



COLONY AND PROTECTORATE OF KENYA

LEGISLATIVE COUNCIL DEBATES

OFFICIAL REPORT

11th COUNCIL INAUGURATED
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1959/60

FOURTH SESSION

10th November, 1959, to 7th January, 1960

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, C.M.G., 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.).
†THE MINISTER FOR FINANCE AND DEVELOPMENT (THE HON. K. W. S. MACKENZIE, 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 (LT.-COL. THE HON. B. R. MCKENZIE, D.S.O., D.F.C.).
THE MINISTER FOR INTERNAL SECURITY AND DEFENCE (THE HON. A. C. C. SWANN, C.M.G., O.B.E.).
THE MINISTER FOR LOCAL GOVERNMENT, HEALTH AND TOWN PLANNING (THE HON. W. B. HAVELOCK).
THE MINISTER FOR EDUCATION, LABOUR AND LANDS (THE HON. W. A. C. MATHIESON, C.M.G., M.B.E.).
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).
THE EUROPEAN MINISTER WITHOUT PORTFOLIO (THE HON. N. F. HARRIS).
THE ASIAN MINISTER WITHOUT PORTFOLIO (THE HON. C. B. MADAN, Q.C.).
THE MINISTER FOR TOURISM AND COMMON SERVICES (THE HON. W. E. CROSSKILL).
THE MINISTER FOR HOUSING (THE HON. M. S. AMALEMBA).

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).

Constituency Elected Members:

European—

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

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

African—

THE HON. S. O. AYODO (Nyanza South).
 THE HON. F. J. KHAMISI (Mombasa Area).
 THE HON. D. L. KIAMISI (Machakos).
 THE HON. D. G. KIANDI (Central Province South).
 THE HON. J. G. KIANDI (Central Province North).
 THE HON. B. MUYE (Central Province North).
 THE HON. D. T. ARAP JOS (North Rift).
 THE HON. J. N. MUMI (Kitui).
 THE HON. M. MULIRO (Nyanza North).
 THE HON. R. G. NGALA (Coast Rural).
 THE HON. J. J. M. NYAUAI (Nyeri and Embu).
 THE HON. A. OGINGA-ODINGA (Nyanza Central).
 THE HON. J. K. OLE TIPS (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).
 THE HON. J. C. M. NAZARETH, Q.C. (Western Electoral Area).
 THE HON. A. J. PANDYA (Eastern Electoral Area).
 THE HON. K. D. TRAVADI (Central Electoral Area).
 THE HON. ZAFRUD DEEN (West Electoral Area).

Arab—

THE HON. SHEIKH MAHMOOD S. MACKAWI, O.B.E.
 THE HON. SHERIFF M. A. SHATRY.

Specially Elected Members:

THE HON. M. BLUNDELL, M.B.E.
 THE HON. W. B. HAYLECK.
 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. MCHURRA.
 THE HON. N. G. NGOIE.
 THE HON. WANSYU 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. MANGAT, Q.C.

Nominated Members:

THE HON. K. V. ADALJA.
 THE HON. K. BECIGAARD.
 THE HON. D. L. BLUNT, C.M.G.
 THE HON. L. H. BROWN, (Acting Director of Agriculture).
 THE HON. J. H. BUTTER (Secretary to the Treasury).
 THE HON. D. W. CONROY, C.M.G., O.B.E., T.D., Q.C. (Solicitor-General).
 THE HON. M. H. COWIE, C.B.E., E.D. (Director of the Royal National Parks).
 THE HON. AHMED FARUK, M.B.E. (Northern Province).
 THE HON. MRS. J. T. GLEAGA.
 COMMANDER THE HON. A. B. GOORD, D.S.C., R.I.N. (Rtd.).
 CAPTAIN THE HON. C. W. A. G. HAWLEY, O.B.E., R.N.
 THE HON. H. G. S. HARRISON, M.B.E.
 THE HON. A. W. HONTR.
 THE HON. A. H. ISMAIL, M.R.C.S.
 COLONEL THE HON. H. R. JACKMAN.

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

Nominated Members—(Contd.)

