra hour. We felt, having considered the situation this morning, that it was only fair that the Mover and the group who put forward this Motion should be allowed an extra hour, and therefore the closure will be at 7.15.

Sir, I beg to move.

Mr. CONROY seconded.

Question proposed.

The question was put and carried.

## MOTION

### ROUND TABLE CONSTITUTIONAL CONFERENCE

Resumption of debate interrupted at 12.30 p.m.

Mr. MULIRO: Mr. Speaker, Sir, this morning when Council rose, I had just finished 1952, African nominations in

[Mr. Muliro] that year. During the said year 1952, and onwards, a State of Emergency was declared in Kenya, and during the Emergency, throughout the Emergency, 1952, 1953, 1954, earlier on, the demand from the European community in Kenya was actually very much similar to the demand in the 'twenties. Those demands were that London, which was dealing with all problems, knows so little about Kenya that we now want the power to be transferred to us in Nairobi. That was irresistible eventually in 1954 when the then Colonial Secretary, Mr. Oliver Lyttelton, came to Kenya to see how much power he could concede to the European community in Kenya to fight the Emergency. Therefore, in that year, there was a new constitution in Kenya known as the Lyttelton Plan which provided for Ministries from the Unofficial Members of which three went to the Europeans, two went to the Asians, and one went to the Africans. That constitution was not acceptable to any community, although all communities actually accepted to work it because it was during the Emergency.

Now, that went on until we came to 1956. In 1956, with the report in 1955, there was a commission set up to advise on the methods of returning African representatives to this Council, and that commission—the Courts Report—gave recommendations that Africans would return their members to this Council on qualitative franchise. In 1956, there was an Ordinance for the first time in the history of Kenya that the African was now known to have representatives. In that year, the African Representation Ordinance was passed by this Legislative Council. Therefore, the Africans were to have eight constituencies; in that year in October, November, two more seats were given to the African, that is, the Akamba and Nyanza South seats. That was the year in which Central Nyanza and South Nyanza were divided. So that Nyanza South now consisted of Kericho and South Nyanza districts, and what was the present Central Nyanza, remained Nyanza Central. Now, that was all peaceful and with some resistance of position, the underground by Africans at least, some of the thinking Africans outside, the Council felt that the Lyttelton Plan was a most unwell-

come constitution to the Africans. So last year, in March, for the first time in the history of Kenya, the Africans returned their elected representatives. One of the first things the African Elected Members did last year was immediately to sit down and declare the Lyttelton Plan to be null and void; those were the very words the African Elected Members used last year. So, in the same year, almost in the same month, in the same week, the African Elected Members went forward to demand that they required the immediate increase of the African Elected Members in the Council by some number agreed upon, and the number was 15. Some efforts were made during the course of the year to come to agreement between Africans, the Government and the Europeans. Eventually, we landed ourselves into the final set up in which the Colonial Secretary visited Kenya last year in October.

When the Colonial Secretary came to Kenya, we had, the African Elected Members, had one primary object, and that was, immediate increase of African representation in Kenya Legislative Council. Well, the Europeans who, during the course of the year, had evaded all the time the issue of discussing these problems with us, also jumped up with some points which they demanded the Colonial Secretary also take note of. So you find what finally we came to was, the Europeans demanded that the African increased representation can only be possible if Africans take part in the Government. Point number two was that there should be a broader basis of representation in Legislative Council. At that time, what was prevailing very much in the minds of the people in this country was the question of regional seats which now have been converted and baptized, and the new name is "Specially Elected Seats". Another point which the Europeans demanded also to be included on the agenda was that safeguards must be provided, and those safeguards, now we know them as the Council of State and Ten-year Standstill Agreement—imposition; it is not agreement, because nobody agreed on it.

Now, the two positions could not be reconciled very easily. The Africans insisted at that stage that they did not object to any arrangement on the agenda, but the most important thing that they

[Mr. Muliro] wanted to dispose of was the representation of the Africans, and the Africans at that time contented themselves that representation was a right which was overdue, and should be disposed of on its own merits. They felt it was an arrears which Africans had to get, and as such, they could not link it up with any case at all. At that stage, one must be grateful to the Asian community. The Asian community, as the hon. Minister without Portfolio put it, at that time, was acting as a shock-absorber. They had not come out with any rival claims. They also realized that they were under-represented. But they said, "We do not want to use this opportunity because the Africans have put forward this. They did not say, "Look, we want so many seats and if we do not get so many seats there is no agreement". One has to record definite appreciation to the attitude of the Asians at that time. Now it has been suggested by the Colonial Secretary and the Government of this country that at that time there were negotiations. I was a party to all the proceedings but there were no negotiations at all. So actually saying that there were negotiations is untrue. There were negotiations on the agenda but they failed on procedure, failed on procedure before we started anything at all.

SIR CHARLES MARRIHAM: Whose fault?

MR. MULIRO: Partly yours, partly mine probably. Now what it came to during the course of last year, Mr. Speaker, was when the Colonial Secretary found that he could not move an inch in any direction, at that stage we had told him point blank that he was, throughout the negotiations, trying to sell the European point of view or the agenda presented by the European community to the African community. The Europeans said, "We are not going to budge an inch". So, Mr. Speaker, when the Colonial Secretary failed, he went to Tanganyika. During his stay in Tanganyika we tried—we got the unofficial Government Ministers to discuss this, but they put it to us that they wanted at that time safeguards. We said, "All right. What about the representation of the Africans which is in arrears? Why do we not get the arrears before we talk of what is coming in the future?" At that

stage, they said, "No, we can't move an inch".

We also stood to our guns and maintained that we were not going to move an inch either way. So when the Colonial Secretary realized that there was no move either from the Europeans or from the Africans, he himself also said he could agree on the agenda and place the African representation as number one, but no agreement whatsoever was going to be finalized on African representation at that time without agreement on the subsequent items on the agenda. That we felt was too much for the Africans to swallow and therefore we said, "All right; if that is the case, then let it be what you think".

What happened eventually was that he went to the unofficial Ministers and told them, "Look here, people, I want to have a free hand to deal with this situation", which situation was actually to deal with the African Elected Members; the eight of us here. "In order to deal with them properly, I want you to give me that free hand. I want you to say that you are resigning". So the Ministers—five of them, I think, because there was no African—said, "All right, we will remove ourselves and then you put us back in power again." So they stood aside. They never resigned.

MR. ODINGA: Shame!

MR. MULIRO: So they said, "We have resigned, but we are caretakers; the Governor has asked us to hold on as caretakers until the Governor forms a Government". The Governor was forming no Government; it was the same Government continuing. Therefore, when the Colonial Secretary said he had now a free hand, that free hand, to us, was wasted because when he had a golden opportunity of bringing about a proper understanding for the first time in the history of this country, the Colonial Secretary threw that chance away again by saying that he was now going to dictate what he thought was fit for this country. He dictated indeed, but what did he dictate? He dictated exactly the five points which were on the agenda. That is the reason why I said it was a victory on the part of the Europeans, because all that they wanted was dictated.

AN HON. MEMBER: Question.

MR. MULIRO: Question? You can question later on (?).

So the main points of the Lennox-Boyd Constitution, as dictated by him, were five. He said, "The Africans in this country are definitely under-represented". He considered that point. But he said, "I am going to give them six more seats". How he arrived at six seats, only Providence knows. If it was under-represented, he never said "Under-representation by what number?" He said, just six, and six would be all right.

Now that made the number of Elected representatives in this Council: 14 Africans, 14 Europeans, six Asians. And then the Arabs were also issued with one seat. They said, "Here you are, Arabs, you have also been under-represented, but you have never complained. Here you are, have another seat".

So this is the composition of Kenya Legislative Council as far as the elected side is concerned.

He went on to say, "Look, I am dictating on the part of the regional seats; I am abolishing them and giving them a different name. I will baptize them with the new name of specially elected seats". He said, "I am going to give them four each: four Europeans, four Africans and four Asians, of whom two will be those of non-Muslim faith, one Arab and one of Muslim faith". That is the dictation from the Minister for the Colonies.

He went on to say, "I also dictate that the Africans will have the following Ministries: they will have one Minister for Community Development, which they have rejected up to now. They will get another Minister, who will be for Housing".

AN HON. MEMBER: Prunings.

MR. MULIRO: Prunings, all are prunings. Then two Assistant Ministers, one of whom was to be an African and the other one would probably come in again.

Now, he went on to dictate that, "Above that, I am going to have the Council of State. And this Council of State is the guardian of the interests of everyone". In other words, the Colonial Secretary and the Colonial Office, who are the only security for all people in this country, was leaving us to ourselves here in Kenya with a Council of State.

That was the dictation of the Colonial Secretary.

During the course of this year, we had a law-making provision for the election of the six African Elected Members. That was very much according to plan because the Colonial Secretary himself had said that every phase of the Constitution, as imposed by him, was going to be brought in on its own. Well, after that then we got the specially—they were known at first as selective seats; then they changed the name into specially elected seats. Now, the intention of those seats is what I am not going to analyse very fully, as they will be dealt with by some of my hon. colleagues, but the selective seats were to introduce into this Council a representation on a broader basis, other than the racial approach. That, to me and to many of my hon. friends, and the African community at large, is a farce, because in that representation, as far as the Europeans are concerned, they get three of their own lot, who were known and who are now known as racialists, but they went through as Specially Elected Members: people who are to approach Kenya's problems on a wider basis than that of racialism.

The contention is that this would bring about the co-operation of the races. I doubt the very wisdom and genius that brought about that idea, because if we want co-operation in this country we want people who are free to express exactly what their convictions are; people who deceive others about their own racial groups cannot be the people to bring about racial co-operation. To this, Mr. Speaker, as far as the African community is concerned, I can say this: any back-door leadership from the African community is not going to bring about any co-operation in this country at all. Fourteen of us have been returned by the African millions, you must approach them through us, not anybody else. You can say what you wish, but you will never get that co-operation. Do not evade the issue.

Now, as far as the fresh blood is concerned I am, indeed, only too grateful that the Europeans, who have elected their three Members now and who are going to elect another one because of the resignation of one of us to join the Council of State, are going to bring in

[Mr. Muliro] some fresh blood from the European group, the people who will speak the mind which the European wants him to speak in this country, so that we can agree with them.

MR. TOWETT: That is right.

MR. MULIRO: With the Asians, I am indeed pleased that three Asians have come in and one Arab has come in; these also are fresh blood which will bring some better thought probably into Kenya politics than we have at present.

But otherwise, talking of selective seats and bringing in fresh blood and a new outlook to Kenya politics, I observe that is an old-fashioned dream-land.

Now, Mr. Speaker, the very idea of election as applied to selective seats is not an election because it is this Council which can have the elections. Now, if the body sits as an electoral college and brings people to joint it, that is normally known as co-option in English.

MR. TOWETT: That is right.

MR. MULIRO: Now, the last point I would mention on representation is that the Arab Nominated Member, Mr. Kullatein, who was nominated for the Northern Province, should come on this side and represent those Africans. The Government can very well nominate as many people as it wishes to be on that side, to support the official view of the Government. But we want that man on this side to represent those Africans in the Northern Province. He has come in on exactly the same terms as Mr. Mathu, when he first came to this Council. He came here to represent the Africans and was nominated by the Governor to be among the unofficials. Therefore, we want Mr. Kullatein to come on this side and represent properly those Africans on behalf of whom he has been told to come to this Council.

Now, Sir, this is a double-edged weapon. The word which is introduced there is the substitute Elected or Specially Elected Members, and that particular clause in the Constitution was drafted specifically in order to deal with the African community very seriously so that even if the African had not decided to elect the six people, or even if the Specially Elected Africans would not stand at all, the Governor was

empowered under that section to nominate the Africans to come here and elect substitute Members. Therefore, Sir, I think that is completely out of the question.

Now, as to the Council of Ministers—the Ministers now are 16 in number, and two assistants, which makes 18. With provision for more assistants we might find ourselves with 20 in number before probably July is due.

Now, the question which makes the African doubt the very sincerity and willingness of the Government of this country, which wants co-operation from the African, is this. How on earth is this Government expected to get some feelings from somewhere and say that this is not the African people? Indeed, Sir, we objected to the Ministry of Community Development because that Ministry was part of the African Affairs Department. Now it is being carried out very well by the hon. Minister for African Affairs as a Community Development officer.

Now the Tourism has come in; the Housing has come in, I think the Housing should be to Local Government and Tourism should be to Ministry of Commerce and Industry.

Now, Mr. Speaker, so far as the Council of State is concerned, I am not going to say very much as my colleagues are going to deal with that every collectively. But I feel it is a waste of time, a waste of money, because all those powers ought to be dealt with by the Council of State.

Now, in conclusion, what I only say is this, that this Motion does not seek anything at all. It seeks that we should think, rethink and accept the Motion so that we can get a constitutional expert. I know that Mr. Coutts is going to say, when he gets up: "An expert from whom?" Indeed, he can be any fool, but the Minister for Finance recently was telling us on the Rates and Allowances that we have got this expert opinion. Now, will you accept expert opinion, and accept it at your own convenience? Here, today, I ask the Government to call in a constitutional expert to come and look at us. Let him look at us from a different mirror altogether and with the constitutional experts all the various representatives from the various communities will look at themselves through this mirror and we will discuss and agree on a

[Mr. Muliro] constitution which will be the basis of development and harmonious co-operation in this country.

With this, Mr. Speaker, I beg to move.

MR. PANDYA: Mr. Speaker, I rise to second the Motion, moved by my hon. friend the Member for Nyanza North.

He has dealt with the constitutional history from 1895 to the present day and he has given us a most comprehensive review of the situation that has developed since then to this day. I do not intend to cover the earlier part of the history or to make many observations on this part. But I do want to emphasize, Sir, one fact—that the Indian community in 1923, after much agitation, was given arbitrary representation which bore no relation to the facts of the population or to the fact that the Europeans were granted 11 seats. Since that time, Sir, no change has taken place and one begins to wonder whether any regard has ever been paid, in spite of the persistent pressures to the just and equitable claims of the Indian community. Indeed, Sir, it has been the case, since those days of arguing against predetermined policies bearing no relation to changing trends.

The Lyttelton Plan was the first step approaching anything of a revolutionary change in the Government. At that time—and I want to emphasize this point, Sir—before the Plan was introduced the principle of consultation was accepted as between the different groups and also with the Colonial Secretary, and indeed all groups were consulted and they all of them played their part in the Government of this country.

It does not seem necessary, Sir, to go into any further detail of politics of those days at the present juncture and I would like to turn to events of a more recent date. Since the African elections of March last year, things have been happening and changing at a rapid pace. The African non-participation in the Government brought about new situations, determination of which required great tact and courage and which also did require prolonged negotiations. A visit of the Colonial Secretary last October was an opportunity to discuss the constitutional issues as had arisen. But progress was not achieved due to the facts which have been very adequately

emphasized by the hon. Mover. Many arguments were based on different premises and many matters of principle and procedure were involved. However, Sir, let us examine what are the facts now as they stand at the moment.

The Indian community has, through its political organizations, expressed definite opinions on this subject. Indeed, I am glad, Sir, to avail myself of this opportunity to place on record the view of my community which in the past has been so much misrepresented and indeed misunderstood. It is necessary, Sir, to analyse the new Constitution to a certain extent to justify the call for the appointment of a constitutional expert who could examine all aspects of the present Constitution. That would be followed by a round-table conference to consider the recommendations made by such an expert.

Firstly, Sir, the community is very critical of the Constitution as it has not benefited the community in the matter of representation. The Indian community is entitled to a substantial increase in its representation as since 1923 there has only been an increase of one seat in the Asian community, namely from five to six, and that, also, to satisfy the separate representation of the Muslim community. Considering also the factor of population, Sir, it needs to be emphasized that the Asian community should have representation on parity at with other races.

It is quite obvious, Sir, that no fair play has been accorded to the Asian community and it is very necessary now that the adjustment of the representation should be made, particularly in view of the fact that the new Constitution emphatically lays down that there will be no more increase in communal representation under the new Plan.

I am afraid that I shall have to cover some points mentioned by the hon. Mover in order to emphasize what the Indian community feels.

I now come to the matter of the Specially Elected seats, Sir, about which the community has very strong misgivings. Such Members were elected by this House sitting as an Electoral College, where the predominant voting strength is in the hands of one community only. If the intention was really

[Mr. Pandya]

to return the representatives some other method of voting should have been devised which would have met with the objections of the African and Asian communities. It is quite obvious that the Asians and the Africans have no choice in returning the Members here while they have to depend on the goodwill of the majority of the voters who belong to one community. The system suffers from the defect that it is not a satisfactory method of bringing about a non-racial approach to our problems as was the intention in the Constitution. I would say that it does not go far enough to justify its existence as a common roll. It may be argued that it was a small step in that direction, but to be effective it must be so framed as to meet the wishes and demands of all the other communities.

Now, Sir, with regard to the Council of Ministers, the Asian representation has not been increased at all. We had two Ministers under the Lyttelton Plan and under the present plan we continue to have two Ministers. While the share of the European community has been increased from three to four, the African share has also quite justifiably been increased from one to two. And it is quite obvious, Sir, that the Europeans have shown their desire to cling to parity in this respect.

In addition, with the appointment of non-Civil Service Ministers, it is obvious that the European community will have a tremendous influence in the day-to-day affairs of this country. Moreover, Sir, my hon. friend the Member for Nyanza North has emphasized, most of the important portfolios are retained by one community while the Africans have been restricted to Adult Education, Community Development and Housing, and there have been no changes in the Asian portfolios.

The Council of State, Sir, only has powers of delay and revision. It has no legislative power and its influence is thus restricted to an advisory capacity. It seems that the purpose of this Council, as has been emphasized by my hon. friend, is to act as a buffer after legislation has been passed by this Council and sent to the Secretary of State for confirmation and approval.

From this very brief appraisal, Sir, it is quite obvious that the Asian community has gained nothing out of the new Constitution. Indeed I wish to emphasize, Sir, that it is the only community which has gained nothing. The community would have supported the Constitution unconditionally for it has no desire to be unnecessarily non-co-operative. But we ought to have had a fair deal under the new Constitution.

There is no doubt in my mind that the present Constitution is an imposed one but there will be no consultation as between the different races and the Colonial Secretary or the Government on the merits of the new formula which has been proposed.

The events leading to the promulgation of this Constitution suggest that only one community, the European community, was consulted. The Asians were not consulted; the Africans were not consulted and so it is very imperative that the suggestion of the appointment of a constitutional expert should be implemented forthwith. This should be followed by a round-table conference. It is very necessary that the participation of all races should be secured when certain important issues, vital to the future of this Colony, are settled then let it not be said that the people of all races in this country have not been associated in the framing of the Constitution.

There is no doubt that the effective participation of the other communities will be genuinely forthcoming if the matter was fully discussed and settled to the mutual satisfaction of all the people of this country. I think it is about time we had something lasting and having as wide a support as possible of the people of this country.

It may be argued, indeed I anticipate that it will be argued, that other races were consulted in the implementation of the new Constitution. But it needs to be emphasized that consultations that took place were within the framework of the Lyttelton Plan as to whether any changes were necessary in its provisions. Indeed, under the Lyttelton Plan the consent of all the races was required before it could materially be changed. No such consultation have taken place, with regard to the new plan so far as the Asian and Africans are concerned. It is

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not true to say that an opportunity to discuss the plan was offered but rejected. The fact remains, Sir, that the new Constitution has not been evolved after discussions but has been imposed on this country.

Now, Sir, to recapitulate, the call for the appointment of a constitutional expert to be followed by a round-table conference, is justified, in my opinion, for the following reasons. Firstly, to consider the inadequacy of the representation of the Asian and African communities in the Legislative Council and in the Council of Ministers. Secondly, the method of determining the election of Specially Elected Members, will have to be revised, as I have heard from all sections—and I would like to emphasize the word "all"—that they are not happy. Indeed, Sir, they have been dissatisfied with the present method of election, particularly after having seen it in practice.

Now, Sir, who is to decide these vital and important issues which are of great concern to the peoples of this country. Undoubtedly, Sir, the wisdom of a constitutional expert is necessary to listen to all the evidence and views which could then be discussed by all parties at a Round-Table Conference.

How, often, Sir, we have heard in this House the clarion call for co-operation as between the different races—the shedding of fear, hatred and suspicion. Now is the time to come off this high pedestal and seemingly secure position and work hand in hand to evolve something by joint enterprise which is more lasting and which is more beneficial to all the peoples of this country. Here, Sir, lies the key to our success and the evidence of our will and determination to work together in the progress of all the peoples. I believe that there are greater factors and considerations to secure such conditions as political stability which can be achieved by the conscientious and sincere efforts of leaders of all races to discuss this problem in a spirit of joint endeavour.

How often, Sir, we have talked of our faith in multi-racialism and a multi-racial Government devoted to the service of all its peoples. This can only come if we accord the basis of equality for all com-

munities and races in representation. Then only will confidence among the different leaders and communities grow which will bring about greater understanding between the different races upon a much broader basis than has so far been possible.

When a constitution which is acceptable to all the races is implemented we will also be able to specify a standstill for some years and devote our energies to the peaceful pursuits of the development of this country. For, Sir, who can deny that we want to create harmonious and stable conditions for the political and economic development of this country, and especially by evolving a constitution which is acceptable to all the communities in Kenya.

This, Sir, can only be acceptable if all the races are consulted before that implementation. The time is not yet lost, Sir, and so we urge the Government to accept the Motion in the spirit in which it has been proposed, with all sincerity and good will, from its sponsors, and bring about the much-needed confidence and co-operation as between the different races which is eluding us so much now.

Mr. Speaker, Sir, I beg to second.

*Question proposed.*

MR. CONROY: Mr. Speaker, it is always a danger in a debate such as this that speeches will degenerate into bald assertions of personal opinion—such expressions as "I believe", "I very strongly feel", "In my opinion", "I reject", "I demand", and a host of other similar expressions (which are not unfamiliar to us all) take the place of reasoned argument and debate. That is a pitfall which I hope I shall avoid, because I propose in this speech to draw the attention of Members to three matters of fact, and on those matters of fact I propose to put forward for Members' consideration certain arguments and to ask them, having considered those arguments, to reject this Motion.

Mr. Speaker, the first fact is that prior to the year 1957 there was no such thing as an African Elected Member in this Legislative Council. In March of that year eight African Members were elected and became Members of this Council. In the words of the hon. Mover of this Motion, Sir, the first thing they did, "was to sit down and declare that the Lyttelton

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Plan was null and void and those are the words used by the African Elected Members". That declaration completely overlooked the fact that those eight seats were created as a part of the Lyttelton Plan.

AN HON. MEMBER: Question!

MR. CONROY: The hon. Member says "Question". I think it is the hon. Member for the Nairobi Area. I would suggest to him that he should go away and look at page 227 of the Subsidiary Legislation for 1954. He will there find the Lyttelton Plan set out and it specifically says that the Government would undertake this exercise of arranging for African Members to be elected to the Legislative Council. They rejected the Lyttelton Plan as null and void but they accepted the eight seats under it. I express no personal view but perhaps some hon. Members will think that that is really having your political cake and eating it.

Now, Sir, the second fact to which I wish to draw attention is that in October of last year the Secretary of State visited East Africa and he took this opportunity of his presence in Kenya to try to arrange a round table conference between representatives of all political groups. Sir, the African Elected Members refused—to discuss—any constitutional issue except increased African representation until their demands for 15 extra seats were met. I use those words very carefully. They refused to discuss any constitutional issue except increased African representation, until their demands for 15 African Elected seats were met.

Now, Sir, to a simple lawyer—it may be different to politicians—that seems rather like a litigant going into the court and saying to the judge, "I am not going to allow you to try my case unless you give an undertaking that, before you hear any of the evidence, you will give a verdict in my favour". The hon. Mover of this Motion used the word "dictated"—he said that the Secretary of State "dictated". But who dictated here? Who dictated that there was not going to be a round table conference? The African Elected Members of course.

Sir, I again express no personal opinion, but I would ask hon. Members to think and ask themselves "Why did the African Elected Members adopt that attitude?" Was it because they wished

pressures to build up inside and outside Kenya which would force a solution of this problem, favourable to them, and unfavourable to other races? Now, Sir, if that is a legitimate assumption to draw from their action, would it be legitimate to suggest that the purpose of this Motion was the same? I throw those ideas out for hon. Members to consider for themselves.

The third fact to which I wish to draw attention is that in spite of the refusal of the African Elected Members to sit down round the table and try to reach a solution last October the Secretary of State did talk with all groups and, it is fair and proper to say that he talked more with the African group than with any other. Having talked with all groups, having consulted his constitutional experts, it then became his duty to act as a judge and try to find a solution which was a fair and just compromise between the conflicting requests of the different groups. That is precisely what he did. The result is the 1958 Constitution.

I am not going to go into that Constitution in detail but I am going to draw attention to the principal foundation upon which it is based, and that is this, that it brought the African Elected Members in this Council up to parity with the Europeans.

MR. ODINGA: Why?

MR. CONROY: Perhaps the hon. Member would answer that question himself.

If we had a little scoreboard, Sir, and we wrote "March, 1957", we would see, "European Elected Members, 14; African Elected Members, 0". Then, Sir, if we wrote "April, 1958", we would have, "European Elected Members, 14; African Elected Members, 14". Now, Sir, that, in the view of the Secretary for State, after consulting his constitutional experts, he regarded as a fair and just solution for the present phase of constitutional advancement in Kenya.

As a result, six more African Elected Members were returned to this Council. They immediately declared that the 1958 Constitution was null and void, but, of course, on the old principle of having your political cake and eating it, they continued to sit in this Council. That is the position and I leave hon. Members to think it out for themselves.



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Now, Sir, those are the three facts; I have advanced my arguments on them, so we now come to points which were put forward by the hon. Mover and the hon. Seconder of this Motion. First of all, the hon. Member for the Eastern Electoral Area (I am dealing with the points in inverse order) said that the Council of State had powers of delay and revision. Of course, it has not got powers of revision at all; it has got powers of delay and advice. Rushed legislation is a bad thing; Sir, advice never hurt anyone. I have spent the last 24 years of my professional life giving advice to people—mostly it has been disregarded, Sir, but it has not done any harm to anyone.

Then we had the hon. Mover who talked about the ten-year standstill. Now, let us see what he said about it; oh yes, he said one of the four points demanded by the European Members of the Secretary of State in October last year was that there should be a ten-year standstill. Then he subsequently said that point was agreed by the Secretary of State. Well, I thought I knew my 1958 Constitution pretty well; I cannot see any ten-year standstill in it. The only mention of ten years is that until 4th April, 1968, of the total of Specially Elected Members, one-third shall be European; one-third shall be African; one-twelfth shall be Arab; one-twelfth shall be Asians of the Muslim faith, and one-sixth shall be Asians not of that faith. Now, Sir, since it is not politically possible to cut an Arab or an Asian Muslim in half, it becomes necessary if you are going to have any change to keep in those proportions of four, four, two, one, one; and the only ten-year standstill is that during the next ten years, if there is any increase in Specially Elected seats, it will increase to 8, 8—perhaps someone will help me with my arithmetic—2, 2, 2, or 16, 16, etc., etc. Now, Sir, that is the only ten-year standstill.

Then, Sir, the Seconder of the Motion said that section 26 of the Order in Council was specifically brought in to deal with cases where there would have been a boycott of the elections; Sir, I can tell the hon. Member that that has been the law of this country since, certainly since 1935, so it was not brought in specially, Sir, I don't pro-

pose to deal with the issues raised on Specially Elected Members. I will leave that to my colleagues on this side, because I see the sands are running out a little.

Sir, it is often useful, I find, in the middle of a debate, or any other occasion when people are talking a lot, to go back and specifically see what you are debating. I would suggest that all hon. Members should turn back to the terms of this Motion, a matter which I think came in during the last four minutes of the hon. Mover's introductory speech.

Sir, the Motion seeks to achieve two objects: it first of all asks that a constitutional expert should be appointed to consider the Constitution and to make recommendations. Secondly, the Motion asks that a round table conference should be convened in order to discuss those recommendations. That, Sir, is the bones of this Motion.

Our constitutional expert—I will not tell you what lawyers call experts, Sir, because lawyers are cynics and they may be wrong. But they are the worst type of witness, Sir, and my hon. and learned friends opposite will understand what I mean. Sir, an expert is not any good in a matter such as this unless he is a practical expert. Probably all hon. Members will agree with me on that. By a practical expert, I do not mean someone who has just written a book on the subject; I mean someone who has experience in the drafting of constitutions, and more important, Sir, experience in what goes wrong after he has drafted the constitution so that the next time he drafts a constitution, he does not include the same things. One constitution does not make an expert. If, in addition to that, we could find someone who had knowledge and experience of Eastern Africa, then I would agree that we would have found a perfect expert. Now, Sir, where do you find a person like that? I can tell you, you will find him in Great Smith Street which is where the Colonial Office is. Since 1945, there has been an intense period of constitutional creation, experiment, redrafting in the Colonial Office, and the experts there, Sir, have more practical experience in producing constitutions, tailor-made to fit the various sizes of colonial development, throughout the four corners of this

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earth. In particular during the last 13 years, a vast fund of practical experience has been built up there. Sir, I am thinking particularly of the last 13 years which have had much greater activity in this field than any other period I know of in history.

If hon. Members imagine that the Secretary of State did not consult his constitutional experts before producing the 1958 Constitution, then, Sir, I am afraid they are starry-eyed visionaries. Sir, possibly starry-eyed visionaries with their heads in the sand.

We have got a constitution which was produced by the best and most experienced practical constitutional experts. If we are going to have in addition to that a round-table conference (turning to the second point in the Motion), hon. Members may think that this is a further step in the technique of having your political cake and eating it, because you see, when the Secretary of State, having consulted his constitutional advisers to produce the 1958 Constitution—reached a fair and just solution, the fairest and justest solution that he could reach. Sir, he reached it after the refusal of one of the parties—to sit-down-round-the-table and reach an agreed solution. If we use the 1958 Constitution as a spring-board now, for further African advance, Sir, we are denying the very purpose of a constitution.

The hon. Seconder of this Motion said he wanted something lasting. This Motion says that it seeks harmonious, stable, political and economic development in Kenya. You cannot have development, particularly economic development, unless you have a stable constitution. You cannot have it if you have a constitution every few months.

There are—I think all hon. Members will agree with me—there are among the African Elected Members men of very considerable capacity and ability. If to that capacity and ability, they added experience in the working of Government (and they can do that, Sir, the opportunity is here for them in this constitution), if they added, Sir, that experience as the next phase of constitutional advance, they would have in their hands the strongest possible card to play.

It is often difficult to make a change; it requires strength, resolution, courage and I do think that many hon. Members will agree with me that there are African Elected Members with that strength, resolution and courage, and if they would search their hearts now and say, "How do we achieve the harmonious, stable, political and economic development which this Motion seeks?", then they would know the answer.

Sir, for all those reasons, I must oppose this Motion.

MR. COOKE: Mr. Speaker, the hon. gentleman who has just sat down advised us to take cognizance of the facts, and then he proceeded to enumerate several facts, but like the "simple lawyer" that he claims to be, he failed to mention the one fact that was really germane to this discussion today. Now, Sir, I support this Motion. We are under a definite obligation to call this round-table conference. I am not going back, Sir, to history; I am not going back further than 1951 when Mr. James Griffiths came to this country as Secretary of State for the Colonies in the Labour Government. He then promised that there would be a round-table conference held before there was any constitutional change of any importance in Kenya. He summoned to Government House representatives of all the races and I will read now from Sir Philip Mitchell's book, *African Afterthoughts*, and quote from his diary, very short, in which this meeting is recorded; "26th May, 1951, 10.45, Cohen and me"—that is, Sir Philip Mitchell—"saw Blundell, Havelock, Cooke, Patel, Rana, Nalho and Sherriff Abdulla", my old friend who has now rejoined us in this House. "First, he read a general proposition that within 12 months of the election of the new council, in May, 1952, there be set up an inter-racial consultative body under an independent chairman from outside Kenya, and with Kenya Government and Colonial Office representatives to examine the whole constitutional set-up and to make representations, if that were agreed to"—now you can see there was a bargain here which was kept by the Secretary of State, if not by the Government of this country—"If that were agreed to, he would not disturb parity, and would only make interim adjustments, an executive council set

[Mr. Cooke] for Africans, and two more members for the Legislative Council—that is for Africans—an Arab on the official side and three more European seats which included subsequently the seat which my hon. friend, the Specially Elected Member, held for the Aberdares. Now, this is important. These proposals are regarded as totally withdrawn if the first one consultative body, is not accepted. After a brief adjournment, everyone accepted all the proposals, and the proceedings ended with a gracious tribute to the Secretary of State.

Now, in consequence of that agreement, there were three European new seats made—I must say, we would not have had the honour of the company of my hon. friend, Mr. Humphrey Slade, if that seat had not then been created; nor possibly would we have had even the Minister for Agriculture, because he inherited half the constituency, the other half going to, I think, afterwards to my hon. friend, the Member for Aberdare.

Now, this is very important. These proposals are regarded as totally withdrawn if the first consultative body is not accepted. Well, it was not accepted, and therefore, we must now conclude that those constituencies are withdrawn from the Constitution of Kenya, and that those three European constituencies which derive from this agreement are now null and void.

Now, I am supporting this Motion as I said, for moral and ethical reasons, because I think there was a distinct pledge; somebody said to me the other day that that was only a "gentleman's agreement". Well, I am afraid I said something very severe, I said, "If that's the kind of gentleman you are, I don't want to know you any longer", and if you can make an agreement like that, and afterwards get out of it by saying it is a gentleman's agreement, well, I think we are showing an extremely bad example to the other races in this country.

Now, there is another reason, arguing from expediency, why I think there should be this consultative body and Round Table Conference. I am one of those who believe that the Lyttelton Plan and its projection, the Lennox-Boyd Plan, have been failures, and it proved

to be a failure not only in one degree, but in many, and when the Lyttelton Plan was forced on us without any regard for this positive agreement which had been made, it was, I say, certainly very nearly illegal, and it was certainly immoral. To have, in spite of this agreement, the Lyttelton Plan thrust on us. When it was thrust on us, my hon. friend, the Minister for Local Government, said at the time he accepted it at pistol point, so it was thrust on the Europeans as well as on the other races in this country. When it was thrust on us, we were asked to accept it for two reasons: number one, that it would lead to a quick end of the *Mau Mau* campaign. Well, of course, it led to no such thing, because the *Mau Mau* said—if, indeed, they were capable of reasoning that way—"Well, look at what we have got by this campaign; we will carry it on a little longer and see if we can get something more from it".

Number two, it was said it would help to bring the Europeans and the Africans and the Asians together. But it has had the very reverse effect, because the race relations that exist since that day have probably been worse than they have been in Kenya for many a long year.

HON. MEMBERS: No, no!

MR. COOKE: So for those two reasons, it has failed: The hon. gentleman says "no", but I wish I could say no with him. To be honest, I cannot see it. I see the *Mau Mau* campaign still going on; I see another campaign, the K.K.R. or K.K.M. or something like that; and I read from the public platforms the most ferocious and racial speeches being made not only by the African Members, but by certain European and Asian Members. If the hon. gentleman is happy about that, I am certainly not happy about it.

Now, for those two reasons, I think the Lyttelton Plan should go—

HON. MEMBERS: It has gone.

MR. COOKE: It has gone—well, I do not think it has gone really; we have got a projection of it. It has only half gone. But I think both those plans should go, and I think we should sit down around a table and argue in a proper and consultative way, and it may be, as my hon. friend has drawn attention to the 12 Members, it may be found at this Round

[Mr. Cooke] Table Conference that the Africans are only entitled to ten members. So would that, from his argument, from his point of view, be a very good thing if it happened?

MR. CONROY: No.

MR. COOKE: "No", well, I agree it should be "no".

Sir, for these reasons, I heartily support the Motion.

MR. TOWETT: Mr. Speaker, Sir, I rise as usual to ask for co-operation. Now, I am puzzled, as I always am, and I am puzzled this afternoon more. Here we come with something interesting, but the Government chooses to differ. The Government is gullible, and the Government is always fallible. The trouble in this country is not what people think; it is what the Government does. The Government is out to create conditions for suspicion, and when we say we want a constitutional expert and a round-table conference, the Government says "You must look at the facts". What are the facts? Then, of course, you have got to prepare a reasoned argument. What is there in our argument that is unreasonable? The trouble here is, people in this country pretend, and I wish that could be heard all over the world: people in Kenya pretend, and especially the Government. Why pretend? What we want is Mr. X, who is a white man, Mr. Y, who is an Asian, and Mr. B, who is a black man, to understand one another's point of view. We do not want to say we do not view the British sovereignty; we want the Queen to rule over us, but we have got to rectify this rotten House.

Now, from the Minister for Legal Affairs, he says that the first fact that there was no African Elected Member some years back, and then they were eight. That was fact No. 1, but he said these eight members were created. They were never created, if this is a democratic country, they must have been there "understood" in brackets. There was no need to create eight Africans, they must have been there. Because the Government had made a blunder before, now it came to create them and now to pretend that was a creditable fact. What fact is that?

MR. CONROY: Sir, on a point of explanation, I said the seats were created, not the members!

MR. TOWETT: Probably my ears were not quite correct, Mr. Speaker, but the wording was that they were created, eight seats. If I was wrong in the hearing, I must go to consult my physician.

Then the Minister went on, Sir, to say that the second fact was that after the Elected Members refused to discuss any constitutional issues until their demands for 15 seats had been agreed upon. Well, I thought that was only one clause, and a group can object to a clause, but not to the whole clause. Now, if the African Members said: "We are not going to listen to you, Mr. Lennox-Boyd, until you accept this", then Mr. Lennox-Boyd would have said: "I am not going to do anything for Kenya until you also accept this". But he went off to Tanganyika where he had his experts, referred to by the Minister; he consulted some experts. Those experts must have been in Tanganyika. If they were not there, then Mr. Lennox-Boyd came here with a plan which had been manufactured by the experts at home, so if he came here with a plan, there was no point in asking the African Elected Members to agree to those already manufactured plans. If he did not come with a plan, then he went to Tanganyika where there are some experts, and in a few days' time, the plan was there, manufactured and imposed. I mean, that is not what is called a fact. These things are non-factual: if the Minister calls them factual, they are non-factual.

Then the Minister for Legal Affairs said that if Mr. Lennox-Boyd spent more time in Kenya, more time must have been spent with the African Elected Members. What does more time mean? Does it mean sitting together for a longer time, or exchanging more words than all the other races. To say Mr. Lennox-Boyd spent more time with the African Elected Members is not correct in my way of thinking. It must be longer time in sitting together, or the number of words exchanged to be more than the number of words exchanged with other races. So, leaving the non-factual statements of the Minister for Legal Affairs, who should have been really very convincing, but I am disappointed because of the way he spoke, I must go to something else. I hope my time is not running out yet.

SIR CHARLES MARKHAM: I hope it is!

MR. TOWETT: Now, this problem of null and void: I wish to explain it here today that when we say null and void, it is understood that it is not an agreement between the three races in this country. You can go and manufacture a whole lot of nonsensical statements and we declare them null and void, and you will not get your co-operation until we participate in the agreements.

Now, you may say, I am a bad man and I say I am a bad man, because I say things that I feel should be said; so you can say that I am a bad man. I do not care a hoot, but I am seeking for co-operation.

MR. SPEAKER, Sir, the Government always chooses to waste time and chooses to postpone trouble in this country so that our children suffer more than we are suffering. I do not want us to do things like that. The Government should plan today and we go together, working together, and then we will come and say: "Here is a good country, Kenya, where all races can live together harmoniously". I do not want my son to grow up and then he says: "There's a bad white boy"; not I want us to live in this country harmoniously, but the Government chooses to go on, go on procrastinating and then supporting all the evil doings which we do.

Now, a few days ago, I said that the African was poor mentally, and I did not explain why. But I am going to explain it now. You see, if the African had really realized what is happening in this country, if they had known what should be known, you think we would not be able to overhaul this Government in one day? It is because the African is ignorant yet, and the British man is teaching him; then he denies him that freedom of thinking and that freedom of expression, because when he expresses some things, then he is told: "Now, my dear friend, you have said something libellous". But the point is this: if, when a man realizes these things, you think you can imprison him to keep him quiet and not give vent to his primitive instincts. You cannot! You can up to a limit, but there will come a time when you cannot!

No one in Kenya can stop the African today if the whole African community today rises. Nobody can stop it. But here, we are trying to build up a country

where we shall live harmoniously. So we should try hard to create a harmonious atmosphere, not to go on refusing things when these things should be done.

Now, I could as well say that the fault is not in our stars but in our unrealisation of what is happening.

MR. SPEAKER, Sir, when things are too true, and then people try to pretend otherwise, I feel fed up with them. I do not hate the people, but I dislike the policy they have in their hearts. Now, I suppose some of you might say, if Lennox-Boyd had not come here, I would not have been here. I am not at any moment happy that I am in this place today. I am not. Why, to be here with people who pretend?

SIR CHARLES MARKHAM: Resign,

MR. TOWETT: If I resign, my people will push me back here. Mr. Speaker, Sir, I feel that today we have got to call for somebody to educate the people in this House, including myself, so that we can listen to one another. I do not know what to say because I am talking to people who pretend, but I do not seem to pretend. Let us call a spade a spade. Let us not pretend, please; there is trouble coming in this country unless we do otherwise to avert that trouble.

MR. SPEAKER, Sir, I am dismayed, and I do not know what to say next; so I will sit down and hope that this will be done.

I support the Motion.

MR. ZAFRUD DEEN: Mr. Speaker, Sir, before I entered this House, word had passed round that I was an extremist and a religious fanatic. Those who know me are aware that this is far from the truth. Naturally, I wish to dispel any preconceived opinion about me, and I do this without being apologetic.

MR. SPEAKER, Sir, when I took the oath last week I solemnly bound myself before my God that I should, with honesty and truth, carry out the duties and responsibilities which rest on me as a Member of this House. It shall be my earnest endeavour to co-operate with Members of all sections. I wish to make this clear, however: I am in spirit a true Britisher, not by virtue of my skin but because of my background and because I am imbued with the principles of British democracy, based as they are on truth,

[Mr. Zafrud Deen] justice and fair play. This conception, in my view, is symbolic of British rule, wherever the British flag flies. It will be my duty to defend these principles and where I find justice is not done my voice shall be raised against it. If the legitimate rights and aspirations of the peoples of Kenya are in danger of being overlooked, or deliberately ignored, then nothing will deter me from expressing my opinion without fear or favour.

MR. SPEAKER, having listened to the Mover of this Motion I wish to state categorically that my community has accepted this Constitution in a spirit of co-operation. I firmly believe that the life of this Constitution is not necessarily as stipulated, but that it is an interim agreement and will have to be reviewed sooner than at the end of the time limit which has been imposed on it.

It would have been a happy day for Kenya if this Constitution had been introduced after consultation with all the racial groups. Certain negotiations, as we have heard, did take place before the announcement of this Constitution, but no compromise and no common ground for agreement was found, and consequently we now find ourselves in the midst of irreconcilable differences and mistrust, which is widening the gulf day by day.

This does not augur well for the future and it is a matter of deep concern for all the well-wishers of this country. We pray that the events of the last few years may not be repeated in the future. No sane person would suggest that the Government should relinquish its authority or responsibilities, but it would be equally unwise to show indifference to the demands for more political advancement. What is important is that suspicions which are generating in the minds of those who are questioning the validity of the solution which has been laid before us should be set at rest. The fact has to be realized that there is political awakening in the country which is not satisfied with the present progress.

The salvation of this country lies in honest co-operation of all races. Whereas the Africans demand political power, the immigrant races quite justifiably look forward for future security. They have made this country their home, for better

or for worse, and speaking on behalf of my community I would say that we are prepared to throw our lot in with all the other citizens of this country without any desire for seeking privileges.

The situation in this country is very different from many other colonies which have attained self-government. We will have to evolve a system which has to be original in its approach. We cannot begin on this unless, along with material and political changes, there is also a change of heart and a change in outlook.

The question which is foremost in everybody's mind is what the future holds for us. What the common man wants is peace and security. All artificial barriers—and there are a good many of them—must be removed without delay. Equal opportunities should be offered in all walks of life, such as services, commerce, industry and agriculture.

There is a store of goodwill and sympathy for the African people and I eagerly look forward to their complete emancipation. At the same time, it would be a most welcome gesture if the African people would extend their hand in friendship to the other races and give them their co-operation.

I submit, Sir, that it should be the aim to bring about reforms and changes peacefully and by constitutional means. The present Constitution clearly suggests that it is a temporary measure, it is an experiment, a stepping-stone towards a more enduring understanding. There is need for a good many modifications and it will take a final shape only by agreement of all the peoples who live in this country. To achieve this end in an orderly manner, it is my belief that a round table conference should be convened as soon as possible, and with wisdom discernment and goodwill we shall be able to reach agreement and a permanent solution.

Sir, I beg to support.

MR. HARRISON: Mr. Speaker, as there is no shadow of a doubt that the Government is not accepting this Motion, and as the present Constitution is now a Royal Command, I would like to appeal to my hon. friends opposite to exercise their wiser senses in order that they may take the opportunity to consider seriously the question of co-operation

[Mr. Harrison] by participation in the Government so that they may be in a position to initiate negotiation, whilst working within the Government for the improvement of the Constitution as time goes on. Changes must come but by evolution.

To me, Sir, with all the goodwill in the world, it seems that this is the best method of approach towards solving this very crucial issue. I again repeat that I would like them to consider seriously participation with the Government, in order that they may have an opportunity to initiate negotiation for the improvement of the Constitution, whilst they are in the Government. It is the best approach to this very important issue.

With these few words, Sir, I would like to tender this advice to my hon. friends most sincerely.

MR. MUIMI: Mr. Speaker, Sir, I should like to underline a few points raised from the opposite side of the House. Before I do so, I would like it placed on record that African representation in this Council and on any other body in this country is a right, and it is nothing to be created by any plan by either Mr. Lyttelton or Mr. Lennox-Boyd or any other person. This is a fact which, whatever we say about it, cannot be denied.

The Mover of the Motion did underline the constitutional progress in this country from the years when many of us were not born to this day. It was at first thought that the African was not worth the pain of being represented in the Council when the Council was created. Then there came a time when the African was represented by the European and later he had an African representative. Today, he has an elected representative. I think it is a right which cannot be denied by any people in any government.

There are other facts which I shall come to later on and which go to show that African representation in this country is still inadequate and it is a right which I believe the African should have. Before I come to these facts, Sir, I would like to correct one or two points which the Minister for Legal Affairs used to try to convince the House, but I do not believe that any African who participated in whatever he called discussions,

when Mr. Lennox-Boyd was here will agree with what the Minister said.

The first point I would like to rectify is the reasons which brought about the deadlock. As the Mover of the Motion outlined, there were five points which the Colonial Secretary put to us for discussion and, as the Mover of the Motion said, discussions failed, not because of the agenda, but because of the procedure. If I recall rightly, there were five points which the Colonial Secretary had asked us to discuss altogether, although he had intimated that African representation would be put on the top of the discussions as the greatest priority. But he made it quite clear to us that he would arrive at no decision on any one point until all the five points were agreed upon.

With your permission, Mr. Speaker, I would like to make that point very clear by quoting a statement made by a Minister of Government from the opposite side, speaking for Government, so that there can be no doubt as to the reasons which led to the deadlock. When the Minister to whom I am referring—the Minister for Local Government—was addressing a meeting at Limuru, I think in February, these are the words he used himself: The Colonial Secretary has ruled that all points—that is, the five points—should be discussed at the same time, and then the deadlock resulted.

If the five points were not agreed upon, no one point could be finalized, and that is the reason why the deadlock had resulted.

Well, the Africans have been accused of basing their arguments on one demand only, and that is African representation, an increase of 15 seats. I should like to ask the House, if the Africans had kept quiet after the elections in March last year, under the Lyttelton Plan, whether there would have been any question of discussing the other four points. It was the Africans who had the courage and who saw that they were under-represented; and raised the question of African representation, increased representation. There was no reason, therefore, why the Africans were not justified in sticking to their guns when they said that the question of increased African representation should be isolated from the other issues. But the Europeans, who laid no demands before the African

[Mr. Muimi] demand for increased representation, brought much pressure to bear on the Colonial Secretary to agree on their demands which they had in mind until this time. Therefore, Sir, I just wanted to underline that point so that there should be no doubt as to the reasons which led to the deadlock.

The other point which I would like to endorse is the allegation by Government that the present Constitution, that is the Lennox-Boyd Constitution, is not an imposed one. It is an imposed one. And I want to say this as well, from the statement made by the same Minister in the same speech. The Minister said this in another statement: "The imposed Constitution was very much in line with European thinking, and although there were some differences in detail they had approved the proposals in principle and recommended them to the European community.

Now, the intention is very clear that the Colonial Secretary was only acting under the influence of the Europeans because they had this—

THE SPEAKER (Sir Ferdinand Cavenish-Bentick): Order, order; that is quite an improper imputation to make in regard to the Secretary of State for the Colonies. I must ask African Members kindly to be more careful of what they say.

MR. MUIMI: Thank you, Mr. Speaker, for that correction.

May I then, Sir, having stated so, go further and say that we may shut our eyes, but we cannot block the ears of those who can hear or shut the eyes of those who can see. The facts are these. As I have said, the African was first of all not thought suitable to be represented in this Council and then later on he had an elected representative. I should like to put on record the facts as they are. Kenya is divided into, I believe, the following areas, which are represented in this House. I would like to mention, province by province, the areas that one has to cover, the populations of those areas, the Africans and the Europeans, and the representation in those areas, although it has been argued in this House and outside that the population should not be the determining factor in reckoning the number of people who should represent any one community.

Now those are fallacies, I call them so, which must be eradicated because the fact is there, whether we like it or not, and it is going to remain there unless we are prepared to sit down, as I said the other day, in this House, or outside this House, and try to solve the problem.

Taking, for example, the Nyanza Province, it has an area of over 11,000 square miles. There are 2,000 Europeans in that Province, about that many, and about 2,000,000 Africans. Now the 2,000 Europeans are represented by one European and the 2,000,000 are represented by three Africans. Then we have the Central Province, which now excludes Ukamba, and which covers an area of just over 10,000 square miles, with a European population of 2,500 or thereabouts and an African population of 2,000,000. There are two Europeans to represent the 2,500 Europeans and only three Africans. In the Rift Valley Province, covering an area of 40,000 square miles or more, there is a population of 8,500 Europeans or about that many, and an African population of over 700,000. They are represented by three Europeans and three Africans.

Then there is the Coast Province (Rural), with an area of about 25,000 square miles. It has a European population of 3,000, and an African population of 500,000. It is represented by two Europeans (including Mombasa Island) and one African in the rural area and one African in the Island itself.

Take Ukamba with an area of 19,000 and more square miles; it has a European population of 1,000, who could be easily represented by the two Africans, and an African population of over 600,000. It has one European and two Africans. I wonder why that European does not go.

The Masai area, with an area of over 15,000 square miles, and only 130 officials, I think, who are Europeans, and an African population of 67,000, has nobody.

Nairobi Area, covering 431 square miles, has a European population of 20,000 and an African population of 120,000; it has three Europeans to cover that 400 square miles and only one African.

The Northern Frontier—and I must underline this—with an area of nearly 120,000 square miles, with only 60 Europeans, I think, officials, and an African

[Mr. Muimi]

population of 200,000, has no representation except the Nominated Member who should cross to this side of the House.

Now, Mr. Speaker, taking those facts give due credit to us. When the Lennox-Boyd Constitution was introduced and the six new constituencies were created, the African Elected Members were not consulted. If any people were consulted at all, it must have been the officials outside—in most cases, I think, chiefs, who were asked where they thought the six seats should be placed. Everyone was not surprised that the first seat was given to the Akamba who have had nobody. I must say this emphatically, because not only do I represent the Akamba, but I represent the people of this country. The Akamba had no seat before because they made less noise. The Masai or the Rift Valley people, because they made a little noise, were given another two. The Mombasa Island—the Member for that rural area had to be separated from the Island and the Mombasa people got one seat.

I agree there are problems in this country and we want to solve them; we do not want to deceive ourselves that there are no problems to be solved. And these people must be represented in this House.

Let us take, for example—and I do not care what any person might think about it—let us take problems in the Central Province, centred in the areas of Kiambu and Fort Hall. There is a little less in the Meru and Embu and Nyeri districts and Nanyuki. Will those people remain silent unrepresented under the Lennox-Boyd Constitution? They are represented by one Member only. I do not know what they think of this Council.

Let us take the Coast Province (Rural). One man has to represent the whole of the people from Kilifi to Lamu. I do not know how one Member can cover that area and convince to the people in that Province that they are adequately represented.

Mr. Speaker, I could go on quoting facts, which, whether or not we like them, are there and must be solved. Then, when the Colonial Secretary in the new Constitution states that in any future expansion of Legislative Council

there will be no more seats based on communal electorates, I am, simply at a loss; I do not understand exactly what that statement means. Does it mean that these Kiambu people will never be represented? They will only have one man to share between Kiambu, Fort Hall and Thika? And Nyeri and Embu will only have one man? And all the coast people, where we have all these problems? How are we going to solve them. I think it is high time that Government opened its eyes and did something.

Last of all, Sir—I see that my time is up—if I had had the time I would have said exactly what I mean. If the Government of Kenya and Her Majesty's Government do not feel it is meet to appoint an expert to come to this country and study our problems, and if the Kenya Government does not want a round table conference to study these affairs, then I ask that Kenya should return to Colonial rule.

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

MR. RUBIA: Mr. Speaker, Sir, I would like first of all to congratulate the Mover of this Motion for giving the background of this country from 1895 up to 1958. Out of this history, I picked up one remarkable aspect of progress, and that is that since 1944 up to 1958 the African strength in his House has risen from one to 14. Now that is an average of one extra African Member every year. In my opinion, Sir, that is a remarkable stride in the progress of this country in African politics. Sir, I do not believe that in this country, at any rate for the time being, a constitutional expert will come and teach us how to get along together for the benefit and—using the words of the Motion—for the "harmonious, stable, political and economic development" of this country, unless people in this country themselves are willing to co-operate and see the other man's point of view. That, Sir, I think will be a waste not only of the public's money but of our valuable time, if we have a constitutional expert to come to tell us how to have a stable development, economic progress and perhaps racial understanding. It is all within our hands, and we can have a very stable and very prosperous country if we can be sympathetic, sincere and considerate towards one another.

[Mr. Rubia]

The present Constitution, Sir, according to what I have gathered—being a new man in this Council—has only been in operation, I think, for the last four months.

Now, Sir, to suggest that we have another constitutional expert or a round-table conference within a space of four months, in my humble opinion, is unbelievable.

I believe, Sir, that this Constitution should be given a fair trial and, as has been said by my hon. friend the Nominated Member Mr. Harrison, changes are bound to come. But I cannot see any logic in having a round-table conference to try to chuck out a Constitution which has been in operation for the last four months only.

Now, Sir, this Constitution has been referred to as a "forced" Constitution. Sir, I do not subscribe to that view. I believe that this Constitution has been accepted by the three major communities of this country.

HON. MEMBERS: Question!

MR. RUBIA: The hon. African Elected Members may shout but they have accepted it because they have participated in—the election—of—the six—African—Members.

AN HON. MEMBER: No!

MR. RUBIA: That, Sir, is my personal opinion.

AN HON. MEMBER: You are wrong.

MR. RUBIA: My other point, Sir, is that out of the six Elected Members, some of whom I have no doubt will be useful in this House if they are willing to co-operate for the stability and the economic progress and the racial understanding in this country.

I think that the Lennox-Boyd Constitution should be given a fair trial and, after all, I believe that the African has not fared very badly out of it.

Mr. Deputy Speaker, Sir, the other point that I have is that Kenya at present in my view needs a period of free from any political controversy, free from any constitutional problems—at least for the time being.

I believe that the man in the street wants to go about his daily business with peace of mind. Now, Kenya, in my view,

has been in this for some time. Is it intended that this suspense should go on?

AN HON. MEMBER: (Inaudible).

MR. RUBIA: The answer to that question is that I believe it is getting done and we should not try to arouse the feeling of insecurity particularly, when only two weeks ago we talked of encouraging capital to come into this country and for that reason, Sir, capital will not come into this country where there are all sorts of Commissions of Enquiry, constitutional experts and all such things. The first thing that an investor wants to know is the political stability of the country. Now, if we really meant that—and I have heard from both sides of the House that we should not do anything that would drive capital out of this country—I believe it is wrong to do anything to drive capital out of this country at this time. There is no point in having a constitutional conference until we have given the present Constitution a fair trial.

Mr. Deputy Speaker, from previous speakers we have heard that in October last year the Colonial Secretary wished to have a round-table conference and that the African Elected Members refused to participate because they felt that their demand for 15 extra seats should be promised in advance. Now if we want a constitutional expert to come and tell us what we should do, even before we have a conference ourselves here, then what guarantee have we got that the African Elected Members will come to that conference?

MR. MBOYA: The African Elected Members are asking for it.

MR. RUBIA: How can we be sure that you would come to such a conference without saying, Sir, unless such and such a thing is done, we will not participate.

Mr. Deputy Speaker, Sir, with these few remarks I beg to oppose the Motion.

MR. OLE TIPS: Mr. Deputy Speaker, Sir, I am quite disappointed and worried in the way the affairs of this country of our seems to be attended to simply because we have been pretending all the time in this country that there is no honesty in us. If I can go further I would only say that the Government of this country as such should get out and let some other people who are capable,

[Mr. ole Tipsis] who are not favouring any one section of the community, take over and lead this country, together with all its inhabitants, through this difficult period which we are now facing—all the four communities which are living in Kenya.

The salvation, Mr. Deputy Speaker, Sir, is entirely in our own hands. The way we lead our people and the way in which we behave in this country is what counts most.

Now, Mr. Deputy Speaker, we have a Masai saying which is only three words and I will put it first in the Masai language and then translate it into English. It says, "*Abaoyu ehi loik*", which means that when a man has broken his leg and the bone is within the muscles then no matter how much the quantity of ointment you apply, unless you operate and remove that bone inside the muscles he will never get cured. That is right, Sir, because here we have entirely failed to get together and think together for the well-being of this country and our people.

Mr. Deputy Speaker, I think the African Elected Members have made it quite clear that they have rejected the Lennox-Boyd Constitution and I think I am right in saying that they have not rejected the Constitution merely for the sake of rejecting it. What they have rejected is that the whole African community of this country has been unfairly treated and what they have rejected, in other words, is this: that you immigrant races have sat on us for over 60 years. We are now feeling the weight of you and will you please give us also a chance to breathe. Give us a chance at least to have a fair say in the affairs of this country of our. We are not asking anything more than that.

On the other hand, Mr. Deputy Speaker, if we look into the history of this country we will see that the African people are very generous and very friendly. We have done no harm to anybody. We have received you and we are now living together and you have your homes here and your people are also here. Make no mistake about it: if you think you are going to sit on us all the time, that will not happen, not at all, because I think that the Government of this country knows where the mistake

is, but it is so cowardly that it will not face the facts and have the courage to rectify the mistakes made in the past, and in this way you can go on pretending that all is well. There is nothing well in it because do you really want to tell me that it is fair that I personally, ole Tipsis, should represent the African people in the Central Rift, whereas few Europeans in that area are represented by five European Elected Members? Is there any fairness in that? Also, is it fair that the African people should only be allowed two ministerial posts in the Council of sixteen Ministers—is that what you call co-operation? Also, those two ministries that I have just mentioned have been pruned from other ministries. Now, I submit, Mr. Deputy Speaker, that there is no fairness at all in this, and if we are to co-operate in this country, make no mistake about it—let us be open—let us be frank—let us face the facts—and let us try to see each one's point of view. Let us put our house in order: we have failed to put our house in order, Mr. Deputy Speaker, and that is why we are now calling for a physician to come in and operate on the fractured leg to remove the bone which is preventing the wound from healing.

I know, Mr. Deputy Speaker, I for one would be the last man to pretend. I speak my mind—whether it is right or wrong I say it. Now I am going to be a bit serious about this question, and those who might be hurt by it it is their own affair. The facts are there. Now, the thing is that the Kenya Government has entirely failed in its duty: there is no doubt about it because they should be the people getting in between the various communities and giving them a helping hand: in other words, trying to favour one section of the community against the other is intolerable. If I may say so, with all due respect to my European settler community and the Kenya Government as such, I think the Government of this country has been too much influenced by the European community, that they cannot resist what they know is wrong, and if that is the way we are going to conduct the affairs of this country, then will the Government please tell us, so—you, the Government, get out and let the settlers rule this country: and then we shall know who to get on with, who to tackle on the various problems facing us.

[Mr. ole Tipsis]

Now I have heard quite a number of things said here by my hon. friends, the Nominated Members, and I am completely out—I am lost! Anyway, Mr. Deputy Speaker, I think that they are entitled to their views; and I am entitled to mine, but if we look at the present Constitution, for instance Specially Elected Members, has there been any fair play in the way in which they were elected? In my own humble way of thinking I say no, simply because as far as the African Specially Elected Members are concerned I say no, but as far as the European Specially Elected Members are concerned I say yes, because those elected have a very big command of their people and are regarded as leaders of their community, whether we change their names or not the souls and bodies are the same—they have not changed.

Now, when we turn to these Specially Elected Members, well then it is a very different question altogether, and if the European community, the Government of this country, says that they can use them because they are good boys and take them to be representing the African views, and take them to be that simply because they are as black as ole Tipsis and the African is participating, then they are making a very serious mistake, because if they are true leaders of the African people then by all means they should have sought a fixed mandate from their people. We, the 14 African Elected Members refused to participate in their election—that is quite clear. They knew very well that they did not want our votes, simply because their big bosses are there and they will see them through, despite African opposition. Well, is that what you call co-operation, going on back-biting one section of the community against its own people? I do not think so, Mr. Deputy Speaker.

Now, I think, and I think I am right in saying, that the time has come for us really to think seriously over all these problems if the Government, if the European community, thinks that they can pass all these or impose all these constitutions, against the wishes of the African people, and thus entrench their position, then that entrenchment is very much more dangerous to them than anybody else.

and I think that if they pursue that kind of policy then the old saying of "He who digs a hole for others to fall in, will fall in it", and I think, Mr. Deputy Speaker, with your permission, that we have got to think and think it very, very seriously. Time is not in our favour, and if we lose time, if we are to create bitterness all the time without evolving a constitution which can satisfy all the communities living in Kenya, then I think that we are really wasting time. I think, Mr. Deputy Speaker, the trouble now is this: that the immigrant races have enjoyed all the freedom, all the powers of the Government in this country, for the last 60 years without any say from the African. Now they are beginning to see that the child is growing, is a fully grown-up man, and he going to have a say in the affairs of the family. They are afraid of losing face, they are becoming out of date, too old for their old tactics, and they are afraid that the young man might be a bit strong to handle.

Now before I sit down, Mr. Deputy Speaker, I would really ask that the Government and all the other communities in this country know that the Lennox-Boyd Constitution has been imposed against the wishes of the African community, and if they think that they can push it through and then at the same time call for co-operation, and at the same time say that we have got to co-operate, whereas we have been denied a fair say in the government of the country, and that these pruned ministerial posts are simply allocated to the African to appease him and fool him, then I think we can now, most of us, see beyond our noses and we do not want this sort of appeasement—what we want is only a fair say, a fair play, and lead the country together, not as masters and servants, but as equals.

With these few words, Mr. Deputy Speaker, I beg to support the Motion.

CAPT. HAMLEY: Mr. Deputy Speaker, I want to congratulate the Mover on his very interesting lecture on the meteoric political advance of the African—I thought it was excellent: I only wish that he had gone back a little further. He started with 1895, but I hoped we might cover the period Ham to Hamley. There would then not have been much time left for what I consider the necessary frills that followed.

[Capt. Hamley]

Sir, I want to give a little lecture now. The burden of my little song is going to be: "Let us get on with the job". Sir, I quote: "There are some who hear a different drummer, and who march a different pace". How true that is in this country. In a country like this, in its present state, there are bound to be very many different drummers and there are bound to be very many different paces: we are not yet in a position to march in step, but that will come providing we all at least march at a reasonable pace and the pace is forward. We can expect nothing better at this juncture. By a reasonable pace, Mr. Deputy Speaker, I do not mean that we be laggard, but I do think that there is just as much danger, in fact more danger, in going too fast. I hope that we shall not follow the example of the Gaderines who got their accelerators jammed on a steep slope leading down.

Sir, I do think we have to learn now the lessons that have been stuck in front of our noses in all parts of the world, and see that we do not repeat those mistakes. I think, as I have said, we should get on with the job, and at the present time should not reach for the cake with its icing on top and very nice fat plums inside—until we have eaten our bread and butter. First things first; and I think that the first thing in this country, instead of reaching for the moon, is to make quite sure that we establish an enlightened and contented and stable middle class of African. That is the first thing, Sir. If we do that, and if we govern to that end—if every body will put their hand to that plough instead of considering all the frills that they are putting their minds to, then I think that we are bound to get somewhere. But we shall not get anywhere as long as we talk round and round as we have been doing for the last year—it is getting us nowhere at all.

Sir, I have had the pleasure of working—I am not being smug about this—but I have had the pleasure of working with some of the African Elected Members outside this chamber, on committees, on tribunals; and as I say, I am not being smug but I really have been struck with how capable those Members are, and how useful and co-operative they can be when they get on with a job. When

they have a job to do, and cut out all the political frills, they impress me very considerably indeed, and I do wish that, for the time being at least, they would concentrate their efforts on getting on with the job instead of reaching for the moon, as they are doing. There is a job to do, Sir, we have got to provide the African masses with a sound bellyful of good bread and butter, and leave the cake until later. I do wish to appeal to the African Members to come down off their perches and help us to get on with this job. They have been offered a chance and they have spurned it: they are spurning the wrong thing. They are cutting off their noses to spite their political faces, thinking of themselves instead of the people they represent here.

HON. MEMBERS: Question.

CAPT. HAMLEY: They have no right to do it. Let us have some constructive assistance instead of—Mr. Deputy Speaker, what is the parliamentary word for belly-aching?

AN HON. MEMBER: Poppycock!

CAPT. HAMLEY: My hon. friend has enlightened me—"poppycock"—I am sorry to labour the point, but once we have a contented and enlightened African middle class, all the other problems will disappear. The whole of the rest of it will follow, and follow without any of the hysteria that we have to put up with these days.

Finally, Sir, I would say more on the reasons why I want to see us get on with the job and govern this country and build a sound and a contented country—I do not want to give a lecture on strategy—I dare say I could, but I will not. All I ask Members to do is to go home and prop up a map of the world in front of them and sit in front of it for an hour, and think of world conditions, and think of what is going on around us and consider if we can afford to have an unstable country here—because you can take my word for it, Sir, we cannot.

Mr. Deputy Speaker, I beg to oppose.

MR. TRAVADI: Mr. Deputy Speaker, Sir, I beg to support the Motion, but before I deal with the Motion itself I would like to make it absolutely clear that I stand for common roll and common franchise for all the races. That is one of the fundamentals on which I have come here as a representative of the

[Mr. Travadi]

Asian community sent by the Central electorate. The Motion asks nothing new: it is just an example of asking for a piece of bread and the rejection of it is offering a stone instead.

Mr. Deputy Speaker, the Motion says let there be a constitutional expert invited here to this country to go into the political problems and suggest certain ways and means or certain recommendations to afford the basis for races to condescend them, and hold a sort of round-table conference. I do not think there is anything new in that. Dissatisfaction is there: is the Asian community satisfied with the Lennox-Boyd Constitution? The answer is no. Is the African community satisfied with the Lennox-Boyd Constitution which has been imposed by Her Majesty the Queen? The answer is, point blank, no. Then what I am suggesting is that there is only one community—and one community alone—which seems to be satisfied with this present Constitution, and this is the European. The point has been raised by the Deputy Speaker himself when he was replying, that next the Africans will want to dictate terms to the Secretary of State. Is it not a fact, Sir, that during the last 40 to 50 years, it was the European community who has been dictating to this Colony and to this Legislative Council?

It is the minority, and not the other races which are dictating and ruling this Colony. Are they secure—because the time has come when they cannot resist much more. Did the minority which ruled over this country during the last 40 or 50 years offer any guarantee or security to the other communities?

AN HON. MEMBER: None at all.

MR. TRAVADI: Is it on their part now to ask for securities and safeguards when they have themselves during the past done nothing. The only guarantee we can have here is a Constitution with certain amendments in order to deal fairly with all the communities. It is the rule of democracy that the voice of the majority shall prevail. It is inevitable that there will be, and shall be, an African majority ruling in this Council. It is just a question of time—how to stage it. I can stage it even today. Why not adopt a sort of system in this Kenya Legislative Council; to start with for

the first five years each race to be given equal representation. The composition should be based on a common roll and a common franchise. That will take five years and then another five years.

Further, Sir, if it is felt that there are not sufficient safeguards then why not, instead of having a Council of State composed as it is today, have an upper chamber where there should be at the top equal representation of each race based on a common roll and common franchise? In the lower chamber if the common roll and the common franchise is adopted there is definitely going to be an overwhelming African majority. This would be sufficient guarantee for all. There is no necessity for special safeguards. Certain fundamental rights could be incorporated in the Constitution itself. This should be the basis of advance as it has been the basis of atomic and Sputnik advance. The darkness and suspicion and ignorance can then disappear.

Mr. Deputy Speaker, the time is ripe and the time is very propitious to have a bargain with the Africans so that we can have rest in this country in order to develop it economically.

This is my own humble submission and I appeal to the Government to think seriously, before thing goes from bad to worse. We have in the past gone through such time when our lives were in danger. We again appeal to this Government to give serious consideration so that political advance can be made.

I beg to support this Motion.

MR. MOHINDRA: Mr. Deputy Speaker, Sir, it falls to my lot to congratulate the hon. Member for the Central Area, who has just sat down, for an excellent speech. But as Mr. ole Tipsi, when he was speaking said, every man is entitled to his own opinion. I respect the opinions which have been expressed by that speaker, but I think I am duty bound to give my own opinion to this hon. House.

[Mr. Deputy Speaker (Mr. Conroy) left the Chair]

[Mr. Speaker (Sir Ferdinand Cavenish-Bentlck) took the Chair]

I have heard with a great deal of interest the historical survey which was given to us by the hon. Mover of the

[Mr. Mohindra]  
Motion, and when I say that I listened to that with interest it must have been very interesting because history to me was always a very nauseating subject.

From that, Sir, it would seem that the operative words on which this Motion is based have been answered by the historical survey itself. This Motion says, Sir, "... in order to evolve a Constitution ..." and I submit that for the last 50-odd years, or at least for the last 13 years, this process of devolution has been very greatly accelerated.

The second operative words are "... importation of a constitutional expert ..." who would give us advice on our illness and our diseases. It seems strange, Sir, that we always wish to rush outside for outside assistance and outside experts seem to be a panacea (I prefer to use the Greek pronunciation) for all our ills. I think that that is true in every country where people cannot sit down together and solve their own differences they rush for outside assistance.

Sir, we have the example before us of Cyprus. Lord Radcliffe was appointed a constitutional expert to evolve a Constitution for Cyprus. What is happening there today, Sir?

We can never have a Constitution here unless the people—the three races in this country—themselves decide to shed suspicion, hatred and to sit down together and try to come to some mutual understanding. What we require is a few gallons of goodwill, Sir, to be installed into our politicians.

When I was outside this House, Sir, I used to hear it said that politics is a dirty game. Perhaps my conviction is growing that what was said is now true. It is a pity that our politicians here think so much in terms of politics rather than in terms of pulling up their sleeves and getting down to a job of work which is in their hands. If only we could do that and if only we could divorce ourselves from these impossible demands, etc., I think that Kenya would be a very happy country to live in. I do not think that it is an unhappy country but I do think that it could be even better.

Now, Sir, coming back to the question of what the Member for the Central Rift Valley said, Sir. He said, in the course of his speech, that our salvation

is in our own hands. I could not agree with him more on that. I agree that our salvation is in our own hands and let us, with the things we have got in hand at the moment, make up our minds that we wish to get on with the job and that we wish in the interim period to understand the other communities in this country and as we go along, if we find that the Constitution is defective, then it will be up to us, by mutual agreement, to change or to do away with this Constitution or bring in another one. I think, Sir, instead of bringing in outside experts let us bring in a preacher from the heavens who can come here and teach us to pray to God Almighty to give our politicians sense enough so that they can get on with the job.

Many years ago, Sir, when I was a student I read that "more things are wrought by prayer than this world dreams of", and I think that if a preacher of the sort I have just described were to be imported from heaven, or hell, or Timbuktu it would do Kenya a lot of good.

With these words, Sir, I beg to support the Motion.

MR. ARAP MOI: Mr. Speaker, I shall only take ten minutes of the time of the House; Sir, while giving my own views about this Motion.

Mr. Speaker, I support the Motion in the spirit in which it was presented. The hon. Nominated Member, Captain Hamley, said that we should come down to earth and get down on the job. If I were to cross the Floor to the other side and accept the Ministry of Community Development, I would be betraying the people whom I have represented, for one thing: that there will be no communal increase on African representation. I would be denying their rights to elect their own people in the way in which the Europeans and Asians are electing their own people. This very Constitution does not say exactly that the African in the very near future, within this ten years' standstill, will elect their own people in the form the Europeans return their own representatives.

Thirdly, Sir, I would be telling the African community that they, being the Queen's subjects, as I am, are denied this right and that they should not have

[Mr. arap Moi]  
equal citizenship as enjoyed by other races. Then, Mr. Speaker, as I said, I cannot cross the Floor unless those very points are clear, unless those very points are made clear to the African community that their future is clear; I was returned; being a vigilant guardian over the African problems, to guard their own interests, not only their day-to-day problems but their future, as far as the Constitution is concerned.

Any constitution—the Minister for Legal Affairs explained the facts that the Constitution, that a constitutional expert outside Kenya may do great harm to the peaceful development in Kenya. But I would then ask why the Government did not suggest any other alternative, if they were interested in settling the present situation. Further, Sir, we can not demand, no one can demand co-operation; it can only be shared by all other races. And I believe that the British people are a genius for compromise. They have their Constitution, which has been based on long tradition, changing from time to time, their citizens having the right to express their own opinions. When I say opinions in this matter, I do not mean we are not entitled—each is entitled to his own opinion, when we discuss matters of importance such as the Constitution. I do feel, Mr. Speaker, that there are very important matters on any future Constitution. That is, the African community feel that they should be elected under universal franchise.

As I have said before, the Asian community; all the immigrant races; if I may say so, have had their franchise 30 years ago. The Indian community, in 1923, made a noise to the Government and during that time Government realized that their rights were overdue and they granted those rights. I do feel, Mr. Speaker, it is now time that Government should grant these rights. As I am the Queen's subject, I am entitled to claim that very right.

For many years, there has been a political tug-of-war among all races, but I fail to understand why one section of the community wins in this tug-of-war. There have been political manoeuvres over this Constitution. I need not mention any names, but what I am urging is an immediate change of heart in order

to bridge the bitterness which exists at present between the races, not because of personal hatred—that is a different matter—but because of certain problems which Government tend to overlook. I personally feel that the Constitution is an important matter, and to exercise the rule of force in any Constitution will never work. Unless there is a firm basis of agreement in any constitution, there will be no settlement.

Mr. Speaker, I wish to say that the present state of affairs which Government tends to overlook is that, to me, it is very important. I do feel that here we co-operate, here we feel we are working in a friendly way, and I do not regard myself as hating anybody, but when we go out we seem to say that the African Members are only boys, only boys, and should be treated as boys.

During the beginning of the 18th century, when the American independence started, Lord Chatham, the famous Member of Parliament for many years, asked the Members of Parliament to reconsider the situation in America, but they said, "Well, let us treat them as boys; they are only boys and let us overlook their affairs. We are big men of great wisdom. They know nothing". But in the end things turned opposite. I do not feel that Kenya should be compared with the situation at that time, but I do feel that Members on this side of the House, particularly European Elected Members, should not only understate the present situation and overlook this matter and say that, well, we should give a fair trial over this Constitution. It should be a fair trial when the future of the African community is clear, when the future of Kenya is declared. It is not clear, as far as I am concerned, because, as I have explained, African representation must not be overlooked. Our franchise must be granted now or within the next African general elections, and some other shortcomings of the Constitution.

I think the Council of State is not necessary, Sir. If the Government, was considering a better constitution they could have considered a different form, another House, a House of Representatives, as it is in Australia or in other democratic countries. We should not have something which is not working. I do not feel myself that it has my own



[Mr. urap Moi] support, nor has it the support of the Africans, because safeguards and securities are there with this House. If I may quote, Sir, a written constitution by an expert, he said: "No man can foretell whether our constitutional democracy will succeed in remaining true to its fundamental ideals and maintain a just balance between law and liberty, progress and stability, the State and the individual. We can understand something of the historic past, and the present is always with us but the past and present contingencies which together will shape and eventually determine the future are for ever elusive".

Mr. Speaker, I beg to support.

THE ASSISTANT MINISTER FOR EDUCATION, LABOUR AND LANDS (Mr. Wanyutu Waweru): Mr. Speaker, Sir listening to the debate which is before the House and the various speakers on both sides of the House, I have come to the conclusion that there are some hon. Members who have spoken for their own ends.

AN HON. MEMBER: Well done!

THE ASSISTANT MINISTER FOR EDUCATION, LABOUR AND LANDS (Mr. Wanyutu Waweru): Others have spoken with a request to the Government that action should be taken. The hon. Member for Central Rift said that a young child expects to grow and that is very true. When I look at the present Kenya Constitution, as it is, it is not yet three months from the time it was put into operation. It may have its own mistakes, but I think that it would be fair to give it a fair trial, to see how it would work, and then ask for a constitutional expert to come and investigate the constitutional problems in Kenya.

I know, Mr. Speaker, that when Mr. Lennox-Boyd was here, he did try all he could to make all the communities meet at the table, but I am sorry to say that our African Elected Members did not see fit to accept that invitation. Although a discussion was asked for by the Colonial Secretary, I remember that one day a deadlock was reached at Government House.

Mr. Speaker, Sir, when the hon. Member for Central Rift was speaking, and had started attacking our present Kenya Constitution, I began to wonder, Sir,

about the logic of the speech, because, had it not been for the Lennox-Boyd Constitution, the hon. Member could not have been a Member of this Council.

Mr. Speaker, Sir, when the hon. Member for Kitui was speaking, he demanded that the hon. Nominated Member, Mr. Kullatein, should cross the floor and join the opposite side of the House. Here I thought, and I did interpret his speech, that he was supporting the Lennox-Boyd Constitution.

Mr. Speaker, Sir, allegations were made that the Colonial Secretary went to Tanganyika and got the experience of the Tanganyika people and brought it to Kenya, by the hon. Member for Rift Valley North, I think—Mr. Towett. You will excuse me for that.

Mr. Lennox-Boyd went to Tanganyika after he had visited Kenya and Uganda. All the time he was here he offered himself to discuss the constitutional problems. I would say that had agreement been reached before the Colonial Secretary went to Tanganyika, I am sure that it could not be said that he went to gain experience from Tanganyika and to bring to us what he had learnt from Tanganyika.

Mr. Speaker, Sir, what I can say is that the Constitution should be given a fair trial and I wish I could have the patience of the Colonial Secretary who was many times engaged on constitutional difficulties while in Kenya, but found it not possible to make the communities meet together. I admired his wisdom and ability and patience.

Mr. Speaker, Sir, the present Kenya Constitution has given the African community six additional seats, and a number of Nominated seats, amongst which—in the history of Kenya—we have got an hon. and gracious African lady who is on this side of the House. This is a step forward.

Mr. Speaker, Sir, I am one of those who think that by mixing with other communities or, say, within the Government, one can do a lot more to help one's own community than by standing at a distance and undoing everything that the Government does.

Mr. Speaker, Sir, I also do not forget that there are two more seats which have been left vacant for the African community and which are not filled yet. I

[The Assistant Minister for Education, Labour and Lands]

would appeal to my hon. friends, the African Members, to reconsider to accept them, and come on this side of the House and advise Government what should be done for the Africans next. I feel, Sir, that it is high time that all hon. Members of this House should speak less and do more.

Mr. Speaker, I think that it is not the time yet to have a constitutional expert, although I think as things go on changing it is bound to come some time in the future.

With these remarks, Mr. Speaker, I do oppose the Motion.

MR. SLADE: Mr. Speaker, Sir, I must add my congratulations to the hon. Member for Central Area on his maiden speech; not that I quite agree with the substance of what he said, but I do commend the vigour, eloquence and obvious sincerity of his speech.

Sir, I hope not to take very much longer in this long debate, but I do feel the Council would like to know what the Specially Elected Members feel concerning this Motion. We have been adjured, Sir, by hon. Members on my left, to avoid pretence in this debate and to call a spade a spade. That is a thing that we should always do, and I shall certainly try to do it in what I have to say now. It is, indeed, an occasion for speaking bluntly.

I follow the excellent example of the Solicitor-General, in what I would like to call an excellent speech, in referring back to the terms of the Motion. Sir, briefly that Motion postulates the need of a constitution acceptable to all communities in Kenya and urges, for that purpose, a round-table constitutional conference. Now, Sir, it was exactly those two things that the Secretary of State tried to achieve only eight months ago. He came here looking for a constitution acceptable to all communities. His efforts were concentrated on trying to establish a round-table conference. As the hon. Member himself has said, he failed in both those endeavours because negotiations never even started. And, Sir, this must go quite clearly on record, even if it is repetition of what the Solicitor-General said—that the sole reason why negotiations never started, was that the hon. African Elected Mem-

bers did not appear to understand the meaning of negotiation. They did not appear to understand that negotiation consists of giving as well as taking. They did not appear to understand that when you are going to negotiate to buy a cow, negotiations will not go very far if you start by saying: "Give me the cow first and I will consider afterwards if I will pay your price".

That, Sir, was the reason why negotiations never started. Sir, I fear negotiations never will start until some people understand more clearly what negotiation means. It is certainly, Sir, a very vain hope that there can be any kind of a successful round-table conference until there is evidence of hon. Members understanding the meaning of negotiation, and I ask hon. Members of this Council: is it apparent today that my hon. friend on my left yet understands the meaning of negotiation? I very much fear, Mr. Speaker, from the way that they referred to the events of last October, they still have a great deal to learn in that matter. Until it is clear that they have learnt it, I cannot support a Motion for any attempted conference.

But, Sir, apart from that, we cannot afford to reopen the constitutional question at this stage. After all, for the last 15 months we have done practically nothing but talk about the Constitution, and all the time we have had the burden on our shoulders of the security of this country and the prosperity of this country, and those things depend on very much else besides paper constitutions, and we must devote more time to them.

It is what was said so well by the hon. Member for Western Electoral Area, who I should like to welcome back very much to this Council. It was not his maiden speech, but it was a very good one, and he emphasized not what politicians want, but what the common man wants: that is, peace and security and reasonable prosperity. That is our business, and let us concentrate on that for a change.

Now, Sir, I will not pretend any more than anybody else that this Constitution that we have now is a perfect Constitution. Nor would I be so foolish as to pretend that it is a rigid Constitution to remain indefinitely with us. But, Sir, it is at least a Constitution of some merit; first, because it does represent on the part of the Secretary of State, who put

[Mr. Slade] it forward, and on the part of those of us who have accepted it, a sincere effort to find a beginning of a solution to the problems of this country which are, I believe, unique in the world. It certainly gave, Sir, to the Africans, a considerable advance in their numbers; not as much as they asked for, but it certainly marked the departure from what has been called parity. And what it did above all else, Sir, was the first big step in our constitutional history, and that was the first step away from racial representation to non-racial representation.

Unless hon. Members throughout this Council realize that that is the only course that we can take in this country with any hope of harmonious, stable political and economic development, there is no chance of our agreeing at all. People must understand how vital it is that, today and for the future, we move away from purely racial politics and get on to that other foot of non-racial representation.

Now here again, Sir, I am afraid some of my hon. friends do not understand the meaning of non-racial politics, or at least do not understand its value. Otherwise they could not possibly adopt the attitude that they do adopt towards my hon. colleagues, the African Specially Elected Members. Those colleagues have adopted a non-racial approach to their job, and because they have done that—because they have refused to adopt a purely African racial attitude—they are charged with letting down their own people. Now we must grow up from that sort of point of view, Sir, and this Constitution at least puts us on the first step towards doing so.

I would say in parenthesis, Sir, that if this Constitution was accepted by Europeans, it is not necessarily a bad Constitution on that account, any more than it would be bad because it was accepted by Africans or Asians. I do hope hon. Members will get away from the idea that because one community, even, likes something, it must be bad for another community. If it really were so, what hope, Sir, is there of getting anywhere with any kind of conference; what hope is there of evolving a Constitution acceptable to all communities, if the moment it is acceptable to one it is unacceptable to others?

There again, Sir, we have got to grow up, I am sorry to have to say it, Sir, but we are in the position now that some hon. Members are disgruntled because they had hoped to reopen the whole thing very quickly by boycotting the work of the Secretary of State, and the boycott has failed. Hence the resentment of the Governor's powers to nominate when candidates are not forthcoming, notwithstanding, as the Solicitor-General has pointed out, that that power has been there for the last 23 years at least. But it is no good being disgruntled because your boycott does not come off. The fact is that this Constitution is here and it is working and it is going to work, and it is the determination of the Specially Elected Members on this side to see that it does work, and work in the way it is meant to work. It is a pity we have to push forward in the face of opposition from hon. Members on my left, but I do hope in time that opposition will fade and we shall find a little co-operation and good will. Certainly, Sir, even now, in spite of what hon. Members have said on this side, I am not aware of this racial bitterness of which so much play is made in speeches in this Council. I do not see it outside or even in the lobbies of this Council.

There is only one thing more I want to say, and I say it because of what has been said by others this afternoon. It has been suggested more than once in speeches by hon. African Members that the way to get more advance is to make more noise. Now, Sir, I hope it will be brought home to them firmly and steadily that that is not so; that the way to get advance is by showing capacity and responsibility. Indeed, Sir, it is in that way that Africans have advanced so far. In the years that I have been in this country, Africans have made tremendous strides forward in education, and in consequent ability and responsibility, and it is in recognition of that that they have achieved these spectacular political advances, not because they made more noise. If they make more noise there are liable to be doubts of their responsibility and fitness for further political position.

I for one, Sir, urge the Government most firmly to stand against any suggestion that noise brings appeasement. Mr.

[Mr. Slade] Speaker, that I have said with full understanding of my responsibility for a non-racial approach to the problems of this country. In a non-racial approach, I believe it is our job to say when we think that anyone is wrong, whether our race or anyone else. Today, Sir, I am quite certain that those who have spoken in favour of this Motion are wrong, and I oppose it.

MR. ALAMOODY: Mr. Speaker, Sir, I rise to support the Motion. I will oblige the Council, Sir, because I am one of those who will not take the maximum of 20 minutes permitted by the Council.

I rise to support the Motion, Sir, because I feel it is a reasonable one. I have some misgivings but I will deal with those later. The Motion, Sir, seeks to appoint a constitutional expert for his recommendations so that they may form a basis for a round-table conference. I do not think there is anything wrong in that, Sir. I should have liked though, Sir, that when the hon. Mover said "constitutional expert", he should have said "impartial constitutional expert", because if he had used the word "impartial" then I think the Minister for Legal Affairs, Sir, would have been deprived of a very strong argument when he said that we have in East Africa, constitutional experts. We have them here, Sir, I do admit, but as long as they are residents of this place—whether they be Europeans, Africans, Arabs or Asians—they have their own interests at stake, and as such would not be able to advise the country as it should be advised.

I was cross with the hon. Mover, Sir, because I observed that, perhaps unwittingly, in his historical review on the constitutional evolution of the country, he excluded the existence of the Arab until 1956. The Arabs, Sir, have had an Elected Member in this country since 1935. How effective that representation has been is another matter, Sir, but I say 1935 very significantly, Sir, because I will deal with that later.

The Lennox-Boyd Constitution, Sir, is a very good Constitution and I am one of the first people who accepted it. Not only that, I offered myself as a candidate for a Specially Elected seat. In my manifesto, Sir, I did say these words: "The Specially Elected seat conception in the

Lennox-Boyd Constitution is a courageous embodiment, and in it I visualize the medium for positive force to counteract extremism amongst all races in Kenya". I did say those words, Sir, because I was convinced that the Constitution was a very good one, and I all went for it.

I now oppose it, Sir. I have my reasons, because although the conception itself is a very fair one and it was the best that Kenya could have done at that moment, the machinery and the manoeuvres that ensued were not as they should have been, and for that matter, Sir, I now support this Motion before the House.

I do not support this Motion because I think the Lennox-Boyd Constitution is bad entirely and that it should be thrown overboard, but because the Africans are opposing it; the Arabs, as I have said, have got some misgivings; the hon. Secunder representing the non-Muslim community said that there was a lot to be desired in it; and I think it is wise for this Council, Sir, that we should find a solution that would satisfy everybody. Those are my reasons for supporting this Motion, because, Sir, the future of this country lies in the co-operation of all races and as long as the African community—and the African community will eventually have a very large say in this country—does not support this Constitution, I think it is wise that we call for revision.

Mr. Speaker, Sir, I said earlier that the Arab community have had their own misgivings about the Lennox-Boyd Constitution because I said that the Arabs have had Elected Members since 1935. My friends the African community have advanced quite considerably, and if there is any grouse it is that of the Arab community in Kenya, because they have not had the advance the Africans have had. You will agree with me, Sir, that since 1935 the Arabs have had only two Elected Members; I would say Unofficial Members because one was elected and one was nominated. For nearly a quarter of a century, no increase in representation has been allowed in this country to the Arabs while other communities have had phenomenal increases. So, if there is any grumble at all against the Lennox-Boyd Constitution, it is the Arab community, Sir, that should grumble. What the Lennox-Boyd Constitution gave us,

[Mr. Alamoody]

Sir, was an extra Member as a Specially Elected Member, and we felt very strongly and made strong representations to the Government that whoever was the holder of this seat should remain on the Unofficial Side so that he could increase Arab Unofficial representation and make it more effective as we had only two Members. The Government did not agree to that, Sir, because they said it was the policy of the Government that they should elect their Ministers and assistant Ministers from as many of the Specially Elected Members as possible. There is nothing wrong with that, and I will co-operate because I myself believe that the Specially Elected Members are a special class of people who could break the racial barrier and be very useful to Kenya. But we did ask the Government, Sir, that with the case of the Arabs they should make an exception because we had no effective unofficial representation as we had only two Members. The Government would not make that exception for the Arabs. It is surprising, Sir, and with due respect that the Government has made an exception in the case of the Europeans. I am not myself a racialist but I would say that it wrong that the Government should have made an exception for the Europeans when they should, in fact, have made an exception for the Arabs because the Europeans have already got very effective unofficial representation as opposed to the Arabs.

Mr. Speaker, Sir, I did promise not to take much of the Council's time, but I would like to conclude by saying this: things are done, not wittingly sometimes, but the accumulated effect of those things very poignantly embitters other races, and the thing I said just now was one of them. I do not say this because I have any bitterness against any races in Kenya because I believe that all races have got the right to live in this country. We must, however, see that while every race claims its own rights it must also make concessions for the rights of other races as well.

Mr. Speaker, Sir, I feel that this Motion should be accepted because, as I said earlier, the Africans are opposing it, we Arabs have got our own misgivings and the Asian community is not happy with it and certain sections of the

European community have supported this Motion and I think it would be very wise that this Council accept the Motion.

I beg to support, Sir.

DR. KIANO: Mr. Speaker, Sir, I am very glad to speak at this time when the Elected Members for the Arab, Muslim, Non-Muslim, Asian and African communities have already spoken, all giving their views on this Motion and supporting it. I am looking forward, Sir, to a speech by one of the European Elected Members so that I may know if they support the Motion.

SIR CHARLES MARKHAM: We hardly get a chance to talk!

DR. KIANO: The Member for Ukamba complains that we have not yet given them a chance and I do hope that they will have their chance before the day is done. The point I am trying to underline, Mr. Speaker, is that here we have a Motion which I think we can correctly say has the support of the majority of the people in this country because it is supported by the Elected Members, and I underline Elected, not Specially Elected, by the Elected Members of the various racial communities—excepting the European community from whom we are still awaiting an answer—and, Sir, if then the Motion is rejected by the Government as it has already been rejected, the question will arise as to whom the Government gives the most careful attention.

Sir, we have had in this country a lot of commissions of experts, or supposed to be experts, on very many subjects. We have had Royal Commissions on education, agriculture, population, land, taxes, on practically everything, but now when we come to ask for an expert on a very important issue—the Constitution—the Government say: "We do not need that one at all." That, Sir, to me is somewhat illogical because I do remember that when the issue of African representation arose in this country the Kenya Government—if I am correct, and if I am wrong I shall be corrected by the Chief Secretary—when the question of African Elections came those people who were in Kenya at that time decided to go outside to get, shall I say, an expert to come and look into that matter and they went

[Dr. Kiano]

to St. Lucia Island and got a man who had been here before but who had gone outside and who is now our Chief Secretary to come and look at the situation and advise us. Today, the Government say we do not need people from outside Kenya, but, Sir, I think we should be somewhat consistent.

The other point I would like to make on this Motion, Sir, is that although we are told that the Lennox-Boyd Constitution is working, I think that deep down in the hearts of many men in this Council there is a fear that the ship of the Lennox-Boyd Constitution is sinking. I think this is so, Sir, because we have seen implications in various quarters that the Lennox-Boyd Constitution was introduced into this country to support or to give effect to a doctrine—which I personally find very vague—known as multiracialism. There have been elections held under the Lennox-Boyd Constitution and these have been anything but multiracial in their results. I think this will be found, not only in the fact that the Africans who rejected the Lennox-Boyd Constitution were returned, but also the results of the European elections that took place the other day and also from the evidence given by the maiden speeches today by the new Asian Members, we can see that the Lennox-Boyd Constitution as a bulwark for multiracialism in this country has failed to achieve its purpose. And, of course, Sir, one of the reasons why it has failed is because multiracialism itself is a very vague doctrine, Sir, because it does not give as the principles of Government on which it is based, it simply says that multiracialism will have present people who may be black, or others may be European or white—I never like that word "white" because they are not white, and people who may be of Asian background. That is as far as it goes—it simply says there will be a racial mixture. But a racial mixture which will govern democratically, dictatorially fascistically, nobody knows. We have, Sir, found it very difficult to support the concept of multiracialism because, as I say, it is very vague and it does not tell us what it is all about. That is one of the reasons why the Lennox-Boyd Constitution has failed, because it is trying to bring to

the country a doctrine which nobody knows what it is all about.

The next thing which underlines the importance of this Motion, Sir, is the fact that the Constitution on which this Government is based has tried to meet the problems of the country not courageously, but in piecemeal. We have, for example, attempts to give security to the minority groups, but the position of the majority is not clear. I personally have contended that since the question of the minority is considered in Kenya, we have by that very fact implied that we have accepted that this country will be ruled by the majority because, Sir, the only reasonable context in which you can discuss minorities is in majority rule, and here we have a Constitution which is concerned about the minority protection—but yet from whom or from what is still an unanswered question. That is one of the reasons why we want someone to come and look at the situation.

Another point which has led to failure of the Lennox-Boyd Constitution in terms of achieving what it was supposed to achieve is the fact that the Lennox-Boyd Constitution gives this country a very unsatisfactory and uncertain future. Some Europeans have said that the Lennox-Boyd Constitution has meant that there will be no Ghana in Kenya and other people who have said that since the introduction of the Lennox-Boyd Constitution, the European position has been at its lowest ebb. In other words, you do have many interpretations, but the fact is that the country is uncertain of the future and because the country is uncertain as to its future, you cannot have really true and genuine support of the Constitution by the various races, and I personally sometimes wonder whether the European community which says it approves the Constitution, I even wonder whether they really believe it, because what is needed, we are told by various persons here, in Kenya is stability—as the hon. Nominated Member, Mr. Rubia, said we need stability in order that we can have development. But there is nothing more unstable, Mr. Speaker, or uncertain than a country which is trying to develop towards a goal that it does not know. We can only be sure of steady and stable development when first and foremost we know the objects and ultimate aims of

[Dr. Kioko]

the constitutional development that Her Majesty's Government and ourselves introduce into this country.