THE HON. E. T. JONES.
 THE HON. J. K. KEBASO.
 THE HON. J. A. R. KING, A.F.C.
 THE HON. J. A. LUSENO.
 THE HON. D. S. MILLER, C.B.E. (Director of Education).
 THE HON. BALDEV SAHAI MOHINDRA, O.B.E.
 THE HON. SHEIKH SALIM MOHAMED MUHAMMAD, M.B.E.
 THE HON. W. OLE NTIMAMA.
 THE HON. ADDUL HUSSEIN NURMOHAMED.
 THE HON. SIR EROO PIRBHAI, O.B.E.
 THE HON. R. J. ROGERS, C.B.E.
 THE HON. G. W. RUBIA.
 THE HON. KIRPAL SINGH SAGOO.
 THE HON. SHERIFF A. SALIM.
 THE HON. P. H. SMITH.
 THE HON. C. A. TAYSON, C.M.G.
 THE HON. SIR E. A. VASEY, K.B.E., C.M.G.
 THE HON. A. M. F. WEBB.
 THE HON. A. J. WALKER, M.D., M.R.C.P. (Director of Medical Services).

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

Acting Clerk of the Council:

J. R. NIMMO, M.C.

Clerk Assistant:

H. THOMAS

Sergeant-at-Arms:

MAJOR M. G. ELIOT

Assistant Sergeant-at-Arms:

J. H. KIRK

Reporters:

D. BOCK
 MISS J. M. ATKINS
 MISS M. P. GUNTER

Honorary Editor:

MRS. J. FRYER

*Deputy Speaker and Chairman of Committees.

†Also included in the list of Ministers or list of Assistant Ministers.

‡C.M.G., conferred in Birthday Honours.

§C.B.E., conferred in Birthday Honours.

*The Hon. A. T. Culwick, M.B.E., Temporary Constituency Elected Member for Mount Kenya as from 25th November, 1959, to 21st December, 1959.

†The Hon. S. O. Ayodo was returned unopposed as Member for Nyanza South on 12th December, 1959, in place of Mr. L. G. Opuda.

*The Hon. D. W. Gregg, Temporary Nominated Member (Acting Director of Education as from 5th December, 1959, to 21st December, 1959).

†The Hon. Sheikh Salim Mohamed Mahabharay, M.B.E., appointed Nominated Member as from 8th January, 1960, in place of the late Hon. Sir Mbarak Ali Hinawy, K.B.E., who died on 9th December, 1959.



COLONY AND PROTECTORATE OF KENYA

LEGISLATIVE COUNCIL DEBATES

ELEVENTH COUNCIL

FOURTH SESSION

Tuesday, 10th November, 1959.

The House met at Three o'clock.
(Mr. Speaker (Sir Ferdinand Cavendish-Bentinck) in the Chair)

PRAYERS

The prayers were read by the Bishop of Mombasa.

ADMINISTRATION OF OATH

The Oath of Allegiance was administered to the following Member:—
John Henry Butter.

COMMUNICATION FROM THE CHAIR

THE SPEAKER (Sir Ferdinand Cavendish-Bentinck): Hon. Members, I have received a communication from His Excellency the Governor informing me that he wishes to address the Legislative Council formally on the first day of the new Session, and that it will be convenient for His Excellency to arrive at Parliament Buildings for this purpose at 3.30 p.m. on Tuesday, November 10th, 1959, that is, this afternoon.

PAPERS LAID.

The following Papers were laid on the Table:—

E.A. Agriculture and Forestry Research Organization Record of Research, 1st January–31st December, 1958.

(BY THE CHIEF SECRETARY (Mr. Coult))

Treatment of Offenders Annual Report, 1958.

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

Cotton Lint and Seed Marketing Board Fourth Annual Report and Accounts for the year ended 31st October, 1958.

Marketing of African Produce (Central Province Marketing Board) (Movement of Regulated Produce) (Amendment) Rules, 1959.

Pig Industry (Forms of Licences) (Amendment) Rules, 1959.

Pig Industry (Operation of Quotas) Rules, 1959.

Grading and Baling of Flax (Revocation) Rules, 1959.

Pedigree Flax Seed (Export and Import) (Revocation) Rules, 1959.

(BY THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Lt.-Col. McKenzie))

Emergency (Kikuyu History of Employment) (Amendment) Regulation, 1959.

(BY THE MINISTER FOR EDUCATION, LABOUR AND LANDS (Mr. Mathieson))

Royal National Parks of Kenya, 1958 Report.

Forest (General) (Amendment) (No. 4) Rules, 1959.

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

NOTICES OF MOTION

CONTRIBUTORY PENSION SCHEME

MR. BLUNDELL (Specially Elected).
Mr. Speaker, I beg to give notice of the following Motion:—

That this Council urges the Government to examine ways and means of introducing a contributory pension scheme, for all races in Kenya, with a view to putting before it proposals to this end.