Now, Sir, I come to the question of racial co-operation. I personally do not feel that it is a question of a constitution to impose or to encourage racial co-operation. I think racial co-operation is a minor matter. I drink with whom I want to drink with, and I go with whom ever I want to go with irrespective of what race he is if, as a person, I like him. However, Sir we cannot discuss the question of racial co-operation in terms of constitution because racial co-operation will be incidental to the aims we want to achieve. I cannot co-operate with a man who wants to go to Nakuru when my intention is to go to Mombasa and until this country has decided what it is trying to achieve, and when we decide what we want to achieve, then those people who believe in the achievement of that aim will necessarily co-operate, and those who do not want to achieve that aim will, of course, not co-operate. I do not think that what is needed now is racial co-operation. What is needed in Kenya is the determination of where Kenya is going and when that has been decided, racial co-operation will come in order to get there.

Now, Sir, I will make one last point in order that I may give my friends a chance to air their views. The point I want to make, Sir, is that of late the African Members in the Government of the present Constitution have been saying that perhaps they do not represent the African feelings and that perhaps they are not the leader of their communities and so on. Now, Sir, I would ask the Government to do us one favour—a favour which I do not know whether it will be granted or not—but I would like the Government to say that they will allow a free vote so that we can see where the various persons in the Council really stand on this question. My reason for saying so, Sir, is because I believe that this is a very important Motion dealing with the fundamental law of the country—the Constitution—and, Sir, since there are many doubts as to where some people stand and where others do not stand, I want to ask

the Government to be kind enough to grant this favour. One of the reasons I want to ask this question is because when my hon. friend the Nominated Member—Mr. Harrison—was speaking, he never even said whether he supported or opposed the Motion: He gave as his reasons for asking us for co-operation that since the Government has turned this down we might as well change our minds. Now, Sir, it is for that reason that I have asked the Chief Secretary to consider giving a certain amount of freedom to vote the way perhaps their feelings might be.

Now, the last point, Sir, is that the African Elected Members are not afraid of pulling up their sleeves and getting down to work. The African Elected Members want to pull up their sleeves and get down to work on the terms they have agreed together and not terms which have been dictated to them. Further, Sir, the African Elected Members feel that as the Government considers that I can represent 228,000 in Kiambu, Fort Hall and Githa when many of the Europeans only represent about one-twentieth of that, this surely implies that the Government feel that we can do a better job than the other communities. If we are expected to represent so many people, why is it, Sir, that when it comes to a question of responsibility we are considered to be so incapable that the Portfolios allocated for us are prunings and prunings and prunings. We feel, Sir, that we shall co-operate with the Government on terms mutually acceptable to Government and ourselves and not terms that have been dictated by either the Colonial Secretary or by any other person.

I support the Motion.

THE CHIEF SECRETARY (Mr. COULTS): Mr. Speaker, Sir, in rising to take part in this debate, I want first of all to deal with the points raised by my hon. friend the Member for the Coast who referred to the possibility of a round-table conference mentioned by Mr. Griffiths as far back as 1950, I think I am right in saying, or 1951, and what happened after that. When Mr. Lyttelton came here—now Viscount Chandos—before he made his pronouncement on what has become the Lyttelton Plan, he called the various groups together and he said to

[The Chief Secretary]

them, round the table, this is what I intend to do and this replaces, of course, the idea that there should be a conference which was mooted by my predecessor Mr. Griffiths in 1951. I would also like to refer to Council what he himself said in an excerpt to his despatch after he had gone back to the United Kingdom. It was the final paragraph and I quote as follows: "I recognize that these proposals do not meet in full the desires of any of the main racial groups in the Colony but I consider that they represent an arrangement in accord with present political realities in Kenya which in the interests of the Colony as a whole, I can fairly ask all races to accept". In other words, the inference there, Sir, and the inference in all the documents which we have on our files since that date was that in fact Mr. Lyttelton had held the round-table conference to which my hon. friend refers.

MR. COOKE: Would the hon. gentleman give way for a moment. It is my point that Mr. Lyttelton had no right to go against the considered opinion of representatives of all the races in this country.

THE SPEAKER (Sir Ferdinand Cavendish-Bentinck): You cannot now bring forward further arguments.

MR. COOKE: I have said it as point of explanation.

THE SPEAKER (Sir Ferdinand Cavendish-Bentinck): I have given my rulings.

THE CHIEF SECRETARY (Mr. COULTS): I shall refer to this matter in a moment, Sir, or perhaps the hon. Member may get an answer out of what I shall say in due course.

Also quite a lot has been said about what followed on the Lyttelton Plan and the fact that it was null and void and made null and void.

There is one point which has not been made and which I would like to make in this debate, and that is, the Lyttelton Plan disappeared largely because everyone, that is, in the country and on the Government side as well, wished it to disappear for one particular reason. That was that it was not felt there was sufficient African representation. And, if I may say so here, the European Elected Members had already stated, before the

Lyttelton Plan was dissolved, that they themselves were prepared to agree to increased African representation. It was on that point, in fact, that the Lyttelton Plan was discarded and we now have our new Constitution.

Turning now to Mr. Lennox-Boyd's position, once again I would like to quote from Command 309 which was his own document and which he sent here after he had returned to the United Kingdom. He stated this: "I have had many talks with the various groups and with Ministers on the constitutional position, in which I have done my utmost to create a situation in which local agreement was possible. I am grateful for the many courtesies I have been shown but I have reached the disappointing conclusion that local agreement is not in sight. Throughout these talks, I have naturally been considering, in consultation with His Excellency, the elements of what I would myself regard as a fair and durable solution of current political problems. In doing so, I have attempted to form a judgment on what I could approve as legitimate aspirations and what I could sympathize with as justifiable anxieties. All this time, it has been my earnest hope that my role would be that of a conciliator, and that I would succeed in bringing the various races together so that they would secure an agreement acceptable to all. But it was not to be".

Then he goes on later: "I have decided, with His Excellency's agreement, to initiate constitutional changes designed to meet the main needs, aspirations and anxieties of the people of Kenya as a whole".

What, Sir, do we take from these words? The fact that he met all groups, the fact that he did his best to conciliate—he uses the word himself, "conciliator"—and he failed. He failed for the reasons which were given by my hon. friend, the Acting Attorney-General—because of intransigence and because of a decision by a certain group of people that they would not, in fact, negotiate until they had received certain assurances in advance. There was nothing left for him to do, therefore, but to produce the Constitution which we now have. And may I repeat that at this point—a Constitution that is now in operation.

[The Chief Secretary]

The hon. Member for Kitui made, I think, an unwarrantable remark, when he said that the Secretary of State for the Colonies had been influenced by the European population. Can I remind him that up to the time when Mr. Lennox-Boyd came here, parity—parity of numbers between the European Elected Members and other Elected Members in this House—was the great European bulwark. It was that, which was thrown aside by the Lennox-Boyd Constitution on the European side. I do not think that my hon. friends, the African Members, have taken sufficient regard of this fact. As I say, up to this point the Europeans had stood on this as their great bulwark for many, many years.

I think, Sir, that I must reject out of hand the suggestion which the hon. Member for Kitui made, that he was influenced in any way by what any European may have said in this country, and I think that the quotation which I gave from his despatch just now proves it.

I also want to comment, as I am on this point, about the question of discussion with groups. We know that Mr. Lennox-Boyd had discussions with all groups, and we also know from himself—and my witness in this remark—which I am now going to make is my hon. friend, the Member for Central Nyanza, who has just been in the United Kingdom.—We know from Mr. Lennox-Boyd himself that he said he had more talks with the African Members than he had with anyone else. The hon. Member was told this when he was in the United Kingdom quite recently.

MR. ODINGA: How do you know?

THE CHIEF SECRETARY (Mr. Coultas): It is my duty to know!

I turn now, Sir, to the question of the Specially Elected Members. The hon. Member referred to the election as a farce, the Member for Central Rift referred to it as "unfairness" on, I think, his own particular community. Sir, I cannot help feeling that it seems to be unpardonable for people even to mention the question of Special Elections when they themselves were not prepared to take part. I feel that in dealing with the question of representation, if the hon. Members had been prepared to take part in this

Constitution, their own people could have been put up; if they had been present, how do we know that they could not also have been elected and that we might have had here 18 people who are, in fact, of the same feelings as the people who are now sitting on the opposite Benches? To say that it is a farce when you have not even tried seems to me, as I have said, unpardonable.

Also, I would like to deal with a point in this connexion which was raised by the hon. Member, who said that his race had no increase as a result of the Lennox-Boyd Constitutions. Can I point out that three Members were elected as Specially Elected Members and they were people who were elected by their own communities, and I imagine that their own communities have got trust in them? And may I ask him if they have had no increase, how is it that my hon. friends who have just been sworn in yesterday and today are in this House?

I would like to make one point, Sir, over the Specially Elected Members. It is the only place in the Constitution where "ten years" is mentioned. I think hon. Members have so far mixed up the statement that the numbers of Specially Elected Members will remain for ten years with other provisions in the Constitution. It is only in reference to the Specially Elected Members.

Now, Sir, turning to Ministries, the hon. Member said there were 16 Ministers; at the moment, there are only 15 because we are missing one African. Each African who has mentioned this has referred to the fact that the portfolio is the one of Community Development. I would like to read from Command 309, which says, "Of the two African Ministers, one will hold the portfolio of Housing, and the other a portfolio which will include Adult Education and Community Development". That point, because the hon. Members have as yet not agreed to take part in the Government, is still unresolved, as to what portfolio the second African Minister should hold.

I would also like to point out that the question of appointment of Ministers is wholly within the competence of the Governor, as I believe this was criticized, that he is bound by the Constitution to appoint either six, seven or eight official

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Members, and the rest according to the Constitution.

As regards the question of Northern Frontier District representation, "may I also point out that Command 309 says, "To provide for one seat on the Government benches to be filled by a nominated representative from the Northern Province"? The point is, of course, that if he is nominated, and he has to sit on the Government benches he obviously cannot cross the floor of the House. I am surprised, actually, that Members, who very often say that those who are put on the Government benches as Nominated Members are merely—I hope I am privileged in using this word—"stooges", should wish such a Nominated Member to join them on the other side of the House.

I also now want to turn to the question of Assistant Ministers which was raised by the Temporary Arab Elected Member. I would like to point out to him that there is provision for six Assistant Ministers, only two of whom have been appointed. The fact that a European may not yet have been appointed or an African may not have been appointed is beside the point; there are in fact places for six Assistant Ministers and four of these have not yet been fulfilled. If I may say so, Sir, it is stated that one of them should be an Arab and, if I might pay a tribute to my hon. colleague, Sheikh Ali Said el Mandry, I think that in due deference to the work he has done for the Government it is only fair that we should have appointed him now.

Now, Sir, my time is running out but there are one or two matters I would like to comment on in the debate as a whole. The first is, Sir, that I feel that in spite of what hon. Members have said this afternoon the Constitution is working. I would like to quote the case of some of the Specially Elected Members who quite recently have helped in order to get agreement between both sides of the House. That is why they were created; so they should represent the people of all races and so that they could represent the moderating influence which we should have and for which most Members have asked. But are we getting a moderating influence, Sir? Why is it we are in this position? Is it not largely

because people have been butting their heads against a wall?

I remember reading in my history books that people who tried to butt against the walls of castles usually had boiling oil poured on them. I am afraid it has been necessary for all of us this afternoon on this side of the House to pour quite a bit of boiling oil, because we feel, Sir, that butting in such a way will get people nowhere. The only possible answer is to do what other people have done in the past, come inside the fortress and try and make something out of it.

Mr. Lennox-Boyd himself has said of the African Elected Members—and I agree entirely with his words, which I will quote—"Their best course would be to agree to come into the Government and conduct their politics under what is now the law of the land, and if they wished to seek to change these things to which they object—by constitutional methods from within. I am sure that if the African Members decided this was the sensible thing to do, they could easily get a mandate from their constituents to follow this course".

I feel, Sir, although there are many other things I would have liked to say in this debate, that that is the course open to them, because this matter has already been looked at very, very carefully indeed by the Secretary of State and he has come to the conclusion which he considers the best possible. I suggest they accept it.

I beg to oppose.

MR. MBOYA: Mr. Speaker, Sir, a lot has been said this afternoon and, as usual, the Government will bring to bear its forces to defeat this Motion. The defeat of this Motion would not be unexpected if the Government so decided. But, Sir, I do want to draw attention to the significance of this Motion, even if it is defeated. Here, Sir, is an attempt by the African Elected Members to pursue a policy of constitutional change and development through constitutional and peaceful means. By the rejection of this Motion, Sir, the African Elected Members will have been told: "So far, your constitutional attempts are of no avail". The African community will have been given the impression that working for these changes through the legislature is

[Mr. Mboya] of no avail, and that therefore the African community should probably turn to something else.

THE MINISTER FOR LOCAL GOVERNMENT, HEALTH AND TOWN PLANNING (Mr. Havelock): Is that a threat?

MR. MBOYA: I am not threatening. The Minister for Local Government is saying, "Threats". How many times has he made speeches as an Elected Member which have been threatening in the very extreme?

THE MINISTER FOR LOCAL GOVERNMENT, HEALTH AND TOWN PLANNING (Mr. Havelock) I said is that a threat?

MR. MBOYA: It is not a threat, it is a fact, and let us face facts for once. Whether the European community likes it or not, whether the British Government likes it or not, whether the Kenya Government likes it or not, changes are going to take place. And whether the European settlers like it or not, now or in the future, the African people will come to a day when their voice will be heard, when they will govern this country.

Mr. Speaker, nobody denies the European community, or the Asians, or the Arabs, and if I must say this then let me say it again, that our policy on this has been consistent from time to time: we accept, we acknowledge and we recognize the rights of the immigrant communities who wish to live in this country. We have said that we acknowledge and respect the fears and suspicions of the white community in this country, and the Asians and the Arabs. We have said consistently that in this respect we ourselves recognize the necessity for some protection, some assurance for these communities.

Mr. Speaker, no African is so ignorant not to appreciate that the motive power behind our political activity in this country is the overall and general eventual improvement, economic and social, of all our people. If anybody needs economic and social development it is the African and the African today is the person who experiences the economic and social pressures and who is therefore the person who is most anxious to seek economic and social change, because he knows that it is for his benefit.

Mr. Speaker, the African also acknowledges and also realizes the importance of external capital, the external skill and so on. We have said this. But unfortunately—unfortunately—all that we say falls on deaf ears. All that we get is some gentleman standing on the Government back benches telling us to be good boys because they, as big brothers, will play our part for us. Mr. Speaker, we are fed up with this big brother attitude. We want to be here in our own right. Let us make our mistakes and learn from those mistakes, because it is then that we shall gain the experience that we all need if this country is going to develop.

Some people think that the African must be safeguarded for the time being. Safeguarded from what? If the African needs any safeguards then all he needs is safeguards from the European settler politics in this country.

SIR CHARLES MARKHAM: Electioneering!

MR. MBOYA: I am not electioneering. If the hon. Member for Ukambani would like to share a platform with me then he may do so. But he has not seen fit to do so.

Mr. Speaker, the lesson of history that has been expounded to us this morning by the Mover of this Motion teaches us and brings out very clearly one very definite and important lesson. That lesson is this: that for all time Kenya has been developed on the concept of European supremacy and domination and, Sir, the time has come when that policy and concept must go if Kenya is to develop peacefully and harmoniously.

Mr. Speaker, it is a pity that people in this country—that politicians on this side and on the Government side—do not seem to learn from the lessons of other countries and even from the lessons of the more recent events. Some people still think that gun-boat diplomacy can succeed. If they think so then I beg of them to consult with the British and French over Suez, with the French over Algeria, and with the British over Cyprus, because gun-boat diplomacy will never succeed.

There are people in this House who have consistently made speeches that if they need to do so to control the African

[Mr. Mboya] by might—use police forces, military and guns.

Mr. Speaker, a man can be pushed only up to a point, beyond which he either cracks or resists. And the African community will resist, if necessary!

MR. CONROY: What?

MR. MBOYA: The pushing that you advocate! Mr. Speaker, people are asking us—

THE CHIEF SECRETARY (Mr. Coutts): Mr. Speaker, this is in order in speaking on this in a debate on a constitutional conference?

THE SPEAKER (Sir Ferdinand Cavenish-Bentick): Firstly, I think that the hon. Member should not address other hon. Members across the Floor of the House as "You"!

Secondly, I suggest that the hon. Member is becoming unbearably threatening in the tenor of his speech—

MR. MBOYA: Mr. Speaker, I do not wish to offend any Member opposite, but if any Member opposite makes remarks or statements then he should expect to be replied to and hit back at, if necessary.

Mr. Speaker, Members have stood here asking us to co-operate and I am surprised that some of the Africans on the other Back Benches have said that... Maybe I should not say that, I think that they are here and doing what the hon. Nominated Member, Mr. Mohindra, said: "In saying this I am doing my duty". I think they are doing their duty perfectly.

Mr. Speaker, Sir, we do want co-operation and someone has said: "Let us have the hand of friendship". We have given the hand of friendship once before. If necessary we will give it again. The difference between us and those who preach co-operation but who criticize us or our policy is that they want the hand of friendship on their terms, which are that the Africans must agree to a second place and not a place of equality.

How can anybody, logically or otherwise, contend that the representation in this House of 6,000,000 Africans by 14 Elected Members and 30,000 Europeans by 14 Elected Members is just, fair or logical? Can anybody contend that it is in any way fair or logical that in the

Council of Ministers the Europeans should have four ministries when Africans only have two Ministers. Oh, yes, I know I will be told: "Join the Council of Ministers and then you will learn by experience". Mr. Speaker, we are not asking anyone to take us to a school of training for ministerial posts. None of the Europeans or Asians who are Ministers today had to produce a certificate of experience and training before they were appointed. We are being given Ministerial posts purely because there is a racial structure and that is the only basis on which it is granted. It is not granted that the Europeans will have four Ministers because they have more experience in ministerial office. Therefore, Sir, in the circumstances, that there is a racial structure in the Constitution, we demand that the Africans shall have what is just and fair and logical.

Mr. Speaker, when I started my speech I said that there was significance to this Motion. Its significance is the implication that it will give to the minds of the African community. The significance of it is the position in which it would place the African Members: after this Motion is defeated the African Members will be placed in the position where they must review their policy and ask, "What next?" Their personal position will be that they must face the African people and ask, "What next?"

If constitutional methods cannot succeed then where do you expect our people to look for achieving their goal?

Yes, Sir, the two Nominated Members on the Back Bench are laughing. They can afford to do so, Sir, because they are in a different position. They are wearing different shoes.

Mr. Speaker, I come here elected by my people and no one can challenge that fact. I represent them because they have given me the mandate to do so for the time being and if anybody challenges that position—be he an African or anyone else—I would say to him that if he has got the courage of his convictions I will resign to test his position with my people today or tomorrow. All he needs to do is to tell me so.

This country is drifting into a very dangerous position. Unless a constitutional settlement is found very soon the African will be placed in a position

[Mr. Mboya] where he must rethink out his policy. Members on this side of the House have warned that we should be careful as to how far we can afford this kind of stagnation. Mr. Speaker, it is not an over-exaggeration of the fact when I say that the moment the Government feels or thinks it can use the Special Seat Members as alternatives to the true representatives of the people they are in fact destroying the very basis of the democracy that they continuously preach to the African people. The Specially Elected Members, whether they are or are not loved by the Government (and I do not care very much about them), cannot claim, and would not properly claim, to represent our people. We represent them for the time being, and whether people like our policies or not they have got to recognize, at least, that one fact, and so long as we represent them we have a right to demand, on their behalf, what we know and believe is their true aspiration.

If this legislature fails to recognize that particular fact, then we are faced with a position where our only course is to go back to our people and tell them, "You decide on what next should be done".

Mr. Speaker, we have passed through several years of a State of Emergency and, I say this categorically, no African leader and no African that I know of would ever again want to see this country plunged into another era of terrorism and violence. We have condemned and we still condemn it and we will continue to do that. But, Sir, in our constitutional struggle let it be known that no Government, that no European settler, no Colonial Office, is going to stand in our way in achieving our objective. Peaceful means can and will be found if necessary, but we appeal to all racial groups and in this Motion we appeal for their co-operation to try to secure the best possible way to bring about changes without conflict or friction.

Remember, Sir, all this Motion asks for is a constitutional expert to be appointed; and, secondly, that the constitutional conference should be held. If the Government or the European settlers are convinced that they stand for democracy, that they stand for fairness

and justice, then they have nothing to fear. Let them face the round-table conference and let us have an expert.

I know that some people say that an expert is any fool from outside the country. But let us have one more fool. He will not do very much more harm—we have had so many. If they call him a fool then that is their business, but we do know that the British Government is sending experts here and there and if the Kenya Government is convinced that these people are fools then, of course, the British Government is the biggest fool: which I hope, they are not.

But, Sir, let me once more appeal to the Government and to the European settlers. Their leaders have chosen to be very silent and quiet today, probably in order to say in future "We never supported or rejected the Motion". If that is the position then we are forcing this to a division and we shall know exactly where they stand—where everybody else does.

All we are saying, Sir, is that this Constitution is unworkable without the support and co-operation of the African people. In its present form it will neither receive the support nor the co-operation of the African Elected Members. Let there be no mistake about that.

I understand that one ministerial position has been left unfilled in order to bait the African Elected Members. Anybody who has those hopes is dreaming and will continue to dream for a very long time. People have expressed hopes that the group was going to split and accept the one ministerial position.

If anybody thinks the £3,500 is any bait for the time being, so long as the Constitution is rejected—and in its present form—it is unacceptable, and so long as it is, so long as the African Elected Members do not support it, do not ask the African community to support it, so long as they do not co-operate with the present Government under the present statute, Sir, there can be no question of co-operation or of peaceful evolution of a Constitution for Kenya.

Mr. Speaker, Sir, I beg to support.

MR. MULIRO: Mr. Speaker, Sir, I must say I am very disappointed about the way in which the Government has handled this Motion. In my reply, I will be dealing with various aspects which

[Mr. Muliro] were moved or which were said by the Government side. On the question of the constitutional expert, the Government contends that it is an old fool, any old fool from home, the famous saying of the Chief Secretary with regard to the constitutional expert.

Now, would I say so much that the Lidbury, the Coates Commission, the Herbert Manzoni Report—all these reports should be—including the Couits Report on African elections, by the present Chief Secretary of Kenya—should we say these are all fools? At least, even if the Government says these are fools, I would never for a minute, Mr. Speaker, suggest that our Chief Secretary is a fool. That would be the last thing I could ever say. If the Government can content themselves by so saying, I fail to sympathize with their logic.

The Solicitor-General, in placing his arguments before us, said, in March, 1957, there were eight African Elected Members. In April, 1958, there were 14. I see there is an arithmetical progression that is—what the mathematician calls it—now, according to that, by May, 1958, the number should be 20 African Elected Members; and by June, 1960, there should be 26. I think that is a very magnificent way of putting these things across. He also argued that the Africans have gained a great deal and that gain is habitually on the part of the Africans because they have got parity. This thing called parity—what is this parity? Are we—the African political development in this country—to be brought down to parity with the Europeans in this country at all? I do not think that we should be tied down on that, because the Europeans in their demands in the past never demanded parity with anybody at all. If, at that time, according to my submission, this morning, they were demanding direct self-government in this country for the Europeans only in this country, why should the Africans now, who do not demand direct self-government for Africans only but who demand that the Africans should be adequately represented, why should they be brought down to parity?

Now, another point which the Solicitor-General raised this morning was, he said that the Colonial Secretary

tried and had talks with all groups; nobody is denying that the Colonial Secretary talked with all groups. The facts are that he had talks with all groups on the old constitution, and not the new constitution. That is what should be borne in mind. That point was very clearly demonstrated by the hon. Secondor of this Motion. The Minister for Legal Affairs also argues that the Africans accepted six seats, and the acceptance of these seats means, or he supposes it does, that the Africans in this country want to have their cake and eat it at the same time. I feel that is not what the Africans want in this country. The truth is that the six seats, or any number of seats given to the Africans, is their right; their inherent right to representation. With whatever constitution, whatever expert, we must be represented.

Now, the Solicitor-General also argues that the constitutional expert was consulted. If the constitutional expert was consulted, it was that very employee of the Colonial Office who was moving about with the Colonial Secretary, whom he was consulting then. Well, if we present to hon. Members in this Council that we shall have co-operation by being dictated to by some colonial expert, then I say "Look, that is the direction we are going to take". I think we are kidding ourselves.

Another point I would like to put across is in connexion with what the hon. Nominated Member, Mr. Rubia said. He said a constitutional expert cannot come to teach us to live together. Truly, he will not come to teach us to live together; but the truth is that he will at least unearth some facts, some truths upon which the future can be built; that is all we are asking.

Now, other points I would now like to deal with are those raised by the hon. Specially Elected Member, Mr. Slade. It is a pity that the hon. Member is not here now. The hon. Member argued that we must call a spade a spade. Indeed, it is very true: we must call Muliro Muliro, and Mr. Slade Mr. Slade, so that we know that if an hon. Member over there was known as an extreme racist, he still remains the same racist, whether he is under a Selected Seat or not. That is a deception in the minds of many of us in this country. He also

[Mr. Muliro] points out that there have been 15 months wasted on constitution alone. I would say, without a solid and better constitution for this country, no progress whatsoever can be made. We cannot deceive ourselves; we cannot deceive ourselves that we can make progress and headway without definite constitutional arrangements.

Now, we are being accused that we talk about constitution, No! we do not talk about the constitution alone as African Elected Members. We are busy convincing the people over land consolidation; we are busy reconciling the various elements in our own areas. The last couple of months, I have been very busy reconciling or acting mediator in a dispute over a school, and the Director of Education—he is not here—he would have supported me on that. Also, the hon. Member, the hon. Selected Member, Mr. Slade, argues that for the first time, we have taken a non-racial representation. I feel that is not true at all, because these people, these people who belong to various races, they are not non-racial. He will get up and speak as a European; as an African, as an Asian, and not as anybody else.

He also argued that the African Elected Members are disgruntled. We are not disgruntled; we know, the African Elected Members know very well that the future, the history is with us. The Government might not believe that; the Colonial Secretary might not believe that; the Europeans might not believe that; but the history is the only thing that is with us.

Now, I come on to deal with the few points raised by the Chief Secretary. He talked of security. I feel, Sir, the best security for the minorities in the country, the sole guarantee of the liberty and the freedom of the minorities in this country is the goodwill of the majority. As long as we do not reckon on that at all, Sir, we are deceiving ourselves. We are in a dreamland. That is why many of us say that mainly, the European politicians probably deceive the Europeans in this country. They tell them that the whole thing is all right; the whole thing is not going to be all right.

The Chief Secretary said we refused to negotiate. That is the reason why the

constitution failed. It is a pity that he was not the Chief Secretary at the time; he would have known. I hope from the talk today and the information we have given him, he has learned today that there were no negotiations at all on this constitution. He also denied that the Colonial Secretary was influenced by the European opinion. Well, as one of the hon. Members across there, Mr. Rubia, said, we are entitled to our own opinions, as Mr. Mohindra said, we are entitled to our own opinions; indeed, we are entitled to our own opinions. I am also entitled to mine. But the truth is that the agenda, as I put it before, was what brought about the deadlock. That again, I would put on the Europeans; and from that, any person can conclude how the Colonial Secretary was influenced.

The Chief Secretary also argued that we should have no right to say anything about these Specially Selected Seats, because we refused to elect to these seats. Well, he says that, the African Elected Members are adopting the opposite attitude; let them join the Government. But it is exactly like saying "Look, here is a cup of poison; either you take it sip by sip, and then finally you take all, or you have to refuse it, and say you are not going to take it". That is exactly what the Africans felt. The African in this country, Mr. Speaker, is the last person to commit political suicide. We have suffered for a long time, and now better stand on a firmer road than fumble about, going this way simply because so-and-so wants to be pleased. We are not to please anybody.

Now, Mr. Speaker, in completing what I say is this: that all constituted systems of Government are held very fiercely by some rationalization, and today, I have heard from the Government, from the Members on my right, rationalizing very strongly in favour of this constitution. But no Government in the world would accept its own defeat, would admit its own mistake until the very last minute. Now we know that the Colonial Secretary says, the constitution is very good for Cyprus propagating with leaflets, as they did with leaflets over the Council of State, the Selected Seats. All these things are there in colonial struggles; we are suffering from a colonial struggle.

[Mr. Muliro]

Finally, Mr. Speaker, today, my colleagues, all the Asian Elected Members and African Elected Members and Arab Elected Members—I would thank them very much for showing today their talent of debating, but it is a great pity that here, day after day, we are coming to debate motion after motion which is rendered ineffective because of the Government's official majority. Here, as the Member for Nairobi Area said, the best judge would be someone else.

With this, Mr. Speaker, I beg to move.

Mr. Speaker, before I sit down, I ask for a free vote, failing which, a division.

#### DIVISION

The question was put and Council divided.

The question was negated by 49 votes to 20.

**AYES:** Messrs. Cooke, Hassan, Khamsi, Dr. Kiako, Messrs. Mate, Mboya, arap Moi, Muimi, Muliro, Ngala, Nyagah, Sheikh Alamoody, Messrs. Jamindar, Odunga, Pandya, Shatry, ole Tipis, Towett, Zafrud Deen and Mr. Travadi. Tellers for the ayes: Mr. arap Moi and Commander Goord.

**NOES:** Messrs. Amalamba, Bechgard, Blundell, Group Capt. Briggs, Messrs. Conroy, Couitts, Cowie, Cusack, Sheikh el Mandry, Mr. Field, Mrs. Geega, Commander Goord, Capt. Hamley, Messrs. Harris, Harrison, Col. Jackson, Hope-Jones, Mrs. Hughes, Haylock, Messrs. Johnston, Bompas, Webb, Jones, Luseno, Luyt, Mackenzie, Madan, Mangat, Sir Charles Marikham, Lt-Col. McKenzie, Messrs. Mohindra, Nathoo, Ngome, Nurmohamed, Nzioka, Sir Eboob Pirbhai, Lord Portsmouth, Mrs. Rawson-Shaw, Messrs. Rubia, Sagoo, Salim, Sheikh Shikely, Messrs. Slade, Smith, Swynnerton, Vasey, Sir Alfred Vincent, Dr. Walker, Mr. Waweru. Tellers for the noes: Dr. Walker and Mr. Ngala.

#### ADJOURNMENT

THE SPEAKER (Sir Ferdinand Cavendish-Bentinck): That brings us to the termination of business. I therefore adjourn the House until 2.30 p.m. tomorrow, Wednesday, 25th June.

*The House rose at sixteen minutes past Seven o'clock.*

**Wednesday, 25th June, 1958:**

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

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

#### PRAYERS

#### ADMINISTRATION OF OATH

The Oath of Allegiance was administered to the following Members:—

Frederick William John Day.

Bryan Peter Roberts.

#### NOTICE OF MOTION

#### TOBACCO TRADING LICENCE

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

THAT this Council, under the provisions of section 5 of the Marketing of African Produce Ordinance, approves the grant by the Governor in Council of Ministers of an exclusive trading licence for a period of seven years to the East African Tobacco Company Limited for the purchase of tobacco leaf in the following areas:—

- Those portions of the Embu, Fort Hall and South Nyeri Districts forming part of the Native Reserves within a radius of 15 miles from Sagana Railway Station.
- That portion of the Kitul District forming part of the Native Reserve within a radius of 25 miles from Kitul Township.
- That portion of the Embu District forming part of the Native Reserve within a radius of 10 miles from Rumbia Mugo's Trading Centre (Shiakago).

#### ORAL ANSWERS TO QUESTIONS

#### QUESTION No. 148

MR. NYAGAH asked the Minister for Education, Labour and Lands:—

What progress has been made with the plans for the opening up of the proposed Boys Government African Secondary School in Nyeri District, near Kiganjo?



THE MINISTER FOR EDUCATION, LABOUR AND LANDS (Mr. Luyt): Building is planned to start later this year and the target date for the admission of classes is the first term of 1960.

MR. NYAGAH: Mr. Speaker, Sir, arising out of the Minister's reply can the Minister give us an assurance that seeing this is not a new school the present corporate life will be continued in the new school? (building?)

THE MINISTER FOR EDUCATION, LABOUR AND LANDS (Mr. Luyt): As far as I am aware, Sir, I think I can give him that assurance; the question is one that will be borne fully in mind.

DR. KIANO: Mr. Speaker, arising from the original answer, could the Minister explain why the date is to be 1960 and not 1959?

THE MINISTER FOR EDUCATION, LABOUR AND LANDS (Mr. Luyt): Sir, this is the planned date and there never has been any question of starting in 1959. The building arrangements are in train to open the school in time for the first term of 1960.

#### QUESTION No. 150

MR. NGALA asked the Minister for Agriculture, Animal Husbandry and Water Resources:—

(a) How many untrained agricultural instructors are in employment in the Coast Province?

(b) What arrangements is Government making to give some training to such instructors?

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): Out of a total of 134 there are no untrained agricultural instructors in employment in the Coast Province. They all receive a two-year course of instruction at the Coast Agricultural Training Centre at Matuga and are at present being trained at an average rate of 20 per year, there being 31 first-year students at present in training.

There are also 104 assistant agricultural instructors who on recruitment are put straight on to field duties and are trained on the job by the agricultural instructors and assistant agricultural officers.

#### QUESTION No. 137

The Member for Nairobi Area (Mr. Mboya) on behalf of the Member for Nyanza South (Mr. Oguda) asked the Minister for Agriculture, Animal Husbandry and Water Resources:—

(a) How many district agricultural officers and assistant agricultural officers in Kenya have university degrees and/or diplomas in agricultural science?

(b) What is the breakdown of this figure according to races?

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): Thirteen district agricultural officers and 95 assistant agricultural officers in Kenya have university degrees and/or diplomas in agricultural science.

The breakdown of these figures according to race is as follows: the 13 district agricultural officers are all Europeans; of the assistant agricultural officers, the breakdown is: 78 European, three Asian and 14 African.

MR. MBOYA: Sir, arising out of the reply, could the Minister specify how many of the district agricultural officers have university degrees and/or diplomas in agricultural science and how many of the assistant agricultural officers, who are African, have university degrees and/or diplomas?

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): Mr. Speaker, Sir, I am in some difficulty about answering that question, as I thought I had already done so in the original reply. I said 13 of the district agricultural officers had university degrees and 95 assistant agricultural officers had diplomas. Of those, Sir, of the agricultural officers, 77 are European and one is African; two have certificates and 11 have no qualifications.

Of the assistant agricultural officers, there are 233 Europeans, 78 have degrees and diplomas. Of the Asians three have degrees and diplomas and of the Africans 14.

#### QUESTION No. 156

The Member for Nyanza North (Mr. Muliro) on behalf of the Member for Nyanza Central (Mr. Odiga)

[Mr. Muliro] asked the Minister for Education, Labour and Lands:—

(a) What degrees, diplomas and other academic or professional qualifications, having been attained in overseas institutions, are, or will not, in future, be recognized by the Kenya Government, and from when and on what specific grounds, stating specifically the foreign institutions involved?

(b) How many persons have been and are likely to be placed at a disadvantage at the time of this action being taken by the Government?

THE MINISTER FOR EDUCATION, LABOUR AND LANDS (Mr. Luyt): (a) It is quite impossible for me to list all the degrees and diplomas given by all institutions overseas which did not in the past, or may not in future, receive recognition in this territory. It is true, however, that there are a number of institutions overseas whose degrees and diplomas are not recognized here nor even in their own territories and I cannot stress too strongly that all students who intend to proceed to overseas institutions for further education should first consult the Education Department to ascertain what local recognition will or will not be given to the particular qualification they seek to obtain.

(b) It is equally impossible for me to reply to this part of the question statistically, but I can say that there is no present intention by Government to withdraw recognition of an overseas qualification presently recognized by Government.

#### QUESTION No. 157

MR. MULIRO, on behalf of Mr. Oginga Odinga, asked the Minister for Education, Labour and Lands to state what plans, if any, has the Government for building the long-promised Government African Boys' Boarding Secondary School in Central Nyanza.

THE MINISTER FOR EDUCATION, LABOUR AND LANDS (Mr. Luyt): Mr. Speaker, I am unaware of any promise to build a Government African Boys' Boarding Secondary School in Central Nyanza and there are no plans for such a school.

MR. MBOYA: Mr. Speaker, arising out of the reply, is the Minister aware that such a school is needed in Central Nyanza? If so, will he indicate what plans the Government have, if any, to meet this need?

THE MINISTER FOR EDUCATION, LABOUR AND LANDS (Mr. Luyt): Mr. Speaker, in my speech while dealing with the Education Vote I did go, at some length, into the plans for African secondary education, pointing to the emphasis that is being given to day secondary schools and which is being removed from boarding schools.

I can say, however, Sir, that the needs of Central Nyanza in this sphere of planning will be given the same consideration as other districts.

#### QUESTION No. 158

MR. MULIRO, on behalf of Mr. Oginga Odinga, asked the Minister for Education, Labour and Lands to state to what extent does the Government offer encouragement to African "Self-help" schemes on Education?

THE MINISTER FOR EDUCATION, LABOUR AND LANDS (Mr. Luyt): Mr. Speaker, every possible assistance is given to self-help schemes on education which fall within the policy and plans for development of African education.

At present Government meets two-thirds of the net recurrent cost of all primary and day intermediate schools which are built and furnished by the African community and which fit into the district development plans.

#### QUESTION No. 159

MR. MULIRO, on behalf of Mr. Oginga Odinga, asked the Minister for Local Government, Health and Town Planning, in view of the fact that there is no district hospital in Central Nyanza as a result of which the provincial hospital at Kisumu remains badly overcrowded, will the Minister explain what arrangements the Government is making to establish a district hospital in that area and how long this project might take.

THE MINISTER FOR LOCAL GOVERNMENT, HEALTH AND TOWN PLANNING (Mr. Havelock): Although the Government General Hospital at Kisumu is a provincial hospital, it mainly serves the Central

[The Minister for Local Government, Health and Town Planning] Nyanza district, being situated on a junction of the road system.

The bed occupation factor at this hospital is 86 per cent, indicating that full use is being made of the available accommodation without constant overcrowding. The proportion of available hospital beds, including those at mission centres, to the population of the Central Nyanza district is of the order of one to 990, which compares favourably with other districts in the Nyanza Province and in other provinces.

Subsidiary hospitals are required in Nyanza, as elsewhere in the Colony, but in view of the lack of funds for capital development and maintenance, it is the policy for the present to encourage the building of health centres, to bring about an even distribution of health and medical services throughout the district. It is possible that a hospital may later be developed in relation to the north-western part of the district, but no fixed date can be given for the completion of this project, and I regret there is no likelihood of funds being made available in this development period.

#### QUESTION No. 161

MR. MULIRO: Mr. Speaker, on behalf of my colleague, the Member for Central Nyanza, I would request that Question No. 161 should not be asked.

THE SPEAKER (Sir Ferdinand Cavendish-Bentick): The Question is on the Order Paper—it therefore rests with the House. Does the hon. Member wish it replied to or not?

MR. MULIRO: No reply, Sir.

THE CHIEF SECRETARY (Mr. Coutts): Mr. Speaker, I feel that the question should be asked and answered.

MR. MULIRO: With the insistence of the House, Sir, I will ask the question.

MR. MULIRO, on behalf of Mr. Oginga Odinga, asked the Minister for Housing to state:—

(a) What progress has been made with the Kisumu African Tenant Purchase Scheme and what future developments are envisaged?

(b) How much does it cost the Government to build each one of the houses on the project and at what price and on what terms and conditions are the houses let or sold to the tenants?

(c) Is the Minister aware of the dissatisfaction largely felt by the people in Kisumu on these houses, regarding their design, feeble construction which is arousing doubts on their durability and also on the tenant purchase price?

(d) On the event of these complaints being proved to be genuine, will the Minister assure the House of a speedy action to rectify the anomalies?

THE SPEAKER (Sir Ferdinand Cavendish-Bentick): Members who do not wish to have answers to their questions should not let them get on the Order Paper. Questions give a great deal of work to a lot of people, in the first instance to me personally and later to a still greater extent to the Ministers concerned. Members who are uncertain as to whether they wish that questions to be answered should not put them down.

I will now ask the Minister responsible to reply.

THE MINISTER FOR HOUSING (Mr. Amalemba): Mr. Speaker, I do not know whether the questioner has already found the answer but I think that my answer will add to whatever he has discovered.

(a) The Tenant Purchase African Housing Scheme at Kisumu has been completed and occupied. The first intention of the Municipal Board was to construct a scheme consisting of 16 houses. Before these were completed the demand was such that the Municipal Board decided to increase the number to 32 houses. Of these 32 houses, Tenant Purchase agreements have been completed in respect of 30 and the other two are in the process of being sold on a Tenant Purchase basis. There is a waiting list of 30 persons for similar houses and additional applications are received almost daily. The Municipal Board is considering proceeding immediately with a further eight houses.

(b) The cost of these houses is met in the first place by the Kisumu Municipal Board and not the Government. The

[The Minister for Housing] actual cost of one house is estimated at £864 but this figure is not final and may be varied slightly on completion of the maintenance guarantee period by the contractor and when the contract variation orders have been finalized. The conditions of the Tenant Purchase agreement are the payment of a deposit of 20 per cent which is (£174) by the balance being repayable by monthly repayment of capital and interest at Sh. 164/37 per month over a period of 20 years.

(c) I am not aware of any dissatisfaction being felt by the people of Kisumu in connexion with these houses either as regards design, construction or purchase price. On the contrary, the Municipal Board has received frequent expressions of approval from the occupiers of the houses and it should be noted that before the design was finally agreed consultation took place between the Municipal Board, the architect and local African opinion.

(d) In view of the reply to (c) above, the following question does not arise.

### MINISTERIAL STATEMENT

#### COMMITTEE APPOINTMENTS

THE CHIEF SECRETARY (Mr. Coutts): Mr. Speaker, I wish to inform the House that in view of the resignation from this House of Lt-Col. Gherisc, and in view of the fact that he was Chairman of the Public Accounts Committee the Sessional Committee has, under Standing Order 102, appointed Mr. R. S. Alexander as Chairman of that Committee.

### BILLS

#### SECOND READINGS

#### The Legislative Council (Amendment) Bill

THE CHIEF SECRETARY (Mr. Coutts): Mr. Speaker, Sir, I beg to move that the Legislative Council (Amendment) Bill be now read a Second Time.

The main provisions of this Bill, Mr. Speaker, are largely formal because they arise out of the coming into force of the new Constitution.

Dealing *serialim* with the various sections, Sir, sections 3, 4 and 5 are consequent upon the substitution of the word "Asian" for "Indian" which appears in the new Constitution.

Clauses 6, 9 and 15 adapt the requirements of the Constitution to the fact that there are now two Arab Elected Members instead of one.

Clause 7 repeals section 15 of the Ordinance because the duration of the Legislative Council, which is four years, is set out in section 15 at the present time. As that is now provided for in the Constitution it is not necessary to have it in the present Legislative Council Ordinance and also, of course, naturally, it is not within the competence of the House to pass legislation in respect of a matter which has already been covered by an Order in Council.

Clauses 8, 10 and 16 set out the circumstances in which an Elected or a substitute Elected Member shall vacate his seat. This is required by section 28 (3) of the Constitution. The circumstances in which a Member shall vacate his seat will remain unchanged except for the following matters: that a Member will not automatically vacate his seat when he enters into a contract with the Government. Secondly, there is no special provision for vacating his seat by a doctor or lawyer who has been disqualified from practising. This was a provision under the old Ordinance and it is felt that if anyone in another category happens to be disqualified he will keep his seat and therefore there is no particular reason why lawyers and doctors should be put in a special category. Thirdly, a Member will vacate his seat if elected as a Specially Elected Member. Finally, a Member will vacate his seat if disqualified under the Election Offences Ordinance.

Under clauses 10 and 12 it sets out the circumstances in which the Governor can appoint substitute Elected and temporary Members. These circumstances are the same as in the old Ordinance and the introduction of these clauses is required by sections 21 and 27 (2) of the Constitution.

Clause 13 provides for the determination of any question as to whether any person has become a Constituency Elected Member, a substitute Elected Member, a temporary Member, or whether the seat has become vacant, and this also follows upon the Constitution.

Clause 12 amends section 31 of the principal Ordinance, so as to make it quite clear that it refers to rules made

[The Chief Secretary]

under section 33 as well as for those appearing in Schedule III. This is merely a minor amendment to the wording of the original Ordinance in order to remove an ambiguity and the same applies to clause 14 which removes a doubt about the exact period during which the registering officer shall prepare a revised register of voters in the course of the semi-annual revision of voters' rolls. As the rule stands at the moment it might be argued that the registering officer is allowed either 30 or 42 days, and now it will be made quite clear that it will be 30 days, and the vagueness under this rule will be removed.

I have asked particularly that this Bill should be taken now because the provision under section 14 may well help us with the next by-election and I feel that as this is largely a formal Ordinance, the main provisions of which have followed on the introduction of the new Constitution; I do not think that there is much else I can add to what I have said, Mr. Speaker, and I beg to move.

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

*Question proposed.*

MR. TOWETT: Mr. Speaker, I do not know whether to support this Bill, with some modifications, or not, I will say, however, that I rise to support the Bill and to give my version of some of the clauses and to consider what shall be done.

I feel that the law about the appointment of Substitute Elected Members is a bad law. I feel that if a Substitute Member has got to be appointed by His Excellency the Governor then he should be appointed for one session of the Council, in case somebody is available in the next session. I feel that if you say in 1960 there is nobody forthcoming for nomination in the southern area, and there is nobody for nomination in the southern area, then the Substitute Member is elected for the next four years; it may be that, in 1962, somebody is available to offer himself as a candidate to be elected by the people, so I feel that such appointment by His Excellency in the case of someone where there is nobody to offer himself for candidature, the lifetime of this Substitute Member should be for every one

session, and it can be reserved recurrently until somebody is available.

Going on to clause 11, I think that when people go away or absent themselves and go abroad, whether to Australia or Canada or New Zealand, and are absent from this Colony, I think it should be only fair, before His Excellency nominates or appoints a Temporary Member, to consult and probably get the consent of the man leaving the place. For, if I have been, say, during my elections—which, of course, did not take place, or in somebody else's elections, if there was an opposing candidate opposing another candidate, then that candidate is nominated as a Temporary Member in the absence of the Elected Member—well, this man might go on injecting his principles into the people so that when the actual Member comes back, the people might feel the Temporary Member was the best candidate and, in the next election, the Temporary Member will fall hard on the man who has been there before. I am not saying this to defend myself, but that is the way I look at it. I would like, when the Minister replies, an assurance that that should be the normal course of things; I mean, the Member who is absenting himself, who is going abroad on leave, be consulted before the appointment is made.

Now, I come to clause 13—I think this is dictatorship number one. You see, where it says that "Where any question arises whether any person has become a Constituency Elected Member, or a Substitute Elected Member appointed under section 19, or a Temporary Member appointed under section 21, of this Ordinance, or whether the seat of any such Member has become vacant, the question shall be determined by the Governor in Council of Ministers whose decision thereon shall be final and shall not be enquired into in any court." There is no more dictatorship than that, Mr. Speaker. I think that something could be done; there could be a committee appointed by this Council to enquire into such anomalies, because I do not believe that the Council of Ministers should be made the dictator of this country.

So, Mr. Speaker, with those few—Oh, I have got one more. Under the Memorandum of Objects and Reasons, "clauses 12 and 14 effect two minor

[Mr. Towett]

corrections". And then, below that, "No additional expenditure of public moneys will be incurred if this Bill is enacted". What a lame reason to give here. Time spent in drafting this thing by the officers is money indirectly; and time spent in publishing this piece of paper and the amendment is wasting money. So I hope in future, Mr. Speaker, that such lame excuses will not be given. This last sentence should not be here; I think the author of this should be ashamed of that particular sentence.

Mr. Speaker, with those few remarks, I beg to support and hope that I will get an assurance from the Minister in effect of the points I raised.

MR. CONROY: Mr. Speaker, Sir, if I might deal with some of the points raised by the hon. Member for Southern Area. First of all, I think, dealing with clause 10, he said that this was bad law. I must protest. There is no such thing as bad law; some laws are better than others.

Sir, if the hon. Member would look at the proposed clause 19 which replaces a very similar section in the existing Bill, he will see power given to the Governor to appoint a Substitute Elected Member is discretionary; it is not mandatory. He has not got to do it; he may do it. There is no term set during which the Governor's appointment must have effect. That, again, is within the discretion of the Governor, and I think that meets the point made by the hon. Member for Southern Area.

The next question he raised was what he called "Dictatorship number one" under clause 13, and he said that there should be a committee to enquire into these anomalies. There is, Sir, if the hon. Member would look at section 32 of the principal Ordinance, he would see that there is power there for the Governor in Council to hold an enquiry and to appoint any person with judicial experience to be a Commissioner to enquire into and report upon the grounds on which the validity of any election is brought into question, and I think that is what the hon. Member was asking for.

Sir, finally, he said that the Memorandum of Objects and Reasons, which contain the words "No additional expenditure of public moneys will be incurred

if this Bill is enacted"—he thought that was a very lame reason. Sir, we have to put it in; we are bound to do so, and we either have to say that an additional expenditure will be involved, if we are advised that an additional expenditure will be involved; if we are advised that no additional expenditure will be involved, we have to say so, Sir, whether it is lame or not. That is part of the constitution in order to allow Members of this House to be able to exercise their intelligence in dealing with the Bill.

I beg to support, Sir.

MR. ARAP MOI: Mr. Speaker, I should like to raise a point under clause 14. I am wondering whether—the Chief Secretary indicated that in view of the coming by-elections; we would like to have this advice. I should like to ask the Government whether it intends to revise the African voters' rolls between now and 1960 under clause 14.

THE CHIEF SECRETARY (Mr. Courts): I must reply first of all, Sir, to the hon. Member for Upper Rift who raised the question of the departing Member under section 11 having some say in who would be his substitute Member. I think one has got to remember; Sir, as in all these cases that the Governor's discretion must be entirely unfettered, and one could not say that the Governor definitely will accept a certain person put forward; but it has always been the practice in this House that when a Member for unavoidable reasons is going to be absent, if he puts forward the name of someone, then in 99 per cent of cases, the Government and the Governor, of course, would accept that particular person. Whereas therefore, I can give him no assurance that the Governor will necessarily accept the name; what I can say is that he would always consider it most sympathetically and ask the person concerned for a name.

I would just like to add one point as regards the expenditure of public money which was raised. The hon. Member said that money had been expended in preparation of this Ordinance; that is perfectly true. But this says that no additional expenditure of public money will be incurred if this is enacted; the expenditure to which he referred has already taken place.

And in answer to my hon. friend from North Rift, when he raised the question

[The Chief Secretary]

of section 14, this refers to a semi-annual revision which we are compelled to undertake in the case of elections concerned with Asians and Europeans, that is, under the Legislative Council Ordinance, but it does not, in fact, refer to the Legislative Council (African Representation) Ordinance, 1956. I cannot at this stage tell him whether or not we are likely to revise the rolls under that Ordinance before 1960. This section 14 refers to another matter altogether.

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 tomorrow.

*The Income Tax (Rates and Allowances) (Surcharge) (Amendment) Bill*

Order for Second Reading read.

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): Mr. Speaker, Sir, I beg to move that the Income Tax (Rates and Allowances) (Surcharge) (Amendment) Bill be now read a Second Time.

Sir, this Bill, which deals with the Emergency tax surcharge contains provision to amend the Ordinance by removing the limit of £8,750 and from that, the effect is the surcharge will be payable right through the whole of the income ambit, after, of course, the £800 of chargeable income has been allowed.

Sir, this has been dealt with at some considerable length, both in the main debate and in the Motion and Ways and Means when the Committee approved the resolution dealing with the financial side of this Bill. In view of the business in front of us, Sir, I therefore do not propose to delay the Council any longer, but merely to move that this be now read a Second Time.

MR. MACKENZIE seconded.

Question proposed.

SIR CHARLES MARKHAM: Mr. Speaker, I had an amendment which I was going to raise at the Committee stage of this Bill, but I did, Sir, consult the Chairman of Committees, and I would have been out of order under our Standing Orders. Accordingly, Sir, I am left with no alternative but to move an amendment now

during the Second Reading. It is interesting, Sir, perhaps to read the last line of the Memorandum of Objects and Reasons for this Bill, which says "No additional expenditure of public moneys will be incurred if this Bill is enacted". If that is the case, Sir, why on earth have this Bill at all?—because you are proposing 75 cents surcharge.

Now, Sir, we have been goaded by the Minister for Finance time and time again that we have moved no specific reduction in this year's Estimates. Sir, the guillotine came down very conveniently just before we got to one or two rather tricky particular votes. Accordingly, Sir, I am going to move in a minute an amendment regarding the reading of this Bill in the hopes that Government will in this coming year make savings of £500,000 or so which this surcharge raises, as a gesture towards the country's state of finances. I am not moving it, Sir, specifically against any particular vote, but I would suggest that in view of the stringent times ahead, the Minister might consider accepting the amendment I am going to move in a minute.

There are plenty of reasons, Sir, that we do not want to go into now, they have all been debated in the past. But there is considerable feeling in the country that everybody else has drawn their horns in except Government, and that Government themselves have made no economies, no cuts in the Estimates which we had to pass before the guillotine last week.

Accordingly, Sir, I beg to move that the word "now" be left out, and the words substituted "this day six months". It has the effect, Sir, of killing the Bill, and that, Sir, is the intention of the amendment.

MR. ALEXANDER: Mr. Speaker, Sir, I beg to second this amendment. The continuance of this particular tax is objectionable. It is particularly objectionable, Mr. Speaker, because it applies to all those with chargeable incomes in excess of £800 a year, and as it has been specifically related to the Emergency, it does mean that all those with incomes chargeable incomes, of more than £800 are to continue to suffer by this tax. It is those people in that category that were not responsible for this Emergency. And these are the people who continue to suffer by this tax.

[Mr. Alexander]

Another objectionable feature of the present proposal, Mr. Speaker, is that it extends the tax beyond the upper limit that was previously the law. It does mean to say that people above that limit now pay higher tax, those particularly with substantial incomes.

I would just like to quote again, Mr. Speaker, what I said on 18th June of what the Minister for Finance himself said in 1954 when he introduced this tax. He said—and I quote—"It will be seen that I have designed a surcharge to prevent it pressing too heavily on the lower income groups and at the same time have endeavoured to level it off at the income sector where I believe the burden of surtax is heavy at the moment, and where further addition must prove a discouraging factor to the development and re-employment in development of any surplus income and might prove a deterrent to investment in this country".

Replying to that on 18th June this year, the Minister said this: "... that in the opinion of the Government, at the present moment, the most important thing has been the relief in the income group of the middle range calibre". So, therefore, Mr. Speaker, the policy appears to have completely changed in the four years since this tax was first introduced. The idea originally was to level it off at an income group, in an income group, beyond which it would embarrass or be a disincentive to those upon whom the Colony relies for development. I do appreciate that the Minister went on and gave various figures to show that in the very highest levels of income, that after all, it was not very much of a sacrifice to pay some of this extra tax, the inference being because people in those income groups were so rich that another burden of this nature would not really embarrass them very much.

Mr. Speaker, the point the Minister made is that those are the people we rely on for development and those are the people who will now be discouraged. It does mean that our income tax at the top level is 15s. 9d. in the £, and there are people who are prepared to come to Kenya and help us to develop it, but they are not prepared to pay 15s. 9d. in the £, particularly when part of that is a taxa-

tion for an Emergency which neither they nor those of us above £800 a year chargeable income were responsible for.

I beg to second the amendment.

Question proposed.

MR. MBOYA: Mr. Speaker, Sir, I rise to oppose the amendment. There were mainly two points made, one by the Member for Ukamba, and the other by the Member for Nairobi West. The Member for Ukamba produced rather an ingenious argument referring to stringent times ahead and therefore the necessity for saving, and asked for the Government to save about £500,000 and so on. Well, I would have thought that if the Member was as aware of the stringent times ahead as he now seems to be, the time for him to have raised the point was when we were discussing the Budget proposals—

SIR CHARLES MARKHAM: I did!

MR. MBOYA:—when he should have opposed the various allowances that have been given to people in the higher income groups, and probably he would have gone further, in recognition of these stringent times ahead, to support some improvements or some lightening of the burden of taxation on the lower income groups. The Member for Nairobi West I think bases his whole argument on the fact, or rather, on the contention that the people on these income groups were not responsible for the Emergency. Mr. Speaker, this is not the time nor the sort of Motion on which we discuss who was responsible for the Emergency. But, Mr. Speaker, I beg to submit that if anybody was responsible for the Emergency, it certainly does not exclude those people in these income groups, and if I may go further, I would suggest very strongly that if some of them in these income groups had acted as they should have, we would not probably have had the State of Emergency. The argument is—

GROUP CAPTAIN BRIGGS: On a point of order, Mr. Speaker, can I call on the hon. Member to substantiate his statement?

THE SPEAKER (Sir Ferdinand Cavendish-Bentley): I think, Mr. Mboya, you are getting away from the subject-matter of this Motion and we are getting ourselves into difficulty.

MR. MBOYA: Mr. Speaker, Sir, I said I would not like to get involved in the argument—

THE SPEAKER (Sir Ferdinand Cavadiah-Bentline): I have asked you not to get involved in it. Please cease pursuing that argument.

MR. MBOYA: Thank you, Sir.

MR. SPEAKER, in the circumstances, I cannot support the amendment, and I am sure that many of my colleagues will not.

SIR CHARLES MARKHAM: On a point of explanation, Sir, the Member did make a suggestion that I had not raised this before. I would like to point out—I do not know whether he was here, Sir—that I did call for cuts in the Government in the Budget debate; I also raised the question of customs duty hitting the poorer income groups later on in that as well, Sir.

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): Mr. Speaker, the Government, of course, Sir, cannot accept the amendment.

The hon. Member for Ukamba said that I had goaded him, I think he said, goaded them by this particular measure. All I can say, Sir, is that I should have said that it was not a goad I used; it was a very gentle pin compared to what one could have used.

The hon. Member says that the gullotine came down conveniently; conveniently for whom, Sir?

SIR CHARLES MARKHAM: You!

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): Conveniently for the Government? When the Government had agreed, and the Committee of Supply had had 15 whole days to discuss expenditure, and the Government had not seen one definite and specific proposal or move from the other side to reduce Government expenditure by one penny?

SIR CHARLES MARKHAM: On a point of order, Sir, the Minister must be responsible, Sir. If the Minister makes statements to the House, he must be responsible. There was one definite reduction, Sir, which was ruled out of order by the Chairman of Committees.

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): Not in Committee of Supply, Sir, not in Committee of Supply. In Committee of Supply, when the Government submitted its

Expenditure Estimates to this Council, there was not one resolution from the hon. Members opposite pinpointing the point where they would like a reduction to take place—

SIR CHARLES MARKHAM: On a point of order, I do wish the Minister would be accurate. There was a reduction in the salary of my hon. friend, the Minister for Commerce and Industry—

THE MINISTER FOR COMMERCE AND INDUSTRY (Mr. Hopp-Jones): Ruled out of order!

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): One pound, one pound—

SIR CHARLES MARKHAM: Well, that is a reduction.

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): Is that taken as a real reduction when the hon. Member himself said that it was done to raise a particular point of principle and discussion, nothing to do with expenditure as expenditure. And I do suggest, Sir, that if a Council sits for 15 days and the Standing Orders say that at the end of the fifteenth day, the guillotine shall be brought down one hour before the end of the discussion, that is not a matter of convenience for anybody except the Council as a whole; it is not for the convenience of the Government, Sir.

Now, the hon. Member again, I think, went on to say that if this amendment were carried, Government would, of course, have to find something like £500,000 savings. Of course, the hon. Member is completely wrong. He will not mind, I am sure, my pointing this out, but if this amendment is carried the original Bill will still be on the Statute Book; there will still be a 75 cents surcharge, and the Government will still be collecting that money. The only thing that will happen is the point made by my hon. friend, the Member for Nairobi West, and that is that the ceiling will remain as before, but the tax, Sir, will continue, so do not let us pretend or think that we are indeed calling for anything like £500,000 in this particular Motion.

Sir, my hon. friend, the Member for Nairobi West said that this tax was objectionable. Of course, Sir, all taxes are objectionable. We have spent something like four weeks now listening to

(The Minister for Finance and Development)

the fact that taxes are objectionable; and, Sir, we did deal with this at fairly great length in the debate in Ways and Means. But, however, Sir, I think under the circumstances that I must again put on record some of the facts.

Now, my hon. friend, the Member for Nairobi West, said, the opinion of the Government had changed, because he quoted the remarks I made about the relief in income groups of the middle range calibre. Now, Sir, my hon. friend has been one of the main people to say time and again from the other side of the Council that the relief for income tax should, Sir, fall on the £2,000 to £3,000 a year man, because that was the managerial class; that was the technical skill that we wanted in the country. And, Sir, I am a little surprised when we follow the hon. Member's sage advice to suddenly find that he is now going to attack us because we have accepted a policy which he, indeed, has been one of the foremost advocates of. But I have no doubt, Sir, that what the hon. Member really does not like is the spreading of the ceiling in the upwards direction.

Now, Sir, on that particular point, I must, Sir, give some of the figures that I have already given in this matter. As a result of the allowances which have been now passed into law with the Rates and Allowances Bill, the point at which the surcharge will be paid has been increased enormously—and I use the word enormously advisedly, Sir. I will not quote all the examples, but I will just quote one or two because they must be on the record. Now that the Income Tax Rates and Allowances Bill is passed, whereas in 1956, a single person began to pay surcharge tax when his income exceeded £840, now he will not pay it until his income exceeds £1,025. A married person in 1956 began to pay surcharge when his income exceeded £1,150; in 1957, he will not begin to pay the 75 cents Emergency surcharge until his income exceeds £1,500. Taking a man married, with two children, with a maximum educational allowance for each, whereas in 1956, he would have begun to pay surcharge at £1,405, he will not now pay Emergency surcharge until the figures are £2,030. So there has been a

considerable introduction of relief in this particular point.

Now, Sir, let us look at the higher income groups and see what in fact is the effect of the proposals now that the Rates and Allowances Bill has been passed. In the case of a man with an income of £10,000, before this Bill is passed or after this Bill is passed, the difference is £4 minus. In the case of a married man with an income of £10,000, he will, in fact, pay £270 less. Married, plus two children, he will pay £368 less. That is on an income of £10,000, Sir, without taking into account benefits for the self-employed, the increased passage allowances and the educational allowances. And, Sir, when you come to the higher income groups, the man with an income of £20,000, which, as I suggested before is a reasonable and fair level of income for a man to be able to exist and enjoy himself on, Sir, if he is single, the difference between the new proposals and the old proposals will be that on an income of £20,000 he will pay £770 more. That is if he is single. If he is married, with no children, the difference is, on an income of £20,000, that he will pay £97 more. If he is married with two children the difference between the new and the old proposals will be that he will pay £7 more. I repeat what I said before, on an income of £20,000, £7 does not seem to be an intolerable burden when you place against it the fact that in the lower income groups everyone will have received a considerable amount of relief as a result of the taxation proposals of the Government as a whole.

Sir, it is obvious, in the circumstances, that the Government cannot accept the amendment.

Question that the words proposed to be left out of the Motion be left out put and negatived.

The question was put and carried.

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

#### The Dairy Industry 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 Dairy Industry

[The Minister for Agriculture, Animal Husbandry and Water Resources] Bill be read a Second Time. In moving the Second Reading, I propose to give hon. Members a brief background to the Bill and then deal with it clause by clause, only with those clauses to which I think hon. Members would particularly like their attention to be drawn.

The background to the Bill is as follows. It is the direct presentation of the policy of Government in regard to the agricultural industry in so far as during the war we had to rely greatly upon the production of cereals wherever it was possible to grow them and also, to a large extent, insist on a degree of over-cropping in the cereal industry in order to feed the people of this country during the war years and in the immediate post-war years. The result of that was an exhaustion of the soil and an undue reliance on cereals generally in the mixed farming areas. As a deliberate policy of Government in the agricultural field, we have for a number of years now assisted and aided the agricultural industry to move away from this form of monoculture into a balanced system of mixed farming and alternate husbandry.

The result of that has been a very considerable expansion in the dairy industry. Now, hon. Members, if they will glance at the report on the dairy industry made under the chairmanship of Mr. Troup, will see there figures given as to the expansion, and I would only now draw to their attention an estimate which was that the development of the dairy industry would result in a production increase of 200 per cent in ten years. Now, it may interest hon. Members to know that already, after only a short period, since that report was published, we are ahead of the estimated targets of production outlined in that report. I think, therefore, it is safe to assume, with the development of the dairy industry, and the great advances which we are now making, for instance, in grass leys and grass pasture research, that the estimate of a 200 per cent increase in the dairy industry in the next decade will be fulfilled or even surpassed.

Now, Sir, the dairy industry is at the moment the backbone of the mixed farming areas. Hand-in-hand with the dairy industry, goes its related industry—the pig industry. If we allow the dairy

industry to be severely damaged, it follows, without any doubt, whatsoever, that we must damage the soil fertility available to us and the resilience of our agricultural people. In addition, we shall bring upon ourselves elements of disease due to the continued use of cereals year after year on the same fields.

Now since the dairy industry has begun its expansion, world conditions have greatly altered and it is severely threatened today by dairy produce from all over the world being dumped in the United Kingdom and in its export markets. It is significant, I think, that every other agricultural country which has a dairy industry has found it necessary to bring in legislation of this sort, generally controlling dairy production.

Sir, that is the background to the Bill, and the reasons for my advancing it today, and I should now like to make one or two general remarks on the Bill before I come to the clauses one by one. There have been expressed some fears about the general powers of the Board and I would like to make it clear—as I hope and trust and have every reason to believe from my discussions with the industry—that the Bill will be used largely as an enabling measure. There is no intention—nor is there any necessity—to build within this Bill a duplicate empire or organization, as has been alleged, existing organizations. I hope and believe that the Board will have the good sense to use to their maximum the existing channels of production, and that its main function will be the organizing of supply to the main consuming centres. I would like to give an instance of that. It is not generally known, I think, to hon. Members, that in times of severe drought it is quite impossible to supply the present population of Nairobi with milk, other than by bringing it in from places which are far from the city. Some time ago—about two years ago—we brought in milk to feed Nairobi from as far afield as Eldoret. And that particular problem, of rationalizing supplies to feed a major city, will become an increasing problem as the size of Nairobi grows.

Secondly, we can well look at the rationalization of the delivery of milk to the consumer. We have, compared with a city the size of Birmingham, a vast and expensive delivery system in this

[The Minister for Agriculture, Animal Husbandry and Water Resources] rather smaller city of ours. Lastly, I think the Board would be wise to examine methods of equalizing the losses which have now occurred in exports over the whole of the industry.

A further function which I think the Board might well undertake, and which is inherent in the report produced under the chairmanship of Mr. Troup, is the general development of the industry in such matters as the taking over of the functions now undertaken by the Central Artificial Insemination Centre and other artificial insemination centres, the milk recording schemes and matters of that sort, which will directly contribute to the general and more efficient development of the industry.

Now, Sir, I am quite convinced that unless we can organize the dairy industry there is a severe danger of a complete collapse of dairy production. Already, into the local market many producers are crowding and will shortly—unless we can control that crowding—be engaged in interecine strife among themselves. The collapse of the dairy industry must force shadow bankruptcy for many farmers, because, as I said originally, it is the backbone of the industry.

Now, Sir, with those words on the general background, I would like to deal with the Bill, clause by clause. Clause 1 allows the different provisions of the Ordinance to be brought into force in different areas on different dates. I think that is important, because I do not anticipate—and sincerely trust that this will not happen—that the Board will attempt to regulate and control every aspect of the industry in every quarter of the Colony at once. I think such action would be unwise, and that we should proceed, step by step, from experience and with the support of the people concerned.

Clause 2 deals with definitions, and there is just one small omission that we may have to consider in Committee: that is the question of butter. It might be advisable to define butter.

Clause 3 establishes the Board. Clause 4 delineates the membership of the Board. Hon. Members will see in the report produced under Mr. Troup's chairmanship, on page 24, that the sug-

gestion of area or sectional representation on the Board was specifically rejected, and I have accepted that recommendation because I think it is wise. As, undoubtedly, some hon. Members will wish to present to me the arguments in favour of sectional or regional representation, I propose to give now the reasons for that rejection.

The Members who signed the Troup Report felt that the industry would best be served by the Board's not being set up on a sectional basis; that it should seek to have available to it the best men in every category for the benefit of the industry. Secondly, they believed that sectional interests would enormously widen the numbers of the Board and therefore make it less efficient. Lastly, they felt there was a real danger, if sectional interests, put forward by election, were placed upon the Board, that the Board, instead of starting off as a united whole with one single objective—the benefit of the industry—would lapse into struggles within itself as between one interest and another.

Now, I made it clear in the White Paper that I rejected the suggestion of regional or sectional representation, and laid down the lines on which it should proceed. I propose just to touch on that. I intend that the Chairman shall be independent of sectional interests. That is not clearly shown—I think he is shown as an independent Chairman—but I intend that he shall be independent of sectional interests and shall be chosen for his ability to handle the business of the Board, not, I stress, as a producer of milk, but as a businessman with a commercial background.

Secondly, the five producers, nominated from a panel of names from the Board of Agriculture (Scheduled Areas): I do not intend that those five producers should have a majority of members of the Kenya Co-operative Creameries. I can say so openly to the Council because I have said so to the Creameries. I find a great and widespread fear that the Kenya Co-operative Creameries might dominate the operations of the Board, and as I do not think that is the function of the Creameries, which has its own separate set-up as a co-operative, I have indicated to the directors of the Creameries my intentions in this regard. I would like to tell Council that the

[The Minister for Agriculture, Animal Husbandry and Water Resources] directors of the Creameries have very sincerely accepted my intention in that matter.

I would also like to indicate to Council that 80 per cent of the dairy production of this country passes through the channels of the Kenya Co-operative Creameries and, therefore, their very acceptance of that fact that they shall not be a dominating influence on this Board is, I think, a strong proof of their sincerity in wishing to make this work.

Of the other members, I intend to try and have one member with a general background to the industry, one member to have knowledge of the general independent milk-producing units around the major towns of consumption, such as Nairobi. Lastly, I would like to find some member who is skilled and experienced in the technical processing of milk into such items as cheese. So that my Board would then have in these five members a great background to the processing and producing side.

The section dealing with members from the Board (Non-scheduled Areas) puts forward the possibility of two names, and it was clear in the White Paper that I would expect to have one African amongst these names. There was a suggestion in the White Paper that the Director of Veterinary Services might be the second member, but I intend, if suitable names are given to me—and I am sure they will be—from the Board (Non-scheduled Areas), to place two Africans on the Board.

Thirdly, Sir, the members of commercial experience: I made it clear in the White Paper that for a number of reasons I would like to have one Asian man of business experience under that section, and I mean to stick to that intention and have been so advised by the Minister for Commerce and Industry, who has presented to me a list of names.

Lastly, Sir, I deal with the suggestion that there should be a member nominated from a panel of names submitted by the municipal bodies of Kenya.

On all these boards, there is always criticism that the consumer is not represented, but the difficulty one has is in finding the perfect consumer. In effect, everyone is a consumer, and I believe

that we would be well advised to have, under this section, someone who is a consumer, and who is interested in local government problems, because, in certain areas of the country, distribution of milk has become a municipal or local government undertaking.

That, Sir, deals with the composition of the Board, and I have tried to keep the numbers of the Board low and yet give to it the widest possible experience and cover the greatest number of interests, without resorting to detailed sectional representation.

Clauses 6, 7, 8, 9 and 10 are all formal clauses dealing with such matters as the remuneration of the Board, the retirement of the Board's members, the employment of the staff, provident funds, and the question of who shall preside at meetings, and clause 10 lays down a quorum, voting powers and how decisions shall be arrived at.

Clauses 11 and 12 are formal sections dealing with the transaction of the Board's business. Clause 13 provides for quarterly meetings and special meetings. Clause 14 provides for the appointment of committees. Clause 15 allows the Board to make standing orders to regulate its conduct and clause 16 sets out the principle functions of the Board.

Clause 17 is a formal clause regarding the utilization of the Board's assets and the next two clauses are clauses to which I would particularly like to draw hon. Members' attention. They are clauses which detail the powers of the Board, and I would like to point out to Council that we have in three clauses—18, 19 and 23—set out the powers of the Board with specific controls. In clause 18 the powers are administrative and regulatory powers which the Board needs for the general administration of its business and which cannot affect an individual, other than in the administration of the Board's business and his own business.

Clause 19, however, has powers which, if arbitrarily or unwisely used by the Board, might indeed eliminate from the field of competition producers, and therefore those powers can only be exercised with the approval of the Minister. Clause 23 covers far-reaching powers of compulsory acquisition, and those powers can only be used with the agreement of the Governor in Council of Ministers.

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

Thus, the Board has got three degrees of power available to it: administrative matters, which I think we can truly entrust to them, financial matters and matters of policy which affect the individual's livelihood and which can only be operated with the approval of the Minister, and far-reaching powers of compulsory acquisition which cannot be used except with the consent of the Governor in Council.

Clause 20 is a general clause applying to regulations. Clauses 21 and 22 provide for the annual meetings of delegates of registered producers and the regulations of such meetings. I only want to make one comment on them. There have been some criticisms that we have not put in this Bill regions and regional representation, together with regional meetings. It was the general view, Sir, of the members of the Troup Committee that in the initial stages of its development the Board would be well-advised to concentrate on the organization of the industry and that we should try to avoid the complications of regional meetings and matters of that sort. I have endorsed that view. I am disposed to think that in the early stages the Board will have a major task and it will be well-advised to concentrate on that task and then later we might, if it was deemed necessary, amend the Ordinance to allow of regional representation if the Board and the industry itself so advised.

There is, however, power in the Bill for the Board to call meetings in regions whenever it so wishes, so the possibility of regional meetings is not entirely eliminated.

Under the provisions for annual meetings, there is one new departure. There is a provision for ten members of the public to attend a meeting and voice their satisfaction or dissatisfaction, as they think fit, with the operations of the Board during the past year. That is a new departure in all these Bills, and is an attempt by myself to give persons who are not actually interested in the processing or producing side an opportunity of voicing, at a meeting of the Board, their particular likes or dislikes in regard to the shape, size, colour and distribution, for instance, of bottles.

These are matters which might well be brought to the notice of the Board and which could well be done, I think, at the annual meeting.

Clause 23 I have already dealt with, and clause 24 allows the Board to acquire and dispose of property. Clauses 25 to 30 are general financial provisions, and 31 to 34 provide for the registration of producers. Clause 35 allows the Minister to make regulations. Clause 36 deals with offences by companies, and clause 37 provides for appeal to the Agricultural Appeals Tribunal.

One further point, Sir: there has been expressed throughout the formation of the Bill which is now before the Council the fear that by pooling milk generally the Board would reduce the quality of milk available to the public. Now I want to record that, as Minister, I feel any such step would be a very retrograde step indeed, and that I will draw to the attention of the Board, as soon as it is formed, the necessity for introducing qualities of milk which maintain some of the qualities already in existence and in certain cases enhance them.

This Bill, Sir, covers the operations of a wide field in the agricultural industry, affects many persons, both on the producing, processing and retail sides, together with—I see from today's paper—a number of persons in towns. I therefore propose, with the agreement of the Council to take the Bill to a Select Committee so that these detailed representations of views can be considered by us in a rather calmer and easier atmosphere than sometimes pervades this Council.

Mr. Speaker, I beg to move.

THE MINISTER FOR AFRICAN AFFAIRS (Mr. Johnston) seconded.

Question proposed.

MRS. RAWSON-SHAW: Mr. Speaker, Sir, it would be very unbecoming of me, as a beef farmer, to comment on the technical aspects of this Bill, and in any case I would not be competent to do so. In the short time in which I have had the honour to sit in this House, I have observed that it is quite essential to be expert in one's facts and knowledge when speaking. The technical aspects, therefore, of this Bill I will leave to my expert friends.

However, there is a matter of principle in this Bill to which I would draw the

[Mrs. Rawson-Shaw] House's attention. In part VI of the Bill, section 35 says, "The Minister may after consultation with the Board make regulations generally for the better carrying out of the aims and purposes of this Ordinance".

Mr. Speaker, this matter of government by regulation is one which, with great respect, I find objectionable in principle and dangerous in practice. We may have complete faith and confidence in the ability and integrity of our Minister, but Ministers come and go, and I think it would be a serious error to place this major industry, with all its ramifications, at the mercy of the whims and ideas of a Minister who might not hold the confidence of the country.

I would, therefore, humbly suggest that this section 35 be altered to read: "The Minister may, with the approval of the Board, make regulations generally for the better carrying out of the aims and purposes of this Ordinance".

Mr. Speaker, with this reservation, I beg to support.

MR. BOMPAS: Mr. Speaker, Sir, the hon. Minister for Agriculture has briefly mentioned fears—and I think he used the word apprehension. This Bill has indeed occasioned very considerable apprehension throughout the Colony, and possibly nowhere has that apprehension been greater than in the constituency which it is my honour to represent. I am indeed glad, Sir, that the hon. Minister has intimated that this Bill is to go to a Select Committee, because I believe that there will be an opportunity to remove some of the fears and apprehensions which have been so widely expressed. These fears, Sir, I believe stem largely from the unknown and they lie both with producers and with consumers. The producers in my constituency, Sir, are generally sympathetic towards the underlying objects of the Bill, but they do regard the proposed legislation rather in the nature of a journey into space. They recognize in this Bill the vehicle for the journey and they would be prepared to step therein, with certain natural trepidations and reservations. Their fears stem largely from the absence of any real say—or the feeling that there is an absence of any real say—on their part in the selection of the crew or in the destination.

Now, in the case of my constituency, it will be understood that, very slightly by accident of history but to a greater extent by perspicacity, producers have established themselves in the periurban areas of Nairobi, where they may enjoy the reward of a whole milk trade.

In Limuru, producers to a very large extent are intensively dairying off land which has touched the £100 per acre mark in value.

On the other side of Nairobi in the Athi, Dandora and Embakasi areas, where the land is very much cheaper, the producers are unable to grow any supplementary crops and of necessity have to import and purchase from other parts of this Colony expensive feedstuffs. In all these areas zealous attention by the local authorities—possibly over-zealous attention—has resulted in producers being required to embark on quite considerable expenditure on cooling equipment and similar dairy appliances.

Mr. Speaker, Sir, throughout the district for which I speak the milk industry is very delicately poised. There is a real fear—some of which I feel the hon. Mover has helped to dissipate—in the minds of producers that the outcome of the setting up of the Kenya Dairy Board would result in the losing or, at best, in the sharing of the "wholomilk" market of Nairobi with up-country producers whose economic background is very dissimilar to that which applies in the peri-urban districts. If so, there is indeed a great danger that the industry in and around Nairobi would cease to be economic.

I believe, Sir, that those fears could be largely dissipated firstly were the powers of the Minister slightly curtailed—and here I speak of the appointment of the chairman of the Board. Contrary to what the Minister said, and it is felt by the producers for whom I speak, that they would prefer to see the chairman selected from the members of the Board by those members.

The next point, Sir, where I feel fears could be dissipated, relates to section 35 to which the hon. Member for Nyanza made reference—the question of regulations. Here again, Sir, I would prefer, and I know my constituents would prefer, to see those regulations made by the Minister on the recommendation of the Board. Secondly, Sir, I believe that

[Mr. Bompas] fears could be dissipated were people assured of more proper and personal representation on the Board. The hon. Mover has spoken of the Troup Report and the rejection of regional representation. Nevertheless the peri-urban constituents could indeed find themselves completely unrepresented upon the Board. It could be the case that no name might emerge amongst the list of ten presented to the Minister, and if one named representative of those interests did in fact emerge then there is no guarantee that that name would succeed in finding a place in the Minister's final short list of five. I realize that the thought in the Minister's mind at this moment probably is that he would see—indeed he has said that—that the peri-urban producers would find sympathetic consideration from him and would get a representative on the Board. Sir, I accept that statement but, as has been said, Ministers come and go and I would like to see that written into the law.

I feel, Sir, that the method of appointment to the Board is a negation of normal democratic principles and I would urge that the milk producers should be zoned into five or more constituencies from which the producers may themselves vote for their representatives on the Board and from which they may select their delegates for the annual general meetings.

If I might very briefly turn, Sir, to consumer interests, I would say that there is considerable trepidation lest some form of monopolistic control should result in the price being increased and also in the reduction in the quality of the milk available. I was indeed glad, Sir, to hear the hon. the Mover speak specifically on that point and undertake that he would make representations to the Board, when it is set up, that there should be no reduction in quality and that quality should be, in fact, graded.

Here again, Sir, I feel that these fears could be dissolved—that is, the fears of the consumer—if there were more specific representation for them.

It is probable, Sir, that the one member who evolves as a nominee or a recommended name from the Association of Municipalities, is in fact contrived to look after the stomachs of the consumers. Who, Sir, is to look after

their pockets: I would suggest, Sir, that the two members who appear under section 4 (d), and who are appointed by the Minister after consultation with the Minister for Commerce and Industry by reason of their ability in commerce or in public affairs, should be given a dual task. In the first instance it should be made quite clear in the Ordinance that they should have no interest whatsoever and no connexion whatsoever with producers. I believe, secondly, Sir, that they should be designated in the Bill as fulfilling the dual task of striking an even balance between the producer and consumer so far as prices are concerned.

Sir, I am indeed grateful to the hon. Mover that he has intimated that this Bill will go to a select committee, and that being so, Sir, I will say no more, other than that I support the Motion.

GROUP CAPT. BRIGGS: Mr. Speaker, before I make a few brief remarks in connexion with this Bill, I would like to congratulate the hon. and gracious lady the representative for Nyanza, also the hon. Member for Kiambu, on their excellent speeches which were commendably brief and to the point.

There is one matter I would like to refer to to start with, and that is, Sir, that I would like to draw the attention of the House to the fact that a rather unusual procedure seems to have been adopted in connexion with this Bill and that is that advertisements have appeared; or notices have appeared, in the Official Gazette, concerning the submission of evidence and representations on the clauses in the Bill. That is, as I say, an innovation, and it does rather give the impression that there is some desire on the part of the Government to hurry it through with, perhaps, almost indecent haste.

Now, Sir, I support Sessional Paper No. 9 and I think something on the lines recommended is absolutely essential if the dairy industry is to be saved, but there are some very undesirable features in the Bill which has been introduced to implement those recommendations, and I was therefore very glad to hear that the Bill is to go to a Select Committee and I hope therefore that in Select Committee a good many of these objectionable features will be dealt with.

There is one matter which has not been touched on by previous speakers



[Group Capt. Briggs:] which I feel I must refer to and that is clause 20. This includes the right to impose a fine or imprisonment or both for the breach of any such regulation or direction. It says that such fine shall not exceed Sh. 10,000 and that such period of imprisonment shall not exceed 12 months.

Now, Sir, clause 23, again, I think, should receive the special attention of the Select Committee for this is how it reads. "The Governor in Council of Ministers may, by order, empower the Board to acquire by compulsory purchase all or any forms of dairy produce upon such terms as may be specified in the Order." Then it goes on "(ii) Any person who obstructs or impedes the Board, or its servants, or its agents, in any acquisition pursuant to any order made under this section, or who fails to comply with any reasonable requirement made by the Board pursuant to such an order shall be guilty of an offence and shall be liable on conviction to a fine not exceeding Sh. 10,000 or to imprisonment to a term not exceeding one year".

Now, Sir, I do suggest that what is required is rationalization of the dairy industry but not Sovietization, and I do feel that the power to impose imprisonment is far too heavy.

Subject to those comments, Sir, I beg to support.

MR. TOWETT: Mr. Speaker, Sir, I rise to oppose the Bill. This really is the most ridiculous Bill I have seen since the history of Bills came in—I mean from the African point of view.

You see there is no definition of what a dairy is but implicitly you can take it from clause 31. Mr. Speaker, where it says "In this part, 'primary producer' means any farmer who in the course of farming produces milk, but does not include persons employed by him for that purpose".

Now, Sir, most of the people I represent, the Kipsigis, are such farmers and they produce stock and milk so in the position of the African and what a dairy is I assume that some of the Kipsigis who produce milk and who sell in bottles to some people, those would be included in what you mean by a dairy.

Now, Sir, that being the case I feel that this Bill is very dangerous to my

people. You see, Sir, we produce milk, not in large quantities, and we sell the milk we produce to some people who are living in market places and who do not have cattle, and I can foresee that once this Bill comes into existence and is enacted into the law it will stop the Kipsigis from selling milk to any such people who have not got cattle and it also appears that it will stop the Masai, the people I represent, from taking milk to some market places to exchange it for maize and *wimbe*, because the sub-section could be taken like that.

So, Mr. Speaker, I think we have got to reconsider this Bill. The point is that a producer here means any person who produces, processes, manufactures, prepares or treats dairy produce for sale. Well, understanding that to mean where milk is produced, which could constitute a dairy, I think that most of the people there are dairying people.

So going on with this very dangerous Bill, which I do not consider should be enacted, I should like to say that the Minister wants to create a Board so that he will have more work.

Now, Sir, let us go to clause 5. I would refer to section F. If the Minister removes this then the idea is that the members of the Board can be removed by the Minister and this section says that if the Minister wants to remove them if he is satisfied that the member is incapacitated or is otherwise unable or unfit to discharge the functions of a member, or is unsuitable to continue as a member, well, then the Minister, I mean when you put things that are not quite definite so when he feels that so-and-so is not fit he will remove him. Anyway, Sir, that is not the point. The point is this. It makes all the members of the Board appear subservient to the Minister. They will try to work in accordance with the Minister's inclination so that they will not be considered unfit. I feel that that is very bad.

Now, clause 7, Mr. Speaker, is most interesting. It says that the Board shall employ an executive officer, a secretary and others as may be necessary or desirable for the efficient conduct and operation of the Board. Now, Sir, I hope that the money for the employment of these people will come from Heaven and not from the public. If this comes from the sale of the produce then they are going

[Mr. Towett] to deprive the producers of their own benefits that they would have got from these things.

We have been trying to decontrol the control already in existence and here is another control in sheep's clothing, Mr. Speaker. I think that anybody sensible should try to say that this Bill should not be implemented.

Now, Sir, I come to section 8. Pensions and Staff Fund. What is the need of all these things? Surely, it is proved that Europeans are practical people as they have produced these things from time immemorial. It seems that the Government has realized that people have been making mistakes.

Now, I come to the functions and powers and duties of the Board. It has to organize. Organize what? If the Government has discovered any lack of organization then the farmers have been praised for not working properly. It says "... to improve the quality of the produce". This implies that the milk and the dairy produce so far has not been improved. Well, that goes to the discredit of the farmers who have organized themselves into the Kenya Co-operative Creameries and other private firms. I do not see the logic of that, apart from the implication that up to date the farmers have not been producing milk and by-products up to the standard required.

What is happening here is that the moment we allow this Bill to pass then we shall have a dictator in the form of the Bill. The trouble here will be that we will give powers to people and when they have the powers they will use such powers in the way in which they like. We must be very careful.

I think that clause 18 is unnecessary because it discourages private enterprise, Mr. Speaker.

Clause 19. This deals with the power to make regulations with the consent of the Minister. You are here centralizing the power in one man's brain or pair of hands. This is not necessary. I think we must allow people to do things according to the dictates of time.

Last but not two, Mr. Speaker, clause 19 (g) says here, "... controlling, the sale, purchase and delivery by any person of any dairy produce ...", and that is

the power we are going to give to the Minister. I know that my area is one of the areas. I do not want any more control because we are trying to decontrol the controls.

In clause 19 retirement benefits are prescribed, or charges, for services rendered under this Ordinance by the Board for servants, officers, or agents. There is no need for the Board and there will be no need for the officers, I think.

Now, Sir, I am just about to sit down, but before I do that I would say something about the proposed or the hinted Select Committee. I would say that this Bill should not be allowed to be enacted. There is no need for the Select Committee except to reject the Bill now, Sir, and call it a dangerous Bill if it is enacted. I feel that we have got to be very, very careful with the Ministers when it comes to having power from the people.

Mr. Speaker, Sir, I repeat that I oppose this Bill.

COL. JACKMAN: Mr. Speaker, before I speak to the Motion before the House it would be proper for me to declare an interest, firstly, Sir, as a producer, and secondly as a director of the Kenya Co-operative Creameries.

Mr. Speaker, Sir, when I last had the honour and, if I may say so, the pleasure, of speaking in this House I did so from a very different position to the one in which I find myself today. But for all that, Sir, even if there had been no change in my location I would still have had no difficulty at all in giving my warmest support to this Bill. My support is no less warm, Sir, because I feel that this measure is somewhat overdue.

Mr. Speaker, it must be about two years, at the time of the Report on the Dairy Industry, that at least a majority of the producers of this country, through their various organizations, accepted the principle of the necessity for some form of control for the industry; and it has taken two years to get us to the stage where we are today. I do feel, Sir, that if it had been possible to produce this legislation a bit quicker the industry might not have found itself in quite such a difficult position as it is today.

I am sure there will be a certain number of people in the country who will object to legislation of this nature, and

[Col. Jackman]

I think they may well fall into three categories. The first category, Sir, who can see no reason for the legislation of this nature, will say that it is just a lot of bureaucratic nonsense designed to interfere with the liberty of the individual. Then there will be those objectors who were mentioned by the hon. Member for Kiambu and who are worrying that the business might be adversely affected by this legislation. Thirdly, Sir, there are the people who genuinely feel that we might here be creating another monopoly which will have adverse effect on consumer interests.

Sir, I think we could easily ignore the first class of objector, and I am sure that when this Bill is sorted out in the Select Committee the second class of objectors will, I hope, find their fears allayed.

I would like to give some reasons, Sir, as to why I consider that this Bill is necessary and that the statutory control is necessary. In the first place, Sir, every industry today needs all the stability it can get and no industry needs stability more than the dairy industry. I am sure that hon. Members will appreciate this fact when I remind them that from conception to production a dairy cow needs something like three and a half to four years.

While moving the Bill the Minister talked about a rapid increase in dairy production in Kenya and, in my opinion, Sir, we have by no means reached the peak of that production. We are already in the position of having to find markets outside this country, markets over which we have no control at all, and with the present state of the dairy commodities on the world markets the return from such markets is very, very poor. I can easily see the danger, Sir, unless we do have some form of control, of intense competition building up in the more profitable local markets, resulting, inevitably in some form of price war. I do really believe, Sir, that if that came about it would be nothing short of disastrous to the dairy industry in this country as a whole.

Another point mentioned by the Minister was the large number of producers in this country who have organized themselves; these are the only people who are concerned with the manufacture

of dairy products as opposed to the sale of milk. That section of the industry is today the section upon which falls all the penalties and losses involved in having to sell on export markets at a completely uneconomic price. I am sure that if the people who do not belong to that organization will think this over they will realize that if there are going to be losses then it is only fair that such losses should be as little as possible and spread over the industry as a whole.

Another reason for this statutory control, I think, Sir, is this problem of markets. As production increases, Sir, we must become more and more dependent on finding markets outside East African territories and even the more local export markets, and I believe that one of the most important functions of this Board will be to go into the whole possibility of new markets, working in close conjunction with other bodies which have also this interest to consider.

Fourthly, Sir, as the hon. Member mentioned, practically without exception all the dairy producing countries in the world have found it necessary in their own interests, and in the interests of the producers generally, to establish some form of statutory control for their dairy industries. I think, Sir, that it would be very unusual indeed if Kenya should prove to be the exception to that rule, which has been established in countries with a vast deal more experience than we have yet acquired in Kenya.

Now, Sir, if we do establish statutory control of the dairy industry in Kenya, this will be, as we all know, a new step, and I am sure it would be essential for the Board, as the hon. Member suggested, to feel its way very carefully in the initial stages of its operation. A heavy responsibility will lie on this Board, and I was very pleased indeed to hear the hon. Minister say that he hoped to get the very best people more or less irrespective from where they came to serve on this Board. Sir, I believe that to be very essential to the success of this venture.

I was also very pleased indeed that the hon. Member agreed that this Bill should go to a Select Committee. Although it has taken quite a long time to produce the Bill in its present form, no piece of legislation of this nature can

[Col. Jackman]

ever be perfect and I think it is very essential in getting this Board off, in getting statutory control off on the best possible footing, to see that we have left no very obvious mistakes or obvious anomalies. I hope, Sir, that any of these which do exist will be ironed out in the Select Committee.

Sir, I believe that the establishment of statutory control of the industry in this country is a matter of great urgency and I hope therefore that a Select Committee, when appointed, will waste no time in getting on with the job of sorting out the Bill, and that when they bring it back to this House, hon. Members will do their best to see it through its final stages with the least possible delay.

Sir, I beg to support.

MR. NGALA: Mr. Speaker, Sir, I stand to oppose this Bill. I feel very strongly, Sir, that this is a very wrong time for the introduction of this Bill. We have been talking this week about restrictions of produce and movements of our produce, agricultural produce and livestock produce. In my opinion, Sir, I feel this is another way of restricting such a produce as milk or butter or ghee, and as such, I am particularly thinking of how it will affect the African producer in the African areas, and I feel that the Minister for Agriculture is just on the way to introducing another dangerous scheme as far as the producer is concerned.

Sir, I can envisage or foresee what will happen in the African areas. I am not one of the great consumers of dairy products, but I know that for the African producer it is going to be very difficult to sell his milk where he wants and to bargain with the consumer in the way he likes. On the restriction basis, Sir, I would very much oppose this Bill.

Another reason, Sir, which moves me to opposing this Bill is that the Minister knows very well that we have been all along making demands for a produce like this, an agricultural produce, to belong to the people themselves instead of belonging to a Government Board. With that principle or that idea in mind, Sir, I feel that it would be very wrong to transfer dairy products from the producer to the Board, as far as the business

transactions are concerned. I have, Sir, one area in mind, the area around about Mariakani, for example, where the African district council there is handling the milk produce. The local people have been making a lot of demands as far as controlling that pasteurization plant is concerned and also controlling the milk concern so that they can get all the profits for the producer or for any African co-operative society mill which might be built up in the area.

Now, this has not been possible up to now, but it has been pressed very much by the local Africans. If this resolution comes into being, this possible demand of the African will be even far removed and the African, Sir, will feel very, very dissatisfied if this was enacted now. My other reason, Sir, for objecting to this is that the Minister has said very vaguely that the Board will have a chance of creating provincial committees.

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

[Mr. Deputy Speaker (Mr. Conroy) took the Chair]

Now, I feel, Sir, that the milk produce or dairy produce in many districts has so far been handled very well by the existing local authorities, municipalities or African district councils, and it is my opinion, Sir, that the present plan should go on until a time is reached when the local authority will cease handling such products and hand over to the individuals, because it is by that method that the individual will reap the full benefit of what he produces.

Sir, the other thing that very much disappoints me is the proposed African representation of the board. I see here that, I think the total representation of the African is two members. I feel that bearing in mind the extent to which the African is producing milk or dairy products in the Colony, I feel that that representation should be stepped up. I hope the Minister will bear that in mind very strongly and particularly will bear in mind the possibility of including an African woman on the board.

The other point which I would like to touch on, Sir, is the power of the board acquiring property. Now, I have already indicated that in many areas, it is the

[Mr. Ngala]

African district council that is managing such dairy produce or municipal boards. Now, if the board is given power to acquire, my fear, Sir, is that in many places, many money-making projects for the ordinary African would also be acquired by the board, and it would be very difficult for the producer, whether African, European or Asian, in that matter, it would be very difficult for him to benefit fully for his own produce.

The other point I would like to touch on, Sir, is: we have always been making demands to the Minister that where it is possible to encourage co-operative societies to take over this work, this should be done. Here, I feel very strongly that the Minister should co-operate with whatever independent bodies there are now handling dairy products to make it possible for those private bodies to be acceptable in this industry instead of appointing a Government body that will control the industry.

With these few remarks, Sir, I beg to oppose the Bill.