LAND TENURE: SESSIONAL PAPER NO. 10 OF 1958/59

THE MINISTER FOR EDUCATION, LABOUR AND LANDS (Mr. Mathison): Mr. Speaker, I beg to give notice of the following Motion:—

That this Council, bearing in mind the declared policy of the Government that the basis of tenure and management of agricultural land should be similar throughout Kenya, regardless of race or tribe, and as far as local economic and agronomic factors will permit, welcomes the intention of the Government, as declared in Sessional Paper No. 10 of 1958/59, to ensure the determining considerations governing the ownership or occupation of land in the Highlands will be those of the economic use of land, sound agricultural development and good husbandry and invites the Government to present draft legislation to this end.

DRIVING SCHOOLS LEGISLATION

SIR CHARLES MARSHAM (Ukamba): Mr. Speaker, I beg to give notice of the following Motion:—

That this Council request Government to introduce legislation to control the activities of driving schools.

MARRIED WOMEN OFFICERS' SALARIES

MRS. SITAW (Nyanza): Mr. Speaker, I beg to give notice of the following Motion:—

That this Council regrets the necessity for the abolition of special salary scales for temporary and contract officers, as a result of which married women have either to accept re-employment at lower salaries or to leave the Service; and asks Government to review the problem in order to prevent hardship to such officers and

the loss to Government of their ability and experience.

LIBERTY OF THE SUBJECT

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

That this Council urges Government, during its present review of the Immigration Ordinance and Regulations, to pay particular attention to all provisions affecting the liberty of the subject.

CIVIL SERVICE PAY MODIFICATIONS

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

That a Committee, consisting of persons resident in Kenya, be appointed to consider, and to advise Government upon possible modifications of rates of pay and other conditions of employment of the Civil Service in this Colony.

UNEMPLOYMENT IN KENYA

LORD PORTSMOUTH (Nominated): Mr. Speaker, Sir, I beg to give notice of the following Motion:—

That this Council urges the Government to appoint a Commissioner to enquire into the present state of unemployment in the Kenya Colony and Protectorate at the earliest possible moment, and to ask the administration in each province immediately to prepare skeleton programmes of work designed to provide employment benefiting the economy of the country, thus avoiding unnecessary delay in implementing the findings of the Commissioner.

AFRICAN TEA MARKETING BOARD OVERDRAFT

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

That this Council notes that Government has guaranteed an overdraft of £10,000 afforded to the Central Provinces (African Grown Tea) Marketing Board to finance its operations until the production of tea for the Board's factory has reached an economic level.

PYRETHRUM INDUSTRY: SESSIONAL PAPER NO. 9 OF 1958/59

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

That this Council approves the proposals set out in Sessional Paper No. 9 of 1958/59 entitled "The Pyrethrum Industry: Proposals to Amend Existing Legislation".

AFRICAN LIVESTOCK ORGANIZATION OVERDRAFT

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

That this Council notes that Government proposes to guarantee an overdraft afforded to the African Livestock Marketing Organization of £65,000 to provide the organization with additional working capital.

CONTROL OF OPTICIANS AND AUXILIARIES

MR. BOMPAS (Kiambu): Mr. Speaker, Sir, I beg to give notice of the following Motion:—

That this Council urges Government to set up a committee to examine (a) the desirability of introducing legislation similar to that now existing in Great Britain for the registration and control of opticians; and (b) the necessity or otherwise to register and control medical auxiliaries such as physiotherapists and radiographers.

NAIROBI AFRICAN HOUSING: SESSIONAL PAPER NO. 3 OF 1959

THE MINISTER FOR HOUSING (Mr. Amalemba): Mr. Speaker, I beg to give notice of the following Motion:—

That this Council approves the contractor's finance proposals for Nairobi African housing which are contained in Sessional Paper No. 3 of 1959.

CHARITABLE ORGANIZATIONS TAXABLE INCOME

MRS. HUGHES (Asin Gishu): Mr. Speaker, I beg to give notice of the following Motion:—

That this Council requests Government to investigate measures whereby donations to recognized and approved charitable organizations may be allowed as a deduction from taxable income.

SUSPENSION OF BUSINESS

THE SPEAKER (Sir Ferdinand Cavendish-Bentley): I think that this might be a suitable time to suspend business in order to enable me to meet His Excellency the Governor.

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

COMMUNICATION FROM THE CHAIR BY HIS EXCELLENCY THE GOVERNOR

HIS EXCELLENCY THE GOVERNOR:—

Mr. Speaker, Honourable Members of the Legislative Council:—

I am very proud and privileged to be given this opportunity of addressing you within this Chamber within a very short time of my arrival in Kenya.

The world has been watching Kenya, its difficulties and its progress, during the last seven years. I have been among the watchers, Mr. Iain Macleod, the new Secretary of State for the Colonies, opened his first speech in the House of Commons in that capacity, on 2nd November by paying a tribute to his predecessor, Mr. A. Alan Lennox-Boyd, I most warmly associate myself and the members of my Service with that tribute. I feel qualified to speak for them as one who worked with Mr. Lennox-Boyd as a Governor throughout his busy years of office. I mention this as I wish to start my first official speech here in the same way by paying a tribute to my predecessor. I only met Sir Evelyn Baring recently for four days. He could not have been more generously helpful to me. But as a watcher over the last seven years, even if I had not met him, I should wish to pay tribute to the great services which he has given to this

[H.E. the Governor] country at a time of grave crisis in its history.

I think you are all hoping that I shall make some announcement today about the Emergency. I am happy to say that I shall—before I give particulars I would like to say how sorry I am that Sir Evelyn Baring, who had worked so devotedly at the helm to guide the country through the Emergency, has not himself been able to have the satisfaction which falls to me of describing to you how the use of emergency powers will be brought to an end. A very large volume of the detailed work required on two continents to make today's announcement possible was done by him with the very able and untiring assistance of the Minister for Legal Affairs.

There is a new Government in England with a new Secretary of State for the Colonies. There is a new Governor here. We are determined to seize the moment which our predecessors have built for us. I announce the decision to bring to an end the emergency proclamation and the use of emergency powers. In the growing spirit of challenge and adventure which I find so strikingly around me here, let us put the darkness behind us and look bravely to the future.

But emergencies of this magnitude cannot be ended by brave words or by a stroke of the pen. Decisions of method have required exhaustive examination of all the remaining emergency powers. Anxious thought and discussion have been necessary to decide whether any of these powers are inevitably still required for the future. For this that are still required we had to decide what form they should be. The Form must be in keeping with a country pursuing its normal life and destiny. For instance, there are now persons held in detention or under restriction by the legal sanction of emergency powers. A clear pledge has been given that dangerous men will not be released until they have shown themselves to be no longer a danger to their fellow citizens. New legislation will be needed to confer the power to hold the rapidly diminishing number of such persons in detention or under restriction as soon as the emergency powers have disappeared. I am most determinedly aware that a Governor's first duty is to main-

tain law and order. He must have the legal powers to do that in times of no emergency and of emergency alike. He must be trusted to use such necessary powers with humanity and understanding, to the benefit of the whole country and its future.

I therefore require your help as Honourable Members of Legislative Council before I can take the formal action of relinquishing emergency powers. There must be passed into law legislation to replace those emergency powers which we still require. It is my hope that the replacement legislation which it has been decided is necessary and which will be published today or tomorrow will be passed into law in the minimum statutory time so that the relinquishment can be carried out by the early days of the new year. I commend the Minister for Legal Affairs for all the work he has done in the preparation of legislation. I have been astonished at the volume and complexity of this work.

Before I give you particulars of the replacement legislation I also declare my general intention to strengthen the permanent law of Kenya at proved weak points affecting the public security. My Government will introduce Bills from time to time later in the Session with this in view.

After I have given particulars of the legislation I shall announce an Act of Grace. I am very happy that it has been found possible without undue risk to public security to mark this announcement by such an Act of Grace.

This then is my intention as regards legislation:—

On the relinquishment of emergency powers under the Emergency Powers Orders in Council, the Emergency legislation made thereunder and still remaining in force will lapse and cease to have effect. Two problems will remain, however, for the solution of which we must, in the continuing interests of security, make provision.

In the first place, we must, in the light of experience and of the lessons learned during the past years, ensure that the Government is adequately armed to deal in the future with situations in which public security is threatened. This involves first the introduction of measures, which will reinforce the substantive law in such

[H.E. the Governor]

as a way as to ensure that it provides a fully effective first line of defence against incipient lawlessness. Second we shall need to introduce measures enabling us to deal promptly and effectively with what are "public security" as they may develop. What the Secretary of State has recently described as the "sledgehammer" of emergency powers under the Orders in Council will remain available in reserve should they again unhappily be required. What we need now is sufficient provision to ensure, if possible, that conditions in the country will never again be allowed to develop to the point of gravity at which it will be necessary to invoke these "sledgehammer" powers.