SIR CHARLES MARKHAM: Mr. Deputy Speaker, when the Minister introduced this Bill, I was in some doubt as to whether there was any necessity at this stage for a board to be set up to control the dairy industry. But having heard the explanation of the Minister, I am now quite satisfied that there is a need. And, Sir, it is perhaps fortunate that we are going to select committee because it will save the time of this House in debating for a very long time certain of the clauses which require amplification now.

Nevertheless, Sir, having accepted the fact that the board has sought to control the industry if necessary, I would like to ask the Minister to tell the House whether it is proposed to control all the industry, or whether, for example, the fears expressed by my hon. African friends who have spoken are justified, and whether it is proposed to control the dairy industry in the African areas. If it is not, Sir, then you are going to get again the anomaly that you have got at the moment on the marketing of meat. If, on the other hand, it is going to be controlled, then, Sir, the fears which have been expressed by my hon. African friends must be met and they also must have deep consideration for any legisla-

tion introduced which can hurt them financially.

Now, Sir, most speakers who have spoken in this debate so far have queried the composition of the board. My hon. friend, the Member for Kiambu, queried the chairman's appointment. Sir, we have had this out in this Council before regarding the miraculous people who can be so efficient and yet so divorced from reality that they have no interests and yet become the chairman of such a board. But I believe, Sir, the only person who is fit to be the chairman of a board is a person who commands the confidence of members of the board. I do hope the Minister might consider in the select committee amending the clause to allow the board to appoint their own chairman, anyway, to start with, and see how it works, because, Sir, looking through the composition of this board, one cannot but feel that the Minister for Agriculture has the complete powers to appoint those people whom the Minister for Agriculture wants to appoint. I have nothing personally against the present incumbent of that office, Sir, but in the future, it may be a very different kettle of fish.

Again, Sir, on this board there has been criticism by the public that the consumer will be left out because of the numbers, and again, the other criticism has been that the five members who are producers might be representative of the interests of one group of producers to the exclusion of others. Now, I realize, Sir, there is nothing which can be drafted to satisfy everybody, but I would rather see a slightly larger board to meet what I believe are the justifiable fears of many of both the consumers and the small—I almost might call them minorities. I was thinking last night, Sir, when the hon. Member for Nairobi Area was talking about the Constitution, about the protection of minorities. Here I thought was a very good example of where minorities must be protected. The minorities I mean, Sir, are the 20 per cent of the milk producers, most of whom are in the retail market of Nairobi and Mombasa. And, Sir, I think the point made by my hon. friend, the Member for Kiambu, should not be forgotten, that many of those producers have tied up a lot of capital in their plants in order to supply the retail market. I think it is essential, if a board

[Sir Charles Markham]

is to have the chance of success, we hope it will have, then we do not want a board to consist of all one group or, for that matter, of all the other group. I am not certain that these five members, suggested under the present clause 4, will be sufficient to make quite certain we do not get sectional interests being put forward. The second thing, Sir, regarding clause 4—again a matter of principle—is regarding these two people appointed after consultation with the Minister of Commerce and Industry, one of whom, as the Minister said in introducing the Bill this afternoon, would be an Asian. Again, Sir, I think it is going to be difficult to find these people who will be so divorced from having interests that they can produce an unbiased view: I think, Sir, the wording of the particular clause makes you wonder whether such a person exists in this life, if he is not more suitably upstairs in the heavenly world. I do not know whether the Minister for Commerce has such people in his mind, but I think a very few of them are in Kenya, if any at all.

Again, Sir, I am not too happy about this one individual appointed by the Association of Municipallities, exactly who that person will be and what powers he will have. I do not know, and I would rather see the whole Board broadened to include a definite consumer interest, even one of these gallant ladies, a member of that very ferocious body called the Housewives, who would not be quite so critical if we gave them some responsibility. I have always been told the quickest way to stop criticism is to give the person responsibility.

I was interested in the speech made by the hon. Nominated Member Colonel Jackman, who declared his interest as a Director of the Kenya Co-operative Creameries, and of course I am very careful in what I say now because on this side of Council we have another Director of the Kenya Co-operative Creameries: they are certainly over-represented compared with the rest of us here. I am not certain in my mind, reading this Bill and having heard the speech of the Minister, exactly what this Board will do as opposed to the Board of the Kenya Co-operative Creameries on the question of finding markets, particularly export markets: I hope, Sir,

there will be no duplication of effort between the Board of the Creameries and the Dairy Board in finding the essential markets which we so badly require today. I am thinking particularly of the fact that the Kenya Co-operative Creameries have set up their organization, an organization for marketing their produce both—I think I am right in saying—in Tanganyika and in the Rhodesias: I may be subject to correction on this. I think you want a constant policy rather than two lots of people trying to undertake the same sort of work.

There is one criticism which has been made about the proposal to set up this Board, and that concerns the starting of a rather top-heavy organization to come—I am not using the words at all as a criticism—as another maize control or another meat marketing board or another Kenya Meat Commission, and there has been the suggestion that once they have got control of this Board they will endeavour to become a monopoly. Now the Minister in his speech, when he was talking about the powers of the Board, kept on using the words "I hope". Sir, that is not good enough: "If hopes were dupes, fears may be liars". That is an extract from a poem by Arthur Hugh Clough. We cannot rely on hopes: I hope the Minister might reduce three or four stone in weight, but we cannot rely on it: I hope our salaries on this side of Council will be increased, but we cannot rely on it; and I hope as well the salaries of Ministers opposite will be reduced. But nevertheless when you look at the powers which have been vested both in the Board and the Board again with the consent of the Minister, the words "I hope" are not enough, because as the Minister said, if this Board did abuse the powers it could be almost suicidal to the entire dairy industry. When it comes to the Select Committee I believe we have got to make it a great deal clearer to avoid any possibility of future boards having a too dictatorial attitude. Again, Sir, I think the Minister has given himself powers which are again more suitable to the heavenly spheres above than they are to this earth, because when you look through them all, under clause 19, there they are, virtually unlimited. I agree, Sir, that we can give an assurance, and get assurance in this House, that those powers will not be

[Sir Charles Markham] used, but having once given powers to a Minister it is very hard in the future to withdraw them, and there is considerable concern in the country that those powers might be abused one day in the future.

Now, Sir, I have finished what I have got to say except for two small items: one is the question of the meetings of registered producers. I think it is absolutely essential that in view of the remarks made by the Minister, when he discussed clause 1, about the Bill coming into operation at different times, that there are definite regions set up whereby the Board hold meetings of these regions at regular intervals. The biggest failure of the public relations side of the old Kenya Meat Commission some years ago was the fact that they started to lose the confidence of the producers, and I believe one of the failures of Kenya is we either tell the people too much or we tell them too little, and if this Board is to have the success we hope it will have, it must get down to discussing the problems, the dairy problems, with the producer in each different region. The problems for example of Ukamba and Machakos are very different to the problems of Turi or Molo, and just having one mammoth meeting where accounts are passed and seen is I think insufficient, especially as there are these fears of control.

The second thing, Sir, concerns my last item regarding the question of the future of this Board and its public relations. I do not know what the reasons are, Sir, but there has been the impression that we have got to rush this select committee through to meet early in July to debate a report and try to get a third reading by the middle of July. I would like an assurance that if by chance the select committee does not reach some finality it can be delayed so that we can get a good law this time. You may remember, Mr. Deputy Speaker, that we tried this similar practice on the old Liquor Bill, which was rushed through because the Council was reaching the end of its time—for a General Election I think I am right in saying or something like that—with the result that the following year the Legal Draftsman had to undo the entire mess and start again. This particular Bill has a lot of amend-

ments which are necessary and we must have the evidence, Sir, of producers, both those who are opposed to the Bill and those who are in favour. If it requires further consideration, Sir, then I would beg of Government not to try and rush this but defer it until October.

With these reservations, Mr. Deputy Speaker, I beg to support.

THE CHIEF SECRETARY (Mr. Counts): Mr. Deputy Speaker, I just want to deal with one point which was raised by the hon. Member for Mount Kenya, and links on to what has been said by the hon. Member who has just sat down. There was a suggestion that Government is trying to push this Bill through in a hurry because of a certain notice which has been put in the newspapers. I would like to refute that entirely, Sir, and I take the responsibility for it. What we wished to do was to get the opinions of the general public on this Bill and get them as fully as possible, but the business of the House is such that we are likely to have practically no business left by the middle of July. Therefore we were left with the possibility of having to put out this notice or keeping Members sitting about, probably in the House or out of the House, until the end of the month, and it was therefore to try to meet both the wishes of the public and the convenience of the House that that particular notice was issued.

I would also like to give the hon. Member for Ukamba an assurance that it is no wish on the part of the Government to push this Bill through, and whereas I hope, for the convenience of this House, that the select committee will have reported by the 9th July, if they are not able to reach a conclusion we will not insist on it.

I beg to support.

GROUP CAPT. BRIGGS: Thank you, Sir.

MR. HASSAN: Sir, I would like to give my views on this Dairy Industry Bill. I need not go into details because the Minister has said that he is going to appoint a select committee who will deal with the details, but I would like to say something about the producers of the milk in this country. Producers have been undergoing great hardships and difficulties to maintain supplies of fresh milk in the major towns, and I must give praise to them, that they met the

[Mr. Hassan]

demands of the consumers fully in this town by bringing in fresh milk from as far as 20 miles from all the major towns. So far as Mombasa is concerned we had the producers sending us milk from as far as Machakos, and we had our own dairymen who were producing one-third of the town's supply, and one-third of the town's supply we had through African sources which we made arrangements to supply through Mariakani. I can say definitely that we get all our milk requirements in Mombasa from Machakos area and the coastal district, only part of it having been delivered. All the farmers who were far away from the major towns were usually running by the help and assistance of the Kenya Creameries, producing butter, cheese, and exporting it all over the neighbouring territories as well as overseas markets. According to the Minister's statement we find the milk production increased considerably. It was not very easy for the butter-maker to find suitable markets, but due to the difficulty of securing markets overseas for butter, the Creameries have been supplying almost 50 or 60 per cent of the ghee in this country, so that they had a market in this country to dispose of some of the butter which they found was surplus and they could not sell to the overseas markets. Due to the fact that overseas markets' rates had been depreciated considerably due to continental people flooding the market of the United Kingdom, the farmers who were far away from major towns have found that they would like to share the local consumer's market in the major towns, and I do not blame them: they have every right to do so as well as those who are in the neighbourhood. Of course, one must never forget that the people who maintained the milk supply of the town, the farmers within 15 to 20 miles, they did so at a colossal cost, investing a colossal amount of money in high-grade stock and paying a tremendous amount of money for the farms, the prices of which were higher than at Naivasha and other places. There is no doubt that the milk supply of this town—they have a right to share the market with others. Now the question comes of the consumer. I wonder if the Minister has ever been informed fully as to what are the requirements of the Asian community in this

country? Asians do not rely on consuming milk in tea, coffee, puddings, and so on, but they use milk as a food. It looks very strange to the European, but it is a fact that a very large majority of the Asians, before going to bed, take a glass of milk, and in a house I have seen a family or four or five always have milk, which is not the case with the Europeans in this country. You ask the retailers, and they will tell you about it. I have been dealing with the milk and I know I am speaking with authority, Sir. Now, the milk they want is pure milk of the cow. The major towns have been extremely lucky to get this milk from the cows on the neighbouring farms, also the few farmers who are sending milk from longer distances. We have a good herd of dairy cows in Mombasa which give pure milk to the Asians, which they love. Although we have pasteurized milk thrown into this market the whole idea of throwing pasteurized milk into the market was to increase the keeping power of this milk. Milk coming off the farms was not pasteurized and was not keeping its quality, and therefore it had to be used by people who could not get the milk from the cow, but it has not replaced the fresh milk of the cows yet. Pasteurized milk, unfortunately, is marketed in a way so that it does not maintain its uniform quality in transport. The bulk of it is usually transported from up-country to Mombasa, and it usually happens that the creamy portion of it is usually shaken off from the top, and the town dairymen always makes the best use of it, so that some of the consumers, those who get the top milk, get a proportion of cream in it, and those who get the bottom milk get practically milk almost without cream. This system of pasteurizing milk and its marketing have defects, which has not been cleared up because of difficulties and the distances over which the milk is transported. If the milk, after pasteurizing fresh, was bottled from a machine itself it would keep the quality, but such a thing has not been found possible.

The other thing I wanted to mention, Sir, is that it is thought that a lot of the difficulty arises because of these controls. We have heard all sorts of stories that the control is coming in order to improve the quality of the milk we want, but I have never yet seen a control which did

[Mr. Hassan] not cause tremendous hardship to the people.

Re-membership of the Board—in this case it has been said that sectional interests are not wanted. Why, in that case, are the producers there? Are they not sectional? After the two appointments have been made with the opinion of the Minister for Commerce and Industry there is practically nothing left for the consumer to protect then.

There are two main bodies in this particular business. One is the producer and the second is the consumer. How this Board can ever be a success I do not know. If there is a Board then there must be a considerable number of consumers on it. Those are the people who have to buy and consume this milk. A commercial man is always looking after his commission and he is always looking after his business. He is not looking after the interests of the consumer. The producers want a good market and a good price. The Minister can do that. He can fix the price and the market.

We find that in the municipalities we have the town councils and the local government bodies arranging things very satisfactorily. They have got a tremendous number of staff. The taxpayers are paying for this. There are sanitary inspectors, health officers, and others, in these towns, and they are going round and inspecting dairies everywhere, so that the question of supervising the sanitary and disease side of the dairy is very ably done by the health people of the local government bodies. What we want, Sir, is some safeguard for the interests of the producers and consumers on a Board of this type.

What must not be forgotten, Sir, is that in this country the African dairy industry has not yet been developed, and the Africans are only taking advantage of the controlled marketing in the Mariakani area. In other places they are still following the same system of carrying the milk in bottles from the reserves to the towns. Although I would be the last man to suggest that the European stockowners should be called upon to wait, but at the same time I would not like to suggest, Sir, that the Government should think of having a Board with jurisdiction over African reserves and milk which has not yet been developed.

They are still beginning to produce milk and take their share of the marketing of milk in these towns, and if ever anything is being done with a view to bringing them into this, then it will be just as well that it should be done with the complete co-operation and consent and consultation with the African stock-owners.

With these few words, Sir, I would like to leave the discussion of the Bill in detail because the Minister has promised that he is going to appoint a select committee and I am sure the select committee will go through this Bill thoroughly.

MR. ARAP MOI: Mr. Deputy Speaker, Sir, it is rather difficult to speak on a Bill which has to go into a select committee. Nevertheless, Sir, before I reject the Bill outright I should like to ask the Minister to be aware at this stage and realize the genuine fears of the African community. At the moment, they are trying to catch up with those who have advanced in animal husbandry or dairy industry.

Since the African is a primary producer, he will find it very difficult to sell his milk. Mr. Deputy Speaker, if this Bill is going to be passed, because there are many Africans who sell milk in small quantities in bottles to town-dwellers and by enacting this Bill it would mean that those Africans will be squeezed out of business by introducing a system whereby the control will rest under the local authorities. I feel that with this Bill, Mr. Deputy Speaker, there will be inspectors who will inspect dairy produce and ensure the measures are designed to promote the great efficiency on dairy industry. What I should like to urge the Minister to see is that at this stage it should not be applied to most of the African areas at this time. If the Minister insists, then I propose that the composition of the Board should be represented by the Africans on equal basis as other producers.

I fail to understand, Mr. Deputy Speaker, when introducing a new Bill altogether and the Minister may be, through a position, thinking that the industry would be run on a better system in future and that it would bring better revenue to the producers as well as to the Board. Then, I think, he rushed too much on this Bill. He should have

[Mr. arap Moi] presented to the country as a Minister and tell the producers as well as the consumers that a Bill will be introduced and how will it affect them.

Furthermore, Mr. Deputy Speaker, clause 4 of the Bill says that the composition of the Board under section 4 shall consist of 11 members appointed by the Minister by notice in the Gazette, subject to the approval of the Governor in Council of Ministers.

Now, Sir, section (b) of the clause states that a panel of not less than five names will be submitted to the Board, which is the ALDEV Board, and that two of these names will be appointed.

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): Mr. Speaker, the hon. Member will forgive me for interrupting him. I must correct him. Clause 4 (b) says that five members will be appointed from a panel of not less than ten names submitted to the Minister by the Board of Agriculture (Scheduled Areas). The hon. Member must not confuse the two.

MR. ARAP MOI: Thank you very much, Mr. Deputy Speaker. Sorry, Mr. Deputy Speaker, I meant section (c). The members should be more than two, and if only two members are on this, out of five members, the Minister should take into consideration that Africans have not organized themselves as far as the dairy industry is concerned. When I say this, I do not mean that Africans should not be appointed to this Board. But they should be the actual producers who feel the pinch over this matter.

During the consideration by the select committee, the Minister should consider this seriously and have more members on this Board. I would urge the Minister that members of the Massai who live around Nairobi—particularly those who live around Ngong—will find it difficult; I do not know how the Minister will safeguard individual producers who sell milk in Nairobi, either as a group of four or five or as an individual, I should like to get the Minister's assurance on this.

With this reservation, I should rather keep quiet until next time.

[Mr. Deputy Speaker (Mr. Conroy) left the Chair]

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

THE EARL OF PORTSMOUTH: Mr. Speaker, Sir, I rise in principle to support the Bill and I will not go into details, owing to the fact that we are getting a select committee shortly.

Sir, I have always felt that it was a great pity we did not go back to the type of Bill or enactment that, as far as I can remember from my school days, one had in the Middle Ages, where the purpose of the Bill was clearly set out beforehand in the preamble. When, therefore, there was faulty drafting, the interpreters of the Bill, be they lawyers or otherwise, could go to the purpose of the Bill, fully set out, rather than have to rely on a lawyer's wrangle over faulty drafting.

Now, Sir, I say that because in 1933 the Milk Marketing Board was set up in Great Britain, and I happened to be one of the first members appointed by the Government to act as their representative on the Board. Our intentions were absolutely admirable but we were faced with a position that was very analogous to that which we have today. We were in the middle of a slump; stapletons, grasses and leys were increasing milk right and left; everyone had to produce milk so that the farmers could have their weekly milk cheque; and so the result was that we were very over-produced. We were very much faced with the same conditions of a cut in prices and the dangers that we have got here. And, Sir, that is one of the reasons why, much as I dislike seeing more boards than are necessary, I realize the necessity for a Bill of this sort.

However, Sir, one of the troubles that we were faced with then was this: owing to the fact that we had to act quickly, we were inclined to stifle the small man and the small cheese producer; we were inclined to over-regulate. Naturally, the big middlemen were delighted about this, too, they did not mind; but we ourselves found it very much easier to deal with the big battalions rather than the small individual. Sir, I do hope that somewhere in this Bill can be written in some form of instruction to the board to make it part of their duty, consonant with the efficiency and the usual conditions of the

[The Earl of Portsmouth] small man—whether it is making cheese whether it is the point of view that has been raised once or twice by my African friends here—that every care will be taken not only to keep good private enterprises that are going now, but also to encourage new ones in the future, in a growing country such are ours.

Mr. Speaker, I beg to support.

MR. OTA TIPIS: Mr. Speaker, I hope I will be excused if I repeat one point which has been raised by previous speakers. I have been trying to get on my feet about six times, and I have succeeded at the seventh attempt.

Now, Mr. Speaker, Sir, I rise to oppose the Bill outright, without any reservations, because I feel that this Bill is designed to squeeze the poor small African producer. I mean, I quite appreciate the words of the hon. Minister when introducing this Bill, but we have heard quite a number of Ministers' sweet words in this country, and when things which are said to be to the benefit of the people are implemented, then the facts prove to the contrary.

Now we are getting a bit fed up, Mr. Speaker, with the creation of these sort of monopolistic boards which are supposed to serve all communities. Later on, they are put in the hands of some of the selfish people who will not like to share equally with the smaller man. They are interested in the bigger man all the time. We cannot, however, all be big. Some of us are small; some of us are short; some of us are taller; and we cannot all be big.

Now, Mr. Speaker, I personally do not see the reasons why this Bill was introduced in this House at all. I know that the Kenya dairy farmers and the directors of the Kenya Co-operative Creameries are men of very great integrity and capability; they have all the help and advice of the Kenya National Farmers' Union, the Board of Agriculture, and also the whole Ministry, the expert knowledge of the whole Ministry of Agriculture. As such, Sir, I think it would have been a very good idea if the Minister was very much interested in perfecting the well-to-do farmers, those farmers who, through their own energy and initiative, have passed through some of the big droughts in this country and have all the time persisted and seen the

dairy industry through some of the difficult periods, he should only have stepped in, in an advisory capacity and let the industry itself organize and safeguard the industry's interests and organize a proper marketing system, rather than try to organize a sort of board which is simply there to squeeze the small producer.

We have, for example, the Kenya Meat Commission. I mean, it is all very well; the same words were used when it was introduced and now we have seen for ourselves. Now, Mr. Speaker, I think it is time that we concentrated on tapping some resources in the dairy industry which are not yet tapped, rather than try to, say, let the big man who is able to stand on his own legs financially all the time. By that I mean you should take, for example, the Masai people, who when the season is very good, have quite a large amount of milk wasted for nothing. There you have a man who is not a producer; he is sometimes a trader. Now this man owns a small *duka* somewhere in the reserves; he buys milk from the Masai; he separates the milk and then gets ghee which he sells. And the Masai people instead of wasting that milk have benefited through selling to the trader and so forth.

Now if these producers are to be registered, how are you going to persuade a Masai woman, carrying a few calabashes of milk from the reserve to Narok or Kajiado, in exchange for a few pounds of *posho*, to take the trouble to register herself as a producer?

I think, Mr. Speaker, that this Bill should be removed entirely. Let us not try to create some more hardships and difficulties for our people in this country. I mean, for instance, if the farmers in earlier days of farming in this country when no market existed, organized themselves and formed their co-operative society, which is now the Kenya Co-operative Creameries, with all the benefits and experiences gained through those difficult stages, I know that they can stand completely and see that the dairy industry does not fall, but prosper. I think it would be a good thing if the Minister forgot all about this Bill which is going to interfere a lot with most of our backward peoples.

Mr. Speaker, with these few words I beg to oppose the Bill.

MR. ODINGA: Mr. Speaker, Sir, as you very well know, I am one of those who are the enemies of these boards and I have made my position perfectly clear from the very beginning about all the boards which have been introduced in this House.

This particular one is, I think, even more dangerous than those which I have tried to oppose. The Minister tried his best to explain it to us and he did it really thoroughly. I think his main argument centred round the fact that it is mainly to protect the dairy industry from over-production. For his second argument, he went on to propose a marketing organization for dairy products. But, Sir, I think the Minister could do these things in another way, rather than set up a board which will only create some other implications.

The Minister, for example, I know was keen to protect the European producers against over-production. But the European producer, at the moment, is organized under the Kenya Co-operative Creameries, and I do not know whether there is any other organization amongst the European producers which is competing with the Kenya Co-operative Creameries. I think it is completely monopolizing that particular business and as such, if there was any protection, it could be done through some legislation to protect other smaller producers coming in which I think also would be questionable in the end that the European producer does not like any other man to compete with him. He does not like any other newcomers to get into the dairy industry. At the same time, you talk about organization—I am sure that they have already organized themselves, but I know what is worrying the European producer at the moment because they are in difficulty now. We have let the African producer who actually contents himself to the local market. The European producer would like to get into the local market and, at the same time, try to compete in the world market, which I think is also quite reasonable, and when the Africans come to that, of course, the things would not be difficult because at that time the Africans will have to join hands with them and try to compete in the world market as well as in the local markets. But, at the present moment, the African

producer is not organized and I do not think that even the Ministry itself is very keen to organize the African market. Because before that is done, I do not see that this Board will serve any useful purpose as far as the African producer is concerned.

Mr. Speaker, we know that we have only got two groups of producers in this country. We have got the European producers and the African producers and we know the African producer is interested in ghee because we consume more ghee than butter. The European producer consumes more butter, and they are, therefore, more interested in the butter side of it. At the moment, the African producer hates what is called the control—he hates it even much more on ghee than on the other produce on which the Minister intends to lift the control because, at the moment, the African in the country is not getting the real ghee which he should get. If he gets any form of ghee, even in Nairobi if you go to a shop and ask for ghee you will not find the ghee which you need, but adulterated ghee mixed with all sorts of things that you cannot describe.

MR. MCKENZIE: Question.

MR. ODINGA: You will probably want to answer that question but you will not be able to do so because you do not eat ghee.

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): How do you know?

MR. ODINGA: All right, you will wait for your time to come and answer that question.

Mr. Speaker, you will find that those Africans who live in the reserve hardly ever get ghee. It is really a problem that the people living in the reserves hardly ever get ghee to their houses, and if they are traders—to their shops. They will not get pure ghee simply because the ghee when it is taken—I do not know generally what is done to it—but later on, when it comes to the Africans, it comes in another form altogether, and I am pretty sure that if, you want, that can easily be proved by going to one of the shops to try to buy ghee, then you will see.

Now, Mr. Speaker, if I may leave that particular side of the control which is

[Mr. Odinga] hateful and which we would not like retain in its present form or even in the form which the Minister is now trying to drag it to. We would not like that kind of control. We would like another form of organization, organization of the Africans themselves, organizing themselves to market their own dairy produce and if the Minister could only be keen to help the Africans to organize themselves like that it would be better than what he is trying to do in this particular Board. The Board we know is, at the present moment, initiated by some European producers who are interested in the job and in this particular protection and as such it will only create, because of the very composition, it will only create some political implications. The Minister is probably deciding on the composition of the Board; he is persuaded to bring in and put on the political implications to the composition because in the Board he says that from the Scheduled Areas there will be five representatives and that has created another constitutional problem again, because he says that from the non-Scheduled Areas there would probably be two representatives. Would this not be questioned? If the African producers are going to be controlled by the same Board and at the same time if you consider only the strength of the whole Colony, you will find that the African has much more than the European producers have, and as such it is subject to question that why should there be more Europeans in this Board. As such, I think, Mr. Speaker,—I did not want to go into details of this Board and so on, because I have explained and I have put it much clearer in the previous debate that I hate this Board at this very moment, but if the Board is exclusively to work for the European production and will not affect the African producers then I have no objection, because they have also got their difficulties and I can understand their difficulties. If they want to protect themselves in their own industries and not including the African areas, but leave them to follow their own natural paths, then I will have no objection. But if it is intended to hamper and to only control African production without at the same time trying to organize themselves to come up, then, Mr. Speaker, I strongly object to it and

I will not actually accept it at all, and I know that we shall go on opposing it every now and then and of course politics will get into it. It will be something else instead of what the Minister is trying to organize in his Ministry and that is to help the producers. It would in the end become something unexpected and therefore I am requesting the Minister at this very moment not to be so keen on running his Ministry by boards, boards, boards. He should think of another policy for his Ministry rather than boards, boards. We do not see boards into other Ministries.

Mr. Speaker, with these few remarks, I do oppose this Board very strongly.

LT.-COL. MCKENZIE: Mr. Speaker, Sir, I rise to support this Bill and before I get on to what I want to say about it, I would like to challenge the last speaker, Mr. Speaker, who said that ghee which was sold in Nairobi, and I take it that he meant the Kenya Co-operative Creameries ghee, had all sorts of things inside it. Did he mean, snakes, rats, toe nails, entrails or what did he mean? I will give way if he would like me to, Sir.

MR. ODINGA: I think Mr. Speaker, he did not understand me; but the ghee which I obtain in the shops is adulterated ghee whether it comes from the Kenya Co-operative Creameries or from anyone else.

LT.-COL. MCKENZIE: Mr. Speaker, he distinctly said "all kinds of things".

Sir, I support this Bill for various reasons, the main one being that it is to stabilize a precarious industry. Also because under its umbrella, it will take in artificial insemination, milk recording, bull licensing and bull-progeny testing, the last two items of which have not been touched upon in this country as yet. Now, a number of people do not appreciate that the dairy industry is the basis and the heart of mixed farming. I think also, Sir, they do not appreciate that it is the monthly cheque from dairying which in times of difficulty keeps the mixed farmer going, therefore this Bill at the present moment is most essential.

Now, Sir, I am very sorry that the African Members maintain that they cannot support this Bill. I think that their fears are unwarranted and, Sir, I would like to give them an example to show

[Lt.-Col. McKenzie]

them how this Bill is made, not only to protect the European producer, but to protect them. At the present moment for pool 3 milk, I, as a large milk producer, am paid 80 cents. If I was not tied to the Kenya Co-operative Creameries, and a member of the Kenya Co-operative Creameries, I could bring that milk into Nairobi and sell it in Nairobi for Sh. 1/05 a gallon, in other words, undersell the Masai milk which is coming into Nairobi. I could also ship that milk to Mombasa and undersell the Mariakani scheme. I could land that milk in Mombasa for about Sh. 1/12. This Bill is being brought in to stop people from doing that. There are 20 per cent of the European producers who are not under the umbrella of the Kenya Co-operative Creameries and if milk becomes surplus, that is the picture of what will happen—it will be the breakdown of the whole industry.

Now, Sir, I would like to ask the Minister if all goes well with the Select Committee, if he could give us an idea of when this Bill will be in force and operating. I would also like to ask him, Sir, that in one of the clauses is the annual general meeting to pass the accounts? We members of the Kenya Co-operative Creameries have had a lot of experience of annual general meetings of the Kenya Co-operative Creameries, and the normal turn-out is about 14 people. Now, normally, the Kenya Co-operative Creameries have a pocketful of proxies and at this annual general meeting, if 15 people turn up and outvote the new Board, because there can be no proxies there, if they outvote the accounts, what is the position? I would like that answered by the Minister, Sir.

I also agree with my hon. friend, the Member for Kiambu, Sir, who is worried about the crew that is going to sail the ship. Now, Sir, I wonder if the Minister would not agree to some method, and the Select Committee could perhaps go into this, Sir, whereby the licensed producers at this annual meeting of registered owners, whether they could put up a panel of names direct to the Minister. You are then getting, Sir, the producer putting up the names rather than the Board of Agriculture which, as we all know, only contains one or two people who represent the direct dairy industry.

I would like the Minister, if he would, to consider that.

I should also like to ask the Minister, Sir, where he maintains that the initial money is going to come from to run this Board. Do they intend initially to give them a grant or will it be from a cessa or will he license producers right away?

Sir, when the House was at a very empty stage and my hon. friend, the Member for Southern Area spoke, he mentioned—I cannot remember, but I think it was the Masai—who exchanged dairy produce for maize and—I think that hon. Members on the other side thought he said maize and women. I know the Kipsigis quite well, and I should like to inform the Minister they do not exchange dairy produce for women. It was *wimbe*.

Now, Sir, a lot of people have asked, in the country, why this Bill is necessary when we have got a Kenya Co-operative Creameries. Well, Sir, I think I have given that reason in my answer to the African Elected Members who will not support the Bill. I would like to take this opportunity, Sir, of thanking the Kenya Co-operative Creameries for the way they have run this dairy industry through many difficult years, and how not only have they been fair to their own members, but for the fair attitude with which they have met outside producers.

Sir, I have a number of other small points, which I would rather leave now and put before the Select Committee.

I beg to support.

SHEKH ALAAMOOD: Mr. Speaker, Sir, I have been wondering whether I should speak at all to this Bill—not because I have got nothing to say, Sir, but perhaps it would have suited my community better if I kept quiet. The tendency, Sir, in this country, has been to exclude Arab opinion in every statutory board and committee. I am complaining of this, Sir, although at times it is very convenient for us, because if something goes wrong we can at least go to the responsible Minister and say: "Sir, you have gone wrong; we are not responsible; our opinion has not been consulted".

Those are my doubts why I should not speak on this Bill, but I feel, Sir, the time has come when it should be realized that Arab opinion is an integral part of this country.

(Sheikh Alamoody)

Now, Sir, I will remove the doubts in the hon. Mover's mind. I am speaking for the Bill, Sir. I support the Bill. I support it, Sir, with certain reservations, one of which is the composition of the Board. I have observed the dealings of the hon. Minister for Agriculture and I very sincerely believed him when he said he was trying to avoid bringing in racial issues into the composition of the statutory Board. But I am afraid, Sir, he has been gully, to a certain extent, of the very principle he has tried to avoid.

If we look at the composition of the Board, Sir, we will find that (a) is the chairman. Naturally, this must be a European. If he were otherwise, it would be very extraordinary. The five members must be Europeans as well, under (b). Under (c), Sir, the Minister for Agriculture has said he was hoping that one of them would be an African member and probably the other the Director of Veterinary Services, but he was inclined to think that two of those members under (c) would be Africans. Two members under (d), Sir—the hon. Minister for Agriculture said he hoped at least one of these members would be an Asian. Of course, under (e), this does not specify—but this must be a technical officer and that does not include an Arab, Sir.

This is why I felt the composition of the Board—although the hon. Mover has said he was trying to avoid a racial issue to it—he has yet introduced it in its composition. It would have been better for him, Sir, if he had said: "Whoever I am going to appoint as the Chairman of the Board, I will instruct that he never countenances the raising of racial issues in the deliberations of the Board", and allow a racial composition, rather than say: "I have tried to avoid a racial composition of the Board".

I am saying that, Sir, from experience. I happen to be a member of the Board of Commerce and Industry and I would like to record in this House my appreciation for the way the Chairman of that Board, my friend the hon. Minister for Commerce and Industry, has conducted the deliberations of that Board. The composition is racial, but no racial issues are raised in that Board.

Mr. Speaker, Sir, I am glad that this Bill is going to the Select Committee

and whatever other points we have I think we will have to raise them in the Select Committee, but I would like to request the Minister for Agriculture that he considers appointing at least an Arab to that Select Committee—if he is not considering appointing him to the statutory Board which would be ill-advised—so that in future, if anything goes wrong, he can tell us for the first time: "At least in this Bill we asked the Arab opinion and you are responsible for it as much as any other person".

My other fears, Sir, are that this Board does not develop and become a monopolistic Board, as has happened with the Kenya Meat Commission. When the Bill for the Kenya Meat Commission was introduced, Sir, I observed that the object of the Bill was to stabilize the industry, by paying the producer a higher price than he was getting and at the same time reducing the ultimate price to the consumer. Unfortunately, the object of the ensuing legislation has been contrary to that; the producer is getting less and the consumer has to pay considerably higher.

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): Mr. Speaker, would the hon. Member give way? I think the hon. Member must be responsible for what he says. The producer price and the price at which the Kenya Meat Commission sells to the butcher is the same, except for two cents a pound.

SHEIKH ALAMOODY: Mr. Speaker, I said that very deliberately, because I have very considerable experience with the dealings of the Kenya Meat Commission. It may not be so in the case of the European producer in general, but it is so with the case of the African produced cattle, because the difference in price is being consumed by the over-heads of the Kenya Meat Commission, and if there were no Kenya Meat Commission the consumer would have to pay less and the producer would have to get more.

Actually where the Kenya Meat Commission does not operate—say in Malindi rather than Mombasa—people are prepared to send their cattle to Malindi butchers rather than sell to the Kenya Meat Commission, and meat is cheaper

(Sheikh Alamoody)

in Malindi than in Mombasa. It is because of the over-heads, Mr. Speaker.

My other fears—and these are the last ones—are about clause 35. It is legislation by regulations. Sir, I have got enough experience of this system of legislation. I happen to be the President of the East African Hides and Skins Dealers' Association, and for seven days a week I have to be on the alert seeing that the Government does not introduce new regulations that are detrimental to the trade.

Mr. Speaker, Sir, with these remarks I would like to support the Bill.

MR. SLADE: Mr. Speaker, Sir, I have to declare a variety of interests in this debate, not only, Sir, as a Director of the Kenya Co-operative Creameries—in fact I have been associated with that Society right from the time of its first amalgamation some 28 years ago—but also as a member of the Troup Committee and as having been privileged also to share a little in the drafting of this dangerous and unnecessary Bill.

Sir, I would like first just to answer as briefly as possible those who feel—I know, sincerely—that this is a dangerous and unnecessary Bill. Well, Sir, I think I have to agree that all Bills that provide for, statutory control are dangerous, but sometimes they are so necessary that you have to face the danger; that, I believe, is so in this case.

I do ask hon. Members to consider where they would stand with a dairy industry in which there is no control or organization whatsoever of the form in which the produce comes out for sale, whether milk or butter or ghee or cheese, the places in which it is to be sold, the way in which it is to get to the places where it is needed, or the prices it is to realize from day to day—in times of scarcity and in times of plenty.

Sir, it is only too clear from our own history in the past in other industries and the history of other countries, that in those circumstances there is always great inefficiency, overlapping and constant waste, to the disadvantage both of the producer and the consumer. You get large fluctuations in price, large fluctuations in production and supplies, large swings from one form of production to another—from butter to whole milk and so on—and you get some areas, because

they are near to producers, being flooded at times with produce far beyond their requirements, while other areas which are good markets, yet go short of what they need. That, as I say, Sir, is something that affects not only the producer but also the consumer; not only the producer of one kind of dairy product, but every producer of any kind of dairy product. We are all, on this sea of milk, in the same boat. It may not be so apparent but in fact the interests of producer and consumer and the interests of one producer as against another, are inseparable. That must be understood.

Sir, proof of the need for control of the dairy industry has been seen elsewhere, as other Members have pointed out. It was seen here very clearly in the terrible years of the 1930s when almost every kind of agricultural industry, practically, went to the wall, and one of the few industries that survived that period with a reasonable measure of success was the dairy industry, and the reason—and the only reason—was that it was rationalized by a large membership of dairy farmers in the Kenya Co-operative Creameries. It was the organization provided by that voluntary body that saw the industry through those years.

Now, Sir, it has been asked—and reasonably asked—that that being so, we have the Kenya Co-operative Creameries, why do we not continue just with that kind of control—that voluntary co-operation; why do we not just work and encourage the other co-operatives that Africans would like to develop. Sir, it is a good question, but the answer, I am afraid, lies in the dependence of all co-operative societies on voluntary co-operation. Voluntary co-operation is not so difficult when times are good, but when times are difficult the man who is not a member of the co-operative society has a tremendous advantage because he can work in as a free lance on stable conditions that have been created by the co-operative society, and so there is a continuing tendency for members to pull away from the co-operatives and become free lance likewise.

That, Sir, was recognized quite clearly by Mr. Troup's Committee, where he pointed out that voluntary co-operation was the best form of control, but unfortunately, not complete enough to be practical in all circumstances.



[Mr. Slade]

I would like just to confirm what has been said concerning the attitude of the Kenya Co-operative Creameries towards this question of statutory control. Incidentally, Sir, I am very grateful for the kind remarks made by the hon. Specially Elected Member on the work of the Kenya Co-operative Creameries in the past. Now, the Kenya Co-operative Creameries recognizes that the time has come for statutory control, and they do not seek thereby to dominate the industry. Mr. Speaker, they could have pressed for a method of control which would have given them domination of the industry. That appears very clearly from paragraph 142 (a) of the Troup Report. In that paragraph, we find there are three methods of organizing control. (a) The application of section 37 of the Co-operative Societies Ordinance, by which compulsory control of all registered producers is vested in the established co-operative society, provided that its members already amount to over 75 per cent of the total number of producers and also that it handles over 75 per cent of the total production. That was one method of organizing control, Sir, and it was rejected, positively rejected, by the Kenya Co-operative Creameries, because we find in the report immediately afterwards these words: "This method is not acceptable to either the directors of the Kenya Co-operative Creameries Ltd. or the majority opinion". Well, that puts it beyond doubt that in supporting this statutory control, the Kenya Co-operative Creameries do not seek domination of the industry. Indeed, they are quite content with what the hon. Mover has said with regard to the composition of the Board.

Now, Sir, it has been suggested by more than one speaker that there are signs of indecent haste in bringing this legislation forward. It might seem so at first, but it is now over two years since the Troup Committee made its report and advised that statutory control was then necessary; and beyond that, the situation has become very, very much more critical in the last few months. As I said just now, Sir, there is always need for control of some kind, but, of course, it becomes very much greater when times become difficult, and times are becoming very difficult now in Kenya for two obvious reasons. One is,

the very sudden increase in production, and increase not only due to ordinary evolutionary development, but to quite abnormal rainfall. The other is, the very sudden fall of world prices for dairy produce. Those two things combined mean that it will take more than voluntary co-operation to hold people to rationalized production and marketing of dairy produce, and the need for this legislation is, indeed, now very urgent if the dairy industry is not to collapse.

Sir, I was very interested to hear the hon. Corporate Member for Agriculture urge that the Bill should adopt an ancient practice of describing in the body of the Bill the general purposes for which it is enacted. That, I agree, has not been very common practice in later years, though it is starting to become practice again in some legislation in England. But in fact, in this Bill, that suggestion has been followed, because clause 16, which described the functions of the Board, is really a general political statement, as you might call it, of what the Board is there to do, as opposed to a strict legal description of what its powers will be. I would suggest the purpose of clause 16 is precisely what the hon. Member asked for. Now, I am afraid that it may not enable the happy, free interpretation of the Bill that he hoped would follow. Nevertheless, it is because of the necessity for clarity that I, for one, recommended clause 16, because this is a case where we cannot legislate rigidly today for all the contingencies of the dairy industry, but a case in which we have to enable some authority to legislate as the need arises. In the words—very sound words—of an hon. Member, I think the Member for Southern Area, we must legislate, I think he said, "according to the dictates of time". That is precisely right, and that is what this Bill enables the Board to do, by clauses 18 and 19.

Now, Sir, when you are giving a board general powers to legislate as the need arises, then it is important that you have a clause defining the broad scope of their functions, so that there can be some idea of whether they are really legislating according to what they were meant to do, or beyond what they were meant to do. That is really the basic framework of this Bill. I do sympathize, Sir, with those who protest against legislation by

[Mr. Slade]

regulation but, unfortunately, it is unavoidable at times. Just as in times of emergency you have to give the executive authority power to legislate, so in a case like this, where you are really aiming at dealing with emergencies, aiming to prevent the development of crises in an industry, you must give executive authority power to legislate.

The only thing I would say is that I am inclined to agree with the hon. Member for Nyanza, who spoke so well, in her objection to clause 35, for which we have to share responsibility, Sir; it was intended as a stopgap in case we had not covered all that was needed by clauses 18 and 19, and I do not think it was a very worthy effort. I would be inclined to suggest to the select committee that we abandon it, and rely on proper drafting of clauses 18 and 19.

There is, Sir, just one other point on these clauses 18 and 19, to which attention should, I think, be drawn again, though the hon. Mover did mark it out: clause 18, which gives the Board power to act on its own initiative, does deal practically with mechanical activities; clause 19, which confers the greater powers of interfering with the industry makes the Board subject to the control of the Minister. It will be noted, though, that the Minister cannot initiate any regulations made that clause; he can veto them, and that is the answer to those who suggest that this is still putting power in one pair of hands. It is not. The power is there with the Board, but it is subject to veto by the Minister. That, I think, answers my hon. friend for Ukamba who said, how can we put faith in the fact that the Minister merely hopes that he will be able to restrain the Board? He hopes that they will not go beyond the actual needs of interference with the industry; indeed, I do too, and I was very glad to hear the hon. Mover's assurance—and the Troup Committee laid equal emphasis on that—but the point is, Sir, there, in clause 19, is his power to give effect to his hopes, because he can put a complete rein on the Board in exercise of all its major powers. And, of course, as the hon. Mover pointed out—when you come to the most extreme form of control of all in clause 23, that is, the actual vesting of the dairy produce in the Board—for

which, incidentally, legislation in other countries including England provides—that can only be exercised by the Governor in Council. So there is pretty strong protection against abuse of these powers.

Sir, as was expected, there was considerable comment on the composition of the Board, and it is difficult to answer all the different ideas which were quite reasonably put forward. But I would really repeat the recommendations of the Troup Committee here, that you must in a Board of this kind see that the producers are represented in strength, because they are the people whose livelihoods are concerned; actually, they are probably the people who are going to pay for the running of this Board. You must see that there is a commercial wisdom there, and you must see that consumers are represented. You can argue about proportions of representation until you are blue, but it is, I suggest, right that there should be more producers than any other particular interest. And for the rest, Sir, it is both undesirable and actually impossible to have complete representation of either sectional or area interests. It is undesirable, Sir, I think, because it is not the intention that this Board should be a Board of people who fight each for the interests of a section; it is to be a Board, a small Board, of people who look at things for the Colony as a whole. But if you are going to have representations of every kind of interest in the dairy industry, from the producer to the manufacturer of ghee, the manufacturer of ice-creams, the distributor, the cheese-maker, you will have an enormous Board. South Africa tried it, and they ended up with a board of about 25 to 30 just with their efforts to represent producer, retailers and all the other little sections of the dairy industry. And then, you have not started to represent areas, of course. If you are going to represent areas, you are off again, because you must remember here that the areas concerned in this legislation are the whole of Kenya, not merely the areas of European production. I do not know where you would end in getting adequate representation of all those areas on this Board. It is a point always that a board nominated like this, by the Minister is not a democratic board. There are times,

(Mr. Slade)

I think, when we are better without the extremes of democracy, but in this case, with the kind of the Board we want, I am afraid it would be quite impossible to do it by election or by individual representation of any other kind. You have got this measure of protection: that the producers, who as I say are probably those who have to pay for all this, have got their annual general meeting when the Board comes under fire and has to give an account of its doings for the year. As regards the chairman, Sir, it was put forward by the hon. Member for Klambu, whom again I would like to congratulate very much on his maiden speech, that the chairman should be elected by the rest of the Board. I think another speaker as well as he—I think the hon. Member for Ukamba—said he must command the confidence of the Board as well. But that is, I think, covered, Sir, by clause 4 as it stands, because the chairman there under clause 4 (1) (a) is to be appointed by the Minister after consultation with the other members of the Board. In that way, he can be assured that the man he proposes to appoint has the confidence of the other members.

Sir, there only remain one or two points for me to comment on, but there is just one I have time to comment on now. That is this question of penalties raised by the hon. Member for Mount Kenya. He pointed out that in two clauses, one in the general clause 20 and the other in clause 23 which deals with the vesting of dairy produce in the board, there is provision that regulations can impose fines up to £500 or imprisonment up to one year for breach of regulations, or in the case of vesting of dairy produce under clause 23, for obstruction of the board. Now, Sir, those may seem heavy penalties, and the hon. Member said surely fining is enough, without giving this board power to prescribe imprisonment. But, Sir, the answer is that we are dealing here with something that is vital to the whole country, just as vital as control of prices, or the control of distribution of produce in time of war, and your enemy, if you have any, will be the man who seeks to make a profit outside the control, the man who wants to score by the existence of a black market. Now, those men, Sir, do not deserve any sympathy. I should have

thought that when you get the worst offender of that kind, at times when restrictions are needed, and he deliberately avoids them for his own private profit, a maximum penalty of a year's imprisonment is on the small side. It is only a maximum, Sir; and it is one which will rest not with the Board, but with a Judge or magistrate, and I would suggest, Sir, that it is reasonable.

#### ADJOURNMENT

**THE SPEAKER (Sir Ferdinand Cavendish-Bentley):** It is time for the interruption of business. I therefore adjourn the House until 2.30 p.m. tomorrow, Thursday, 26th June.

*The House rose at sixteen minutes past Six o'clock.*

Thursday, 26th June, 1958

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

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

#### PRAYERS

#### MOTION

##### AFRICAN LIFE ASSURANCE CONTROL

**MR. MBOYA:** Mr. Speaker, with your permission I beg to alter slightly the text of the Motion I was going to move this afternoon. The Motion I will move this afternoon reads as follows:—

THAT this Council, being aware of the existence of the restrictive practice imposed under the African Life Assurance Control Ordinance, 1946, and further being aware of the critical attitude to this restriction among the Africans and the insurance companies actively engaged in African insurance business, calls upon the Government to rescind section 6 of the said Ordinance and amend section 3 by deleting the words "... the Chief Native Commissioner ..." and inserting in place thereof the words "... the Minister ..."

Mr. Speaker, the sense of the Motion is to try to bring to uniformity the law as it applies to insurance policies for people of all races. Until now there is a clause, section 6, in the African Life Assurance Control Ordinance which requires attestation of Africans who wish to buy policies.

Section 6 of the Ordinance reads:—

"No person shall accept any life assurance proposal from an African unless the proposal bears the signature or mark of such African attested by the person appointed for such purpose by the Governor by notice published in the Gazette."

As I have explained, Sir, in the text of the Motion the African community which has in the last few years become very much increasingly conscious of the need to buy insurance policies are very critical of this particular requirement in the law. It has certain disadvantages, namely the requirement that persons wishing to be insured must be attested by the Administration in each particular

case. Where a person does not live within easy reach of an administrative office or a district commissioner's office there is difficulty for him in securing such attestation.

I have also received similar views or complaints from the companies actively engaged in African life insurance and they have expressed the view that in fact it is unnecessary in the present circumstances of Kenya to require attestation of those wishing to buy insurance policies.

It might be of interest to the House to know that similar legislation existed in Uganda and that it was repealed or rescinded in 1954. The House may also wish to know, Sir, that when there was a review of some legislation in order to find out, or, rather, when a review of discriminatory legislation took place in 1953 as a result of a Motion in the legislature, the African (Life Assurance Control) Ordinance was one of the pieces of legislation that was thought to be discriminatory. However, Sir, at the time it was stated that the Ordinance was designed to protect the African by ensuring that only reputable persons and companies were permitted to transact business.

Now, Sir, I draw attention to this fact because I think the House would like to know that whereas the Africans and the insurance companies are critical of this particular aspect, namely attestation, they are not at this stage asking that the previous pieces of legislation existing to ensure that companies registered are reputable companies or that canvassers are reputable persons should be removed. The companies and the Africans will be quite contented to see retained the part of the legislation which requires the registration of reputable, or which ensures that only reputable persons are employed in canvassing or that reputable companies are registered as insurance companies. So that the question before the House today is not whether or not companies should be registered, and it is not whether or not the canvassers should be registered. The question is simply that the requirement, that persons wishing to buy insurance policies should be attested, should be removed from the law.

For those reasons, Sir, I call for the deletion of section 6 of the Ordinance.

(Mr. Mboya)

Now, Sir, in the Motion I also ask for the deletion of the words "Chief Native Commissioner" and the substitution of the word "Minister". In this respect, Sir, it is my intention to bring this Ordinance into the same position as any other Ordinance so that in fact the Minister concerned would deal with these matters rather than a reference to the Minister for African Affairs or the Chief Native Commissioner as specified in the law.

Mr. Speaker, Sir, with these few observations I beg to move.

DR. KIANO: Mr. Speaker, in seconding this Motion introduced by my hon. friend the Member for Nairobi Area I will also try to be as brief as possible.

The point has been brought to the attention of the House that the intention of this Ordinance was to protect the Africans from unscrupulous insurance companies and at the same time perhaps make sure that the Africans buying insurance premiums actually understand the obligations and the possible losses which could be incurred if they went without proper understanding.

Now, Sir, it is our contention that while control could be good, if control is carried beyond the time when it is necessary then that control has a retarding effect on the commercial development of the African. Sir, so far as this particular control is concerned, we are aware of the fact that there are a large number of Africans who really under any standard cannot be classified, as people needing special treatment or special protection in the field of commerce: and yet these people, whose ability in business is proved, whose credit worthiness is known, whose knowledge of what is going on is just as average as that of any other trader, are required by this law, before they can do business with a life assurance company, to go to a district commissioner or perhaps a district officer to get his attestation that this person is fit to pay the premium.

Now, Sir, this, in the first place, is an unnecessary piece of work for the Administration—referring to the African administration. In the first place they may not have personal knowledge of the particular trade and yet their attestation is necessary.

Secondly, Sir, we find that this is the wrong type of function. We do have a Minister who deals with insurance companies and why another Minister should be brought into this business, when it comes to the Africans, we find it is not a good distribution of Government function.

The third point I would like to stress is that this question of viewing the African, whether able or unable, as a special person in this country, which is very implicit in this law, cannot really prove to be the most beneficial way of encouraging African business. We are aware, Sir, that according to this law, if I wanted to buy a life insurance, instead of being like any other person in this House, I would perhaps have to make a special trip either to my own district commissioner or perhaps to the Nairobi District Commissioner before I can, and then go and get the premium necessary.

Now, Sir, we find this is an unnecessary requirement. It is in this connection that I would like also to draw the attention of the Finance Minister not only to this clause which is section 6, which requires attention, but also the modification of the wording of section 3 which brings the Chief Native Commissioner into the picture, if the Government finds it proper, to accept this Motion, I would ask the Minister in his answer to carry a little further the logic behind our Motion and give us the Government's view on an Ordinance which is closely related in philosophy to this one, that is, the African Credit Control Ordinance, which restricts Africans from borrowing more than Sh. 2,000 unless they have the exemption from the Registrar-General. Now, I would have liked to put in an amendment, but I think, Sir, if I moved this amendment, I would either be out of order, or perhaps the matter might be considered a little bit too unrelated, therefore, I would only ask the Minister that in his answer he should give some sort of indication as to what the Government intends to do about this other Ordinance which is really related in philosophy and in intent, because our argument is one, and only one: that protection may be necessary. But protection, when necessary, becomes a retarding effect, just as the Royal Commission on Land

[Dr. Kiano] . . . and Population said about the Kenya economy in general.

With those words, Sir, I beg to second the Motion.

THE SPEAKER (Sir Ferdinand Cavendish-Bentick): The hon. Mover consulted me about the amendment to his Motion which I readily agreed to, as in fact, it makes the Motion more specific!

Question proposed.

MR. MULIRO: Mr. Speaker, Sir, this Motion is a very good Motion, and I think the Government would accept it for a change.

The problem of insurance as far as Africans are concerned is just like any other group of people in this country. Africans are just as interested in security for their families like any other person, and these restrictions have been very far reaching, stopping many Africans, especially in remote areas, from taking out insurance policies. I would have liked to talk at a long length, but since I feel that what has been put across by my hon. friends is very simple and straightforward, and the Government is going to accept this, according to my imagination, I will only talk on section 4, where also—although my colleagues did not put that across—I think that section also which stated that no person shall canvass or solicit any life assurance proposals without obtaining a permit in writing from the Provincial Commissioner; I think, Mr. Speaker, any reputable company and their employees could go out and get the Africans—many of them are now in very good class—to write out policies. I have had some experience of these policies (I have some policies myself out), but a friend of mine last year, in fact, for the last three years, has been trying to get out some insurance proposals, but they have all been rejected on all occasions. But I think if the Government accepts this today, it will be indeed very good.

Secondly, I think there are very many companies, like the South African Old Mutual, for instance, and Australian Insurance Society, and others, which do not insure African lives, although personally I am insured with the Old Mutual. I would feel that such reputable and good companies should be open to do

business among the Africans, and not to limit that only such and such a company could deal with the African insurance.

With these few remarks, Mr. Speaker, I beg to support the Motion.

MR. NOOME: Mr. Speaker, Sir, I beg to oppose the Motion. There are millions of Africans in this country, as it is said, who are illiterate and very few perhaps in Nairobi or Mombasa or Kisumu or Nakuru understand much about insurance and policies. The object of the insurance law coming into force is to protect Africans from throwing their money away without knowing where it goes, and it is for that reason that I believe restrictions to Africans about this sort of insurance policy should safeguard the interests of the Africans, mostly in the remote (parts of the) countries.

As I have already said in this House before, Mr. Speaker, everybody wants to know where his money goes to after paying the money. I have seen some sort of insurance agents walking about with their bags looking for clients to sell their insurance policies to, and I should say very few have gone to the lawyers to find out the interpretation of the insurance policies. Even those who have their motor-cars insured, I am sure many of them go to lawyers to get things properly fixed up, rather than take the risk of dealing on their own with the insurance company direct. In this instance, Mr. Speaker, I think this Motion is unnecessary as far as Africans' interests are concerned. The object, as many other laws are put into force regarding the protection of Africans in this country, is that the African money should not be thrown away in gambling or any other money of that sort. There is a law about preventing Africans from gambling, and I believe this is the law that Africans should be protected by, especially about buying these insurance premiums which they do not understand at all.

If I were to buy insurance policies, I have to read, although I understand something, I have to read and re-read until I make sure what I am doing, and I believe very few Africans in Nairobi have got their lives insured, although insurance companies have started in Nairobi years ago. I do not understand why this amendment to the insurance law is brought into this House, because

(Mr. Ngome)

few Africans have got their lives insured with insurance companies which came into this country many years ago. I think the object, as I say again, the object of bringing this law is to protect most of the African people who do not understand the law regarding insurance companies.

Mr. Speaker, with these few words, I beg to oppose the Motion.

MR. KHAMISI: Mr. Speaker, Sir, I did not intend to speak on this Motion, but I have to do so in order to oppose the hon. Member who sat down last, because I think he does not understand the purpose of insurance himself, and for that reason, he takes it for granted that all other Africans beside himself do not understand the purpose of insurance. Mr. Speaker, Sir, we have got very many insurance companies here, and for very many years, they have been doing very thriving business with life insurances from the Africans. I particularly deny what the other speaker said, that the Africans do not know anything about insurance.

Now, the importance of insurance, Sir, was realized by us in the local authorities only a few months back when it was found that most of the traders in the urban areas like Mombasa have no other money, have no other ways of insuring. If they get the loans, the loans will be saved, and we were told by the Town Clerk at Mombasa that the best thing for them to do is to get an insurance policy in order to obtain a loan from the local authority. I think that is a very important thing. It will help very many African traders to obtain their loans. In fact, I think the Government and the Information Office must use all the propaganda machine to try to educate the people on the usefulness of insuring their lives, because we are living in a new world, in a modern world, and we have to forget the old ways of property. I think an insurance policy is a very good surety for a loan.

With these few words, Sir, I would like to dislodge the ideas which have been planted in the minds of hon. Members of this House just now that the Africans are a group of ignorant people; they cannot choose whether to spend their money on insurance or not, Sir. That is quite

wrong. The African people are quite alert, and they know, if anybody tries to deceive them; at once, they recognize that this man is not standing on our side and that he is trying to deceive us.

With those few words, Sir, I would like to support the Motion.

MR. BOMPAS: Mr. Speaker, Sir, provided the responsible Ministry of Government carries out its duties effectively to ensure that there is proper control over the life assurance companies entitled to carry on business in this Colony, I can see no reason to disagree with the Motion before the House. If the hon. African Elected Members in their wisdom consider that the less advanced members of their community no longer require the protection that the Ordinance gives to them at the moment, so far as attestation is concerned, again, I see no reason to quarrel with this Motion, Sir, and I shall support it.

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): Mr. Speaker, Sir, I would like to deal with one or two points that have been made in this debate, Sir.

In the first place, let me deal with the hon. Member for Nyanza North and section 4. I think, Sir, not only at this stage are the provisions of sections 2 and 3 necessary in order to establish the standing of the insurance company and the form of proposal and policy that is put before the people, but also the provisions of section 4 which make absolutely certain that the person who is selling the insurance to the African is an approved person. I would disagree with the hon. Member for Nyanza North because of the fact that if you did not have this clause in, the man concerned need not be a canvasser of the insurance company, and it would be possible therefore for a field of deceit to open. I think, Sir, there will obviously come a time when this too will disappear. But I do disagree with the hon. Member for Nyanza North in any suggestion that this should be dealt with at the present moment.

I would like to deal with the point made by my hon. friend, the Member for Central Province South, with regard to the reference to the "Credit to Africans Control". The hon. Member is perhaps aware that the year before last

[The Minister for Finance and Development]

the Government did amend the total to Sh. 2,000 instead of Sh. 200, and that my hon. friend, the Minister for African Affairs, in a recent debate, did say that the Government would look at this Ordinance again.

I would say that the Government has very great sympathy with the point of view put forward by the hon. Member for Central Province South and believes that in this, as perhaps in some other instances, the time has come when the protection should be removed from the African individual and he should be put into the position of learning the ordinary economic lessons of life.

That, I think, Sir, would dispose of the fears expressed by my hon. friend, the Specially Elected Member, Mr. Ngome. It is not intended to remove the protections in so far as the standing of the insurance company is concerned, in so far as the proposal form and policy is concerned, or indeed the agent who will sell the insurance. It is only the awkward and restrictive clause 6 which does impose a burden on the individual that it is intended should be removed. The Ordinance will, of course, still remain one of those Ordinances in Government that are split, necessarily, between two Ministers. The Minister for African Affairs is directly responsible for this Ordinance, and will so be, but the general insurance work comes under my own Portfolio.

The position with regard to insurance generally is under review, Sir, I think it will by now be obvious that because this is a good Motion—to use the word used by my hon. friend, the Member for Nyanza North—in the way it is put forward, the Government has pleasure in accepting it.

MR. MBOYA: Mr. Speaker, Sir, firstly may I say that we are very happy to know that the Government has accepted this Motion, and I am sure that it is in the interests, not only of the African community; but of the country as a whole that this Motion should have been accepted. I do not think there is very much else to say, except, if I may take just one minute, I would like to deal

with the hon. Specially Elected Member, Mr. Ngome.

Mr. Speaker, I am surprised that he should have stood up to make the remarks that he did, and preface them with the words: "in the interests of the African people". I do not know what he calls the interests of the African people; I have my own doubts as to whether he really knows what he was talking about—

THE SPEAKER (Sir Ferdinand Cavendish-Bentick): Order, order. I must impress on hon. Members that people who are elected or nominated to this or any House may not and indeed cannot have the same views about everything. Because one Member expresses views contrary to another Member's beliefs, that is no reason for either to be somewhat rude in reply!

MR. MBOYA: Thank you, Mr. Speaker. I do not wish to challenge the status or position of the hon. Member, except to say that it is an exposition of grave ignorance to suggest that the African community, at this stage of this country's development, are not in a position to determine whether or not they need security and protection. The evidence is there for everyone who wishes to see it, that the insurance companies have in the last few years, been actively engaged in African insurance, and that hundreds of Africans are being insured daily.

The hon. Member should have noticed, Sir, that, in fact, what he is afraid of has been covered fully in my opening remarks, when I said that we are not asking for companies not to be registered, nor are we asking for canvassers not to be registered. All we want is that the attestation of individuals should not be carried out.

Mr. Speaker, with those few remarks, I beg to move.

The question was put and carried.

BILLS

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 Legislative Council (Amendment) Bill*

- Clause 2 agreed to.
- Clauses 3, 4, 5, 6, 7 and 8 agreed to.
- Clauses 9, 10, 11, 12, 13, 14 and 15 agreed to.
- Clause 16 agreed to.
- Title agreed to.
- Clause 1 agreed to.

*The Income Tax (Rates and Allowances) (Surcharge) (Amendment) Bill*

- Clause 2 agreed to.
- Title agreed to.
- Clause 1 agreed to.

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): Mr. Chairman, I beg to move that Committee do report to Council its consideration and approval of the Legislative Council (Amendment) Bill and the Income Tax (Rates and Allowances) (Surcharge) (Amendment) Bill without amendment.

The question was put and carried.  
 Council resumed.

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

**REPORTS**

**THIRD READINGS**

*The Legislative Council (Amendment) Bill*

THE TEMPORARY MINISTER FOR LEGAL AFFAIRS (Mr. Conroy): Mr. Speaker, Sir, I beg to report that a Committee of the whole Council has considered the Legislative Council (Amendment) Bill and approved the same without amendment.

The question was put and carried.

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): Mr. Speaker, I beg to move that the Legislative Council (Amendment) Bill be now read a Third Time.

THE MINISTER FOR AFRICAN AFFAIRS (Mr. Johnston) seconded.

Question proposed.

The question was put and carried.

The Bill was accordingly read the Third Time.

*The Income Tax (Rates and Allowances) (Surcharge) (Amendment) Bill*

THE TEMPORARY MINISTER FOR LEGAL AFFAIRS (Mr. Conroy): Mr. Speaker, Sir, I beg to report that a Committee of the whole Council has been through the Income Tax (Rates and Allowances) (Surcharge) (Amendment) Bill and approved the same without amendment.

The question was put and carried.

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): Mr. Speaker, I beg to move that the Income Tax (Rates and Allowances) (Surcharge) (Amendment) Bill be now read a Third Time.

THE MINISTER FOR AFRICAN AFFAIRS (Mr. Johnston) seconded.

Question proposed.

The question was put and carried.

The Bill was accordingly read the Third Time.

**SECOND READING**

*The Dairy Industry Bill*

*Continuation of debate adjourned on 25th June, 1958*

MR. SLADE: Mr. Speaker, Sir, when the House rose yesterday evening, I was dealing with the criticism of this Bill in respect of the power of this Board to make regulations, for fines or imprisonment of those who infringe the regulations, and also another section which contains similar provision for fines or imprisonment, and I was pointing out, Sir, that if a measure of control is considered necessary in order to preserve the very life of an industry of this importance, then surely there must be power to punish those who seek to sabotage such control. The case may well arise when the gravity of the sabotage can only be met by a sentence of imprisonment. Whether the maximum should be one year or six months or some other period is, of course, for the select committee to consider.

I think, Sir, the question was raised by one speaker as to the possible trespass by this Bill on the jurisdiction of local authorities in the matter of hygiene. I

[Mr. Slade] ... can say, Sir, having had a share in the drafting, that the draftsman was well aware of this criticism, and did his best to meet it by deleting from the original draft anything that looked really like duplication of the function of the local authorities in regard to clean milk in their own areas. It is certainly not the intention that the Board established under this Bill should usurp that function. There are, however, still provisions in the Bill for the Board to have power to inspect premises—dairy premises, that is to say, where the milk is produced—and generally to take measures for standards of production, including cleanliness. That is obviously necessary still because there is quite a lot of production that will not actually come under the jurisdiction of any local authority in this country. Everything that is produced for export must still come up to a certain standard of cleanliness, and it is only the Board that will be able to control that cleanliness. That is the reason for, and the extent to which, the Bill contemplates the Board taking a hand in that matter.

Now, Sir, there was anxiety expressed by the hon. Member for Kiambu, as indeed it was expressed to the Troup Committee, concerning the special position of producers who live close to towns and have that geographical advantage, though at a high cost of land and labour, of being able to supply milk very easily to those towns. Well, Sir, the Troup Committee did not make any particular recommendations concerning that, nor does this Bill make any special provision for people in those special circumstances, because it must be a matter for the Board itself to decide: whether, in the interests of the industry as a whole, people in that position require any special protection by zoning or otherwise. Indeed, they are not the only section of the industry that may require special consideration. For instance, there is the very important class of producer/retailer, the man who produces milk on his farm and then retails it himself in a neighbouring town. Now the Troup Committee did actually make recommendations concerning them which was to the effect that you should leave them alone, but here again the Bill does not make any express provision because it recognizes that it will be for the Board to decide. So it must be, Sir, for any

particular section of the industry. It is no good, when you set up a board like this, to legislate in advance as to how that board should exercise its discretion.

That really leads me straight on, Sir, to the anxiety that has been expressed by some of my hon. friends concerning the position of the African farmer. They feel that there is no case for controlling production by Africans at the present time, and that any measure of control is going to operate to their detriment. It was truly pointed out that the African milk market is hardly developed at all as yet, apart from the rather spectacular development of Mariakani. But the position is this, I think, Sir. The Bill certainly can be applied to every producer in the country. It need not be so applied, if the Board chooses to deal only with certain areas or certain classes of production. As long as African production of milk is so little developed, I, for one, should be very surprised to see the Board wanting to interfere with that production very much. But if Africans want to see their milk market developed—as I am sure they do, and I am sure they will see it developed—then, far from the Board's being an encumbrance to them, it is through the control exercised by the Board that that production can best be developed, because, this Board, after all, is designed to help production and not to hinder it.

That really, I think, is the answer. As soon as African milk production comes into the swim, as it were, with European production, then indeed their interests are identical, and in the interests of both this control will be necessary, and will have to be applied to both.

I would again point out, Sir, just in closing, how identical the interests of everyone are in this matter and, again, particularly with the producer and the consumer. That has been proved, Sir, actually by the history of legislation in other countries where, for instance in New South Wales, control of dairy produce was introduced originally purely for the benefit of the consumers, because the consumers of Sydney were not getting a regular supply at a regular price. So control was introduced to see if that could be remedied, and the control had only been developed a little way when it was found quite necessary to take steps to protect and help and encourage the

[Mr. Slade] producer. It became a control working just as much in the interests of the producer as in the interests of the consumer. In other countries, Sir, where control has been introduced primarily for the benefit of the producer, in a very short time it has been developed as something which was there to help the consumer likewise. This Bill has anticipated that, and is already designed to be for the benefit of both.

The fact is that a consumer wants milk but he cannot compel a farmer to produce milk. The farmer wants to sell his milk but he cannot compel people to consume his milk beyond a certain bare minimum; what you want, in the interests of all, is maximum production and maximum consumption, and those things must turn on the economics of the matter. It must pay the producer to produce; it must be at such a price that the consumer can afford to buy it. So that is where both sides meet.

That is where a Board like this, I believe, will help them to meet, and by economies help the price to be profitable to the producer without being too high for the consumer.

Mr. Speaker, it has been a very strange and awful experience for me, on this side of the Council, to defend with such enthusiasm a Government measure. It arises from the peculiar circumstances, in which I have actually shared some responsibility for this Bill outside the Council; and I thought I should do so in the Council likewise. Sir, I hope, it will not occur often!

I beg to support.

Mr. MULIRO: Mr. Speaker, Sir, I have a few reservations but I hope sincerely that this Bill, when passed, will serve the interests of everyone in this country. There are fears which were expressed by my hon. colleagues yesterday, but one would think that as the African becomes more and more organized and as he becomes more and more interested in proper animal husbandry, he is also going to benefit by this organized marketing of the dairy industry. The only fears which are there now, expressed by my colleagues yesterday to a very high degree, are that the African, at present, has backward cattle and he is not getting enough milk to compete or

to be in a position where the organization can benefit him. But I feel that since the African is emerging gradually from the poverty-stricken condition through the present better agriculture and animal husbandry the African should be also given facilities to join other Kenya producers in an organized industry. Therefore, I think when this Bill goes to the select committee, the fears of my colleagues would vanish through the deliberations and representations which have been made to the select committee, so that when this Bill returns to this Council, when we shall have time to debate it again, it will probably be in a better form, and my colleagues, who opposed it yesterday, will not be able to oppose it again.

The small African milk producer at present makes some livelihood by selling his milk in that way. But I do not know how long this African will continue like that, because as more and more Africans become better livestock keepers or farmers they will have to organize themselves; and at that stage I think they should join their friends, the Europeans.

I support this because I feel that without organized marketing we cannot progress in this country. I see, for instance, in the case of coffee, areas like Meru, Embu and now my own constituency, Nyanza North, are benefiting very much from the Kenya Planters' Co-operative Union. The Africans are getting the same price for their coffee as anybody else is getting and, therefore, these fears, with some examination, will also be dissipated as anything else is to vanish.

Also, for instance, in the pig industry, the Africans are now keeping pigs and these Africans are just as interested in making money and looking after their particular pig industry as the Europeans. I think these are the grounds upon which various racial groups, particularly farming groups, the Africans and the Europeans, can come to understandings over a cup of coffee in the same industry and talk over their problems as a whole.

Therefore, Mr. Speaker, with these few remarks, I beg to support this Bill.

Mr. SMITH: Mr. Speaker, Sir, I would just like to raise one point, if I may, very briefly, and that is in connexion with section 23, paragraph (1), which lay

[Mr. Smith] down that under certain conditions the Board may have to appeal to the Governor in Council of Ministers and get their assent.

Sir, I do not think this is quite right. I feel that the Board should have such control—they may need actual physical control quite quickly, in order that they can, indeed, purchase milk or milk products at short notice, and they may have to acquire these products by means of compulsory purchase.

Sir, I do not think that that is a matter which should be referred either to the Governor or to the Council of Ministers. I believe that in such an emergency they should go only to the Minister and that this section might well be included in section 19 whereby the Minister gives his consent or otherwise.

I do believe that the delay, if such a delay did happen, might be indeed unfortunate and in fact, Sir, I do not believe that the Council of Ministers as such, if I may very discreetly say so, have that particular knowledge or the efficiency required at that particular time over and above the Board itself.

Sir, I would like to suggest that a great deal of thought should be given to that section and that it might be included under section 19.

I beg to support.

Mr. MUMI: Mr. Speaker, because of the wide powers accorded to the Board under section 19 of the Bill I find it rather difficult to support the Bill without asking the Minister to give me certain assurances before passing the Bill, because the Minister will understand that once the Bill is introduced there will be no excuse of the small man pleading ignorance of the law.

These are the assurances that I would like the Minister to give me before I can support the Bill. I should like the Minister to tell me whether the introduction of this legislation will not interfere with the movement of the small men, especially the women who make their livelihood, in most cases, by selling fresh milk or sour milk, or *ghee*, in bottles in markets.

Secondly, Sir, I would like the Minister to assure me that the legislation will not

apply to the African locations in the African reserves, because the conditions, specially in the remote locations, are such that they do not warrant the introduction of this control on dairying.

Thirdly, Sir, the Minister is aware that certain African district councils have some form of control over dairies such as *ghee* and therefore I would like the Minister to assure me that in areas where such African district councils have control over any form of dairy the Board shall not interfere. In the same way, Sir, such African district councils do levy a cess on such dairies as they control and I think it would be a duplication of affairs if the Board to be also levied a cess on such dairies. I should like the Minister to assure me that where such practices exist under the African District Councils Ordinance the Board shall not have jurisdiction over such areas.

With those few points, Mr. Speaker, I beg to support.

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): Mr. Speaker, I will not reply to all the detailed and smaller points hon. Members have raised, but I will give the Council an assurance that in the select committee we will bear in mind the tenor of the various remarks which have been raised.

Firstly, turning to the points made by the hon. Member for Nyanza, and also the hon. Member for Klamu, in so far as the regulations were concerned, I would like to say this. In general I would agree that the government, by regulation, needs to be viewed with care. But if we are to eliminate regulations then it means that we must introduce into every Bill every conceivable possibility that might occur with a view to anticipating them. Secondly, Sir, the business of this Council would be tremendously delayed by the necessity for the constant amendments to the Ordinances in being. I think that really the fears of the hon. Members can be completely met if I tell them that under the Rules and Regulations Ordinance every regulation which is made under this Bill must be laid in this Legislature and hon. Members can question it, call it in order, or move Motions upon the regulation. I think that gives the hon. Members the safeguard which they really required when

[The Minister for Agriculture, Animal Husbandry and Water Resources] they suggested that regulations generally were dangerous.

Now, Sir, the hon. Member for Kiambu was, I think, frightened that the people in his area who were near Nairobi would have to share their trade with up-country producers. I would like to ask him to look at the problem in this light. As I see it, there is nothing at all at the moment to prevent up-country producers introducing their milk into the Nairobi area and eliminating the producers around Limuru by cut-throat competition. Surely, therefore, the operation of the Board will be one more designed to rationalize the flow of milk into the Nairobi area rather than to take away the existing trade from producers who are ideally suited for that trade. I will give the hon. Member an instance of the peri-urban Nairobi area. We have at the present moment milk going to Mombasa from distances far away up-country and passing through Nairobi. At the same time, in the natural milk shed, if I might coin that word, of Mombasa—that is the Ulu and Konza areas—we have milk coming into Nairobi. It seems to me that the sort of operation the Board would be advised to undertake would be to rationalize the milk in the producing areas nearest to Mombasa towards Mombasa with a view to getting adequate supplies without heavy railage costs and to fill the vacuum so caused in the Nairobi area by drawing on the milk in Limuru area and filling in again from behind from up-country in times of drought. That is the sort of operation that I anticipate.

The advantages to his constituents will be firstly that they will be saved the cut-throat competition which might develop, and is developing, so that they will have greater security over their markets, and the only disadvantage that I can see is that in that process they must expect, if those remoter regions hold back from the market, some equalization of the export losses. Now, Sir, I believe that the milk producers in the hon. Member's area are perfectly prepared to concede that. In that way I think that his fears that the Board will take away the market are erroneous. It is only particularly for that reason that I indicated to him that I thought that we should have very

adequate representation on the Board of persons in this rather difficult milk area serving the Nairobi City.

There is one small point I would like to record, Sir. I cannot entirely accept as Minister, that the land in the Limuru area is of such a high value because of its high milk potential. I rather suspect that it is the amenity aspect of the land, the benevolence of the climate and the proximity for the commuter to Nairobi which has raised the values; and in that regard, at any rate, the milk producers are at a handicap rather than an advantage. I see that the hon. Member shakes his head, but I think the value of Limuru land must be conditioned partly by its proximity to Nairobi and its residential qualifications.

The hon. Member said that he would like to see the chairman appointed by the Board members. All I would say on that—because a number of hon. Members have raised it—is that I am perfectly prepared to discuss that with the select committee. Very briefly, Sir, it is really a question of pull devil, pull baker, by the various interests affected.

I stipulated in the Bill an independent chairman for the specific reason that I wanted to meet in some way the suspicions of the consumer element. I think that an independent chairman would be better able to do that than a chairman elected by producer elements. The real issue, Sir, is to what interests do we incline. Do we accept that the Board must be able to override the Minister in every event as much as possible by giving it complete freedom, or do we accept that the Minister—who can always be called to order in this House—must have some control over the Board to protect other interests than the producer. It is for that reason that I have chosen an independent chairman, and I put those arguments to Council because undoubtedly the select committee will have to examine them and I am myself doubtful of the wisdom at this stage, at any rate in the early beginnings of the Board, of taking the Minister away and making him elected by elements within the Board.

Now, Sir, again the hon. Member raised the question of regional representation and the sort of representation which I have indicated. That was also

[The Minister for Agriculture, Animal Husbandry and Water Resources] touched on by the hon. Selected Member from the Nakuru Area.

(I do not think there are six Selected Members for the the Nakuru Area, Mr. Speaker.)

SIR CHARLES MARKHAM: Too many, anyhow!

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): Mr. Speaker, the hon. Members have raised the question of whether we should have regional representation or representation by an annual general meeting of producers. Here again I find the issue of regional representation within any particular section of the Board difficult for this reason. It is again a conflict between the best people available to the Board and what might be thrown up by the regions for the Board. Now, in general I would say, as Minister for Agriculture, that in times of agricultural recession our Board suffers slightly from an excessively wide regional representation and I would prefer that it should be able to nominate persons who know the region well rather than possibly have to be forced to accept the results of elections from regions when good men were too busy to stand for those elections. I think it is a question of in which way are we likely to get the best value on the Board.

I think that in so far as the point made by the hon. Specially Elected Member is concerned, he felt that tremendous power lay in the hands of the Minister. I think the hon. Member for Ukambani raised this too, because the whole of the Board can be nominated. I have done that on the recommendation of the Troup Committee. I would have no objection in the select committee stage to examining the suggestions put up by the hon. Member that we might secure ten names to be put forward to the Minister by election by the annual general conference. I think that would be perfectly possible and I can see no great objections to it and I will discuss that with the select committee.

The hon. Member for Kiambu also raised the question of price increases and quality and I would like to stress this. The question of price increases cannot be touched upon by the Board itself.

Prices are in the hands of the Minister on the recommendations of the Board. Therefore the Board in itself will not be able to raise prices arbitrarily to the consumer. Again, as I have already indicated to the Council, that also applies to the quality.

I believe that one of the weaknesses of the milk industry today is that it has not embarked energetically upon the production of a high quality milk for those who can afford it and I would certainly like the Board to consider this and would resist any attempt by the Board to produce a lower quality milk than is at present available.

The hon. Member for Mount Kenya accused me, Sir, of undue haste or suspected that I was guilty of undue haste in the preparation of this Bill. I feel I must disabuse him as I think he accused me of undue haste in pushing this Bill along.

Mr. Speaker, I feel that I must disabuse him. First of all, Sir, the Bill has taken nearly two years to prepare and one reason for that is really the almost innumerable consultations that I and the officers in my Ministry have had with all representatives. I have met the producers on a number of occasions and I have even been so bold and have had the courage, Sir, to meet the Housewives on this Bill. I do feel that the Bill, as drafted, goes a long way to meet the points of view which were put to me. Then, I would like to remind the hon. Member that this Bill has been before the public for 40 days before it was even debated; and lastly, Sir, may I say this. The longer we delay the introduction of this Bill the greater the danger to the industry because the more breakaway movements can develop from either the co-operative or the Milk Producers Ltd., and that would be very damaging indeed to the economy. If possible, Sir, I would therefore like to have the Bill considered by the select committee and through all its stages before the end of next month. Sir, I hope that the hon. Member will not feel that he is being unduly rushed in this matter.

Sir, he also raised the question of the powers of the Board under regulations to impose penalties which would result in imprisonment or fines. I do not intend to deal with that here. I think it is a

[The Minister for Agriculture, Animal Husbandry and Water Resources] technical matter which we should seek legal advice upon and I will certainly bear his point in mind.

Now, Sir, the hon. Member for the Southern Province raised a number of points which were generally raised by African Members, and I intend to deal with them at length in an attempt to overcome some of the suspicions that I feel African Members have got. First of all, Sir, let me say at once that I think it is necessary to define that the Bill will only apply to milk for sale. That will immediately mean that Africans who are milking their single, double or treble cows in the reserves will not be registered under the Bill. It would be administratively quite impossible to do particular point is introduced into the legislation.

Secondly, Sir, I will consider in select committee whether we can introduce some clause in the Bill which will enable the Board to exempt what I might call that and I will certainly see that that the small bottle hawk, that is to say the woman in the African location who hawks round two or three bottles of milk only, because I think hon. Members will agree that production is so infinitesimal in terms of millions of gallons which are being produced that we could well afford not to worry about it. Secondly, I do not believe that administratively the Board could possibly deal with, for instance, the control of milk in an area such as Kandara—the little centre of Kandara—or Tambach or Kabarnet. In the select committee stage I will examine how we can meet those particular fears of the African Members.

Now, Sir, the African Members have expressed the fear that the Board will control physically the whole of the milk. Of course, it will do no such thing. I hope, as was made clear by the hon. Selected Member who comes from the Kinangop area, that the Board will rationalize and streamline the industry through the existing co-operative societies. For instance, I am sure the Board will not wish to control and acquire the Mariakani Milk Scheme, but what it will want to do is to direct the milk through that scheme to the best possible markets and supplement and increase it with milk from contiguous areas

when the Mariakani supply falls lower than the Mombasa demand. There is an instance of that, to which I would like to direct the attention of hon. African Members, in the whole of the operations of the coffee co-operatives which work in conjunction with the Kenya Planter Co-operative Union and the Coffee Marketing Board. I can see no reason whatsoever why milk development generally in the African areas should not proceed on those lines.

This brings me to a point which I must put forcibly to the African Members. We are engaged now upon a programme of development of African agriculture in which the improvement of African animal husbandry plays a large part. The present artificial insemination schemes, the introduction of exotics in the higher altitudes, the provision of the Sahiwal breeds in the lower altitude zone, and the whole of our livestock improvement centres must, over ten years, mean that the hon. African Members instead of sitting here and getting up and talking about bottles of milk will be talking, I hope, about gallons of milk. The moment that happens, the marketing problems will come before them just as forcibly as it comes before the European Members.

Fourthly, I would like to submit to the African Members that they need this Bill for this reason. It will be perfectly possible for not unscrupulous but highly competitive elements in the producing industry today to eliminate the Nyanza ghee industry and the Mariakani Milk Scheme by under-selling. If hon. Members do not believe me I do not need to emphasize to them that today the production in European areas is over £3,000,000-worth of produce a year and that the known production from the African areas is around £100,000. An elementary knowledge of economics will show that persons controlling £3,000,000-worth of produce could, if they so wished, eliminate the small flea-bite of £100,000-worth of produce in those areas. I do submit to the hon. African Members that they need this Bill if they are going to have a controlled market for the Nyanza ghee industry and the Mariakani Milk Scheme.

I do not think, Sir, that I need deal more with the general points raised by the African Members other than one

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

raised by the hon. Member for the coastal area where he said that all profits might be taken from the sales, Sir, for instance in a scheme like Mariakani. I would like to emphasize that the Board will not own the milk. It will be there to see that the component parts of the industry, such as the Mariakani scheme and the Nyanza ghee industry, the Kenya Co-operative Creameries, and any other co-operatives which start up, receive the best market and the maximum price. The Board will not be confiscatory in regard to profits. It should be a rationalizing influence and an administrative influence in regard to them.

Some hon. African Members have queried the composition of the Board. This has been queried by everyone which I think shows that probably I have got just about the right composition. I would like to remind the hon. African Members that the present proportions of the dairy industry—after all we are by this Bill enforcing control on people's property, their milk, through the operations of the Board—are £3,300,000 to £100,000. I will consider the composition of the Board in the select committee but I would like to draw their attention to the fact that under the provisions of the Agricultural Ordinance African areas will in the future as they become more developed become scheduled areas. There is no reason why in the fullness of time, under section 4 (b) some of the names nominated should not be African as well as European.

That brings me to the point which was made by the hon. Members for Nyanza North—which is something I agree with and which I have aimed at in the agricultural industry. I cannot believe that the interests of African and European producers are opposed. In the fullness of time, as the various areas become fully developed, I hope there will be a complete mingling on the boards based on straightforward agricultural interest and not racial outlook. That is envisaged in the Agricultural Ordinance and will take place.

Lastly, Sir, the hon. Member for Rift Valley Province raised with me his fear that the Africans would be squeezed out and he also wanted to make sure that suitable Africans were put under 4 (c)

by the ALDEB Board or the Board (Non-Scheduled Areas). Well, Mr. Speaker, the hon. Member is a member of that Board and I would submit to him that he should use his personality and powers of persuasion on the Board to see that the five names put forward are ones that meet his particular wishes.

Now, Sir, the hon. Member for Ukambani asked me whether I thought that the Board would operate over the whole industry—that is both in the European and African areas. I must say to him straight away that I do not anticipate such an operation. I think it would be quite ridiculous for the Board in its early stages, for instance, to register producers and to attempt to develop the control of the milk production in the Elgon Nyanza, which is infinitesimal. I imagine, and in fact I know, that the Board will develop by area and through areas as the milk production develops. If that were to come about on the lines that he has suggested then there would be no reason why we should not amend the composition of the Board. We could do that to meet the particular point he raised. But I would not like him to think that the Board could operate over the whole country. In the early stages I do not think that that would be administratively possible.

Lastly, Sir, he raised a number of points about its composition and he said that he would like to see a rather bigger board and more interests represented than a smaller board. All I want to record is that I am not in favour of widely changing the composition of the Board. I have a number of boards within my Ministry and I have been alternatively criticized for making them too big and for making them too small. I think there are disadvantages in having too unwieldy a board.

He also asked me, Sir, whether I thought the Board would duplicate the functions of organizations such as the Kenya Co-operative Creameries. I think I would rather answer that in my remarks to the hon. Member for Kiambu. I have much the same idea in mind with regard to the maize industry, as hon. Members will see, where I believe that by altering the principle of maize control through existing agencies we might get much more flexibility than we have at the present moment.



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

The hon. Specially Elected Member who comes from the Kinangop has dealt with the point of the restriction of the Board's activities through my powers and would like to take this opportunity of thanking the hon. Specially Elected Member for dealing with my Bill so adequately.

Looking back on the past, Sir, I must say it was an unusual tandem to find him and myself together. I would like to thank him for his assistance.

Now, Sir, I wish to deal with a major point which was raised by the hon. Member for Ukambani. He said very sweepingly that the Minister's powers were too great and that under clause 19 they were virtually unlimited. It is true that he also said that I did not have enough powers so that I could not carry out what I hoped to do. I see the hon. Member looking a little doubtful, but the hon. Member did make that statement.

What I would like to say, Mr. Speaker, is this. I think that the Council has got to accept, whether it wishes to have control or no control. What I think would be disastrous, and we have done this in one Ordinance of which I can think, would be to whittle down the Ordinance so that in effect it does not work. I would far rather have no control at all and leave matters as they are than have the powers under the Bill so whittled away that we are in effect putting up a facade with nothing behind it, if it is possible to do such a thing.

Mr. Speaker, the hon. Corporate Member for Agriculture raised one point to which I would like to speak and it concerns the tendency to stifle the small man. He suggested that an instruction might be incorporated into the Bill asking the Board to see, consonant with efficiency, that individual enterprise and the small businesses were encouraged. Now, I think that that is an excellent suggestion and I believe that we might in select committee see whether we can introduce something like that as the intention of the Board, because there is value in an industry, such as the dairy industry, in the small processor, for instance, of cheeses.

Now, Sir, the hon. Elected Member for Nyanza Central raised his usual

objection to all boards. I do want to record one thing. I very much regret the strong racial bias that he introduced in his remarks as between the European and the African producer.

The African producers today do not produce much milk; but in ten years' time they will produce a great deal of milk and when that happens their interests will be the same as the European interests. I regret very much the slant which the hon. Member put on his remarks. For instance, he stated that the Minister for Agriculture was not keen to organize African producers and that until they are organized, the Board is premature. Yet what are the actual facts? The whole of the Nyanza ghee industry, which puts £66,000 a year into South Nyanza, owes its very life to the organization which my Ministry has undertaken in that regard. He, who now criticizes me for not wishing to organize the industry in African areas—not the hon. Member there—he is the very first of all Members to get up and oppose all organization and all control. And I do find it an inconsistency which is difficult to assimilate.

The hon. Selected Member for the 'Nakuru Area', Sir, raised with me the question of when will the Bill be in operation. I have already indicated, Sir, that I hope that if the Bill passes all its stages in July—I cast myself on the mercy of the House in that regard and hope it will—that we shall have the Bill operating in August.

I have dealt with the question of selection to the Board and we will discuss that in select committee, but he asked me, Sir, from where the initial money for the operation of the Board will come. There, Sir, I do not want to say anything more at this stage than to indicate that I think in the early stages the Board may need some assistance from Government in the form, possibly, of a guarantee through commercial banks for working capital until it is on its feet. That is a matter we can bring before the Council at a later date when we know whether the mercy of Members is going to give us the Board or not.

Mr. Speaker, I do not think there are any other major points, and I would like to move—if I can continue, Mr. Speaker, I had no intention of making the error

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

which my colleague thought I was going to—Mr. Speaker, I beg to move that the Dairy Industry Bill be now read a Second Time.

The question was put and carried.

The Bill was read the Second Time.

#### MOTION

THE DAIRY INDUSTRY BILL (BILL NO. 50)  
—COMMITTED TO A SELECT COMMITTEE

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): Mr. Speaker, I beg to move that the Dairy Industry Bill be committed to a select committee consisting of:—

The Hon. Mr. Blundell.  
The Hon. Mr. Webb.  
The Hon. Col. Jackman.  
The Hon. Mr. Smith.  
The Hon. Mr. Nzoloka.  
The Hon. Sheikh el Mandry.  
The Hon. Mr. Slade.  
The Hon. Mr. Bompas.  
The Hon. Mr. Hassan.  
The Hon. Mr. ole Tipis.

MR. CONROY seconded.

The question was put and carried.

SIR CHARLES MARKHAM: On a point of order, when you oppose the question of a select committee, you have no chance of discussion at all, Sir, before you put the question on it?

THE SPEAKER (Sir Ferdinand Cavenish-Bentinck): I put the question that you agree to reference to a select committee, and if you oppose the select committee, I then commit the Bill to a Committee of the whole House.

SIR CHARLES MARKHAM: Yes, Sir, but on a point of Standing Order 121, it says the Sessional Committee, not the select committee, Sir.

THE SPEAKER (Sir Ferdinand Cavenish-Bentinck): I think you will find that if the House has not had a selection of names proposed to it, then it is taken for granted that the Sessional Committee will appoint by name the persons to serve on the select committee. It is a point you will find under Part fourteen which deals with Public Bills and Standing Order 121.

The Bill was accordingly committed to a select committee.

#### MOTION

##### LIMITATION OF DEBATE

THE CHIEF SECRETARY (Mr. Coutts): Mr. Speaker, Sir, I beg to move that the following limitations be put upon the debate on the Motions under Order Nos. 8 and 9 to be moved by Mr. Mboya and Group Capt. Briggs respectively:—

(a) That the Mover be allowed one hour to introduce his Motion and thirty minutes for his reply.

(b) That all other speakers be limited to twenty minutes.

Sir, these are the same rules as have been made to apply to previous Motions of this nature, and I hope that the House will agree. But there is one other point that I would like to make, and I hope that both you and the House will agree, although I accept the fact that the matter is entirely in your hands, that the final speaker on the Opposition side whether it be in this Motion or any other Motion should be called immediately prior to the Mover when he is called upon to reply.

I beg to move.

MR. CONROY seconded.

Question proposed.

The question was put and carried.

#### MOTION

##### CONVICTS AT LOKITAUNG AND ELSEWHERE

MR. MBOYA: Mr. Speaker, Sir, I beg to move that this Council, not being satisfied with the statement made by the Chief Secretary on 11th June regarding allegations made by certain convicts in Her Majesty's Prisons at Lokitaung and also being concerned about allegations from other prisons and detention camps, calls on the Government to institute an independent enquiry into the conditions obtaining in Her Majesty's prisons and detention camps with a view to making a report to this Council.

Mr. Speaker, Sir, Members in the House are well aware of the circumstances that have led to the introduction by me of this Motion in the Council. It was the result of a statement made by the Chief Secretary in reply to certain allegations that had been made and appeared in the Press, particularly in the United Kingdom, and later on in this country. The position as I saw it was that in attempting to reply to these

[Mr. Mboya] allegations the Government failed to convince either the House or the country or some of our usual critics elsewhere that the allegations had been given the sort of consideration or that the situation had been examined sufficiently effectively by the Government. Members will recall that immediately after he had made his statement, I asked the Chief Secretary to disclose the nature of the enquiry that had taken place and particularly asked to know whether, in fact, those who were charged with the responsibility of conducting the enquiry were not the same people against whom the allegations had been levelled, or against whose conduct the allegations had been levelled. We learned from the Chief Secretary's statement that exactly what I had feared was the situation: namely, that what we were told was a senior district commissioner, who is also a magistrate, enquired into the allegations and, in his opinion, there was no substance or truth whatsoever.

Mr. Speaker, it is not my intention to challenge the credibility and standing of the particular senior district commissioner. But, Sir, here we have a case where allegations have been made, and I am not in this Motion trying to defend the allegations or the persons who have made the allegations; all that I am concerned with here is to ensure that a proper enquiry or investigation by parties that are not interested in the matter takes place. So, Sir, without wishing in any way to challenge the credibility or the standing of this senior district commissioner, all I wish to say is that it lends the situation a bit of a doubt when a senior officer investigates an allegation or a situation in which his immediate subordinates are involved. What one might call the Old Pal Protection Society might have been in action, or could be in action, and many people would be left in the position of thinking or assuming that, in fact, the Old Pal Protection Society was in full swing when an enquiry is made by a person immediately senior to the people against whom the complaints have been made.

The intention therefore, Sir, of this Motion is to draw attention to the fact that in order to clear not only the name of Kenya, but also the name of the Government officials concerned, it is

necessary to ensure beyond any possible doubt not only in the eyes of the Kenya Government but in the eyes of the public and particularly also the public overseas that a proper and independent enquiry has taken place. I do not know, Sir, why the Chief Secretary saw fit when he said a "senior district commissioner" had investigated the matter to include the words "who is also a magistrate". I consider that that phrase was totally irrelevant to the situation, because the investigation—I do not know whether that was intended to convey to us that the investigation was carried out by a magistrate, but I suppose that the district commissioner of the particular area, who in this case should be regarded as one of the parties involved, could also claim the protection of being a magistrate himself. I consider that the reference to the senior district commissioner as a magistrate is totally irrelevant and has no bearing at all in trying to prove whether the investigation was independent or otherwise.

Mr. Speaker, it might help the House to be refreshed as to the allegations made. The allegations made appeared in a letter that somehow reached the Press in Britain and was fully published in the *Observer*, and this was signed by five convicts, at the moment in Lokitaung. (1) that their water ration had been reduced considerably; (2) that the water they were getting was from an insanitary well, whereas the small European population at the camp was drawing its water from a much better and healthier well; (3) there was allegation about delay in the mail; (4) there was allegation about the sort of medical facilities available; and (5) there was allegation about beatings, and lastly there was allegation about visitors, they complained that they had had no visitors, and that there were no official visitors to the prison.