The second problem with which we have to deal now is that presented by the remaining number of persons still necessarily under restraint by way of detention or restriction. We must make provision for the continuance of powers to control these persons until they can be released to normal life without serious danger to security. I hereby give notice of our determination never to slacken in our efforts to bring each and every man back to normal life.

For the solution of these two problems which I have described, my Government proposes to introduce and see passed into law, before the relinquishment of Emergency powers, two Bills, to be published today or tomorrow: the Preservation of Public Security Bill and the Detained and Restricted Persons (Special Provisions) Bill. As I have said, my Government will also introduce in the course of the coming Session a number of amendments to the substantive law designed to curb, under the deterrence of penal sanctions, those activities which past experience and intelligent anticipation of the future indicate as being likely to undermine law and order and, if unchecked, to lead to renewed threats to security.

The Preservation of Public Security Bill provides that the Governor may, whenever he considers it necessary for the preservation of public security, bring into being powers to make regulations for such purposes as the exigencies of the situation strictly require. These powers will not include powers to provide for the detention of persons without trial or for the exaction of compulsory labour, unless or until the

situation is or becomes so grave that these particularly arbitrary powers are needed, in which event the Governor will likewise be able to bring them into being. It will, I think, be plain to Honourable Members from the terms of this Bill that, while the Government is loath to curtail the liberties of the subject, it is realistically facing the fact that circumstances may again compel it to take such drastic measures. This Bill is, therefore, both an insurance against future troubles and a means of giving notice to any would-be trouble-makers of the Government's determination to maintain law and order and to take any measures essential to that end. In pursuance of that determination, and because I am satisfied that it is not yet possible, compatibly with the interests of security, to abandon completely the present controls under Emergency legislation of political organizations and of public meetings, it is my intention to make regulations under the Preservation of Public Security Bill, on its coming into force, to provide for the continuance of these two controls for the time being in such form as I may then consider to be still essential. I shall be guided, not by race or politics, but solely by my judgment of the needs of law and order. I hope that experience will show me that I do not need to use these controls. I intend in the coming weeks to give sufficient rope to judge for myself how much, if at all, they must be used.

The Detained and Restricted Persons (Special Provisions) Bill is an *ad hoc* measure to enable us to continue to hold under the necessary forms of restraint those remaining detained and restricted persons whom it has not yet proved possible to release owing to the continuing menace which they present to security in their home areas and in the Colony generally. The category of persons for whose detention or restriction this Bill provides includes the few remaining terrorists at large, of whom we have a list and in respect of whom detention orders will be put into execution on their capture or surrender (but without prejudice, of course, to any criminal proceedings which may be instituted against them). It also includes a few individuals not in this country over whom it might be necessary that we should exercise control under this Bill should they seek to return to this country.

[H.E. the Governor]

The task of reclaiming for society all the misguided men to whom this Bill will apply will, as I have said, continue unceasingly under the new Special Commissioner. As the Joint Committee said, this work is a social and psychological task which may take a considerable time, but after the reorganization that has been carried out and the careful selection of staff to tackle this specialized problem, there is, I believe, ground for cautious optimism that we shall be able to make fair progress in rehabilitating and releasing these men. As you will see, the Bill is an enabling one, and the detail of the forms of detention and restriction contemplated for the persons to whom it will apply will be contained in regulations which I hope it will prove possible to present to you in draft form before you debate the Bill. I think it right to emphasize, however, that it does not contemplate or provide for fresh detentions, save only in respect of terrorists still at large and the short list of individuals at present outside the country. Accordingly, the category of persons to whom the Bill will apply is known, defined and limited.

I shall not in this Speech attempt to enumerate the amendments to the substantive law affecting security which, as I have mentioned, will be introduced in this Council during the Session. You will have the opportunity to consider and debate them as they are presented to you. I would merely observe now that they are not alarming, either in nature or extent, and no law-abiding citizen will have anything to fear from them. Their purpose, and, I hope, effect, will be to prevent erosion of the state of happiness and prosperity of the people of this country depend.

So much for the legislation. Now for the Act of Grace.

To emphasize the reorientation of our plans and policies towards the constructive future, and the closing of the tragic chapter of the past seven years, I have decided, in consultation with and with the concurrence of Her Majesty's Government in the United Kingdom, to make an Act of Grace towards those who have been found guilty of offences related to the Emergency and who are still serving sentences of imprisonment

for those offences. The extent of this Act of Grace is determined by my wholehearted endorsement of past assurances that the dangerous men, while remaining irreconcilable, will not be permitted to return to menace security. The details of this Act of Grace are as follows.

Some 3,400 convicts, convicted of *Mau Mau* or *K.K.M.* offences, have already been transferred from prison custody to detention. In detention they have the opportunities of rehabilitation and accelerated release for which equivalent facilities are not practicable in convict prisons. There remain in prison 141. Of these, 19 are serving short-term sentences for relatively minor offences, and as a result of individual examination of the case and record of each, I have decided that all 19 can safely and without detriment to security be restored to liberty. It is therefore my intention to remit the balance of their sentences, and these 19 will be set free. Of the remaining 122, individual examination of the cases and records of 106 has led my advisers and myself to conclude that, while they cannot, compatibly with the interests of security, be immediately restored to liberty, they could profitably be transferred to detention, in detention they will be afforded the chance to redeem themselves as decent citizens through the reorganized processes of rehabilitation under the charge of the new Special Commissioner, Mr. Wilson. It will be possible for them to secure for themselves accelerated release by this means. I propose, therefore, to remit the balance of the sentences of these 106 and to transfer them to detention.

The 16 convicts constituting the balance of the total of 141 are serving commuted life sentences of imprisonment for the gravest of all offences, murder. Many of those who have been through the rehabilitation processes and who have been successfully returned to normal life are not convicted but confessed murderers. These 16 convicts were not the worst of the murderers: They were hanged. These are convicts whose sentences of death by hanging have been commuted to life imprisonment. Their cases have again been reviewed in detail. I feel that they should be given the same chance of rehabilitation. Accordingly I

[H.E. the Governor]

do not propose to remit the sentences of these men, but I do intend to discharge them conditionally from prison and to transfer them to detention in order that the redeeming influences of rehabilitation may be applied to them also in detention camps. They will, therefore, be held in detention for the purposes of rehabilitation, but if their rehabilitation does not prove possible or lasting, they will at any time be liable to be returned to prison to resume serving their life sentences. The eventual remission of their sentences will be considered, each case individually, at regular review periods in accordance with the established procedure for long-term and life sentences.

There will, therefore, remain in prison, as the immediate result of the Act of Grace, no *Mau Mau* or *K.K.M.* convicts whatsoever. 122, the final residue of many thousands, will be transferred to detention for rehabilitation and, it is to be hoped, accelerated release. Of this 122, the 16 convicted murderers whom I have mentioned will ultimately secure remission of the balance of their sentences only if and when they have, by their reconciliation and behaviour, shown that they have adequately expiated their crimes and are no longer a danger to society.

In addition to the 141 *Mau Mau* and *K.K.M.* convicts who will receive clemency in the manner that I have described, many convicted persons are serving short-term sentences for breaches of movement, passbook or curfew laws and such-like offences. The number of these persons fluctuates but is currently of the order of 2,300. I propose to remit the sentences of all these convicted persons. The documentation of this part of the Act of Grace will take a little time to complete, but it will proceed as expeditiously as possible with a view to the release of all these persons from prison with the minimum of delay. I wish, however, in this connexion to emphasize three points. First, while persons in this category will receive clemency in respect of offences committed before today, of which they have been convicted, Emergency legislation must be complied with so long as it remains in force and no clemency will be extended to future

offenders in this category. Secondly, when, on the relinquishment of Emergency powers, Emergency controls of movement come to an end, a new and strengthened Vagrancy Ordinance will, if the recently published Bill is passed by this Council, be in force and will be firmly applied; and, if there should be, in any part of the country and particularly in urban centres, any large influx of persons without employment or accommodation in such places, to the detriment of public order, I shall be compelled to introduce, and shall not hesitate to do so, fresh controls or other necessary remedial measures under the Preservation of Public Security Bill. Thirdly, when the present passbook legislation lapses, those to whom it applies will be ill-advised to throw their passbooks away unless and until they have obtained, if they do not possess them already, the blue identity cards issued under the Registration of Persons Ordinance; for, if they do not possess any identity document, they will be at a disadvantage, and may encounter delays and inconveniences, should it ever be necessary for them to establish their identity.