Now, let us look at the allegations and the reply given by the Chief Secretary in his statement on 11th June. Firstly, we find that there is some substance in the allegation about water, because indeed, the Chief Secretary said in his statement, yes, there was a shortage of water. But he explains that this was because of the particular season, but the Chief Secretary denied that there was no question of the convicts or prisoners being made to use an insanitary well. So that in fact, Sir, on that particular count, there is some

[Mr. Mboya] truth in the allegations. We have a denial as to the use of an insanitary well.

On the second allegation of delay of mail, again we find, Sir, that there was some truth in the allegations that there was delay in mail. But the Chief Secretary explains that the delay is not as the result of any deliberate Government policy, but that the Government had instructed the prisoners to use a certain address which they had not used, and the consequence was that letters went to Lokitaung, were returned to Nairobi, and then back to Lokitaung and that explains the delay.

Thirdly, Sir, the allegation about medical facilities. In the Chief Secretary's statement, there is an admission that there was some instance of one of the prisoners suffering from an eye infection, and that some arrangements had been made. So again, we find there is something in the allegations about medical services. The only question is whether the complaint was justified, whether the medical facilities are adequate and satisfactory, and on that, Sir, of course, the Government says there are satisfactory medical services because a medical officer lives on the compound.

Fourthly, about the beatings, the Government denies that there were any beatings. But we are told that one of the prisoners indeed at one stage said he had been struck, but that he had later on said: "Don't include it, for goodness sake" in my report, or in a report. Mr. Speaker, that raises a very important and interesting question. Why did this man who apparently said he had been struck once see fit to ask that this should not be included at all in his report? Was it because he was afraid? Was it because he might have been beaten? Was it because something else might have happened? These are issues that raise doubts in the minds of people, but these are the sort of issues that call for some independent investigation into the matter if we are to clear up not only the doubts in our own minds, but the doubts as to the position and standing of the administrative officers whom we have placed to do the job in that area. As to the allegation about visitors, Sir, we are told in the Chief Secretary's statement that in fact the allegation is true. These people have

had no visitors, but the explanation we are given is that the place is some 600 miles away and, therefore, no one should expect these people to have visitors. Mr. Speaker, these people were convicted and sentenced for seven years, and they have been there for five years. They have had no visitors at all, no visitors at all. They complained rightly and justifiably that they should have had visitors. Yet, this is being dismissed, Sir, as a not very important complaint. Mr. Speaker, these people complained that there was no official visiting committee, and again, this is true, because the Chief Secretary himself admits in his statement that there is no visiting committee for this prison. I presume the explanation again is the geographical situation of the prison, but we are told that to compensate for the lack of an official visiting committee, there are visits by visiting justices. And who are these justices? The district commissioner and district officer of the area, and if allegations have been made—I hope I understood it; I see the Solicitor-General is probably doubting that—and if their allegations that we have heard are true, they have been made against these same people who administratively are responsible for the area, and under whose jurisdiction that prison falls.

Mr. Speaker, therefore, looking at the allegations made and the replies by the Government, one is led to believe that we cannot dismiss very lightly the allegations as of no basis or foundation; we cannot accept the explanation, or the implied explanation that these allegations are manufactured, because in every respect and on every point, we have found there is at least a certain amount of truth without having the facilities and the opportunity to look into the actual situation on the spot.

In the circumstances, Sir, I cannot accept the Government's contention that there is no case to investigate, to have an independent enquiry into the allegations made by the prisoners at Lokitaung, and a thorough investigation into the actual conditions under which they live at the moment.

In the Chief Secretary's statement, there was some reference to certain issues that I think were irrelevant in every sense, but which he saw fit to

[Mr. Mboya] inject into the whole matter. Mr. Speaker, there was reference to the question of whether these people are political prisoners or not. Mr. Speaker, whether these people are political prisoners or not the most important question here is the conditions under which they at the moment live. That is the thing that we are asking should be investigated, and investigated by an independent enquiry. Whether the Government recognizes them as political prisoners or does not recognize them as political prisoners does not change the fact that we are duty bound, and the Government has a responsibility, to ensure that these people live under what should be regarded by everybody as normal prison conditions.

Mr. Speaker, the Chief Secretary in his concluding remarks made reference to these people and to their past. He wanted the House to remember or to be reminded of the circumstances that led to these people's convictions; he wanted the House to be reminded of the record of these people before their imprisonment.

Now, Sir, I found this a bit unpalatable, and I must, I think, very bluntly say that again, I found this irrelevant to the issue that was being discussed. I am sure, Sir, the Chief Secretary will agree with me that every person we have in our prisons today—the purpose of detention, the purpose of imprisonment or the objective that we want to achieve is the reformatory function of the sentence, and if, Sir, we are to be told that when persons have been imprisoned for the last five years, we must be reminded of their past records, of the conditions and circumstances in which they lived before they went to prison; if we must be told, Sir, that we must continually be reminded that these people are no good, then, Sir, we might as well assume that the Kenya Government's own view or attitude to imprisonment or prison sentences served by these people is that it is going to do no good at all, and that when these people come out, we must still regard them in the same light as we did before they were in prison. Mr. Speaker, this would be in the very worst taste and it is a contradiction of the normally acceptable conception of what a prison sentence should do.

Mr. Speaker, I am not going to keep the House very long in moving this Motion, but I feel I must refer to some points that I consider to be important. In the Motion, I have asked for an independent enquiry, not only into the Lokitaung situation, but also I have asked for an independent enquiry into conditions in all prisons and all detention camps. I have seen fit, Sir, to request for a general enquiry because of two things. Firstly, Members of this legislature are not as a rule—and some of us have asked for permission—allowed to visit either the detention camps or the prisons. In other countries, Sir, and in the United Kingdom in particular, Members of Parliament are allowed to visit prisons. We have not been allowed to visit the prisons or detention camps, even when we have asked to do so. Mr. Speaker, if the Government has nothing at all to hide in these prisons and detention camps, I do not see why we should not be allowed to visit the prisons and detention camps. Every year we are asked to pass in the Budget sums of money for these prisons and detention camps; and yet, Sir, even being charged with that responsibility—and this House has that responsibility—we are not allowed to visit prisons. It would be, I think, a negation of the very fact of the existence of this House if it were to be assumed that the only person with that responsibility is the Minister for Internal Security and Defence. He is responsible as a Minister of the Government for certain points; but we, as the legislature must have that right. Until now, we have not been allowed to visit prisons and detention camps. I am not overlooking the fact, Sir, that other prisons have official visiting committees; I am not overlooking the fact, Sir, that some detention camps have been visited by various people. But I feel, Sir, that it is in the interests of this country, in the interests of clearing the good name of Kenya, that there should be an independent enquiry. And that facilities for Members of this House to visit prisons and detention camps be provided to assure themselves that conditions existing or prevailing in these detention camps are of the normal nature to be found in prisons unless this is done we shall not have achieved our objective of clearing the good name of the people

[Mr. Mboya] whom we charge with the responsibility, such as administrative officers and prison warders, who, whenever such allegations are made, immediately become the subject of public doubt and so on.

Members will remember, Sir, that in 1956, there was an enquiry brought about by some allegations made by some persons about conditions existing in some detention camps and some prisons. On that occasion too, the allegations were made publicly in the United Kingdom. On that occasion, Sir, Members will remember that it was necessary for the Attorney-General to fly to Britain in order to discuss with the Colonial Office the position or the circumstances leading to these allegations. This Government had to spend that amount of money, that amount of time, in order to explain or remove the doubts that had been created about the good name of Kenya as a result of the allegations made in the United Kingdom. When people can leave this country and make allegations in the United Kingdom and we, the public of this country, are asked to finance the whole machinery of trying to explain the situation away or remove the doubts, then I think, Sir, that we, the Members of this House, should be allowed to pay visits from time to time to prisons and detention camps, at least to assure ourselves that when our Government defends the name of Kenya there is substance in the defence they are putting forward.

As it is, when we ourselves are not allowed to visit prisons and detention camps, what happens is that we have to defend the name of our country, but always retaining a certain amount of doubt as to why we ourselves may not be allowed to visit the prisons and detention camps.

Now, Sir, Members will recall that in the last few months the African Elected Members on several occasions have asked various questions in this House regarding detainees, conditions in the detention camps, conditions relating to rehabilitation, conditions relating to screening and so on. Members will also recall that during various speeches in the Budget and so on African Elected Members have, from time to time, tried to raise some questions relating to con-

ditions found in the detention camps and in the prisons. But one general feature from the Government Benches, which has been very disturbing, in addition to, or apart from, the fact that we are not allowed to visit the detention camps and prisons is the fact that on very few occasions, if any, have we been able to secure a proper and clear answer from the Government Benches. The Minister for Internal Security is famous in this House for his replies to a number of questions which often consist of reading to us the law or a section from the Ordinance, and feigning to know nothing at all, nothing at all, about anybody under his charge. All the time all; he has said is, "That is not my responsibility. It is the Minister for African Affairs". And then the Minister for African Affairs says, "I was not asked the question" or something to that effect.

But we ask these questions of the Government, as I remarked the other day, and if, Sir, in the course of putting forward a question it is thought that that question is not for the Minister for Internal Security to answer, surely it is only fair, it is only fair to the Member asking the question, and to the country generally, that the Government should direct the question to the appropriate Minister. It is no good our coming to the House, and then being told by the Minister for Internal Security, "That is not a matter which concerns my Department".

THE CHIEF SECRETARY (Mr. Coutts): I thank the hon. Member for giving way, Mr. Speaker.

I do feel that, in accordance with the rules under Standing Orders, if the hon. gentleman is not satisfied with the answers which this side of the House gives to him, it is clearly open to him to put a Motion down on that subject.

MR. MBOYA: Thank you, Mr. Speaker. I hope the Chief Secretary appreciates that this is a Motion in the House probably arising from the cumulative effect of the very inadequate and unsatisfactory answers from the Minister for Internal Security.

MR. SPEAKER: Sir, the cumulative effect of the various answers we have heard from the Minister naturally has gone a long way to sow the seeds of suspicion and doubt as to the conditions that exist in the prisons and detention camps, and

[Mr. Mboya] also the seeds of suspicion and doubt as to the genuineness of the statement made by the Chief Secretary on 11th June about the Lokitaung Prison allegations. We call, therefore, for an enquiry, an independent enquiry, and in doing this, Sir, we want to put it on record that our intention is not—and I say this repeatedly and emphatically, because I do not want to be misunderstood at all—it is not that at this stage we are condemning or accusing anyone. All we are saying is that in view of the numerous unsatisfactory answers we have had, in view of the various complaints that have come to light, and in view of the allegations that have been made recently, the Government ought to agree to an independent enquiry into the prisons. The Government ought to allow African or European or Asian Elected Members, who wish to see for themselves the conditions in the prisons and detention camps, to visit the prisons and detention camps.

Mr. Speaker, I will quote here one or two letters I have myself received recently, to show one or two points that confirm this suspicion and doubt. I have a letter here addressed to me from Lodwar Prison in the Northern Frontier District, and in case the Government say they do not know how it got out of the prison, I can assure them that it has an official Government prison stamp, stamped 9th January, 1957—or 9th January, although the writing is not quite clear. But, Sir, here is what it said: I am just reading it to try to bring out a particular point. This man is writing to me after he has desperately tried to get in touch with his family and also his only brother. He says, "I have already written nine letters to my brother, who used to live at X address"—I can give the Minister the letter later on if he wants it—"without a reply. I am now at a loss for I really cannot tell why he does not write to me, although he used to write to me when I was at Kajjado, at Mackinnon Road and at Manyani. And as I have no one else to write to, who would suffice me with the necessary information, I have decided to write to you so that you can find out whether he is still there or whether he has already resigned from the railway, and then pass the information to me. If he is still there,

you can find out from him the cause or reason why he does not write to me. The reason of writing to my brother was to ask him to help me with a pair of trousers, a shirt, and also tell me any information about my family at home." I do not need to read the rest of the letter.

The point I am trying to bring home, Sir, is that we are having a situation in these prisons, and I think several times in the course of the Emergency we have raised this question of the contact between the prisoners and their families or other relatives. We have raised this question of the visits, the necessity for visits from relatives or for these people to have visitors.

Now, Sir, this letter was passed to me officially, through the official channels, and I presume it must have been read and censored. The fact that it was officially passed as such indicates that the Government was well aware that this man was in vain trying to get into contact or in touch with his relatives and his brother, and nobody, nobody, was doing anything about it. It is my submission, Sir, that this is a case where the Government should have taken the responsibility of finding out what had happened to this man relatives, to find out for this man where his relatives were, and to put him into touch with his brother or his wife or whoever it was. Instead, Sir, the Government was passing on letters to other people to try to do the job.

Now maybe I am misunderstanding the functions of the Government, but, Sir, when the Government puts a man in a prison as far away as Lodwar, I submit they must accept a certain responsibility to ensure that the man does not all of a sudden find he cannot even contact his relatives or his wife.

The other point raised in this letter is that this was a man in prison, appealing to someone outside the prison to send him a pair of trousers and a shirt. Now, I do not know the circumstances which made it necessary for him to appeal for a pair of trousers and a shirt, but certainly it does suggest that he did not have a shirt and a pair of trousers—(laughter)—I do not know why Members find that particularly funny—

AN HON. MEMBER: You are smiling yourself!

Mr. MBOYA: Sir, it is a bit difficult to imagine our prisoners going naked. It is a serious suggestion that these people have not enough clothing or that they must, when they want clothing, call for it from home. I would have assumed that these people would be given some sort of clothes while in prison and that therefore there would be no necessity for this man to apply for a pair of trousers or a shirt. Now the Government cannot argue that there was no legitimate reason for him to apply for the shirt or the pair of trousers, because, Sir, if this letter had been smuggled out of the camp that would be understandable, that argument might have some basis. But the fact is that this letter was officially passed from the camp, it had got the official stamp, and therefore the Government—I hope they do it in the particular way I am thinking of—must have satisfied itself that this man needed a pair of trousers and a shirt.

The Minister for African Affairs is nodding, which I think, implies he agrees, and that we can expect an explanation from him.

THE MINISTER FOR AFRICAN AFFAIRS (Mr. Johnston): Why?

Mr. MBOYA: Why? Because you are the Minister for African Affairs. Now, Sir, there is just one other letter that I would like to refer to, in trying to bring out my point about the necessity for an independent enquiry. I received a letter from a number of people, about three signatories, at the Embakasi Prison, some time last year. To be more precise, the letter was dated 11th August, 1957. It was signed by three convicts on behalf of 31 convicts at Embakasi, complaining about conditions at the prison. Immediately, I wrote to the Chief Secretary as follows: I said I had received the letter, a copy of which had been sent to the Chief Secretary himself, on behalf of those 31 convicts, and I said, "I would be grateful if you will inform me as to the findings you may have as a result of enquiries into the allegations".

On the 12th of November I received a letter from the Permanent Secretary for Defence, and it said: "Lengthy and most careful enquiries have been conducted into all the matters raised, but no evidence of any irregularities has come to light". Now, this is typical of some of

these replies that we get—"lengthy and careful enquiries have been carried out and no evidence of any irregularities have come to light". Now, Sir, here is a case which is brought to the Government, and I have no reason to doubt the contents of the Government's reply. I am not in this particular case trying to challenge the Government's reply to me; it is not because I do not wish to challenge this reply; it is not because I totally accept the reply; but it is because beyond this I have no other way of finding out for myself what exactly goes on in Embakasi Prison. As a Member of the legislature I receive a complaint from these convicts: I write to the Government and I receive a reply from the Government that there is no evidence whatsoever to substantiate the allegations. As a Member of the legislature the only thing I can do is to say—well, I have done my best. That is the end of the road.

Now, Mr. Speaker, surely there is a very strong case that we should be in a position to establish for ourselves some of the facts in these allegations. If we are going to rely entirely on Government investigations, most of which are departmental investigations and probably given to the same officers—a letter is written back to the same officer in some cases asking him whether in fact the allegations are true—Mr. Speaker, are we really going to get to the bottom of some of these allegations? Are we really going to clean once and for all the good name of Kenya that some outsiders come here and publish overseas? Are we going to be able to establish proof for ourselves and remove any doubts that we may have? Mr. Speaker, there is a very strong case requiring the Government to consider seriously allowing Elected Members or Members of the legislature in the first place to visit prisons and detention camps, and there is a very strong case, Sir, for an independent enquiry. Members will not forget some of the incidents that have come to light in the last few years, and in all these situations enquiries have been made and in all cases—or in most cases—we have been told or given the same sort of reply. Surely, Sir, however infallible our Government may consider itself to be there must be occasions when it makes mistakes and errors. If there are mistakes, if any errors have been committed, if

[Mr. Mboya] subordinate officers have misbehaved, surely, Sir, it is in the interests of the good administration of this country and the good name of the administration that the matter should be cleared and cleared in such a way that no doubt is left in the minds of the people.

Mr. Speaker, the other aspect or part of this Motion deals with the question of detention camps, and as I have already pointed out we have tried to solicit information from the Minister for Security, but very often without very much success. Now we want to know exactly what is going on: it is no good the Minister for Security or the Minister for African Affairs coming here and telling us that all is well. It would help the Minister for Security and the Minister for African Affairs if we, too, were able to sing in that chorus with them saying "all is well". At the moment we are deprived of the chance to join in the song of "All is well" because we do not know that all is well: all we have is the Minister's word. The Minister is an honourable man and, of course, we believe that what he says must be true, but we do want to be quite sure. It is not because I am a "Thomas" that I do not believe what other people say, but it is that people do want to establish these things, especially when complaints and accusations arise from time to time. Members will very definitely remember the situation when Miss Ellen Fletcher published a lot of stuff on the detention camps, and there was this submission by the Attorney-General. We had an enquiry carried out and I think as a result of the enquiry—which was independent in a way—as a result of the report of the enquiry not only the people of this country were able to ascertain the facts and rest their minds, but also our critics overseas were able to see the true picture, and I do not think that anyone has since then referred to that situation. Mr. Speaker, this is necessary again: it is necessary because very serious allegations have been made. This matter, Sir, has been discussed in the House of Commons in the last week or so, and the same position taken by the Kenya Government was taken by the Secretary of State for the Colonies.

I think certain points mentioned in that debate in the House of Commons

would be useful if quoted here, and I quote from the HANSARD of the House of Commons: "Raising this question of visits for Members of the legislature to prisons and so on, Mr. Stonehouse asked: 'What answer has been given to the Elected Members request that they should be allowed to visit this prison . . . —that is referring to Lokitaung . . . —Has the Minister seen the report in the Uganda Argus last week indicating that the Administrative Secretary has given an invitation to Elected Members in Uganda to visit prisons in Uganda? If these facilities are provided in Uganda, could we ask why the Elected Members in Kenya are not given them?'" Now, the Colonial Secretary replied: "I should first draw a very clear distinction between the Mau Mau conspiracy which has devastated parts of Kenya, and the Protectorate of Uganda. No greater mistake is made than to assume that the circumstances are similar everywhere . . . and so on. The point I want to draw here—the point I want to bring out here—is firstly, Sir, that in the neighbouring territory of Uganda not only are Members allowed to visit the prisons, but they are given an invitation to visit the prisons."

SIR CHARLES MARKHAM: You should have a permanent one.

MR. MBOYA: Mr. Speaker, I sure the type of invitation I have in mind is completely different from that Sir Charles has!

SIR CHARLES MARKHAM: Hear, hear!

MR. MBOYA: I think the best service the Minister for Internal Security could do to this country is to give an invitation to this side of the House to visit prisons and detention camps, and, Sir, if the Minister is as sure as he has always assured us that the conditions there are beyond reproach, then he will be in a much stronger position when we come back from the detention camps and prisons and are able to say on this side of the House that anyone who criticizes Kenya is manufacturing his grievances and is basing his case on false allegations, and so on. Nothing could be stronger than we on this side of the House having to reply in that form to our critics overseas.

Mr. Speaker, in the Secretary of State's reply to Mr. Stonehouse's question, I think one point must be brought

[Mr. Mboya] out clearly in this debate, because I believe that the Colonial Secretary must be making this reply after some consultation with the Kenya Government—I am looking at the Chief Secretary, of course. He refers to the "clear distinction between Mau Mau conspiracy which has devastated parts of Kenya, and the Protectorate . . .". I see in it an implication that the Members of this House cannot actually be trusted to visit the prisons, that their visit to the prison might have an adverse effect. Mr. Speaker, I would like to know from the Kenya Government whether this implication in the Colonial Secretary's reply is true, whether this reflects the attitude of the Kenya Government in so far as Members on this side of the House are concerned.

Mr. Speaker, it must be borne in mind that the Members of this House are as much part of the process of Government of this country as would an Opposition party be in the United Kingdom, and as such we would like to feel that we have the confidence of the Government, at least in so far as matters of general interest to the country are concerned. If this implication reflects the attitude of the Government, then, Sir, it touches very greatly on our own honour and position in this House.

Mr. Speaker, to illustrate the point I am trying to make, the following question by another Member of the House of Commons illustrates very clearly that they, too, saw that implication in the Colonial Secretary's reply. For Mr. Paget said this: "If we are to expect Elected Members in Kenya to be responsible, is it not highly important to treat them as responsible people? When all is said and done, and however bogus the Lokitaung complaints may have been, cases in the courts have shown that some pretty terrible things have happened to Kenya men in Kenya prisons, enough to cause some anxiety. I hope that the Rt. Hon. gentleman will consider this question of allowing the Elected Members to visit prisons as, of course, they would be allowed to visit them in England."

Now, Sir, it is a pity that people outside Kenya should read such implications in the reply of the Colonial Secretary. I think it is necessary that our own

Government here should indicate its own attitude to the Members on this side of the House, as to whether they regard us in the same light as implicated in the Colonial Secretary's statement to the House of Commons.

Mr. Speaker, it might be said that all I have quoted from the House of Commons HANSARD comes from Labour Members, or complaints by Labour Members of Parliament, but I am stressing my point about the necessity to have an independent enquiry so as to clear the names of our administrative officers who, all of us must agree, are doing a very important and difficult job in a difficult area, so far as Lokitaung is concerned, and also a difficult and important job in the various prisons and detention camps. Major Patrick Wall, a Conservative Member of the House of Commons, said this, after a rather longish statement: "Finally on this point, may I ask my Rt. Hon. friend what he can do to clear the name of the district officer who is now being defamed in the Press. He is a man who is doing a most difficult job, in an extremely unpleasant part of the world, as those who know the Northern Province of Kenya will testify. What can be done to clear the good name of the Civil Service throughout the Commonwealth? Surely, they must be protected from this form of attack, particularly if it is proved to be based on untruths." Mr. Speaker, Major Patrick Wall could not have made a truer statement, and this Motion asks for precisely that. We cannot claim that we have effectively cleared the good name of these officers, and, indeed, the Civil Service, by just a departmental report from that same department by a senior officer of the people against whom some of the allegations or complaints have been made. It is necessary, Sir, especially since this matter has been given such world-wide publicity, that some independent form of enquiry must be instituted, in the interests not of the convicts, but of the African Elected Members, but in the interests of the Civil Service and the officers involved, and this country, the good name of Kenya. Mr. Speaker, we can do this by an independent enquiry: we can do this by visits from Members of this House, on this side of the House—I do not mean by the Minister for Internal Security or a visit by the Minister for African Affairs, who is

[Mr. Mboya] eager to visit the area anyway, but I mean a visit by Members of this side of the House, because as I have said, if the Chief Secretary's statement had come from a Member on this side of the House, it would have been a much stronger position in defence of the good name of Kenya and in defence of the officers and the Civil Service that is now involved.

Mr. Speaker, Sir, I beg to move.

MR. KHAMISI: Mr. Speaker, I rise to second the Motion before the House. Before I do so I would like to say that the Mover has gone over this question very thoroughly indeed and that only very little is left for me to add to what he has said.

Sir, the allegations made by the prisoners at Lokitaung are to my mind only half as serious as those I have personally received from convicts in various prison camps throughout the Colony. I have received complaints after complaints; letters after letters, from almost all the camps you can think of in Kenya. On one occasion I approached the Minister for Internal Security and Defence about the matter and that was at the time when I received the complain from Lokitaung. I put to him a proposal that it would be far better if the Minister for Defence would allow any one of us on this side of the House to go immediately with him, if possible, to Lokitaung and look at things and see what could be done to put the things right. Of course, as usual and as has been said by the Mover, the Minister for Internal Security and Defence dismissed the whole idea very lightly and he told me, "Look here, Khamisi, all these things are only fabrications. There is no truth in them". Now that was just before the publication of all these allegations took place in the overseas Press.

Now, Sir, I think that that attitude is not the right attitude. It would have saved the name of Kenya if immediate steps could have been taken to see that these allegations were either founded or unfounded and such steps, if they had been taken in conjunction with the Members on this side of the House, would have put the Government and the Minister for Internal Security and Defence

in a much better position to explain them away than what has happened now.

Sir, the complaints that I have received from the other camps were very serious indeed and I do not think I can mention them in this House because I am sure—

THE SPEAKER (Sir Ferdinand Cavenish-Bentick): Order, order! In a debate of this nature, if hon. Members say that they have had a very large number of complaints of a very serious nature then they should, as the Mover very rightly and properly did, produce documents or evidence. I think that it is difficult to permit hon. Members to make such vague statements on a matter about which I am sure the House is thinking very seriously.

MR. KHAMISI: Sir, thank you for your ruling. I have got the letters in my files. I could produce them but I do not know whether that would substantiate my case and that was the reason why I could not give them to this House.

THE SPEAKER (Sir Ferdinand Cavenish-Bentick) If they will not substantiate your case then you should not use them in making your case.

You must remember that Members of this House have very grave responsibilities in regard to statements they make in this House.

MR. KHAMISI: Now, Sir, coming back to the Lokitaung case, the allegations in the letter dealt with lack of food; secondly, shortage or denial of good water supply; and, thirdly, brutal beatings.

Now, Sir, I think those are very serious indeed although I think that they could be avoided.

Now, Sir, you have put me in a very difficult position because although I have got the letters with me here I am rather afraid that perhaps it may be extremely difficult to prove how these letters came into my hands because they came into my hands in the normal circumstances but unlike the letters that have been produced by the Mover they have not got the prison stamp. But I think I could mention—

THE MINISTER FOR INTERNAL SECURITY AND DEFENCE (Mr. Cusack): Mr. Speaker, if it would be of any assistance to the hon. Member I would be very

[The Minister for Internal Security and Defence] willing to look at the letters and go into any matters which seem in doubt.

MR. KHAMISI: I have got the letters here.

Sir, the allegations which I would like, if you agree, to talk about are about the conditions in the other camps. There is the question, I think, of rehabilitation. It has been put forward to me that the people are forced to confess to have done something which they have not done. They have been forced to give their fingerprints on papers with the statements and to mean that they have accepted the statements in those papers. They have been forced to work for a wage of eight shillings per month, or if they refuse to do so they have to meet very serious consequences.

Also they have been given corporal punishment, although I understand that that was not included in the judgment for their cases.

In other cases, Mr. Speaker, their complaints are that people have been refused food for a couple of days while the convicts have been locked in cells naked, in a cell where cold water has been poured.

Now, Sir, those allegations are part of the allegations that have been received and an independent enquiry is very essential in these prisons and detention camps. I put it to the Government, Sir, that they cannot ignore these allegations lightly in that manner.

As it has been put very ably and clearly by the Mover, Sir, if the Government has nothing to be ashamed of, nothing to hide, therefore I ask the Government to accept this Motion. All that we are asking for is an independent enquiry by a person of the choice of the Government from overseas.

Coming again to the question of visiting of Members of this side to the prisons, I think the question of the membership of the prison visitors should be reviewed, and I would suggest that Members on this side should all be allowed or should be included in the list of members for the visiting of prisons in their various electoral areas. The

reason why I should like this to be done is because although at present there are prison visitors, Sir, these are people who have been picked up, I do not know by whom, either by the Government or somebody of that nature, but if they go to these prisons the prisoners have no confidence in these people. They are not their elected representatives. They will not confide to them the true state of affairs and they will not be able and they do not feel like telling them the conditions, the real conditions, under which they are being kept in those prisons.

We do not, of course, request that the prisoners should be treated very comfortably. All that we want is that they should be treated as normal prisoners in these prisons. Another thing I would like to bring forward is the question of discrimination in these prisons. We are told that different racial prisoners are treated differently. We would like to see that the prisoners—all prisoners—are treated equally whether they are black, cream, black, white, or yellow. They should all be treated as prisoners and given the same treatment.

Sir, the Chief Secretary, on the 11th June, in reply to the hon. Mover, said, and I quote—"I consider myself that the enquiry was full and that we have done our best in this particular matter, I cannot agree with the hon. gentleman that another enquiry is necessary".

Well, Sir, I am quite sure, after what he has heard this afternoon, and what the other Members have said, that he will change his mind and that the Government will now see fit to allow an independent enquiry to be carried out in these establishments.

With those few words, Sir, I beg to second the Motion.

Question proposed.

THE SPEAKER (Sir Ferdinand Cavenish-Bentick): Before the debate proceeds, I must again inform hon. Members that I am going to be rather strict about allegations. If you have allegations you must quote, you must more or less substantiate that you have in fact reason to believe that you have received allegations or letters or something of that kind. It is very easy to make suggestions without any proof whatever.

[The Speaker]

I would also draw hon. Members' attention to the fact that I am not trying in any way to restrict legitimate debate. On the contrary, it is my job as Speaker to try to protect the rights of the minorities. Equally, I cannot allow vague insinuations to be made here unless there is some measure of proof.

THE TEMPORARY MINISTER FOR LEGAL AFFAIRS (Mr. Conroy): Mr. Speaker, Sir, the Government cannot accept this Motion. And I should like to put before hon. Members the reasons which have led the Government to that conclusion.

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

[Mr. Deputy Speaker (Mr. Bechgaard) took the Chair]

Sir, if hon. Members look at their Order Paper and look at the wording of this Motion, they will see that it calls on the Government to institute an independent enquiry into all prisons and detention camps, for two reasons. The first reason, is because it says that the Council is dissatisfied with the statement made by the Chief Secretary on 11th June about Lokitung, and secondly because the Council is concerned about allegations from other prisons and other detention camps.

Now, Sir, let us just look at those two reasons, and if we find that those two reasons fail, then, of course, the reason for the Motion fails, and the Motion will fall away. The first question I would like hon. Members to ask themselves is this: was the Chief Secretary's statement unsatisfactory? Was the statement he made on 11th June about Lokitung unsatisfactory to this Council?

To answer that question, I am afraid I have to go into the facts about Lokitung, the allegations about Lokitung, for a little while. As all hon. Members know, it started in a letter which was published in the London *Observer* on 8th June. That letter started with these words: "We, political prisoners of Lokitung, are desirous that the world . . ." etc. Now, Sir, there was your first statement of fact. They were not political prisoners; they were men who had been convicted by the courts of this country for criminal offences against the criminal law of this country. They then went on to set out a number of complaints

Before I come to deal with those complaints, I think all hon. Members will probably agree with me that prisoners do not like being prisoners; that is a fundamental fact about prisons, with which I do not think any of us have any quarrel. Prisoners dislike being prisoners and, although the hon. Mover of this Motion quite properly said that one of the principal reasons for imprisonment is to change your criminal into a good citizen, but, Sir, there is another purpose of imprisonment which he omitted to mention, and that is that it is a deterrent. Punishment is not only to reform a prisoner, it is to deter other people from committing a similar crime. For that reason, Sir, prisons must, of necessity, be places where prisoners do not like to be.

Sir, the second thing we must remember about prisoners is that prisoners are persons with a complaint against authority, and many complaints are put forward by prisoners which are designed solely to embarrass authority. I am not saying that there are not legitimate complaints as well, but many complaints are designed solely to embarrass authority.

Sir, another thing to remember is this: in respect of the five men who purported to sign this letter, I have been able to check on four. They gave evidence in their trials; they were disbelieved by the court; they were convicted; they appealed. They went to the Supreme Court, and from the Supreme Court to the East African Court of Appeal; and it was accepted by the court that the story they told in the witness-box was untrue.

Now, Sir, there we have men whose credibility by the very judgment of the court, is at the very least open to doubt. If we can turn to the specific items in the letter about Lokitung, we find that it consists of some comparatively minor complaints and some very grave complaints. With respect to the comparatively minor complaints, I will say this: there probably is not a prisoner in any prison in any part of the world who would not be delighted if he could find a newspaper irresponsible enough and gullible enough to publish a letter such as this.

Here I should like to interject a matter which has come to the notice of the Government, but not to the notice of this Council, as yet. A copy of this letter

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was sent by these men to an African newspaper in Kenya, and, Sir, it is very greatly to the credit of the African editor of that paper that he behaved more responsibly than some of the national papers in other parts of the world, who published the letter without seeking to find out whether the allegations contained in it were true or false. So it is rather heart-warming to find that responsibility in a small man. I shall not draw the obvious contrast.

Sir, the major complaints, I think, dealt mainly with water and food and health. They were all dealt with in great detail by the Chief Secretary in his statement, and indeed, Sir, as the Council will be told, a medical specialist has since then examined all these men and been into this matter in great detail, and other speakers will tell the Council of the result of his report, which goes to show, Sir, that the allegations with regard to food and health and medical attention are untrue.

We have, therefore, on the one hand, five men who signed this letter and who are convicted convicts, whose credibility is open to suspicion. We have, on the other hand, the enquiry conducted by a senior district commissioner—and, Sir, I see nothing wrong in saying he was a magistrate. It shows that he had experience in sifting facts and finding out what was true and what was false, and it shows that he was a man who had the responsibility of the Governor reposed in him to try serious cases.

Now, Sir, on the one hand we have the criminals; on the other hand, we have the magistrate and we have the medical specialist. Sir, who is to be believed? If you believe the criminals, then you have to say that the senior district officer has been guilty of the most serious breach of duty; you have to say that the people who gave statements to him were prepared to break the law and give false statements in an enquiry such as this; you have to say that the medical specialist has been guilty of a breach of that trust which we are all entitled to repose in a doctor. Sir, I leave it to the Council to say which of those two sides should be believed.

If in the minds of hon. Members, it is thought that we should believe the

report of the magistrate and the doctor, then the first point of this Motion falls away, that is that the Chief Secretary's report to this Council was unsatisfactory.

Now, Sir, the second point on which this Motion is based is that there should be a general enquiry into all prisons and all camps because of the allegations arising from all prisons and all camps. All governments are likely to be attacked on this issue, and, therefore, in all civilized countries, as in Kenya, there is established permanent machinery by which inspections and visits are paid to prison establishments. The law provides visiting justices and prison visitors to be appointed to visit prisons and camps, and it provides specifically that prisoners and detainees are entitled to come forward and put their complaints to the visiting justices. This machinery has got two purposes. Its first purpose is to stop any possible abuse of the power given to the prison officers, and its second purpose, of course, is to stop prisoners' complaints being put forward which may tend to embarrass the Government unjustly.

Sir, I am not going to waste the time of the Council by taking Members through the provisions of the law with regard to the prison visitors. If one can extract a little amusement from a serious subject such as this, I was a little amused to see in the Prison Ordinance that the visitors are called "official" visitors, which, of course, is precisely what they are not. They are unofficial visitors. They are people—clergymen, people engaged in charitable works, independent persons—who are appointed for the purpose of visiting the prisons. Powers are given to them to go whenever they want to go. An official visitor may visit the prison to which he or she is appointed during the hours between 9 a.m. and 4 p.m., he may visit all parts of the prison and see every prisoner, inspect and test the quality and quantity of the prisoners' food; ascertain, so far as possible, that the rules and regulations of the prison are being obeyed; and enquire into any complaint or request made by a prisoner. Sir, those provisions of the law are enlarged upon and detailed in the prison rules.

Now, Sir, in addition to this permanent machinery which has been set up, I think it will be of interest to the

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Council to know what the Government has done over the last few years about having independent enquiries and inspections. We all know that in 1954 there was a Parliamentary delegation out here, and they were given facilities to visit and talk. But, Sir, 1954 is a comparatively long time ago, and I am not going to waste your time by going into the details of that delegation.

In 1955, allegations similar to those now being made were also made, and the Secretary of State appointed a member of the Secretary of State's Advisory Committee on the Treatment of Offenders to come out here and conduct a full investigation. He did so, Sir. He is a very experienced person, and he made a full report, which I think it is fair to say was a complete vindication of the prison service as far as these complaints were concerned. It is there for hon. Members to read; it was published as a White Paper.

Sir, I therefore do not propose to go into it beyond saying that it was a full vindication.

To come to more recent times, in 1957—that is to say, last year—the International Committee of the Red Cross was given the opportunity of sending a commission out here to visit every gaol and every prison and every detention camp. They did so. They sent two Swiss gentlemen—a Monsieur Henri Junod, missionary anthropologist, and Monsieur Gallard, and they visited Kenya from 20th February until 18th April, 1957, as delegates of the International Committee of the Red Cross for the purpose of examining the conditions in detention camps and prisons.

Mr. COOKE: Sir, did they go to Lokitaung?

THE TEMPORARY MINISTER FOR LEGAL AFFAIRS (Mr. Conroy): They went to a total of 52, but that I do not know.

I can tell the hon. Member what their report covered, Sir; it covered the type of accommodation in camps, it covered buildings, ventilation, living space, lighting, bedding, general hygiene, sanitary installations, latrines, laundry, appearance of detainees, food, rations, kitchens, meals—

Mr. ODINGA: On a point of order, I think you should rule that out. If it is proved that they did not go to Lokitaung, then this has nothing to do with this Motion.

THE TEMPORARY MINISTER FOR LEGAL AFFAIRS (Mr. Conroy): Sir, may I speak to this point of order? I am not dealing with Lokitaung at the moment, I am dealing with the second point in the Motion, which is that "this Council, being concerned about allegations from other prisons and detention camps, calls on the Government to institute an enquiry", and the Mover of the Motion very clearly said "into all prisons and all detention camps".

I have, at the moment, forgotten where I was in this rather long list of things that these gentlemen reported on. It dealt with food, meals; they inspected the drinking water installation, state of nourishment of prisoners, canteens, clothing, medical care including dental care, tuberculosis, disabled detainees, deaths, work, money and personal belongings, religious services, recreation and physical exercise, education, correspondence, discipline in camps and a host of other matters, Sir, which I need not bother with. It is sufficient, I think, Sir, to say that no one can suggest for one moment that these gentlemen were not independent. Sir, it was their considered finding that everything had been done which should be done by the Kenya Government in accordance with the International Convention to which we are subject. Sir, I hope in view of that that hon. Members will agree that we do not want to have international independent enquiries every year. We had one last year. No one can say it was not independent and no one can say it was not full. Sir, if we are going to have full-blown independent enquiries every time an irresponsible letter is published in the newspaper, then, Sir, the Budget is going to take us even longer to get through than it did this year.

Sir, we have, of course, also had the Commonwealth Parliamentary Association delegation last year. They were allowed to visit and speak to prisoners and detainees.

Sir, for all those reasons, I would suggest to hon. Members, that they should consider that there is no reason to have an enquiry at this stage into all prisons

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and all the detention camps, nor, Sir, is there any necessity to have an enquiry into Lokitaung, and for those reasons, Sir, I would ask hon. Members to vote against this Motion.

GROUP CAPTAIN BRIGGS: Mr. Deputy Speaker, Sir, despite the remarks of the hon. Mover, I believe that the real issue raised by this Motion is whether the Council accepts the clear and unequivocal statement made by the Government refusing the allegations which have been made against it, or whether the Council is more ready to accept the word of a number of ardent convicted Mau Mau criminals, men whom I would describe as being devoid of decency and integrity and who presumably are still unrepentant.

Now, Sir, having regard to the horrors inflicted on the people of this country by Mau Mau, such people certainly deserve punishment, and although I would not in any way condone ill-treatment in any form, nevertheless, it would not disturb me greatly if I did hear that they had suffered some slight degree of discomfort. However, it is clear that even this was not the case, and indeed, from the statement made by the Government, it seemed to be quite clear that they have been, not only very well cared for, but almost pampered.

Now, it has been my experience in the past that when Government carries out a thorough investigation of the very frequent allegations which have been made from time to time in the Council by some of the hon. African Members, that if the slightest thing has been wrong, action has been taken, and the strongest possible action has been taken to put things right, and I would add that it has been very, very rare that anything has been wrong. Yet, here we have, on the one hand, a definite statement originally made by the Chief Secretary which was followed today by my hon. friend the Acting Attorney-General, both men of integrity, and on the other hand statements made by a few Mau Mau thugs whose statements would appear to be more acceptable to some of the supporters of this Motion.

Now, I have not in the past always agreed with all the hon. gentlemen opposite on all matters. Not always—over

a long period of six years. But in an attack on their integrity on a matter of this sort I would defend them to the last ditch.

I believe this Motion to be ill-aided, and coupled with the many unfounded charges which have been so frequently expressed for Mau Mau convicts and detainees by certain hon. Members, that the attack can only be to create the impression in this Council and to the outside world, that some of them are, perhaps, Mau Mau sympathizers.

[Mr. Deputy Speaker (Mr. Bechgaard) left the Chair]

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

This, I believe, is an extremely unfortunate impression to create as it arouses suspicion as to the underlying reasons for this Motion having been brought. On the other hand, several hon. African Members have publicly denounced subversion and the *Klana Kia Muingi* in particular. But, I am bound to say that I have not heard any such denunciation so far made by the hon. Mover. Of course, if I am wrong in this, perhaps when the hon. Mover replies, he will correct me and tell the Council when and where and in what terms he did in fact denounce *Klana Kia Muingi*.

Mr. MBOYA: On a point of order, Sir, would the Member substantiate what he said about the Mover not having at any time or at any place condemned Mau Mau or *Klana Kia Muingi*?

GROUP CAPTAIN BRIGGS: Mr. Speaker, Sir, I am giving the hon. Member the opportunity to say whether he has. It has not been done to my knowledge. That is the statement that I have made.

Mr. MBOYA: Sir, will the hon. Member substantiate the statement he has made? He made a definite statement that he has not heard any such statement made.

GROUP CAPTAIN BRIGGS: Mr. Speaker, Sir, I have made a statement to the effect that I have not heard any denunciation from the hon. Mover of this Motion.

THE SPEAKER (Sir Ferdinand Cavendish-Bentinck): May I take it that the statement you made is that you personally have not heard the hon. Mover denounce such movements as Mau Mau and the *Klana Kia Muingi*.



MR. MBOYA: Mr. Speaker, Sir, what does he mean by the words "heard personally"? Does he mean him sitting at a meeting with me, or reading about it?

THE SPEAKER (Sir Ferdinand Cavendish-Bentinck): I think the hon. gentleman denied that he had read or seen or heard from which I gather that the hon. Member is saying that he has not personally, I repeat personally, either read or heard you make such denunciations.

GROUP CAPTAIN BRIGGS: Mr. Speaker, Sir, your ruling is entirely correct. I have said that I have not heard of any denunciation of *Mau Mau* from the hon. Member. I do not mean that I say he has never made one.

THE SPEAKER (Sir Ferdinand Cavendish-Bentinck): You do not allege that the hon. Member has never made one, but you say that you personally have not heard one?

GROUP CAPTAIN BRIGGS: Yes, Sir.

I would repeat that if I am wrong in this, then I hope that when the hon. Member replies, he will correct me, and tell the Council, as I said before, when and where and in what terms he did in fact denounce *Kiama Kia Muingi*.

Now, my reason for raising this is that it is impossible to escape the conclusion of the impression or suspicion that the underlying motive for this Motion is primarily a political one intended to bring the Government into disrepute and despite the assurances given by the hon. Member to the contrary.

MR. COOKE: Mr. Speaker, on a point of order. Is the hon. gentleman in order in attributing motives during this debate. You have ruled many times that motives should not be attributed.

THE SPEAKER (Sir Ferdinand Cavendish-Bentinck): I think I must say that in view of what the hon. Member said in introducing this Motion, I do not think it is right for the hon. gentleman who is speaking now to make that interpretation because the Member most distinctly gave his reasons for introducing this Motion.

GROUP CAPTAIN BRIGGS: Thank you, Mr. Speaker, Sir.

Now, Sir, in the light of your ruling, I have nothing further to add and I beg to oppose the Motion.

DR. KIANO: Mr. Speaker, Sir, the Acting Attorney-General, I believe, has informed us that several times within the last several years, persons from outside Kenya have been allowed to come and visit the various prisons and detention camps and to inspect what is going on, and he said that the Government has been very satisfied with the findings of these persons.

Mr. Speaker, that raises a very interesting point and that point is this, Mr. Speaker: if the Government finds it advisable to allow persons, may they be Swedish, Danish, Norwegian, or Americans or whatever they are, to come and visit the detention camps—Mr. Speaker, I would have wished that the Member for Mount Kenya does not go out because I have some remarks to make about him.

THE SPEAKER (Sir Ferdinand Cavendish-Bentinck): I must ask the hon. Member not to make remarks about people coming in or going out or what you are going to say about them. We are now trying to concentrate on debating a Motion. Please stick to the Motion we are discussing. All, please sit down when I am on my feet making a ruling.

DR. KIANO: Thank you, Mr. Speaker.

If reports have been made about prisons by people from outside, this raises a very interesting point, Mr. Speaker, and that point is this: that here we have a Government which allows people from outside—people, perhaps, not as acquainted with the affairs of Kenya as we are—to come and inspect the prisons, talk to people, and yet when we, the African Elected Members, who speak the languages of these people and who are more acquainted with the conditions obtaining in this country—when we request permission to go, as we have already been informed by the Minister for Internal Security, on various occasions, we have been told that this would have an adverse effect.

Now it appears to me that if the Kenya Government allows foreigners and visitors to go to the Kenya prisons and detention camps and does not have enough faith and trust and confidence in the elected leaders of the people to allow them—the African Elected Members—and perhaps other Elected Members to visit this place, then, Sir, I fail

[Dr. Kiano] to understand what is meant by co-operation between officials and non-officials.

My second point, Sir, has to do with the motives behind this Motion. I consider it very unfortunate, Sir, that a Motion of this nature, calling for some sort of independent enquiry into allegations, should be construed by any hon. Member, Sir, as in itself creating implications of sympathy as to the activities of these people which led them to the prison.

I do not want to enlarge on that point, Sir, because I think that the implications of the statement were very serious. What is important, Sir, is not that an African Elected Member stands here or in Makadara and denounces the activities of particular groups; what is more important is what he does or what he believes and whether or not it gets to the Press.

However, Sir, for the purpose of informing the Member for Mount Kenya, in reference to the point he made about my hon. friend, the Member for Nairobi Area, it is on the public records—what I am saying—and the Government itself can testify that the Member's stand on the issue of violence is well known.

I come to the second point of this Motion. It is said that visitors have been to these camps. But, Sir, when the Chief Secretary was giving his statement on the 11th of June, he was asked by, I believe, my hon. friend, the Member for Nairobi Area, as to who made the investigation to make sure that the report by the prisoners was incorrect, and we were told that this investigation was done by a district officer.

Now, Sir, it would be very nice for us to be able to accept a statement like that from the Government Benches and to go home and tell our people: "It is all right; a certain district officer or a certain district commissioner has made a report and we are assured that the situation is all right". But, Sir, whether we like it or not, there are a lot of people who do not have as much faith in the word of the Government as we would like to believe. It may be true that the Government is giving us correct information, but the fact does remain, Sir, that there is a lot of misgiving about

statements by Government officials. This being the case, Sir, we must look for another way to give these people confidence.

I have received letters, some of which I will show my hon. friend, the Minister for Internal Security. One of them makes such statements, that an assurance by the Minister will not satisfy me. Not because I do not believe in what he says; I know he tells us what he knows to be correct; but in some cases, Sir, he uses subordinate officers who perhaps use other subordinate officers, and therefore sometimes I tend to believe he is not properly informed in all these cases.

There is a man who wrote to me from my own area—Mariira Works Camp—and he gives such an instance as that on 23rd January—one detainee was badly beaten and eventually died. Now, Sir, that is a very, very serious charge. It is so very serious that I cannot stand here and say: "All right, we are told the situation is all right; it must be all right". After all, these are people from the constituency which I represent in this House, and I am honour bound and politically bound and humanely bound to make sure that this is not true and that if this is true, to see that this does not happen again.

I have other parts of this letter, which makes statements about inadequate medical treatment and so on—even denials of such comforts as smoking—and, as I say, I will show—

THE MINISTER FOR INTERNAL SECURITY AND DEFENCE (MR. CUSACK): Could the hon. Member give me the date of the letter from Mariira Works Camp? I did not quite hear what he said.

DR. KIANO: I will do that, I also hope, Sir, that the writer of the letter—that the request by the Minister will not lead to any reprisals. The letter was written on 29th April.

Now, Sir, I do not want to go through all these heartbreaking allegations. I would say this, Mr. Speaker: that in the first place we are not welcomed in these prisons by the Government. We are still waiting to know why. We hope we shall hear why, either from the Minister for Internal Security or the Minister for African Affairs.

[Dr. Kiano]

Secondly, Sir, when we receive these allegations and we are not welcome into these prisons in order to check for ourselves so that we may substantiate the allegations, then, Sir, the only other way we can follow is to ask for somebody else—not an interested person but a disinterested person—to go and look at the situation. I personally feel it would be much better for representatives of this side of the House, and even accompanying the Minister for Internal Security or the Minister for African Affairs, to let us go there and give us, maybe, four or five minutes and let persons like myself have a good chat with these people, in their own language, in order that perhaps we can get at the bottom of how they feel. Some of these people may be our own relatives and I feel they might tell us something, but it does appear that the mere fact that I am a Member of this House gives me a certain effect which might perhaps retard the work of the rehabilitation officers.

Now, if that is the belief of the Government, I must ask what kind of rehabilitation they are getting on with, if they feel that a person honourably elected into this House will have an adverse effect on that kind of work, because you must remember, Sir, that in Ki-swahili rehabilitation is known as *Kugeuzia nia*, which means changing the aims of the people, and it has very serious implications.

My last point, Sir—because I do not want to detain the House too long—has to do with the fact that not only members of the Kikuyu, Embu and Meru are in the detention camps, but also people from other tribes, particularly some from Nyanza and so on. I believe that in this Motion, when the Minister for African Affairs or the Minister for Internal Security answers, we should like to know what provisions are being made for their rehabilitation.

If you remember, Sir, when I raised a question with the Minister for Internal Security regarding prisoners, I was told that certain categories of prisoners will go through the pipeline and rehabilitation. It was not even stated what categories those would be, which of those persons in detention camps or in prisons will go through the pipeline and which will not, and why.

Now, Sir, would it not have been a much easier job—and we are usually accused of criticizing Government—taking a negative attitude—would it not have been much easier for the Government to say: "All right, let us not waste the precious time of the Members of Legislative Council with a debate like this; let us not spread suspicion between the African Elected Members and the Government on this question of detainees; let us, in other words, not put allegations at each other because we are not in a position to substantiate for ourselves what is going on", but to have the matter quietly handled by saying: "All right, chaps, you seem very concerned; we, too, are concerned about the conditions of these people; come along with us; let us go and let us see the situation".

Now, that is rejected, and that is why, Sir, we bring this Motion. Now, I say this: the hon. Mover said that the good name of Kenya is being jeopardized. I even believe, Sir, that he was being very generous to say that Kenya has a good name. I have lived outside Kenya for a while and I know Kenya does not have a good name; even its Government does not have a good name, even as much as they would like, because these kinds of allegations continue and continue and continue. All I am telling the Kenya Government is this: that their name has been badly spoken of. Allegations, whether proved or unproved, have been put to the public all over the world, particularly about the detention camps; to some extent, some newspapers even call them concentration camps!

We are very willing to co-operate with the Government to clear that name by going to these camps and saying: "All right; we know things are perfectly all right". But we are not helped. If someone is asking and says: "What really goes on in detention camps?" I simply say that the Minister for Internal Security or the Minister for African Affairs says—and I leave it at such.

The name of the Kenya Government has been badly stigmatized—stained—by these allegations. It will not suffice simply to say that a district officer or a district commissioner has visited this area or a missionary has visited this area. What would be important, Sir, is to say: "All right, let us have an independent

[Dr. Kiano]

enquiry" which, if possible, should include some of the people who represent the parents or the relatives of these detainees. Then, Sir, let us have a report, and when we have the report we shall join with the public and the Ministers of this Government to say that everything is all right.

Otherwise, we must continue raising allegations privately, because when we receive them, Sir, we cannot ignore them.

I support the Motion.

SIR CHARLES MARKHAM: Mr. Speaker, having heard the last speaker, I had a certain amount of sympathy with the ideas he expressed in supporting this Motion. I particularly, Sir, was impressed by the plea he has made, asking for the African Elected Members to play a greater part in visiting these camps. In fact, Sir, some of us hope some of them might visit some of these camps for a very long time indeed, perhaps three or four years. I assure the hon. Members there is no personal animosity about saying that, but I always believe if they speak with first-hand experience they can speak with knowledge.

I am going to come back to that, but I want, Sir, to refer very briefly to what I call the Lokitanga incident. Sir, in the House of Commons—it has been quoted by the hon. Mover of the Motion—he quoted, Sir, from an extract of HANSARD—and I would like to quote only one thing, Sir, and that was the final reply made by the Colonial Secretary in the House of Commons. Now, Sir, I am quoting from a newspaper, the *East Africa and Rhodesia*, a copy of which is in the library, dated 19th June.

"Mr. Lennox-Boyd—These untrue stories had been spread throughout the country and taken as true by many people rightly concerned for the good name of our administration. I deeply resent the irresponsible way in which these false charges have been disseminated. I hope the true facts will receive full publicity so to redress the injustice done by these entirely unwarranted accusations against the district governor and the Government of Kenya."

"Many people, he continued, were now saying there should be a general inquiry

into all Kenya prisons but they were relying on the short memories of their fellow citizens, for a similar charge was laid in 1955 and an enquiry was made.

The report, a full vindication of the Kenya prison service, was published as a White Paper by the Kenya Government. It was significant that the charges dried up as soon as the truth was known except in the minds of those people who were constantly pleading the need to do justice to Africans totally ignoring the need to do justice to people of our race under very great strain. He saw no reason whatever, especially since the allegations were untrue, to hold another general enquiry into the conditions in Kenya prisons."

Sir, when the matter was raised in the Council, I think initially, Sir, during the Vote of the Minister for Internal Security and Defence, then we had the statement from the Chief Secretary, many of us on both sides of Council, and particularly from my own point of view, were extremely worried what the statement was going to disclose. We were worried that perhaps there had been an administrative slip-up somewhere—and that some of the allegations were true. But, having heard the statement made by the Chief Secretary, and it was a very full statement, I cannot see why, Sir, the Motion which is before the House at the moment started off by saying he was not satisfied with that statement. I would have thought that you cannot do more than accept the facts. I understand fully and I support, Sir, the idea of Members being allowed to visit some of these camps. I am not saying it, Sir, as a joke this time, because I think it is a very good idea if people when they came to this House could speak with some experience. But—again I use the word "but", Sir, reservedly—but they must not go there, Sir, with the deliberate idea of creating trouble and finding trouble for political purposes. I am not suggesting, Sir, that they are going to do that; I am giving that as a warning.

Now, Sir, it has happened in the past, we know, where people have deliberately used the fate of some of these unfortunate people to attract sympathy to the cause. I am making no assertion, Sir, against any hon. Member in this House; I would not wish it to be thought I was doing so. But there is this very pleasant

[Sir Charles Markham]

propaganda machines which is anti-colonial. There is a rather peculiar body run by a gentleman who is a Member of the House of Commons in England, called the Movement for Colonial Freedom. That body, Sir—and I understand that certain hon. Members have been quite well known to that body—that body enjoys nothing more than having a chance of sniping at the good administration of this country; and there is nothing they will enjoy more than quoting extracts from this debate without giving any of the replies. We know that has happened not only in these sort of bodies, but with some of the Press outside this Colony who always delight in giving a racial slant to any single problem.

Now, Sir, if I thought this enquiry would have been practicable, and if it had not been so general in its terms, I was going to move an amendment to the Motion today. But on consideration, even my amendment would have been a generalization such as the Acting Attorney-General criticized when he spoke. I was going to suggest that the Government might use Members from both sides of this Council when they recess and go on their holidays instead to send them up to one of these places like Lokitaung or Lodwar at their own expense where they could see the conditions the prisoners live in. They might as well see the state of health of the prisoners. My information, Sir, from somebody who came back the other day from there, who flew up in an aeroplane, was that one of the very prominent political prisoners who is actually a convict and not a political prisoner, but he has been called that, one of the convicts, is looking extremely fit. When I saw him last, Sir, when he was in Nairobi, consuming vast quantities of brandy, he looked exactly the opposite, and so I do not think he is so badly off.

Now, is there anything wrong, Sir, with the prison service and detention camps, and are these complaints of which we have had details from hon. Members on this side of the Council justified? There is always that question, Sir, of what you do with a complaint which you receive, which you think is genuine, and which might be substantiated by facts.

When two of my ex-houseboys returned after a somewhat lengthy stay in Manyani, I asked them what the conditions were like. Well, the first question I was asked before they answered me was, "What do you want to know for? If it's for the police, we'll tell you one thing; if it's for your own information, we'll tell you another". Now—is it so good answering a question; they were talking to me, not to the hon. Member. The truth is, Sir, that there is a certain popularity in giving a story which shows you suffered terrific hardship and you become a martyr to the cause. It is quite amazing when my cook, who complained of the most frightful privations and ghastly lack of food, came back weighing over two stones heavier than he went in, and I asked him how to explain that point of view, and he then giggled, and said, well, he did not know. But, nevertheless, there is a popular fallacy that because you have been to prison, you must complain afterwards of the hardships. Now, I am not saying, Sir, that some of these complaints are not justified. It would be wrong if any Member who does not know the facts were to try to pass judgment, and the judgment must be from the Minister who is in charge of these particular prisons, and he should know, with his officers.

But if it is the intention that every time complaints are received—and I can assure hon. Members in this House that even in England, complaints are regularly received—we should set up an independent enquiry, it is going to be a mighty expensive drain on the taxpayers' money, and when do you start this enquiry? After all, it is only a matter of two years since we had the last one—once a year, I have corrected, Sir—once a year we had the last one which vindicated the prison service; it is proposed that every year in future, we have another one, because I want to know who is going to pay for it. It is an expensive game, this, and I feel particularly that the complains we have heard today, Sir, other than the one which was wanted so seriously of a man who wanted a pair of trousers, I have not heard a complaint made in this Council today other than Lokitaung one which I would have thought merited an independent enquiry. There may be some

[Sir Charles Markham]

coming later on in this debate, but as yet I have not heard any specific example other than a pair of trousers. Perhaps, Sir, we might have a vote of sympathy for that particular gentleman.

But it has been said by the hon. Member who moved this Motion and again by the hon. Member who has just said down that the good name of Kenya was involved. I accept that, Sir, the good name of Kenya is involved. But this is the way to make quite certain that you besmirch the good name of Kenya by suggesting to this Council that something is radically wrong, and an enquiry is necessary. Surely, if you feel that the good name of Kenya must be protected, this Motion would not have been brought and it would have been a matter of enquiring round a table with the Chief Secretary and the Minister for Defence. And, again, Sir, I feel quite certain that had the hon. Members really felt strongly that this matter should be brought to the notice of the Government, facilities could have been arranged in this instance for them to visit Lokitaung. Perhaps, Sir, the Minister concerned, when he speaks in this debate, will tell the House whether any approach has been made by any Elected Member in this particular instance of Lokitaung to go up there, having heard the official statement made by the Chief Secretary.

Now, I have very little more to say, Mr. Speaker, except to make one plea. I accept what the hon. Mover of this Motion said when he said there were no political implications in bringing this Motion. I accept that, Sir, without any reservation at all, as good faith on his part, but I do hope the rest of his colleagues, Sir, will remember what he said when he introduced this Motion, as the wild statements that could be made, Sir, even though they are called to order by you later on, Sir, do get into the paper, and are accepted by the unsophisticated masses as being the truth. It is an amazing fact, Sir, that in these modern days, it is more popular to read something outrageous than it is to read something rather calm and collected. And I hope that when hon. Members on this side of Council speak tomorrow, they will remember that the good name of Kenya is at stake, and they should do nothing to ruin or worsen the position. I will not

accept, Sir, from the hon. Member for Central Province South that the name of Kenya is bad. It may be bad, Sir, in parts of America, but I wonder who made it bad? I remember a statement being made by a gentleman who shall be nameless, Sir, when he was visiting America, when he talked about Kenya's concentration camps. Now, that is the one way, Sir, to make our name bad. That particular gentleman, Sir, we know very well; I do not want to embarrass him, but if on the other hand he accuses the Government of being in bad odour, then, Sir, he is in turn creating some of the smell.

I beg to oppose the Motion.

Mr. ODINGA: Mr. Speaker, Sir, this Motion is in actual fact a very serious Motion which should have been taken both from this side and that side quite seriously, but as I know psychologically that my European friends generally try to treat these things lightly, probably thinking that psychologically that it will go and in the end the Africans also will treat it lightly, whereas at the back and at the bottom of their minds, they know pretty well that this is a very serious matter.

I think, as some people are crying for Kenya and they seem probably to either, whether they are very keen when they express their good name of Kenya, or whether they are only shedding the crocodile's tear, I do not know. But with me, when I pray for the good name of Kenya, I pray that from the bottom of my heart, and I would like all my friends to do the same.

I was greatly surprised, because I thought when the Chief Secretary made his statement last week in this House—maybe it was a fortnight ago—I thought that he was ignorant of so many facts, which the Africans know about these prisoners at Lokitaung. If the Chief Secretary did not know them probably at that time when these people were arrested, he was not in Kenya; it might be that he did not know exactly their position. These people, before they were arrested, they were the political leaders of the Africans in this country, and the Africans respected them as their political leaders, and even at this very moment, in the heart of hearts of the Africans, they are still the political leaders.

Sir CHARLES MARKHAM: You are going—

Mr. ODINGA: I must tell you that, and if that is now known, Mr. Speaker, it has got to be known, because that is right deeply rooted in the African heart, and we expected that when these people were arrested and they were imprisoned, they would be treated as the leaders; they would be treated just as the leaders of any other community would be treated when they were imprisoned. If that has not been done, I am sure that the Government has made one of the serious mistakes, and the serious mistake which, as a result of neglect of these people and so on, you would find that you would be hurting the feelings of the Africans. From the hearts of all the Africans, you will be hurting their feelings, and when they heard of the statement which—

HON. MEMBERS: Order, order!

THE SPEAKER (Sir Ferdinand Cavendish-Bentick): I think the time has come for the interruption of business. I call on Mr. Blundell before I suspend the business.

### MINISTERIAL STATEMENT

#### DAIRY INDUSTRY BILL SELECT COMMITTEE—ADDITIONAL MEMBERS

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): Mr. Speaker, I would crave the indulgence of the House to make a short statement. Under our Standing Orders, there is no provision for debate on the members of a select committee. Hon. Members may know that some sections of the House were disappointed over the members of the select committee that I suggested in the Dairy Bill. As this is an important Bill, and covers many sections of the community, I will ask, Sir, for your ruling whether it would be possible for me to crave the indulgence of the House to add the names of Col. McKenzie and Sir Charles Markham to the select committee.

THE SPEAKER (Sir Ferdinand Cavendish-Bentick): Under Standing Order 87, sub-section (2), and Standing Order 121 (I think they are both slightly changed from our old Standing Orders), there is some ambiguity about the appointment of a select committee when it is desired to place before the House

the names of the proposed select committee. Therefore, I would rule, subject to the approval of the House, that it might be reasonable to allow the Minister to add these two extra names which are put forward in the interests of the minorities concerned who are interested in this particular Bill.

Mr. MBOYA: Mr. Speaker, Sir, I do not know the position, but certainly I think you mentioned the question of minorities. But we are getting a bit more concerned about the composition of select committees because we ourselves are very concerned with the matter that is to be discussed, namely, the Dairy Industry Bill, and we feel that the Minister in reconsidering the Bill has seen fit to include another two European Members on the committee when there has so far been appointed only one African from this side and I think one Nominated African Member from the other side of the House. We feel that either opportunity should be given for further consultation on the appointment of these people, or else that another method should be adopted in appointing them.

THE SPEAKER (Sir Ferdinand Cavendish-Bentick): May I suggest perhaps to the Leader of the House that under the circumstances—I think if we are going to appoint a select committee of the House its composition must be by agreement—it would be better to defer this matter in order to allow the consultations that Mr. Mboya has suggested.

### ADJOURNMENT

THE SPEAKER (Sir Ferdinand Cavendish-Bentick): That being the case, I will now adjourn the House until 9.30 a.m. tomorrow, Friday, 27th June.

*The House rose at nineteen minutes past Six o'clock.*

Friday, 27th June, 1958

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

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

### PRAYERS

### PAPERS LAID

The following Papers were laid on the Table:—

The Price Control (Kitui District) (Amendment) Order, 1958.

The Price Control (Moyale District) (Amendment) Order, 1958.

The Price Control (Baringo District) (Amendment) Order, 1958.

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

The Kitale County Council (Graduated Rate) Rules, 1958.

(BY THE MINISTER FOR LOCAL GOVERNMENT, HEALTH AND TOWN PLANNING (Mr. Havlock))

SELECT COMMITTEE ON DAIRY INDUSTRY BILL—ADDITIONAL MEMBERS

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): Mr. Speaker, when Council adjourned yesterday, you suggested that I should have further discussions with hon. Members opposite as to the members of the select committee on the Dairy Industry Bill. I have to inform you, Mr. Speaker, that agreement has been reached with the addition of the names of Lt.-Col. B. R. McKenzie, D.S.O., D.F.C., Mr. Odinga and Sir Eboo Piribhal.

THE SPEAKER (Sir Ferdinand Cavendish-Bentick): As you have already proposed the composition of this select committee and Council has agreed basically, would you formally add those by moving a further Motion.

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): Mr. Speaker, I beg to move that the names of Lt.-Col. B. R. McKenzie, Mr. Odinga and Sir Eboo Piribhal be formally added to the names already submitted to this Council for the select committee on the Dairy Industry Bill.

THE MINISTER FOR LOCAL GOVERNMENT, HEALTH AND TOWN PLANNING (Mr. Havlock) seconded.

The question was put and carried.

### MOTION

CONVICTS AT LOKITAUNG PRISON AND ELSEWHERE

*Resumption of debate interrupted on 26th June, 1958*

Mr. ODINGA: Mr. Speaker, Sir, when the Council adjourned the business yesterday, I had just made one point. That was on these African prisoners, both at Lokitaung and maybe even to other areas, that these people were, when they were arrested, they were the political leaders of the African people, and the African people respected them as such. I was putting that point across to the Government, because I had the impression that when the Chief Secretary made his statement, he seemed as if he took these people as just ordinary prisoners who would just be treated ordinarily as any other prisoner. Even yesterday, when the Solicitor-General was speaking, he seemed, and I had the impression that he took these people very lightly indeed. I thought: "This is the opportunity for me, and I know that I shall be doing a great service to the African people and to Kenya as a whole to make it publicly clear that these people are the leaders of the African people who are respected as such". Any statement which is made which might be regarded as ridiculing these people hurts the tender feelings of the African people.

Mr. Speaker, as the leaders of their community, they deserve the respect, when they are in prison, they should be treated with some respect, because they are the leaders of the people; just as when Archbishop Makarios was arrested by the British Government, he was taken to Seychelles and he was put on the Governor's lodge there. Nearly every day he gave a report of his health, and his activities were in the Press. The same thing with Mr. Jomo Kenyatta should exactly be done, because anything—

HON. MEMBERS: Order, order!

THE SPEAKER (Sir Ferdinand Cavendish-Bentick): Mr. Odinga, this is not about the treatment of an individual

[The Speaker] gentleman. This is a Motion which concerns an enquiry into conditions. I think you are getting rather far from the subject-matter of the Motion, if I may say so.

MR. ODINGA: Mr. Speaker, if I leave mentioning the name of one man, I will only say that if I include him with his colleagues, because what it is worrying the Africans most, and having heard of their conditions and their treatment in that place, the African people will not be easy about it. They would like to hear or to know exactly their health and how they are being treated in these places. That goes to the very essence of this Motion. To bring this Motion was to make it or to bring to the Government's notice that we would like to satisfy ourselves that these people are in good health, and that they are being fairly treated, which, as their letter had already indicated, seemed as if it was doubtful. For if they complained, these people are fully grown-up people, and they would know whether they are being well treated or whether they are being mistreated.

Mr. Speaker, I would go on again to draw the attention of the Government here and if it can, even in Great Britain, to know that these people as the leaders of the African people—and when I mean that they are the leaders of the African people, I do not take into consideration the recent violence in Kenya; I take into consideration the past deeds of these people in the field of politics, economics and social advancement of the African people, and I respect them as such.

SIR CHARLES MARKHAM: *Mau Mau?*

MR. ODINGA: Well, maybe you take them to be *Mau Mau*, or you take them to be any other thing, but I am giving you what you should know about our feelings towards them as the African people, and before you realize that, you can never get the co-operation of the African people. It is better to know this and know it thoroughly and know that

For example, these people, many of them had denounced terrorism, and at the same, publicly, too, yet you find that somebody like Archbishop Makarios was—

HON. MEMBERS: Order, order!

THE SPEAKER: (Sir Ferdinand Cavendish-Bentinck) Order, order! Mr. Odinga, I have already ruled that the subject matter which you are now discussing is nothing whatever to do with the Motion before the House. You are discussing the political views of certain persons; the Motion before the House calls on the Government to institute an independent enquiry into the conditions obtaining in Her Majesty's prisons and detention camps with a view to making a report to this Council. So will you please adhere to the subject matter of this Motion.

MR. ODINGA: I do, Mr. Speaker, but as the Government have—

THE SPEAKER: (Sir Ferdinand Cavendish-Bentinck) Order, order! I have given a ruling, and you cannot say "but". You will kindly either adhere to my ruling or I shall have to ask you to cease speaking.

MR. ODINGA: Mr. Speaker, in saying this, I have taken into consideration, because the Government have already stated that they are not going to accept the Motion, and since I had found that they have had some misunderstanding about these people, I took it that it is my right to explain it to them—

THE SPEAKER: (Sir Ferdinand Cavendish-Bentinck) Order, order, Mr. Odinga. Will you kindly cease speaking. Next speaker, Mr. Mate.

MR. MATE: Mr. Speaker, Sir, in some aspects, I sympathize with the Government's attitude of not wanting interference in the rehabilitation of the people in detention camps. At the same time, I feel that there are some very important aspects of the Motion that Government ought to take very seriously, because we are equally concerned in the rehabilitation and reform of these people, and the allaying of the fears, caused by these allegations, and especially because the whole question of rehabilitation is very relevant to the ending of the Emergency as far as the Central Province and Kenya are concerned. I feel, Sir, that Government ought to examine the merits of such an enquiry as is proposed in the Motion, and visits by Members of this House, because I believe they would be found useful and helpful, rather than destructive, in solving the problem.

[Mr. Mate]

On the question of the people detained—for us in the Central Province these are our brothers. They are our constituents and they are Kenya citizens at the same time. They happen to be in gaol, but it is like any other person in gaol—there is sympathy for the welfare of that particular individual. I would wish to emphasize that we in the Central Province feel very strongly about any slurs made about such people.

Mr. Speaker, if I may refer to the speech of the Member for Ukamba yesterday, I thought it was very commendable and it was very interesting. At the same time I should like to refer for a moment to the speech made by my friend, the Member for Mount Kenya. For us in the Central Province, I felt angry at that speech; I do not wish to reiterate any more but I do not think it was helpful to the Government or to this House. At the same time I did take exception to the way he attacked my colleague, the Member for Nairobi Area, personally in a public way. I have heard the Member condemn violence myself. Maybe he has not attended meetings or talked to him, but I felt it was unfair.

Mr. Speaker, coming to the next question, I should also like to take exception to some remarks of my hon. friend, the Member for Nyanza Central. We in the Central Province today are the political leaders in the Central Province. By that I mean my two colleagues, the Member for Central Province South and the Member for Nyeri and Embu. At the same time I would like it to be taken into account that each country has a history and we have said we have had leaders in the Central Province from time to time and there have been some cases where their political careers have flourished like ships at sea, and I would like here to have it on record that we can distinguish between what is genuinely political and what is not political, and if it is—the leaders he referred to were no doubt engaged in political activities and later they were convicted under the usual laws of the country. At the same time in the whole organization none of us sympathized with the kind of thing that took place at Lari or any other place. Genuine political activity must be clearly distinguished from crimi-

nal activity as well as referring to parallels in the history of leaders in other countries—good elements and bad elements. We know many of them of many nations and we might be able to distinguish between the essential and the non-essential, and I should like to say this: that these people in detention camps have written these letters to us because they do recognize that we are the political leaders as far as they are concerned. That is an essential point that I think the House might lose sight of in the general heat of the debate, and the central point, Mr. Speaker, is that we are concerned at the welfare of these particular individuals and the rehabilitation, and the chances that there can be of relieving them.

We are concerned with their welfare as we would be concerned with someone who was in hospital or someone in trouble, and, under the laws of the country, I do not think there is any objection to such people being visited or being examined. I do not think I need go into this any more, Mr. Speaker, but I should like to have that picture put correctly as far as Central Province is concerned.

Mr. Speaker, Sir, the position today that prompts this kind of Motion is that we have heard of these allegations; personally I have had many letters from these camps, not only Lokitang, and we have heard such phrases as "irreconcilables", "hard-core", "get to the bottom of the barrel", and so on. Mr. Speaker, it is very serious if Government are admitting; in other words, that the work is becoming too difficult. In that case, would Government refuse any assistance that any person likes to give, especially on this side of the House or a member of a committee outside? It is a very serious challenge to the head of the Government to say whether there may not be any other methods. We are in touch with the people and we live nearer to the people than the Government do, and I suggest very seriously that they give the answer to this question, very serious attention, because I believe such visits might have some very advantageous effects.

Mr. Speaker, we are looking for ways and means of solving the whole general problem of the Emergency and this Motion tries to drive to the Government the fact that there is a problem here—

[Mr. Mate] would they like some more help—and if Government are going to turn round and dismiss lightly everything that is said, I feel, Mr. Speaker, it would be unfortunate. I feel Government should give it very serious attention.

The reason why I raise the general conditions is because of the dangers of a stereotyped attitude of mind guiding the repentance of these people. I feel that some measure of sympathy—of hope that they can be given a second chance—must be exercised, and I feel from what the Minister has told us about the figures of the people in these camps, I feel that these methods, used properly, would bring very good results.

Mr. Speaker, I would like to point out again that we, the African Elected Members, are not just a type of human being. We are individuals with a sense of responsibility for our job, a sense of responsibility for our duty and a sense of responsibility for law and order to protect this country, so the hon. African Elected Members feel equal concern and a sense of duty, and I feel it should be possible for Members of this House from all sides—both sides—to be able to visit these places and see if they themselves can help. One way of helping is that they may have ideas about rehabilitation. The second one is important—that you would be in a firmer position to deny these allegations, or to go into them better because of some knowledge.

At the same time, I should like also to go back to the passing reference made by the Member for Mount Kenya. I for one—and my colleagues who have condemned the K.K.M.—did it very, very sincerely, and we shall continue to do it, but if it would be said that we are going to put the case for the rights of our people less firmly, that must be refuted not be confused with what we say about subversive activities. We have got our double duties to do. We represent these people and also we must be responsible for law and order in this country. So any confusion on the part of any Member of this House, Mr. Speaker, as to what one might like to call the innocents of such a thing, ought to be taken away. Since we have the responsibilities to discharge, they should be discharged sincerely and not just because of a belief about an individual.

I feel, Sir, it would help us very much in this House if we all looked at each other like leaders who mean to go together.

Mr. Speaker, as the majority of the people affected come from Central Province, I would also like to have it on record that the people, in general, in the Central Province have a great sympathy with this kind of Motion. It affects their relatives; it affects their brothers; it affects their husbands; it affects their relatives; and if it was thought that Government was taking active steps to try and see how the position can be improved they would be only too happy. For them it is not something distant; it is something very, very immediate and I feel, Sir, that that aspect of it should not be lost sight of. At the same time, Sir, the people generally have pressed for the end of the Emergency. They are told: "Unless you come out you cannot have the end of the Emergency; until you behave better you cannot have the end of the Emergency".

Mr. Speaker, they welcome attempts—any help that could be given—in order to see the end of the Emergency, because by and large they depend on getting on with their economic, political and social development. At the same time they are governed by these Emergency restrictions on movement and it is not an easy thing to have these for six years.

Mr. Speaker, I do not think anyone can accuse the people in the Central Province of having been unwilling and unco-operative, and I feel that the crux and essence of the matter lies in the very calm you see in the country. Everybody is worried about the end of the Emergency, and I feel, Sir, Government should give this Motion every attention in order to be able to make the country feel that they are taking it very seriously.

Mr. Speaker, the next point I feel is that we in the Central Province are justified in supporting this kind of enquiry in order to allay the fears and to know the truth, because of the fact that the general population in the Central Province, including all sections—the older men and the young people—especially the younger generation who have just grown up—they want to get on with their work; they want to earn their living and make a success of their lives. With the restrictions due to the

[Mr. Mate] Emergency, they cannot do that. That is why I feel the end of the Emergency is very, very important, Mr. Speaker. These are the people who are going to make the future. The more we dwell on what happened in the past, when that position is under control, I feel we shall be losing sight of the more immediate problem, which is to get on with the rebuilding and get the future of the Province settled.

Mr. Speaker, I feel that if Government would accept this Motion—and I know they say they will not—it would do a lot of good. I see in it, myself, a lot of possibilities in helping them in their rehabilitation problems. Mr. Speaker, I would just appeal to the Government seriously to consider the sincerity with which it has been put forward by some of the speakers—by the hon. Mover and other speakers; I feel that they should not just refuse it and feel well, it is all right, the Motion is defeated. I do not see that there is any danger at all in having an enquiry by some outside people, and I do not see any danger at all in having the discretion to say who should go today and who should go tomorrow.

Mr. Speaker, I would again only just appeal to the Government to take the matter seriously and take the position that this side of the House is making about the Motion.

Mr. Speaker, I beg to support.

THE MINISTER FOR INTERNAL SECURITY AND DEFENCE (MR. CUSACK): Mr. Speaker, Sir, I hope by entering into this debate at this comparatively early stage, that I may be able to dispose of some of the points already made so that they need not become the subject of repetition.

I would like first to say how much I appreciated the sensible moderation with which the hon. Mover of this Motion in fact moved it. His first query was about the conduct of the enquiry which the Government undertook into matter at Lokitaung before the publication of this letter in *The Observer* and other newspapers, a publication which, of course, had not been preceded by any enquiries of any kind to responsible members of this Government about the truth or the facts.

Sir, the gentleman who conducted this enquiry has been described by speakers

as alternatively a senior district officer, a senior district commissioner and similar nomenclature. I should like Members to be quite clear as to who, in fact, he was. He holds the rank of senior district commissioner in the Administration. He is seconded from the Administration—as indeed I myself, the hon. Chief Secretary and the hon. Minister for African Affairs are. He is seconded to my Ministry, where he has been for some months engaged on particular tasks concerned with frontier affairs. Those tasks have naturally, as frontier affairs have recently been directed towards Turkana, given him particular knowledge of that part of the world; he has not in any way in my Ministry been concerned with the Prisons administration side. But when I wanted a completely detached and dispassionate officer to go and conduct this enquiry, my decision fell on this officer who had particular local knowledge of Lokitaung, no involvement of any kind with the prisons and was not, as the hon. Member suggested, in any way concerned with his own immediate subordinate officers in Lokitaung—he had none there.

Now, Sir, having said that, I do not think the hon. Mover intended in any way to impugn the veracity of this officer, and if he did I must utterly reject any suggestion of that kind. The enquiry was further reinforced by a visit to Lokitaung by two doctors, one a specialist medical officer and the other the medical officer in charge of the Kapenguria and Turkana areas.

Sir, if I may turn to the specific allegations which were made in the letter published in *The Observer* and elsewhere, and which the hon. Mover and other Members have repeated here in brief, they were disposed of by my hon. friend, the Chief Secretary, in the statement which he originally made, but as they have risen up again in this present debate I must briefly mention them again, to demonstrate how false they all are.

I will refer firstly to the question of water rationing, which the hon. Mover mentioned. The facts are that rationing was imposed in Lokitaung on all people, including the police, including the civilian population of the town, including the Europeans, because of drought in that part of the world. During the period of water rationing, the convicts were rationed not, in fact, by a quantity of

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water, but by time. This is to say, they were allowed to spend a certain period of time at the well to draw their water ration. I think it is fairly obvious that whether water was rationed or not, convicts who are drawing water from a well must have a set time to do it in; they cannot spend the whole day there.

Well, now, this rationing enabled the convicts to draw not less than 10 gallons per head per day. To turn to the question of whether the well was a good well or a bad well: in fact, there were two wells, one the normally used well, was closed for repairs, and the second—which had been cleaned out—was open for water drawing during this period. Europeans were not, as the hon. Mover has said, allowed or given any facility other than everyone else had; they drew from that same well at the time.

The hon. Mover has mentioned the question of mail delays. Sir, he knows the answer just as well as I do; if these people give their address as care of Prisons Headquarters, Nairobi, their mail will be censored on the way up to Lokitaung at Prisons Headquarters. As, however, they elect to give their address as Lokitaung Prison, the mail comes back from there to Prisons Headquarters to be censored, and goes back to Lokitaung again. It is entirely their own fault.

The next thing which the hon. Mover mentioned was the question of visitors to Lokitaung, and he speculated about what visitors there had been there. The list over the last 18 months is: the visiting justices, whom he knows about, paid seven visits. The prison was visited by senior prisons officers on nine occasions. There were regular monthly visits by the prisons officer in charge of Lodwar Detention Camp between January, 1957 and April, 1958. And other senior officers visited Lokitaung on four occasions during that period. In addition, Dr. Anderson of the African Inland Mission, and Bishop Obadiah Kariuki, accompanied by the Prisons Department Chaplain, visited the prison in April and July, 1957, respectively. Furthermore, Sir, the visiting committee to Lodwar Detention Camp took advantage of the occasion of their visits to Lodwar Detention Camp to visit Lokitaung Prison on two occasions in 1957.

The Mover and others then specifically referred to the further complaint about medical facilities. Sir, I would like, if you will permit me, to read some extracts from the report of the medical specialist who, as I have already mentioned, went to Lokitaung about this.

He starts his report, which was forwarded to me through the Director of Medical Services, by saying that he visited Lokitaung accompanied by Dr. Caccia, who is the Medical Officer of Health for Turkana. "I examined each of the prisoners, and I also ascertained from the hospital records and the prison dossiers their past medical history and enquired as to the diet and medical facilities available to them." He goes on to say, "A thorough clinical examination was carried out on each prisoner, and the general health of them all was found to be good. There is no clinical evidence of malnutrition or vitamin deficiency in any of them, and their weights compare favourably with the standard of European males the same age and height".

He goes on, Sir, and hon. Members will remember that one of the specific matters mentioned in this letter was a claim that the prisoners were going blind. He has this to say about the prisoners' eyes: "Kariuki and Kubai complained that reading glasses were prescribed for them a year ago but they had never received them. Standard tests for near and distant vision revealed no visual defect in these two men. Kagis, Ngai and Waruhii had full visual capacity; all could read small print with ease. No abnormalities were observed in the eyes of any of the prisoners. The statement that some of them have almost lost their eyesight is untrue".

Now, Sir, I should like to turn also to the question of rations, which were also looked into by the medical officer whom I have mentioned. Sir, this is what he has to say about rations. "The diet supplied to the prisoners at Lokitaung is good. It is amply adequate in calorific value, considerably more than adequate in protein, iron, B<sub>1</sub>, riboflavin and nicotinic acid, and furthermore it is well balanced." He goes on to say, "I consider that it is a diet on which millions of Africans in East Africa would benefit enormously if they were lucky enough to be able to obtain it".

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Sir, I hope that what I have read from these factual reports finally disposes of that faint suggestion which seemed to linger in the hon. Mover's mind that there might be some slight foundation of truth in any of the allegations which have been made.

Sir, the hon. Member has, of course, support, even support outside this House, in this matter of the letter in *The Observer*, because other correspondents have since written to that paper. I think I must deal with a couple of these letters because they come from people who, to the public, particularly the public in England, might be thought to be able to speak authoritatively in the matter. There were two letters in the edition of Sunday, 22nd June, one is from a Mr. Meldon, who was employed here at one time as a rehabilitation officer, and consequently might be thought to be speaking with some veracity. My hon. friend, the Minister for African Affairs, will make mention of him when he speaks in this debate.

The other, Sir, is from a Mr. D. R. W. Salmon, who describes himself as an ex-inspector of the Kenya Police. He writes like this: "In your issue of June 8th, you published a letter from five prisoners in the political prison at Lokitaung in the Northern Province of Kenya. To those of us who served in Kenya during the Emergency, the conditions described are only too familiar. However, Lokitaung is a very mild form of political prison by Kenya standards, and the treatment complained of by the four Kikuyu is almost frivolous when compared with that meted out in the real concentration camps at which one time 13,000 suspects were imprisoned. These camps", Mr. Salmon goes on to say, "were on the lines of Morhausen or Malldhausen and Kikuyu were herded into them like cattle, innocent and guilty alike".

He then goes on to quote from a judgment given by Mr. Justice Cram some years ago, and ends up by saying, "Private individuals can do nothing in Kenya to oppose irregularities. What has so often been demanded by the British public has now become imperative: an independent commission of enquiry".

Sir, the hon. Member therefore has the support of Mr. Salmon. I thought he might like to know—and people who read *The Observer* might be able to learn also—about Mr. Salmon. He was employed in the Kenya Police as an inspector, and he is not a bad or a vicious man. I would merely like, so that you can judge, for yourself of the value of this kind of letter written to the paper, to read to you the report of Mr. Salmon, made after he had taken his course at the Police Training School at Kiganjo in 1957, and the confidential report made on him by his superior officer. They both of course, by far antedate the letter written by him to this newspaper.

"Police Training School, Kiganjo." This officer is described under several headings. The first says, "Leadership and power of command: poor. Physical training: weak. Sports and games: not interested. Examination results: failed whole examination". The later report on him, which is the confidential report, made after he had left Kiganjo, said: "Ability and performance: mediocre. Special aptitudes: none noticed". Sir, the hon. Member is welcome to his support.

Sir, I would now like to mention a further general matter, which many hon. Members have raised opposite, and that is the question of Members of this legislature being allowed to visit the camps and prisons. Well, Sir, I was surprised at the unanimity with which they said how they had all been prevented from doing so, because when I myself last inspected Kisumu Prison—which was, I think, in March of this year—I read in the visitors' book there, with the greatest interest, an excellent comment, most of which was in praise of the organization of the prison, written by the immediately preceding visitor, who was the hon. Member for Central Nyanza.

I think that there has been some considerable misunderstanding in the minds of hon. Members. The statutory authority to permit visits to prisons is the Commissioner of Prisons. I do not know if hon. Members have ever applied to him but I assume they have not, save perhaps in the case of the hon. Member, which I have just mentioned. Sir, if hon. Members will make application to the Commissioner of Prisons to visit prisons

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within reason then I have no doubt that they will find that favourable consideration is given to those applications in appropriate circumstances.

Sir, if I may go on to deal with some specific points which were raised, the hon. Member quoted from a letter about a man at Lodwar who had written to his brother asking for a shirt and a pair of trousers. He thought that this was a bad thing, but it is very readily explicable.

First of all, Lodwar, which has since been closed, was not a prison but a detention camp. In a detention camp the detainees are allowed in many cases—and at Lodwar in particular—to wear their own clothes. If their own clothes wear out they are supplied with prison clothes. They very often, however, prefer to replace their own clothes, which I have no doubt is what this detainee was endeavouring to do.

The same hon. Member quoted from a letter he had received from people at Embakasi Prison and I think that he perhaps thought he had received rather an abrupt answer from my Ministry saying that all was well, Embakasi Prison has since been closed, and the particular case to which the hon. Member was referring was specifically raised with me personally by Mr. Albu, who was one of the two Members of Parliament who were out here fairly recently. I think I am right in saying that this was the same case. In fact, Sir, I went into it in very great detail for Mr. Albu and I may say, and I have no doubt that hon. Members will accept this, that I completely satisfied him and it may well be that, having dealt with him, I did not deal sufficiently with my hon. friend opposite. I should perhaps have given him the same facts in detail as those which I gave to Mr. Albu.

Now, Sir, I would just like, very briefly, to refer to what the hon. Member for Central Nyanza said before he was ruled out of order. He suggested that some people—leaders he called them—should in some way receive special treatment. I should like to make it perfectly clear, Sir, that all people, of whatever race and previous position, and of whatever concern they may have been

before they are convicted, become ordinary convicts subject to exactly the same rules once they are put into prison.

Other Members have raised the question of letters from detention camps. Sir, I think most of the letters which they have received, or certainly many of them, are copied not only to me but to all kinds of people. I should like, as an example, to refer to one or two of them. I have not picked this particular one for any other reason than because it is conveniently short.

Here is a typical kind of letter we get. "Thiba Works Camp, 14th January, 1958." I believe it is addressed to Mr. Bernard Mate, and I hope he will not mind my quoting it. Copies have been sent to me, Mr. Fenner Brockway, M.P., Mr. Johnston, M.P., Mrs. Irene White, M.P., Mrs. B. Castle, M.P., the Minister for African Affairs, the Minister for Legal Affairs, and to Mr. Mboya. This is what this letter says: "Detainees are being persuaded to say they took the oath by force irrespective of whether they have taken it or not". To which the answer is, of course, detainees are not forced to confess to the oath as the power of the oath is only broken by voluntary confession. It goes on, "If you state that you have never taken an oath the management beat you by a heavy hammer on the knees and on the head". Well, Sir, Thiba was rather a bad place to make that allegation from because the place where the detainees are scattered and examined has, within 50 yards of it, the quarters of the Society of Friends, the Quakers who live in the camp compound, and they have never made any complaint about detainees quite close to their house being beaten on the head with a heavy hammer.

The next thing they say is, "We are being forced to state that Tom Mboya has taken the *Man Maw oath*". Well, Sir, I am happy to be able to assure the hon. Member that that allegation is described as complete nonsense.

They then go on to say, "We are being told that African politicians have already signed in the Leg. Co. that African detainees should be beaten". Sir, I have denied that, too, on hon. Members' behalf.

I do not think that I need go on with this but the point I am trying to make is

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one which my friend the Attorney-General made extremely well to start with and is that these people in camps do write and make the most absurd allegations. In fact, Sir, if I were in a camp I would be far cleverer about it and pick allegations which might have some greater appearance of truth than the foolish things which are said by these people.

The reason I read this letter, Sir, in fact, is because these are all investigated.

THE SPEAKER (Sir Ferdinand Cavendish-Bentick): You have come to the end of your time, Mr. Cusack.

THE MINISTER FOR INTERNAL SECURITY AND DEFENCE (Mr. Cusack): Oh, I beg your pardon, Sir.

THE SPEAKER (Sir Ferdinand Cavendish-Bentick): You may proceed if you have only a few sentences to complete.

THE MINISTER FOR INTERNAL SECURITY AND DEFENCE (Mr. Cusack): If I went on I would have to advance to another subject.

Mr. Speaker, I beg to oppose.

MR. COOKE: Mr. Speaker, I want to make it perfectly plain to start with so that there will be no misconception in the Press or on the platform, by reading one sentence from my speech, "While I unreservedly accept Government's assurance that these offences did not take place I have several criticisms to offer about the way in which the Government handled the situation".

I do not think that this is any reflection on my hon. friend the Chief Secretary because I do not think he was in charge at the time, but at the same time I do not think that this matter was handled with the judgment which it deserved.

Now, Sir, it is true to say, very true to say—as has been said by two speakers—that frivolous complaints are constantly being made. I, as an old administrative officer, know that I know, too, that very often too the better the discipline the more complaints are made. But this complaint, or these complaints, fell into a different category entirely. Very often the complaints are absurd in that a man is not receiving his full *posho* or some-

thing of that sort, and it is very right that they should be gone into by some reasonable person who need not be a senior officer. But it is a different category altogether when complaints of this seriousness are being made or have been made, because if they were proved to be true, which they have not been, it would have branded the accused Europeans as sadistic brutes and nothing else. So that when the complaints were made it was, in my opinion, absolutely essential that the Government should have sent a very senior officer to investigate those complaints.

Now, Sir, what did they do? They sent a senior district commissioner and my hon. friend will excuse me if I say that I think it was a little disingenuous when he mentioned that that senior district commissioner was also a magistrate. Well, Sir, we all know that senior district commissioners are magistrates and we do not require my hon. friend to put the emphasis on being a magistrate, except that he wanted—and I am sure he did not want to do so—to impress the public that he was a magistrate. Of course he was a magistrate. I think I am correct in saying that today all district commissioners are magistrates.

In my opinion, Sir, the Government should have sent a High Court Judge to investigate complaints of such a serious nature. Now, Sir, everybody in this House, and I believe this includes the Africans as well, has the fullest confidence in the Supreme Court of this country, and if a Judge of the Supreme Court—and this has been done many times in the past—had been sent to investigate these complaints there would have been no—I do not think so, anyway—follow-up whatsoever. There would have been no suspicion that Government were trying to hide some facts.

Now, my hon. friends in this House know very well the old saying that it is not sufficient that justice should be done but that justice should seem to be done. All over the world today, because this matter has become notorious—in America, Great Britain and, no doubt, in Russia—everyone is saying that the Government has tried to hush up this matter, Sir, by not appointing in the first place a man of the stamp of a Supreme Court Judge.



[Mr. Cooke]

I think that my hon. friend, who is now the Acting Attorney-General, said, I think very irrelevantly, that in connexion with the subject under discussion these men were convicted convicts. Of course they were convicted convicts. We all know that, except, I think, that one or two of the African Members think that they are detainees. We do know that they were convicted convicts. However, that does not alter the fact that convicted prisoners are just as entitled to reasonable treatment in the prisons as anybody else. So I think that my hon. friend is really obscuring the facts when he draws so much attention to a matter like this.

If he will excuse me for saying so I think it was a little bit frivolous to say that they had put the address down as "Political Prison".

AN HON. MEMBER (Inaudible).

MR. COOKE: Well, Sir, what my hon. friend did say—he contradicted the title of this letter that was written, I think, from the "Political Prison" at Lokitaung. If he did not say so then I am glad.

THE MINISTER FOR INTERNAL SECURITY AND DEFENCE (Mr. Cusack): Mr. Speaker, the reference to the political prison occurred in the letter in *The Observer* and it was made by Mr. Salmon.

THE TEMPORARY MINISTER FOR LEGAL AFFAIRS (Mr. Conroy): What I said was, Sir, that the letter started off "We political prisoners. . . ." I then went on to say that that was a false statement of fact.

MR. COOKE: Oh—"We political prisoners. . . ." I think that was a very—rather—frivolous remark to make because these people were arrested and charged because of their political offences in the first place.

THE TEMPORARY MINISTER FOR LEGAL AFFAIRS (Mr. Conroy): No.

SIR CHARLES MARCHAM (Inaudible).

MR. COOKE: Is that a speech, or is that just an aside?

Now, Sir, I made this point because I think that in the first place a judge should have been appointed in whom we all have complete confidence and my

hon. friend seems to have used a rather *post hoc* argument really when he said that in effect the allegations were not substantiated. Naturally, Sir, the Government could not have known this at the start. They may have felt 99 per cent certain that these charges were false but they could not have known at the start when the charges were made. They may have known with 99 per cent certainty but at that time they should have appointed a man of the highest standing in this country to conduct this affair.

I believe that when there is suspicion or when charges like these are made the Government should not be only scrupulous but should be fastidious in seeing that there is no truth in those charges—and not only that they should be satisfied but that the whole world should be satisfied that there is no truth.

I think it must have been very distasteful to my hon. friend the Attorney-General to have rather taken the line of *droit administratif* instead of the rule of law where these matters were concerned. I think that we must really stick strictly to the law when we consider any of these questions. We must not, I think, be influenced by any administrative considerations of any kind. Therefore, Sir, I think that he should—perhaps this applies to his predecessor who is now on leave—have insisted on a full and proper enquiry.