There are, serving sentences of imprisonment for offences committed in the course of Emergency service, six members of the loyalist forces. Of these three were convicted of murder and three of lesser offences. In the cases of the three convicted of lesser offences, I propose to remit the balance of their sentences, and they will be discharged from prison in fairness, they must receive no less, by way of clemency than offenders among the enemies against whom they fought. In the cases of the three members of the loyalist forces serving commuted sentences for murder, I have, as in the case of the *Mau Mau* convicted murderers, decided to grant them a conditional discharge from prison. No question of their rehabilitation from *Mau Mau* beliefs arises. They will be set at liberty, but they will be liable to be restored to prison to continue serving their sentences should they in any manner show themselves unworthy of the clemency which is being extended to them. Their sentences will also, of course, come up for periodic review until remission is granted.

After thus disposing of the convicted prisoners, I come now to deal with detainees. Efforts to rehabilitate, and to

[H.E. the Governor]

bring to the point of release, the many thousands of detainees that have passed through the camps have continued unabated over the years. As an outside observer who has been astonished at the results I pay my admiring tribute to the success achieved in this most intractable task. The measure of that success is that well over 78,000 have been released. In recent months, and with the objective of reducing to the lowest possible figure those necessarily held in detention at the stage which we have now reached, those efforts have been further intensified. Individual cases, and the problem of acceptance of individual detainees by their local communities, as well as the methods of rehabilitation, have been closely examined, particularly in the light of the most valuable recommendations of the Fair Committee, and as a result of the reorganization under the new Special Commissioner which was carried out in pursuance of those recommendations.

At the end of September there were 917 remaining detainees. Of these 301 are considered fit for release and have now been accepted for release by their own local communities. They cannot all be absorbed simultaneously, but they are in course of being released in accordance with a phased programme and will all be at liberty by the end of the year. The balance of 616, to which will be added the convicts who are to be transferred to detention from prison custody, and the persons remaining under restriction, these together constitute the residual rehabilitation problem with which we are faced. It is our intention to apply all our resources, under the Special Commissioner, to the reclamation of these men, who will be released as and when they cease to be irretrievable and can be set free without serious danger to security and with the necessary acceptance, by their own people, of their return to their communities. It would be idle to delude ourselves that success with these men will be easily achieved. They are the hard core, at present adamant in their intransigence, but we will persevere, if necessary working on each man individually for weeks, months or as long as may be necessary, in an attempt to penetrate the psychological and superstitious barriers which their misguided minds present to

every method of rehabilitation which the knowledge and experience gained over the years in dealing with tens of thousands have yet succeeded in devising.

Very similar problems are presented by the persons, numbering 551, remaining under restriction, mainly at Galole on the remote reaches of the Tana River. Similar intensification of effort, under the Special Commissioner, in these cases as in the cases of detainees in camps, has brought 210 of the 551 to the threshold of release, and they too are in course of being released according to a phased programme and will all be at liberty before the end of the year. There are a number of these people who, as the Fair Committee suggested, may need skilled psychiatric treatment. Others may possibly be reclaimed by individual association and personal influence. I am examining the practicability of applying such special individual treatment.

There will then remain, subject to such further progress in releases as can be achieved in the interim,

in prison	nil
in detention	738
under restriction	341
A total of	1,079

I should make it clear that in determining the compass of the actions of which I have given details, my advisers and I have had in the forefront of our minds that, while these actions should be as far-reaching and liberal as circumstances will allow, security must not be jeopardised, or even hazarded beyond that degree of justified, calculated risk which is inevitable, and indeed inherent, in the restoration to society of men who have in the past manifested dangerous and violent proclivities. I reaffirm the inviolability of undertakings given in the past, that the dangerous men will not be allowed to return while they are still dangerous.

I should make it clear, that the releases which I have announced will not affect persons under restrictions under the substantive laws of the country. I have in mind in this regard the Deportation (Immigration and British Subjects) Ordinance, 1948, under which Jomo Kenyatta and four of his associates

[H.E. the Governor]

are restricted. Their restriction is not effected in pursuance of Emergency powers and they do not, therefore, fall within the category of restricted persons of whom, as I have mentioned earlier, 210 are on the point of release.