THE TEMPORARY MINISTER FOR LEGAL AFFAIRS (Mr. Conroy): Is the hon. Member suggesting that I, or Mr. Griffith-Jones, have been influenced in the exercise of our judicial discretion to institute proceedings or not by administrative convenience?

MR. COOKE: I am not suggesting any such thing. I am warning the hon. gentleman—

THE TEMPORARY MINISTER FOR LEGAL AFFAIRS (Mr. Conroy): I certainly understood what the hon. Member said to mean that, and if he does mean it, and his words are capable of bearing that meaning, I must ask him to withdraw.

MR. COOKE: I say that there is that danger in a country like this. I hope that my hon. friend—and I am quite sure that he is—is aware of that danger. It is a danger. This matter has been raised in this House 100 times before.

THE TEMPORARY MINISTER FOR LEGAL AFFAIRS (Mr. Conroy): Is the hon. Member really suggesting that the Attorney-General, hundreds of times before, has allowed administrative convenience to interfere with the exercise of his discretion? If he is suggesting that, Sir, it is a most improper suggestion which can only be made in accordance with the proper rules of this House.

MR. COOKE: I am not saying any such thing. I am saying that it has been said in this House that there is a danger—a danger—that if too much is left to the discretion of the Administration—that it will influence the law—that is a danger which has been expressed here not only to my hon. friend opposite. I have been in this House for 20 years and I have heard it frequently made as an allegation—

THE SPEAKER (Sir Ferdinand Cavenish-Bentick): Order, order! I take it that you are not suggesting that that has ever happened.

MR. COOKE: I am not suggesting any such thing.

THE CHIEF SECRETARY (Mr. Coutts): Then why is the hon. Member saying it?

THE SPEAKER (Sir Ferdinand Cavenish-Bentick): He has said that he is not suggesting that.

MR. COOKE: I think that the House should be warned—well, perhaps, not warned, as that may be the wrong expression—that they are not going to show me down or intimidate me in any way. The House knows that.

THE SPEAKER (Sir Ferdinand Cavenish-Bentick): I am sure that nobody is trying to intimidate Mr. Cooke, but he has made a statement which was capable of a certain interpretation. I since understood him to say that he did not, at any time, suggest that either this Attorney-General or any other had, in fact, been influenced in the performance of their duty by administrative pressures. Am I correct, Mr. Cooke?

MR. COOKE: Yes, Sir.

THE SPEAKER (Sir Ferdinand Cavenish-Bentick): Having ascertained that, I think we might now ask Mr. Cooke to continue.

MR. COOKE: Thank you, Mr. Speaker. I accept your view. Perhaps I merely said this too strongly. I will, however,

stand up to any barrage of interruption from whichever side it comes.

Now, Sir, I strongly suggest that it is not too late to go back on this decision even although the Secretary of State has made an announcement in the House of Commons. It is not too late to go back and appoint a full enquiry and everybody then, I think, would be amply satisfied.

When I was interrupted, I was about to say that the senior officer who was appointed was junior to the Provincial Commissioner in Turkana. In reality he was asked to enquire, certainly indirectly and possibly directly, into the conduct of the Provincial Commissioner who was a visitor to the prisons. I think, for that reason, that it was a mistake to have appointed an officer who might have to say something about his own senior officer. If that is not true, Sir, I have no doubt that it will be contradicted.

Now, Sir, I feel very strongly as well that if this judge—or this senior person I am suggesting—does find, as I am perfectly confident he will find, that there was no truth whatsoever in these allegations, then it will leave Government a free hand. Surely, Sir, if these convicts have made untrue allegations, they deserve to be punished and punished severely. Surely, *The Observer* itself must—if you are going to pursue the policy you have pursued (and I think quite rightly) in the last six months—if it can possibly be done, be charged with printing a criminal libel against the District Commissioner, Lokitaung, if only in defence of the District Commissioner himself. If these allegations are entirely untrue, if they have been made in writing, as they have been, by *The Observer* newspaper, and, I think, by *The Times of India*, then, if legally possible, they should be charged, because these newspapers were circulated in this country. At any rate, I hope that my hon. friend will direct his mind to that, because if the allegations of the convicts are untrue then these papers should be charged with publishing a criminal libel, just as papers here were prosecuted for publishing criminal libels.

Now, Sir, I say again that I believe that there is no truth whatsoever in these allegations and it would be very wise of the Government—and I know that one or two other Members here agree with

(Mr. Cooke) : me, whether their views have been expressed or not—in view of the fact that this matter has been given so much notoriety throughout the world, to hold a full judicial enquiry. Then we could all be satisfied that these allegations were entirely false.

Sir, I beg to support the Motion.

THE MINISTER FOR AFRICAN AFFAIRS (Mr. Johnston): Mr. Speaker, Sir, I think it is obvious, arising out of this debate, that there is some confusion on the part of hon. Members opposite as to the functions of my hon. friend the Minister for Internal Security and Defence and my own Ministry in the realm of rehabilitation.

Rehabilitation, Sir, for the past five years, until quite recently, came under the Ministry of Community Development, and as such I took it over, as Minister for African Affairs, fairly recently. My Ministry is concerned solely with the rehabilitation of detainees and of certain categories of convicts who have been sentenced for *Mau Mau* offences. My Ministry is not concerned with the administration of camps, for detainees, or for convicts. I would like to make that perfectly clear in this House. If hon. Members, when they wish to ask questions about rehabilitation, would address their questions to me then I am perfectly prepared to answer them as fully as I can.

Now, Sir, the hon. Member stated, when moving his Motion, that the good name of Kenya should be cleared in respect of allegations concerning conditions in prisons and in detention camps. What sort of person is making these allegations? The hon. Member himself, the hon. Member, mentioned an enquiry which was made in 1956 after Miss Fletcher had made allegations concerning prisons and detention camps. Now, Sir, who was Miss Fletcher? She was a rehabilitation officer, a staff officer in charge of rehabilitation in prisons and camps. She herself, while she served as such, made no official complaint to anybody in the Government that conditions were bad in those camps. It was not until she herself, having given three months' notice of termination of her appointment, returned to England and subsequently, three or four months later, made these allegations. Having

made these allegations, Sir, an enquiry was held in Kenya itself and the Secretary of State, when the two memoranda were placed in the House of Commons, said, in a debate which was reported on 31st October, 1956, in HANSARD, "I am quite satisfied that Miss Fletcher's charges are based in the main on hearsay, on partisan opinion, and personal prejudice".

There was a very full enquiry in Kenya into Miss Fletcher's allegations and there was nothing whatever found to be wrong.

It is perfectly true that over the past six months or so there has been an increase in the petitions alleging ill-treatment in the camps. The majority of the petitions of course are either unsigned or signed by pseudonyms. Every such allegation of substance is carefully investigated, whether it concerns conditions in the camps or rehabilitation methods used. I believe that hon. Members of this House know that such camps are regularly visited, not only by the Official Visitors and senior officers of the Kenya Government but by a special Rehabilitation Advisory Committee whose members consist of clergymen of all denominations and also African members. They spend a considerable part of their time visiting and looking into the conditions in the camps.

The main argument in all these petitions that are received is that force is used to extract confessions. Now, as hon. Members will remember, there have been cases in which force was used to obtain confessions but, Sir, when such cases came to the notice of the Government, and I am thinking in particular of two cases which occurred last year in the Mwaa Camp and at Athi River, the Government has never failed to prosecute and to take the most stringent measures to prevent a repetition.

Sir, the essence of rehabilitation is that the *Mau Mau* detainee confesses freely himself the part he has played in the *Mau Mau* movement and by such a confession he is released from the power of the oath. Since one of the ingredients of the oath is that if the person who took the oath revealed it then he or she would be killed by the oath an extracted confession is, therefore, of no use and is ineffective and dangerous because we

(The Minister for African Affairs) wish the detainee to rid himself voluntarily of the oath he took. It must be remembered now that we are dealing with one of the most difficult and dangerous type of detainees, men who, we thought a year or so ago, we would never be able to bring back to the Central Province. Many of these, as hon. Members know, actively participated in murder and in the most bestial and atrocious crimes upon women and children of their own tribe and I think it must be remembered, Sir, that it is persons such as these who are now sending these petitions alleging ill-treatment in the camps.

My hon. friend the Minister for Internal Security and Defence referred to a letter in *The Observer*, signed by an ex-rehabilitation officer. This was published on Sunday, 22nd June. With your permission, Sir, I would like to read it. It says: "As a former rehabilitation officer working in detention camps in Kenya for about the same time as Miss Eileen Fletcher, may I endorse their appeal for an independent commission of enquiry into detention camps and prisons" . . . "I myself have seen detainees beaten, overworked and generally ill-treated and am prepared to give a sworn evidence to this effect. While I was in Kenya, I visited or had knowledge of perhaps 10 or 12 of these camps".

Now, that was an ex-rehabilitation officer, Sir. I have here a report on him which was sent to the Secretary of State. He was employed by the Ministry of Community Development from March, 1954, until he was dismissed in June, 1955, and the reasons for his dismissal were: laziness, absence without leave, failure to settle his mess account, having a cheque dishonoured by the bank and heavy drinking. Sir, as Mr. Damon Runyon said: "The best I can say of Mr. Meldon is that you can have him".

Now, Sir, I do not propose—because I do not think there is sufficient time at my disposal—to go into the methods by which detainees can confess in the camps; there are a great many different ways of doing it, but the principal one is the movement back to the Central Province to see what was three or four years ago a devastated area, and now is flourishing; visits by relatives, their wives, their children, their brothers, 40

whom they can talk freely and they get all the local, the latest, news from home; talks by their own friends who have been rehabilitated, who have seen the error of their ways, their own friends perhaps in Manyani. And in those ways, and in those ways only, will detainees be rehabilitated.

Now, Sir, I think I have dealt with the hon. Member's enquiries about rehabilitation.

The hon. Member for Central Province South, if I heard him rightly, made an allegation that one detainee had been badly beaten up and died on 27th January, and he had received this information in a letter dated 29th April. Sir, the facts are not at all as the hon. Member has indicated. A detainee did die on 11th February, but the post-mortem established that he died from natural causes. If the hon. Member was so worried about this particular case, why did he not, when he received the letter, and he obviously received it well over six weeks ago, come and report it either to the Minister for Defence or to myself, and we should have been happy to make the fullest enquiries, but I do not think, Sir, that it is good enough in this House to make these allegations which are utterly untrue.

Now, Sir, the hon. Member for Central Province North, in what I thought was a very constructive speech, did refer to the help that could be given by Members of Legislative Council and also indicated that the work in detention camps was becoming very difficult because we had various types of detainees called irreconcilables, hardcore, and bottom of the barrel. I am very grateful to the hon. Member for his advice on this. We do try every possible method to rehabilitate the detainees; we have, I am glad to say, been fortunate in the methods that we have used. The figures of detainees released, I think, speak for themselves in this connexion. Of the 77,000 plus who were detained, 67,000 have already been released, and our release rate is keeping up around the 1,000 mark a month. This, hon. Members, is dealing with some of the most difficult detainees of the lot. Therefore, I would say that in fact we are by our methods making a very substantial decrease each month into the numbers of

[The Minister for African Affairs] detainees and our methods are in fact being successful.

Now, Sir, in conclusion, I would like to say this: to repeat what I said earlier in opening, that I am always prepared to consider any representations which any hon. Members wishes to make to me about rehabilitation, and I hope that hon. Members will come and talk to me about it. Some have, I am glad to say. Three hon. Members in this House have already had conversations with me about rehabilitation, and I hope I was able to satisfy them on that occasion that things, in fact, were going well.

Finally, there have been, I think, innuendoes against the administration, and against the rehabilitation staff. But I, Sir, would like to pay a tribute to the very excellent work which has been and still is being done by the administration and by the rehabilitation officers under the most difficult and trying conditions, which, if I may say so, Sir, is not made any easier by a Motion of this kind. The patience and the skill required to deal with fanatical *Mau Mau* adherents is, I think, Sir, worthy of the highest praise, and I am sure when the final history of the *Mau Mau* uprising is written, the rehabilitation staff in the field and the district and Provincial Administration will have the honour of making a most substantial contribution to the prosperity, well-being and welfare of this Colony.

I beg to oppose.

MR. NYAGAH: Mr. Speaker, Sir, I know the first Government spokesman outlined the case for the Government and the way they are going to take this Motion. I hope that the Government will have a second thought on this matter after hearing speeches from this side, speeches of fact and of appeal. I want to add yet another appeal to the Government. I represent a constituency which is full of detention camps, the place where the largest number of detainees were being rehabilitated, and I believe still the largest number is being rehabilitated there. Nearly every week, Sir, on my way home from this Council, I pass through the plains of Mwea where we have these camps. There is nothing that is more striking than the external security of these camps; the neatness and the security of the barbed wire around the

camps; the neatness of the flowers, the stones whitewashed and everything strikes one as being a very good place. I get worried when some of these people in my constituency write letters to me saying that inside those camps, all is not as secure as I would like to believe. I have no reason to doubt the integrity of the officers doing this work of rehabilitation, but if I may be allowed, I would like to give a short sentence to the Government such as you give to first beginners in learning English; and ask them to analyse it. The sentence is this: there is no smoke without fire. I would like the Government to try to analyse that very, very carefully. It is very easy for a man from the high office to go and visit a camp and find it in perfect order. But the moment he leaves, anything can happen. I would like the Government to think very seriously of the day-to-day administration of these camps. Now I know a lot has been said, and I do not want to repeat it. Some of the letters that I receive, Sir, from the camps in Nyeri and in the Mwea Plains refer to such points: as somebody who has served several years of sentence as a convict having to undergo another period of what he thinks is not a defined period of detention. They are worried that after being punished for the crimes they did in *Mau Mau*, they will still have another go of the punishment in the rehabilitation camps. Some of them make allegations such as I have in letters here (and no doubt the Minister for Defence and the Minister for African Affairs have similar letters), which are rather shocking. Some of these people make allegations such as this, Sir: that while they are away, nobody has been able to show their land boundaries properly, and Kikuyu land boundaries are never anything permanent. And so they claim that some of their land has gone.

They even make allegations such as the Ministers have said, of beating, hard work, food, clothes and health. Well, the Minister for Defence told us that experts on those lines have rather covered the allegations, investigated them and found that they are wanting. I would here again say that the administration of those camps and prisons, the day-to-day administration, should be re-examined so that the source of the smoke could be traced.

[Mr. Nyagah]

Mr. Speaker, Sir, I know the rehabilitation system has come to almost the bottom of the barrel. It is difficult to rehabilitate some of the people that are in the camps today. If so, would the Minister try to find out whether these people who have had a bad record as criminals and as such in pre-emergency days take them away from the detention camps; put them in the ordinary prisons? Also, the confusion that arises when we ask questions; we are sometimes told that that question is to be answered by the Minister for Defence, or the Minister for Rehabilitation (?) . Would it not be a good idea for the Government at this time when the work of rehabilitation is about to finish, to put the whole work under one Ministry, so that we may concentrate on rehabilitating these people, and putting those into prison those whom we think cannot be reconciled; re-terminate criminals rather than detainees, and put them into prisons. I would also like to say something about Lokitaung, not on the allegations that have been made. I would say that some of the people who are in this prison are members of the Highlands. The climate is no doubt another form of punishment to them. Could the Government think of finding another place better climatically suited to the way of life these people have had during their life, rather than leave them in the hot desert-like country of Northern Frontier?

Mr. Speaker, Sir, the letters I have—lest somebody says I am making general allegations—are from Gathigiriri Works Camp, Karaba, and Aguthi, and if the Minister for Defence would like to see them, I am quite prepared to show him so that he can trace the source of the smoke.

With these words, Sir, I beg to support the Motion.

MR. SLADE: Mr. Speaker, Sir, in view of the fact that this Motion calls for a general enquiry into the conditions obtaining in Her Majesty's prisons and detention camps, I would like to start by placing on record my own experience of our prison service which comes from association with that service over a great many years as a lawyer and visiting justice and as a Member of this Council.

Sir, I can only say it is a very fine service. I have been struck, in all my

experience, by the responsibility and humanity of its officers, high and low. I need not go into details, but I would mention just two things. One is with regard to the prisoners, in all the prisons I have ever visited, the only ones whose condition have given me cause to enquire have always turned out to be those who have just arrived, never those who have been there for any length of time. The other I would mention is, I have been particularly struck by the anxiety of prison officers to help prisoners over their affairs in their own homes, which do worry them very much when they are shut away from them; the trouble that prison officers take to go into affairs and correspond with those who can help them in their homes is a matter for great praise.

Now, Sir, in spite of that, of course, there is always a possibility of short-coming in one prison or another or in a detention camp; equally, there is the inevitability of allegations of short-comings, true and false, particularly when you are dealing with a large number of political prisoners. Sir, I am quite sure the answer, the general answer, to both of those dangers, the danger of real default in a prison or detention camp, and the danger of false allegation, lies in the time-honoured system of visiting justices.

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

[Mr. Deputy Speaker (Mr. Conroy) took the Chair]

That has been proved as a safeguard against abuse of the power the prison officers have and a safeguard against false accusations. But to use that system to its full advantage, it must be used very seriously and not merely as a matter of form. The visiting justices must be men of standing and of independence; independence is vital, of course, for the purpose of ensuring confidence and the standing likewise. They must be conscientious men, people who will really take their work seriously and not merely as a matter of form. It does appear, Sir, from what we have heard concerning Lokitaung that it has been found difficult to provide visiting justices who have all those qualifications in some remote places. Nevertheless, Sir, I believe that it would be worth the cost. Given people

(Mr. Slade) of that kind, who will make casual visits quite unannounced, you have the answer; and it is a much better answer than continually rushing into particular or general enquiries, because these visiting justices can not only hear complaints whenever they appear on the scene, but they can be informed of complaints by letter or otherwise and go into them in their visits, and they can compare notes—as they do, in fact—and in the end, if they begin to get worried on any scale, they are the people who should say now is the time for an enquiry.

Sir, I would like to deal for a moment with the position of Members of this Council in such matters, because that has been raised once or twice in this debate and I have fairly strong views on that matter. It is, of course, the bounden duty of Members of this Council to enquire into allegations of this kind. It is, of course, completely right and proper for my hon. friends to move a Motion of this kind. They are doing no more than their duty and the tone of most of their speeches—such as that of the hon. Member who has just sat down—shows only too clearly that they are doing it out of a proper sense of duty and a desire to perform their full function. All the same, Sir, I would go on and add that obviously it is desirable for the most part that Members of this Council should be encouraged to visit prisons and detention camps and see how they are run; as indeed, they should try to visit anything else which is the concern of this Government and see how it is run. There are exceptions to that, rather natural exceptions, where the Commissioner may not be inclined to allow hon. Members to visit these prisons and detention camps; where, for instance, you have a person in a prison or detention camp who is there because of crimes, crimes connected with his political life, and you have people, hon. Members of this Council, declaring that they are the sworn followers of those people, as my friend, the hon. Member for Central Area did yesterday, it is rather natural that you should not allow the sworn followers of such political prisoners to visit them. So one has to sympathize with the Commissioner if sometimes he places restrictions on visits. But by and

large, obviously it is our duty to go and see, and it is the duty of Government to encourage us to go and see.

But, Sir, we are always in this difficulty when it comes to individual complaints: that the remedy of individual grievances is not really our "prime job." If there is no one else to remedy them, then it is for us to take a hand, but our main job is to look at individual grievances as symptomatic of a general condition and certainly go into that general condition ourselves where there is no one else to do it. But where there is some other established authority for the purpose of investigating complaints, that authority should be used in preference to political representations in this Council and only where we lose confidence in that authority or there is no such authority, or that authority cannot get satisfaction for itself and cannot satisfy us, only then should we come forward in this Council with representations or complaints of this kind.

There again, you can have visiting justices fully qualified and operating with full conscience in their job. If we, as Members of this Council, receive complaints, our first duty would be to refer those complaints to the visiting justices and ask them to look into them. In that way, I believe, Sir, we could be more sure that complaints are fully investigated, without having to ask so frequently for enquiries.

I will only conclude, Sir, by saying that my view of this Motion is that there has not been made out, on this occasion, a case for a general enquiry of the kind proposed. There is, however, in my mind, some anxiety as to whether our system of visiting justices is so fully developed and used as it might be; and it may be that fuller development and use of that system may provide the answer to this Motion and others of the same kind.

I beg to oppose, Sir.

THE ASSISTANT MINISTER FOR EDUCATION, LABOUR AND LANDS (Mr. Wanyutu Waweru): Mr. Deputy Speaker, Sir, I am glad I have been able to be seen after trying several times to stand and I was not seen. But I would not make any complaint about that.

When I read the wording of the Motion, Mr. Deputy Speaker, I come to the conclusion that, in a Motion like this,

[The Assistant Minister for Education, Labour and Lands]

there would be as many viewpoints of the hon. Members as there are Members in the Council, and I have my own viewpoint; Mr. Deputy Speaker.

Being one of the affected tribesmen, as far as most of the detainees are concerned, I feel that I should contribute here by saying that, judging the detention camps from the people who have been released, there have been general complaints that some of the detention camps have been giving the detainees more food than they have been getting in their own homes. And we do see that by the health of the ex-detainees.

Another point, Mr. Deputy Speaker, is that since this Motion was tabled, propaganda has spread throughout the Central Province or at least, most of the areas, that the case of the five convicted persons who are at Lokitang has been reopened, and I am sorry to say, Sir, that this sort of propaganda has strengthened the K.K.M. movement. Being a member of the Kikuyu tribe, and knowing how hard the Kikuyu, Embu and Meru have been hit by the Emergency, I think that this Motion is disservice to the members of the Kikuyu, Embu and Meru tribes more than any other Motion we have ever had in this House while I have been a Member.

I do oppose the Motion, Mr. Deputy Speaker, on the grounds that if some of the Members were to visit these camps, displaying the attitude they have displayed in this House, they would be doing more harm than good. There is a Kikuyu proverb that says, do not pretend to blow the fire when your mouth is full of water. The speeches which we have heard here have proved that if some of the hon. Members were to visit these camps, they would go there, pretending to blow the fire, or to help the prisoners and the detainees but, in fact, they would have their mouths full of water and put the fire out.

Allegations were made, Mr. Deputy Speaker, that these detainees are not visited by their friends, or they do not receive letters from their relatives. I know, Mr. Deputy Speaker, from my own area, some people who have been paid a visit by their own relatives but they have completely refused to talk to them. On the question of getting letters

from the parents, there I think that it is possible, as the hon. Mover said, for the parents to refuse to send some of their children who have been detained, because they are so much against the action taken by their children—

Mr. MBOVA: Is the hon. Member suggesting that I said what he is now saying?

THE ASSISTANT MINISTER FOR EDUCATION, LABOUR AND LANDS (Mr. Wanyutu Waweru): That is so, Mr. Deputy Speaker.

Mr. MBOVA: If the hon. Member will read the HANSARD, he will find I did not say that. All I did was to read a letter from a prisoner stating that he had not been able to receive letters from his relatives. Neither the letter explained why, nor did I.

THE ASSISTANT MINISTER FOR EDUCATION, LABOUR AND LANDS (Mr. Wanyutu Waweru): I was going to say, from facts, why it probably might have happened. I know of a father called David Waiganjo who had a son who had been detained, and Waiganjo was very much against the Mau Mau movement, and in spite of having received so many letters from his son, he never answered any of them. I know about this because it happened at a time when his son was here in Nairobi, having come for his appeal to be heard, and he asked me particularly if I would care to go and have a word with his father and tell him how sorry his son was for being disobeyed and done what his father had been very much against. So I did, and when I saw the father he called his mother and told her: "Because of Mr. Wanyutu's words I will write him my first letter, which I have never written from the time he was detained, and I will tell him that if he will ever be released I will call you and speak to him with you."

I was supporting the point raised by the hon. Mover, that the letter might have been sent but it might have fallen in the hands of the parent who had been so angry with the attitude displayed by his children.

Mr. Deputy Speaker, Sir, the Emergency is a very bad thing, and I know that when there was curfew imposed on the people of North Nyanza—or Nyanza Province, I do not remember which part

[The Assistant Minister for Education, Labour and Lands] of Nyanza—there was a lot of uneasiness that that curfew had something to do with the Emergency. I remember reading in the paper a reply given that that had nothing to do with the Emergency. That meant that the people of Nyanza did not want to experience a State of Emergency.

Our representative from the Central Province had been condemning violence and subversive activities, but when this kind of a Motion is debated it is a pity to say that it has strengthened some of the difficult *Mau Mau* detainees. I think that that is not how the end of the State of Emergency is coming—to help my own people. I would support strongly what the Member for Central Province North said—

*(Mr. Deputy Speaker (Mr. Conroy) left the Chair)*

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

and I am sure that if we do co-operate and sympathize with the detainees as well as those thousands and thousands of members of the Kikuyu, Embu and Meru tribes who are still experiencing some of the difficulties of the Emergency, we will do a lot to help the quick end of the Emergency.

With these remarks, Mr. Speaker, I beg to oppose the Motion.

THE CHIEF SECRETARY (Mr. Coutts): Mr. Speaker, Sir, in rising on behalf of the Government to reply to this debate, I would like first of all to remind the House of what my hon. friend, the Attorney-General, said when he spoke on our behalf at the beginning of the debate, and that is that there are two main points in it. The first is—was the Chief Secretary's statement which was made on 11th June satisfactory, or unsatisfactory—as the Motion seeks to say—and secondly, this request for a general enquiry.

I should like to do what my hon. friend did and try and divide my reply into these two compartments.

The hon. Mover, who I would like to congratulate on a very reasonable speech, said on the whole that whereas answers had been given on each of the various

points in this particular letter, it still raised doubts in his mind. At one point he stated: "We believe the Minister, but we want to be sure". Surely, Sir, that must mean only one thing—that it casts doubt on the investigation itself and it casts doubt on the investigator.

At this point I should like to turn to what my hon. friend, the Member for the Coast, said because he obviously wished to rub in the same point. He accused the Government of bad handling, and he said that the complaints were in an entirely different category from normal ones and he said that it was very disingenuous of us to have sent anyone but a High Court Judge. Well, Sir, I share the hon. Member's respect—deepest respect—for High Court Judges, but I would like to stress this point: that is, that seven days at least before this letter appeared, the Government had taken action, and it took action in the best possible way that appeared to it at the time. It released a person whose history has already been covered by my hon. friend, the Minister for Internal Security; a person of the highest integrity, with 23 years' service, a district commissioner—a senior district commissioner—and a person who had specific knowledge of the Northern Frontier District.

I submit, Sir, that it was not possible to take a Judge straight off the Bench and send him straight up to Lokitanga. We sent, at that time, the best possible person that we could lay our hands on, because we were seriously troubled by these allegations and we wanted to investigate them immediately and that is what we did.

MR. COOKE: It would have been desirable.

THE CHIEF SECRETARY (Mr. Coutts): I do not necessarily admit that it might have been desirable. If it had been possible at that time, I think it would have been a very good thing to have sent a Judge, but what the hon. gentleman really has said in his speech, and what I am saying in so far as the Mover of the statement is concerned, is that we have, in fact, sent someone there who has produced a thoroughly reliable document. What I object to is the insinuation that in fact, there are doubts of not only the document, but also of the person concerned.

[The Chief Secretary]

The hon. Member for the Coast quoted the old statement about justice appearing to be done. I think the actual wording of this quotation should run like this: "It is of fundamental importance that justice should not only be done, but should manifestly and undoubtedly be seen to be done", which is a different thing from appearing to be done, and I feel, Sir, that justice has been done and has been seen to be done, more particularly when you back up what was the report of the senior district commissioner with what the medical officers have to say.

MR. COOKE: I have not got the record, but I am pretty certain that I used the words "seen to be done", not "appear to be done".

MR. SLADE: Yes.

THE CHIEF SECRETARY (Mr. Coutts): In that case, I apologize to the hon. Member if I misquoted him, but I should like to go on to say what the Lord Chief Justice has said about people who use this expression. Recently he was quoted as saying: "People who constantly use this expression think it more important that justice should appear to be done, than it should be actually done".

He also raised the question of why the Government should not have prosecuted this paper for criminal libel. Well, the first point I want to make on that is that, of course, the courts in this country have no jurisdiction over what the papers do in the United Kingdom, and it would be, I think, extremely difficult—if not absolutely impossible—to try and take a case for criminal libel against that paper in this country. I would like to add that it would not be proper for me to comment now on any possible civil proceedings for libel which might be pending.

Now, Sir, returning to what the hon. Mover said, he used the expression "the old pal protection society". Once again he was insinuating or stating that the person concerned in this enquiry was part and parcel of the administration which had to carry out its duties at Lokitanga. That has been refuted by my hon. friend, the Minister for Internal Security and Defence, but is he—and I would like him to reply to me on this point, because he obviously did not know

of it when he made his speech—is he also going to include the medical officer in his statement about "the old pal protection society"? If so, Sir, I would say that I do feel that this is a slur on the medical profession, whom we all know have got the highest ideals and whom we all know are thoroughly responsible in matters of this nature.

MR. MBOYA: The medical officer's report was not mentioned in the Chief Secretary's report at all.

THE CHIEF SECRETARY (Mr. Coutts): I have just made that point and suggested he might let me know whether he wants to include him in his expression.

He went on to say on each allegation that we had tried to refute it, but had not, in fact, refuted it. What I should like to ask him, is: does he believe the statement which was based on an on-the-spot report, supplemented now by the information which has been given to this House by the Minister for Internal Security, when he read out parts from the medical officer's report—and I should explain that that report was in the course of preparation when I made my statement but I was not able to refer to it as it had not been received; does he believe that, or does he believe his own doubts? If it is the latter, Sir, then all I can say or assume is that he is impugning the honour of the Government in this matter.

Dealing with two examples which he raised, as I do not want to take up the time of the House with all the various matters which he talked about, he quoted the case of a prisoner who had stated that he had been struck once by a warder but would not put it in his statement. Well, Sir, what these people said was this, in the letter: "During the past five years we have suffered a great deal; we have been beaten in the most brutal manner". That was the point which I refuted, and as the person concerned was not prepared to put what he said in his statement, one must therefore have some doubt as to whether he was struck. What we were refuting was the fact that they said they had been beaten in a brutal manner.

Secondly, he stated that they had no visitors. What I would like to point out, Sir, is that I said that there was no record that they had asked for them,

[The Chief Secretary]

which, I think, is a material point. In the Prisons Rules it is possible for the Commissioner of Prisons—I think in section 23 of the rules, Part VII—to allow people to visit, if they wish to, but it is entirely in his discretion. I do not think, therefore, that there is any doubt in this matter. The fact is that they never asked for anyone to go there.

These are only examples of whether or not the hon. Member feels that what we have said is true or whether he has still got doubts in the matter.

He went on to say that portions of my speech were irrelevant, and he quoted the question of political prisoners. The Member for the Coast added the word that this was frivolous, but I think, Sir, this was a very important point for the Government to make. These people were not political prisoners. They were convicts. Also he said that the question of my having quoted the past history of these people in my statement was irrelevant, but what I wished to say, and the point which I still wish to make, is that the past history of these people has determined the policy of the Government that they must live in a very remote area. I gave the reasons for the remoteness and that is why it was entirely relevant to the statement which I made.

He then quoted from a letter which he said had been stamped by the Government, and went on with the story about the unfortunate chap who had asked for trousers. Well, Sir, is not the Government reply to that this: that the mere fact that we stamped the letter and allowed the prisoner to write letter in, in this case—is an example of the assistance which the administration gives to these people. The hon. Member did not finish his story. I thought that he was going to say that the eight letters had never been received. If so, the implication would be that perhaps we had stopped them; but he did not say so; he merely said that a particular person had asked for a pair of trousers, and we had assisted him in asking for that pair of trousers. The question of what he wears, etc., has already been dealt with by the Minister for Internal Security.

Therefore, Sir, I suggest that these consistent references to a departmental report, consistent references to the enquiry—and I would like to stress this—

the enquiry which has already been held, seem to me part and parcel of an insinuation that the Government's honour is not to be trusted.

Sir, I reject that completely and utterly. In the words of the hon. Attorney-General, it appears to us to be a question of purely embarrassing the authorities. That, Sir, I think covers the first point, which was the questioning of my own statement.

Before I go on to the second point, I would like to deal briefly with the words of my hon. friend, the Member for Nyeri and Embu. Once again, Sir, a good speech, well conceived and well put. He mentioned the question of prisoners having their sentences extended. Well, Sir, I wish to say on behalf of the Government, that in no case do we know of any sentence having been extended, and in the majority of cases—as most people know—sentences are remitted. He also mentioned the question of people not being able to look at or deal with their land boundaries. I assume he was referring to the question of land consolidation. Well—that, Sir, has been dealt with by circulars to all detention camps, asking people to nominate their representatives who can go round land boundaries and deal with the particular points arising out of land consolidation—another point, Sir, if I may say so, where the Government has tried to help these people.

On the second point, Sir, the question of a general enquiry, I would once more like to reiterate what has been said—that a general enquiry was held last year by no less a body than the International Red Cross Association. I should have thought their report and what they have done in so far as the general enquiry is concerned, would be above reproach.

Now, Sir, in this debate I think that the best point which has been made by hon. Members on the other side of the House is this: "You have allowed Members of Parliament and others to come in from outside to look at these prisons and detention camps, but you do not allow Members of this House to go there". That, Sir, I concede to the Opposition is a good point. Before I go on with dealing with that point, however, I want to refer to the statement made by the hon. Member for Central Nyanza.

[The Chief Secretary]

Sir, I regard this statement as almost incredible. I am quoting from yesterday's HANSARD. "These people"—he is referring to the convicts in Lokitang—"before they were arrested they were the political leaders of the Africans in this country and the Africans respected them as their political leaders, and even at this very moment, in the heart of hearts of the Africans, they are still the political leaders". I thought that when he got on his feet this morning that he was bound to refute this almost incredible statement, but he did not. He reiterated it and for the words "even at this moment" he put in the word "now"—"now they are still the Africans' political leaders".

I knew these people very well at one time. I used to see quite a bit of them when they came round to the district of which I was in charge and I admit that at that time they were the political leaders of the African people. But now that they have been convicted, Sir—now that they have been convicted of managing a society which was responsible for the deaths of thousands of innocent people—do they still say that these are their political leaders? If they do, Sir, I should like to know whether or not this same responsible journal which published the original letter which started off this debate will publish this statement, because by it, Sir, I am completely dumbfounded.

However, it does virtually reduce the debate to its proper perspective. It seems to me negative what was a very constructive speech by the hon. Member for the Central Province South—though as a matter of fact I did not agree with him when he appeared to say that missionaries were not impartial and the Red Cross was not impartial and the only members who were impartial were Members of Legislative Council. I may be misquoting him in this, but this statement, by a person who is, after all, the Secretary of I believe, the African Elected Members, must surely cast doubt on whether or not people are responsible enough to visit these places.

I notice that the hon. Member for Central Province North did try, I think, to take some of the chestnuts out of the fire by stating that he, personally, did not agree with this statement. Nevertheless, it has been made.

Turning now, therefore, to the question of visits by Legislative Council Members, I would like first of all to remind hon. Members that if they become Ministers they are, *ex officio* visiting justices and they will have, therefore, every right to visit every gaol and detention camp in the country.

I would like to say how much I appreciated the speech of the hon. Specially Elected Member, Mr. Slade, who dealt at some considerable length with this point. I think the points which he made were very valid indeed. He made one on the question of visiting justices, with which I agree entirely. They must be conscientious people and their regular visits are better than general enquiries and I will give him an assurance now across this House that we will do everything we can to strengthen this system. They are, indeed, independent people.

He also said that it really was not the part of this House to deal with individual grievances and with that also I agree.

Sir, to sum up, we have had enquiries—particular and general—and the hon. Minister for Internal Security has said we will entertain applications by Members of this House to visit prisons. I would, of course, remind hon. Members of what I have said about this matter and that it is entirely within the competence of the Commissioner of Prisons to decide about these visits and that prisoners generally speaking—and particularly in this case—have been treated well—that has come out of the medical officer's report—that prisoners like to complain; and I feel rather strongly, Sir, that when as a Government we have done our best in these matters—and I agree with the hon. Specially Elected Member, Mr. Slade, that some of these statements have been responsible and there is no reason why this Motion should not have been brought up—but some of the statements will, to use an old expression, or an expression used by an old friend of mine who worked for quite a long time in the West Indies, just give comfort to the enemy.

Sir, I beg to reject the Motion.

Mr. MBOYA: Mr. Speaker, Sir, before I reply to various points that were made during this debate I would like to deal just with one point touching on my honour, and that is a point made by the

[Mr. Mboya] Member for Mount Kenya. I appreciate, Sir, that you ruled him out of order and I am not, therefore, going to get involved in giving a detailed reply. All that I wish to say is that it might enrich his knowledge if he read the HANSARD of 20th May and also the *East African Standard* of 24th May. I thought, Sir, that all Members of this House took the little trouble of reading HANSARD and also of looking at the newspaper regularly.

GROUP CAPT. BRIGGS: Would the hon. Member say what he said on that occasion to refresh my memory?

MR. MBOYA: Mr. Speaker, I do not feel that that is necessary. I think the hon. gentleman should bother himself to do that.

Mr. Speaker, the Government's rejection of this Motion, naturally, will be accepted in some quarters but it will be very much objected to in some other quarters. The intention of this Motion, as I said yesterday, is to try to clear completely and without any doubt whatsoever the circumstances and the situation which was created by allegations made recently in a letter published in *The Observer*. The Government reply has, in my view, failed completely to vindicate the position that was outlined in my speech yesterday, when I said that the Chief Secretary's statement on 11th June was unsatisfactory and unacceptable. I thought, Sir, that in this Motion, the Government would have had the opportunity and, indeed, taken the opportunity to bring out a little bit more information relating to the enquiry that had taken place, and also justifying the position they had taken in rejecting an enquiry such as I suggested.

On the contrary, all we have heard is a reiteration of the points that were made in the Chief Secretary's statement, and which I do submit—and still feel very strongly that I must submit—did not completely meet the doubts or remove the doubts expressed, not only by us ourselves here, but also by our critics overseas.

In effect, Sir, the Government's case is this. Are you going to accept what we, the Government, say or are you going to accept what some convicts say? The issue is not whether we accept what

convicts say or the complaints or allegations that convicts have made or whether we accept what the Government says. The issue is this: that some allegations have been made, some criticisms have been made, some publicity has been given to this matter, and some doubts remain in the minds of certain people as to whether the enquiry conducted, following the allegations, was satisfactory. The issue is not one in which we are challenging the credibility of anybody and, therefore, the fact that Government Ministers stand on the opposite side and raise matters of questions of credibility is totally irrelevant. In trying to prove this question of credibility, Sir, the Ministers—the Minister for Internal Security and the Minister for African Affairs—brought out this morning two letters that appeared later on in *The Observer*. In one case, the Minister for Internal Security read out a letter that appeared, written by someone who was a police officer in Kenya some time ago. I expected that the purpose of bringing this letter out or reading it to us was to give the Government an opportunity to bring out facts that would remove any impressions that had been created by that letter. On the contrary, what did we have? All that the Minister had to say was to read to us a report on this particular officer at Kiganjo, and another confidential report on this officer, and what do these reports really say? The reports simply say this: the man was no good at sports, probably had not very much brain and so on. But what about the allegations that the man has made in the letter? The man has made allegations that he, as a police officer in Kenya, can say that the allegations made are not far from true, and that, in fact, worse things have happened that he knows of, and would be prepared to swear on oath. Have we really, from the other side of the House, having read the letter here and given it that much publicity, produced any arguments to meet the case outlined in the letter in *The Observer*. The answer is "No".

The Minister for African Affairs then comes out with another article in the paper—

MR. COOKE: Letter.

MR. MBOYA: Another letter in *The Observer* by a person who claims to

[Mr. Mboya] have worked with the rehabilitation service in this country. He make certain allegations, and I thought the Minister was going to say, "These allegations are untrue and the reasons are these". But what do we have from the Minister? All he says is, "Look; here is a report that was sent to the Colonial Secretary about this particular man". And what does the report say? The report says that the man was lazy, that he once had a dishonoured cheque, that he was a drunkard sometimes and so on. If a man is reported to be lazy, does that really mean that he could not say, "I saw a certain thing happen in a certain place"? Is he so lazy as not to be able to see and to speak? Does it mean, Sir, that if a man's cheque has been dishonoured the letter and the allegations he makes in his letter are entirely untrue, because his cheque was dishonoured?

AN HON. MEMBER: Probably!

MR. MBOYA: Mr. Speaker, Sir, the Government has totally failed to prove its case. In fact, by quoting these letters, some of which we had no idea about at all—

AN HON. MEMBER: Oh!

MR. MBOYA: —they have weakened, completely weakened their position; they have made their case even more feeble than it was before. Now they have made it more necessary for an enquiry than it was yesterday.

Sir, there has been too much talk about credibility, too much reference to the past history of the prisoners from whom the original allegations came. I believe that in the course of the debate and in the course of these references there has been some confusion as to the purpose or the object behind my bringing this Motion to the House. I believe, too, that some unfortunate statements have been made in the course of that debate that might completely create a wrong impression as to the reasons for my bringing this Motion to the House. It is therefore necessary, Sir, for me to impress on the House that the main purpose—and, in my view, the only purpose—behind my bringing this Motion to the House is to ensure that the complaints and allegations made are thoroughly examined and looked into, and that this is done in such a way and in such a

manner and by such a person that no doubts whatsoever are left in the minds not only of some people in this country, but particularly in the minds of some of our critics overseas.

That is important, Sir, especially when we are so conscious of the credibility of the administrative officials and when we are so sensitive to criticisms as this Government seems. The Government has all the time stood up there and told us: "Do you doubt us? Do you raise these questions because you doubt the honour and credibility of this Government?" Of course, Sir, if we were to go on that basis, then no Member on this side of the House should raise any questions at all as to the actions of this Government at any time, because any time you raised a question it would be: "Do you doubt our credibility? Do you doubt our good faith? Do you doubt our purpose?"

Of course, Sir, we may or may not doubt the purpose or the good faith of this Government; but we are entitled in this House, as an Opposition, continually and regularly to question the Government's actions, if and when we think that they have not acted in the best interests of the country and of the people. Of course, Sir, I have said once before and I say it again, this Government is not infallible.

Now, the Chief Secretary, when he spoke, asked me to reply to that particular question, and I think I have done so. I think the Government must get it out of its head that whenever questions are raised about its actions this impugns on its honour. There is no such thing as impugning the honour of the Government. Members of this House are quite free to ask questions of the Government and seriously to question Government's actions, without being asked whether that impugns the honour of the Government.

The Chief Secretary referred to the medical officers' report, and as I said in my intervention, that report was not mentioned at any time in the Chief Secretary's statement on 11th June. I was not aware of it when I spoke yesterday and I am sure the House was not aware of it until this morning. I am quite prepared to accept the medical officers' report, and I think that it is, in a way, a very proper thing that the Government should have brought it out this morning in this debate, because it does

[Mr. Mboya] help us to clear some of the doubts that we have in our minds.

The Chief Secretary then referred to my reference to a letter from a prisoner or a detainee at Lodwar, and said that the fact that eight letters had been written, and the fact that I had not said that these letters had not been received, showed that the Government was assisting prisoners in trying to get in touch with their relatives. Of course, I think the Chief Secretary overlooked the fact that in the letter I read to the House yesterday this particular prisoner was complaining that although he had written some nine letters he had had no reply. The purpose of my reading this letter to the House was that I saw in this letter that I had received, the point that the Government was not particularly effectively helping this man to get in touch with his relatives. If he was a detainee and not a prisoner as such, as we heard from the Minister for Internal Security, then there is all the more reason why we should try to find out exactly what machinery exists for detainees to keep in touch with relatives and to be able to handle such matters as land consolidation and so on. It is not enough, Sir, for the Chief Secretary to say that the mere existence of evidence of letters having been written establishes the fact that Government is helping these people to keep in touch with their relatives or families.

On the question of visits by Members of this House to the prisons and detention camps, I was glad to hear the Chief Secretary say that he concedes that point to the Opposition. Now I hope that—I thought you said that?

THE CHIEF SECRETARY (Mr. Courts): Prisons, not prisons and detention camps.

MR. MBOYA: Oh! Well, we are back where we were. At least we now know that the Chief Secretary concedes the point that we may visit prisons, but we may not visit detention camps. If that is the case, Sir, I can do no better than repeat what I said yesterday, that it is in the interests of those who work in the detention camps and in the interests of the country and of the good name of Kenya that the Members of this House should have facilities to visit detention camps. After all, Sir, if outsiders, Members of Parliament from Britain and Red

Cross delegations, are allowed to visit these areas, these camps and so on, and we in this House have to be content with reports by these outsiders, I think there is an even stronger case that we ourselves should be able to visit detention camps in that context, including work camps and so on. In the last few months, we have been told so much of the good work that is being done there, how much stronger would this be if we ourselves were able to echo the same thing from this side of the House and dispel the doubts and criticisms that have been voiced outside Kenya by some of our critics.

MR. SPEAKER, one Member from this side of the House, I think, this morning, referred to the fact that an organization in Britain which had something to do with the letter in which the allegations from Lokitung appeared—the Movement for Colonial Freedom—I thought he referred to some African Members being acquainted with this particular organization. All I can say, Sir, is that if any African Members are acquainted with, or have contact with, this organization I see no connexion between this and the particular debate before the House, nor, Sir, do I think that there is anything wrong at all in any African Members being in contact with that organization.

SIR, the hon. Assistant Minister for Education, Labour and Lands—I see he is out of the Chamber at the moment—made some statements which I thought he ought to have substantiated, because I thought he was saying that the fact that this Motion was moved in the House yesterday had immediately resulted—immediately resulted—in the hardening of the attitude of some detainees, and that it had immediately given an impression in the country that the case of the prisoners in Lokitung was reopened; and I think he made certain other allegations. Well, it is a bit unfair, Sir, when we move a Motion such as this for a responsible Member of the Government to stand up and make such a statement, especially when the Motion was only moved last night. I am quite doubtful as to the ability of the hon. gentleman to gather information so quickly and to be able to assess the impact of the Motion, or the immediate effects of the Motion, on his particular group—he was speaking mainly

[Mr. Mboya] ment made between the Government and maize growers that losses and/or profits on maize exports should be borne by the maize growers. For this purpose, the Ordinance created the Maize Fund. The Ordinance was for one year, and it is necessary to extend it year by year, by resolution of the Legislative Council.

The only difference, Sir, today in the Bill before Council, is that the present Bill provides in clause 2 for extending the Ordinance to two years, up to 31st March, 1961. The reason for the two-year extension is that, as far as we can see at the present time, it will take at least two years to clear the deficit expected in the Maize Fund expected at the end of the present year for the imposition of a cess upon producers.

Secondly, Sir, there is one additional change. This Bill allows the Minister to impose varying cesses in varying regions as he may have agreed with the producers.

I beg to move.

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

Question proposed.

The question was put and carried.

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

The Promissory Oaths Bill

Order for Second Reading read.

MR. WEBB: Now that the hubbub has died down, Mr. Speaker, I beg to move that the Promissory Oaths Bill be now read a Second Time.

Mr. Speaker, it became necessary to amend the existing Promissory Oaths Ordinance in the light of the new Constitution, which has created certain new offices, the Council of State and Assistant Ministers and has abolished one former office in the form of the Executive Council.

The existing Ordinance has already been much amended, and it was therefore thought better to repeal and replace it by a new and rather better measure.

When I came to consider this very small and, I think, unexceptional measure, I was somewhat struck by its title: Promissory Oaths, and I wondered

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Do you want to say something?

THE CHIEF SECRETARY (Mr. Courts): Sir, I thank the hon. gentleman for giving way. I think on behalf of the hon. gentleman who is not present, and on behalf of the Government, since he mentioned the Government, my impression of what he said was that Motions of this nature and statements made in it are apt to have the results which you then went on to mention.

MR. MBOYA: I must say, Sir, that the HANSARD will really settle what he said, but what the Chief Secretary says is not what I heard him to say. If it is true that he said what I heard him say, I think that the Government should call his attention to that particular fact.

MR. SPEAKER, Sir, without taking up any more of the time of the House, but deeply regretting the fact that Government has not accepted this Motion, although hoping that from now on Members of this House will be allowed to visit prisons and that the Minister for Internal Security will consider whether or not we should visit detention camps, too, I beg to move.

The question was put and negatived.

## BILLS

### SECOND READINGS

#### The Maize and Sorghum (Imposition of Cess) (Amendment) 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 Maize and Sorghum (Imposition of Cess) (Amendment) Bill, 1958, be read a Second Time.

MR. SPEAKER, this Ordinance was first introduced into Legislative Council in 1954, to give legal force to the agree-



[Mr. Webb]

rather what that meant. I thought it might assist Members if I explained that promissory oaths are those oaths which persons appointed to certain important offices have to take to do their job properly. That led me to wonder what an oath was. We all swear oaths frequently, but what is an oath? I looked back for one moment into the past, to find that a long time ago the Judges in England said that "an oath is a religious asseveration by which a person renounces the mercy, and imprecates the vengeance, of Heaven if he does not speak the truth". I am sure, Sir, that those distinguished people who are called upon to take these oaths will remember that important point.

Sir, I beg to move.

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

The question was put and carried.

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

### ADJOURNMENT

THE SPEAKER (Sir Ferdinand Cavendish-Bentinck): That, I think, brings us to the end of the business on the Order Paper, and I therefore now adjourn the House until 2.30 p.m. on Tuesday, 15th July.

*The House rose at ten minutes past Twelve o'clock.*

**Tuesday, 15th July, 1958**

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

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

### PRAYERS

#### ADMINISTRATION OF OATH

The Oath of Allegiance was administered to the following Members:—

Ram Piara Joshi.  
John Henry Butter.  
Trevor Charles Colchester.  
Vincent Albert Maddison.  
Edward Pim Rigby.

### PAPERS LAID

The following Papers were laid on the Table:—

The East African Literature Bureau Annual Report, 1956-57.

The Department of Immigration Annual Report, 1957.

The Immigration (Prescribed Organizations) (Amendment No. 2) Regulations, 1958.

(BY THE CHIEF SECRETARY (Mr. Coutts))

1958-59 Estimates of Expenditure of the Colony and Protectorate of Kenya for the year ending 30th June, 1959, passed by the Legislative Council on 11th June, 1958.

The Development Estimates for the 1958-59 passed by the Legislative Council on 11th June, 1958.

The Land and Agricultural Bank of Kenya Annual Report, 1957.

The Price Control (Sugar) (Amendment) (No. 2) Order, 1958.

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

Sessional Paper No. 6 of 1957/58—The Maize Industry.

The Select Committee Report on the Dairy Industry Bill, 1958 (Bill No. 50).

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

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

in laying this report I have one small omission to draw to the attention of the House, which is important. The name of the hon. Member Mr. Hassan has, by some extraordinary mischance, got eliminated from the report in the printing of the names of Members.

Mr. Speaker, I would like to point out to the House that this omission is no reflection at all on the contribution which the hon. Member made.

The Defence (Control of Paddy and Rice) (Revocation) Regulations, 1958.

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

Kenya Police Annual Report, 1957.

Treatment of Offenders Annual Report, 1957.

The Compulsory Military Training (Pay, Allowances, Compensation and Entitlements) (Amendment) Regulations, 1958.

(BY THE MINISTER FOR EDUCATION, LABOUR AND LANDS (Mr. Luyi) on behalf of the Minister for Internal Security and Defence)

The Survey Regulations (Amendment) (No. 2) Rules, 1958.

(BY THE MINISTER FOR EDUCATION, LABOUR AND LANDS (Mr. Luyi))

Sessional Paper No. 7 of 1957/58—Report of the 1956 Game Policy Committee.

Report on Kenya Fisheries, 1957.

The Forest (General) (Amendment) (No. 5) Rules, 1958.

(BY THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell) on behalf of the Minister for Forest Development, Game and Fisheries)

### NOTICES OF MOTIONS

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

### SELECT COMMITTEE REPORT—DAIRY INDUSTRY BILL

THAT the report of the Select Committee on the Dairy Industry Bill be approved.

And further, Sir:—

### EAST AFRICA BAG AND CORDAGE COMPANY LIMITED

THAT this Council approves that the arrangements with respect to the East Africa Bag and Cordage Company Limited, set forth in Sessional Paper No. 91 of 1956/57 be continued for a further period to 31st March, 1959.

And further, Mr. Speaker:—

### SESSIONAL PAPER NO. 6—MAIZE INDUSTRY

THAT Sessional Paper No. 6 of 1957/58, entitled the Maize Industry, be approved.

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

### INCOME TAX EXEMPTION (CO-OPERATIVE SOCIETIES)

THAT the making of the Income Tax Exemption (Co-operative Societies) (Kenya) Order, 1958, be approved.

### STATEMENT ON BUSINESS

THE CHIEF SECRETARY (Mr. Coutts): Mr. Speaker, Sir, I believe on behalf of this side of the House I have an apology to make to all Members. I believe that some Members considered that this was going to be purely a quorum meeting of the Council and might not otherwise have had to travel long distances to come here. Indeed, Sir, that was the original intention, but, as you will hear in a moment, my hon. colleague, the Minister for Finance and Development, is going to make what is a very important statement on the subject of income tax. It was necessary that he should make it today, the 15th July, because it is being co-ordinated with a similar statement which is being made in both Uganda and Tanganyika. Therefore, if any hon. Members have been incommoded by having to come this afternoon for a short time, I would like to offer them my sincerest apologies, but I did feel they would wish to hear the statement which is about to be made.

[The Chief Secretary]

While I am speaking, Sir, if I might refer to the business which is before the Council, there remain three important items, the report of the select committee on the Dairy Industry Bill, the paper which has just been laid by my hon. friend, the Minister for Agriculture, on maize and maize prices, and a debate on a Motion by the hon. Member for Mount Kenya on communism. It is proposed, Sir, that we should reassemble next Tuesday, that is, giving a week for people to consider the select committee's report on the Dairy Industry Bill and a week for people to consider the White Paper on maize, so that these two very important matters can be fully debated.

Having re-assembled next Tuesday, Sir, I trust we shall have completed the work of this session by the end of next week.

## MINISTERIAL STATEMENT

### UNDISTRIBUTED INCOME TAX

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): Mr. Speaker. Towards the end of the debate in Committee of Ways and Means, I informed the House that the Government of Kenya would be discussing the points raised in regard to the undistributed income tax with the Governments and Administrations concerned.

I pointed out at the time that it was hoped that the East African Income Tax Management Act will be published in August, presented to the Central Legislative Assembly in September, then to be referred to a select committee of the Assembly whose report would be dealt with at a meeting of the Central Legislative Assembly later in the year.

Those discussions have now taken place and, with your permission, I take this, the earliest opportunity of acquainting the Council with the results of those discussions.

Dealing first with the question of the definition of a company. The companies which will be liable to undistributed income tax will be resident companies (other than subsidiary companies) in which the public are not substantially interested and non-resident companies under the control of not more than five

persons all of whom are resident in East Africa.

The "public" for this purpose will not include directors or secretaries of the company or any member (other than a non-controlled company) who holds shares carrying 20 per cent or more of voting power or which would entitle him to 20 per cent or more of the income of the company if the whole were distributed. Relatives (as defined in paragraph 48 of Sessional Paper No. 5) will be treated as one person for this purpose, as will joint nominees, partners or trustees.

The public will be regarded as substantially interested if they hold freely transferable shares carrying more than 25 per cent of the voting power and such proportion of the issued share capital as would entitle them to more than 25 per cent of the income of the company if it were all distributed.

The next point to be discussed was the position of companies with non-resident shareholders. Many representations have been received in regard to the position of a non-resident shareholder. It would not be the intention of the Government to place such a shareholder in a position which might tend to reduce his investment in this country. Relief can be given in those cases, where by reason of the operation of a double taxation agreement, no further East African tax would be payable by such a non-resident shareholder. If a dividend were actually declared, it has accordingly been decided that in computing undistributed income a deduction shall be allowed of that portion of the distributable income which would, if a total distribution were made, be payable to a resident of a country with which there is a double taxation agreement which provides that dividends payable to residents of that country shall, subject to certain conditions, be exempt from further East African tax. The onus will be on the company concerned to establish its title to such relief supported, if necessary, by certificates from the taxation authority of the country in which the shareholder resides.

The next point is that of the position of property-owning concerns. The original proposals confined the 20 per cent deduction to income from a trade

[The Minister for Finance and Development]

It has been represented that this limitation would be too harsh in the case of property-owning companies. It has, therefore, been decided to allow as a deduction, 20 per cent of all income other than income in the form of dividends and interest. Thus property-owning companies will, in this respect, be put on the same footing as trading companies.

Representations have been received that companies which have in the past entered in good faith into arrangements for repayment out of future profits of loans raised for development will, as a result of the operation of the tax, be left without funds to meet their obligations.

It is not desired to put such companies in an impossible position, but it is considered that there is no case for foregoing the tax due altogether since such companies should, when all their obligations have been discharged, be in a strong financial position. To afford some measure of immediate relief, however, the Commissioner will be authorized to give sympathetic consideration to requests for deferment of payment, if in any individual case of this sort, it is shown that hardship would result from payment of the undistributed income tax as it falls due.

I turn now to the question of allowance for development. Under the original proposals, expenditure on development might be carried back and deducted from undistributed income of the two preceding years. Where, however, there was a balance of expenditure which could not be allowed in any of the three years no further allowance could be made.

The effect of this was that, while companies which saved up their profits for development would, in general, have it taken fully into account, those companies which mortgaged future profits in order to develop might be prejudiced. It is felt that this should not be the position in East Africa, where rapid development is to be encouraged.

It has been decided that in such cases any unexhausted balance of development expenditure incurred in any accounting

period ending after 30th June, 1957, may be carried forward and set off against undistributed income for the following year, and, if necessary, for succeeding years.

The principle of the undistributed income tax is that the charge should extend to the amount which would be chargeable on the shareholders if a full distribution were made, after advantage has been taken of possible allowances.

The computation of distributable income will therefore allow, in addition to the items set out in the Sessional Paper, a deduction of the standard rate tax payable on the income of the company. The amount to be deducted for dividends will, however, be the net amount actually declared. The final amount resulting represents the profit available for distribution. This will be grossed up at the standard rate to arrive at the amount to be subject to the charge since this is the amount which, if there had been a full distribution, would have been chargeable on the shareholders.

This will result in a considerable reduction in liability, particularly in the case of concerns which carry out approved development since the development expenditure and the full 20 per cent will thus be allowed. Under section 22 no development expenditure was allowed and the 40 per cent deduction was subject to tax and therefore only effectively 30 per cent.

The final point deals with the date for the declaration of dividends. Sessional Paper No. 5 stated that companies would have, until 30th September, 1958, to declare dividends out of profits of accounting periods which ended more than 12 months before that date. It has now been agreed to extend the time allowed to six months after the date of the passing of the new Income Tax Management Act.

During this transitional period dividends declared out of the profits of those earlier periods specifically for the purpose of reducing undistributed income will be treated as the income of the shareholder for the year of income following that in which those profits were made.

I felt the Council should know, as I said, at the earliest opportunity, of the intentions of the Government with regard

[The Minister for Finance and Development]  
to the modification of the original proposals, thus removing some of the elements of uncertainty created during the past few weeks. Arrangements have been made for greater details of the effects of these modifications to be published in the Press. These modifications will mean, in the case of Kenya, a substantial loss of revenue and to that extent must alter the shape of the Budget presented on 7th May. A close watch will, as usual, be kept on the position in the knowledge that the loss may have to be compensated for by reduction in Government expenditure or by revenue to be found from other sources.

## BILLS

## FIRST READINGS

*The Penal Code (Amendment) Bill*

Order for First Reading read—Read the First Time—Ordered to be read the Second Time tomorrow.

*The Criminal Procedure Code (Amendment) (No. 2) Bill*

Order for First Reading read—Read the First Time—Ordered to be read the Second Time tomorrow.

## ADJOURNMENT

THE SPEAKER (Sir Ferdinand Cavendish-Bentick): That brings us to the end of the business on the Order Paper for today. I now adjourn the House until Tuesday next, 22nd July, at 2.30 p.m.

*The House rose at fifty-five minutes past Two o'clock.*

Tuesday, 22nd July, 1958

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

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

## PRAYERS

## PAPERS LAID

The following Papers were laid on the Table:—

Annual Trade Report of Kenya, Uganda and Tanganyika for the year ended 31st December, 1958.

(By THE CHIEF SECRETARY (Mr. Coutts))

The Income Tax Exemption (Co-operative Societies) (Kenya) Order, 1958.

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

Maize Control, Produce Control, Rice Control, Control Management—Balance Sheets and Accounts as at 31st July, 1957.

Kenya Meat Commission, Eighth Annual Report and Accounts for the period 1st January to 31st December, 1957.

The Water (General) (Amendment) Rules, 1958.

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

The Trading Centre Rules—Application to Mogotio Trading Centre.

The Local Government (Valuation and Rating) (Charges for Rates) Regulations, 1958.

The Transfer of Powers (Minister for Local Government, Health and Town Planning) Order, 1958.

(By THE MINISTER FOR LOCAL GOVERNMENT, HEALTH AND TOWN PLANNING (Mr. Havelock))

Higher Education Loans Fund, Annual Report, 1957.

(By THE MINISTER FOR EDUCATION, LABOUR AND LANDS (Mr. Luyt))

The Gold Mines Development Loans Ordinance, 1952—Balance Sheet as at 31st March, 1957.

(By THE CHIEF SECRETARY (Mr. Coutts))

The Hotels (Minimum Standards) Regulations, 1958.

(By THE MINISTER FOR TOURISM AND COMMON SERVICES (Mr. Crosskill))

## ORAL NOTICES OF MOTION

## UNDISTRIBUTED INCOME TAX MODIFICATION

MR. ALEXANDER: Mr. Speaker, Sir, I beg to give notice of the following Motion which will be taken as a Group Motion:—

THAT this Council records its appreciation of the modifications so far announced by the Minister for Finance, to the Income Tax proposals contained in Sessional Paper No. 5 of 1957/58 concerning Undistributed Income Tax, and urges the Government to continue negotiations with the other East African Governments with the object of agreeing further essential modifications before the matter is introduced to the East Africa Central Assembly, based on the one purpose of effectively and fairly eliminating avoidance of Income Tax and further that other necessary changes in respect of the proposals on Capital Deductions, Pension and Provident Funds and Property Income also be placed before the other East African Governments for early negotiation.

## TRANSFER OF POWERS (MINISTER FOR LOCAL GOVERNMENT, HEALTH AND TOWN PLANNING)

THE MINISTER FOR LOCAL GOVERNMENT, HEALTH AND TOWN PLANNING (Mr. Havelock): Mr. Speaker, I beg to give notice of the following Motion:—

THAT this Council approves the draft Order entitled Transfer of Powers (Minister for Local Government, Health and Town Planning) Order, 1958.

## ORAL ANSWERS TO QUESTIONS

## QUESTION No. 143

MR. SLADE asked the Minister for African Affairs:—

(1) How many adult male Africans, now resident in the Kiambu,

Fort Hall, Nyeri, Embu and Meru districts, respectively, are at present unemployed?

(2) What respective percentages of the total resident population of each district do those figures represent?

THE MINISTER FOR AFRICAN AFFAIRS (Mr. Johnston): (1) No accurate statistics are available on unemployment in the Central Province, but at the end of 1957 it was estimated that some 5,000 adult males, including landless, were unemployed in each of the three Kikuyu districts. Unemployment in Embu and Meru is negligible. Largely as a result of a permitted increase in the number of Kikuyu employed by day in Nairobi and of employment which is becoming increasingly available on consolidated farms, there has been an appreciable decrease in unemployment in recent months, particularly in the Kiambu District.

(2) A figure of 5,000 unemployed represents approximately the following percentages of the total resident population in each district:—

	Per cent
Kiambu	1.6
Fort Hall	1.4
Nyeri	2.3

DR. KIANGO: Mr. Speaker, Sir, would the Minister tell us how many of these people, perhaps, are from the Rift Valley and also from the town?

THE MINISTER FOR AFRICAN AFFAIRS (Mr. Johnston): I regret to say that I have no information on that point, Sir, but if a hon. Member would like to put down a question I will answer it.

MR. MBOYA: Mr. Speaker, arising out of the reply, would the Minister state how many people are employed on consolidated plots, and, secondly, would the Minister state, in view of the fact that these figures are not accurate, what arrangements are being made to ensure that he will get accurate figures of the state of unemployment?

THE MINISTER FOR AFRICAN AFFAIRS (Mr. Johnston): Mr. Speaker, I have not got the figures for Nyeri or for Fort Hall as regards employment on consolidated farms in the African districts. However, the latest figures I have got from Kiambu indicate that approximately 2,000 persons are being employed.

[The Minister for African Affairs]:

I will look into the second part of the question which the hon. Member for Nairobi Area asked me and I will give him the figures afterwards.

MR. MATE: Mr. Speaker, would the Minister state what steps the Government is taking to provide land for the landless?

THE SPEAKER (Sir Ferdinand Cavendish-Bentley): That does not arise from the question.

DR. KIANO: Mr. Speaker, will the Minister inform us what plan he has to relieve unemployment in these areas?

THE SPEAKER (Sir Ferdinand Cavendish-Bentley): That does not strictly arise from the question. A question is not intended to become the beginning of a debate, but is a definite question to which an answer is sought. The answer has been given. You may now ask a supplementary question to elucidate the answer given but not to start a debate.

MR. MBOYA: Mr. Speaker, arising out of the original reply, would the Minister indicate approximately how many people are on daily contracts from the Kiambu District?

THE MINISTER FOR AFRICAN AFFAIRS (Mr. Johnston): Mr. Speaker, approximately 4,500 people come in daily to employment in Nairobi and return to their homes at night.

MR. NYAQIH: Mr. Speaker, arising out of the original reply, would the Minister give us the approximate figure of unemployed in Embu and Meru?

THE MINISTER FOR AFRICAN AFFAIRS (Mr. Johnston): Mr. Speaker, I did give that in my reply. The unemployment problem, however, in Embu and Meru is negligible as compared with other districts.

#### QUESTION No. 155

MR. ODINGA asked the Minister for Education, Labour and Lands:—

(a) The number of African students from Kenya, expelled from South Africa as a result of the institution of the Bantu Education Act.

(b) How many of them were Government sponsored and how many private students?

(c) What action did the Government take in Kenya to ensure their reabsorption into local schools or colleges or towards their further education overseas?

(d) What is the number of these students now back in Kenya and those still abroad, giving details as to their whereabouts, conditions and occupations from the time of their expulsion from South Africa to date?

THE MINISTER FOR EDUCATION, LABOUR AND LANDS (Mr. Luyt): The Bantu Education Act has not caused the expulsion of any Kenya students from South Africa, but I believe that the hon. Member is referring to a decision taken in 1950 by the Union Government that as there were insufficient places for their own non-European population places could no longer be given to non-European students from elsewhere. The application of this decision was subsequently postponed for a period of three years as a result of representations from this and other Governments.

The number of students affected was eight. All were Government sponsored in that they were recommended as suitable candidates for admission, but none held Government bursaries.

Six of these students left South Africa for the United Kingdom in 1954 and the remaining two in 1955. All were awarded Colonial Development and Welfare scholarships in the United Kingdom to assist them with further studies. However, seven of these students failed to reach the necessary standard for university admission and their scholarships were terminated last year. The other student decided to enter one of the Inns of Court and enjoyed a Colonial Development and Welfare scholarship for three years and has also received a Kenya Government loan. None of the students has yet returned to Kenya. So far as is known all except one are in the United Kingdom, but I do not know their present occupations.

#### QUESTION No. 164

MR. MATE asked the Minister for Education, Labour and Lands how many teachers in service have been sent for upgrading courses from the Nanyuki and Meru districts with a view to qualifying as T.3, T.2 and

(Mr. Mate) K.T.1 in the last three years 1956-1958?

What is the breakdown of this number per management per grade?

THE MINISTER FOR EDUCATION, LABOUR AND LANDS (Mr. Luyt): Upgrading courses are offered only to enable T.3 teachers to become T.2 teachers; for upgrading to T.3 status (from T.4 status) it is necessary to pass the K.A.P.E. or its equivalent, and this can be done by private study and by sitting the external Standard VIII examination; for upgrading to K.T.1 status (from T.2 status) it is necessary to pass the Cambridge School Certificate examination, and to have completed two years of satisfactory teaching; professional upgrading courses are not offered in these two cases.

The figures in respect of those sent from Nanyuki and Meru districts to attend the upgrading courses (that is T.3 to T.2) offered are as follows:—

NANYUKI		
Year	No.	Management
1956	Nil	Nil
1957	Nil	Nil
1958	1	District Education Board.
	1	Government.
	1	Consolata Catholic Mission.
MERU		
Year	No.	Management
1956	3	Consolata Catholic Mission.
	1	Methodist Church Society.
	1	District Education Board.
1957	4	Methodist Church Society.
	1	District Education Board.
	1	Presbyterian Church of East Africa.
1958	1	Consolata Catholic Mission.
	5	Consolata Catholic Mission.
	3	Methodist Church Society.
	1	Presbyterian Church of East Africa.

MR. MATE: Arising out of the reply, would the Minister state what the Government is doing to help these students?

THE MINISTER FOR EDUCATION, LABOUR AND LANDS (Mr. Luyt): I am not aware, Sir, that there is any lack of enthusiasm to send forward candidates for these upgrading courses. Therefore there is no need for Government to do anything about them.

MR. MATE: Mr. Speaker, would the Minister undertake to investigate the fact that some missions are not very keen on these projects?

THE MINISTER FOR EDUCATION, LABOUR AND LANDS (Mr. Luyt): If specific instances are brought to my notice, Sir, I will certainly investigate them.

#### QUESTION No. 174

MR. ARAP MOI asked the Minister for African Affairs to state whether the Minister is aware that Teriki tribe of North Nyanza wish and have persistently asked the Government to transfer their location and be added to the Nandi Land Unit.

THE MINISTER FOR AFRICAN AFFAIRS (Mr. Johnston): No such requests have been made to Government by the Teriki tribe. It is, however, possible that the hon. Member's question refers to petitions received from the members of the Teriki community of the Nyangori Location, which are at present being considered by the Government.

#### QUESTION No. 175

MR. ARAP MOI asked the Minister for Education, Labour and Lands to state how many (a) African, and (b) Asian students on the Faculty of Arts at the Royal Technical College have been awarded overseas scholarships?

THE MINISTER FOR EDUCATION, LABOUR AND LANDS (Mr. Luyt): (a) None; (b) three.

MR. ARAP MOI: Mr. Speaker, Sir, arising out of the Minister's reply, would he tell us why there are certain Africans who would have been eligible for scholarships and have not been awarded any scholarships?

THE MINISTER FOR EDUCATION, LABOUR AND LANDS (Mr. Luyt): Yes, Sir. The answer is simple: there is no African in the Faculty of Arts at the Royal Technical College who has applied for such a scholarship.

#### QUESTION No. 176

MR. ARAP MOI asked the Minister for Finance and Development to state whether he is envisaging census in population in Kenya to take place? If the answer is in affirmative, what preparations have been made?

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): Yes, Sir. Subject to the availability of the necessary finance, the Government proposes to take a census of the population of Kenya in 1961. Apart from fixing the year for the census, no preparations have yet been made.

MR. USHER: Arising out of that reply, Sir, whilst appreciating that this costs money, could the Minister indicate what kind of extra financial provisions would be involved, and whether we could not have one a bit earlier?

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): Sir, no clear idea of the cost of taking a census of this kind can be given until the type of study to be undertaken and the use to be made of Government staff have been decided. But the cost of the Tanganyika census in 1957 was estimated at about £40,000; the 1948 East African Population Census, the contribution from Kenya was estimated at about £15,000. When we come to a census of Kenya alone in 1961, it is obvious that the cost may be considerable. Therefore, Sir, I think the question of whether we have a census in that year or not must depend upon the financial situation, because if it is going to cost £40,000, that is quite a lot of money. It is unlikely that we can have a census in Kenya before 1961, as the Uganda census which was to be taken in 1958 will now be postponed until 1959 which was the year originally thought suitable for ours.

MR. ARAP MOI: Mr. Speaker, Sir, arising out of the original reply, is the Minister aware that the figures for 1948 census are obsolete and it is necessary that a census should take place so that we know exactly what statistics are available?

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): Sir, the Government appreciates that up-to-date information regarding the size and structure of the population is always desirable, and that the last general population census taken in 1948 is now out of date. The hon. Member will appreciate, of course, that the Emergency conditions in Kenya have prevented a census being taken in recent years. But, Sir, the Government will have to give considerations

as to the priority of this, and the amount of money required as against many other essential and necessary services for which hon. Members opposite are continually pressing.

#### QUESTION No. 182

LORD PORTSMOUTH asked the Minister for Agriculture, Animal Husbandry and Water Resources in view of the incidence of royalties on the competitive position of the timber industry in export markets, will the Government state whether it is prepared to give temporary assistance in this regard in building up an export trade?

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Bluedell): For a six-month period starting on 1st July, 1958, the Government proposes to grant a refund of 50 per cent of the royalty paid in respect of sawn timber exported to destinations outside the East African territories. The continuance of a refund after 31st December, 1958, will be considered in the light of the circumstances then obtaining.

#### QUESTION No. 160

MR. ODINGA asked the Minister for Internal Security and Defence:—

- What is the number of Nyanza detainees and restricted persons still under custody?
- How many have been released during this year?
- What arrangements are being made for a speedy release of the remainder?

THE MINISTER FOR INTERNAL SECURITY AND DEFENCE (Mr. Cusack): (a) In addition to the 57 *Dini ya Mambwa* detainees included in my reply to Question No. 112, asked of me by the hon. Member for Nyanza North on 3rd June, 1958, a further 33 Nyanza detainees who were implicated in the Emergency were still in custody on 20th June, 1958.

There were as well nine Nyanza men the subject of restriction orders under the Deportation (Immigrant British Subjects) Ordinance for participation in *Dini ya Mambwa*, and 87 had had their Emergency detention orders suspended and were restricted under the Emergency Regulations.

[The Minister for Internal Security and Defence].

(b) Thirty-nine Nyanza men were released from detention during 1958, and restriction under the Emergency Regulations was lifted from 20.

(c) Each of those still in custody, or under restriction, will be released as soon as it is clear that their further detention or restriction is not necessary for the purpose of maintaining public order.

MR. ODINGA: Mr. Speaker, Sir, arising from that reply, would the Minister tell us exactly when he thinks these people will be eligible for release?

THE MINISTER FOR INTERNAL SECURITY AND DEFENCE (Mr. Cusack): Mr. Speaker, Sir, I have nothing to add to the last part of the reply I have already given.

MR. TOWETT: Mr. Speaker, Sir, is the Minister aware from his reply that he is misleading the public by saying "Nyanza". What type of Nyanza men is he referring to?

THE MINISTER FOR INTERNAL SECURITY AND DEFENCE (Mr. Cusack): I did not quite hear, but if the hon. Member wishes me to exclude the Kipsigis from the description of Nyanza men, they should, of course, be excluded, and that is my mistake.

MR. TOWETT: That is very far from being satisfactory.

THE MINISTER FOR INTERNAL SECURITY AND DEFENCE (Mr. Cusack): I am sorry; I cannot hear.

#### QUESTION No. 163

MR. KHAMISI asked the Minister for Education, Labour and Lands to state what acreage of land in the Mainland South, Mombasa District, has been leased to, or acquired by, the East African Estates Limited.

THE MINISTER FOR EDUCATION, LABOUR AND LANDS (Mr. Luyi): Seven thousand eight hundred and four acres.

MR. KHAMISI: Is that figure correct?

#### QUESTION No. 167

MR. MATE asked the Minister for Local Government, Health and Town Planning:—

- How many trainees have qualified by grade from each of the

hospitals receiving grants in the Meru District for the last three years, i.e. hospital assistants Grade II and Grade I, and midwives?

(b) What salary scales are given by grades to persons so qualified, men and women, and who obtain subsequent employment in these particular hospitals?

THE MINISTER FOR LOCAL GOVERNMENT, HEALTH AND TOWN PLANNING (Mr. Havelock): (a) From the Beresford Memorial Hospital three hospital assistants of assistant nurses, Grade I; nine dressers or assistant nurses, Grade II; seven assistant midwives. From the Church of Scotland Mission Hospital at Chogoria 13 dressers or assistant nurses Grade II.

(b) At one of the two hospitals concerned, salaries are paid in accordance with the Government scales; at the other hospital the salaries paid are based on the original Lidbury scale plus 10 per cent.

MR. MATE: Mr. Speaker, Sir, arising out of the reply, is the Minister aware that there is general discontent amongst these employees after their salaries—the correct scales?

THE MINISTER FOR LOCAL GOVERNMENT, HEALTH AND TOWN PLANNING (Mr. Havelock): I am not aware of that fact, Sir. I understand the mission has negotiated the scales with their employees. One of the reasons why the scales are lower at one mission is that there is a guarantee to some extent that the people concerned will be able to live near home.

MR. MATE: Mr. Speaker, Sir, is the Minister aware that employees demand pay because money spent is public funds and that the employers are talked down?

THE SPEAKER (Sir Ferdinand Cavendish-Bentick): I am afraid I did not hear. If you would address the Chair, more loudly then we all might hear.

MR. MATE: Mr. Speaker, Sir, is the Minister aware that in some of these cases, the managements are more strong than the employees in the arguments, and would he please do something about it?

THE MINISTER FOR LOCAL GOVERNMENT, HEALTH AND TOWN PLANNING (Mr. Havelock): There is always available work for qualified people of this sort. They are very short throughout the country.

MR. MBOYA: Mr. Speaker, Sir, arising out of the reply, would the Minister state what machinery exists for the examination of grievances in the case of employees in mission hospitals?

THE MINISTER FOR LOCAL GOVERNMENT, HEALTH AND TOWN PLANNING (Mr. Havelock): Mr. Speaker, any individual grievances which are brought to my notice or that of the Director of Medical Services will, of course, be examined.

#### QUESTION NO. 171

MR. ARAP MOI asked the Minister for Local Government, Health and Town Planning—

(a) Whether the Minister is aware that there is a serious shortage of trained African nursing orderlies and midwives in Rift Valley Province?

(b) What assistance is given, if any, to missions' hospitals to enable them to train such people?

THE MINISTER FOR LOCAL GOVERNMENT, HEALTH AND TOWN PLANNING (Mr. Havelock): The present ratio of trained dressers to beds in the Rift Valley Province is one to every 15 beds compared with a norm of one to ten. Seventy-four additional dressers are in training and if they are successful in their examinations, it will be possible to bring the ratio to normal. The difficulty experienced by some of the smaller hospitals in obtaining midwives is mainly due to the shortage of female recruits for dresser training. Training facilities are available at Government hospitals and institutions for those persons able and willing to take advantage of them. There are no mission hospitals in Rift Valley Province with proper facilities for training.

MR. ARAP MOI: Mr. Speaker, Sir, arising out of the Minister's reply, is he underrating the fact that there are two mission hospitals, one at Ortum in West Suk, and one at Kapsowar in the Elgeyo-Marakwet District, and what facilities is he making, or encouraging, to help these missions?

THE MINISTER FOR LOCAL GOVERNMENT, HEALTH AND TOWN PLANNING (Mr. Havelock): Sir, both the hospitals referred to by the hon. Member receive a Government grant to help them to improve their facilities, but up to the moment, their facilities are not really sufficient for training people.

MR. MBOYA: Mr. Speaker, Sir, would the Minister state what, if anything, the Government has done apart from giving them drugs, to ensure that they improve on the facilities and to ensure that they provide facilities for training?

THE MINISTER FOR LOCAL GOVERNMENT, HEALTH AND TOWN PLANNING (Mr. Havelock): The main object, Sir, of these two particular hospitals is to serve the public, not necessarily for training. I would like to repeat what I said before: there are many vacancies in Government institutions where training can take place, but unfortunately, we are not able to fill them yet.

MR. ARAP MOI: Mr. Speaker, Sir, is the Minister aware that by building more health centres, we have to acquire more trained staff, midwives and others, and yet the Minister says that he is not prepared to help these missions to train staff, and even Government training centres?

THE MINISTER FOR LOCAL GOVERNMENT, HEALTH AND TOWN PLANNING (Mr. Havelock): Sir, the hon. Member misunderstood me. I have said that there are many vacancies in Government institutions available for training. The difficulty we are experiencing, especially in the Rift Valley Province, is that people are not prepared and do not wish to have this sort of training. I would appeal to hon. Members and to the hon. Member himself to try to impress on his own people the great need for trained persons, and try to encourage the girls and boys to come forward to be trained at our institutions.

MR. MATE: Mr. Speaker, Sir, this money granted is Government money. What does Government do to make it properly spent by the missions to train these people?

THE MINISTER FOR LOCAL GOVERNMENT, HEALTH AND TOWN PLANNING (Mr. Havelock): I have already said, Sir, that these two hospitals are not

[The Minister for Local Government, Health and Town Planning, training. The money is granted to them to provide medical facilities in the district in which they are situated. They, of course, come under inspection by myself and my officers as any other institution to which grants are given.]

MR. MBOYA: Mr. Speaker, would the Minister not agree that by providing training facilities in the districts themselves, or within the Province, we might attract the people of that Province to this type of profession?

THE MINISTER FOR LOCAL GOVERNMENT, HEALTH AND TOWN PLANNING (Mr. Havelock): Yes, Sir, there is something in what the hon. Member says, and I did state that we are trying to help these missions to get to the stage where they will be able to do training. I would like the hon. Member to be realistic; Ortum, for instance, is in a valley in West Suk, where the demand for the facilities, or the people available, are very few indeed, as the hon. Member knows.

MR. MULIRO: Mr. Speaker, Sir, arising from the original reply, is the Government making any effort of propaganda to attract the women and the girls in the Rift Valley Province to be trained as midwives and nurses?

THE SPEAKER (Sir Ferdinand Cavendish-Bentinck): I do not think that question applies.

THE MINISTER FOR LOCAL GOVERNMENT, HEALTH AND TOWN PLANNING (Mr. Havelock): Mr. Speaker, I understood that hon. Members opposite did not like the Government to use propaganda!

I would like to suggest, Sir, that hon. Members have always stated that they have very great influence with their own people; possibly if they had, we would get more trainees.

#### QUESTION NO. 151

THE SPEAKER (Sir Ferdinand Cavendish-Bentinck): Does any hon. Member wish to ask Mr. Nurmohamed's question?

MR. PANDYA, on behalf of Mr. Nurmohamed, asked the Minister for Education, Labour and Lands whether the Government is satisfied that it can meet the demand for qualified teachers at least up to 1960?

THE MINISTER FOR EDUCATION, LABOUR AND LANDS (Mr. Luyt): Yes, Sir.

#### COMMITTEE OF WAYS AND MEANS

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

#### IN THE COMMITTEE

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

#### MOTION

#### CO-OPERATIVE SOCIETIES (EXEMPTION) INCOME TAX ORDER

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): Mr. Chairman, in accordance with Standing Order No. 105, I beg to signify that the consent of His Excellency the Governor has been received for the introduction of this Motion.

MR. BUTLER: Mr. Chairman, I beg to move that the making of the Income Tax Exemption (Co-operative Societies) (Kenya) Order, 1958, be approved.

In rising to do so, I would, if I may, like to claim even more than the usual indulgence which Council allows maiden speakers for a reason that I will very briefly explain by reference to a visit which an auditor paid to a district office in Kenya. The auditor noticed amongst the items of expenditure "Feed of Office Cat", and being a conscientious officer demanded to see the animal. When it was produced before him, it turned out to be a miserable, half-starved, mangy creature, and he was duly amazed at this apparition. The clerk concerned, however, was quite unperturbed. "This, Sir," he said, "is acting cat; substantive cat is on leave, having kittens".

I trust therefore, Sir, that any deficiencies in my presentation of or reply to this Motion may be forgiven, on the ground that I am, after all, a mere acting cat. The substantive cat is on leave, and at this present moment it is possibly the acting cat which is in rather more danger of having kittens.

I am, however, encouraged in recommending this Motion to the Committee by the fact that a Motion which seeks to remit taxation tends to be rather less controversial than one which seeks to impose it, and I am further encouraged

[Mr. Butler]

by the fact that in 1953 the Council approved a very similar Motion. The 1953 Motion exempted African co-operative societies from income tax on the years of income 1952 to 1956. And the only point of criticism raised at that time, when that Motion was introduced and was supported from all sides of the Council, was that the mode of the exemption was discriminatory. This defect has now been removed, and the order which it is now proposed to issue would exempt from income tax all agricultural co-operative societies, where the gross income of the society divided by the number of individuals who are members does not exceed £150.

The justification for this concession is that a small society might be discouraged from building up proper reserves if it knew that these reserves were to be subject to tax, and, of course, a slight miscalculation concerning the price to be received for the produce sold might at once put such a society into considerable financial difficulties.

The amount of revenue which would be lost, if this proposal is agreed, would not exceed £1,500 in a full year, and it will be noted that the exemption is to apply to the year of income 1957. This does not mean that the Government does not intend the concession to apply in 1958 and subsequent years, and it is proposed that if this Motion is approved the necessary provision for exemption in 1958 and subsequent years should be made by including it in the appropriate Schedule to the new East African Income Tax Management Act.

I do not think I need say anything more, except that I will do my best to answer any questions that are raised and to say that the Government's proposals are an indication of the importance which the Government attaches to the healthy development of co-operative societies and an indication of the Government's realization of the important part which these societies can play in the economy of the country, and in particular, in the field of African agriculture.

Sir, I beg to move.

*Question proposed.*

The question was put and carried.

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): Mr. Chairman, I beg to move that the Committee do report to Council its consideration and approval of the resolution without amendment.

*Question proposed.*

The question was put and carried.

*Council resumed.*

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

#### REPORT

THE TEMPORARY MINISTER FOR LEGAL AFFAIRS (Mr. Conroy): Mr. Speaker, Sir, I have to report that the Committee of Ways and Means has approved a resolution that the making of the Income Tax Exemption (Co-operative Societies) (Kenya) Order, 1958, be approved.

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

*Question proposed.*

The question was put and carried.

#### MOTION

##### TOBACCO TRADING LICENCE

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): Mr. Speaker, I beg to move that this Council, under the provisions of section 5 of the Marketing and African Produce Ordinance, approves the grant by the Governor in Council of Ministers of an exclusive trading licence for a period of seven years to the East African Tobacco Company Limited for the purchase of tobacco leaf in the following areas:

- (a) Those portions of the Embu, Fort Hall and South Nyeri districts forming part of the native reserves within a radius of 15 miles from Sagana Railway Station.
- (b) That portion of the Kitui District forming part of the native reserve within a radius of 25 miles from Kitui Township.
- (c) That portion of the Embu District forming part of the native reserve within a radius of ten miles from Rumbia Muge's Trading Centre (Shikago).

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

Mr. Speaker, in putting this Motion before the Council, it is sought to extend the provisions made in 1949 by a Motion in this Council, whereby the British American Tobacco Company of that time was granted an exclusive licence for the purchase of tobacco leaf within a radius of 25 miles from Sagana and a radius of 25 miles from Kitui. In 1951, the exclusive trading licence was transferred to the East African Tobacco Company Limited and that licence has now terminated.

I seek, therefore, Sir, the approval of the Council to extend the licence further. During the course of the years over which it has been running, it has proved of benefit to the areas concerned and to the Colony. Tobacco is an industry which requires skilled attention and substantial equipment, and the relationship between the growers and the company has furthered that. Secondly, experience in the Kitui and Sagana areas has shown that we can produce tobacco of comparatively high quality at an economic cost, and at prices which are attractive to African producers.

Finally, Sir, experience over the last nine years has shown that the original decision to grant the exclusive licence for the development of the tobacco industry has proved beneficial, as I have said, to the area concerned, and to the Colony.

We seek to extend the area in regard to Shikago as we believe that that area also will benefit from the policy.

Mr. Speaker, I beg to move.

THE MINISTER FOR AFRICAN AFFAIRS (Mr. Johnston) seconded.

*Question proposed.*

MR. MUMI: Mr. Speaker, Sir, I should first of all like to say how grateful I am—and, I believe, the people of Kitui—for the great work that is done by the East African Tobacco Company in that district.

When I remember the first time the company established their factory in Kitui, they had a small portion near the township where they put this factory, and later on they had a number of pieces of land around the township where they made their first nurseries. Later on, they

had larger pieces outside the township area.

There are a number of things which I remember look place after this company established itself in Kitui, in connexion with the interests of the Africans in that district. The first thing that I remember was the supply of wood from the reserves outside the township. This company extracted a lot of fuel from the reserves near the township to such an extent that there was a fear that if they continued at the rate they were going probably there would be a serious danger of shortage of fuel in the locations near the township. Therefore, it was agreed between the company and the African district council in that district that they should be leased a piece of land—I think to the extent of 100 acres—on which to grow trees for their fuel.

Now, as far as I understand, the lease was to expire in 1960, and if it did then I think it was agreed that the land should revert to the owners. I should like to be assured by the firm that when that time arrives, when the lease expires in 1960, the land will go back to the owners. I would further like to be assured by the company of the other arrangements they are making to get their fuel, because I would not like the good work they have started, and which is continuing, to conflict with the interests of the Africans in that district.

Now the other point is that I know that the company is encouraging the Africans to cure the tobacco instead of the company doing that. I wonder whether it is the intention, after the extension of this lease to seven years, of the company to cease curing the tobacco and to encourage Africans in that district to do the curing instead. I think: If they did, then the question of extracting fuel from the nearby locations would not arise. The people would do that themselves.

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

MR. NYAKATI: Mr. Speaker, Sir, I would like to speak on the first section and third section of the Motion. The 15 miles radius from Sagana Station seem to go a long way off into the country. The people whom I have heard speak on this portion being set aside for

[Mr. Nyagah]

tobacco are not very sure whether they will be allowed to plant tobacco in areas very near Karatina, which are 15 miles from the station, and also very near Kutus which is within this radius. They would like to have precise boundaries set out to show them exactly where the limit of tobacco planting is.

There is also the third portion of the Motion; in Shikago people are rather worried that the boundary of ten miles around Shikago will not cover enough space for tobacco-growing. They would like to see the area extended westwards rather than eastwards around the mountain there. Also they point out that if the monopoly is given to the Tobacco Company they would like to be assured by the Government that if they started a co-operative society on the lines of the coffee co-operative societies they would be allowed to do this.

Those are the two points I wanted to bring out to the Minister for his consideration when he comes to lay down the boundaries permanently.

I beg to support.

MR. MATE: Mr. Speaker, Sir, while I appreciate the idea of giving the Tobacco Company an exclusive trading licence, and while I am a smoker myself, I am a little worried about the other products of tobacco generally, and what implications this kind of thing will have in the future on the African's own, home-grown tobacco, from which the Africans get other products, snuff and chewing tobacco, etc.

Mr. Speaker, I am just afraid of the company being so exactly concerned with its capital and its interests as to exclude the possibilities of developing the Africans' old way of trading in tobacco. All I would like to get from the Minister is an assurance that there is no undue competition between the two kinds of traders. At the same time, while I support the entry of such trade into the reserves—and in this House we have asked companies to go out into the African areas and establish trades there—I would like to feel that the local existing trade and the African way of doing this kind of trade are protected at the same time.

Mr. Speaker, I beg to support.

MR. SWYNNERTON: Mr. Speaker, Sir, I think I can answer all the questions raised satisfactorily. In the areas in which the exclusive trading licence is granted that licence relates to the tobacco plants belonging to the company which are issued to growers; it does not relate to the ordinary African tobacco grown for snuff or coil or various other purposes.

Under the exclusive trading licence published in 1949, it required the company to "furnish free of charge to native growers seeds or plants of the type of the tobacco selected by the licensee in locations, selected by the licensee within the area, to advise free of charge all such growers, to provide to the satisfaction of the Director of Agriculture sufficient numbers of flue-curing barns and to purchase from all native growers all tobacco leaf grown and harvested by such native growers under the direction of the licensee in the areas mentioned".

Now, the company has provided tremendous facilities for the growers in these three areas. They plant the nurseries and grow the seedlings over the difficult stage, then they issue to the growers a sufficient number of seedlings to plant the agreed acreage and they issue fertilizers as well. When it comes to cutting the green leaf they take the green leaf and save the producers any bother in connexion with curing. But that all relates to the plants which are issued by the Tobacco Company. Growers in the area who grow their own tobacco for snuff and so on are not affected by this licence or by any agreements.

I think that satisfactorily answers the questions raised by the hon. Members for Central Province North and Nyeri and Embu. There is the possibility of developing other types of tobacco-growing in those districts possibly within, possibly without the licensed areas, but that would be a matter for an entirely separate negotiation if flue-cured tobacco or Turkish tobacco were to be grown. This licence relates to flue-cured tobacco only.

The hon. Member for Kitui raised the question of timber. Timber has been a tremendous worry in the Kitui District for very many years, and, as he says

[Mr. Swynnerton]

very large amounts of timber from the African lands were drawn upon. Agreements have been reached with the Forest Department for provision of firewood from certain areas. I was not aware of the statement that the Member made that the particular area leased from the African district council was to revert in 1960, but if it does so I will go into the matter and see that no hardship is

MR. MUMI: On a point of explanation, Sir, the area I was referring to is known as Musebe. It is not land of the Forest Department, or the African district council.

MR. SWYNNERTON: I will go into that nevertheless. I was down in Kitui recently and was assured that the timber supplies for the curing barns were assured for the future, but even should the company run out of fuel supplies it is possible to use oil fires as well as timber fires although more expensive to do so. It is not dependent on smoke in this case, it is merely dependent on heat, unlike fire-cured tobacco.

The hon. Member, I think, did also refer to the possibility of individuals curing their own tobacco individually or by co-operative enterprise. The Tobacco Company itself has started in Kitui to encourage individual producers to set up their own curing barns which is perfectly possible for either individual producers or groups of producers, and in that case it will buy cured leaf from growers and will give the growers a very much better price than they get from their green leaf, because that particular aspect of processing is taken off the hands of the company.

If it is successful at Kitui, and if the growers in Embu and Fort Hall wish to go on to a similar basis, either as co-operative societies or as individuals, the company will be only too anxious for them to do so. The more chores which can be taken over by the growers, the more pleased the company will be. They have to maintain a large staff in the area; they have to do a lot of work in connexion with nurseries and curing, and if growers can take those jobs over, then the growers themselves will get a better price than they do now.

Mr. Speaker, Sir, I beg to support.

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (MR. BLUNDELL): Mr. Speaker, I do not think there is anything I need add to the debate.

The question was put and carried.

MOTION

EAST AFRICA BAG & CORDAGE COMPANY LIMITED (SESSIONAL PAPER No. 91 OF 1956/57)

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

THAT this Council approves that the arrangements with respect to the East Africa Bag & Cordage Company Limited, set forth in Sessional Paper No. 91 of 1956/57, be continued for a further period to 31st March, 1959.

Mr. Speaker, this Motion seeks to extend the agreement which I put before the Council last year by which Government assists the company—the East Africa Bag & Cordage Company—in the production of soft-fibre containers which, in the opinion of the Government, is desirable for strategic reasons, and also possibly for the eventual development of a source of industrial assistance to the agricultural industry when we have experimented further in the production of soft fibres in this country.

I beg to move.

THE MINISTER FOR FINANCE AND DEVELOPMENT (MR. VASEY) seconded.

Question proposed.

The question was put and carried.

BILL

REPORT AND THIRD READING

The Stamp Duty Bill

Order for consideration of the Report of the Committee of the whole Council read.

THE TEMPORARY MINISTER FOR LEGAL AFFAIRS (MR. CONROY): Mr. Speaker, Sir, the Committee of the whole Council considered this rather complicated Bill on 24th June and they passed a number of amendments. As a result, the Bill was reprinted and circulated to hon. Members, purporting to contain all the



[The Temporary Minister for Legal Affairs] amendments, but we now, in fact, discover that one was omitted from the copy of the Bill which was reprinted in order to give hon. Members the opportunity of seeing the amendments which they had made in Committee.

Mr. Speaker, if hon. Members would be so good as to turn to the report of the Committee of the whole Council which is attached to today's Order Paper, at page 168, half-way down, they will see that the Committee agreed the following amendment: "That the Schedule be amended by substituting for the item 'Agreement for Legal Mortgage or Charge: See Mortgage, etc.', a new item as follows: 'Agreement or Contract accompanied with a deposit: See Mortgage, etc.'"

Mr. Speaker, I draw attention to that out of courtesy to hon. Members and apologize for the mistake. In fact, the Committee did make the amendment and therefore no further action is, I understand, necessary by this Council.

Sir, the Bill was reported with amendments to the Council by the Committee on 24th June, and in accordance with Standing Order 94 I beg to move that the Council doth agree with the Committee in the said Report.

The question was put and carried.

THE TEMPORARY MINISTER FOR LEGAL AFFAIRS (Mr. Conroy): Mr. Speaker, I beg to move that the Stamp Duty Bill be now read a Third Time.

Question proposed.

The question was put and carried.

The Bill was read a Third Time.

## BILLS

### SECOND READING

The Penal Code (Amendment) Bill  
Order for Second Reading read.

THE TEMPORARY MINISTER FOR LEGAL AFFAIRS (Mr. Conroy): Mr. Speaker, Sir, I beg to move that the Penal Code (Amendment) Bill be now read a Second Time.

Sir, this Bill seeks to define three criminal offences, and I use the word "define" deliberately as opposed to the word "create" because I think it is very probable that the acts which the Bill

seeks to prohibit already constitute criminal offences under either our statutory or common law. The purpose of the Bill really, therefore, is to clarify the existing law beyond the possibility of doubt.

Sir, the three criminal offences to which I refer, Sir, are dealt with in three separate sections which it is proposed to insert in the Penal Code. The first one is section 91A which provides that it shall be a criminal offence to incite to violence or to any disobedience of the law. If hon. Members would look at the wording of the proposed section they will see that it will be a criminal offence, if this Bill is passed, to incite anyone to do an act calculated to bring death or physical injury to anyone, to do an act calculated to lead to the damage or destruction of any property, or to do an act calculated to prevent or to defeat, by violence or other unlawful means, the operation of any law. The words "death", "physical injury", "damage or destruction to property", "violence or unlawful means", speak more strongly than any arguments I could put forward in support of this section.

The second section which it is proposed to introduce is section 91B which deals with watching and besetting. That section, Sir, really restates the present law—that is to say, it prohibits illegal intimidation to make a man do what he does not want to do.

Mr. Speaker, I think that possibly the proviso requires a little explanation. If hon. Members will turn to page 2 they will see the proviso to section 91B reads as follows: "Provided that the provisions of this section shall not apply to any watching or besetting which is lawful under the provisions of any law relating to trade unions or trade disputes". That, of course, poses the question of what is lawful picketing in trade dispute—in other words, what is lawful picketing in a strike? That question is fairly easy to answer because it is lawful to picket in a strike if the picketing is peaceful. But if, on the other hand, picketing consists of intimidation rather than persuasion then it is unlawful. It is unlawful if the picketing is carried out by such a large number of picketers, or in such a manner, as to

[The Temporary Minister for Legal Affairs] intimidate the ordinary worker. Therefore, Mr. Speaker, we only protect lawful—that is, peaceful—picketing.

Mr. Speaker, the third section which it is sought to introduce into the Penal Code is contained in clause 3 of this Bill which creates a new statutory offence of undermining the authority of a public officer. Mr. Speaker, I emphasize that this is not undermining the dignity of the public officer but it is undermining the authority of the Government. I also emphasize the words I used which were that this creates a new statutory offence, because I think it is fairly clear that there is already a common law offence of this type. In my researches into this question I find that a Chief Justice of England some 300 years ago said this: "If men shall not be called to account for possessing the people with an ill opinion of the Government then no Government can subsist. This has always been looked upon as a crime and no Government can be safe unless it is punished".

Mr. Speaker, so much for the specific offences which we seek to define. There is, perhaps, one general remark that I can helpfully make. There are, in law, a number of offences which can be committed by accident, by mistake, or by negligence. One has only got to think of many of the motoring offences, careless driving, drink in charge, which can be committed without any evil intention—any criminal intention—in the mind of the man charged. Similarly, it is also possible for manslaughter to be committed without any evil intention in the mind of the man charged. That rule does not apply to any of these offences. None of these offences can be committed by accident or by negligence. Each of them, in order to be a criminal offence, must be committed deliberately, or with an evil intention.

Now, Mr. Speaker, I emphasize that because it means that this Bill can do no harm to innocent and peaceful men. The only men who can object to this, Sir, are men who have an evil intention—that is to say, an intention to strike at the roots of the Government.

Mr. Speaker, I emphasize that the only persons who can object to the pro-

visions of this Bill are men who wish to destroy the very foundations of the Government and achieve their own ambitions by disorder. For that reason, Mr. Speaker, I beg to move that this Bill be now read a Second Time.

THE CHIEF SECRETARY (Mr. COURTIS) seconded.

Question proposed.

MR. TOWETT: Mr. Speaker, Sir, the Minister has spoken very wisely and I would now be inclined to speak to what objection there is to the Bill.

I thank the Minister for his very wise point of view so as to oppose others from speaking against the Bill. Well, I would like to know or to ask about the problem of "without lawful excuse". Before I say anything else I would like to hear from the Minister later on when he comes to the finalization of this to tell me what type of persons are excused—and with what lawful excuses—so that they can be taken as not being guilty when they commit the offences given in the amended Bill.

Coming on to the problem of punishment, I find that in section 91A the punishment given is two years, with or without Sh. 8,000, and under section 91B the punishment given is six months or Sh. 5,000. To me the whole thing looks very ridiculous because six months and Sh. 5,000 should be a quarter of two years, in which case the amount should be the quarter of Sh. 8,000. Well, that may be the legal mathematics, but to me it looks very unmathematical. I do not know. That may be another way of looking at the law and the way the law functions, but I would like to see something more uniform to the mind of the ordinary man.

The British law is coming to Africa, or has come to Africa, and most of us have our own local traditional laws and when we look at this we say this is not actually justice because there is no mathematical equality in the whole thing.

So, Mr. Speaker, going on to section 91B, the word "watches" needs some definition. When my fellow man at home stands and watches he does not participate in the action. He is therefore exonerated from our traditional law. But when it comes to a man watching something in the British law, I think we

[Mr. Towett] should require some definition of the words "to watch".

I understand a besetting side of it. That is all right. However, Sir, the words "to watch" need more definition.

I now come to section 126A. "Any person who, without lawful excuse . . . does any act calculated to bring into contempt, or to excite defiance or disobedience to, the lawful authority of a public officer . . ." etc.—I find that difficult. I would like to know who would do that calculation. Will it be the same man who is actually being considered as receiving the contemptuous act, or will it be somebody else? The British law, I find, is rather different from our little customary law—that when something is done to me I only complain and somebody else will come and see whether there is any justice in it. I find that in most cases it will be the same public officer or officers who will calculate the amount of contempt or disobedience which has been brought upon them. I do not consider this is true British democratic justice. We want the man, whether he be a district commissioner or district officer to say that a man has said something contemptuous or that he has behaved in a way which constitutes disobedience to the authority of the officer, and then the man is arrested and taken to somebody else to find out whether what the man says about the other man is correct or not.

Mr. Speaker, we shall be coming to another amended Bill and I will state more when we come to that.

With those few remarks, Mr. Speaker, I think the Bill, without me objecting to it, or otherwise I will be called what the Minister said, I should say it is not quite correct unless some points are removed therefrom.

With those few remarks, I seem to be unable either to support or reject the Bill, Mr. Speaker.

MR. ODINGA: Mr. Speaker, this Bill is most unnecessary, and as such I stand to oppose it very strongly. Mr. Speaker, when Bills of this kind are aimed at particular persons or a particular community it is really very regrettable.

I think this Bill should only be necessary at that time when this Government

would be mostly an elected Government more responsible to obey the opinion of the people at large.

Now, Sir, as it stands at the moment, I feel it would be only detrimental and at the same time it would only create more bitter feelings among the communities. Mr. Speaker, if I do not go on so much on generalizations, I would only in the first instance try to point out some of the most serious points in the Bill itself.

In reading 91A and coming almost to the end of it—the last paragraph—"Any person who, without lawful excuse, the burden of proof whereof shall lie upon him, utters, prints, or publishes any words or does any act or thing, indicating, or implying that it is or might be desirable to do, or omit to do, any act the doing or omission of which is calculated . . ." and it goes on . . . (c) to prevent or defeat by violence or by other unlawful means the execution or enforcement of any written law or to lead to defiance or disobedience of any such law".

Mr. Speaker, I am defeated to see how I could just rest assured whether there is a law which has already been imposed and which is going to be unjustified, and then I keep quiet, without even advising people not to participate in such a law. It would really be something observed on my part and I think that it would be, if there is any form of oppression then that would be the worst kind of oppression because I would be suppressed completely to keep quiet in what to me is most unjust. If I can get people to oppose it then we have all the rights to do so.

It is what is being said here, that if I said anything like that to some people to defy or to disobey any such act it would be an offence and I would be taken and arrested and fined Sh. 8,000 or imprisoned for two years.

I know at this time that it may sound very nice indeed. You must know that when laws are made in such a manner as to trap people and in order to make it easy for people to break them the Government is putting itself into a very awkward position. You might punish somebody today, and you might imprison him today, and also you might fine him Sh. 8,000. It might happen, as it is said

[Mr. Odinga] in our language, that you might beat a boy every day but there will come a time when he will be used to beating and the beating will have no effect.

Mr. Speaker, let me go on to another section, and that is section 126A. "Any person who, without lawful excuse, the burden of proof whereof shall lie upon him, does any act calculated to bring into contempt, or to excite defiance or disobedience to, the lawful authority of a public officer is guilty of an offence and is liable to imprisonment for a term not exceeding two years or to a fine not exceeding Sh. 8,000, or to both such imprisonment and fine." Mr. Speaker, with the present arrangement of the Government officials I think this particular offence here would easily be broken by anybody even if he does not like to break it, because at the moment the officers in the field are a little bit too dictatorial. They are given such wide powers, which they can use at any time.

I will give you one recent instance. These people, we were told, whenever they go to the buildings and outside the building, whenever they go outside the building they should be about five yards from it. Here is a case where the district commissioner can use anything he likes. He may decide that today he is going to make it 100 yards and he will make it 100 yards without caring. If, on that occasion, I do not accept his arrangement of 100 yards, and I defy his orders and go to within five yards, then is that taken to be an offence in this particular section? That is why, Mr. Speaker, I was saying that these particular sections of the law, which are to form the main body of the law, would have only been necessary when the Government is more representative of the opinion of the majority of the people in the country.

Now, Mr. Speaker, I would only make one particular reference to my hon. and learned friend the Minister for Legal Affairs. I feel that he should understand that his house was built on very soft foundations of human beings and, as such, the human being is feeling the weight of the house and is steadily giving ground; and when yielding ground the house is cracking; and he is trying each time, instead of pulling the house down, to prop it up with legislation after legislation. I do not think that this will

help the house, because that human foundation—the African masses, are feeling the weight of the house and, as such, they are slowly giving way and nothing at all will prevent them from giving way. The best thing is to pull house down and start again; otherwise he will remain in history, when some people read the events that he was a Minister who was only there to make the unnecessary legislation after legislation.

Mr. Speaker, with these few remarks, I beg to oppose.

MR. KHAMISI: Mr. Speaker, although the Minister has warned us that those who are going to oppose this Bill are going to be taken as if they are the people who are going to strike at the very roots of the Government for their own ambition, I am afraid I have got, despite what he said, to oppose this Bill, because I think the very words he has used were intended to threaten us so that we should keep quiet and let this Bill pass through this House without a word from our side. I am afraid that I cannot agree with that.

Now, Sir, in the Memorandum of the Objects and Reasons for this Bill the Minister, or the Government, in paragraph 2 states that while the liberty of the subject demands that a person should be entitled to express himself freely so far as is consonant with the rights of others and the requirements of good government, the right of freedom of speech is abused when words are used inciting the hearers to violence or disobedience of the law.

Now, Sir, from the explanation given to us by the Minister himself, it is quite clear that there is legislation in this country to be able to control and look after the interests which now this new legislation is being brought in for. I think that the present legislation is quite good, and already we have heard of so many people who have been sent to court for infringing the regulations and I do not see the reason why we should have any more stringent and stricter regulations that are contained in this Bill.

I should say that there is nobody among the African people, whether among the African politicians, or leaders in this House, who would like to strike at the roots of the Government, as the Minister suggested, or who would oppose

[Mr. Khamisi] ... any measures that are being put forward as an amendment to the laws of this country. Nobody would like to bring death or physical injury to any person; nobody would like to make or publish or beat any people in order to damage or destroy anybody or any property and, in fact, this Bill is only being put because the Government in their minds think that the Africans are going to act in this way—which is quite wrong.

I do not think that the Europeans or the Asians would like to act in this way. For that reason I should say that nobody in this country would like to act in the way the Government thinks they are going to act. Therefore, this piece of legislation is absolutely unnecessary and it is only going to create in the minds of the people the thought that the Government now think that the people are going to act in this way and, therefore, that they are trying to stop them from acting in that way. I think that is quite wrong. The mentality of the Government is quite wrong because if you tell a man, "Do not do this thing" you are expecting or perhaps you hope that he is going to do it. Now, this Bill is only adding bitterness in the minds of many people in this country and in the minds of the majority, and I would like to oppose this very, very strongly and I would like to suggest to the Government that it is quite untimely and that it is unnecessary and unrequired, and that it is absolutely unacceptable to us.

With those words I oppose the Bill.

MR. ABAP MOI: Mr. Speaker, I should like to speak on two points about this Bill.

What surprises me, Mr. Speaker, is the fact that this Bill came and the question which I am asking is, "What prompted the Government to bring in this amendment to the Bill?" I am reminded of a fact that was presented to us by the Minister for Legal Affairs that if any law is not workable it has to be amended in order that it can work. So I think that this is not the time for this Bill.

As it has already been said, this is unacceptable, particularly by the African community. The kind of public officers this law applies to has not been defined exactly. Certainly, the interpretation

would be taken by these officers that they will refer it from one officer to another. I do feel, Mr. Speaker, that it is not my intention that anyone should be subjected to physical injury, or to any act of violence, but in my view, Mr. Speaker, is that this has been brought at a time when Africans are trying to organize themselves, but because of the speeches which have been made all over the country, the Government think that this Bill is necessary to combat such speeches.

Nevertheless, laws will never make anyone to be a good citizen. What makes a good citizen is positive action taken by any Government; fairness, truthfulness on the part of the Government, not laws.

Secondly, 91b says, "Any person who watches or besets any premises, or the house or other place where any person resides or works or carries on business or happens to be, or the approaches to such premises; house or other place, with a view to preventing any person from doing, or compelling him to do, any act which such person has a legal right to do. . . ." Well, I do not object to certain parts, but the definition of this is not precisely brought out to show exactly what is the Government's intention. It is very wide; it can apply to anything. I know the Minister will say that this Bill has been opposed by the African Elected Members simply because they want to achieve their own ambitions. I do not think, personally, that my opposition is of that nature. I oppose it because it is not applicable in any other democratic country. I think this is not suitable here in Kenya, by bringing in laws or amending existing laws, to suit the Government intention, so as to implement its own wishes. My belief, Mr. Speaker, is that when someone criticizes the Government, he is brought to court, because the Minister for Legal Affairs says, if anyone undermines a public officer, he is not undermining that officer, but he is undermining the Government. But when shall I be criticizing the actions of Government which are not just?

With these very few observations, I oppose the Bill.

CAPT. HAMLEY: Mr. Speaker, Sir, I want to be very brief on this, and I want only to deal with one point. That

[Capt. Hamley] ... is the question of intimidation. I have been extremely surprised to hear the three hon. African Members who have sat down oppose this Bill; particularly was I surprised to hear the Member for Mombasa Area, because he knows very well, living in Mombasa, what goes on in Mombasa when we have a trade dispute. There is no real freedom of speech for the strikers, and that is the thing in particular that want to speak for. When we had a strike in 1947, it lasted (in the port) for 12 days. At the end of the fourth or fifth day, we had got in contact with the strikers and reached a great measure of agreement, and we had the word of the strikers that they would come back to work while we finished off the job by getting agreement on all points.

But what happened? Various people went round the locations with megaphones, in the night—an extremely cowardly way of doing things—and made threats against not only those strikers, but against their wives and families, as to what would happen if they went back to work. The consequence was that the strike lasted for 12 quite unnecessary days because all those genuine Africans who did have a grievance, and who were meeting the employers and whose grievances were being met to a very large extent, had no freedom of speech left to them. It got so far in the end that those people, those Africans who disagreed with the strong-arm party who were trying to prolong the strike, some of those Africans who disagreed with them, were taken away and had their heads shaved and suffered similar barbarities of that sort. As my friends on the opposite side know very well, Sir, only the other day, we had a disagreement in port. Of course there will from time to time be disagreements in the port; there will inevitably be disagreements between employers and employees, and my friends know very well that most of those disagreements are quite capable of being resolved round a table without any strike action at all. But even if strike action is necessary, there is no need to go through the routine that we very often go through in Mombasa: when a trade dispute takes place in the port, the next thing that happens is that looking out of the window, one sees an

armed rabble running up through the town, interfering with people in other parts of the town who have no interest whatsoever in the strike or in the dispute that is taking place, who are not engaged in the port, who are not engaged in that type of employment, who have no dispute with their employers, but willy nilly, by these strong-arm gangs, they are brought into the dispute and deprived of freedom of speech. I have sat here, Sir, and heard the hon. Members on the other side say that they are opposed to violence, and very glad I am to have been able to sit here and hear that, and I have heard them say that we want democracy, and we want freedom of speech, but how on earth can we have freedom of speech unless we have a strong law which will put down intimidation. It is intimidation which victimizes the genuine worker with the genuine grievance because it stops negotiations, and it keeps him out of work for a quite unnecessary time.

And I, Sir, support this Bill.

MR. MWOYA: Mr. Speaker, Sir, may I firstly apologize to the Minister that I was not in to hear him speak in presenting this Bill to the House.

But the last speaker, Sir, I must take on immediately because he raises a point which I thought was at the back of the minds of some people who designed this amendment. He raises the question of strikes; and he bases his approach entirely on the question of intimidation, completely forgetting, Sir, that there is already some legislation to deal with cases of intimidation, and very effectively, too. The hon. Member has completely failed to show that the new legislation will in any way improve the situation in so far as intimidation is concerned, or in any way more effectively deal with the question of intimidation that we have had before this. I am surprised, Sir, that the hon. Member has chosen to cite Mombasa as an example, and refer to strikes and so on; and completely avoided or ignored to mention the fact, Sir, that whenever there have been strikes in Mombasa or disturbances or intimidations, the people who have come out more than anybody to try to do something about it and have in fact succeeded to do so have been these same Africans that he thinks do not appreciate the necessity to uphold the law. It seems to

[Mr. Mboya] me rather obvious that someone somewhere is completely oblivious of the fact that we on this side of the House and the African leadership generally want as much as anybody to see the law and the peace upheld in every case and every instance.

The hon. Member will agree with me that on both the strikes that he mentioned, the African leadership at the port and in this last instance, the trade union movement played an important part in restoring order, in bringing about an agreement and in resolving the situation. And from time to time, they have played an important part in ensuring that better relations are created at the port. The hon. gentleman should appreciate that it takes two people to make a quarrel and when he speaks of strikes—and if, Sir, the intention of this law is to interfere with the normal rights of workers' organizations or workers generally to peaceful picketing, then that is all the more reason why this must not be allowed.

CAPT. HAMLEY: I thank the hon. Member for giving way, but I did say that strikes at times were inevitable, and it was the intimidation which was the disturbing feature of strikes.

MR. MBOYA: Mr. Speaker, Sir, the hon. gentleman is as aware as I am that the term intimidation can be interpreted by various people to suit their own ends and purposes. In fact, it is quite likely that the more general and the wider the general interpretation of the Ordinance, the more chances there will be for this sort of interpretation to suit one's end. It is therefore necessary, in fact, to limit that general interpretation, rather than to widen it. I have said—and the hon. gentleman has fallen completely to state this in his speech—that already there exists a law to deal with this intimidation, and if intimidation was the only point he thought this legislation would meet, then I think he has missed the point.

Mr. Speaker, Sir, I want to make this submission to the Government: that if it is the intention here to interfere with the rights of workers to peaceful picketing, then they are asking for more trouble than necessary. This law will not meet that particular situation, nor

has this Government, nor anybody else for that matter, the right to try to interfere with—

THE MINISTER FOR LEGAL AFFAIRS (Mr. Conroy): On a point of explanation, I have already made that point amply clear, I thought, when the hon. Member was not here.

MR. MBOYA: I am glad to hear that, Mr. Speaker, but the misunderstanding arises from Government Backbenches.

THE MINISTER FOR LEGAL AFFAIRS (Mr. Conroy): The misunderstanding arises from the fact that the hon. Member is speaking about a speech he did not hear.

MR. MBOYA: The hon. Member is speaking about a Bill he has before him.

Mr. Speaker, Sir, there is just one other point that I would like to make on this Bill and that is this: laws can be made in any country, and the question is whether those laws are just or unjust, whether they are fair or unfair. It is one thing to ask people to abide by the laws of the country; but it is another thing to prevent or to appear to prevent them from taking such action as will remove the unjust laws that might exist in the country. My submission is that with the passage of this Bill, it will be made almost impossible, bearing in mind the wide interpretation that this Bill is going to give, almost impossible for people who feel that a certain law is unfair or unjust to speak against it and to canvass in the country against it, and to try to get the situation remedied. We are using such wide terms, as in section 126A: "Any person who, without lawful excuse, the burden of proof whereof shall be upon him, does any act calculated to bring into contempt, or to excite defiance of or disobedience to, the lawful authority of a public officer, is guilty of an offence."

Now, Sir, my friend the hon. Member for Nyanza Central raised a point which is important. That is—I think the hon. Member for the Southern Area—that is, who is going to determine or calculate the degree to which this act or omission will bring into contempt or excite defiance or disobedience. Now, let us take the case where you are dealing with a rural area, where the district commissioner is also the magistrate, or the district officer is also the

[Mr. Mboya] magistrate; and supposing you are accused of inciting people to defiance or disobedience by this district officer, or district commissioner on his authority. You are to be tried in whose court? That same court of the district officer or the district commissioner?

Now, I do not want to appear to suggest that anything has happened in the past, but, Sir, if we apply a law, if we apply justice, it must appear to everyone that justice has been applied. But if I am going to be accused by a district officer in front of a district court in which either he or his immediate superior presides, there is going to be an awful amount of confusion in the minds of the people whether in fact justice prevails. That is an aspect that this Bill does not take into consideration. In my submission, the clauses that are now suggested by the Government are entirely unnecessary and redundant, because the situation already exists where the action they want to take can in fact be taken under other laws.

Now, Sir, there is just one other point that occurs to me. Here we have a Bill which is intended I do not know to do what; but I suppose it is intended to fill in a gap in a situation which the Government thinks requires such filling in. But, Sir, this same Government in the last few months has from time to time, through its various Ministers, been talking a lot of "Everything is all right; the situation is well in hand", and the Government has expressed a great degree of confidence in themselves in the present situation. But when you contrast this very confident talk of the Government in various places with the actions that the Government is taking from time to time, bringing into the House such legislation, one is left very much perplexed as to whether the Government is not, through its various Ministers, dishing out a lot of propaganda as regards this confidence of theirs, and really deceiving the public as to the true situation as regards security in the country. Could we be told, Sir, whether this, the necessity to bring this sort of legislation to the House, suggests that the security situation in the country is so bad that it is necessary for the Government to acquire more general and wider powers to deal

with the situation, because if this is so, then it is completely a contradiction of terms that the Ministers of the Government should have been going round the country preaching a lot of confidence that does not exist. And if that confidence reflects their confidence in the security situation, then I suggest that this Bill is completely unnecessary and redundant, and that the sooner we know exactly where the Government stands on this matter, the better not only for the Government but for everybody.

May I just end by submitting again and emphasizing this point: that this sort of general legislation that leaves wide the interpretation of various terms is very dangerous, and in this country where the set-up is such that in certain instances, those who are bound to interpret the law are also the people who in many cases will sit as magistrates, there is always going to be a lot of confusion, and I think the sooner we avoid this sort of situation, the better for everybody.

Mr. Speaker, Sir, I beg to oppose.

MR. SLADE: Mr. Speaker, Sir, I support this Bill. It is a Bill to prevent incitement to violence and disobedience of the law; to prevent watching and besetting of innocent people in their lawful affairs; and to prevent undermining authority of public officers. I am at a loss to understand how hon. Members on this side of the Council can possibly find any explanation or excuse for opposition of this Bill, despite all they have said this afternoon.

Indeed, Sir, they seemed to me on some occasions, quite contradictory. One hon. Member says, with reference to the proposed section 91A of the Penal Code, that no one wants to act in the way that section seeks to prohibit. Well, if that is so, no one is going to be hurt by this clause. Yet another hon. Member says that this Bill is objectionable because it is aimed at a particular community. Well, what community, Sir?—except a community that contemplates incitement to violence and disobedience of the law, or watching or besetting of innocent persons, or undermining authority of public officers. Is there a community that contemplates that in this country? If so, this law is badly needed, and I welcome it today.

[Mr. Slade.]

The hon. Member for Nyanza Central took particular exception to the proposed section 91A (c) which is aimed against actions or words which will prevent or defeat by violence or by other unlawful means the execution of the law. He can only object to that if he understands that section; because he wants to resort, or wants others to be free to resort to violence or other unlawful means. Could he seriously say it is objectionable to prevent such things? When the hon. Member says he is defeated by that section, I hope he does not mean it literally.

Sir, referring more specifically to points raised on the proposed section 126A, clause 3 of the Bill, there are two points that have been raised, one which I think is easily disposed of, the other not quite so easily. The first, Sir, is the question of who is going to be judge in the cause of what act is calculated to bring the lawful authority of a public officer into contempt. Is it going to be the public officer himself? Is it going to be the public officer either in his executive capacity, or in a parallel judicial capacity? Well, Sir, I know the answer is obvious to that one: that no public officer, even if he has magisterial powers, is ever allowed in this country to sit as Judge in his own cause, and I defy any hon. Member to produce a case where that has been allowed.

The other one, Sir, I do think is more serious, and I would like an assurance from the Minister. It is this question of whether contempt of the lawful authority of the public officer is going to be treated as including criticism of the acts of the public officer, because if there is any possibility of that, Sir, this section must be amended in that respect.

It is very important indeed that inside this Council and outside, members of the public remain free to criticize the performance, capacity, or conduct of any officer, high or low. I do expect from the Minister an assurance that criticism of the performance of a public officer as opposed to efforts to bring his actual authority to contempt will not be regarded as falling within this section. Now, Sir, the hon. Member, the Rift Member North, truly said—or I think it was true, and it is my view too—that you cannot make good citizens by law. But, Sir, you can protect good citizens

by law; you can sometimes, by that protection, prevent them from turning from good citizens to bad citizens, and that, as I see it, is the purpose of this Bill. There is often talk of freedom in this Council, and outside; but there are two kinds of freedom. There is the freedom to do what you like, regardless of the interests of others and the society to which you belong; and there is the freedom to pursue peacefully your own lawful affairs. I think it is the second kind of freedom that we want, and I think it is that second kind of freedom that this is designed to secure.

I beg to support.

Mr. MUIRO: Mr. Speaker, Sir, I have but very little to say on this Bill. I believe that laws are made severe in order to deter the wrongdoer, and as has been expressed by a number of speakers, I believe the intention of the Government of Kenya should not only be to make laws to deter wrongdoers, but it should be to make laws to protect all the communities in this country.

Much as we would like to see this country being brought upon the same basis as the mother country, let it not be said of Kenya that it is creating sections of dictators in this country by bringing in unnecessary law. You find, for example, that the whole intention of this law is to give excessive powers to a number of people, so called officers in this country.

It does not go very far to define what sort of officers these are who are referred to. There are many clauses under this law which would probably take a long time by experts in laws, such as the Minister for Legal Affairs, to define, and I must say, not only the African community in this country, but even other communities, I am sure, have not as much understanding of the law as the Minister for Legal Affairs. And, as was said by one of my colleagues on this side, it should not be the intention of the Government of Kenya to allow a law of the country which has worked very satisfactorily for many years to be amended because of certain intentions of Government in order to make it more effective. I can only say of the Kenya Government that I remember as a teacher, in my training, our tutor used to tell us that a teacher who has no interest in the children has only one interest in

[Mr. Muir] on questions about that of the class; and that is his interest to make school rules whenever any school-child acts or behaves in a certain way. And a teacher who behaves in that way in the end finds himself at a great loss. Well, surely we want in this country to teach people what it is that we mean by abiding by the law, and by being lawful. But if every time a law seems not to be as effective to the satisfaction of the Government, as it was said, the Government runs back into its offices and amends the law to suit itself. I do not think we are trying to create a lawful country in Kenya.

Mr. Speaker, I can only end by saying this: that the Minister reconsiders the law, and probably postpones it until some other time when it is opportune. I do not want to have to waste the time of the House, Mr. Speaker.

I beg to oppose the Bill very strongly.

Mr. MUIRO: Mr. Speaker, Sir, I do not have very much to add to what my colleagues have already said. Their fears are my fears, and I feel that (as they do) that this Bill should not have come before this Council because, already, there are laws in Kenya. Any African, anytime, can be arrested and be tried under some law or other. There have been complaints either from the public or from the Government that someone had been brought before the court, and went off scot-free because there was no law under which this person could be prosecuted.

Therefore, the Government in its Memorandum of Objects and Reasons saying that "It is considered that the present law is not fully adequate to protect the public in this respect, and that a specific offence should be created accordingly" is not true at all, according to me, because in all these years I have never known of an African or a group of Africans who have left court free simply because the law was inadequate.

Now in view of the expressed anxiety of the African community at large, expressed by the African Elected Members in this Council, and because of the fact that this Bill has not been discussed thoroughly by any group of people. I move the following amendment:—

That this Bill be read now in six months' time for the Second Time.

Mr. Speaker, I beg to move.

Mr. ODI TIRIS: Mr. Speaker, Sir, I rise to second the amendment as proposed by my hon. friend, the Member for Nyanza North. As I said, I have very little to add to what my hon. colleagues have said on this Bill because I would only like to ask the Government how long it will take them to keep on bringing in new legislation every now and then which is quite unnecessary. Where has all this legislation led us in this country? I can only ask the hon. Minister for Legal Affairs to withdraw it because it is quite unnecessary, quite uncalled for. It is time, I think, we got on to doing something better, rather than trying to create more bitterness in this country, rather than trying to bring in new legislation all the time; we have enough already, and we do not seem to be getting anywhere.

With these few words, Sir, I beg to second my hon. friend.

Question proposed.

THE TEMPORARY MINISTER FOR LEGAL AFFAIRS (Mr. CONROY): Mr. Speaker, I rise to oppose the amendment. (Cries of "Shame") Mr. Speaker, I am always anxious to see the niceties of debate exercised in this Council Chamber; when you disagree with any argument anyone else puts forward, you shout "Shame"; you do not produce a constructive criticism, you just shout "Shame".

Mr. Speaker, I am only going to be one minute in explaining away some of the reasons which have been put forward for this amendment. We are told this is law and it has been introduced in Kenya; it is unnecessary; they do not have it elsewhere; they do not have it in democratic countries. Sir, I would just like to point out that it is part of the Penal Code of Tanganyika, it is part of the Penal Code of Uganda, and it is also largely represented in an Act of the United Kingdom which was enacted by the Imperial Parliament in 1875.

Mr. MATE: Mr. Speaker, Sir, I rise to support the amendment moved by my friend, the Member for Nyanza North, and at the same time to oppose the extra law which I feel is not required.

Mr. Speaker, section 91B says "Any person who watches or bets any premises . . ." I do not know who will be responsible for saying "Mr. so-and-so

[Mr. Mate] has watched or looked at such a building". I feel, Sir, that in Kenya today it is very important to take consideration of the various differences in standards of life, customs and behaviour. I feel here that the Government are taking a negative attitude in trying to set back the future or to set back the public. I presume it means here all the public. But these differences are very important. As the Penal Code stands today, I feel the Government should aim more at making the law easier for the people to understand, rather than making what I call negative laws. I cannot understand why they do not do this.

Sir, I feel strongly that the application of law in the country, whether the Government wants to admit it or not, depends very much on the standards, even the racial groups, in this country, and such laws might become boomerangs in the country as the country progresses, because they might be laws which form excuses for groups of people, sections of the community, to fulfil their own purposes.

In this case, Sir, I would urge the Government to withdraw the law here. They may think that I am, as it were, going to be a criminal. Mr. Speaker, this is not the case. I believe that the best way of getting citizens to obey the law is to get them to understand, through their customs, through their day-to-day behaviour; to form a third party who will be capable of judging and of saying "X was watching a building" or "X was looking at a building" in a country like Kenya of great population is a very grave responsibility, open to great abuse.

Mr. Speaker, in the first section it talks about a person uttering words or saying things that might mean injury to other people or lead to violence or the damage of any property. Mr. Speaker, I would like first of all to know what provision Government has made for the free expressions of, say, politicians and other leaders in Kenya on an equal basis as far as we are concerned. It seems to me that as it is today the African politician is put in a much more difficult position, compared with the other races, and I feel until we have equal opportunities Government must not laugh at this and think it is something easy, even if it is in other countries. Mr. Speaker,

I can think of something more easy than that. Government might take it, that because of these differential laws or because it is good for so-and-so, then any law is good for the country.

I feel that until we have equal opportunities, opportunities, say, of meeting, if we talk of halls or outdoor speeches—we must have equal opportunities. Until such things are put right, I do not see how these prohibitive laws are going to help the real happiness of the country any more. I feel, Sir, that this kind of law is going to be a boomerang for the future. The Government have enough powers to protect the public, and I do know of a case, as my hon. friend, the Member for Nyanza-North said, where the Government has found it impossible to accuse a criminal because the laws are too few. I feel here, Sir, I would like to re-emphasize that the rate of development and the manners and differences in behaviour of our people in Kenya must be taken into consideration. It will not help just to make negative laws. Educating the public would be a better thing. I would most sincerely urge Government to give this matter a second thought. I am not just speaking for the African community, which may be perhaps relatively backward and more liable; I am speaking of the progressive development of Kenya, and all the effects this kind of law could have on the people of Kenya.

Mr. Speaker, I beg to support the amendment.

Mr. MBOYA: Mr. Speaker, there is not much I wish to add to what has been said, except that I would strongly appeal to the Government that they should give consideration to a delay in passing this legislation to permit further discussions in order to remove whatever misgivings and anxieties exist on this side of the House. I think, Sir, it is necessary and essential in the good government of this country, and in creating good citizenship, that there should be not only laws enforced by the Government but laws respected and understood by the people. In my view, if we are going to use the steam-roller, because of the Government majority in this House, to pass legislation regardless of public opinion outside this House, we shall be defeating the very object we want to create here, that is, we shall be

[Mr. Mboya] defeating the creation of a law-abiding and respectable citizenship in this country.

I know the Government have said they will oppose the amendment, but I hope there is time for consideration. I hope the Chief Secretary will take this matter more seriously than it seems the Government has taken it previously, and give that necessary time for a further consideration or review of the matter when a more acceptable solution might be found.

Mr. Speaker, Sir, I beg to support the amendment.

THE CHIEF SECRETARY (Mr. Coult): Mr. Speaker, Sir, in rising to speak in opposition to this amendment, I would like on behalf of the Government to say that this matter was very, very carefully considered before it was ever put into a Bill. It has been published for 40 days, and on the Government side I can see no reason—not have I heard anything which has been said by Opposition Members today to support this—why the Government should change its mind in the words of the Memorandum of Objects and Reasons, about altering a law or laws which are "designed to create certain specific offences in relation to the maintenance of public order".

Sir, I regard this very seriously indeed, that hon. Members should say that there is a climate of opinion outside this House which apparently has views on the subject as stated in paragraph 2 of the Bill, views against a law which is to prevent incitement to violence and to murder. Sir, if that is the view, the considered view of the hon. Members on the other side of the House, I am afraid that I feel I have no more to say other than that we must go ahead with the original Bill as planned.

MR. ARAP MOI: Mr. Speaker, Sir, speaking on the amended Motion, I should like to make it clear to the Government, particularly to the Ministers of the Government, that the African Elected Members never said that necessary part of the Bill should be removed, such as death or injury. What we would like to know is whether the things contained in this Bill are involved with criticism of the Government. If this Government does not want to be criti-

cized, then it is better to say so today, and quite frankly. Also what sort of public officers are mentioned in this Bill. The Bill is very wide. Anybody would be a public officer.

THE SPEAKER (Sir Ferdinand Ceyndish-Bentick): Order, order! You are now discussing the amendment. I am afraid you have already used these arguments in the debate on the original Motion.

MR. ARAP MOI: I honour your ruling, but the point that I was driving at was that I personally would have liked to see certain parts of the amendment being adjusted.

THE TEMPORARY MINISTER FOR LEGAL AFFAIRS (Mr. Conroy): On a point of order: surely the hon. Member can move as many amendments as he likes in Committee on detail. He has said he is not opposed to the Bill, and it is open to him to make any amendments he likes to give notice of in Committee.

MR. ARAP MOI: I still hold my former views.

MR. MUMBI: Mr. Speaker, Sir, I do not want it to be said of the Government that it can take a willing horse to the river but it cannot make it drink, because it has already made up its mind. But you remember, Sir, a few weeks ago we discussed in this House another Bill, and the African Elected Members expressed certain fears in that Bill which were also the fears of the people we represent, and we asked the Government to give us further time to study it and to discuss it with the authorities concerned. I believe that in moving the amendment, what the mover of the amendment had in mind was to give us time, especially we, the Africans, to discuss certain clauses or phrases in the Bill—which we feel very much affect the Africans—with the Minister concerned and with the Government. That is all we would like to do. There is nothing more than that, and I am only too disappointed when the Government refuses, like a willing horse, to accept this amendment.

I beg to support the amendment.

MR. TOWERS: Mr. Speaker, I think what the Chief Secretary said in connection with the Government's intention to push forward as soon as possible this

[Mr. Towett] Bill, is really not satisfactory to us. The main point is this: I am afraid of the passing of the Bill, and because of that fear I think the Government should now try hard to convince us that this is the way. Once we understand we shall have no cause for any fear, and we shall support everything because we understand all that is implied in it. The Government say they are going to go forward in spite of our fears: that is not the way I look at the universe. The Government should convince us that we are wrong, and that is why I support the amendment, not that we are opposed to the making of laws of the country. We want to understand the laws because they are applied to us. So I hope the Government will reconsider supporting the amendment for the sake of convincing us of the main implications of this amendment.

With those few remarks, Mr. Speaker, I support the amendment.

MAJOR ROBERTS: Mr. Speaker, having heard the arguments made in favour of this amendment I have come to the conclusion the sooner this Bill is made law the better. I cannot help feeling that it is in order to delay or oppose a law of this sort one must have the fear that it is likely to be enacted against one. The hon. Members who supported this amendment must forgive me if I come to the conclusion that maybe they have good reason for wanting to oppose it. If I am wrong, Sir, then I think the sooner they withdraw this amendment and support the Bill and stop wasting time in this House, the better.

I beg to oppose the amendment.

MR. ODINGA: Mr. Speaker, I have only one point to raise. The fact that the Attorney-General had just raised the point, in saying that this law is included in the Tanganyika and Uganda Law, and also in the British Imperial Law, as such, I think that should justify our being given a chance for six months in order to satisfy ourselves that it is fully practised in all these other areas, because we, as the representatives of the people, must be fully convinced that the law is really genuine and is something that is not meant otherwise. As such I am requesting—and I am appealing to the

Government and even to my Members on the other side who probably feel that the law is not going to apply to them, and as such they are very pleased that it should go through. But this amendment should be carried through and let us have the time to think about this Bill.

With these few remarks, Mr. Speaker, I support the amendment.

THE SPEAKER (Sir Ferdinand Cavendish-Bentinck): I think there may be some misunderstanding. The Motion as moved and now the subject of discussion was moved under Standing Order 86, which when a Bill is being read a Second Time, is the only amendment which can be moved. The only amendment which can be moved is that the word "now" be left out of the question and that the words "this day six months" be added. If such an amendment is passed it conventionally kills the Bill.

I also would like to draw attention to what actually occurred a short time ago (this has been referred to. It was not a similar Motion, that was passed. It was a Motion under Standing Order 13 that was passed, requesting that the debate be adjourned. I want to make it quite clear to hon. Members that those are two quite different procedures.

#### DIVISION

The question was put twice and Council divided.

THE SPEAKER (Sir Ferdinand Cavendish-Bentinck): In my opinion there is no question as to the result of the division. If under our Standing Orders five or more Members stand in their places and ask for it, then I have to comply, although I think it is a waste of time.

Question was put a second time after two minutes.

The question was negatived by 49 votes to 10.

AYES: Messrs. Khamisi, Mate, Mboya, Moi, Muimi, Muliro, Odinga, Oguda, Tipsi and Towett. Tellers for the ayes: Messrs. Gregg and Mboya.

NOES: Messrs. Amalemba, Bechaard, Blundell, Bompas, Group, Capt. Briggs, Messrs. Butter, Colchester, Conroy, Coutts, Cowie, Cysack, Major Day, Sheikh El-Mandry, Mr. Field, Mr. Gecaga, Commander Goord, Capt. Hamley, Messrs. Harris, Harrison,

[The Speaker] Havelock, Mrs. Hughes, Col. Jackson, Messrs. Johnston, Jones, Kullstein, Luseno, Luyt, Maddison, Mangat, Lt. Col. McKenzie, Messrs. Mohindra, Nathoo, Ngome, Nzolika, Lord Portsmouth, Mrs. Rawson Shaw, Mr. Rigby, Major Roberts, Messrs. Rubia, Sagoo, Sheikh Shikely, Messrs. Slide, Smith, Swynerton, Tyson, Usher, Vasey, Waweru, Webb, Tellers for the noes: Messrs. Khamisi and Mohindra.

THE TEMPORARY MINISTER FOR LEGAL AFFAIRS (Mr. Conroy): Mr. Speaker, Sir, the Motion which has just been defeated was a Motion, as you have ruled, not to delay the Bill but to defeat the Bill. Mr. Speaker, this is a Bill which seeks to make it a criminal offence to incite to murder and violence. I think the public will probably be interested to know that the Asian Constituency Elected Members opposite were unable to make up their minds whether they should vote for or against this Bill.

AN HON. MEMBER: Shame!

THE TEMPORARY MINISTER FOR LEGAL AFFAIRS (Mr. Conroy): Sir, those are my considered words, and too much publicity cannot be given to them.

Now, Mr. Speaker, if I might deal with specific points that hon. Members raised on the other side and on which they asked for clarification, the hon. Member for the Central Province North said that this Bill was an example of the Government's negative attitude. Well, Mr. Speaker, if to outlaw incitement to murder is an example of a negative attitude then I can only congratulate the hon. Member on a masterpiece of understatement. I do not think that anything else he said requires my comment.

The hon. Member for Nyanza North spoke. I do not think he added anything to the debate which had not already been said by other hon. Members and I see that I have written down in my note that he spoke.

Then, Sir, the hon. Member for Kiuru said that the Government should make laws to protect all communities. Well, if a law to make it a criminal offence to incite to murder or violence is not a law designed to protect all communities then I am afraid I simply do not understand what the hon. Member was talking about, Sir, that is precisely what this Bill

seeks to do. It seeks to outlaw violence in the interest of all law-abiding and decent men.

Then, Sir, the hon. learned and Specially Elected Member spoke and he asked whether I would give an undertaking that section 126A would not be interpreted to that act calculated to bring into contempt should exclude critics. Sir, it is very simple for me to give that undertaking and I gladly do so, because the section is drafted so as only to fall upon those people who do acts calculated to bring into contempt the Government's authority. Sir, legitimate criticism cannot do that. Legitimate criticism, either in this House, or anywhere else, cannot do that.

If I might quote to him the analogy of the law of contempt of court, one is always entitled properly to criticize something that a Judge has done in a case, but what you are not allowed to do is to undermine the authority of the court by suggesting, for example, that the Judge has been actuated by improper motives. On the same grounds, criticism is not hit by this Bill provided it is legitimate criticism. What you are not entitled to do is to do deliberate acts intended to upset the machinery of Government, Sir, I therefore give the undertaking for which the hon. and learned Member asked.

Then, Sir, if I might go to the hon. speaker of the Opposition who was the hon. Member for the Southern Area, He asked—and it seems a long time ago—for an interpretation of clause 91A. He asked what would be a lawful excuse for publishing or printing words which might incite violence.

Sir, a report of the case in the court would be a lawful excuse, even though it included words which, when originally uttered, incited the violence. A report by a law-abiding citizen who came to the police and said: "I have heard these things said"—that would be a lawful excuse for saying those bad words, and we can think of a number of examples such as that.

Then, Sir, he asked in section 91A, for the word "watches" to be defined. Sir, there is no need to define it, because if you read on, the section says this: "Any person who watches or bests any premises... with a view to preventing any person from doing, or compelling

[The Temporary Minister for Legal Affairs] him to do, any act which such person has a legal right to do or abstain from doing—so watching is only an offence when it is done with the deliberate intention of preventing an ordinary citizen from exercising his rights. In other words, watching is only an offence when it is an infringement of the liberty of the ordinary subject to do what he thinks right and not what the watcher thinks right. So it is unnecessary to define it.

Then, Sir, he asked who was going to do the calculating in section 126A, and the answer to that is the court does the calculating, not the officer. Another way of putting it is this. A court could never convict anyone of an offence under 126A unless there was evidence produced in court to show that the person charged had done acts calculated to bring into contempt, etc.

Now, the evidence has to be there to satisfy the court. Normally, of course, you cannot look inside a man's head and say what he intended to do, and so you find out what he intended to do from what he did. If someone hits me on the head with a club, you assume he had an intent to do me harm, whereas he might be able to disprove that by showing it was an accident and he was doing physical exercises, but you assume that his intent is proved by the acts which he does.

Then the hon. Member for Central Nyanza made his speech and he objected to legislation which was aimed at a particular community. Well, Sir, there are two answers to that. The first is, of course, that this is not aimed at any particular community. This is aimed at wicked men—men who incite to violence and murder, men who intimidate, men who seek to destroy the Government's authority to govern—be they of any one of the many races in Kenya—the law applies to them in exactly the same way.

The second and more important answer is this: if the hon. Member really thought that this Bill was aimed at his community—the Africans—then he must think that they are the kind of people who will incite to violence and murder. There is no escape from that conclusion, because that is what he said.

MR. ODINGA: On a point of explanation, Mr. Speaker, I think the Minister is dealing with violence, and I only made stress on the part that deals with "to lead to defiance or disobedience"—and I made stress that it was on that I wanted his answer.

THE TEMPORARY MINISTER FOR LEGAL AFFAIRS (Mr. Conroy): Mr. Speaker, the hon. Member makes his position worse. I was giving him the benefit of the doubt—but the position is quite clear now. Sub-section (c) deals with defeating a law by violence or unlawful means. It is so. I will read the words for the hon. Member: "to prevent or defeat by violence or by other unlawful means the execution or enforcement of any written law".

Mr. Speaker, this can never be said to inhibit any politician from putting forward his views or his criticisms of the Government, or his criticisms of any law, unless he puts forward his criticisms in a way which will lead to the defeat of that law by violence—"by violence or other unlawful means". That is what it says, and the hon. Member says he cannot support this Bill. Now, he cannot escape from that conclusion. He cannot support a Bill which seeks to outlaw incitement to violence, and we all heard what he said. Mr. Speaker, I do not think it is necessary for me to say any more.

Then he finished up by saying that—I did not quite follow it—I was building a house on a human foundation, it was cracking, and the house should be pulled down. By that does he mean we should abolish all laws? I do not really understand what it means at all, but taking it in the context of what he said before, I cannot help feeling that it has a somewhat sinister ring.

Then the hon. Member for the Mombasa Area spoke and he talked to us about liberty of speech and freedom of speech. Mr. Speaker, 91A is designed to protect the freedom of speech. It is designed to allow the ordinary man to make up his mind as he thinks best, to stop him being intimidated, and I hope that the hon. Member for Mombasa Area is therefore able to take comfort from section 91A.

Then, Sir, the hon. Member for North Rift asked what prompted the Government to bring this Bill in now—this was

[The Temporary Minister for Legal Affairs] not the time. Sir, I think I can safely say that I originally advised the Government that there was this gap in the law as long ago as 1955, and it is because of a very careful consideration and weighing of the advantages and disadvantages of such legislation that we have not rushed into introducing it.

Sir, I shall deal with his other point when I come to deal with what the hon. Member for Nairobi Area said—or perhaps it might be convenient to deal with them simultaneously. The hon. Member for Nairobi Area first of all asked—is it the intention of Government to prevent peaceful picketing. Sir, I will not weary the House by repeating what I said in my opening speech, and he will have the opportunity of reading my assurance that this was not so when he reads HANSARD. If he also would be so good as to turn to page two of the Bill, he will find that the proviso to section 91A specifically protects peaceful picketing.

Now, Sir, he then went on to say, in amplification of what the hon. Member for North Rift said, that laws can be made but the question is are they fair or unfair. That is an extension of the theme of the previous speaker, that laws will not produce good citizens. Sir, the Government does not believe that we are going to go into another stage of violence and, Sir, the Government would be foolish, in view of what has happened during the past 12 months, in not taking reasonable precautions. Sir, I would remind hon. Members of what has happened in the past 12 months. We have first of all seen an increase in crimes of violence. Then you will recall that at the new year there was an outbreak of Mau Mau oathing in the Meru District, in respect of which prosecutions were launched and people sent to prison. Then, Sir, we have had the new and sinister society of K.K.M., which has had to be proscribed.

Sir, I say again the Government does not believe there is going to be any fresh outbreak of violence, but the Government would be extremely foolish if it did not take reasonable and wise precautions against such a possibility. When the two hon. Members asked why is now the time that we should introduce this

legislation, my answer is that it is better to introduce it early than late, and that is what we are seeking to do.

Then, Sir, as to whether the law is fair or unfair—if I may say so that, of course, is the crux of the whole thing. Is it fair or unfair to make it a crime to incite to murder? Is it fair or unfair to make it a crime to incite people to do physical injury, to incite people to do damage or destroy property? Is it unfair to make it a crime to use violent means to prevent any law being put into operation? Sir, is it fair or unfair to make it a crime to intimidate people? Sir, I leave the answer in the minds of hon. Members and in the minds of the public.

Sir, I wonder whether hon. Members think that possibly the people who spoke against this Bill today have protested too much? Sir, for those reasons, the Government had to vote against the Motion which sought not to delay but to defeat the Bill. As to delay, Sir, this Bill was published nine weeks ago—published on 20th May. One of the hon. Members opposite said: "Let us have the opportunity for further discussions with the Government". So far as I know, and I should have thought I would have been told about it, no approach was ever made to the Government to hold any discussions. Sir, the Bill is there. It is a very simple Bill. It speaks for itself. The Memorandum of Objects and Reasons is, I think I am fair in saying, clear. The hon. Members who today were asking for further time to discuss this matter, never came to any Members of the Government and said: "I am worried about such and such a section. I am very worried about this; what are you going to do about it". We are only too delighted, and hon. Members know it, to discuss any of these Bills with them and meet any of their objections. Very often it is fair to say we have received in advance the most useful suggestions from Members opposite, which have subsequently been the subject of an amendment to a Bill.

Sir, the principle of this Bill is quite clear. It outlaws violence. Sir, we cannot help but be left with a question at the back of our minds—why have people voted and spoken against it today?

The question was put and carried.



[The Temporary Minister for Legal Affairs]

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

*The Criminal Procedure Code (Amendment) (No. 2) Bill*

Order for Second Reading read.

THE TEMPORARY MINISTER FOR LEGAL AFFAIRS (Mr. Conroy): Mr. Speaker, Sir, this Bill seeks to do two things.

First of all it seeks to extend the power of the court to bind a man over for a period of 12 months to be of good behaviour if he publishes any matter which is likely to be dangerous to the peace or good order within the Colony or likely to lead to the commission of an offence.

Sir, binding over is a system used by the courts when they do not wish to punish a man who has broken the law but they wish to give him another chance. What it in effect means is this. If I am convicted of an offence, the court may say: "We are not going to punish you, Conroy, we are going to bind you over for 12 months, and if during those 12 months you do not do anything wrong, you will not hear anything more about it. But if during those 12 months you commit another offence, you will be punished for the two—the old and the new offence". That is, as simply as I can explain it, the procedure for binding over.

I was going to say that I do not think that anyone will disagree that a person publishing dangerous matter which is likely to lead to the commission of an offence should not be bound over, but after the last Bill nothing would surprise me.

Mr. Speaker, the second thing the Bill seeks to do is to make cognizable—that is to say, give powers to a police officer to arrest without warrant in respect of the offences which are contained in the Bill with which we have just been dealing—the Penal Code (Amendment) Bill.

Sir, we have all had an opportunity to express the views we all felt so strongly on that Bill and I do not think there is any necessity for me at this stage to enter into the lists on those offences.

I accordingly beg to move that the Criminal Procedure Code (Amendment) (No. 2) Bill be now read a Second Time.

THE EUROPEAN MINISTER WITHOUT PORTFOLIO (Mr. Harris) seconded.

*Question proposed.*

MR. TOWETT: Mr. Speaker, Sir, I think I should oppose this Bill from the very beginning of my speech.

I find that the first Bill has just been passed and we are now passing the second one which is actually implementing the first one which has just been passed. The Government seems to be in a wonderful rush or hurry—I do not know whether they are going by plane today, tomorrow, or when to Ghana. Why not have one thing at a time? The Minister himself has just said that we have just finished the other Bill and this is the next one, so I can assure him that he is going to have a hectic time before I come to the end of this second Bill.

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

[Mr. Deputy Speaker (Mr. Bechgaard) took the Chair]

Now, it says here: "Whenever a magistrate empowered to hold a subordinate court of the first class has information that there is within the limits of his jurisdiction any person, within or without such limits . . ." etc., etc. I will analyze each word before I come to the final paragraphs.

Now, the first class magistrate. That to me conveys the idea of a district commissioner, a district officer, police officer, or some other district officers who have been recommended as magistrates, and those are the people to whom we are giving powers to arrest some other people, those who undermine authority of public officers—the same officers, mark you—may arrest without warrant. So we are giving power to first class magistrates who will include district officers, police officers, to go and arrest without warrant and then you come down to, when you have finished section (c): "such magistrates may (in manner provided in this Code) require such person to show cause why he should not be ordered to execute a bond, without or without sureties . . ." etc., etc.

[Mr. Towett] . . .

Now, I find it difficult to make my own mind agree within itself as to the real idea of giving the powers to one person to go and arrest, and then to come and see to the execution of the bond. Surely, surely we should be more careful. Let us have some officers with arresting powers and then have other officers with magisterial powers to come and see to the execution of bonds. That is the only thing I am, sort of, standing here for. I want us to agree to agree: "All right, the man who is going to arrest should not be the same man to come and see to the execution of bonds".

I will now go back to the first paragraph. "When first class magistrates with first class powers have information." Now, where does that information come from? Most of it, as you all know, comes from what I call unreliable police informers. These are petty people who do not understand the implications of the things said. If we had people in the police force who were educated and who really were competent in their work, we would not bother ourselves, but when we imply things and when we think metaphorically, they will accept as though these things were just meant to incite or to bring contempt on public authorities. They will understand, but I may be joking, and there will be a man there who is a police informer and he will write down that I said this. Is this the justice you are all crying for in this country? Surely not. Let us have people, properly qualified, be they police informers, police officers, so that they will report accurately what they have heard.

Going further on to where it says: ". . . has information that there is within the limits of his jurisdiction, any person who, within or without such limits . . ." Now, I am just considering the word "without". Now, a man who is on the border of Kenya and Uganda and is more on the Uganda side than in Kenya, if he says something in Uganda and then comes into Kenya he will be arrested. I think the Uganda Government should be consulted and there should be an inter-territorial "without" and "within" as far as Kenya is concerned. So let us consider that point.

Now, let us go further on: ". . .

other manner, disseminates, or attempts to disseminate, or has recently disseminated, or in any wise abets the dissemination of—". Now, what I am after, there is not propagation of news but "recently". I want a definite idea of what "recently" represents—last year, five years ago, 100 years ago or last week? According to this if inadvertently I said something in 1950 which could be misconstrued today to mean a sort of contempt on public authorities, using this word, applying "recently", that would be recent. Now I want clarification from the legal side of the Government to tell me exactly that within the last two months, last one month, last one year or the last ten years, then you have a definition of what it means. But when we bring words which we learn and when the people who have written them down do not understand their definite meaning, then it can be open to a lot of abuse. So with that sort of thing, I shall ask, as I always have, for a definition of the word "recently".

Now, going further down to the last line on that page it says: "such magistrate may (in manner provided in this Code) require such person to show cause why he should not be ordered to execute a bond, with or without sureties" and something which follows which I am going to follow.

You see, the Minister has just told us that the court will calculate—or will do the calculation—as to whether this man has done wrong or has something which can be interpreted to be contempt. He has just said that the court will do it. Now, here: "such magistrate" is given the power to give orders or to see that a bond is executed. Why not take them to court? I agree that when a man is suspected, because of information from the police informers, that he has done something which the law does not like, then the man should go to court and he will be prosecuted in the court and if he is found guilty he will go in. That is the proper way it should be done, the way I look at it. If he is not found guilty, he will be innocent. But you say by suspending him he will be all right. I know he will not. Perhaps he will have a bond for one year.

Now, I will go on: ". . . for his good behaviour for such period, not exceeding

[Mr. Towett] one year, as the magistrate thinks fit to fix. "For his good behaviour"—what does it mean—"behaviour"? Good behaviour depends on the man who is looking at that behaviour itself, not on the man who is behaving. Well, my son may do something which, according to me, is not good behaviour, and at another time it may be good behaviour depending on the age of the boy, and in this case, it will depend on the African who is behaving whether it is my father or it is myself. Myself, I would be tried by British Law, or mixed British Law, but my father does not know any other good behaviour apart from that of his own village. When he talks, he may say things which do not agree with other people's point of view, but in the villagers' point of view it will be good behaviour, and therefore this good behaviour is redundant, illogical, and unphilosophical. And while I am on good behaviour, that will not stop us from demanding democratic principles which are applicable to other people in Great Britain. You will not, even if the whole African community today executed a bond of good behaviour, because the African would not sign that bond, in his heart, and I think the Government should not be deceived—and I am serious on this, now—bonds and signatures do not mean much, but when it comes to the heart, the heart matters; so what I am appealing for now, from our learned Minister for Legal Affairs, is to see that these things should be applied when conditions warrant and when officers have been given powers which are not all-embracing.

[Mr. Deputy Speaker (Mr. Bechgaard) left the Chair]

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

I want to see that the magistrate who arrests is not the same magistrate who comes to see to the execution of the bond. I want the people who are suspected of misbehaviour to go to court and be prosecuted in the court and go to jail or to be left free as citizens, but this sort of middle course where they are just left suspended, whether of good

behaviour or not is not for the good of the country or of the Government.

I do not want to say much, but I feel that something should be done. Undermining the authority of a public officer and then another officer may arrest without warrant, that is what I call excessive powers.

Another point—when it comes to things which are positively criminal, if we should get the whole house on fire or the whole Colony on fire within the same hour, then arrest without warrant; but when we say there is something in the African district areas and the qualities are not very good and then more arrests without warrant—I think I am going to be arrested tomorrow or the next time before I get back home!

Now, Mr. Speaker, taking these things very lightly, I think I should say there is nothing wrong in the law except for the phraseology and apart from the excessive powers to local petty officers.

With those few remarks, I beg to reserve my support, or oppose.

MR. ODINGA: Mr. Speaker, Sir, I am glad the Member for Southern Area has expressed fully what I believe to be my opinions on this particular Bill.

This Bill, as in the previous one, is intended mostly to deal with one particular community, and that is the African community.

THE TEMPORARY MINISTER FOR LEGAL AFFAIRS (Mr. Conroy): Question.

MR. ODINGA: Yes, and let me explain and thank you very much for asking me. I will accept.

There is the first-class magistrate and in most of the subordinate courts the district commissioners and the district officers are the magistrates who are responsible to the Provincial Commissioners. The Provincial Commissioners are responsible to the Minister for African Affairs, who deals exclusively with African affairs, therefore it is easily proved that it is intended to deal with the African community. Q.E.D.

Now, Mr. Speaker, we talk here very much about violence and we seem to fear greatly the word "violence", but we must know that violence is not something which any human being at all wants; no human being will go all the time for

[Mr. Odinga] violence. Violence is always the last resort. It is only at the last resort; when someone is about to commit suicide, that he says, "Let me die with a dagger". That is what happens. Therefore, it comes now here. I know if the Minister for Legal Affairs did not understand me in the first place when I said that he is trying to patch up a house which is already cracked, I meant the Constitution. He is only trying to get all sorts of laws because he knows that the present Constitution is built upon the African against his wishes, and now they are giving way slowly and so he is trying to preserve those places by legislation. I think this will not do, and it will not help. History has proved that such legislation has not helped at all. The best thing is only to leave them to express themselves freely and to oppose that Constitution freely and to say what they like—

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): On a point of order, Sir, is there anything in the Bill under discussion which refers to the Constitution in any shape or form?

MR. ODINGA: Mr. Speaker, if you would have left me and been patient a little while you would have found, Sir, that what I would have thought is that here a man is found to be disseminating some acts which are taken to be seditious, something like that. Well, imagine now—

THE TEMPORARY MINISTER FOR LEGAL AFFAIRS (Mr. Conroy): On a point of order, Sir, there is no mention of sedition in this Bill.

MR. ODINGA: Well, there is. Should I read it out?

THE SPEAKER (Sir Ferdinand Cavendish-Bentley): I think the hon. Member is moving little wide of the subject matter of the Bill. This is a specific amending Bill, containing only a few clauses. I think you must try to keep as near the subjects dealt with in those clauses as you can.

MR. ODINGA: Thank you, Mr. Speaker. I will proceed because here I will read this out; I will stick to the letter of this particular Bill. Reading out here: "Whenever a magistrate empowered to hold a subordinate court of the first class

has information that there is within the limits of his jurisdiction any person who, within or without such limits, either orally or in writing or in any other manner, disseminates, or attempts to disseminate, or has recently disseminated, or in any wise abets the dissemination of (a) any seditious matter, that is to say, any matter the publication of which is punishable under section 58 of the Penal Code . . ."

THE TEMPORARY MINISTER FOR LEGAL AFFAIRS (Mr. Conroy): The point I was trying, Sir, to make—perhaps I did not make it very clearly—is that the part that the hon. Member has just read is in the existing law. The only alteration is the new paragraph (b), and therefore if the hon. Member was successful in his endeavours to defeat this Bill (a) and (c) would still remain part of the law, because the proposal is to delete the existing section 43 and substitute a new section 43. It is for that reason I say that this Bill does not introduce any amendment in respect of sedition.

MR. ODINGA: Mr. Speaker, I will thank the Minister for that explanation. He has given me to understand that it is only section (b), and I would have liked to get more clear as to whether in the present law the subordinate court of the first class—that is the district commissioners and the district officers—is empowered to bind over a person for good behaviour for one year. If that is the case at the present time, then I would only later on go back to bring it here as another Motion for amendment. But if it is not, it is what I was interested in, because I feel that giving the district commissioner and the district officer this particular power will only affect them, because I believe that the Minister himself probably is trying to pluck out some of the Emergency powers and trying to insert them into the present system of the law, which I think would not—

THE TEMPORARY MINISTER FOR LEGAL AFFAIRS (Mr. Conroy): Sir, on a point of explanation, perhaps I could assist the hon. Member. The law with regard to the powers of a magistrate of the first class is precisely the same under this Bill in respect of (a) and (c) as it has been for the last 28 years, at least.

THE SPEAKER (Sir Ferdinand Cavendish-Bentley): As the matter has been

[The Speaker] draw to a point of order, I would draw the hon. Member's attention to page 3 of this Bill, in which he will see the existing law as it stand today, clearly set out there in the Bill before the House.

Mr. OINOYA: Thank you very much, Mr. Speaker, but as this Bill has only been introduced all those sections are also included; I may not be wrong to mention something about them because that might help the Minister later on in trying to bring some other amendments in. Therefore, Sir, I should not go on for long; because I feel that my colleague, the Member for Southern Area, has mentioned many of those very points and I had also raised some of them.

With these few remarks, Sir, I must say that I oppose the Bill because I feel that it is not necessary at this time.

Dr. KIANG: Mr. Speaker, I will try to be very brief; I am sorry I cannot speak very clearly due to the climatic conditions in my area.

Sir, I will address myself to section (b) which is the new addition or alteration to the existing law, but before I do that, Sir, I would like to express the opinion that it is about time this country was given a warning, a warning to the effect that we seem to be moving towards a situation which at present has not arrived, but which seems to be coming, of making Kenya into some sort of modified police State. I am getting worried, Sir, by all these kinds of laws which seem to be forecasting what is likely to be done by the citizens and trying to use fear or provocation in order to emphasize or bring about good behaviour on the part of the citizens of this country. Sir, look at section (b) and you see, for example, that "any person who either orally or in writing or in any other manner disseminates or attempts to disseminate or has recently disseminated . . . any matter which is likely to be dangerous to peace and good order with the Colony" is likely to get involved in various types of problems with the Government.

Now, Sir, a statement about any matter which is likely to be dangerous to peace and good order is a very, very vague statement to make, and often words which we utter are considered likely to be dangerous to peace and good

order, and some words, which are uttered by other people in the opposition to our views are considered by us to be likely to be dangerous to peace and good order. I feel, Sir, that a statement so general should not be allowed to pass without comment, because here we are relying purely on the opinion of a person who may be a first-class magistrate or a second-class magistrate—it really does not matter—but who is really not very learned in the law. In fact, he is more of an administrator really than a judge. He is told: "Look around and if you see something that you think is dangerous—or is likely to be dangerous, not is dangerous, but is likely to be dangerous—to peace and good order in your opinion, then charge that person."

Sir, I very strongly press for the rewording of that section in order to make it quite clear, because one of the elements of the dictatorial countries to which we are opposed is the making of a law in such a way that the citizen does not know exactly when he is committing an offence and when he is not committing an offence. When you have laws which are so general that the citizen does not know where his rights are and where his rights are not, then such a situation creates a great sense of insecurity on the part of the citizens. A phrase like "any matter which is likely to be dangerous to peace and good order" is so very general as to make it very difficult for a political person to know whether what he is saying will or will not appear, in the eyes of a district commissioner, to be likely to be dangerous to peace and good order.

In those circumstances, Sir, I am calling on the Minister for Legal Affairs to exercise his legal abilities—for which he is very well known—and make this law specific, so that we know exactly where we stand. I think, Sir, that we must not create a sense of insecurity in this country by giving Government powers which are so indefinite and so vague that we never know when we are committing an offence and when we are not committing an offence.

Now, Sir, I come to the next section which says: "Orally or in writing" you disseminate any matter which is likely to be dangerous to peace and good order. Now, Sir, this term "orally" is

[Dr. Kiango] again a very dangerous phrase to use. Of course, we know, Sir, that in recent times there have been recordings of various speeches by various leaders in this country, and perhaps there is therefore not much debate as to whether a statement is made "orally"; but in normal times in Kenya—and let us hope that this recording is abnormal and will be abolished soon—in ordinary times, it is rather difficult really to know exactly what a person said or meant, unless there was clear dictation and someone was taking that dictation. Again this might mean that someone might be prosecuted on what somebody thought someone else said at such-and-such a time. The report of one person of what someone disseminated orally may be very different from the report of another person. So there you create a very, very wide area of dispute. I may say something which may be reported differently and three or four people who all may be actually in favour of peace and good order may be reported differently from what was actually said. That is why I must express my reservations when I see powers given on the question of orally disseminating matter which is likely to be dangerous to peace and good order, because there again the area of dispute is very, very wide.

Well, Sir, my feelings are that in Kenya there are sufficient laws already in existence which really can meet any breach of good order in this country. I believe that we have a police force, Special Branch, Criminal Investigation Department, magistrates, and I feel that the Kenya Government is already well equipped to deal with any eventualities which might endanger the security of this country. It is because I believe that this is being properly done that I do not think it necessary to add to the already existing laws.

Now a point has been raised, Sir, as to why we oppose this Bill—there are implications, which have come from various speakers, that we oppose this Bill, and the one we have just passed, because we perhaps intend to do things which are being prohibited by this Bill. It has been implied again and again that perhaps the African Elected Members' opposition is based on the likelihood of their com-

mitting the actions that are being made illegal by this Bill. Now, Sir, nothing could be further from the truth. There is no intention on our part deliberately to disturb peace and good order in this country. We have, I think, made it clear in this House before—and we say it again—that we realize that only under peaceful conditions can prosperity and progress take place in this country. Therefore it is just as much in our interests as it is in the Government's and in the interests of the other Members of this House to see that peace is maintained in Kenya in order that prosperity and progress can take place. But also, for the maintenance of this in Kenya, we feel that the best way to rule a country is to rule not so much by fear or by suppression, but by making people feel that so long as they act within certain laws, their freedom of speech, their freedom of action, will not in any way be jeopardized. And here, we have laws which are so vague that we cannot be sure when our freedom of speech really is secure, and when it is not secure.

I make only one more point, Sir, and that has to do with " . . . any matter which is likely to be dangerous to peace and good order . . ." such magistrates may require such person to show cause why he should not be ordered to execute a bond", etc. Now, Sir, my own interpretation of this is that it is based on the wrong idea that a person is guilty until he proves himself innocent, that it is this person who is going to try to talk on why he does not think he is guilty. Now, Sir, why should I be required to show cause why I should be forced to execute a bond? That I should show cause why I should be excused from making one? In other words, these circumstances, Sir, are a complete reversal of the accepted British legal principle of citizens being considered innocent until they have been proved guilty. Here we are told that it is they who will tell why they should not be charged.

I would have said that it is the duty of the magistrate to show why I should give any bond, it is his duty to prove my guilt, not me to prove my innocence.

Now, Sir, when I consider these various points, I can only emphasize one last item, that is, that I shall never feel

[Dr. Kiano]

safe; we shall never feel that our freedom of speech or our freedom of progress is secure until there is a redistribution of powers in this country, until the persons who administer the law and order do not sit on the Bench and we have requested before and shown why we oppose these laws. One of the reasons we oppose it is that a person who is a district commissioner that is administrative is also a magistrate, and therefore you might have the situation arising where that person is both prosecutor and Judge as well as the executor.

We feel, Sir, that if the Minister for Legal Affairs would first tell us when or how soon, or whether it is likely that there will be a redistribution of powers so that the administrators who already are executive could be separated from magistrates, from executive positions except for very, very minor affairs, then, Sir, we might feel safe. Therefore, Sir, keeping in mind those points, the sense of insecurity increases by the weakness of the law, the implication that a person is guilty until he proves himself innocent, and the fact, Sir, that there are sufficient laws in this country which can face any eventually in the sense that we are all aiming for peace in this country—I can only remind the House that it would be far much better if the Minister for Legal Affairs withdrew this amendment of his and perhaps reconsider how it can be worded to be more specific and to avoid giving a sense of insecurity, and his assurance that our freedom of speech will not be jeopardized cannot suffice under the present conditions.

I oppose the Bill.

**THE TEMPORARY MINISTER FOR LEGAL AFFAIRS (Mr. Conroy):** Sir, if I might deal with the point made by the last speaker, the last point he made, Sir, I would like to deal with it both in fact and in theory.

In fact, Sir, no district commissioner who is a magistrate can sit to try a case in which he is the prosecutor. If he did so, Sir, any conviction would immediately be quashed by the Supreme Court on revision. All decisions of magistrates go to the Supreme Court and are inspected by the Judges, and they may be set aside on revision.

But, Sir, the question goes deeper than that. I can say that it is the policy of the

Government (and it has always been the view of Mr. Griffith-Jones and myself) that we should aim at a wholly professional magistracy. Sir, that is accepted, that a magistrate should be professional. That was, of course, what the Rushbone Committee reported in England in 1944 (or was it, or 1945?) that all magistrates should be professional. But even in England they could not find enough lawyers of adequate capacity and character; and, Sir, the expense was somewhat frightening in England. How much more so, Sir, do those two difficulties prevent us from implementing our policy forthwith. But it is, Sir, the aim of Government to have professional magistracy in so far as it is possible.

For that reason, we have increased the number of resident magistrates and senior resident magistrates from year to year, and we have also, with the very good wishes of the district commissioners concerned, allowed the district commissioners where possible to stop acting as magistrates, and professional magistrates to do the job. But there are places in which you cannot do it; there are places where you cannot do it because the work is so little it simply would not justify a resident magistrate, and of course there is the difficulty of getting the men and getting the money.

Sir, in 1955, we did take a step forward in this direction, and we then amended the Courts Ordinance. Until that time, under the Courts Ordinance, a very wide blanket power was given to administrative officers and magistrates, and we reduced that blanket grant of magisterial powers very considerably; and your first class magistrate, who is the magistrate given power under this amendment, your first class magistrate is your senior resident magistrate, your resident magistrate, your Provincial Commissioner and your district commissioner, *ex officio*; in fact, a number of district commissioners are delighted to be relieved of their magisterial functions in order to allow them to get on with their administrative functions.

No district officer is a first class magistrate because he is a district officer. No district officer is appointed a first class magistrate until his case has been personally considered by the Minister for Legal Affairs, by the Chief Justice, and then the appointment made by the

[The Temporary Minister for Legal Affairs]

Governor. The principles on which we act are that no district officer shall be given power as a first class magistrate unless he has passed his law examination or unless he has a legal qualification (and there are some district officers who are barristers) and unless they are satisfied that his experience and maturity is such that he would make a good magistrate, and unless they are satisfied that the particular area where he is to carry out his duties requires the appointment of a first class magistrate. And if he is transferred to another area, his powers die; he does not take them with him. I hope those explanations do help to reassure the hon. Member who spoke last of the attempts of Government to meet what is indeed a legitimate point.

Now, Mr. Speaker, there are one or two other points which are not so fundamental, I feel, as the last one. That is, that the hon. Member for Central Province South, said that the wording "such person to show cause" suggests that the accused is guilty until he proves himself innocent. That, in fact, is not so, because if we look at the section, we see it starts off "Whenever a magistrate has information"; now, that information is always required to be on oath. In other words, there must be some kind of burden placed on the prosecution to satisfy the magistrate that there is a *prima facie* case for requiring a person to show cause why he should not be bound over. This is a procedure—it is not some frightful thing that we thought up in Kenya—this is a procedure which has been used very largely elsewhere, and has formed part of our law for very many years. It forms part of the Indian Penal Code; it forms part of the English judicial system. When I was a young barrister, I used to go round the police courts in the very poor parts of London and cases would occur where one "lady" would have quarrelled with another lady next door over some most un ladylike words that had been used by one about the other, and the magistrate would immediately say, "I'm not going to convict anyone here. Are you both prepared to be bound over? I'm not going to have any fighting in your tenement for the next year", and that is the procedure which is used.

So it is not foreign to English law, and it does not mean that the accused is guilty until he is proved innocent. There is a burden of satisfying the magistrate that a reasonable case has been made out for him to call upon the person charged to show cause why he should not be bound over.

Then the further question raised by the hon. Member was that the section is in itself vague. He said that the words "any matter which is likely to be dangerous to peace and good order within the Colony" are vague; I do not think the further part is vague. He only confined his criticism to the first part of the sub-section. Mr. Speaker, in fact, it is not vague. It looks rather vague here, but when you have a specific case which comes before a magistrate, someone gets up and says "I appear for the Crown here, and I am going to call evidence to show that Mr. Snooks has done something which is likely to be dangerous to peace or good order within the Colony". The first class magistrate says "I am not going to exercise my powers unless I am satisfied that he has done this thing, and that the thing he has done is likely to be dangerous to peace or good order". And if the prosecution tried to show vagueness, he would say "What danger do you suggest he has created?". In fact, it is not nearly so vague as the preceding section which speaks of "things likely to disturb tranquillity", and that is in the law already, and it has not, in fact, caused any difficulty, and there is a line of judicial decisions which assist us in arriving at what this means and when it can be applied and when it cannot be applied.

I think that the hon. Member for Central Province South really summarized and put more strongly the views that have been put by the other speaker before, and so I hope that the hon. Member for Southern Area will forgive me if I do not specifically refer to the points he has raised, because I feel that I have dealt with them in answer to the last speaker.

In view, Mr. Speaker, of the time, 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 tomorrow.

## ADJOURNMENT

THE SPEAKER (Sir Ferdinand Cavendish-Bentinck): That brings us to within a minute of the time appointed for the interruption of the business. I do not think it is worth starting the two Committee stages now. I shall therefore adjourn the House until 2.30 p.m. tomorrow, Wednesday, 23rd July.

The House rose at fifteen minutes past six o'clock.

## Wednesday, 23rd July, 1958

The House met at thirty-four minutes past Two o'clock.

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

## PRAYERS

## KITCHEN COMMITTEE

## MEMBERSHIP

THE SPEAKER (Sir Ferdinand Cavendish-Bentinck): I have to announce, in view of changes which have recently taken place, that I have nominated the following Members to constitute, with Mr. Speaker, the Kitchen Committee:—

The hon. Sir Charles Markham.

The hon. Norman Harris.

The hon. Kirpal Singh Sagoo.

That will be a temporary committee at any rate until the next session.

## NOTICES OF MOTIONS

## GOVERNMENT GUARANTEE TO LANDS LIMITED

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

THAT Council notes that the Government proposes to guarantee the repayment of capital, interest and insurance premiums on a sum of up to £500,000 to be borrowed over a period of years from a consortium of insurance companies and/or from other sources approved by Government, by Lands Limited, a company subsidiary to the European Agricultural Settlement Board.

## EMERGENCY ADMINISTRATION TO END

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

THAT this House, noting the restoration of peace and order in the Central Province and throughout Kenya, calls upon the Government to bring the Emergency administration to an end promptly, and step up the social and economic reconstruction in the affected areas.

## ORAL ANSWERS TO QUESTIONS

## QUESTION No. 189

GROUP CAPT. BRIGGS asked the Chief Secretary in view of the statement made in Legislative Council on 26th June, 1958, by the hon. Member for Nyanza Central concerning *Mau Mau* criminals confined at Lokitaung suggesting that they are still the political leaders of the Africans:—

(a) Will Government state what action they propose to take in view of the fact that the hon. Member repeated his assertion outside Legislative Council and encouraged a mass meeting to pass a Resolution to the same effect in support of one of the convicted persons in the Kaloieni Hall, Kisumu, on 6th July, 1958?

(b) Will Government once again give the fullest publicity to the part taken in organizing *Mau Mau* by the convicts referred to, the nature and magnitude of the atrocities for which they were responsible and so far as decency allows details of the *Mau Mau* oaths?

THE CHIEF SECRETARY (Mr. Coutts): The first part of the question deals with an expression of opinion made by an hon. Member of this House in a public speech, and since that opinion, though deplorable, is not unlawful, the Government proposes to take no action.

The second part of the question raises quite different issues. The convicts at Lokitaung were convicted of managing the *Mau Mau* society and the bestiality of that organization requires no fresh or further publicity. Its disgraceful degradation of the human spirit and the fact that it was directly responsible for the deaths of hundreds of innocent Africans is sufficiently well known in this country and to the world at large. All sensible people will know that these leaders of *Mau Mau* are not fit to return to civilized society much less assume the mantles of political monitors. Anyone who supports the contrary view stamps himself as a supporter of bestiality, degradation, and of criminal activity. It might be opportune here to repeat a statement made by the Governor, with the concurrence of

the Secretary of State, in September, 1954, which was as follows:—

"It will be recalled that Jomo Kenyatta was sentenced by the Resident Magistrate at Kapenguria to seven years' imprisonment for managing *Mau Mau* society and that his final appeal to the Privy Council against this sentence was dismissed. When the magistrate sentenced Kenyatta to imprisonment he also made a recommendation that Government should make a restriction order against him so that when he came out of prison he could be restricted as to where he could live and what he could do.

The Government have accepted the magistrate's recommendation and a restriction order has, therefore, been made against Kenyatta. This order will come into effect at the end of his sentence and will remain in force indefinitely. Under this order he will be required to live in a remote place specified by Government, in the Northern Province far away from the scene of his former criminal activities."

GROUP CAPT. BRIGGS: Mr. Speaker, Sir, arising out of the reply, having regard to the fact that memories are very short, would the Government not reconsider the question of giving further publicity to the atrocities of *Mau Mau*, and at least to placing the *Mau Mau* oaths in the library of this House?

THE CHIEF SECRETARY (Mr. Coutts): Mr. Speaker, Sir, I have nothing to add to what I said in the original reply, and I imagine that the original paper regarding *Mau Mau* oaths is already in the library.

MR. MATE: Mr. Speaker, Sir, in view of the fact that the statement made by the Member for Nyanza Central on 26th June was personal and political leadership as with the African Elected Members, duly elected and given mandate by the people, and the fact is the Member spoke only as a person; would the Government give the assurance that it will continue to relax the Emergency regulations and also continue the rehabilitation and reconstruction in Emergency areas?

THE CHIEF SECRETARY (Mr. Coutts): I do not think that arises out of the question.

## QUESTION NO. 191

MR. COOKE asked the Chief Secretary what are the salaries and allowances paid to the Members of the Council of State?

THE CHIEF SECRETARY (Mr. Coutts): Honoraria are paid to the Chairman, Deputy Chairman and Members of the Council of State at the following rates:—

Chairman	£350 per annum
Deputy Chairman	£250 per annum
Members	£200 per annum

Subsistence and travelling allowances are paid on the same basis as for Members of the Legislative Council, but Members of the Council of State are not paid attendance allowances. The fact that the Members are not paid attendance allowances corrects a misstatement, which I very much regret, I made in Committee of Supply on the 10th June, this year, page 848 of HANSARD refers. In answer to the question of my hon. friend.

## BILL

## THIRD READING

*The Native Lands Trust (Amendment) Bill*

THE MINISTER FOR AFRICAN AFFAIRS (Mr. Johnston): Mr. Speaker, Sir, I beg to move that the Native Lands Trust (Amendment) Bill (Bill No. 39) be now read a Third Time.

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

*Question proposed.*

The question was put and carried.

The Bill was accordingly read a Third Time.

## STATEMENT BY HON. MEMBER

THE SPEAKER (Sir Ferdinand Cavenish-Bentick): I did agree that Mr. Hassan should be allowed to make a statement. I am afraid I did not catch his eye before taking the Bill.

MR. HASSAN: Sir, yesterday when the Temporary Minister for Legal Affairs was replying in the debate on the Penal Code (Amendment) Bill, he had a crack at the Asian Members, and the Asian

Members subsequently had a meeting and decided to make a statement.

We feel, Sir, that the remarks of the Minister were uncalled for, unnecessary and most contemptuous. The Asian constituency Members were specially pinpointed while there were other Members who also abstained from voting; these included a Specially Elected African Member and the Arab Elected Member and, I believe, all European Members did not respond to the division bell ringing and remained in the lobby.

The Temporary Minister for Legal Affairs stated in the House whilst presenting the Bill that it was aimed at preventing intimidation so that all persons should enjoy liberty and freedom to do what they wanted to do and not to do what they are forced to do against their wishes. Yet funnily enough he himself launched a calculated attack and invaded on the parliamentary privileges of the Asian constituency Members to vote as they wished.

I may remark that some of us always felt that the Temporary Minister for Legal Affairs is one of the most cool and level-headed Members opposite, but it gave us a shock to notice a sudden change in him.

In conclusion, Sir, we respectfully submit that we strongly resent his unwarranted remarks on the attitude of the Asian group which he obviously misunderstood.

THE TEMPORARY MINISTER FOR LEGAL AFFAIRS (Mr. Conroy): Mr. Speaker, Sir, the hon. Member who has just sat down did not do me the courtesy of telling me he was going to make this statement today, and it comes as a complete surprise to me. Mr. Speaker, he said that I had made a personal attack, that my remarks were unwarranted, that I was guilty of intimidation; and he had not—and I again point this out—the courtesy to inform me he was going to make these remarks.

Mr. Speaker, I would ask all Members to turn to what was said in HANSARD yesterday to see whether the remarks that have just been made by the hon. Mr. Hassan are justified. I submit, Sir, that they will find them wholly unjustified.

## BILL

## SECOND READING

*The Banks' Title to Land (Amendment of Laws) Bill*

Order for Second Reading read.

THE TEMPORARY MINISTER FOR LEGAL AFFAIRS (Mr. Conroy): Mr. Speaker, Sir, I beg to move that the Banks' Title to Land (Amendment of Laws) Bill, 1958, be now read a Second Time.

The recent liquidation of a company in Kenya drew attention to what is probably a very serious gap in our law, which casts serious doubt on the validity of a number of securities which have been given to the banks or loans made on security of land in the Highlands. The result is that several large and reputable banks and commercial houses would have made these advances in good faith, therefore it seemed proper to the Government to put the position right and to seek to amend the law, to make it what both parties—the lender and the borrower—thought it was when the money was lent.

Mr. Speaker, I shall try to explain the position which is somewhat complicated, and if I over-simplify then I will ask the indulgence of the learned Members opposite for my over-simplification.

The position is that there are three types of company in Kenya. There is, first of all, type A which is the company which is incorporated and registered in Kenya. Secondly, there is type B which is incorporated outside Kenya, but registered inside Kenya. Thirdly, there is type C which is incorporated and registered outside Kenya but, by the deposit of certain documents with the Registrar of Companies, is entitled to carry on business inside Kenya. Type C is the only type with which we are concerned here because these reputable banking and commercial houses are all type C.

Now, Sir, section 328 of the Companies Ordinance, which is printed on page 3 of the Bill, provides that type C, that is to say, "a company incorporated outside the Colony which has delivered to the Registrar the documents . . . specified, . . . shall have . . . power to hold lands in the Colony". Then the provision goes on to say that "no company incorporated outside the Colony shall

have power to acquire land situate in the Highlands . . . unless such company is registered". In other words, all the types of company can hold land outside the Highlands, but only type A and type B can hold interest in lands inside the Highlands.

Mr. Speaker, what has happened is that people have gone to the banks, and the banks and commercial houses have advanced money to landowners in the Highlands; businessmen, farmers in the Highlands, on the security of a debenture creating a floating charge, and that security may include land in the Highlands. It has now been discovered that because these banks fell in the C category that security is void and we therefore propose in this Bill, by clause 2, to amend section 328 of the Companies Ordinance, to provide that certain types of banking businesses shall be entitled to own land within the provision.

Mr. Speaker, I might mention the types of banks which are included. There is Barclays Bank D.C.O., what was the National Bank of India, the Standard Bank of South Africa, Barclays Overseas Development Corporation, the Kenya Building Society, Dalgely and Company Limited, Savings and Loans Limited and the Nederlandsche Handel-Maatschappij, all banking concerns of very high repute.

Mr. Speaker, the Bill also seeks to amend section 7 of the Land Control Ordinance and section 88 of the Crown Lands Ordinance. These are really subsidiary to the principal amendment which is the amendment to section 328 of the Companies Ordinance, but perhaps I might explain very briefly what these two amendments are.

Section 7 of the Land Control Ordinance provides that as a general rule dealings in land in the Highlands require the consent of the Crown Lands Board. There is, however, an exception that in respect of the banks I have just mentioned, if you wish to take a mortgage on those lands no consent is required. Section 88 of the Crown Lands Ordinance prohibited dealings in land in the Highlands without the consent of the Governor, and the amendments proposed are to deal in the same way with the same difficulty in respect of these two restrictions.

## [The Minister for Legal Affairs]

There is one more thing to which I should like to draw attention. Clause 1 gives retrospective dates for the commencement of amending the Ordinance. The reason for that is that each amendment seeks to make the law what everyone always thought it was when it was enacted and therefore we want to go back to the time when the amended law came into force, to make it fair for everyone.

Just to complicate the situation a little more, the Government thought it would be wrong to make protective legislation which might penalize a man who had already started an action on what the law was prior to the publication of this Bill. In other words, it would be unfair to take away the vested right of action on which a man had instituted proceedings. Therefore, in the proviso to section 1 we provide that "nothing contained in the said sections shall affect any action, suit or proceedings commenced before" the date on which this Bill was published.

Mr. Speaker, that is the simplest explanation of this rather complicated little problem that I can give, and I accordingly beg to move that the Bill be now read a Second Time.

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

## Question proposed.

MR. SLADE: Mr. Speaker, Sir, I congratulate the hon. Member on his exposition of what is really rather a pathetic piece of legislation. It is in fact, Sir, a warning to him and to us not to embark on hasty legislation *ad hoc* in an attempt to improve our law concerning companies of concerning land. Those laws, Sir, are very complex, and deeply wrapped round with vested interests and long established traditions and other encumbrances, and it is a very difficult and technical thing to amend them without making trouble elsewhere.

It is perfectly true, Sir, that there are flaws at present in the Companies Ordinance and in our land laws, such as this Bill is designed to cure. But the greatest danger lies in the fact that, if you attempt to cure those flaws in a hurry without looking all round, you will make matters worse than they were before. This Bill has been in great danger of doing that. Actually, Sir, it has not done

so for a reason which I will expound in a moment.

Taking clause 2 first, which purports to amend the Companies Ordinance, I agree that quick amendment of section 328 of that was necessary; and though this amendment is very obviously a stop-gap only, it does cure part of the evil without, in my opinion, making trouble elsewhere. So I have no quarrel with that clause.

Clauses 3 and 4, Sir, are those which deal with floating charges. I notice the hon. Member refrained from defining floating charges, very wisely, and I will follow his good example. I do not think the hon. Member is quite correct in saying or implying that everyone always thought that a floating charge on land was a good security in this country, with or without the consent of the Land Control Board or the consent of the Governor. The fact is, Sir, that under the present law of registration of documents affecting land—that is the Crown Lands Ordinance and the Registration of Titles Ordinance—no right or title or interest in land can be created without registration of the appropriate document against the title concerned, and there is at present no provision in our law at all for registration of floating charges, nor does this Bill make such provision. We are therefore in the position, if this Bill is passed, that difficulties of banks with regard to floating charges requiring consent of the Land Control Board or the consent of the Governor are removed, but still those floating charges will have no legal validity at all, until some further amendment of the law is passed after further consideration. In other words, Sir, this Bill, so far as clauses 3 and 4 are concerned, creates a benefit for banks which is at present *in gremio*, or what we call a *Mimba*. It is not yet born. It will not be born until the appropriate period has passed, during which midwives can get to work and make a proper job of it.

These amendments of the Crown Lands Ordinance and the Registration of Titles Ordinance, to make it possible for a floating charge on land to have legal validity, will require very careful consideration, and I hope they will receive that consideration before they are introduced as a Bill in this Council.

23rd JULY, 1958

## [Mr. Slade]

There is indeed a question in my mind, Sir, whether, it is desirable to make applicable to immovable property a kind of security which, in my view, is really only appropriate to movable property, that is, floating assets; but, in view of the fact that clauses 3 and 4 cannot have any real effect until such further legislation appears on the scene, I think they are unobjectionable, even if they make this Council look rather silly.

For the rest, Sir, there is one point which I believe the hon. Member intends to deal with in Committee by an amendment, and that is the question of the declared purpose of the Bill. Now, Sir, this Bill does arise out of doubts, particularly as to the effect of section 328 of the Companies Ordinance.

This will only remove doubts in respect of certain companies. Other companies who were in the position before this Bill becomes law to argue on those doubts, to say: "We have the protection of the law already and it does not need to be amended" will not be satisfied. If the effect of this Bill is to imply that section 328 of the Companies Ordinance excludes those other companies from holding lands in the Highlands, then those other companies will be unprotected. They will then be in a worse position than they were in before, although the protected companies will be in a better position. I therefore hope that in the Committee stage we shall amend the declared purpose of the Bill, so that it is only to remove doubts, as opposed to making a clear-cut alteration in the law.

Subject to those comments, Sir, I beg to support the Bill.

MR. TOWETT: Mr. Speaker, I just wanted to say one or two things, and the first of them is that Swahili should not be allowed to be used by Members in this House, so the word *Mimba* is out of place.

Secondly, Mr. Speaker, I feel that if the people who have this land cannot develop it without going to banks for loans on a mortgage basis then they should not have the land. If these people cannot use the land properly then we want it back.

THE TEMPORARY MINISTER FOR LEGAL AFFAIRS (Mr. Conroy): I am afraid that I missed the first point made by the last speaker as I was unable to hear him.

With regard to his second point there is no question of returning land or titles to land.

With regard to the points raised by my hon. and learned friend the Specialy Elected Member, I agree with him and I shall move an amendment in Committee to amend the long title of the Bill. I do not agree that it is necessary, but I think it might be desirable because this is such a complex matter that I might well be wrong and he might well be right.

With regard to his warning that this is just another example of hasty legislation, I would say that this is just another example of Government bending over backwards to help everyone and to oblige everyone.

I was able, to evade the definition, or, rather the explanation, of what a floating charge was. I have now been put in the position of having to do that.

A floating charge is this. It is a charge which does not seize on assets but is one which floats above. It is like an umbrella. Companies who give security can give floating charges. With floating charges the company can deal with its assets in the normal way of business. When fresh assets are acquired they then come in and are subject to the floating charge. The floating charge continues to float until the day when something happens which ceases to make a floating charge. That then crystallizes it. When a floating charge crystallizes it seizes on the assets in possession of the company at the time.

This rather puerile explanation of a floating charge is necessary to explain how extraordinarily difficult it is to work out a system where you can allow a lender to register a charge today in respect of land which may come under the umbrella of a floating charge possibly in ten years' time and about which you do not know about now, at the moment. That is one of your great difficulties. Nevertheless we are trying to see whether this problem can be solved.

[The Temporary Minister for Legal Affairs] There are, at present, two Bills relating to land law which we have prepared and which we have submitted to the Law Society for Kenya for their comments, and it is to be hoped that in due course, possibly by the end of the year, we may be able to deal with this particular problem in those two Bills. It would be rash if I gave an undertaking to do that but we will certainly do our best.

I think that deals with the points raised by the hon. and learned Member and I accordingly 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 tomorrow.

COMMITTEE OF THE WHOLE COUNCIL

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

IN THE COMMITTEE

(Sir Ferdinand Cavendish-Bentinck, K.B.E., C.M.G., M.C., in the Chair)

The Penal Code (Amendment) Bill Clauses 2 and 3 agreed to.

Title agreed to.

Clause 1 agreed to.

The Criminal Procedure Code (Amendment) (No. 2) Bill

Clause 2

THE TEMPORARY MINISTER FOR LEGAL AFFAIRS (Mr. Conroy): I should like to move an amendment to clause 2 of the Bill, which arose after something which the hon. Member for the Central Province South said yesterday. You will remember that he said that it was wrong that the court should be able to act on information and that it was desirable that the impression should be destroyed that the person was guilty until he proved his innocence. I think that the hon. Member is right that this section can be improved and I accordingly beg to move that clause 2 be amended by substituting in place of the words "has information", which appear in the new section 43, for the words "is informed on oath".

If this amendment is accepted, Sir, I propose in due course further to clarify

at the point the hon. Member raised by another amendment.

I accordingly beg to move.

Question that the words to be left out be left out put and carried.

Question that the words to be inserted in place thereof be inserted put and carried.

Clause 2 as amended agreed to.

Clause 3 agreed to.

New Clause

THE TEMPORARY MINISTER FOR LEGAL AFFAIRS (Mr. Conroy): Mr. Speaker, I beg to move that a new clause be added to the Bill. That clause will read as follows: Section 47 of the Code is amended by inserting therein, immediately after the expression "section 42", the expression "section 43". That, of course, by itself means precisely nothing so I think it would be courteous for me to explain what it means.

Section 47 of the Code says this: "When a magistrate, acting under section 42, section 44, or section 45, deems it necessary to require any person to show cause under such section, he shall make an order in writing setting forth (a) substance of the information received; (b) the amount of the bond to be executed; (c) the term for which it is to be in force; and (d) the number, character and class of sureties; if any required".

Sir, section 47 sets out the procedure to be applied, not in section 43, which is really the same procedure as the other three sections. I have discovered that section 43 was inserted in the Criminal Procedure Code in 1933 without the necessary consequential amendments being made. Therefore, Sir, if this is accepted the exact procedure will be known by all persons. I think that that meets the point which was made by one of my hon. friends opposite yesterday.

I accordingly beg to move that this new clause be added to the Bill.

Question proposed.

The question was put and carried.

Title agreed to.

Clause 1 agreed to.

The Maize and Sorghum (Imposition of Cess) (Amendment) Bill Clauses 2, 3, 4, 5 agreed to.

Title agreed to.

Clause 1 agreed to.

The Promissory Oaths Bill

Clause 2

THE TEMPORARY MINISTER FOR LEGAL AFFAIRS (Mr. Conroy): I wonder whether I could clarify something which may not be properly understood. The oaths which we, as Members of this Legislative Council, have taken do not come under this Bill. They come under the Order in Council, and it would not be proper for us, by our own Ordinances to provide for our own oaths. We could not provide for them.

Clauses 3, 4, 5, 6, 7 agreed to.

First Schedule agreed to.

Second Schedule agreed to.

Title agreed to.

Clause 1 agreed to.

THE CHIEF SECRETARY (Mr. Couits): Mr. Chairman, I beg to move that the Committee do rise and report to Council that this Committee has considered and approved the Penal Code (Amendment) Bill, without amendment, the Criminal Procedure Code (Amendment) Bill, with amendment, the—Maize—and—Sorghum (Imposition of Cess) (Amendment) Bill, 1958, without amendment, and the Promissory Oaths Bill, 1958, without amendment.

Bills to be reported with amendments.

The question was put and carried.

Council resumed.

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

REPORT

THIRD READING

The Penal Code (Amendment) Bill

THE TEMPORARY MINISTER FOR LEGAL AFFAIRS (Mr. Conroy): Mr. Speaker, I beg to report that a Committee of the whole Council has considered and approved the Penal Code (Amendment) Bill, without amendment.

Mr. Speaker, I beg to move that the Penal Code (Amendment) Bill be now read a Third Time.

THE CHIEF SECRETARY (Mr. Couits) seconded.

Question proposed.

The question was put and carried.

The Bill was accordingly read a Third Time and passed.

REPORT

THE CRIMINAL PROCEDURE CODE (AMENDMENT) BILL

THE TEMPORARY MINISTER FOR LEGAL AFFAIRS (Mr. Conroy): Mr. Speaker, I beg to report that a Committee of the whole Council has considered and approved the Criminal Procedure Code (Amendment) Bill with amendment.

Report ordered to be considered tomorrow.

REPORTS

THIRD READINGS

The Maize and Sorghum (Imposition of Cess) (Amendment) Bill

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): Mr. Speaker, I have to report that a Committee of the whole Council has considered and approved the Maize and Sorghum (Imposition of Cess) (Amendment) Bill without amendment.

Mr. Speaker, I beg to move that the Maize and Sorghum (Imposition of Cess) (Amendment) Bill be now read a Third Time.

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

Question proposed.

The question was put and carried.

The Bill was accordingly read a Third Time and passed.

The Promissory Oaths Bill

THE TEMPORARY MINISTER FOR LEGAL AFFAIRS (Mr. Conroy): Mr. Speaker, I beg to report that a Committee of the whole Council has considered the Promissory Oaths Bill and has approved the same without amendment.

Mr. Speaker, I beg to move that the Promissory Oaths Bill be now read a Third Time.

THE CHIEF SECRETARY (Mr. Couits) seconded.

Question proposed.

The question was put and carried.

The Bill was accordingly read a Third Time and passed.



## MOTION

TRANSFER OF POWERS (MINISTER FOR LOCAL GOVERNMENT, HEALTH AND TOWN PLANNING) ORDER, 1958

THE MINISTER FOR LOCAL GOVERNMENT, HEALTH AND TOWN PLANNING (Mr. Havelock): Mr. Speaker, I think that this is the last but not the least of similar Motions delegated for transferring powers of the Governor in Council.

Hon. Members have had this Paper in front of them for a considerable time. I do not think I need to speak about the Paper but I would be glad to do so after hon. Members have raised any questions they may have.

Sir, I beg to move.

THE MINISTER FOR EDUCATION, LABOUR AND LANDS (Mr. Luyi) seconded.

Question proposed.

MR. TOWETT: Mr. Speaker, Sir, I rise to question all these wonderful powers and delegations of powers. I feel that the hon. Minister for Local Government is unlucky because I am here to say we should not give more powers to the Ministers. I think we should retain, or try to retain, "the Governor in Council of Ministers". That sounds better although it may not be better in actual fact.

The area of Kenya, and its population, are small, but not as big as in Great Britain, where it is said that the delegation of powers saves time.

I think that we should stick to the Governor in Council of Ministers until such a time comes when we have relied upon the Ministers as such and when we shall have equal distribution of Ministers. Now we cannot accept these powers going to Ministers.

I do not want to initiate a very long talk on these things but I think we should really cut down on powers that we have tried to give to the Ministers. The ones already given to them should be curtailed.

It is ridiculous to believe in giving powers to one man and he can approve the purchase of land. I would like to know what particular land is referred to here. Does it mean land in township areas? Therefore, Sir, I would like to have some clarification on what is meant by "to approve the purchase of land". What land?

The section about appeals, is to my mind misleading. It means nothing to me at all. I hope it will be explained when the Minister comes to speak about it.

However, Sir, I would ask the House to see that we do not give any more Ministers powers. We should stop further delegation of powers. Most of them are being misused.

Concerning the making of rules, I would like to know more of this idea of the Minister making rules. I would like some explanation on that, Sir, as to what Ordinance in Kenya authorizes the delegation of powers and the making of rules so far as Ministers are concerned.

Mr. Speaker, to cut a very long story short, we should reduce the powers of the Ministers; and with those few remarks I beg to oppose any more of the delegation of powers.

THE SPEAKER (Sir Ferdinand Cavendish-Bentley): I would draw hon. Members' attention to the fact that it is quite improper to state that powers delegated to Ministers are mostly being misused. Unless such statements can be substantiated they should not be made.

MR. TOWETT: I withdraw that particular section of my remarks, Mr. Speaker.

MR. MBOYA: My friend for the Southern Area has made one point which may be taken lightly and that is, the transfer or delegation of powers. Well, they have originally been vested in the Governor in Council to respective Ministers. I think, Sir, it is not an unimportant matter to draw attention to the nature of the constitution of the country, and, therefore, the possible consequences or impressions that might be given in transferring too much power at this stage from the Governor in Council to various Ministers.

I would very respectfully bear in mind, Mr. Speaker, your remarks, but I think it is not a very light matter that this question should be raised by Members on this side of the House. We have a situation, Sir, where we have at present in our Council of Ministers both elected Ministers or political Ministers, and civil servant Ministers. It is very important to us, particularly on this side of the House, that powers be vested in a person or a group of persons or be to

[Mr. Mboya] vested that there will be at least that assurance that a political Minister, for example, might not be influenced by political considerations in the exercise of those powers. In the present situation, it would seem quite ideal in my view that as much power as possible should be left within the scope of the Governor in Council rather than the process of transferring or delegating these powers to Ministers, some of whom, as I have said, are political Ministers, under a constitution and circumstances that are totally—in some cases—unacceptable and unsatisfactory to a large section of our community.

Mr. Speaker, Sir, with these remarks, I beg to support.

THE CHIEF SECRETARY (Mr. Coutts): Mr. Speaker, Sir, in replying to the hon. Member who has just sat down, I think despite the fact that he respected your ruling, there was an implication of a slur on the Ministers of the Government. In respect of the powers which have been given by the Council of Ministers to individual Ministers, it has always been the practice of the Government to examine these powers very carefully indeed. Therefore, whereas I would accept criticism of individual powers which have been given to particular Ministers (and that is the reason why this comes before the Legislative Council at the present time in the form of a Motion), I cannot really accept on behalf of the Government that someone can merely get up and say that all Ministers should not have the powers given to them because they have lack of confidence in them.

I feel, Sir, that if the Opposition—and they have every right to do so—wish to criticize particular powers and ask the Government to reconsider whether or not these particular powers should be permitted to an individual Minister rather than be exercised by the Governor in Council, the Government is always prepared to consider such a suggestion if it is fair and if it is put forward in a convincing manner, but I must, on behalf of my colleagues, reject what I feel was an imputation upon their integrity in the statement of the last Member who just sat down.

THE MINISTER FOR LOCAL GOVERNMENT, HEALTH AND TOWN PLANNING

(Mr. Havelock): Mr. Speaker, Sir, the hon. Chief Secretary has dealt with the main points which were raised by hon. Member opposite, and I will deal, if I may, in detail with matters raised by the hon. Member for Southern Area. He drew attention to the remarks on clause 13, sub-section (1) which remarks on the paper are: "approval of the purchase of land". I would read, for the benefit of the hon. Member, that particular section. It reads as follows: "The executive authority may, for the purpose of a town-planning scheme as defined in section 3, and subject to the approval of the Governor, purchase by agreement any land comprised in such scheme with the approval of the Minister". I would like to emphasize "by agreement"; there is no matter of compulsory acquisition there at all.

The next clause that was referred to, Sir, was 24 (3). That reads: "Any person who feels aggrieved by a decision of the Commissioner of Lands under this section may appeal to the Governor in Council whose decision shall be final". And that again would now read: "... may appeal to the Minister whose decision shall be final".

The matter to do with the appeal is with regard to the Private Streets Ordinance and that itself has appeal to the Minister of Local Government. I do not think there has been much alteration there.

The next one is 24 (4), and that reads: "The Governor in Council may make rules for the better carrying into effect of provisions in this section". In other words, the Minister may make rules for the better carrying into effect of the appeal procedure, to which I have referred in 20 (3) and 20 (4). That is a very simple rule-making power.

I would like to state, Sir, that the Council of Ministers have themselves of course studied this particular paper in this Order in great detail and certainly not all the powers in the Town Planning Ordinance are transferred to the Minister; still other powers are retained by the Council of Ministers on odd occasions where it was thought that it would be better to do so, especially with regard for instance to the compulsory acquisition of land, or the valuation for the purposes of acquisition of land and so

[The Minister for Local Government, Health and Town Planning] on. I can assure hon. Members, Sir, that the points in principle raised by hon. Members opposite are very much in the mind of the Government, and especially (having been in opposition myself) very much in my own mind—too. I do not like too great a delegation of powers to Ministers, and I do not like too great a power remaining in one single individual's hands wherever it might be.

On the other hand, the procedures adopted in this transfer of powers will help to speed things up. Hon. Members must recognize that the Council of Ministers has an enormous amount of work to get through and by this transfer, it will relieve—and does relieve—matters very considerably for the Ministers of matters which are not of all that great importance.

Sir, I beg to move.

The question was put and carried.

#### MINISTERIAL STATEMENT

THE TEMPORARY MINISTER FOR LEGAL AFFAIRS (Mr. Conroy): Mr. Speaker, Sir, may I raise a point of order? At the commencement of business today, the hon. Member for the East Electoral Area made a statement. As I understand Standing Orders, he did so in accordance with the provisions of Standing Order 54 which reads as follows: "By the indulgence of the Council, a Member may explain matters of a personal nature although there is no question before the Council, but such matter may not be debated".

Now, Sir, I have not been able to raise this point before because I had not received a copy of the statement until this moment, when it was supplied to me by the courtesy of the HANSARD reporters. Sir, I do not want to read the whole of the statement, but I should like to draw your attention to some portions of it. It starts off: "It was decided in a meeting of the Asian Elected Members yesterday to make a statement with regard to remarks made by the Temporary Minister for Legal Affairs". They decided to make this statement, although Standing Orders provide that it can only be made with the indulgence of the Council. "We feel that the remarks of the Minister were uncalled for, unnecessary and

most contemptuous." Then, Sir, I went on with other things, and then it accused me of launching "a calculated attack and invaded on the parliamentary privileges of Asian Constituency Members to vote as they wished". That is to say, that I have been guilty of intimidation.

I understand the hon. Member to nod his head.

Mr. Speaker, in the course of some quarter of a century at the Bar, I have learnt to bear with personal abuse, and hard words, as my hon. and learned friends will know, are borne with such fortitude as we can command. But, Sir, I do ask for your ruling on the broader issue here, whether it is permissible for a group through a spokesman to make a statement, not explaining a matter personal to them, which the Standing Order provides for, but to make a personal attack on the conduct and motives of another Member, Mr. Speaker, I would suggest that if such a course is permitted then we shall have no end to any debate.

Secondly, I would suggest that if a group can in secret meet and pass a Resolution imputing improper motives and improper conduct to another Member without any opportunity for that other Member to know what is going to be said about him, indeed what is going to be said about him may possibly be said about him in his absence and behind his back, and when under the Standing Order, there is no opportunity for debate or reply, then, Sir, I would suggest that this is a breach of the Standing Orders and Rules of debate of this Council.

Mr. Speaker, the hon. Member was courageous enough to make this statement about my personal conduct and character when protected by the parliamentary privilege which the Standing Orders of this Council give him. The fact that he is privileged should, I suggest, make him very careful not to contravene the Standing Orders of this Council. I would ask, Sir, if we might have a ruling on whether it is permissible to make such a statement, and if not, a direction that the statement should be withdrawn.

Mr. COOKE: On a point of order, Mr. Speaker, I do not wish to interfere except

[Mr. Cooke] to point out that your predecessor, Sir Henry Moore, ruled that when a statement of this nature was made here there was no reply permitted. I do not know whether there is any ruling now which covers that point?

THE SPEAKER (Sir Ferdinand Cavendish-Bentick): A point of order has now been raised, but it was my intention in any event to give a considered ruling on the statement made by Mr. Hassan. I had proposed to do so tomorrow.

In the meanwhile, however, I will readily give a provisional ruling in order to clarify the issue. We follow here the House of Commons practice, and in the House of Commons it is, by many precedents, almost by convention now, permissible for the Speaker to allow statements to be made of two kinds. The first category are those by a Minister, explaining policies or change of policies or making some pronouncement which is usually found to be of value for the information of Members of the House, and even to the public. We have permitted many such statements in this House in the past, a recent one by the Minister for Finance.

The second form of statement which it is permissible to make is provided for under Standing Order 54, but I think in the House of Commons a greater latitude is given than is strictly provided under Standing Order 54. That is to allow an individual Member or a group of Members to explain their conduct or their attitude under any particular circumstances. Usually a statement of that sort is only permitted if leave is sought either by the indulgence of the House or of the Speaker.

On this particular occasion, I was asked last night whether a statement could be made and as it was to be a group statement I gave my permission. In the event, it proved not to be a statement explaining the attitude of hon. Members, it was in fact a personal attack on a Minister, or an Acting Minister. As such, I think it was improper, totally improper.

Nevertheless, I would crave your indulgence and ask you to allow me to give a considered ruling on this issue tomorrow.

#### CONSIDERATION OF REPORT OF SELECT COMMITTEE

##### The Dairy Industry Bill

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): Mr. Speaker, Sir, I beg to move that the report of the select committee on the Dairy Industry Bill be adopted.

Mr. Speaker, speaking to this Motion, I would first like to thank the members of the select committee who helped me in our discussions on this Bill. Their advice was constructive and I feel that the results of a select committee go a long way to meeting many of the misgivings that were raised.

Secondly, Sir, I should like to thank the members of the public and organizations who gave evidence, because in some cases, their evidence has been of assistance to us.

And lastly, Mr. Speaker, in dealing with the adoption of the report, I think hon. Members would like me to take it clause by clause and indicate to them the fears and misgivings and the various points which were raised to us; where we felt we could meet them, and where we had to reject them.

There are only drafting alterations in clause 1. But in clause 2, there are substantial changes. Hon. Members will recall that when I moved the Bill in Second Reading, there was a fear that undue interference would take place in the movement of dairy produce in the African areas, and I gave an undertaking that I would examine this to see how we could meet it. As the Bill is now drafted, the movement of dairy produce in the African areas will be exempted from the provisions of the Bill, and will only come under the provisions of the Bill if the dairy produce moves into a township, municipality or into scheduled areas. That means that in African areas, Africans will be free to sell milk or dairy produce as one to another and also will be free to operate without the control of the Board in trading centres.

Lastly, Sir, we shall not bring a district in the non-scheduled areas, that is to say, the areas that are mainly African, within the administration of the Board except after consultation with the Land Development Board, non-scheduled areas. The object of putting that proviso

[The Minister for Agriculture, Animal Husbandry and Water Resources] is as follows: undoubtedly there will come a time when there will be expansion of dairy production in the African area. They themselves will organize it through the development of co-operative organizations. I have no doubt that in order to protect themselves under the Bill against cut-throat competition, they will seek to be covered by the provisions of the Board. Thus, Sir, clause 2 exempts African areas from the provisions of the Bill, but allows entry of these areas into the provisions of the Bill after consultation with the Land Development Board.

Clause 3: there are two small modifications. We have removed from the Bill the definition of the words "ice cream". We feel that where ice-cream is carrying dairy produce within itself, it automatically is controlled by the Bill. Where it does not, there is no necessity to control it, because it can be adequately controlled under the Health Regulations. We have also amended the definition of ghee, being a by-product of butter, and suggest to the Council that it should be defined as a by-product of butterfat. There is no change in clause 4.

Clause 5 has been very considerably redrafted and it was a clause over which we had a great deal of representations. First, Mr. Speaker, we have removed the words "a chairman to be appointed after consultation with the Board". I would like to point out to hon. Members that that was opposed by the producer elements who will be on this Board. They felt that they would like to have consultation over the chairman. As the producer elements will be in the majority it automatically follows that the choice of chairman must of necessity be one acceptable to them. At the same time, we had representations from other sections of the public to the effect that they would like the chairman to be independent, and there was a suggestion that we should include in the Bill "an independent chairman" and define the word "independent" in the definitions. However, my legal advisers pointed out that the definition of independence was unusual in Bills, and unnecessary, and we have left it at "chairman to be nominated by the Minister". I intend to nominate a chairman who will take a

fair and reasonable balance of the needs of the industry as between the producer and the consumer. I do not intend to have a chairman who will be biased to one section or the other.

Secondly, Sir, we have added one extra member to clause 5 (c) to be nominated by a panel of names put forward by the Land Development Board, Non-scheduled Areas. This will enable additional African representation to come on the Board, and I would like to stress to hon. Members, subject to the nominations of the Land Development Board, there is no reason whatsoever why one of those African members should not be either a consumer or a producer. We have altered clause 5, section 5 (d) by deleting the words "after consultation with the Minister of Commerce and Industry", and introducing the words "after consultation with such bodies and persons as the Minister may think fit." Our object in doing that, Mr. Speaker, was to allow the Minister a wider choice of consultation with all sections of the industry and country, before he appointed persons to the Board under this particular section. We have had representations to increase the consumer representation or to make specific reference to consumer interests under clause 5 (e). I would like to devote a moment to it, Mr. Speaker. Your Select Committee unanimously agreed the composition of clause 5 which is now before the Board and there was no dissent amongst us. It is clear under the Bill that a person may be nominated by municipalities and there is no reason whatsoever why the Association of Municipalities in Kenya should not nominate a number of names from consumer representative bodies if they so wish. As far as I, as Minister, am concerned, if under clause 5 (e), without wanting in any way to prejudice the freedom of nomination by the Association of Municipalities, if, for instance, they were to put forward a number of names amongst which was included the chairman of the Housewives' Association, I, as Minister, would have no objection whatsoever to that name going forward as a member of the Board.

Clause 6: Mr. Speaker, has been redrafted to clarify the procedure of retirement of members in rotation. There is one particular assurance I would like

[The Minister for Agriculture, Animal Husbandry and Water Resources] to give to the House. We have not made provision in that section for the replacement of members who may be removed from the Board under clause 6 (2), subsections (a) to (f). We have not made provision for the Minister to appoint persons within the sections from which they have been removed. Thus if one or two members within clause 5 (d) were removed for mental incapacity or bankruptcy, it does not specifically indicate that the Minister would replace within that category. The assurance I wanted to give the House was that the Minister will always retain the balance of the Board in making replacements where members are for one reason or another summarily removed from the Board.

Clause 7, no change. Clause 8: the power to employ staff has been changed from a mandatory power to a permissive one, because your Select Committee felt we should not dictate to the Board that they must have an executive officer. Whether the Board will have executive officers or not is a matter for them. Your Select Committee felt strongly that economy in operation of the Board was essential and therefore, we should not dictate to them the staff appointments which they should make.

Clauses 9 and 10: there is no change. Clause 11, Mr. Speaker, we have added a provision for deliberative vote for the chairman as well as a casting vote. This is an important point which I think acts as a safeguard for the minority elements within the producing side of the industry and for the consumers. As the Bill was drafted originally, the chairman had no deliberative vote, only a casting one. He now has both.

Clauses 12, 13 and 14, there are no changes. Clause 15, Mr. Speaker, there is an important change. We have made it mandatory upon the Board to appoint a consumers' committee. I think there are fears that even with a consumers' committee appointed, the Board may not appoint the right people to the consumers' committee or consult them properly. I am quite certain this committee will be of value to the Board. I anticipate that a number of members of the Board will be on the committee as well as the consumers—the sort of composi-

tion I think might be three members of the Board, and seven consumers to keep the Board constantly in touch with consumer opinion. This is a provision which is also allowed for in the United Kingdom Milk Marketing Act, and I think it is a method of putting consumer complaints, ideas and views before the Board whenever necessary.

Clause 16, no change.

Now, clause 17 again, Mr. Speaker, we have made substantial changes, and I propose to refer to them in detail. Considerable misgivings were put before the select committee in regard to three matters: the maintenance of private enterprise within the industry and especially the enterprise on the producing side represented by the producer/retailer; secondly, the right of the consumer to have the quality of his produce maintained, and lastly, the necessity to give the consumer a choice of variety of produce. This is particularly important in a country such as this where we have so many varying communities. Each community has its own particular likes and dislikes in regard to dairy produce, and we have therefore, Sir, added to the functions, powers and duties of the Board a direction that they will organize, regulate and develop the efficient production, marketing, distribution and supply of dairy produce, having regard to the various types of dairy produce required by different classes of consumers. Now, it will be mandatory upon the Board, therefore, to consider consumer choice. We have also made it a direction to the Board to improve the quality of dairy produce. And lastly, Mr. Speaker, we have introduced a new section as follows: "to permit the greatest possible degree of private enterprise in the production, processing and sale of dairy produce, consistent with the efficiency of the producer and the interests of other producers and consumers". And we feel, Sir, that those three additions to the Bill, specifically ensuring the maintenance of private enterprise, the consistent maintenance of quality, and of consumer choice go a long way to meet the misgivings which have been given to us in regard to those three matters.

Clause 18, no change. The old clauses 18 and 19, Sir, were divided into the

[The Minister for Agriculture, Animal Husbandry and Water Resources] powers which the Board had to make regulations on its own and the powers which the Board had to make regulations through the Minister. After listening, Sir, to the various views, and in order to meet many of the misgivings that were put before us, especially from the consumers, we have combined clauses 18 and 19 and the whole of the rule- and regulation-making power is now in the hands of the Minister upon the advice of the Board. I consulted other legislation with regard to this matter within my Ministry, and I find that very much the same provision exists in a number of these boards, specifically, for instance, in the Pyrethrum Board, and the Pig Industry Board where the power to make rules and regulations lies in the hands of the Minister, or the Governor in Council, either with the advice or with the approval of the Board. We have in this case, Sir, clearly made it upon the advice of the Board, and not upon the approval of the Board, because we feel that some of the misgivings over the Bill will be met if the Minister is, as it were, a stay between the Board and its rule-making powers.

Clause 20, no change. Clause 21 has been extended, Sir, to meet a difficulty which many producer representatives put to us in evidence. We have now made it possible for the Board to call regional meetings so that it can keep constantly in touch with producer elements up-country, who, by reason of distance, or economic necessity, cannot easily attend the annual general meeting in a centre such as Nairobi.

We have also, Sir, arranged that the consumer representatives, not less than ten at the annual general meeting, shall be nominated by the Minister after consultation as to a proportion of them with the consumers' committee. We have met in that way the charge that the Minister, in the remarkable way that Ministers do, would pack the annual general meeting with that peculiar human being called a stooge. In this way, Sir, the chances are almost certain that the only stooges that can go to the annual general meeting in this respect will be those stooges nominated by the consumers' committee.

Now, I would like, if I may, to return to clause 19, because I see I have omitted two important and particular additions which we made. It was represented to us that where the Board directed a producer, for the benefit of a retailer to deliver his milk to that retailer, it was reasonable for the producer as he no longer had the choice of retailer, to be guaranteed security of payment for the milk he delivered. The Board therefore can require in cases of that sort security from the retailer against the Bills which may accrue from the produce delivered. Now, the opposite of that is that where a retailer is directed to receive produce by the Board, and he, in his turn, has no freedom of choice as to the retailer, then he must be protected by the guarantee of the Board that it will honour its contracts and supply the milk. Those are two important provisos or provisions which we have put into clause 19 and which I omitted to mention to hon. Members.

Clause 22, Sir, has been redrafted to meet a particular and difficult point. It is that strong representations were made to us that the members of the Board under clause 5 (a) should be elected. But after very full discussion, your select committee came to the conclusion that, at any rate in the initial life of the Board, when it was mainly occupied with the administrative and organizational aspects of the industry, it would be unwise to encumber itself with the procedures of direct elections. If that is so, then as the old Bill was drafted, nominations to the Board largely lie in the hands of the Minister from a panel of names submitted by the Board of Agriculture, and we found a strong wish in the industry to have a right in some way to indicate both to the Board of Agriculture and to the Minister the sort of name that it is felt would be suitable under this section of clause 5. We have therefore amended clause 22 so that at a regional meeting, if they so wish, producers can put names forward by delegation to the annual general meeting for the consideration of the Board of Agriculture, and in order to prevent the Board stymieing the introduction of such matter, by a procedure of ten members' signing the request, any matter placed on the agenda by not less than ten producers must be considered by the Board.

[The Minister for Agriculture, Animal Husbandry and Water Resources] If that way, we have ensured firstly that the Board cannot overrule the matters which may be discussed at the regional or annual general meeting, and secondly, we have allowed provision for the putting forward of names if producers wish in the regional areas for onward transmission to the annual general meeting.

Now, Sir, in speaking to this clause, I indicated that we felt in your select committee that the Board would be unwise to encumber itself with the complications of direct election to the Board in the early stages of its being. But we also felt that it would be wise for that to be reconsidered immediately at the end of the first period of rotation of the retiring members, which is four years. I therefore wish to give the House an assurance that either I myself or my Ministry will open discussions with the Board and the industry concerned as to whether or not the industry wishes to change clause 5 (a) later or clause 5 (a) (b) later to a system of direct elections.

Clause 23 has been substantially amended, Sir, as drafted in the original Bill, the power of compulsory acquisition of dairy produce only in emergency lay in the hands of the Council of Ministers. After a very full discussion—and I am indebted to the hon. Member for the Eastern Area in this respect—we feel that it would be better for the Board to acquire compulsorily such dairy produce as it wishes to, but in so doing it should give notice to the persons from whom it is going to acquire, not less than 21 days, and the Governor in Council of Ministers, instead of being the executive mechanism for the compulsory acquisition, may become the adjudicating and impartial body which decides on the merits of the case. We feel in this way we have given more protection than before to any possible abuse under this particular clause.

Now here, Sir, I would like to interpolate one thing. There is a tremendous amount of misunderstanding in the public mind because I have seen loosely used the words that the Board "will exercise a monopoly". As the Bill is now drafted, it is quite impossible for the Board to exercise a physical monopoly of dairy produce, unless it asks the

Governor in Council of Ministers to acquire compulsorily every single piece of dairy produce in this country. Now that is not only physically impossible, but, I believe, would never happen. The object of this clause is solely to deal with emergency matters when, for instance, due to drought, a centre of consumption cannot be supplied and the Board can, if it so wishes, compulsorily acquire milk to meet the difficulties of that area.

Clause 24, This has been amended, Sir, to allow the Board to deal in dairy produce either by way of processing or disposal. It was drawn to our attention that as the Bill was originally drafted, although the Board might get landed with dairy produce it had no right whatsoever to do anything with it, and we have now amended that and placed it in better order.

Clauses 25 to 30 contain no changes. In clause 31 there are drafting amendments only. In clause 32, because we have made the power to employ staff under clause 8 permissive, references to the executive officer in this clause have been deleted. It is merely a consequential amendment due to our decision on clause 8.

Clause 33, no change. Clause 34, again references to the executive officer have been deleted. Clause 35, no change.

Clause 36: the proviso allowing for an appeal against regulations made by the Board has been deleted as it is now not possible for the Board to make regulations, therefore no appeal against such regulations is necessary.

Now, clause 37 is again an important matter, to which I would like to draw the attention of the House. It came to our notice that there was a strong feeling that the Board should not have the power—or the Minister on the advice of the Board—should not have the power—to make health regulations. After examining this matter in considerable detail we came to the conclusion, as a select committee, that the Board must have the power to make regulations affecting hygiene and health, by reason of the fact that much of its produce may be exported overseas, in a manner which does not run contrary to local government regulations. But we found a feeling in local government circles firstly that the Board should not

[The Minister for Agriculture, Animal Husbandry and Water Resources] be allowed to interfere with the normal health regulations of local government authorities, and secondly that it was unnecessary to have duplication of hygiene and inspection staffs. Your select committee agreed with that view and we have put in clause 37, so that it shall be beyond doubt that the provisions in the Bill are in addition to the public health laws and not in derogation thereof. So that, in effect, the Board will not cut across existing health regulations.

Clause 38, Sir, is a new sub-clause to deal with the balance of the butter levy fund.

Now, Sir, I would like to end by moving the adoption of the report—I hope I have not been too quick in my review. I have tried to indicate to hon. Members the various points which arose before the select committee, the misgivings which were put to us and how we have tried to meet them. There is one particular misgiving which I would like to speak to. It is the question of more consumer representation on the Board. Your select committee felt, Sir, that we should not attempt to get too large a Board if it is to discharge its functions efficiently. We also felt that, as far as possible, we should not attempt to detail the specific sections and groups which might be represented on the Board. We have tried to meet this particular point of the consumer view by, first of all, as I have already said, making the chairman nominated by the Minister without consultation of the Board, in the belief that that will achieve a fair and impartial appointment. Secondly, by amalgamating clauses 18 and 19 so that the whole of the rule- and regulation-making power is in the hands of the Minister on the advice, not upon the approval, of the Board. Thirdly, by making it mandatory on the Board to set up a consumers' committee, and further, amending the original Bill to allow for that consumers' committee to nominate a major proportion of the members of the public nominated by the Minister to the annual general meeting. When I said the consumers' committee nominates, I should have said, I think, allowing the consumers' committee to put forward a panel of names from which the Minister will nominate a high proportion to this annual general meeting.

Now, Sir, in regard to this particular clause 5, as I have already said, your committee was unanimous.

With these words, Sir, I beg to move that the report of the select committee on the Dairy Industry Bill be adopted.

THE CHIEF SECRETARY (Mr. COURT) seconded.

#### Question proposed.

MR. HASSAN: Sir, I must pay tribute to the Minister for Agriculture who was chairman of the select committee which prepared this report; we worked with him for the best part of six days, having double sittings most of the days, and went through the Bill clause by clause. This Bill was considered by the country and most of the people were very controversial and the people had a fear that in this Bill there was a monopoly going to be given to a group of producers who would certainly treat the consumer and the people they sell their produce, to, in the same way, causing hardship and other things, as was usually felt was the result of controls in this country before.

There is no doubt that our whole object was to see that the consumer and producers are placed in a position where any one of them cannot possibly get away at the cost of others. We discussed almost every item and members put up quite a number of amendments. We succeeded in getting quite a few clauses changed to satisfy the critics of this Bill, and some of those we did not succeed in, at least I myself and a minority. We did not have a hundred per cent success in our suggestions, although the Minister at every point promised to see that the Bill will be worked out in such a manner that it will never create any hardship to the consumers.

The points on which we differed I would like to mention for the information of the House. First of all, there was clause 2. This refers to scheduled areas and non-scheduled areas. In this country, we have a milk supply maintained in the towns predominantly by the milk supplied from the scheduled areas. A certain quantity, not the same, was always supplied by the non-scheduled areas to the towns and the

[Mr. Hassan] municipalities. It was felt that if the milk supply from the non-scheduled areas was not permitted in the towns, there would be a likelihood of hardship caused to several hundred thousand Africans living in these municipalities and townships. They would like to have something of the lower-grade material in the dairy produce coming to them from the reserves, which they have to some extent been having before. It was felt that if their marketing was prohibited in the towns and municipalities they would have to do without these necessary items of diet because they will not have the necessary funds to pay for higher standard products.

The prices of the commodities coming from the scheduled areas, from the organized European producers, carry colossal prices, which the pockets of the low-income groups and the poor people in the towns cannot afford. It was with that purpose in mind that I suggested that the non-scheduled areas should not have any restrictions and they should be exempted from the jurisdiction of this Board, which was accepted. But unfortunately the produce coming to be marketed in towns and municipalities was not accepted.

The second point was the question of the membership of the Board. People in the country felt that this essential item of milk which was needed by almost all types of people is going to be controlled predominantly by the producers on the Board, and we suggested that we should have all communities represented on it, although the Board was not in favour of allowing the membership to be on a racial basis. But, Sir, when we have different types of people consuming and producing that material, it is necessary that, when appointing a board of this nature, arrangements should be made that all communities should be represented on it. There was great agitation that the number of consumers on this Board was not defined, neither was it shown in this Bill that the number of consumers on the Board would be such and such.

The Minister promised to look into this and agreed that instead of under two members chosen by the Minister of Commerce he should ask other insti-

tutions to suggest a panel of names from which two members will be selected. I have suggested that the Elected Members in this Council, representing different groups, are the proper people who are responsible for bringing into force such Bills in this Council; the people demand of them certain protections and remedies and they are the proper people to give a panel of names of people of the type required by the Minister. Appointment from among those names will give satisfaction to the Elected Members in this Council as well as to those people they represent here.

The Minister did promise to meet us half-way and he put up a clause that a panel of names presented to him by all associations and groups will be given his consideration. I would like to have an assurance from him when he replies that the members, although I do not say that they should be appointed as Africans and Asians, should be appointed as members of the Board to represent the interests of the larger number of people who would be affected by the work of the Board.

There was a fear and some suspicion among the people that the Board will not be doing justice in its working and they gave as a reason that the producers have demanded a majority on this Board. The mere fact that they want a majority on this Board indicates that they do not like to work with the consent and consultation of the consumer to whom they will be selling their produce. If the producers meant to market their produce and see that the consumers were giving their consent and willingly buying their produce, they should not have demanded a majority. For this purpose, the Minister promised to appoint members who will be Asians as well as Africans on this Board to protect the interests of their people.

Another matter on which we differed to some extent was the matter of producer/retailers of Mombasa, and the co-operative of Asian, African and Arab milk schemes from Mariakani. The producer/retailers of Mombasa have a unique position as they are producing milk under conditions in which no producer is producing in the whole of Kenya. They buy cows at a colossal cost from up-country settlers, live within the town of Mombasa and pay as much as

[Mr. Hassan] .....  
 Sh. 1/50 a cow to the municipality as rent per month. They pay colossal prices to maintain teams of boys as milkers and boys bringing grass and looking after the cows. They incur colossal costs in feeding their cows which cost them, according to the statistics collected, Sh. 2/50 to Sh. 3 per cow. After all this colossal cost, they produce milk and fresh milk is consumed by the people of Mombasa. It is the particular type of milk which the Asian started about 50 years ago, to be obtained from this source in the town of Mombasa, when we practically had no producers and no scitlers in this country. They have maintained it under very strict supervision from the Health Department. I think an examination of those dairies would convince the Minister himself that the dairy they have put up with cement floors and all types of modern systems of sanitary production of milk is a scheme which has not been enforced in any part of the country. Those people have survived and they have been carrying on business to the satisfaction of the Health Department, to the satisfaction of the consumers, and unless the Medical Officer of Health finds that they are keeping their dairies spotlessly clean and there has been no prosecution in connexion with the quality of the milk they never get their yearly licence which is renewed every year. There is very strict supervision of the industry, the sanitary inspectors frequently visit them to see that they keep their dairies thoroughly washed and sanitary.

Now, those people, of course, insisted that they were abiding by the dairy by-laws which are on the same basis as those which are enforced in the United Kingdom, and as such they should be exempted from the provisions of this Bill.

The Minister promised me that if the Board ever decides to bring them under their control, such a request will be notified to the people themselves and they will be given 21 days to appeal if they want to be exempted from the Board's jurisdiction.

The second matter was the Arab, African, and Asian co-operative from Mariakani.

That co-operative society has been run for the last 18 to 20 years and has managed the sales of milk from that

area. That co-operative is based in a way so that any interference in the working of that scheme will be likely to deprive the Africans of that trade. It is the first of its kind in Kenya and that has not been done in any part of the African reserve.

They also suggested that they did not want their scheme to be taken over by the Board. I say that because whenever we had enquiries on the milk products of Kenya the experts always visited those areas and they had fears that some of other producers wanted to get rid of them.

Now, Sir, the whole idea of establishing those dairies and arranging the milk supply from that area was to cater for the needs of 50,000 to 60,000 Africans living in that town and who cannot afford to buy the first standard milk coming from the up-country sources and they are satisfied with the milk that is supplied to them from Mariakani at the cheaper rate. That is milk which is costing Sh. 2/65 a gallon.

These two matters were also put up to the Minister who promised to give his permission to those people to appeal in case the Board decided to take them over.

Another matter which I feel, after having received evidence from all types of people in the select committee, is that the dairy people are going to be facing a very serious problem which will necessitate the establishment of this Board to help them so that they will not suffer any hardship. It was then decided or discovered that a considerable quantity of dairy produce cannot be marketed anywhere but within this country and the municipalities are the only places where the market can be shared; and with a view to helping and assisting the producers not to go out of the business, a Board of this nature will help them to level out their marketing system all over the country.

However, Sir, there is one thing about which I have been thinking very seriously—and that is the thing about which no step has been taken—which is the question of the export of dairy products.

When I was in Mombasa serving in the Veterinary Department, I carried out an experiment in sending a few hundred weights of ghee produced from local

[Mr. Hassan] .....  
 butter to Bombay and Calcutta. Reports received from those places stated that the ghee was most satisfactory, and they wanted to know whether we could supply them with a few thousand tons a month, which Kenya could do. When the price of butter went down to such a low price in the United Kingdom it became quite obvious that our producers in this country could not possibly export butter at uneconomic prices. But the price of ghee, so I have been informed, is Sh. 4/50 per lb. in Bombay and Pakistan. It is a very reasonable price and any quantity of ghee that can be produced in Kenya will not satisfy the demands of the people of even one town in those countries. If such a system was investigated then I am positive that there would not be the need of sharing the market with those people who produce at a colossal cost these products on farms, which are very expensive, and who have maintained for years the supply to the towns.

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

THE SPEAKER (Sir Ferdinand Cavendish-Bentuck): Order, order!

I would like to draw the attention of hon. Members to the fact that we are now discussing the report of the select committee. The Motion before the House is to approve the report of the select committee. A reprinted Bill has been issued.

We are not going through the whole procedure of a Second Reading of the Bill all over again. I would not interrupt the hon. Member who had just spoken as I did not wish to appear discourteous. But I would like to draw hon. Members' attention to this.

Members have recourse to Standing Order 95, and their proper course to adopt is to speak to a particular clause in the reprinted Bill, or to a particular section of the report, and to draw attention to the fact that they disapprove of it and that they wish to alter it. They can then move, in accordance with Standing Order 95, that the report of the select committee be approved subject to the recommendation of that clause or those clauses of the Bill to a Committee of the whole Council, in order that the whole Council can discuss the possibility, or

otherwise, of the change in the report as submitted.

MR. OLD TIPS: Mr. Speaker, Sir, I need only say that having been a member of the select committee most of my very serious misgivings and fears were removed, but on the whole I cannot accept the present Bill as it is. Mr. Speaker, I do not want to go into the minor differences in our select committee, but I still very strongly feel that clause 2 as worded is unacceptable because if it is not intended to squeeze the small African producer out, then I feel that there is no difficulty and that there is no reason why this clause should not be re-worded so as to specify a limited quantity of dairy products which a small African producer may be allowed to sell in townships and municipalities without restrictions, provided that such produce conforms to the required standards as laid down by the local health authorities.

Falling this, Mr. Speaker, I really feel very strongly that there should likewise be a clause to the effect that any dairy produce produced in the scheduled area will not be sold in the non-scheduled areas without the consent of the African district councils to which such produce is intended for sale. On the other hand the whole thing should be uniform because I see no reason why the dairy produce produced in the African land units should be restricted for sale or for consumption in the non-scheduled areas. After all we must consider, this very seriously Mr. Speaker, Sir, because there is no market in the African land units.

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): Mr. Speaker, on a point of order, would I be in order in directing the hon. Member's attention to the fact that he is not correct in his assertions. The produce in the non-scheduled areas is not confined to the non-scheduled areas.

MR. OLD TIPS: Thank you.

THE SPEAKER (Sir Ferdinand Cavendish-Bentuck): I must ask the hon. Member to address the House and to say exactly what section of the report or what section of the reprinted Bill he is referring to. Otherwise this will develop into a debate on another Second Reading of this Bill.

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): Mr. Speaker, in fairness to the hon. Member he did, in opening, address his remarks to clause 2.

THE SPEAKER (Sir Ferdinand Cavendish-Bentinck): Then if the hon. Member will stick to clause 2 we will all know where we are.

MR. OLE TIPIS: Mr. Speaker, Sir, I am entirely concentrating on clause 2, because on this clause, I do not know whether I read it very correctly, but I am entirely opposed to the words—and what I am trying to get at is to amend clause 2 entirely, that the words "after areas" in the second line to "townships" in the fourth line be deleted because I do not see why a small man with only three or four bottles of milk—which may be only surplus in the African land units—should not be allowed to sell this milk in townships and municipalities without any restrictions so that he could earn his living that way. I think there is a danger in that clause and it is quite unacceptable to the African community as such because there has been no evidence whatsoever of any likelihood of competition. After all, I live in the reserve and I have got two cows which I milk and from which I get my own milk. Now, what am I going to do with my surplus of two bottles if I am not allowed to sell those two bottles in the neighbouring township or within the municipal area.

Those are my fears, Mr. Speaker, and I think I would be very happy if the hon. Minister would consider it very seriously; otherwise it will have very serious repercussions from the African people that the Bill, and especially this clause, is drafted to squeeze them out and let the bigger man have something still bigger.

The other thing, Mr. Speaker, is that I think the Minister should find no difficulty whatever in giving us an assurance that this will not interfere with the smaller man, the African producer, and I beg to move that the second clause of this Bill, the words after "areas" in the second line to "township" in the fourth line be deleted. With these words, Mr. Speaker, I beg to reserve my position.

THE SPEAKER (Sir Ferdinand Cavendish-Bentinck): Hon. Members should

use the proper procedure, which is that you therefore move the amendment to the Motion before the House, by the addition of the words, in accordance with Standing Order 95, that the report of the select committee be approved "subject to the recommendation of clause 2 of the Committee of the whole House." That is what you want, is it? I take it that you have done that.

MR. OLE TIPIS: Thank you very much.

MR. TRAVADI: Mr. Speaker, in accordance with the provisions of Standing Order 95, as you have just rightly pointed out, I beg to move that the Motion proposed by the hon. Minister be amended by the addition at the end thereof of the words "subject to the recommendation of the Bill as reprinted to a Committee of the whole Council in respect of (Sir, I will include the clause of my hon. friend) sub-clauses 2, 3, 5 (2) (d), 35 and 36, and also that the definition of "the Minister" may be added to its appropriate place." Mr. Speaker, Sir, according to the practice of this House, and in accordance with the provisions of Standing Order 92, I have given a written notice to the Minister as required. Now, I want to deal with each amendment that I would like to propose.

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): The House has now before it a Motion moved by the hon. Member for Rift Valley, and I would submit to the hon. Member that he must move an amendment to the Motion which is before the House. We will have it in order then.

THE SPEAKER (Sir Ferdinand Cavendish-Bentinck): I think, with all due respect, that we are more or less in order, because the hon. Member's Motion is correctly put, whereas the last speaker's was not correctly put—the amendment includes clause 2.

MR. TRAVADI: Mr. Speaker, the amendment that I want to move is this: that the definition of "dairy produce" appearing in clause 3 be amended by the deletion of the words "or, by-product" and by the substitution therefor of the words "and prescribed by the Minister in consultation, with the Board."

Mr. Speaker, Sir, my intention in moving this amendment is that the use of the word "by-product" appears to be a

[Mr. Travadi] vague and ambiguous that even in the select committee the word "ice-cream" has had to be removed because the word "cream" embraced that. Now, according to the definition as it is now in the reprinted Bill even Indian sweet, the by-product of milk, such as *peda*, and also the coffee and tea we drink are the very by-product of the dairy produce.

I therefore, Sir, move that power be given to the Minister to prescribe any product, or by-product, or dairy produce, and that should be done in consultation with the Board.

Another thing, Mr. Speaker, I have found in the Bill; the omission of the definition of the Minister himself. I know the Minister for Agriculture—Mr. Blundell—but I could not find the definition of the Minister in the Bill, and hence I move an amendment that the definition of Minister be entered in clause 3 at an appropriate place—i.e. "Minister" means the Minister for Agriculture, Animal Husbandry and Water Resources.

Now, Mr. Speaker, coming to the amendment to clause 5 (2) (d), which I propose to do is this: that the word "two" at the beginning of sub-clause (d) in paragraph 2 of clause 5 be deleted and substituted by the word "five". Mr. Speaker, in support of this proposed amendment I would draw the attention of the House to the preamble of the Bill which provides a machinery for the improvement and control of the dairy industry, and its products, and the provisions of this Bill affect largely the producers and consumers. But, Sir, there is a third class of retail traders—call them distributors or suppliers who buy milk in bulk from various creameries and producers and sell it by retail trade to consumers. The retail traders have invested money in building their business, installing modern plant and machinery, in building better dairies, and in many other things. They have entered into long leases with their landlords, some have to pay rent. These retailers and distributors have invested hundreds and thousands of shillings in developing their trade; they have even advanced money to the producers, given credit to various customers, etc.

This class of retail traders has been given no representation on the Board.

They should be given representation on the Board. There are, Mr. Speaker, as everybody is aware, according to the reprinted Bill, 12 members on the Board. The producers are very well represented—there are to start with five from the scheduled areas and the scheduled areas, as defined in section 22 of the Agricultural Ordinance of 1955, comprise (a) the Highlands, and (b) such areas of land as might have been added and published in the Gazette. So more or less those five producers come from—if I may be allowed to call them so—the White Highlands. Then there are the non-scheduled areas; there are three members from there and the select committee has given a little more representation to the Africans. But there is no adequate representation whatsoever of consumers. There are 150,000 Asians in equal or even in greater numbers than Africans who reside in towns, and about 30,000 Europeans too who are really, in the proper sense, consumers. As I said before, Sir, there is no representation at all, direct or indirect, I should call it, of retail traders, who, as I said before, really do the job of actual distribution of milk to various consumers and who have evolved and organized a network and a fleet of workmen to deliver the milk in the very early morning every day, I think, Sir, that the interests of these people, and the consumers, demand that there should be equal representation to, if not more than, that of the producers.

It was said here only the other day in seconding the Second Reading of the Bill by the Specially Elected Member, the hon. Mr. Slade, that the need to control was very great for which he gave two reasons. Firstly, there is a sudden increase of production of dairy produce—butter—and a sudden fall in world prices. When there is a sudden increase in production and a sudden decrease in world prices, he would sponsor a statutory control of the dairy industry. If a sort of such a statutory board is created, what would be the reaction on the consumers? Would the law turn the table upside down and increase the world prices and decrease production? It can raise the production no doubt by the control regulations that exist. The regulations of this only extend to the boundaries of Kenya Colony and

(Mr. Travadi) not beyond that. Then to stabilize an industry, which has very little chance at the moment of export, and where the production increases day by day—how are we going to stabilize and help the industry? The only way that appears to me is to increase the price of the dairy produce, and in that way it will only be the Consumers who would be paying for the stabilization or the regulation of this dairy industry. Then can we not call it an indirect subsidy to the producer, Sir?

I do not want to go much further in this matter, but I would only submit that the consumers should have adequate representation, at least in the number of five and not two as at present proposed. I do appreciate that some provision has been made in this Bill—clause 15—for the consumers, but its powers and functions are so limited that it gives very little direct representation on the Board itself. It says that certain complaints will be gone into and they will report on the matter to the Board and they will consider that, but what the result will be nobody can say.

In appointing members, the Minister will have a wide field to choose, from various geographical parts, such as from the coast, even from the organizations such as distributors and even from the organization like housewives, etc. It can be that a man—an Asian or anybody—can be chosen, from up-country, and so on and so forth.

There is one thing here, Sir, in this Bill: according to the provisions of clause 24 (1), the power of the organization; it says "The Board may out of its funds purchase, take on lease, hire or otherwise acquire such land, buildings, plant, machinery, livestock and equipment as in the opinion of the Board are necessary for the performance of its functions", and its sub-clause (3) says "The Board may out of its funds provide for the erection of such depots, factories and stores as it thinks fit". The idea can be that the present retail traders business can be bought out and controlled, and under sub-clause (3) of the Bill can be replaced by others. I hope this is not the idea, to drive away, more particularly, the present Asian retail traders, who, as I have said before, have spent hundreds of thousands of shillings.

Mr. Speaker, Sir, there is a clause—33—where the penalty is provided; it is a very peculiar clause, as its drafting shows. I do not want to throw any mud on the Legal Department with regard to this, but I find the clause as it reads at the bottom—if I can read out the whole thing—"Where, the person in breach of any provision of this Ordinance or of any regulations made under this Ordinance is a company, every director, manager, secretary and other officer of the company who is knowingly a party to the breach shall also be guilty of the like breach and be liable to the like punishment". I do not understand "like" punishment. In this connexion, I wish to draw the attention of the House to the provisions of clause 33, at the bottom, a line which says "to a fine not exceeding two thousand shillings". Does that word "like" mean that the Minister would have to impose a fine of two thousand shillings on anybody who commits a breach? I do not understand that. Therefore, I would like to move an amendment that clause 33 of the Bill be amended by the deletion of the words "of the like breach and be liable to the like punishment" and by the substitution therefor of the words "of the offence and shall be liable on conviction to a fine not exceeding five hundred shillings". I would like to reduce that fine to only Sh. 500.

Lastly, Sir, there is section 36 which relates to an appeal to the Agricultural Appeals Tribunal. The composition of the Agricultural Appeals Tribunal, as it has been laid down in Part XI of the Agricultural Ordinance of 1955, which is page 105, is also interesting. There is a chairman appointed by the Chief Justice. Then there are two other names to be chosen from a panel of names submitted from the scheduled and the non-scheduled areas.

If I may, I would draw the attention of the House to the Agricultural Ordinance, where, as I said before, where one man would be from the panel of that particular scheduled area and the second man would be from the non-scheduled areas. We have here in the Colony, producers, distributors and consumers spread over the whole of the Colony, including Asian, European and African

(Mr. Travadi) people. The complaints would be better looked after by a judicial body.

Therefore, Sir, I move that the Motion as moved by the hon. Minister for Agriculture be amended, as I said before.

I beg to move.

Mr. PANDYA seconded.

Question proposed:  
 THE SPEAKER (Sir Ferdinand Cavendish-Bentick): If any other Members wish to speak or to bring forward further sections of the Bill for recommission because they disapprove of them as they stand and of the report of the select committee they should add another clause or two to this amendment.

THE TEMPORARY MINISTER FOR LEGAL AFFAIRS (Mr. Conroy): I would like to deal with a few legal points which the hon. Member who has just sat down raised.

Sir, the first matter he dealt with was the definition of "dairy produce" appearing in clause 3 of the Bill. He wants to delete the words "or by-product of milk" and give power to the Minister to prescribe by-products in consultation with the Board. Sir, I would suggest, for two reasons, that that is wrong. In the first place the Bill itself does not control by-products in any form. It is an enabling Bill in that respect. By that I mean that it gives power to the Board to deal with by-products. When they have dealt with the by-products they would say which by-products they were dealing with. So, what in effect the hon. Member's amendment is, seeking to introduce in Committee is already in the Bill.

If, for example, you look at clause 19, you will see 19 (a) gives power to the Minister, on the advice of the Board, to prescribe the grade for any form of dairy produce. He will, in prescribing the grades, say whether it was ice-cream or any other of the things you produce from milk. Under 19 (b) he will say which by-products, if any, he will be going to fix the prices for. Under (c) the same thing will happen. He will specify the by-products of milk in each particular case.

I think that the point the hon. Member was making is fully met within the Bill. For that reason, the Government is not prepared to accede to his Motion.

Sir, secondly, he wishes to insert a definition of "Minister" into the Bill. Now, I would draw his attention to the Interpretation and General Provisions Ordinance, 1956, which is Ordinance No. 38 of 1956. At page 322 of the 1956 Ordinance he will find the definition of "Minister", which means Minister who for the time being is responsible for the matter in question.

Now, Sir, it is constitutional law that the Governor has power to vary subjects within portfolios as part of his prerogative. It would be contrary to the normal custom of Bills which we have had here to define which Minister we mean at the time of the passing of the Bill. We know that under the Interpretation and General Provisions Ordinance, Sir, it will be the Minister for Agriculture and Natural Resources, but we must leave unfettered the discretion of the Governor at some future date if he thinks proper to vary subjects within portfolios. I cannot think of subjects being taken away from my hon. friend who sits here but you must not fetter the discretion of the Governor in the matter and the point is already covered by the Interpretation Ordinance.

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

[Mr. Deputy Speaker (Mr. Bechgaard) took the Chair]

Sir, he seeks to amend sub-clause (d) of paragraph (2) of clause 5, by deleting "two" and substituting "five"; that is, increasing the size of the Board by three. Well, Sir, he will then be in this difficulty: sub-section (1) of clause 5 says that the maximum of the Board shall be 12. Then he wishes to amend sub-section (2) to make the maximum of the Board 15, and you immediately have a serious conflict between the two provisions of clause 5—half of it saying that the Board shall have a maximum of 12 and the other half saying it shall have a maximum of 15.

Then, Sir, he seeks to amend clause 35, and as I understood the argument, it was that it is wrong to make a manager, director, secretary or other officer of a company—who probably may commit some offence accidentally—to be liable for a fine of more than Sh. 500. If the hon. Member would like to look at the wording of the clause, it says



[The Temporary Minister for Legal Affairs]

"every director, manager, secretary or other officer of the company who is knowingly a party to a breach".

Now, Sir, the Bill, with one minor exception with which I think we are not really concerned, does not itself create offences. It gives power to create offences by regulations, and if the hon. Member would look at clause 20, sub-section (c), he will see that regulations made under this Ordinance may provide for imprisonment for the breach of any regulation, order or direction, for the maximum of Sh. 10,000 and a period of one year. Well, of course, you cannot send a company to prison for a year, but if a regulation is made by the Board which, in its discretion, it decides is so important—so fundamental—that a breach of that regulation requires a fine of Sh. 10,000 to be attached to its breach, then I would suggest it is wholly wrong that an officer of the company who is the person who really commits the breach—because the company cannot factually commit a breach—the company, if you could fine it, could be fined Sh. 10,000, but the man who really committed the breach could only be fined Sh. 500.

We have been in trouble with private companies for long enough recently, and I hate to think of the possibility that such an amendment to the law would open up for anyone who wished to commit breaches of the law with comparative financial immunity.

For all those reasons, Sir—and, of course, all these matters I am assured were fully considered by the select committee—I oppose the amendment to the original Motion.

MR. SLADE: Mr. Deputy Speaker, I oppose this amendment; and I would begin by echoing what the hon. Minister for Legal Affairs has just said before he sat down—that this Bill, as now amended, represents many hours of work by the select committee, after hearing many arguments—including most of those that have been put forward today. I think it is a pity that hon. Members who have ideas on a Bill of this kind, for which a select committee has been appointed, do not come and represent them to the select committee, rather than waiting until now. Some hon. Members

did so, and I hope others will in future follow their example.

Sir, I only want to deal with two of the clauses which are now under fire, and the first is this rather important clause 2, which now exempts, for a period anyhow, certain intercal activities, one might say, of the non-scheduled areas. It is suggested that that exemption should extend further to produce which leaves the non-scheduled areas for towns, and it does seem to me, Sir, that those who make that suggestion have failed to appreciate the point of the exemption. Surely, Sir, if one is going to create a Board which is required to control dairy produce, it must have power to control all dairy produce that is coming into what might be termed the common stream of produce. It does not make sense to give a Board power to control part of the produce that is flowing through a certain pipe, and not the other part. To put another analogy—it is quite reasonable, as this clause 2 provides, to exempt from control a little spring of produce that gets dried up by consumption before it meets the main river, but any produce that meets the main river that is flowing into towns, municipalities or other areas, must come under the same control as any other produce going into that river, and that is the basis of this clause as it stands.

Now, Sir, the other big point is that raised by several hon. Members, including the Mover of this amendment, on clause 5 (2) (d), where they are worried about representation of consumers on the Board. I know, Sir, not only from what they have said and what we have heard on the select committee, but what I have heard from members of the public within the last few days, that there is real anxiety about this question of representation of consumers, and it is important that we should, if possible, allay that anxiety. I do not think, Sir, the way to allay it is to put large numbers of consumer representatives, as such, on the Board. Nor did the select committee think so. After all, whatever you may think, these Boards do not operate by majority vote. Assuming that you appoint responsible people, then judging by experience of other boards of this kind, you get agreement in the board, and they act as one, starting with representation of different points of

[Mr. Slade] I do not think it is going to help matters to pile in a lot of so-called consumer representatives to swell the numbers of the Board, with the idea that they will be a militant minority. No, Sir, what does matter—what matters very much—is that we and the public should be assured that the Board will have constantly to hand and constantly forced upon it, in fact, the advice of responsible people who can speak for the point of view of consumers. That the Board must have, and I think possibly it could be more greatly assured if the Minister could give us an undertaking with regard to this clause 5 (2) (d).

[Mr. Deputy Speaker (Mr. Bechgaard) left the Chair]

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

This provides at present for two members who will be selected for appointment after consultation with any person or organization which the Minister thinks fit to consult. Sir, as it stands, that does not really mean very much, though I share responsibility for the wording, because the Minister will always make appointments after consultation with such persons or organizations as he thinks fit.

The public and consumers rather want to know who he is going to consult, or some of the people he is going to consult, and I would suggest that he give us an undertaking—which is not difficult for him to give—that among the people that he will consult in finding these two members, will be consumer organizations. I know some consumers would like that to go further. They would like it to be exclusive consultation with consumer organizations, so that these two members would be purely representatives of consumers and nothing else.

Mr. Speaker, I do not think that is wanted here. We want something more than people who are merely, as I have said, militant representatives of consumers. We want people who know the point of view of consumers, but we want them to have some other qualifications as well, because this is not a very large Board and these people have a great responsibility. We want them to be men

of general experience and intelligence as well as being able to speak for consumers. I suggest it would be enough here, at this point, if the Minister assured us that in finding these two members, he would consult organizations representing consumers, as well as other people, including, for instance, the Board of Commerce and Industry.

But, Sir, I think some other assurances are required to fortify the confidence of the consumer, and especially in clause 15. Now clause 15, as amended, does mark what the select committee thought was the main point. As the hon. Mover has pointed out, it now provides a mandatory sub-section—that the Board must appoint the consumers committees—which was always contemplated but not expressly provided for in the original Bill.

Now, the consumers are worried by sub-clause (2) of clause 15, which says that any committee appointed under this section shall consist of any persons, whether members, officers or servants of the Board or not, whose assistance or advice the Board may desire. Now, that, of course, is a general provision applying to all committees appointed by the Board—finance committees, executive committees, whatever they may be—but it has struck the public as rather sinister that a so-called consumers' committee might consist of members, officers and servants of the Board, possibly to the exclusion of anybody else—though I agree with the hon. Mover that it should consist of some members of the Board. But I am sure he can give us an assurance that the bulk of its membership will be found by the Board on the advice of organizations representing consumers. Otherwise the committee is not likely to be of much value in advising the Board. The whole purpose is that it should help the Board with sound, representative advice, and therefore to make sure that the members of this committee are, for the most part, representative, and accepted as representative, of consumers at large.

Now, Sir, there are two or three subsidiary matters which have been put forward by consumers and which again would increase their confidence. I suggest, just as much as the proposed amendment of clause 5; and so they are

[Mr. Slade] really alternative to the re-committal of clause 5. They arise under clauses 21, 22 and 30.

In clause 21 (4), there is provision that the Minister, after receiving six weeks' notice of the annual general meeting of producers, shall cause not less than ten persons who are representative of consumers to be invited to that meeting. Now, the point made there, is that these ten persons should be informed of the invitation and their names published at least three weeks before the general meeting, so that they can prepare themselves for the meeting, and so that consumers in general will know whom they should approach as their representatives to brief for any points to be raised at that general meeting. If the Minister can give an assurance that these ten or more names will be published at least three weeks before the meeting, that would go some way, I think, to allaying the consumers' fears.

Now, along with that, Sir, in clause 22 (1), there is provision for notice to be sent out at least 21 days before the holding of any meeting, of the business to be transacted at that meeting. Here again, Sir, it will be the Board that sends out notice of the business, and it will therefore be the Board that determines the agenda for a meeting. It is proposed that these ten or more consumer representatives who are going to be invited to the annual general meeting, should be given an opportunity of suggesting items for the agenda in time, which means asking them at least 21 days before the meeting whether they particularly want anything included in this notice of the meeting on the agenda. Perhaps the Minister could give some assurance on that point also.

And the last one there, Sir, is clause 30, where there is provision in sub-clause (4), at the very end, that the Board shall publish its reports and accounts in such manner as the Minister may specify.

Clause 30 (4). Now, the suggestion there, Sir, is that the Minister should actually specify—it does not involve amendment of the Bill—but he should exercise his powers for specifying publication in such a way that this report and accounts will be published at least three weeks before the

annual general meeting. It is the time point again, really—to give consumers, as well as producers, of course, the opportunity of seeing the accounts and preparing their criticisms for the annual general meeting in good time.

Now, Sir, I do not know whether it will be in order for me under the present amendment to deal with two other points, which do not arise actually out of what the Mover has said or out of the clause to which he referred and do not actually call for recommitment, but perhaps I can justify speaking on it, as it were, to avoid the necessity of recommitment of another clause. It relates to clause 19, paragraph (2) which refers to "the power of the Minister, on the advice of the Board, to make regulations for examination, inspection, analysis, testing of dairy produce or articles in connexion with dairy produce", and the general powers for examination and inspection.

Now, Sir, having spoken once, I will not be able to speak again, and some other Member might quite likely move for that clause to be recommitted. If I might anticipate that very briefly, I would like to suggest how that necessity could be avoided.

Sir, the hon. Mover said that there is anxiety, particularly among the local authorities, as to the overlapping of these powers of the Board of inspection with the powers of local authorities. We have, Sir, met it to some extent by clause 37, which shows at any rate that the powers of local authorities remain intact. But two fears are still expressed, both of which I think can be met by assurances from the Minister. One is that there will be duplication—two inspectors appearing on various occasions, chasing the unfortunate dairyman about, thereby annoying him and creating wastage of people and money. The suggestion there is that the Minister should advise the Board, and tell us today that he will advise the Board, wherever possible, in areas where local authorities are operating—of course this power extends also beyond those areas—to co-operate with the local authorities, and with their concurrence, to use the local authority's inspector as the Board's agent, thereby avoiding the duplication which people fear. True enough, he will be inspecting for different purposes; when inspecting for

[Mr. Slade] the local authority he will be inspecting to ensure healthy conditions, but when inspecting on behalf of the Board, he is inspecting to ensure maintenance of standards and grades from the marketing point of view. The fact that there are two purposes involved does not mean that one man would not be sufficient to hold both posts.

The other, Sir, and the last one, is the fear that dairymen may find two inspectors coming along at different times from different authorities and actually giving them conflicting directions. Now, Sir, if my first suggestion is adopted, that is not likely to arise because there will only be one inspector: in fact, Sir, I do not think it is ever going to arise, because I cannot see how two kinds of inspectors would give conflicting directions, although one might make additional demands beyond the demands made by another. But all we need here, I think, Sir, is an assurance from the Minister that he will advise the Board to make sure that whenever their inspectors are operating independently, in areas where local authority inspectors are operating, they co-operate to such extent as is necessary to ensure that they do not give conflicting directions.

Those are all the points I have to make, Sir, and I do suggest that if the Minister can give us assurances on those lines, they will be sufficient to allay the fears that have arisen and which I think lie behind most of the main points on which this amendment was based.

I beg to oppose, Sir.

MR. USHER: Mr. Speaker, Sir, this debate has taken a rather extraordinary shape. It is quite natural, of course that the hon. Mover who chaired this committee, much of whose work we applaud, should have introduced the Motion. It was a little, perhaps, unusual that so soon after the beginning of the debate he should have had his child so hotly defended by two members of the committee.

Sir, what they have really done, although I did not hear all that the hon. Member for Eastern Area said—but I heard some of what the speaker who has just sat down had to say—and it seemed to me that they have been shooting down the birds before they were put up, Per-

haps it would be a good idea if the House would listen to what our fears really are before they dispose of them: This is what is called "anticipating debate", and I do not think this is a very good idea.

Now, Sir, one or two small points have emerged. To start with—clause 3, that is on dairy produce, I was very much amused to read about the elimination of ice cream because if ice cream is made of milk then it is a dairy product, if it is not, it is not. But what the public wants to know is whether it is made of milk or whether it is made of old garage grease or perhaps a mixture of both. How that is determined, we do not know. Nevertheless, I mention it in passing. It was the most naive remark I have seen in any select committee's report.

Incidentally, whilst we are on the subject of dairy produce what about ash-trays and such like that are made by the plastics people?

MR. ALEXANDER: Underpanel!

MR. USHER: Now, Sir, let us go to the independent chairman. I have rather more sympathy than the hon. Mover had for the idea of what we call an independent chairman, and I think what most people outside mean by independent is somebody who is not producing milk or producing anything else which he sells. We all trust the Minister greatly, and I believe that he will do his best, but we would rather see the independence, as it were, expressed in the law.

Now, Sir, about consumer members, about which we have been told we should not make a fuss, but I propose to make a fuss about it because I believe that the consumers, who I believe rather outnumber the producers, would feel much more confidence if they had even one, what they call "consumer member" on the Board itself. Now, I am told that there is difficulty in expressing this, and I am told that it is the intention that the consumer should be represented. Nevertheless, let us have it, for goodness sake, stated and stated outright that we will have a consumer member. Now, I was talking about independence just now, and I repeat what I said, that I believe that by independence we mean someone who is not producing and selling anything at all. That consumer

[Mr. Usher]  
 member might be a civil servant, I do not see why he should not be; he might be a professional man—preferably not a lawyer; but best of all I think it should be a woman. I have not got far to look to see a very suitable sort of candidate for that position, and I have great belief in the use of a woman on such boards. Women are far more down to earth when it comes to domestic economy, and this is very largely a matter of domestic economy. Also, I think perhaps I ought to add—I hope nobody will think indelicately—that since a gentleman named Zeus ran off with a lady called Europa, women, for the most part, have had a holy terror of cows. It is a Freudian concept I am quite sure, but it is to my mind an additional reason for putting a woman on a milk producers' board.

In spite of what the hon. and learned Specially Elected Member said just now and what has been said—again in anticipation—by the hon. Attorney-General, I am a little concerned about what I believe will be a possible conflict of laws. I do not think it is possible to tie up the regulations made by the Board and those made by the local health authorities quite as easily as is imagined. I have just noted down here on the back of my little bit of paper that particularly in things like clause 19 (c) and (h) there is likely to be difficulty and there is likely to be conflict. I believe the matter could be cleared by an amendment to clause 37 which I find still a little bit difficult, as a layman, to understand. If a thing is additional to an existing thing, it nevertheless operates, even if it is not in derogation of it; and I find that over such matters as licensing we may get ourselves into real difficulty. I ought to say at this point that I am not anxious to support the amendment, I do not want to see this recommitment, but I believe most of the matters which I am bringing up now can be dealt with by guarantees in the reply. If they go on the record, then we will trust the Government to do what we want.

There is another matter in section 19—these powers—which is of great concern, I think, to all consumers. Now, I am merely speaking as a townsman—I am not a man who goes on farms; if I did I should probably go in my Sunday

suit and patent leather shoes like Monsieur Poirot and be horrified at the goats-on-of the animals on the farm and fall into a pall of swirl or something of that sort—so I merely say that to me it is a morning miracle that when I get up early, open the door to put out the dog or let in the dog or reprove the cat, I find on the doorstep also, a bottle of that good milk, and those things we appreciate. But we are a little afraid that the price, of course, may rise once this Board's activities are given full scope. It is very natural, and I am quite sure the hon. Member will understand that. That, of course, is why we are so anxious to have one consumer member in his or her own right on that Board. Now, in regard to the consumers' committee, I think the point has been made—but I am not quite sure because I am a little hard of hearing—that we would like the consumers' committee to have been appointed not by the Board but by the Minister himself. If I could put it this way—you have got a majority, a consumer majority—on that Board, and with all the good will in the world they are likely to make the appointment of people of their acquaintance, and they are likely to be business people with ideas sympathetic to their own producers, and for that reason I would prefer to see the appointment made by the Minister.

Now, Sir, as I have said, I am not supporting this amendment, at least at the moment. What I should like to see happen is this, that if one's doubts and difficulties and apprehensions can be disposed of before the final speech, the winding-up speech of the hon. Member, then it might be that we need not move to this Motion to recommit. But I would ask the hon. Member if he could try to arrange that that should be done, because once he has made his final speech you cannot do it, and we are left with no remedy whatsoever. So far as I am aware, Sir, we cannot move amendments to the Bill unless we do it in the way in which it is not proposed to do it.

Sir, I have sounded critical but I should in a way like to congratulate this select committee—I hope they will not all get up to defend their young—it is quite unusual. It is usual in those things that those who in their youth

[Mr. Usher]  
 read Maria Edgeworth—you will remember you have the party of the "piccaninies and the jolliblies and the garrulies"—I think that is the word—"and the grand panjandrum himself with the little round button at the top". Note what follows: "Then they all fell to playing the game of 'catch as catch can'", and, of course, they have done that and they have come to some compromise, but there are many of us that feel that we have not caught what we wanted but have been caught.

Sir, reserving judgment, that is all I have to say.

Mr. JOSHI: Sir, I rise to support the amendment. The hon. Minister for Legal Affairs said that clause 5, paragraph 1 of the report, reads that the Board shall consist of 12 members. When the Member for Central Area, Mr. Travadi, asked in the amendment that this should be 5 appearing in sub-clause (d) in paragraph 2 of clause 5, it implies that the clause 5 should be amended to read that the Board shall consist of 15 members instead of 12 members.

AN HON. MEMBER: It is a consequential amendment.

Mr. JOSHI: I think the number 15 is not a big one, but the hon. Minister for Legal Affairs thinks that it is a big one. I think the amendment is very reasonable and in the representation of the consumer should be at least as many as those of producers, and the consumers, as the Mover of the amendment has just said, is in a greater number than those of the producers.

With reference to the amendment to clause 26, I think justice can be sought in a better way, Sir, in the law courts than in an appeals tribunal.

Mr. Speaker, Sir, I beg to support the amendment.

LORD PORTSMOUTH: Mr. Speaker, Sir, I will shortly be giving notice of two very small things which I would like to see dealt with by a Committee of the whole House. But before I do that I would like to say that I do think that in general I do not support the amendment before us.

First of all, Sir, if ever there was reason to think that the consumers are properly represented then we have it in

the fuss that has already gone on in this House. Most housewives and bread-winners are voters and therefore, Sir, the consumer has the greatest remedy of all: he is always the most vocal. That does not mean that I do not sympathize with the family who have difficulty in making ends meet. Far from it. But, Sir, having watched for many years consumers' interests being represented they generally get the wrong end of the stick.

In 1944, I think it was, in England, there was a great deal of trouble about rising prices and I had to speak on behalf of the farmers to a large consumer audience. At that time the people of England were paying in taxes only on beer, wine, spirits, cigarettes and entertainment more than they paid for the wholesale bill of all their ate; yet if the price of an egg were to be put up by one halfpenny then the roof would be raised. As my hon. friend the Minister for Finance knows, a little bit more on cigarettes or beer and it is more or less cheerfully paid. I think that the consumer's point of view often gets out of proportion: if they would look at the disparity between the milk wholesale price and what they pay to the middleman they might get very much further progress in keeping down the cost of living.

Now, Sir, I am glad to note that in clause 17 two things have been inserted by my hon. friend the Minister. One is that respect shall be paid to choice, which is most important, for under the name of health you can too often get a tyranny over what the consumers consume.

Not very long ago I was talking about this particular point to the town clerk of a very large municipality. He said, "I hope that we get universal pasteurization". That just shows you the danger.

This should do something to allay the fears of the hon. Member of this amendment—that in clause 17, also, there is provision for encouraging the Board to permit the greatest degree possible of private enterprise in milk production, processing and sale of produce consistent with the efficiency of the producer and the interests of other producers and consumers. It seems to me that that does go some way to alleviating the fears that have been expressed by the good

[Lord Portsmouth] honest middleman who has spent a lot of money in order to put his house in order.

Then, Sir, I come to clauses 20 and 23. It is here that I would like to give warning that I would like to move that at the end of sub-section (b) of clause 20—to omit “and such period of imprisonment shall not exceed one year”, with the consequential amendments to go with it. I do not object to the fine. I know that in this case it is permissive for the Board to make these regulations. I am frightened, though, that you will be able to build up a tyranny far beyond what you suspect you are going to get. I have worked in the Agricultural Department in England and I have seen the working of it for 12 years. I am not saying that this will happen here. I am not saying that it is, in the least, in the minds of the Minister or the Board, but things do build up gradually, and I think that for a first offence for a man to be sentenced to one year's imprisonment is, in my view, tyrannous, because I have seen so much of this sort of thing happen where the regulations come into force, and the temptations prevail, and it is said, “We have got to make an example”. Sir, I beg this House to reconsider that word “imprisonment” in that clause.

Again, Sir, on clause 23, this occurs at the end of sub-section (4)—“a fine not exceeding Sh. 10,000 or to imprisonment for a term not exceeding one year”. I think it is possibly worse in connexion with this clause because it is very difficult to know when a man fails to comply with any reasonable requirement of the Board pursuant to such an order. A man may be frightfully bad tempered or think that he has been unjustly treated in some way or other and that may lead to a situation where one section of the community is at war with another under a Bill of this sort.

Sir, I beg to move that the word “imprisonment”—and the consequential amendments—should be removed from that clause.

Sheikh Alamoody: Mr. Speaker, I feel, Sir, in view of your ruling that the only way for me is to move an amendment to the amendment before the House in order to have the desired effect. There-

fore, Sir, I beg to move that the word “five” in the amendment, amending clause (d) in sub-section (2) of section 5, should be substituted by the word “three”, and to substitute the semi-colon by a comma, adding the words “one of whom shall be a representative of producers in coast townships”.

This amendment, Sir, would naturally change the number of members of the Board in section 2, sub-section (1).

I should also like, therefore to move further that the word “twelve” in clause 5 of sub-section (1) be deleted and thereby substituted the word “thirteen”.

Mr. Speaker, Sir, my reason for putting this amendment is that when I spoke to the Bill originally I did make a special request to the hon. Minister for Agriculture that he should make provisions whereby an Arab could be appointed to the Board. I made that suggestion, Sir, not because I wanted particularly to raise a racial issue, but I had very good reasons. However, I did not think that was the place where I could raise those reasons. I thought the best time was during the deliberations of the select committee when they were considering the Bill. I must express my gratitude to the hon. Minister for Agriculture for agreeing, and that is quite a change from the normal tendency to place an Arab on a select committee. I would still like to say again, Sir, that I never wanted to raise a racial issue, although I did observe that the tendency was to exclude the existence of the Arab. The reason, Sir, that I made that request was that the Arabs at the Coast are 90 per cent of the producers; with the exception of Mombasa, you find in all coastal towns that Arabs are the producers, so they should not be represented as Arabs but as producers having a vested interest. When I looked at the Bill at that time, I found that in clause 2, sub-section (2) (d), there were five members to be appointed by the Board as representatives of producers in scheduled areas. There were also under clause 5, sub-section (2) (c) three members who are representatives of producers in non-scheduled areas. There was no provision at all for representation of Arabs and coastal producers. Those were the reasons why I made my request, that the hon. Minister should consider making

[Sheikh Alamoody] provisions whereby an Arab could be appointed to the Board: not to represent Arabs as Arabs, but to represent Arabs as producers.

Perhaps, Sir, I could expound my submission further by saying that in some of the coastal towns, the Arabs consist of about 70 per cent of the distributors in Mombasa itself, apart also from having considerable part to play in the collection of milk in the Mariakani area. It was a great disappointment to me, Sir, when I found in the select committee report that no provisions had been made. It is because of this, Sir, that I make this amendment.

Sir, I beg to move the amendment.

COMDR. GOORD: Mr. Speaker, I speak to section 5 (2) (d). The proposal to amend this section appears to crystallize consumer fears, and I would like to say a few words, Sir, which I hope may dissipate some of those fears.

We have had so far what has been very largely a lawyer's argument, and I should like to put the point of view of the small farmer. The case in all its simplicity is surely that Kenya produces a surplus of milk products, and that a proportion of those products in the form of butter produced by the Kenya Co-operative Creameries has to be sold overseas at a loss. The situation of the farmer who is a member of the Kenya Co-operative Creameries is that he is receiving Sh. 2/30 for his butterfat as against perhaps a neighbour along the road who is not a member of the Kenya Co-operative Creameries who may be getting Sh. 3/50 a pound. Similar discrepancies arise between the Kenya Co-operative Creameries producer of butterfat and the milk producer. Surely, Sir, the objective of this Bill does seem to be getting lost sight of, which is simply to rationalize this situation. Coming back to the consumer, the essence of the situation is the existence of this surplus. All we producers want to do is to sell more and more and more, and surely, Sir, that is the greatest of all the safeguards for the consumer.

Mr. ALEXANDER: Mr. Speaker, Sir, it is appropriate as the sun goes down that I should get up and speak about milk. I am going to face it in a few moments, Sir, as the Minister has suggested,

As the Minister knows, I was a member of the Troup Committee that published the report on which this Bill is based. I do claim to have an understanding of the points of view that have prompted this Bill. All I wish to do, Mr. Speaker, in supporting the original Motion, in refusing to support the amendment, to take the opportunity just to clarify on record in HANSARD by reply from the Minister just one or two points.

Turning to clause 17—and I think this is the only place where I can—

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): What clause—I did not hear I beg the hon. Member's pardon.

Mr. ALEXANDER: He need not worry, Mr. Speaker, because it is not there. I have got to quote the clause in order to say what I am going to say. It is an omission—and I know why it is omitted, because it would be far too cumbersome and complicated to include it in this Bill—regarding this rare specimen, like the stooges the Minister was describing earlier on that are known as producer/retailers. There is no mention in clause 17 of these people. What I would like to do, Mr. Speaker, is to quote the Troup Report, clause 173, on this particular point so that it goes down in HANSARD, and so that it will enable the Minister to give us an assurance that the intention is that the Board should implement what was put down in this paragraph of the Troup Report. And it reads as follows (I quote): “Producer/retailers: these would seem to require registration as agents, and will conform to the price policy of the Board. They would be exempt from direction as is the case in most other countries. The existing producer/retailers should be automatically registered, provided always that they are performing a satisfactory service. New applicants for registration should presumably be dealt with in the light of the needs of the area. Under the Milk Marketing Board of Britain, producer/retailers are liable to the producer cess and the retailer cess”.

My understanding, Mr. Speaker, is that there will be no tampering with existing producer/retailers, and I would like the Minister to confirm that.

[Mr. Alexander]

Regarding clause 17 (c) of the Bill, it reads "To secure reasonable and stable prices to producers of dairy produce". I would be glad if the Minister would confirm that it is also the intention to secure reasonable and stable prices to the consumers and to the retailers.

Regarding clause 19 (f), this deals with what is briefly known in one word as zoning, the idea being, particularly in the urban areas, that the retailers should be directed by the Board to particular customers. I understand that it may at some time in the future be necessary to use this power, but in doing so, I would be glad if the Minister would assure us that the intention would be for the Board to leave an adequate choice of suppliers with the consumers, so that at least consumers have perhaps the choice between three retailers, three suppliers, and thereby allow competition to flow freely.

Regarding clause 21, this deals with the regional meetings, and the consumers' representation at those meetings, but there is to be no vote for the consumers at the meeting. I wonder if the Minister would be prepared to consider, after having seen this working, whether he in fact might move to a position where he might give all or some of those consumers a vote. I think it would stimulate the proceedings of these regional committees. It would at least let producers know that it is no use going—like so many people go to the annual general meetings of companies—just to be rubber stamps. It would let them know that they might have to face up to some opposition, and it might even prompt them to attend the meetings which they might otherwise not do.

Clause 23 deals with the vesting of dairy produce in the Board. I am wondering if the Minister can tell us why it has not been possible to insert in here that if the Board has to use these powers, the assets and the produce acquired will be at fair market value at the time, fair market value at the time. Fair market value is a clause inserted in many contracts and I believe many Ordinances; there seems no reason why it should not be here.

Clause 23 (2) deals with the advertising regarding acquisitions. It only talks

about one advertisement, and I do suggest that here, the Minister might consider extending this and requiring the matter to be advertised at least four times. We do know how neglectful we all are at reading advertisements, and a lot of the time taking little notice of them. I think an extension of the number of advertisements would help.

Clause 24 deals with the power of the Board to set up in business, and I would like an assurance from the Minister that it is to be quite clear to the Board that if they ever have to use those powers, it would not be with the intention and it would not be, in fact, to compete with existing retailers and suppliers or producer/retailers. If they did that, it would, I hope he agrees, be somewhat of an abuse of the Board's powers.

With that, Mr. Speaker, I beg to support the original Motion and to congratulate the Minister on the very excellent work he has done in this respect.

MR. TOWETT: Mr. Speaker, Sir, on the understanding that time is finishing, and on the understanding that the consumers are ignorant outside this House, and that they are not organized, I do not see any reason why we should not allow this Bill to be passed. But I should appeal to the consumers to stop buying milk when they think the Bill or the Board is misusing the powers. I am saying this because the consumers are ignorant; they do not know what is happening here, and I appeal to them to think twice.

With those few remarks, Mr. Speaker, I oppose the amendment and the original Motion, and I shall oppose it until the consumers wake up.

With those few remarks, I oppose.

#### ADJOURNMENT

THE SPEAKER (Sir Ferdinand Cavendish-Bentick): The time is very nearly here for the termination of business. I think as a matter of procedure that I should remind hon. Members what we have before us now. It is an amendment for the recommission of clauses 2, 3, 5 (2), 35 and 36, and also a suggestion for a further definition. I propose when we resume business to put that amendment. It may either be passed or it may not

Thursday, 24th July, 1953

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

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

#### PRAYERS

#### NOTICE OF MOTION

KENYA DAIRY BOARD OVERDRAFT GUARANTEE

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

That this Council notes that the Government proposes, subject to the enactment of the Dairy Industry Bill, to guarantee an overdraft of up to £100,000 to the Kenya Dairy Board.

#### RULING FROM THE CHAIR

THE SPEAKER (Sir Ferdinand Cavendish-Bentick): Hon. Members, in the course of yesterday's proceedings I was asked by the Minister for Legal Affairs to give a ruling as to whether a statement as made by the hon. Mr. Hassan was, in fact, in order or otherwise, and although I did give a ruling so to speak "off the cuff" yesterday, I added that I would give a considered ruling on the matter this afternoon. On reading the HANSAARD record of what I said yesterday on the subject, I find I have very little to add, and what I am now going to say may be somewhat repetitive.

The matter of statements is referred to on pages 364 and 379 of the sixteenth edition of *Erkine May*. As I said yesterday, there are two categories of statements which are permitted. The first are Ministerial Statements in regard to which *Erkine May* says this: "Explanations are made in the House by Ministers on behalf of the Government regarding their domestic and foreign policy; stating the advice they have tendered to the sovereign regarding their retention of office or the dissolution of Parliament; announcing the legislative proposals they intend to submit to Parliament; or the course they intend to adopt in the transaction and arrangement of public business. These explanations are now usually elicited by arrangement in reply to a question. But the older practice under

[The Speaker] be passed. If it is passed, it becomes the substantive Motion, but that would not prevent Members from producing further amendments if there are further clauses which they wish to oppose. If it is not passed, that equally in no way prevents hon. Members from bringing up further questions. But I think if we allow the debate to wander too far on this amendment, we may get ourselves into difficulties. We may also impede the hon. Member in his reply.

The noble Lord has suggested amendments to two other clauses and I propose to take those separately as a further amendment. I think that will be the best way of dealing with the matter.

It now being the time for the termination of business, I adjourn the House until 2.30 p.m. tomorrow, Thursday, 24th July.

*The House rose at sixteen minutes past Six o'clock.*

[The Speaker] which they were volunteered spontaneously is also often followed. Prior notice to Mr. Speaker is necessary, but the leave of the House is not required. As no question is before the House, debate on such statements is irregular. Debate on a ministerial statement has been raised upon a motion for adjournment, *mydd* for that purpose.

The second category of statements is that of Personal Statements. Again I quote from *Erskine May*: "In regard to the explanation of personal matters, the House is usually indulgent; and will permit a statement of that character to be made without any question being before the House provided that leave has previously been obtained from the Chair. Such explanations are made in the order indicated on page 346 before the commencement of public business no debate should ensue thereon, but if another Member is involved in the personal statement, he is generally allowed to give his own view of the matter and to say whether he accepts it or not".

I suggest that these extracts from *Erskine May* fully substantiate the conclusion I came to yesterday, which was that Mr. Hassan, possibly unwittingly, abused the privilege accorded to him to make a statement which I naturally thought would take the form of a personal explanation, and that his taking the opportunity of making a personal attack upon a Minister was totally improper.

I think I have also answered the question raised by the hon. Mr. Cooke in my second quotation from *Erskine May*, which stresses that if another Member is involved in what is supposed to be a personal statement, he is allowed to give his own view of the matter and say whether he accepts it or not.

THE CHIEF SECRETARY (Mr. Couits): Mr. Speaker, Sir, arising out of what you have said, could I have a further point of explanation from you, because I believe that hon. Member yesterday talked about a group statement. Now, Sir, section 54 of our Standing Orders says "by the indulgence of the Council a Member". I would like you, Sir, to make that abundantly clear now, that in fact we cannot have statements made by a group; they can only be made by an individual Member. Is that correct, Sir?

THE SPEAKER (Sir Ferdinand Cavendish-Bentinck): As far as the Chair is concerned, I only deal with an individual Member. He may be making a statement on behalf of a group, but I can have no previous knowledge of that. It is, as you say, a statement made by an individual Member.

MR. COOKE: Sir, does it not in effect save time if an hon. Member makes it on behalf of a group, rather than each individual member of a group making a statement?

THE SPEAKER (Sir Ferdinand Cavendish-Bentinck): That may be so, Mr. Cooke, but if an hon. Member gets up and makes a statement, so far as I am concerned it is the hon. Member's responsibility, and it is he who is responsible for any statement he makes in this Council.

MR. HASSAN: When I stood up, I particularly said that it was the Asian group which had a meeting and that I was making a statement on their behalf. And I was permitted to do so.

THE SPEAKER (Sir Ferdinand Cavendish-Bentinck): I have given my ruling on the subject and I think we might proceed with the business.

### STATEMENT OF BUSINESS

#### LIMITATIONS OF DEBATE

THE CHIEF SECRETARY (Mr. Couits): Mr. Speaker, Sir, on behalf of the Sessional Committee, I have been asked to move the following Motion:

THAT the resolution of the Council on 26th July, 1958, concerning the Motion to be moved by Group Capt. Briggs be rescinded and the following substituted therefor:

That the following limitations be placed on the debate on the Motions to be moved by Group Capt. Briggs and Mr. Alexander:—

- That the Mover be allowed 20 minutes to introduce his Motion and 15 minutes for his reply.
- That one Member on the Government side be allowed 20 minutes.
- That all other speakers be limited to ten minutes.

[The Chief Secretary]

Sir, the object of this is to inform Members that this very long and, at times, rather wearisome session is going to come to a close tomorrow at 12.30. Between now and tomorrow we have to finish the Dairy Industry Bill, we have two main Motions and we have probably another Motion to discuss. I would ask, therefore, the indulgence of Members to be as brief as possible in order that we may despatch as much business as we can before 12.30 tomorrow, because such business as is not disposed of by 12.30 will have to remain over until October.

I beg to move.

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

The question was put and carried.

MR. MBOYA: On a point of explanation, Sir, is it 26th July or 26th June?

THE CHIEF SECRETARY (Mr. Couits): I apologize to the hon. Member; it is 26th June.

### BILLS

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 Banks' Title to Land (Amendment of Laws) Bill*

Clauses 2, 3 and 4 agreed to.

Title

MR. BECHGAARD: I beg to move the following amendment to the title:—

THAT the title to the Bill be amended by the addition at the end thereof of the words "and to remove doubt".

The House will recollect that this amendment is in pursuance of an undertaking given by the Temporary Minister for Legal Affairs to the hon. Mr. Slade yesterday.

Question proposed.

The question was put and carried.

Title, as amended, agreed to.

Clause 1 agreed to.

THE CHIEF SECRETARY (Mr. Couits): Mr. Chairman, I beg to move that this

Committee do report to Council that it has considered the Banks' Title to Land (Amendment of Laws) Bill and approved the same with amendment.

The question was put and carried.  
Council resumed.

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

### REPORT

*The Banks' Title to Land (Amendment of Laws) Bill*

THE TEMPORARY MINISTER FOR LEGAL AFFAIRS (Mr. Conroy): Mr. Speaker, I have to report that a Committee of the whole Council has considered the Banks' Title to Land (Amendment of Laws) Bill and has approved the same with an amendment to the title.

THE SPEAKER (Sir Ferdinand Cavendish-Bentinck): I think that we should adhere to our usual practice in regard to Third Readings.

Report ordered to be considered tomorrow.

### REPORT

#### THIRD READING

*The Criminal Procedure Code (Amendment) (No. 2) Bill*

THE TEMPORARY MINISTER FOR LEGAL AFFAIRS (Mr. Conroy): Mr. Speaker, yesterday I reported that a Committee of the whole Council had considered the amendments to this Bill. Those amendments have been circulated with today's Order Paper and I accordingly beg to move that the Council do agree with the Committee in the said report.

THE CHIEF SECRETARY (Mr. Couits) seconded.

Question proposed.

The question was put and carried.

THE TEMPORARY MINISTER FOR LEGAL AFFAIRS (Mr. Conroy): Mr. Speaker, I beg to move that the Criminal Procedure Code (Amendment) Bill be now read a Third Time.

THE CHIEF SECRETARY (Mr. Couits) seconded.

Question proposed.

The question was put and carried.

The Bill was accordingly read a Third Time and passed.

CONSIDERATION OF REPORT OF  
SELECT COMMITTEEThe Dairy Industry Bill  
(Bill No. 50)

Resumption of debate interrupted on  
23rd July, 1958.

The SPEAKER (Sir Ferdinand Cavendish-Bentley): I propose now to deal with the amendments. We have before us the original Motion which is that the report of the select committee on the Dairy Industry Bill be approved. An amendment has been moved to that by Mr. Travadi which is on the Order Paper and which adds to the original Motion the words "Subject to the recommitment of the Bill as reported to a Committee of the whole Council in respect of clauses 2, 3, 5, 35, and 36", and also in respect of the proposed addition of a definition of the words "Minister concerned" which I think applies to clause 3.

I would now suggest that the House deals with this amendment, and this amendment only, and that when we have disposed of this amendment and that proposed by the noble lord, it will then be up to any Member who wishes to do so to propose further amendments to other clauses if it is considered desirable.

As soon as we have disposed of this first amendment I propose to deal with the suggestions made by Lord Portsmouth in regard to clauses 22 and 23.

Mr. MBOYA: Mr. Speaker, Sir, I would like to make a few points on the amendment, particularly concerning clause 5.

The question of the membership of the Board has been discussed at some length both publicly through the Press and also in this House. There are just one or two points that the Minister mentioned when he spoke yesterday on which I felt very uneasy.

Clause 5 (2) (d) specifies that there will be five members who will be producers and who will be selected for appointment from a panel of not less than 10 names submitted to the Minister by the Board of Agriculture. That specifies that these five members shall be producers and by virtue of the fact that they will be appointed by the Board of Agriculture we know that they will come from the scheduled areas which really suggests that they will be Europeans.

Sub-section (c) specifies that there will be three members... selected for appointment from a panel of not less than seven names submitted to the Minister by the Land Development Board... and I would have assumed that these three members would in a way represent the producers from the non-scheduled areas, but when he spoke yesterday I thought I heard the Minister say that there was no reason why the three members should be a mixture of producers and consumers or that there was no reason why the panel of seven names could not include producers and consumers. If the Minister's idea is that of the three members there should be appointed one or two consumers, and one producer, then, Sir, the participation by producers from the non-scheduled areas in the Board will have been weakened considerably apart from the fact that the composition of the Land Development Board itself also raises the question of how far such members or such a panel of names appointed by this Development Board can produce the sort of effective producer representation from the non-scheduled areas we need. We would like to see this situation reviewed so that at least there is an assurance that the three members will be producers from the non-scheduled areas.

The question of consumers has been dealt with and some provision has, I think, been made in other parts, including the fact that in (d) there will be two members to be selected for appointment by the Minister after consultation with various organizations. One would have thought that that is the place where the Minister might have considered appointing his consumer.

When he spoke on (e) of the same sub-section, the Minister—I thought I heard him say this—said that he did not think there was any reason why, when the Kenya members of the Association of Municipalities submitted a name, it could not be, for example, the Chairman of the Housewives Association. I think this is begging the question, really, because all of us are conscious of the fact that the local authorities will be very interested in participating in the Board, and to assume or think that they could appoint a person other than a person who was going to represent their interests is a bit far fetched. So that when we

[Mr. Mboya:]... some representation, however indirect or remote, will be made available whereby they can bring their problems to the Board.

So far as the consumers are concerned, apart from the provisions of this particular clause, there are other provisions such as that in clause 15 which provides some amount of direct representation. But I would like to see these people included or considered in so far as representation is concerned.

I think there is another point which is missing in this clause, and that is that there has been a lot of talk about producer representation and also a lot of talk about consumer representation. There is another class of people who seem to be left hanging in the air and that is the small retail traders. In this particular connexion I want to refer to the African retail traders, especially in the urban areas like Nairobi. They, too, have various problems and I think provision must be made which will enable them to bring forward their problems and even to participate and to be represented in a way on the Board. There are problems in the urban areas for these people, such as the standards required for trading premises in which they carry out their business, the conditions under which they trade and, in the last few years, when they have dealt with the Kenya Co-operative Creameries, there have been numerous problems that they have had to deal with. I think it has got to be recognized that whereas Asian and European traders or dairymen in the towns are able to find the funds and the capital with which to set up the sort of elaborate machinery and to meet these various public health standards which might be required, the African dairymen or traders in the urban areas are not in that position. It has also got to be taken into consideration that they trade under certain conditions and circumstances in which they cannot meet some of the regulations that are set up by the municipal by-laws or by the Public Health Ordinance. But these are problems which must be brought to the notice of the Board from time to time—the licensing conditions, and the inspection conditions, in the African estates in the urban areas. Now, I would like to see the Minister, or I would have to have an assurance from the Minister that if there should be no mention of this class of people—the representation of this class of people—under this clause, when he does appoint the two members under (d) some consideration will be given to this class of people and that

some representation, however indirect or remote, will be made available whereby they can bring their problems to the Board.

Now, Sir, so far as clause 2 is concerned, I think my friend the Member for the Rift Valley Area did state yesterday that he felt rather uneasy about the inclusion of the words "This Ordinance shall not be applied to any part of the non-scheduled areas except in respect of dairy produce produced in the said areas and sold or intended for sale in the scheduled areas or in any municipality or townships". Now, this clause will give freedom of trade in the scheduled areas alone. Now, my friend did say yesterday that we would like to see that freedom—

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): I thank the hon. Member for giving way, Mr. Speaker, but I would like to interrupt him because he is in error. The clause means that the provisions of the Bill will operate in the scheduled areas. There will only be freedom of movement in the non-scheduled areas. So that a producer in the scheduled areas will come under the planning or control of this Board, whether he likes it or not.

Mr. MBOYA: So freedom of movement will exist in the non-scheduled areas. I thank the Minister for the correction.

The thing I am trying to get at is that under another clause further on in the Bill, the Minister did state yesterday that the Bill was not intended to stop private trade or industry. Now, I thought that implied that dairy farmers in the scheduled areas would be free to continue their private trade and that to me implied that they would be free to bring their produce to towns, municipalities and so on. Now I wondered why it was found necessary to grant freedom of trade as far as the non-scheduled areas are concerned only within the non-scheduled areas and the trading centres,

[Mr. Mboya] but restricting it, or restricting movement of dairy produce from the non-scheduled areas into towns and municipalities. We would like to hear the Minister make a further statement on this point and probably clarify the misgivings that we have on this particular point.

Mr. Speaker, Sir, I beg to support the amendment.

MR. ARAP MOT: Mr. Speaker, I should like to speak on the amendment. I am not going to delay the House. Mr. Speaker, but I should like to say a few words about clause 2, as my hon. friend the Member for Nairobi has said, the guarantees that have been expressed by the Minister are not written guarantees. They are only an expression of verbal guarantees which can never be interpreted as such. I should like him to weigh with great care the views and fears expressed by the African Members, because the Africans in the reserve, as far as clause 2 is concerned, have got more milk; more than they can drink, and the surplus they would like to sell to the towns would be a problem. As far as townships and municipalities are concerned, they will be restricted. I would like to hear the Minister's assurance—whether clause 2 would enable the Africans—the small producers—to sell their milk to those who live in towns without difficulty.

Furthermore, Mr. Speaker, as far as clause 5 is concerned, I would like to differ a little bit with my hon. friend, the Member for Nairobi Area. The African Land Development Board—I, being a member of that Board—the Board has been very fair in its dealings, and it has done all it can as far as African representation is concerned in the African areas. This Board is working for the entire African agriculture, livestock as well. As far as the Africans are concerned, they are being fully represented. Furthermore, Mr. Speaker, I should like to make a point. This question of representation as far as the Minister's opinion is concerned: I think the three Africans should really be the producers, because I find that the Minister might say that out of the three Africans, one of them would be a consumer. I would urge him to include one of the four—that is, excluding European scheduled areas and non-scheduled areas—and include one of

the four (that is, the four making 12), making one African so as to make the producers be well represented.

Mr. Speaker, with these very few remarks, I beg to support the amendment.

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): Mr. Speaker, I propose to deal only with the Motion which is before the House, and then subsequently answer the points, that the hon. and noble lord has put before the House, and deal with the many other points arising out of the clauses in the Bill when I answer the Motion which I originally moved, unless other amendments are moved or other Motions are moved for the recommittal of any particular clause.

Therefore, Sir, I will now speak to the amendment, which is before the House. I would like to make one general observation: hon. Members have asked for a great many assurances. Some of those assurances I can give because the action lies within the powers of the Minister. In other cases, it will be a matter for the Board, I intend to send a copy of my remarks in answering the points made by hon. Members to the chairman of the Board when he is appointed so he will have clearly before him the indications which I give in regard to the matters which hon. Members have raised.

Now, Mr. Speaker, I do not intend in speaking to this Motion to deal with any other clauses than 2 and 5 because the other clauses in the Motion have been dealt with adequately by my hon. and learned friend, the Minister for Legal Affairs.

First, Sir, clause 2. I think there is great misunderstanding of clause 2. First of all, let me draw hon. Members' attention to clause 1 (2) where it clearly says that the Board may operate the provisions of the Board within such areas as may be specified. It is inherent in that that where the Board feels that it is not necessary to operate at all for many reasons, the area will be exempt from the provisions of the Bill. I will give an illustration of what I think might be such an area unless the people in the area asked for it, and that is, the township of Malindi. I cannot see how up-country producing elements can in any

[The Minister for Agriculture, Animal Husbandry and Water Resources] may be competitive in the Malindi area, and it might well be that the Board would leave an area like that untrammelled or unfettered by the provisions of the Bill. I think therefore that many of the African fears will be met by the fact that over many townships, the Board will not declare the townships to be a specified area.

Secondly, Sir, we have put expressly in this Bill that produce moving in the non-scheduled areas as between African and African will be free from the provisions of control unless the Land Development Board has been consulted. The object of that was to meet the fears which hon. African Members expressed that the right of Africans to sell two or three bottles of milk in their own districts and in trading centres would be interfered with.

But, Sir, there is another side to the picture. It is necessary to at least allow provision for those areas to come under the Bill if they wish as production develops. Secondly, if we do not protect the African production in townships and municipalities, they may well be cut out of those townships and municipalities by the operation of the Board. It is essential that the Board should have the responsibility of organizing the African production in the townships and municipalities as well as production from the scheduled areas. An instance of that which has been raised by a number of Members is Mariakani. Unless the Mariakani scheme can come within the provisions of the Board, the whole of the producers in that particular area might be eliminated from the Mombasa market by the competition either of producers not organized under the Board, or by the Board itself. It is essential, therefore, that we should give to the Board the responsibility of seeing that production under the Mariakani scheme can enter and be protected in its adjacent markets.

The hon. Member for the Rift Valley Area asked me for an assurance, Sir, that the small African producer would not be eliminated. I think the words were "would be squeezed out". Now, I would like to make two observations on that. The first is this: I think a certain amount of these fears is unjustified because at the present time, under the Health

Regulations, for instance, neither in Kisumu nor in a town like Nakuru can the independent small producer, whatever his race, sell his milk. He can only do so providing he is already licensed and registered. So it is a fiction to say that there is free movement other than illegal movement, into many of the townships for health reasons. Secondly, Sir, in an area such as Tetu there is already a co-operative in being which sells 300 gallons of milk a day in Nyeri. There is, I think, a perfect example of why the Board will be necessary. Unless the Board is charged with the function of protecting those 300 gallons, and organizing their marketing in Nyeri township, and unless, when that milk enters the Nyeri township, it is protected by the provisions of the Ordinance, there is nothing to prevent the Board completely eliminating by price cutting 300 gallons from the Nyeri market. It is for that reason, Sir, that this has got to be a two-way exercise. One is to give the African producers in the African land units as much freedom as we can; and the other is to give them as much protection as we can when they come in to what we in the select committee, called the main stream of competition. Now, the hon. Member for Rift Valley Area asked me for an assurance that the small man would not be eliminated. What I will do, Sir, is I will particularly draw the attention of the chairman of the Board to the importance I attach to this particular subject, and ask him to see that the small producer is adequately protected under the operations of the Board. I do not think, Mr. Speaker, that I need say more on clause 2, and I should like now to go to clause 5. I just want to make sure, Mr. Speaker, that I have answered the points raised on clause 2. The hon. Member for the Eastern Area, Sir, did say that I had given an assurance that Mariakani would not be affected by the Board. But the hon. Member, Sir, is under a misapprehension. The assurance I gave him was that I felt it was most unlikely that the operations of clause 23 would affect the Mariakani scheme. I do profoundly believe that Mariakani will need the protection of the Board, and therefore it would be most unwise to leave it outside. Now, Sir, I turn to clause 5. I am unable to accept the suggestions for amendments to clause 5 which have been



[The Minister for Agriculture, Animal Husbandry and Water Resources] made. But I would like to make a number of comments on the points which have been put forward. First, an important matter: I would draw hon. Members' attention to the fact that the report of your select committee on clause 5 was unanimous. Now, I can see, Mr. Speaker, that the Minister may be evil, unbalanced and immoderate in his judgment; but I cannot believe that all the members of the select committee were so immoderate, so unbalanced, so unreasonable in their judgment. Secondly, Sir, we have got to strike a balance between what is possible, what is practicable, and what people require. I was calculating today that if I were to meet all the suggestions which have been put before this Council in regard to clause 5, the Board would have to be not less than 24 persons. I would submit that that is a very large Board indeed to organize the industry.

Now, Sir, I turn to the specific points raised by hon. Members. In regard to clause 5 (a), the hon. Member for Mombasa expressed the thought that he was regretful that we had not put in the word "independent". He also asked that the chairman would be neither a producer nor a person interested in the industry. I am prepared to give him the latter assurance.

Secondly, we did not put the word "independent" in, because the consumer interest indicated to us that they felt if we put the word "independent" in, it implies that the chairman is independent of consumer interest. I felt that by nominating the chairman, and nominating a man who would strike a fair balance between all sections of the industry, I would be meeting at least some of the views of the consumer element.

Clause 5 (b), Sir—a point I would like especially to direct the attention of the hon. Member for Nairobi Area to—is that it is perfectly true, Sir, to say that the scheduled areas today are the European farming areas. But there is a special provision for the gradual entry of African districts into the scheduled areas as the standard of farming develops and the education of the farmers advances. That is something that I am particularly interested in; so that in the course of time, the persons nominated from 5 (b)

will become—if I may use the word—speckled in colour. They will cease to be only Europeans, and the composition of the Board may alter and may have a number of other nominations on it.

Secondly, Sir, he used the words that the Board of Agriculture would appoint the persons. That is quite wrong. The Board of Agriculture submits ten names and the Minister nominates the ten names from those persons; so the appointing is done by the Minister.

Clause 5 (c), Sir: as it is now worded, it is true that it is possible, as I said, for a consumer to be nominated under this section. But in view of the remarks which two hon. Members have made, I am quite prepared to say that I shall nominate producers under this section from the names which come up from the Land Development Board. I cannot accept any suggestion that that Board is not a thoroughly competent body to nominate names. I think I am correct in saying that it has an African majority on it, and it is associated with people who have for many years, more than a decade devoted themselves entirely to the development of farming in the non-scheduled areas.

The hon. Arab Elected Member, Mr. Speaker, raised the question of Arab representation on the Board. The Arab areas are in a non-scheduled area, and it would be possible for the hon. Member to make representations to the Land Development Board and place his views before them if he feels really that Arab production is a matter which the Board must consider.

Lastly, Sir, clause 5 (d). I have been asked here for a number of assurances, and I will start with those raised by the hon. Member for Mombasa. He asked me, I think, to give him an assurance that I would consider (I think actually, Mr. Speaker, this comes under clause 5 (e)) that I would consider a civil servant, a professional man or woman, as a consumer. Indeed, I would, Mr. Speaker, but I have not found in consultation with consumers that they are prepared to accept that professional men are consumers. I must record that, and as a result of the evidence which came before us in the select committee, we came to the conclusion that the only true definition of a consumer was a person who

[The Minister for Agriculture, Animal Husbandry and Water Resources] had, difficulty in meeting his monthly bills. We felt that such a definition would indeed really meet the particular points of view which were put to us.

Now, Sir, on this particular clause, may I say this (and it also answers the point raised by the hon. Member for Nairobi Area): I said, Sir, when speaking, that it would be perfectly possible for the municipalities, if they so wished, to nominate as one of the names they put to me, the chairman of the Housewives' League. The hon. Member has suggested that that really takes away from the municipalities their opportunity of nominating a person experienced in local government. That is quite true normally, Mr. Speaker; but the right to put forward names does not necessarily mean that the Minister will accept any particular one of them. But it does so happen in this particular case that the chairman of the Housewives' League and the municipalities would be well married together because the chairman is, I believe, a member of the Nairobi City Council. In that way, we would have the felicity of bringing both points of view together in a single person.

Sir, I would like just to return to 4 (d) and say that I do not wish my right to consult bodies to be trammelled in any way. I shall consult those bodies which I deem to be advisable; I shall have no objection to consulting consumer organizations, and I shall have no objection to consulting the organization of the hon. Member in this regard. What I do think is unwise is for the Minister to say categorically that he will consult every organization under the sun.

Now, Mr. Speaker, with those words, I must record that the Government is unable to accept the Motion before the House, and I therefore oppose it. Am I not right, Mr. Speaker; it is a Motion before the House, a Motion for recommendation? Let me say then the Government is unable to accept the amendment before the House, and I therefore oppose it.

Question that the words proposed to be added "be added" was put and negatived.

Debate on the original Motion resumed.

MR. PORTSMOUTH: Mr. Speaker, Sir, I do not propose to elaborate very much more on my arguments of yesterday, but my amendment is that in clause 20, subparagraph (c), delete the words in the first line "impose a fine or imprisonment or both"; delete the words "or imprisonment or both"; and consequentially to that, Sir, at the end of the third line, from the word "and" delete the rest of the paragraph; in other words, you delete "and such period of imprisonment shall not exceed one year".

Now, Sir, if I may just add to that a little, I can see many cases in which, if there was real feeling against the action of the Board, there might occur among the then aggrieved persons, to do their best to obstruct it in minor ways without really trying to break the law, but to try to bring the law, to make it appear to a great body of people ridiculous. Now, Sir, if a man feels he is very unjustly dealt with, and not only he but several others feel that way, and when they do that, they say "Well, I'm going to test this", then it is "quite likely" that a magistrate—having to interpret the law will have to say "I must make an example"—and give a maximum sentence of imprisonment. He will lose probably his whole livelihood because he cannot manage his business or his farm or whatever it is if he has to be confined for a year.

Now, Sir, if I can give an example of that: it is quite a personal one. Not very long ago, I let my house in England on lease to a school which has some 70 boys, a dozen masters and matrons, etc., living there. My dairy from which I have produced milk for years is producing grade A certified milk, guaranteed all right for an invalid child to the tune of some 300 gallons. Now, I started off quite innocently, supplying the school with the necessary milk which was appreciated by the boys, the staff, and indeed even more, the parents. The laws of England concerning the marketing of milk said that this was a gross breach of regulations, and I could not get over it by paying a cess to the local milk marketing authority. But I had to stop giving the milk desired by everybody, and, pasteurized milk had to come out at the expense of the nation 12 miles and back every single day just to supply that school. Well, if

[Lord Portsmouth] you get to that state of situation which, believe me, Mr. Speaker, you can do—I have seen it happen in England—you get to the stage where you just will try it on. You may say, well, it is the luck of the draw if you are put in prison for a year, but I believe that this is worth testing out against tyranny in this country. I believe if it may be necessary to define wholesale deliberate evasion of the law; then the Minister may come to this House, on behalf of the Board, and ask for a term of imprisonment as well as a fine, but, Sir, not at the first until you see how it works, because you are building up a temptation to use that sentence which should not exist.

Now, Sir, the second one, which is more or less consequential (not entirely, because it deals with a different subject) is in clause 23 sub-section (4). I move to amend the words not exceeding Sh. 10,000 or imprisonment for a term not exceeding one year. Sir, I submit that the proper amendment to that is to delete after shillings "or imprisonment for a term not exceeding one year". Now, Sir, I believe I am right; it is very seldom in the initial stages of any Bill of this sort which is a purely civil regulation that you see imprisonment introduced. I may be open to correction by the legal advisers, but personally, I have not seen it, certainly not in the past.

Sir, I believe that if a man is fined properly and cannot pay his fine, I believe I am correct in saying that he goes to prison automatically after that, either for contempt of court or for inability to pay his fine. Sir, under those circumstances, I see no reason to put the word "imprisonment" in this clause.

Sir, I beg to move.

GROUP CAPTAIN BRIGGS seconded.

Question proposed.

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): Mr. Speaker, Sir, I regret that the Government cannot accept the amendment which the hon. Member has put forward. I would, Mr. Speaker, a little bit chide the hon. Member because he has spoken in a way that shows that he feels strongly on this matter. I would submit that if that was so, he could have given evidence before the select

committee on the matter. Now, it may interest him to know that the Board of Agriculture of whom he is the nominated representative in this Council, did give evidence on this matter to the select committee. After discussion, they agreed with the select committee that the Bill should remain as it is at present. The views put forward by the hon. Member, therefore, were fully explored by the select committee; the representatives of the Board of which he has the honour to be the representative here laid their evidence before the select committee, and after full discussion, they agreed with the select committee, and the results of the select committee are in front of the House. I would particularly address the hon. Member perhaps to the evidence which he can see verbatim in the library. Secondly, Sir, the hon. Member says that to the best of his knowledge, there is no precedent for this in boards of this kind. Now, in order to satisfy myself that we were not being unduly unreasonable as a result of the hon. Member's speech yesterday, I checked up and exactly the same provisions are in being in the Pyrethrum, the Pig and the Coffee Ordinances.

The Pig Ordinance is a recent one. I think I am right in saying that it has been in existence since the 1939-1945 War. The Pyrethrum Ordinance is a pre-war Ordinance and the Coffee Ordinance is a vintage one. Therefore, we have considerable experience which indicates to us that this provision in the Bill is not an evil one.

Secondly, Sir, I would draw his attention to the fact that the imprisonment is the maximum and it is inherent that the discretion lies with the courts. Therefore, it is erroneous to assume that automatically imprisonment will be given or that the maximum imprisonment will be given. But the select committee did feel that where persistent black marketeering is taking place, or persistent negation of the Board's rules and regulations, which might indeed give the person concerned great benefit and profit over and above the amount of the fine specified in the Ordinance, it was necessary, in a discretionary manner, to have the provision for imprisonment.

Now the select committee gave considerable attention to this matter, and I

[The Minister for Agriculture, Animal Husbandry and Water Resources] do not feel, therefore, that I can accept the hon. Member's amendment. I must reject it. I would only add, Sir, I am indeed pleased to hear that when the hon. Member broke the law in the United Kingdom in regard to his own milk sales he did so innocently.

Mr. Speaker, I beg to oppose.

MR. ARAP MOT: Mr. Speaker, speaking on the noble Member's amendment, he spoke through experience. He did not use mere empty words when he spoke on this yesterday. I felt that it is really very important that such a section, after delegating such powers to local authorities, can do anything by using it. It would be unfair to have both imprisonment and fine.

In section 23, "Any person who obstructs or impedes the Board or its servants or agents in any acquisition pursuant to an order made under this section, or who fails to comply with any reasonable requirement made by the Board pursuant to such an order, shall be guilty of an offence and shall be liable on conviction therefor to a fine not exceeding ten thousand shillings or to imprisonment for a term not exceeding one year". Therefore, Sir, I think it is fair enough to express such fears that might arise after implementing this Bill. It is easy to implement any Bill but the consequences would be dangerous.

Mr. Speaker, I support the amendment.

MR. HASSAN: Mr. Speaker, Sir, I think it is just fair that I should let the House know that members of the select committee—I was one of them—were not unanimous on this point. We were against this heavy penalty and punishment, and we voted against it, although we were in the minority. The reason for our opposing this particular clause, Sir, was that we have two sources of supply in this country. One is the scheduled area supply, which will have almost the monopoly of the towns and cities and municipalities, and the other is the native reserves who shall have the liberty and freedom to move their produce about in the reserves, sell it in the trading centres, and thus benefit themselves. There was a danger that some dairy produce might be unwittingly, for the

sake of helping a small producer in his finance, moved to the towns and municipalities, and there may be very heavy fines and punishment inflicted on such people.

This was why we thought the penalty should be very much reduced in this Bill.

I thought I should let the House know that.

MR. MUNIRO: Mr. Speaker, Sir, I fully support the amendment of the noble lord, for one reason; that when you start to train your child and you try to teach this child by punishment, it is indeed not fair. The punishment of the fine is already agreed to by the noble lord, and I think the word "imprisonment" should be deleted and it would make no alteration at all if the Government in the long run finds that the violation of these regulations when they are passed is such that it warrants both fine and imprisonment, this same Council is still here to amend this law. I think we should give it a trial; the Government should accept this amendment for a change from this experienced noble Member, so that we can come next year and try to put it right.

After all, we do not know whether the Dairy Industry Board is going to be a successful undertaking or not. So let us start off on a better footing, rather than have the Government reject this from the very beginning.

I beg to support.

MR. BECGAARD: Mr. Speaker, I would like to say a few words on the legal effects of these penalties. I think most Members may be under a misapprehension that these penalties are not merely maxima ones. They are maxima penalties, and the maximum is necessary to deal with aggravated and persistent offences. If there is a merely innocent contravention of these regulations, the magistrate will use his judgment. To take a very obvious parallel from everyday life, it may not be generally known, for instance, that the so-called parking offence in this city is punishable with imprisonment for three months. But it is hardly ever—I know of no instance—imposed in actual practice. But there again, in the case of a persistent and, shall we say, repetitive offender, the maximum is necessary.

[Mr. Bechgaard]

Here, the select committee have carefully considered the point and have come to the conclusion that the maximum of one year's imprisonment is necessary for certain very special types of offenders.

I beg to oppose the amendment.

**SHEIKH ALAMDOODY:** Mr. Speaker, Sir, it is a recognized fact that varying terms of imprisonment have been incidental to all legislation in this country where offences are prescribed. But because these have been accepted without opposition in the past, we should not be led to accept them, as we have in the past, where genuine grievances have been adduced, as they have been so ably adduced by the hon. lord. I think when these regulations are made the intention usually is, when they prescribe the maximum penalty, those penalties should be applied in certain cases, but there are occasionally incidents when the prosecution has been applying for the maximum penalty where the maximum penalty has not been warranted.

Therefore, I think in this particular case, because of the reasons adduced by the hon. Mover of this amendment, as a change, the Government should accept the amendment. For those reasons, Sir, I support the amendment.

**MR. MUMU:** Mr. Speaker, Sir, I have just one point I want to bring to the notice of the Council. When the Member from the Government Benches says that this is only a maximum punishment, he forgets the fact that the foolishness of the law does not excuse anyone. This Bill is introduced in the country to deal with a variety of communities and a variety of people of different understandings, and they would not understand the meaning of the law in the way it is. Yesterday, a Member from this side of the House said that we cannot take the Members who served on the committee to be all perfect, to have known everything. I believe this amendment is more a fact that the Government should take into consideration than a mere fashion that the committee agreed on this, although we have been told that the committee was not unanimous on this particular clause.

Government should give consideration to the facts as outlined by the noble lord.

I might just end by saying this, Sir. We shall feel rather frustrated if the Government brings any Bill to this House with the understanding that they have agreed on them and therefore we should not say anything and nothing should be amended. I think when reason prevails Government should give serious consideration.

With those few remarks, Sir, I beg to support the amendment.

**THE TEMPORARY MINISTER FOR LEGAL AFFAIRS (Mr. Conroy):** Mr. Speaker, Sir, I should like to draw the attention of hon. Members to the provisions of clause 20 (c) which is the one in dispute. Now that clause does not impose any imprisonment; it merely gives power to the regulation-making authority to impose imprisonment in certain cases, to make regulations, which contain a maximum punishment of imprisonment, for their breach.

Now, Sir, some hon. Members may have forgotten that 18 months ago we passed in this Council an Ordinance called the Rules and Regulations (Laying) Ordinance, 1956, and the provision of section 3 of that Ordinance is this: that any regulations made after the commencement of this Ordinance—and it commenced on 11th December, 1956—shall be laid before the Legislative Council without unreasonable delay and the Legislative Council may pass a resolution annulling those regulations.

So you see we have really three safeguards here. The first is that the regulations are made on the advice of the Board. We must assume that the Board would not advise very severe penalties for minor offences. Our second protection is that the Minister makes the regulations. Now the Minister is answerable in this Council; that is the great advantage of giving the power to the Minister, because we have him here on the Floor of this Council to answer for what he does, and if he does wrong, then we can attack him. That is the benefit of our system of Ministerial Government to ensure that Ministers, having been given powers, do not abuse them. That is your second protection.

[The Temporary Minister for Legal Affairs]

Your third protection is that the Minister, having made the rules on the advice of the Board, then, as you know, we so frequently start our days with a row of Ministers standing up and reading the most unintelligible titles to the documents we are busy laying on the Table. The Council then has 20 sitting days after that laying to resolve that the regulations shall be avoided. If they do so, then the regulations are finished. So we have our third protection, which is contained in the Rules and Regulations (Laying) Ordinance.

For those reasons, Sir, I would suggest that many of the fears which have been expressed here will in practice prove to have been allayed by these three precautions.

**MR. TRAVADI:** Mr. Speaker, Sir, after having heard the Temporary Minister for Legal Affairs, I do feel that I still have not heard why the maximum is so high, why there is the necessity for such a high maximum penalty. No one has explained that. I had hoped that someone would come forward and say why. We know the penalty has to be imposed, but why should it be so high for smaller men who trade in milk, and in a Bill as this of a civic nature.

The question that the words proposed to be added be added put and negatived.

**MR. MBOYA:** Mr. Speaker, Sir, I have only got one point to raise because the Minister, in replying to the amendment which was before the House a few minutes ago, did not deal with the point I made about retailers. I feel so strongly about this point that I think I ought to emphasize it a little bit more, and draw the Minister's attention to clause 15, where I think he might be able to take appropriate action to meet the point I am trying to put forward. Under clause 15, the Board will be permitted to appoint a consumers' committee and there is also reference to the fact that it may appoint such other committees as it may deem necessary. I feel that there is a clause where the Minister might see fit to give the assurance to this House, or to amend that clause accordingly so as to provide for the appointment of a retailers' committee. If this is accepted, I would press the point that when such a committee is appointed or

provided for there is specific provision also included for African retailers. I say this again because I want to emphasize the point that African retailers in urban areas face some very difficult conditions, where, due to their position, particularly their economic and financial position, they are often unable to compete with, say, the Indian or European retailers in the same area.

Members might be interested in some of these problems. Now under the present conditions the main supplier to these African traders is the Kenya Co-operative Creameries, and some of the problems they experience at the moment are such things as the fact that in the old days, some years ago, they were able to sell loose milk to their customers. This enabled some Africans to buy milk at 10 cents, 15 cents or 20 cents; in other words, they came in with a container and merely got the amount of milk they wanted, according to the amount of money they had. Regulations have since changed, and they now require that no loose milk is to be sold in the African dairies, because these dairies are not well equipped, and because of the by-laws in Nairobi, for example, it is required that if an African retail trader sells any milk, if it is bottled milk it must be bottled in an approved dairy, with all the necessary equipment and facilities, otherwise he may not bottle his milk on the premises.

The present system is that the Kenya Co-operative Creameries bring in milk in paper bags in crates, which is sold at 55 cents or 25 cents, according to the size of the paper bag. This, of course, is a particular difficulty with African consumers and African retail traders. Many Africans either cannot afford to buy that milk at 55 cents each morning or buy the pint of milk and then have the problem that if they use half of it they have no refrigerators or proper facilities to keep the remainder, in order that it may be used in the evening or the next day. So that as far as the African consumer and the African retailer is concerned the implementation of very strict regulations in this connexion makes it impossible for (a) consumers to satisfy themselves from the little money they have and (b) for the retailers to satisfy their customers according to the nature of the conditions in which the people live at the moment.

[Mr. Mboya]

Another problem; that these retailers have expressed is the fact that sometimes these crates have leaking packets and the question of the collection time and claim made for any leakages or any damaged packets.

Again, these are problems which will require a great deal of consideration and representation from time to time; they are problems which must from time to time be looked into. It will also be necessary, when the Board starts functioning, to look into the question of the standards that must exist in African areas, in the African retail trade. If we insist on too high a standard, such as everything being pasteurized or nothing at all, or every public health standard must be met to the full or nothing, it will make it impossible for African retail traders to compete effectively in this trade in the urban areas, with the Indian retail traders who have the capital to provide the necessary facilities and equipment. It will also be impossible to satisfy the African consumers, especially where you have dairies situated far off from the African residential estates or locations, and where people cannot go to buy milk, again bearing in mind that the African is not at the present time in possession of things like refrigerators to be able to buy milk, one pint or two pints at a time, and store it for use as and when he wants it.

Mr. Speaker, this is the main point I want to make, and I hope that the Minister, as I think he has indicated, will find it possible to make provision for some form of retailers' representation under clause 15.

Mr. Speaker, Sir, I beg to support.

Mr. Tyson: Mr. Speaker, Sir, whilst I support the Motion which is before the House, I think we should keep in mind the repercussions which this Bill has in so far as local government is concerned. I speak particularly of Nairobi, where for some years we have had a Public Health Department, equipped with a good staff of health inspectors and so on. It would, I think, be very unfortunate if, as a result particularly of clause 19, friction arose as between the Board's officers and the local government authority's officers. If Members will refer to clause 19, they will see that it goes over

the same ground—at any rate so far as Nairobi is concerned—of regulations which are already in existence here, and have for some years been enforced by the local authority. I do suggest, Sir, that if this duplication does take place it can only lead to friction, and I think it is detrimental to the activities of our local authorities. What I would like the Minister to consider is that clause 19 should be deleted or at any rate only applied in those areas where there is not already in existence an organization—and I speak particularly again of Nairobi—which is carrying out the duties and the powers which are proposed to be given to the Board under clause 19.

I do not overlook the new clause 37 but I do suggest, Sir, that that is unnecessary. I would like the Minister to consider whether it would not be possible to qualify clause 19 in some way to avoid unnecessary duplication and, as I have mentioned previously, to avoid friction which may occur between the officers of the Board and the officers of the local government authority.

Mr. Alexander: Mr. Speaker, Sir, yesterday some of us asked for assurances on certain points. Do I understand that when the Minister replies to the main Motion he will deal with those?

The Minister for Agriculture, Animal Husbandry and Water Resources (Mr. Blundell): Mr. Speaker, perhaps it would clear the minds of the hon. Members if I said that I specifically only dealt with the amendment moved by the hon. Member for Central Area. When I reply, then I will deal with all the points which hon. Members have raised apart from those specifically covered by the amendment.

If I might speak further for one moment, Sir, this does not entirely meet the point which the hon. Member for Mombasa raised. He wished me to give all my assurances early so that if he was not satisfied with them he could press me more strongly, but after consultation with Mr. Speaker I feel that I must stick to the rules of debate, and when I wind up I think I can satisfy the hon. Member on the points he raised.

Mr. Usher: On a point of explanation, Sir, what I really meant to convey was that possibly the Minister would pass on the information to some of his

[Mr. Usher]

colleagues, so that we should not be put into the difficult position of not being able to deal with these matters after he had made his reply.

Lt.-Col. McKenzie: Mr. Speaker, Sir, a certain hon. Member yesterday on this side of the House said that he hoped that the members of the select committee would not bob up and down like peas out of a pod. Well, what I had hoped that he might have said, Sir, was that those hon. Members who had not taken the trouble to come to the select committee and put forward their grievances might have taken up less of our time yesterday and today. Sir, I was amazed to find, after I had sat on the select committee, that we could, under the powers of the select committee, ask hon. Members of this House to attend the select committee and give evidence, and I, for one, Sir, have certainly learnt my lesson; I hope that other people who may at a later date have to sit on a select committee, as I did, have learnt the same lesson.

Sir, turning to clause 15 (1) I would like the Members of the House to remember that the Asian community consumes about 70 per cent. of our milk delivered into Nairobi, and I sincerely hope, Sir, that when the Minister replies he will give me an assurance that he will mention (and I hope when he replies he may be able to give us the name of the chairman) to the chairman when he sets up this consumers' committee that not only will he consult to such people as the Housewives and the East Africa Women's League, but that he will also consult the Asian Women's Association; which is a very, very strong consumer association which up until now in this debate has not been mentioned.

Sir, if I may now pass to section 21 (4) (a) I would like just to emphasize what my hon. friend Mr. Slade said yesterday afternoon, and that is that adequate notice should be given to the consumers who are going to attend the meeting so that they will be able to get the consumer feeling and the public feeling. Also I would like the Minister, when he answers, to tell us whether at a later date, perhaps in four or five years' time, he would consider giving those consumers the vote at the annual meeting.

I now come to my last point, Sir. One thing which has not been considered in the whole of this debate by anybody is the cow itself. After all, Sir, it is the cow who has been the cause of all this debate. If we had thought of including a cow in this debate, we might have included her in section 5. I am certain, Sir, that had we done so, she would have from time to time been able to moo an amendment.

Sir, I beg to support.

Major Roberts: In his reply the Minister did mention the possibility of the chairman of the Housewives being the consumers' representative on this Board. He did couple that with the fact that she was also a councillor.

The Minister for Agriculture, Animal Husbandry and Water Resources (Mr. Blundell): On a point of order, I would like to draw the hon. Member's attention to the fact that he is in error. I have said that if it so happens that such a name came forward amongst the names to the Minister, it would be possible for the Minister to nominate such a person.

Major Roberts: I apologize for that, but the possibility of her being appointed was coupled with the fact that she was a councillor. That is the point which I wanted to put over because I do think that it is what the hon. Member for Mombasa was getting at over this consumer representation. What we feel is that the consumer representative must be a true consumer and therefore a member of a consumer organization. There is only one such organization that I know of in this country and that is the Housewives; but I quite agree that it would not be possible to say that a member should be appointed by that organization in the Bill because it is not a statutory organization. I think if we could have some assurance from the Minister that this representative would be a true consumer I think it would go a long way to satisfy many of the fears held by consumers today and inspire their confidence.

Now, Sir, I would also like to stress this problem of the overlapping of powers between local authorities, health authorities and the Board. It has been raised to me in Nakuru and I would strongly like to support the suggestion

[Major Roberts] made by the hon. and learned Selected Member that local authorities should be the agents of the Board. After that I do not think there would be any criticism. An assurance by the Minister on those grounds would, I am sure, dissipate any worry in that direction.

When he moved this Motion the Minister did mention that there would be a possibility in four years' time of moving towards a more elected Board, a more representative Board. Now, that, Sir, I think is very much the crux of the problem before us today. There are many producers who just lack that amount of confidence in this Board that it should have if it is to come into operation quickly, smoothly and efficiently. I think if producers knew that there was more than a possibility that in four years' time there would be chance of electing members to the Board that would go a long way towards satisfying them. We have the precedent of the Coffee Board which is one of the most efficient boards in this country and which has complete confidence of its members—where, I think I am right in saying, all but two are elected. I see no reason why in four years' time we cannot move to that position as regards the Dairy Industry Bill.

Similarly, in four years' time, I think we should be sure of electing a consumers' representative. In that time there might well be an organization which would offer itself without any doubt at all to be used as the medium for electing a consumer representative on this Board.

I do agree completely with the principles of this Bill and therefore I beg to support.

MR. ARAP MOI: Mr. Speaker, I will finish what I have to say about this Bill.

One thing is the interpretation of the word "milk" it means milk from a cow, I presume that milk from goats is exempted and that anyone can sell goat's milk in any township without such restrictions.

Secondly, I should like to refute what was said by the Specially Elected Member, Lt.-Col. Bruce McKenzie, by saying that the consumers in Nairobi are the Asians and that the number of consumers is 70 per cent. Therefore I must say that the Asians buy milk, who are

actually distributors, and that most of their customers are Africans.

THE SPEAKER (Sir Ferdinand Cavendish-Bentick): We are now discussing the report of the select committee and not indulging in another Second Reading.

MR. ARAP MOI: Therefore I say that the consumers' point of view, particularly that of Africans living in Nairobi, is very important.

To end my short speech, Mr. Speaker, I should like to congratulate the members of the select committee in producing this report, although they did not come to any agreement on certain points. However, they put their effort into introducing it.

Mr. Speaker, I beg to support.

MAJOR DAY: Mr. Speaker, I would like to ask the Minister for Agriculture whether during the time when the report was discussed by the select committee the question of tinned milk imported into this country came up at all. I am not entirely clear whether it comes within the prerogative of the Board to prevent tinned milk being imported. I would like information from him on that particular point because to my mind it is a matter of vital importance that with the increasing production of milk in this country, not only in the European farming areas but in the scheduled areas, in the near future or in the relatively near future, every possible outlet should be explored to dispose of the produce.

Further to that, Sir, I would be most grateful if the Minister for Agriculture would inform me whether he is aware at present of the possibility existing in this country of producing tinned milk in the country itself, thereby fostering what would and could be an import secondary industry.

I would further finally like to say, Sir, that as a newcomer I have listened to the debate on this Bill and if I could be permitted, Sir, I would say, with the utmost deference, that an enormous of time appears to have been wasted by certain—how shall I put it—speakers who made speeches which might well have not been made.

I think this Bill, if I may say so, is a good one, and I should like to finalize by congratulating the select committee.

I beg to support.

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): Mr. Speaker, so many hon. Members have raised so many points that I do not feel that in replying I can proceed very quickly. I would like to take some moments so that the many points covered by hon. Members be answered by myself, especially where they wanted some indication in regard to assurances or direction of the Board.

I do not intend, Mr. Speaker, to deal with those clauses which we have already debated in the amendments, except that I would draw the attention of the hon. Member for the Eastern Area to the provision under clause 2 which does not prevent milk from the non-scheduled areas entering towns. It only means that if it enters towns it will come under the provisions of the Board, as any other milk does. There is no prevention; there is only control.

The hon. Member for the Eastern Area, Sir, raised matters concerning clauses 2 and 5 which I have already dealt with. He also raised the question of the export of ghee to India, and I would thank him for the constructive suggestion. He will be interested to know that this is a possibility which we have explored but which we have not been able to further because of the restrictions in India on the movement of sterling. It is only if we can get over the restrictions on sterling movement that we can indeed sell ghee in India. That is a matter that we are going to explore further with the Government of India.

The hon. Member for the Rift Valley Area, Sir, raised only questions on clause 2, and I shall not deal with them.

The hon. Member for the Central Area raised questions under his Motion and again I have dealt with them.

The hon. Specially Elected Member who was recently the Member for Aberdare asked, Sir, that a number of assurances should be given by myself in regard to consumers. The first one he asked for was that in appointing members under clause 5 (1) (2) I would consult consumer organizations. I am prepared to do that but I am not prepared to indicate the consumer organizations which I might or might not

consult. He also asked, Sir, that on the consumer committee there should be a majority of consumers. Now, I would certainly expect as Minister the consumers committee to have a majority of consumers and not to be a body packed with members of the Board and I will certainly draw the attention of the Board to that expectation on my behalf.

He asked that the ten persons nominated under clause 21 (4) should be informed and their names published 21 days before the annual general meeting. That is an assurance I am very happy to give and we will make a note and see that that is done.

He also asked, Sir, that under clause 22 (1) business might be notified to the Board by the ten persons 21 days beforehand. I see no reason why administratively we should not arrange that, but I would point out that the consumers committee will be able of itself to notify the chairman of the Board the business that it would like to have on the agenda for the annual general meeting, and therefore, although I am prepared to say that administratively we could arrange it, I doubt the necessity for it because the consumers' committee will be able to put business on the agenda in any case.

He also asked, Sir, that the report and accounts should be laid at least 21 days before the annual general meeting so that consumers could examine them and find an opportunity to discuss with consuming elements matters arising out of the report and accounts which they wish to raise. I am again, Sir, happy to give the assurance that that will be done, but it is covered under section 22 (1) of the Ordinance which specifically lays down that the report and accounts must be published 21 days before the annual general meeting. I think that the only real issue is whether, supposing the Board published them on the twenty-second day the nominated consumers would have the report for the twenty-first day. At any rate there is provision in the Ordinance to cover the particular point which he raised.

Lastly, Sir, he asked me, as did the hon. Member for Mombasa, and the hon. Nominated Member who had the honour to be, I believe, a mayor of Nairobi, to deal a little bit with the overlapping of the powers of local government authorities and the Board. I am

[The Minister for Agriculture, Animal Husbandry and Water Resources] perfectly prepared to advise the Board that wherever possible they should work through local government authorities and that they should co-operate with inspectors so that there should be no unnecessary duplication and unnecessary waste in salaries between the inspectors appointed by local government and the inspectors appointed by the Board. I think that is a perfectly sensible, straightforward thing and I will certainly address the attention of the chairman of the Board to that matter.

I would not go so far as to say that, of necessity, the Board must pass regulations which might override local authorities. In one instance the select committee had evidence that not all the inspections under local government authorities were satisfactorily carried out. I think the remedy in that case is for the Board to consult the local government authorities in the areas concerned and ask them to tighten up on the regulations so that we have co-operation between the two and not duplication or antagonism. I hope that I have met those particular points. The hon. Member for Mombasa raised the question of the independence of the chairman. I answered that when dealing with clause 5. He also asked me whether I would consider a civil servant, a professional man or a woman, as a consumer, and, Mr. Speaker, although I have dealt with that it has been raised by the hon. Member for the Rift Valley who asked me if I would give an assurance that a true consumer would be appointed to the Board. Well, Mr. Speaker, I do not feel that I can give him an assurance that a true consumer will be appointed to the Board only for this reason: that I have indicated how very widely I think we have met consumer views on the Board and the difficulty I find is in the definition of "true consumer". What I might consider a true consumer might well be rejected by other persons. I feel, Sir, that clause 5 (e) as worded is really in many ways the best projection of the consumer views that we can get. The Municipalities Association represents every ratepayer in the urban areas of Kenya and I think that probably the truest analysis of a consumer is, generally speaking, a ratepayer in a

town. I feel that in that way I can assure the Member that subject to the wide definition of consumer I will try to get somebody to meet the points of view he has put up. I fight shy, Mr. Speaker, of tying myself to the words "true consumer" because I have found no single individual person has the same definition of that person.

Sir, going back to the hon. Member for Mombasa, he mentioned to me health regulations 19 (c) and (h), but on examination I find that (h) does not refer to health regulations and I feel the hon. Member might have missed the section to which he wished to refer. But it arose out of his wish to have no duplication in the local government sphere, and I think I have met those particular points in answering the points made by the hon. Specially Elected Member. I also feel that in that regard I have met to a large degree the points raised by the hon. Nominated Member who sits behind me. I shall want to refer to his comments later.

The hon. Member for Mombasa suggested that in the light of that we might amend clause 37, but I think in view of the fears of local authorities it is wise to leave it. He also raised the point, Sir, and he asked me for an assurance that the Board would not immediately raise the price of dairy produce.

Now, Sir, I must record this. The Board can in no circumstances raise the price of dairy produce. I think a tremendous amount of misrepresentation has tended to be put out about the functions of the Board and in particular concerning the element of price which is a matter for the Minister under the rule and regulation-making powers of clause 19 (b). That being so, the price must come before this Council when the rules and regulations are made. I therefore feel that I can assure hon. Members that at the present moment we have no intention whatsoever of raising the price structure and if, owing to circumstances completely unforeseen today, any such necessity arose Members would have the opportunity to debate it through the Rules and Regulations Making Ordinance.

He also asked me, Sir, whether I would accept that the consumers committees should be appointed by the Minister. Now, Sir, I think that would

[The Minister for Agriculture, Animal Husbandry and Water Resources] be wrong. The balance of evidence before us in the select committee was that the consumers felt that if the Minister appointed the consumers' committee, and not the Board, the general impression that the select committee received was the fear that the Minister would only appoint what I referred to yesterday as stooges. I therefore think that it is much better for the Board to appoint a consumers' committee, but what I will do is to draw the attention of the chairman to the necessity of seeking the widest possible consumer representation by consulting what we might call consumer organizations, a number of which have been mentioned in the Council.

The points raised, Sir, by the hon. Member, Mr. Joshi, and the hon. and noble lord have already been dealt with in the amendments before the House, as have those of the hon. Elected Arab Member.

Now, Sir, the hon. Member for Nairobi West raised a number of points. We have considered deeply in the select committee this matter of the producer-retailer. We were asked by producer elements from up-country to put in a special definition of the producer-retailer. We have not done so. He is defined and will be registered as a producer and as a retailer. We did specifically put in clause 17 (e)—the maintenance of private enterprise—to indicate clearly to the Board that we did not wish and had no intention that existing producer-retailers who were selling and marketing a quality product should be eliminated. I would like, Sir, to record, as Minister, that I think the elimination of the producer element, who has created a market for himself based on regularity of supply and quality would be completely wrong and I would certainly indicate that to the chairman.

Sir, a fear has been expressed that the Board would pool milk. The only way in which the Board would pool milk would be under the power of clause 19, and that is the rules and regulation-making power of the Minister. I want to record that the indiscriminate pooling of milk to producers in bulk for everybody would be resisted most strongly by myself as Minister. I believe that such a

course would be quite wrong, out of line with the definite directions to the Board given on policy in clause 17 and therefore I am very happy indeed to give the House an assurance that the pooling of milk will not take place except in one regard. It may be necessary to meet the demands of the lower income groups in the urban areas to produce a cheaper supply in bulk. Therefore I think that that is a reasonable reason for pooling milk and indeed it happens today. But the concept of all-embracing bulking and pooling of milk would be, I believe, most deleterious to the industry itself, and I am very happy to give the assurance that I, at any rate, would not support such a proposition.

The second point the hon. Member for Nairobi West wanted an assurance on, Sir, and again I am very happy to give it, and I have indicated that where action lies with me I shall indicate my intentions frankly. Where action lies with the Board I will indicate to the Board what I think is the correct decision, having indicated that to the House. He asked, Sir, that I should give an assurance that if zoning of retail deliveries took place an adequate choice of retailer would remain. Sir, may I say that I am happy to give the hon. Member that assurance. I think it is essential that the consumer should be enabled to have consumer choice. He can only have that if there is more than one retailer. I do not think I need say more than that.

Again, Sir, he asked whether under clause 21 I would consider, after some experience of the working of the Ordinance, moving to a vote for consumers at the annual general meetings. My answer to that, Sir, is also tied up with the question asked by the hon. Member for Rift Valley in regard to elections, and I am happy to couple the two together. I did say, when moving the Bill, quite specifically and definitely that I would consider in conjunction with the Board and the industry moving towards election for certain sections of the Board. I specifically mentioned sections 5 (a), (b) and (c). Now, Sir, I chose those words specifically because I believe to ask the Board, which is nominated, might mean, in some people's eyes, that they might wish to cling to power. To ask the industry, without the Board, might not be advisable. I intend to ask both the

[The Minister for Agriculture, Animal Husbandry and Water Resources] Board and the industry at the expiration of the first period of rotation to examine proposals for the introduction of an election system within the Board. At the same time, Sir, I will be pleased to raise with the Board and the industry the question of a vote for the consumers at the annual general meetings. Indeed, it might be possible for the industry to place that on the agenda previous to the last meeting of the annual general meeting before the new proposals have to be considered.

The hon. Member also said, Sir, that in clause 23 we had not introduced the words "fair market value". We did examine this at some length in the select committee and did not amend the Ordinance accordingly because we were quite satisfied that as the proposals for purchase have to be submitted to the producers, and they have the right of making representations to the Council of Ministers, the Council of Ministers would not accept any proposed compulsory acquisition which was not based on reasonable and fair prices.

He also asked me, in respect of clause 23, whether I felt that an advertisement in one issue of a newspaper was enough. I would only say this, Sir, I believe that the Board would be well advised to place such advertisements in more than one issue but in any case, wherever possible, they would have to serve notice individually on a producer whose produce was going to be compulsorily acquired, and I will direct the attention of the chairman of the Board to my remarks in this respect.

Lastly, Sir, he asked whether I would give an assurance that the Board would not compete with existing retailers or producer-retailers. Sir, I am happy to give him that assurance. It is not my intention under this clause that the Board should indulge in widespread retail activities. I believe that would be unwise. Where there are adequate retail organizations available to the consuming public, they should be and must be left in being. I would not like to preclude in my answer the right of the Board to service the public where no facilities were already in existence. As long as that is quite clear to the hon. Member, I think I have answered his question.

Now, Sir, the hon. Member for Nairobi Area asked me to consider the appointment under clause 15 of a retailer committee. I was thinking on this problem between last night's debate and this morning, and I believe that the Board would be well advised to form a retailers' committee. We in the select committee felt that it was wrong to dictate arbitrarily to the Board or indeed really to interfere more than was necessary with the discretion of the Board to organize the industry as a body of reasonable men. We therefore have refrained as much as possible from mandatory provisions in the Ordinance. The only mandatory provision we put in was a consumers' committee because of the very strong apprehensions that had been expressed by consumer organizations and because we felt that we did not wish to expand the numbers of the Board more than was necessary; and that such a committee would meet the particular points raised of the representations of consumers to the Board in its activities. Therefore, Sir, I do not want to give the hon. Member an assurance that the Board will create a retailers' committee. I am prepared to say this: I will draw the chairman's attention to the value of a retailers' committee and say that I would expect the Board to put into being such a committee. I think it would be of great value both to the retailer element and to the Board and in particular would meet the individual points which the hon. Member raised in regard to African retailers.

One point on that, Sir: the tetra pak organization of the Kenya Co-operative Creameries has, of course, placed in the hands of Africans a great development of the retail milk industry. And although I accept what the hon. Member has said about African retailers not necessarily being able to conform to the standard of quality and hygiene maintained by other retailers, I am sure that the Africans do not wish in matters of this sort to be considered third-class citizens, and that we should expect them to conform to the ordinary standards of everybody else in the country. In so far as they have special difficulties, I believe the retailers' committee would be a useful method of placing these before the Board.

Now, Sir, the hon. Nominated Member who spoke from behind me asked

[The Minister for Agriculture, Animal Husbandry and Water Resources] that we should not duplicate or cut across existing local government authorities, and I answered that. The only point I really want to mention is that he asked that clause 19 should be deleted or applied only where there were no local government authorities. But of course, Mr. Speaker, I do not think he meant clause 19; he meant one particular section of 19, because if I eliminated clause 19 altogether, the whole rule- and regulation-making power of the Board, apart altogether from health and hygiene in respect of local government authorities, would go by the Board.

The hon. Specially Elected Member from the Rift Valley Area asked, Sir, if I was in a position to name the chairman. I regret that I am not in that position. I have discussed with an individual the possibility of his taking the appointment, and I believe that he will accept. I think he is a name that would be acceptable to this House, but I would wish to consult my colleagues in the Government first, which I have not yet had the opportunity to do. He also asked me, Sir, whether I would consider the Asian Women's Association in regard to nominations on the consumers' committee, and I will certainly draw the attention of the chairman to that excellent organization. I think I have dealt with the hon. Member for Rift Valley and my difficulties over defining a true consumer. If he can really define it, Sir, and please everybody in this House, he is welcome to my job tomorrow. I have also answered his point about assurances to Elected Members.

Turning, Sir, to the points made by the hon. Member for Rift Valley North and goat's milk, I would like to deal with that because I think it shows how reasonable the members of your select committee were. It was suggested to us that we should control goat's milk; but after examining the matter, we really felt that the possibility of a large and exhaustive supply of goat milk flooding the markets of this country was remote. We therefore came to the conclusion that we would not burden the Bill either with the definition of a goat or of goat's milk.

The hon. Member for the Aberdare, Mr. Speaker, raised the question of

tinned milk. I know he will forgive me; I think the actual questions he asked me in regard to the production of tinned milk were really matters more for the Second Reading than for the report of the select committee. But I propose, with your permission, Mr. Speaker, to deal with them. There is no power to the Board to prevent the importation of tinned milk. That would have to be done by the Government either by the form of a tariff, or by a licensing procedure. I certainly do not think the Government would accept such procedures unless they were satisfied that there was an adequate supply of good quality tinned milk produced in the country. Secondly, he asked whether the industry had considered the production of tinned milk, and I am pleased to tell him that discussions are going on now within the industry with a view to producing tinned milk in the country. We already have in the area of the Member for Mount Kenya I think I am right in saying one producing organization which does produce an excellent powdered tinned milk. As I said, some is produced in the Mount Kenya constituency, and the consumption of it in the country, in East Africa, is about 2750,000 worth a year. So there is a very good opening indeed for the dairy industry in that regard.

Lastly, Sir, may I end in moving the Motion by saying that I have tried to cover all the points which I noted whilst hon. Members were speaking. I apologize to any hon. Member if I have not covered the particular points which he raised. I would like to say, Sir, that I do not feel, although the debate has been long, that it has been a waste of time. I feel that some hon. Members did not agree with all the provisions of the Bill, and it was only fair and right, really, that they should have the opportunity of expressing their views as forcibly as they felt.

Mr. Speaker, I beg to move.  
The question was put and carried.

BILL  
THIRD READING  
The Dairy Industry Bill  
THE MINISTER FOR AGRICULTURE,  
ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): Mr. Speaker, I

[The Minister for Agriculture, Animal Husbandry and Water Resources] beg to move that the Dairy Industry Bill be now read a Third Time.

THE CHIEF SECRETARY (Mr. Coutts) seconded.

Question proposed.

The question was put and carried.

The Bill was accordingly read a Third Time.

### MOTION

#### PRECAUTIONS AGAINST COMMUNISM

GROUP CAPT. BRIGGS: Mr. Speaker, Sir, I beg to move the following Motion:—

THAT having regard to the increasing threat of communism to Africa and to Kenya's particular vulnerability, this Council requests Government to maintain the utmost vigilance and all possible precautions against any development of communism in Kenya.

Now, Sir, in moving this Motion, despite the importance of the subject, I do not intend to speak at great length or to go into great detail for two reasons. Firstly, hon. Members are well aware of the general aims and objects of the Communists, and I have no wish to bore Members with tedious repetition of facts and past events in presenting my case.

Secondly, having regard to the increase in the size of the House and the consequential cost to the taxpayers, I believe we should all adapt ourselves to the idea that this House is a place for serious debate rather than a platform from which to address our constituents.

I hope therefore that the debate will be confined to the broad issue of the threat to our country and that no ideological red herrings will be strewn across the path to obscure that real issue. Nevertheless, before I attempt to develop my reasons for bringing this Motion before the House, I would like to try to define as briefly as possible what I mean by the term communism. As I understand it, communism within the Iron Curtain implies a rigid form of totalitarian régime maintained by harsh and brutal disciplinary methods. Criticism of the régime is not tolerated either in public or in private, and the people live in fear. Only the one party

and the one political doctrine is permitted, and any deviation is followed by dire consequences for the individual or individuals concerned. Outside the Iron Curtain, their policy appears to be to work not only through party members but also through fellow-travellers; in other words, Communist sympathizers who are not party members and who fulfil much the same role as the Nazi Fifth Column in pre-war days.

Now, Sir, I suggest that by means of these agencies, they attempt to infiltrate any organization in non-Communist countries which afford them an opportunity for fermenting internal strife and creating situations aimed at disrupting orderly government. In those countries which may be regarded as easy or soft targets, their approach is, of course, often more subtle and based on ingenious propaganda and on possible economic aid. I fear that such countries as fall into the trap will eventually suffer the same fate as Hungary, and other countries which have fallen under the Communist yoke.

Now, I will not attempt to deal with Communist doctrines if only for the fact that presentation is governed very largely by considerations of expediency which are entailed in the preparation of propaganda for the varying conditions in the different parts of the world.

But generally speaking, I think their aim is not only to impose their dictatorship on the world ultimately, but as a preliminary to attempt the infiltration of non-Communist countries with their nihilistic and godless theories.

Now, Sir, anyone who looks at the map and studies the news, and who realizes what is going on so close to our borders, cannot I believe fail to see the initial stages of the plan at work. I suggest also that it is obvious that Kenya could well become a focal point in their strategy, if it is not indeed already one. As we all know, the Communists work by dark and devious methods, and are clever men, and despite our intelligence system it cannot always be very easy to check up on all their activities. Now as great a menace as a party member I believe, and one harder to detect, is undoubtedly the so-called Communist fellow-traveller—he may be here, he may be there, or he may be anywhere.

[Group Capt. Briggs]

He may indeed not even know that he is one and is being used for those sinister purposes. He may be a simple man used without his knowing he is being used; he may have been bribed or he may have been blackmailed or he may of course be a starry-eyed intellectual, with his feet planted firmly in mid-air.

Now, Sir, the reason I have raised this matter is that it must be clear to everyone that the threat to Kenya, and indeed to Africa as a whole, has been increasing steadily of late. We cannot ignore the very serious events in the Middle East and the possible repercussions which those events may have in Africa. This is not, and cannot be, solely a problem for Kenya. It is one that affects many African territories other than those which appear to be already to some extent subject to Soviet influence; and indeed the Prime Minister of the Federation of Rhodesia and Nyasaland made a forthright speech on the threat of communism earlier this year. In his speech the Prime Minister spoke these words: "Russia will take every possible step to stir up the non-white peoples of Africa against the West". Again, Field-Marshal Viscount Montgomery was reported to have said, in the course of speech at the American Independence Day dinner at the American Society in London, that "The battle ground in the next phase of the cold war lay in Asia, particularly in the Middle East and in Africa. Europe is now the area where the danger is least". He went on: "We must regroup and redeploy and regain the political and economic initiative which we have lost". The sad truth was that the United States and its European allies had completely failed to formulate the common policy upon a global basis, one which linked N.A.T.O. with the world outside N.A.T.O., and all was not too well in N.A.T.O. itself.

[Mr. Deputy Speaker (Mr. Bechgard) left the Chair]

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

"It had groups of Powers in it which had relatively parochial interest other than world-wide interest."

Now, Sir, as I have implied the issue of communism in Africa and the steps

that should be taken to combat it is one that concerns all anti-Communist African territories, and not Kenya alone. Therefore, as an initial step I put it to the Government that a conference of at least some of the territories vitally concerned should be arranged, to consider the general aspects of this problem, and also, if it is possible, covering the military field as well. I am well aware, Sir, that the Government may not be in a position to initiate such a conference, but I feel it is in a position to communicate this proposal to Her Majesty's Government, and I hope very much that the Government will not only do so but that it will press for urgent and immediate action.

Now, Sir, the reason I advocate the convening of such a conference is that I believe that it would serve a purpose which the normal routine methods of liaison cannot do. Firstly I believe that there is a general concern in regard to the Communist menace, and the maintenance of public confidence rests not only on action being taken, but on it being seen to be taken, so far of course as that is possible, having regard to considerations of security. By this I do not for one moment intend to imply that the proceedings of such a conference, if one should be arranged, should be public, or that the Government does not appreciate the threat. Secondly, I believe that the interchange and pooling of ideas, and the possibility of a common policy emerging under certain matters as a result, would be of value, and of course I think it should be borne in mind that perhaps the recommendations of such a body would perhaps carry more weight than the representations which individual dependent Governments might make to their home Governments. For instance, it might be possible to decide on a common policy in relation to Communists and fellow-travellers and known to be engaged in Communist activities in the territories concerned. In European countries of course a good deal of latitude may be acceptable, but I feel that in Africa, as Mau Mau and the resurgence of K.K.M. has shown, the era of subversive violence has not yet passed, and it will I fear be some considerable time before men's minds entirely discard the instincts and customs of the past. Therefore activities which can be tolerated



[Group Capt. Briggs] in the United Kingdom cannot, I suggest, be tolerated in Africa without running a quite unwarranted risk to orderly government and to the preservation of peaceful conditions.

Now in this connexion I would draw the attention of the House to the fact that on 6th March, 1956, an hon. African Representative Member—Mr. Mathu, who was a Member of this House then—gave notice of the following Motion, which read: "That in the opinion of this Council, Government should take the necessary steps to proscribe communism in Kenya". For reasons of which I am not aware, that Motion did not in fact come before the House.

Now, Mr. Speaker, Sir, it may be felt that the suggestion for the holding of a conference on the lines proposed by me, emanating from the Legislative Council of a non-self-governing colony such as this, might be regarded as somewhat presumptuous, but on the other hand in the particular situation which may be developing, Kenya would be in the front line and in such circumstances, our vital interests in this matter will, I am sure, be understood and sympathized with.

Mr. Speaker, Sir, I beg to move.

MR. PANDYA: Mr. Speaker, Sir, I rise to second the Motion moved by my hon. friend the Member for Mount Kenya. He has very ably dealt in broad outline with the main principles of communism, which is so highly objectionable and revolting to the democratic peoples of the world. He has covered, Sir, the ground very comprehensively, and I do want to emphasize one or two features of the doctrine of communism. I would like first of all to deal with the attitude of communism to religion. This philosophy, as expounded by Marx, Lenin, or Stalin, has no place in society for the idea of God. But it does not stop there, Sir; it goes beyond that, for it takes active measures to suppress the freedom of the individual in his belief in God, and does away with the traditions and backgrounds of individual faith and worship. They thrive on a godless society. In schools, particular care is taken to see that the doctrine of godlessness is instilled in the minds of the youth of the country, and the seeds sown of atheism.

All places of worship are either closed down or, worse still, annihilated, and as I said before, the right of the freedom of worship is completely forbidden. Religion is thus dealt a striking blow by the denial of this freedom to the human being. Indeed, Sir, in many cases there have been public exhibitions where people have been forced to renounce communism and to confess their religious faith.

Now, Sir, from religion I would like to turn to one or two other features of this doctrine, which is the denial of individual liberty, freedom of action, of association, and opportunities. There are no human values, no respect for the rights of man or his dignity in society. The human being is merely a cog in the machine to serve his master, without being allowed either to think for himself, for the benefit either of himself or of the State. There is no freedom of expression, of opinion, let alone either reasonable and fair criticism. Indeed, the very existence of an individual is based on fear and suppression, and such restrictions are imposed which, if not observed, would have serious repercussions on the individual. This doctrine denies any form of human development and relies completely on ruthlessness.

Mr. Speaker, it is quite obvious from this; that we must all of us master all the forces at our command to see that this doctrine is not allowed to enter the borders of this country. We have only to look at some of the European countries and the recent happenings in those countries; to be convinced of the truth of this assertion. The vast net of communism has spread to many of these helpless countries, and people's lives have overnight been ground in the dust. There is nothing but poverty, unrest and discontent in the lives of these people. But besides force, this pernicious ideology has penetrated the winds of the new intelligentsia of these countries, who have not seen beyond the immediate advantages, who did not realize the dangers, the future dangers, that beset them once they have accepted this ideology. False promises of happiness and prosperity have been made, only to find, much sooner than they think, that these are all much more dangerous to the freedom than they were led to believe. It is for these reasons, Sir, that I feel

[Mr. Pandya] we should exercise the utmost vigilance against this evil doctrine, which strikes at the very liberty of man. But to combat communism; Sir, I feel that we must advance the democratic principles and ideals, and by practical demonstration show to the people that the only alternative to communism is democracy which is based on freedom, on all freedoms as we know them; and which is the only alternative which ensures happiness, prosperity and peace in any society.

And so, Mr. Speaker, Sir, we must endeavour firstly to remove such causes of instability as are found, of discontent and unrest in any particular country, for here are sown the seeds of this political ideology, in the unsettled minds of the people who, due to lack of education, are unable to appreciate the inherent dangers which I have just now discussed. To achieve this we must bring about improvement in conditions, conditions both at work and in the home; improvements in the standards of living of the majority of inhabitants of our particular country, for otherwise it will be very difficult to keep communism out of the country. To create such conditions we must establish the confidence of the peoples of the country; I know that a lot has been done but I think a lot needs to be done, particularly in this age where progress is so quick and things are happening at a rapid rate, and the impact of what is happening in other countries is being felt by the people of this country. I am, Sir, only too conscious that changes cannot be brought about overnight, for no miracles can be performed, but if we conscientiously strive towards this purpose we will have gone a long way to meet and combat the doctrine of communism. I feel, Sir, we must have the backing of the people; the might and the power of the peoples is, I feel, the greatest obstacle to this evil doctrine. This continent, Sir, is the continent of the century. So many things are happening and events are moving so fast that we must make all endeavours to see that these countries are kept away from communism at all costs, and towards this ideal all communities must dedicate themselves to the maintenance and enhancement of democratic principles. For it is only, by precept and example we can win the battle for democracy, which

all of us cherish most, and to create such conditions who are better fitted than the Western countries, for they have developed and lived the ideal of democracy for centuries; by their example of culture, high thinking, tolerance and individual liberty and the betterment of conditions of most of the people, irrespective of class or creed.

Communism achieves its objectives by force and infiltration by inhuman methods, and resistance to it must have our full support.

Mr. Speaker, I think the hon. Member has given a very clear indication of the reasons why we should support this Motion. I just want to say that this Motion emphasizes that vigilance is urgently needed to ensure that communism is kept at bay at all costs, for if the light goes out on this continent there will be nothing but chaos and destruction, the likes of which we have not seen or heard of before.

Mr. Speaker, Sir, I beg to second.

Question proposed.

THE MINISTER FOR INTERNAL SECURITY AND DEFENCE. (MR. CUSACK): Mr. Speaker, Sir, in accepting this Motion the Government does not necessarily agree with all that may be said in the debate. Moreover, the Government contrasts the words in the Motion "Kenya's vulnerability" as a territorial vulnerability. I should first like to make it clear that the Government has maintained and continues to maintain that vigilance for which the Motion calls, and moreover that it has co-operated and continues to co-operate with other Governments and territories in preventing any development of communism in Kenya.

Sir, having categorically stated this, I hope hon. Members will understand that in the public interest it is not possible for me to give details of many of the methods and means employed. Just, Sir, as espionage is secret, so is counter-espionage.

Having made this statement, which I trust, hon. Members will accept from me, I would like to give some details about communism so that we can all talk correctly about the same thing.

The hon. Member and his Second, Sir, described some of the effects of

[The Minister for Internal Security and Defence] communism in countries where it is practised, but communism is not necessarily what people choose to think it is. First of all, Sir, the Communist is not just anybody to the left with views with which we may disagree. There is a distinction, and a definable distinction, between *Attila* and *Trotsky*.

A Communist, Sir, is a person who accepts the doctrine and discipline of Marxist-Leninism and who willingly subordinates his own ideas to those of a Communist Party and to Marxist-Leninist political theory. Now, this theory is a little less flexible than is generally supposed. It is a complicated one and no abbreviation of it can be wholly accurate but it has some important postulates. It postulates the existence of a proletariat and of a *bourgeoisie*. The struggle for power between these two results in the dictatorship of the proletariat and the establishment of socialism accompanied by the destruction of capitalism aided by its own inherent defects. Thereafter comes the millennium with the withering away of the State.

Members will appreciate that these conditions for the Communist revolutionary situation do not exist in East Africa. Indeed, Sir, the philosopher of communism himself—Marx—considered that the prime grounds for the execution of the doctrine would be in either England or in Germany.

That is what communism is, and it is to this struggle that members of Communist Parties are dedicated. But it should also be remembered, Sir, that the Communist Party is a selective party. Only a few people in Russia, or in other Iron Curtain countries, are in fact party members. The Communists have by that means escaped one of the mistakes which from their point of view was made by Hitler and Mussolini who were all-embracing in their parties and not selective.

Now, Sir, what I have said in this attempt to give some definitions is not meant to mean that Communists will not fish in troubled waters or that they will not trouble the waters when it is in their interests to do so. But, Sir, there is no Communist Party in Kenya.

The means most used by Communists to forward their aims outside the countries which they control, and outside their strict party structure, is by the establishment of what are called "front" organizations. These pretend to be independent and respectable so as to attract as many non-Communists as possible. The hon. Member indeed made mention of them in a perfectly correct context. Their purpose is to advance the Communist cause by disseminating propaganda. They can correctly be described as Soviet-controlled agencies of political warfare. All their titles are singularly innocuous: World Peace Council, World Federation of Trade Unions, World Federation of Democratic Youth, International Union of Students. Again, Sir, none of these organizations are established in Kenya. Having said that I might say that the Afro-Asian Solidarity Council has its headquarters not very far from here. I might perhaps take advantage of this occasion to warn any Members who might be tempted by seemingly innocuous offers of free foreign travel that they would do well to consult my Ministry before they burn their fingers—or worse.

The object of Communist support for so-called national liberation movements in the colonies and elsewhere is not what a good number of people think it is. It is to deprive the metropolitan powers of supplies of raw materials, thereby creating unemployment in industrialized countries and the climate for a revolutionary situation where such a climate can only, in Communist dogma, exist. There is also a Russian imperialist background—air space and the involvement of troops—but I do stress this, Sir. The object of communism has nothing whatsoever to do with liberty and freedom for the colonies.

Having said that I cannot give details of a number of things that are done to counter communism, there are some things which are not secret and can perhaps be suitably mentioned here.

One is the removal of identified Communists from this country where the immigration law can be operated against them. Immigration laws cannot, of course, be operated against people who belong to Kenya, but they can be operated against incomers. For people who

[The Minister for Internal Security and Defence] who become corrupted—there are powers to restrict within this country and most Members are, I think, aware that one such person is in fact restricted.

We also keep a very acute watch for the arrival of Communist literature which, and hon. Members will have seen the appropriate notices in the Gazette from time to time, is banned when it is desirable to do so, which is in all cases concerned with communism, and confiscated, and it is a fact that very little Communist literature reaches this country, and of course it is a fact also that anyone who is discovered in possession of a banned publication is thereby rendered liable to legal penalties.

Furthermore, Sir, passports are refused to people who seek to visit Communist countries, although there can be means, which for obvious reasons I will not describe here, how they can do so. However, if they succeed in using those means, they too can be restricted in this country when they return.

I would like, Sir, to refer here to two specific matters raised by the hon. Member. One was his recommendation that there should be a conference on these affairs. Sir, I do not for one moment reject that; though I am not myself very sold on conferences. I am not sure that conferences and meetings produce such good results as some perhaps quicker ways of getting down to things; but I will certainly consider the proposal which the hon. Member has made and I will have it considered also where a proposal of that nature can probably be more correctly evaluated than locally in this country.

The hon. Member also referred to a Motion of which notice had been given—it must be a year or more ago, now—by a former Member of this House—Mr. Mathu—and he wondered why it has never been proceeded with. Sir, I can tell him because I discussed this with Mr. Mathu at the time, and Mr. Mathu's Motion, and the hon. Member will no doubt correct me as I have not got the exact wording of it in front of me, called. I think for the prohibition of communism in Kenya.

GROUP CAPT. BAIGGS: Prescription.

THE MINISTER FOR INTERNAL SECURITY AND DEFENCE (Mr. Cusack): Thank you. The prescription of communism in Kenya. The point, Sir, there was that you cannot proscribe a non-existent organization. You can proscribe a party, and a Communist Party could be proscribed. So after conversation with the hon. Member he accepted the point of view that there would be no achievement resulting from the Motion that he originally proposed, and consequently he did not proceed with it.

Sir, in the reply to this Motion, I feel that what I have said may be rather bare. But I have thought it wise to stick rather narrowly to the terms of the Motion and as I have done so far, to deal with communism as it truly is and not as it is often imagined to be. I have mentioned, Sir, some specific methods of dealing with Communists which are the methods with which my Ministry is particularly concerned. However, outside the strict ambit of my own Ministry, Members are, of course, aware without any need for underlining by me, of the extent to which Government is engaged in, not necessarily directly, but indirectly, producing the bulwark against communism which 'prosperity' supplies. The Swynnerton Plan, land consolidation, the Development Plan, which we consider annually in this House, the advancement in housing, the advancement in medical and educational services and much else of which all hon. Members are aware are clear evidence of this.

One of the enemies of communism, and one of the classes of persons which is eventually and inevitably liquidated in Communist countries, is the *kholak*, or rich peasant.

With our vigilance we will prevent here the *kholaks*, or rich peasants, who we are producing from being liquidated.

Sir, in conclusion, I have left much unsaid and I would ask hon. Members to believe that those gaps are not filled by carelessness or complacency. They are filled, Sir, in fact, by a watchfulness and activity which I do not doubt hon. Members would approve if I could describe them.

SHARIF SHAIQY: Mr. Speaker, Sir, I think that the Motion before this House should receive without reservation the support of both sides of the House. The

[Shariff Shary]

time is opportune for this legislature to adopt a Motion of this nature and I would like to congratulate both the hon. Mover and the Seconder for tabling this Motion.

No one will deny that recent world events and much of what is going on in the world is caused by Communist interference, not only in the lives of their subjects, but also in the private and domestic affairs of their neighbouring and other countries. It is difficult to estimate the misery and deaths that communism has brought into this world, but we are greatly shocked when each day by reading newspapers or listening to our wireless sets we are constantly reminded of the threat of communism to the world and to orderly government. I feel that the Government of Kenya, or for that matter all East African Governments, should keep their eyes wide open for any signs of development of communism in East Africa. Already there are reports, Sir, that Communist Russians have interfered in spheres of influence in Africa. There can be no doubt that the eyes of the Kremlin are turned this way. It must, therefore, be our duty, Governments and citizens alike, if we are to avoid the misery and catastrophes that have struck and befallen countries which have been less vigilant, to take and encourage every measure that will keep the threat of communism away from our country.

Already we have our own internal troubles which may take a lifetime to solve. Surely we do not desire to be burdened with others. Whilst the House may be prepared to support every measure the Government may bring forward to prevent the infiltration of communism in Kenya, a word of warning is necessary here. This should not be taken by the Government to mean that this side of the House would support any measures to curb criticisms by the public of the Government and its officers.

Finally, Sir, I wish to pay tribute in this House to the late King Feisal of Iraq and the members of His Royal Family, all strong supporters of the British. I feel, Sir, that young king would have developed into a fine personality, a fine personality of this world and would have led his country into great progress had he lived his natural life.

Mr. Speaker, Sir, it may be opportune to say here that had it not been for the interference of Communists in that country, Iraq would today have spared the grief and misery it has been put to. In this example, Sir, we find a great descendant of the Holy Prophet Mohammed, brutally murdered to the disgust of several millions of Muslims. As I am also a descendant of the Holy Prophet of Islam, I cannot hide my feelings, Sir, in this connection. I feel that in this incident, Sir, Muslims who pride themselves that Islam and communism can not go together, should take a warning.

Mr. Speaker, Sir, with these few remarks, I beg strongly to support the Motion.

MR. MULIRO: Mr. Speaker, Sir, I get up to make an amendment to this Motion. The hon. Mover and the hon. Seconder should not find any difficulty in accepting my amendment because I am depriving them of nothing at all that they have put in the Motion.

GROUP CAPTAIN BRIGGS: Mr. Speaker, Sir, could the hon. Member please come to the Despatch Box, as I cannot hear what he is saying.

AN HON. MEMBER: He wants you to go down to the Despatch Box or speak louder.

MR. MULIRO: I will speak louder, Mr. Speaker. I am always loud and I think the hon. Member will understand me.

I think, as I have just said, that the amendment I wish to make will not substantially change much in the Motion, but it is adding something very, very important which the Mover left out and which his Seconder in his speech actually brought out.

In the original Motion, between the words: "vulnerability" and "this Council" on the second line, we add the following words: "and bearing in mind any political, economic and social frustrations which might provide a breeding ground for Communist propaganda and activity". Therefore, Mr. Speaker, adding that in, the new Motion will read as follows: "That having regard to the increasing threat of communism to Africa and to Kenya's vulnerability, economic bearing in mind any political, economic

[Mr. Muliro]

and social frustrations which might provide a breeding ground for Communist propaganda and activity; this Council requests Government to maintain the utmost vigilance and all possible precautions against any development of communism in Kenya.

Mr. Speaker, I must make it clear, as the hon. Member who has just left this House, that a Catholic is one of the most aggressive persons against accepting communism. Communism is a godless philosophy, and because of that Mr. Speaker, I took very great interest in listening to the speech of the hon. Mover. But the speech made by Minister for Internal Security and Defence put across exactly what I wanted to put across to this Council today and what I expected the hon. Mover to say.

Communism takes its stand from the philosophy of Hegel, which was a German philosophy—dialectics, where he argued that any society starts with a thesis that moves on to antithesis and finally into synthesis. Now, Karl Marx took that German philosophy when he and Engels, the Englishman, had seen the working-class problem in Britain and formulated a new philosophy that the capitalist society has in itself a monster to destroy the capitalist society.

Well, that philosophy—I will not dwell on it very, very much, but I have just put across the historical factors which have been, to a very great degree, endorsed by the Minister for Internal Security and Defence. In that, these Communists always have something to hold on. They see the weaknesses of the society into which they want to inject themselves and, as I have already said, they took the German philosophy and the British Industrial revolution and the misery that had been created through the industrial revolution in Great Britain, to formulate a new philosophy.

Therefore, the economic, political and social set-up in country are the main breeding grounds of communism. Now anyone talking about the evils of communism—anyone talking about the vigilance that we must have to ward off this godless propaganda—must bear in mind that the things to fight in a society are those three problems. The vigilance we can adopt. In Kenya we must find a

way of trying to ward off these many weaknesses which overtook Russia in 1917, and now is ravaging the whole of Eastern Europe, and in the Middle East. The only way, Mr. Speaker, and all Members of this Council, of warding off this menace—this godless philosophy—is by removing political, economic and social frustrations from our society. Therefore, we shall build Kenya as a democratic country, and shall be able to go forward with every assurance that we are not going to be taken over by this serious menace.

Mr. Speaker, I beg to move.

MR. JOSHI: Mr. Speaker, Sir, I beg to second the amendment. The definition of communism has been very clearly and exclusively given by the hon. Minister for Internal Security and Defence. I am very grateful to him for doing so.

No one in Kenya likes communism. I personally hate and despise the Communist doctrine. From the events before the man in the street, there is nothing to suggest that there is a wide growth of communism. Considering that there is a possibility of Communists infiltrating in this territory, the best way to combat it is to improve the lot of loyal Kenyans politically, economically and socially.

We have a very clear conception of what are the possible precautions the Government can take to prevent this infiltration in the population of Kenya. To me the best precaution and vigilance that we can exercise is to create circumstances and conditions in Kenya where communism cannot thrive. That means equal opportunities for all in education, social services and in acquiring and possessing property. Here I emphasize that the African community will need special treatment because of their inferior economic position. There should be equal political status, especially voting rights.

It is taken for granted that anyone advocating a new system of society must not adopt other than constitutional means. Anyone using or advocating the use of violence or other means prohibited by law should be punished. I would impress on the Government not to use such power to deal with communism which is liable to be misused, because a genuine political worker who is in the habit of using strong language in

(Mr. Joshi).

criticizing an existing régime, is liable to be taken as a Communist. Here we must be very careful. We should not mix up nationalism with communism.

If we think that the African community is susceptible to Communist propaganda we can create confidence by eradicating political inequality and social and economic frustrations.

Mr. Speaker, I beg to second the amendment.

THE SPEAKER (Sir Ferdinand Cavendish-Bentley): Until I receive a written copy of the amendment, I am unable to propose the question. Please do what you are supposed to do, which is to let me have a copy of the amendment in writing. This proposed wording is not the amendment I was given. It is a different amendment.

I should like to explain to hon. Members why I am being rather difficult about this. I appreciate how very strongly certain Members feel about certain subjects, but when a Motion is moved in the House, the first thing I have to ensure is that no Motion is moved which is the same in substance as any question which has been resolved, in the affirmative or negative, during the preceding six months. Furthermore, where there is an amendment to a Motion, every amendment shall be relevant to the question which it seeks to amend and shall not raise any question which, in the opinion of Mr. Speaker, should be raised by a substantive Motion after notice given.

Now, we recently had a very lengthy debate on the Constitution, in which a large number of grievances—or alleged grievances—were aired by certain Members who, possibly quite rightly from their point of view, feel very strongly about them. Those particular questions were resolved. We now have an amendment which very nearly approaches, if I may say so, an attempt to introduce into this particular Motion another constitutional debate.

So when I see exactly how this amendment is worded, I will rule whether I allow it to go forward or not.

Amendment was brought to Mr. Speaker.

I now understand the proposed amendment it is as follows. The Motion on the Order Paper should be altered to this extent: that it would read as follows: "That having regard to the increasing threat of communism to Africa and to Kenya's vulnerability"—there will after the word "vulnerability", first of all be a comma inserted and thereafter the following words will be inserted: "and bearing in mind any political, economic and social frustrations which might provide a breeding ground for communist propaganda and activities" comma and then we shall go on: "this Council requests Government to maintain the utmost vigilance and all possible precautions against any development of communism in Kenya".

Mr. Muliro, does that accurately represent your proposal for amendment?

MR. MULIRO: Yes.

THE SPEAKER (Sir Ferdinand Cavendish-Bentley): In that case, I will allow it, and I will put the amendment.

Question proposed.

THE SPEAKER (Sir Ferdinand Cavendish-Bentley): It is the amendment that is now before the House.

THE CHIEF SECRETARY (Mr. Coult): The Government will accept the amendment.

MR. MBOYA: Mr. Speaker, Sir, firstly may I say we are very happy to know that the Government will accept the amendment. Secondly, may I take this opportunity to say that for the first time I found myself very much in agreement with the hon. Member for Mount Kenya in what he said.

I was also very impressed by the definition—and in complete and total agreement with the definition—given by the Minister for Internal Security and Defence and, Sir, I would like to say, too, that there is no doubt that the speech of the Seconder of the original Motion was most inspiring on this subject.

I do want, however, to take this opportunity to make one or two points, and the first one, Sir, will be touching on the labour movement in this country. As many people know, Communism and communism normally will try to use the labour movement as the vehicle of

(Mr. Mboya) ... their propaganda in any country, and there is no doubt, Sir, that it has been proved in many countries that their first target will be the labour movement and the working class in general.

There has been some confusion from time to time as to what the definition of communism is, and as to the attitude of the labour movement in this country or in East Africa in regard to communism. I wish, Sir, to make the point that our trade union movement in this country is at the moment affiliated to the International Confederation of Free Trade Unions. Many people are not properly aware of what this means. This really means that our labour movement is affiliated to the non-Communist bloc of the international labour movement.

The International Confederation of Free Trade Unions was born or created out of a split between the trade union movements of the democratic countries in 1949 and the World Federation of Trade Unions. This resulted in the existence today of two international labour movements or labour bodies—one, the World Federation of Trade Unions, which is the Communist-dominated one, and the International Confederation of Free Trade Unions, to which are affiliated also the British Trades Union Congress and the American Federation of Labour-Congress Industrial Organization and other various trade union organizations in the West.

I make this statement, Sir, because I feel that at times there may be confusion as to where we, in the labour movement particularly, stand, and I do want it to be on record that we stand with the trade union movement—the international labour movement—in the West.

Last year our Federation of Labour received an invitation to attend a conference in Peking, which was turned down without any qualification or reservation and without any hesitation. This, Sir, shows our attitude to communism and to any Communist-front organization.

I also make this statement because when he spoke—although I said I did agree with the Member for Mount Kenya when he spoke—he referred to fellow-travellers, and I thought his definition of a fellow-traveller was a bit broad and could lead to a great deal of

confusion. I think it is quite necessary, Sir, that we should understand the definitions of what we are dealing with. If we were to approach this subject or the question of the Communist menace in any exaggerated form, we might find ourselves in quite a bit of difficulty, as has been apparent in some countries where there has been a confusion in this definition.

I want to associate myself with the views expressed as to the best way to combat this Communist threat. I think, Sir, that military power may be used, and indeed there are occasions when it is necessary to mobilize the military power of the West against that of the East. But to combat communism effectively, it is necessary not so much to rely on military power, but to match the internationalism of communism, item by item, with the internationalism of Democracy. We should expose the Communist lie by living the democratic truth and practising the democratic faith. It is not going to be enough merely to tell the people that Communists are liars, that they give you false hopes, that they are this or that, if the people cannot see an alternative that is better in real life and in practice than communism. That is the challenge that the West must face—that is the challenge that those of us who believe that communism must be defeated must face in East Africa today.

Mr. Speaker, Sir, I do not think there is any need to add more to what has been said, except to say this: that if we are going to succeed—and there is no doubt that the Communists and the Kremlin has its eyes on Africa today—if we are going to succeed we have to be more positive in our attempts to combat communism, not so much by theorizing about it—but so much by preaching against it—by living by the democratic way of life.

I beg to support.

THE SPEAKER (Sir Ferdinand Cavendish-Bentley): The amendment is now before the House, but in my view the matter of the amendment is not conveniently severable from the matter of the Motion, and therefore I rule that any Member who speaks to the amendment at the same time speaks to the main Motion.

MR. TOWERT: Mr. Speaker, I rise to oppose the Motion and the amendment. I have been trying to understand the contents of the Motion and I find there is nothing in it. It is absolutely void. It is not aimed at rectifying anything that causes any complaint at all, and if the word "vulnerability" is removed then there is nothing at all in the Motion. I wonder what was in the mind of the Mover when he moved it. It should have been withdrawn. What made me wonder more was the sagacity of the Seconder of the Motion. He speaks of things like atheism. He forgets, or he does not see, that atheism is a misconception. If you say, "There is no God", you must be omniscient to know everything and then say that there is no God. So atheism as such does not exist in my mind and it is always a misconception. So you can wash out the idea of atheism. I would ask him not to use that word atheism because it is a concept which does not exist as a matter of practice unless one happens to be omniscient.

Going on, I find that what the Minister for Internal Security and Defence said made me think that the Motion should have been withdrawn at that particular time. Communism is actually composed of a select party; well, I look at that and say I hope we shall never have any select parties in this country, which, of course, if they do exist we shall call the Communist Party. So we shall not have that.

When I say I oppose the Motion and the amendment, it is not because I am a Communist. I do not know what communism means in the first place. The idea of bringing this subject into this House was to educate us to know more about the topic, that is, what communism is. Until a few days ago, I had never looked this subject up in encyclopaedia, but now I have and now I know what it is; I may like it or I may not like it, but there it is. I feel that the Mover of the Motion should have said, as was said in the Irish Parliament in 1780, that, "Mr. Speaker, I smell a rat. I see him forming in the air and darkening the sky; but I'll nip him in the bud". That is what the Mover of the Motion should have said. That would have been the end.

Now coming on to the idea of what the Mover of the Motion had in mind, there is another thing which says, "If God did not exist, it would be necessary to invent him". It is the same with communism. It does not exist in Kenya and now it has been moved and it exists in our minds. I think it is very regrettable that this Motion should have been brought to this House.

Anyway, I will now go on. Under the blanket the black one is as good as the white. So what? Mr. Speaker, unless we do things which will show a human, racial approach, one which will make us feel in our hearts that we are all of one country, nothing, no legislation will stop anyone taking any idea, any concept, any ideology that happens to be in the air. So what I think is we should go back home, say "John", servants, boys, call them all "John", and then we will create a happy country. But when you come and say something about one group referring to other people as *bwana* and others as boys, then I think you are creating these things which you term "Communistic ideas".

Therefore, Sir, I feel our problem is in our own minds and our own ideas and our conceptions and our ideologies, and we should not take our troubles to people at home unless we go and rectify their modes of living.

Mr. Speaker, with those few remarks I oppose the Motion and the amendment and I think the Mover should withdraw the Motion.

MR. MANGAT: Mr. Speaker, Sir, to deal with the effects and the dangers of communism in ten minutes is an ambitious effort and I think a rare instance of *multum in parvo*: a huge and obnoxious *multum* in a tiny and, at this stage of the session of the Council, precious *parvo*. The signs are apparent already that the Government is absolutely exhausted; it is through sheer exasperation that they have accepted the amendment. Otherwise the insertion of the amendment in the main Motion makes no sense, Mr. Speaker. I wish my learned friend, the Attorney-General, would throw light on the wording of the Motion because as it stands it is not only contradictory but the amendment is superfluous. In the Motion we are dealing with something which threatens us

[Mr. Mangat:] ... from outside. That is enough to engage the attention of the Government. In the amendment we are being asked to give attention to something which concerns us parochially, intimately, right here, and a lot has already been said on that aspect of the subject. Even if the Leader of the House has, through sheer exhaustion, accepted the amendment, I would ask him to reconsider it and reject the amendment, because it looks like a huge joke, that those words should come immediately after the danger that threatens us from outside.

Mr. Speaker, Sir, it is said that even eternal truths need constant reiteration. This Motion has in it a monomany, if not exactly an eternal, truth, and it is that the addiction to the Soviet myth is as tenacious and as difficult to cure as any other addiction. There is always a supply of new labels in the black market of the Soviet ideals. They deal in slogans: just as bootleggers deal in faked spirits, and the pity of it is that the more innocent the customer, the more easily is he subjected to the sale of those faked spirits. In course of time they become addicted to those ideological intoxicants which are padded under the trade-mark of democracy and freedom.

Different people have different definitions of communism, but it is a cheering prospect that our Minister for Internal Security and Defence knows what communism is. Generally it is the Governments themselves who either do not care to know or merely do not know their own dangers. To embark on a definition of communism is a tempting proposition, but I am sure my dissertation on the subject would not be so well received as probably the opinions of those who know better, from personal experience, about communism, people who have been behind the Iron Curtain and perhaps after their personal experiences have retraced their steps.

Very famous men have done that and come back, men like Stephen Spender, André Gide and Louis Fischer, who were at one time fellow-travellers. But they stopped on their way and came back to sanity and civilization.

Louis Fischer says this: "Russia is condemned as a police state. That is a fraction of the evil. The Kremlin holds

its citizens in subjugation; not only by police-and-prison power but also by the great power inherent in the ownership and operation of every economic enterprise in the nation. Capitalism's trusts and cartels and monopolies are pygmies as compared to the one mammoth political-economic monopoly which is the Soviet State. There is no appeal from its might because there is no power in the Soviet Union which does not belong to the Government dictatorship."

Now this is the version of a mere fellow-traveller as compared to a real Communist. The experience of the actual Initiates, men like Richard Wright, the American negro writer, Ignacio Salome and Arthur Koestler are indeed illuminating. Arthur Koestler says this: "I served the Communist Party for seven years—the length of time Jacob tended Laban's sheep to win Rachel his daughter. When the time was up, the bride was led into the dark tent; only the next morning did he discover that the ardour had been spent not on the lovely Rachel but on the ugly Leah. I wonder whether he ever recovered from the shock of having slept with an illusion."

It is like sleeping with an illusion.

I think it is the same author who said somewhere, "Indeed the links in the chain of tyranny are usually forged singly and silently and sometimes consciously by those who are destined to wear them."

Mr. Speaker, Sir, there are people in Africa today who are forging those chains not silently but with a clangour which should waken up those who are deeply concerned with their well-being. The purpose of this Motion is to give an alert to our own Government and to the other Governments on our borders that they should try to save their youthful and exuberant wards from the sweetly seductive infatuation of communism.

The main Motion contains that idea; the amendment does not.

I beg to oppose the amendment, Mr. Speaker, and I support the Motion.

MR. KHAMISI: Mr. Speaker, Sir, I beg to support both the Motion and the amendment. The main reason why I support the Motion and the amendment

[Mr. Khamisi:] is because I am quite certain in my own mind that communism has no place whatsoever in the hearts of the African people. I am saying this from personal knowledge and I would like it to be put on record that although there are so many political organizations at present and they have been in existence in this country for very many years, none of those organizations and none of those leaders have been indoctrinated with this communism. It is only quite recently in my own constituency when I protected the lives of the children who have been asked to go for the education in a country in this continent which I considered myself to be full of Communistic influences. I am quite sure that the Government will not allow anybody at all who will be inclined to remove the young boys and girls from this country and send them to a place where they will learn this dirty game of communism. Personally, I do not know what communism is except from what I have heard this afternoon from the Mover of the Motion and from the Minister for Internal Security and Defence and from the other speakers. I do not believe, Sir, that there is any useful purpose to be gained by calling conferences of Governments of neighbouring territories or even of Africa in order to consider the question of communism. Communism is a danger which we must protect whether the other territories are on our side or not. The only protection I submit, Sir, for any Government to do is to try to raise the standard of living of the people, try to remove their frustrations, and try to make all the people in the country contented with the Government that is carrying on amidst them.

With these few words, Sir, I support the Motion as well as the amendment.

MR. MOHINDRA: Mr. Speaker, Sir, I am very sorry, Sir, to disagree with the hon. Mr. Mangat because, as the Motion stood, I would have possibly spoken against it. But the Motion as amended is the Motion that requires the support of everybody. I say that, Sir, with mature consideration, because I know there are countries in which to preach even racial co-operation or equality of opportunity is interpreted as communism.

Now, if under that very wide Motion that was introduced by the hon. Member

for Mount Kenya, our Government had to decide to put an interpretation on the definition of communism as practised in certain countries in the British Commonwealth, I would be the first man to raise my voice against it.

The Motion as amended makes it necessary that we in Kenya should do everything possible to see that the breeding ground where communism grows is not allowed to exist. If the breeding ground is not there, communism will automatically go by the board. Communism with its violence and with its dictatorship of the individual, with its indignities that the human being has got to suffer has no place in a democratic country. People who love freedom and democracy do not tend to go towards communism, but it is when they are frustrated, when their hopes are frustrated, that they look in another direction.

With these words, Sir, I support the Motion as amended.

MR. ARAP MOI: Mr. Speaker, Sir, I should like to register my support to the Motion and the amendment. Being a Christian democrat, I should like to say that I do not accept any Communistic ideas. I have watched with great interest what is happening in many of the Communist countries, the countries that have been invaded by the Russians. Reading the Russians' ideas about how to get hold or to get a grip of any community has made me think that it is a treacherous idea, and it is a treacherous weapon that should come to any country at all. I have read a lot of what has happened in Yugoslavia, of what has happened in Israel and Australia where contracts which were broken by the Russians were broken merely for political reasons because these countries were promised certain prizes and because these countries did not agree to certain ideas which were manufactured by the Russians, then these contracts were broken. We are not surprised, Mr. Speaker, as to what are the aims of communism. It is to make people to be Communists. They do not allow freedom of worship, freedom of speech, freedom of association, and so on. Therefore, the amendment to the Motion suggests that we should try all we can to raise the standard of living

[Mr. Arap Moi:] and also implement political and economic and some other things which would relieve or eliminate certain frustrations.

Mr. Speaker, I need not add more other than to say that the aim of the Communist countries, their objectives are to see that they achieve the downfall and ruin of the non-Communist countries, that is, the West. But it is our duty it is the duty of the individual to see that the freedom of those who believe that communism should not come to Kenya should not only be demonstrated by words but by actions.

Mr. Speaker I beg to support.

MR. MUMBI: Mr. Speaker, Sir, before the Minister for Defence explained in detail what communism meant, I was in a very horrifying position because I have only been reading of the action and activities of Communist countries, and I have always been in very great fear of it. I think everyone would do all in his power to see that no element of communism was introduced into our country. May I also say, Sir, that Kenya and the few remaining countries are to be warmly congratulated for standing very strongly against communism. Kenya is part of Africa which has always been spoken of as a dark continent; but today it can now be said to be a shining star. As the Minister said, there are no activities or movements of communism in this country. In supporting the Motion and the amendment, I have but one or two points to make. I do not see how I could dissociate the amendment from the original Motion because one of the weapons that Communists use in trying to bring it into those peaceful countries which do not adhere to communism is employing social and economic tactics.

We are quite aware that Communist countries have offered financial aid to certain non-Communist countries and we are also very well aware of the reasons for their doing such things, so as to try to make friendship with these countries with the intention in the end to draw them into communism. There is nothing that would prevent any Communist country offering financial aid to Kenya, therefore trying to seek that friendship which in the end will draw Kenya into communism. Therefore, Sir, I feel that the amendment as suggested by the

Mover of the amendment teaches the Communist countries and tells the world that we in Kenya can stand on our own without any aid from any Communist country.

Another point that I would like to mention is, a number of our young boys and girls are being offered overseas bursaries by Communist countries, and although Government may do all in its power to prevent such young men going to these Communist countries, somehow somewhere they find ways and means of getting to these Communist countries. The result is that when they come out from these Communist countries, back to our country, they have no doubt these ideas of communism from these countries, and they cannot help teaching or putting these ideas to their counterpart young men in this country. Therefore, for some reason unknown to us, we may find in the end that we are actually inviting communism. Hence the reason for the amendment as put by the Mover.

Mr. Speaker, Sir, I have but very little to say more than what has already been said, but it must be clearly understood that this is a matter which concerns us all, and it must be determined by us all. The only way I feel we must employ in order to prevent any element of communism coming to this country is to try to find ways of getting these young men of ours going to the right countries and not going to the wrong countries.

With those few points, Mr. Speaker, I beg to support.

MR. OBIINGA: Mr. Speaker, Sir, I think the time left is very short, but I feel that there are some points which have not been raised which I should bring forward to the Government.

I accept the amendment to the main Motion, and together with the main Motion itself, I think it would be reasonable to be passed by this House. I think the Government also for having accepted the amendment to the main Motion.

As such, I also thank the Mover for the explanation he gave me about communism because I should say sincerely that I have very little knowledge of communism. I thank the hon. Minister for Internal Security and Defence for his comprehensive explanation of communism, but there are some points which I

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END

OF REEL NO. 23