There are still a few terrorists at large. These number a small, and the task, therefore, of capturing them, owing to the vast areas of forest in which they can hide, is an immensely difficult one. In a final attempt to rid the country of this terrorist remnant, and in the spirit of prudent generosity, however undeserved by these misguided men, which informs the measures of grace which I have today announced, I am authorized by the Attorney-General, to say that any of the remaining terrorists at large who voluntarily surrenders and submits himself to the authority of the Government in the period starting with today's date and terminating on the 31st December of this year, will not be prosecuted for any offence committed before today's date in pursuance of his activities as a terrorist. Any such terrorist who so surrenders will, however, be detained and will, through rehabilitation, have the chance to secure in due course his release to normal life. This is a last and final offer, and a most generous one, to men who have earned no right or expectation of generosity or leniency from the Government or people of this country. It is made from a desire to obliterate the last traces of an armed conflict which has caused such widespread misery and suffering, such senseless bloodshed and loss of life, such profitless dissipation of the country's substance which could otherwise have been devoted to the rewarding task of promoting the happiness, prosperity and advancement of the peoples of Kenya. Nevertheless, although not made out of consideration for them, this offer represents the last chance for these men to exchange the rigours of their present miserable existence for the prospect of eventually taking their place once more in human society.

The Attorney-General has informed me that, having regard to the Act of Grace which I have announced, to the circumstances in which and extent to which it is being applied, and to its underlying purpose of stimulating confidence and hope for the future and draw-

ing a veil over the tragedy of the past seven years, he does not propose to institute or pursue criminal proceedings in the future in respect of offences committed, before today's date, in connexion with the Emergency by members of either side in the Emergency conflict. To this declaration, however, he has added one qualification which flows from the surrender offer which I have just, with his authority announced, namely, that any terrorist still at large who does not surrender voluntarily in accordance with that offer on or before the 31st December of this year will remain liable to prosecution for any and every offence which he may at any time have committed.

The Attorney-General has asked me to add that it follows from his declaration that confessions made in the course of rehabilitation will not be used for the purposes of criminal prosecution in respect of offences of the nature referred to in his declaration and committed before today's date. Where, therefore, fear of prosecution for such offences has inhibited full confession, and thereby retarded rehabilitation, that fear can now be put aside and should no longer impede the full and free flow of confession which, by relieving the individual of his secret sense of guilt, is the foundation of effective and genuine rehabilitation and, therefore, the springboard to freedom.

Lastly, the Attorney-General has made it abundantly clear to me, as I now on his behalf do to you, that his declaration in no way relates to or affects any offence, whenever or by whomsoever committed, unconnected with the Emergency conflict.

In his statement to the House of Commons on 22nd April, 1959, the then Secretary of State said that if conditions are suitable, Her Majesty's Government would arrange a conference to study what should be the next step in the evolution of the Constitution of Kenya. Bearing in mind what I have said earlier about the opportunity presented to us for a new approach to the future, I hold the view that conditions are suitable at the present moment, and Her Majesty's Government has decided that a Constitutional Conference should be held at Lancaster House in London on 18th January, 1960. Professor Mackenzie, Professor of Government at the University of Manchester, has been appointed

(H.E. the Governor) as expert adviser to the participants in the Conference. He spent two weeks in Kenya in September, acquainting himself with the political, economic and social background of the constitutional problems, and meeting some of the leaders of public opinion. He is shortly coming again for a month, when he will complete his tour of the country and meet those leaders of political parties and of the main communities whom he has not met before. He will, in particular, be available to advise the persons invited to participate in the Conference. It has been decided that all Elected and Specially Elected Members of the Legislative Council should take part in the Conference and it is my intention to add to these persons my legal adviser and probably one or two Nominated Members of the Council. The Nominated Members will probably represent sections of the community which might otherwise not be able to have their voice heard, for instance, the peoples of the Northern Frontier District. I shall, of course, be present myself.

On the question of land, a detailed presentation of the Government's approach to the administration and control of agricultural land outside the native lands is before the Council in Sessional Paper No. 10 of 1958/59. This paper presents proposals for new legislation designed to promote uniformity in the systems of tenure and control of agricultural land throughout Kenya. The control machinery proposed, for application initially to farm land in the Highlands, is closely related to that now in operation in the land units where the registration of individual title has taken place. The progressive elimination of artificial barriers based on race, which impede the best use of agricultural land as a national asset, is the declared policy of the Government. The Council will be given full opportunity to debate the proposals in the Sessional Paper and to satisfy itself that these are well devised to apply the policy to which I have referred. Although notice of a motion to debate the paper will be given, it is not the Government's intention to press for the debate until ample opportunity has also been given to interested bodies to make clear to Government their views on the details of the proposals. In the

light of the debate it will be for the Government to set in hand the preparation of the necessary legislation.

In education, planning has been completed for capital development in the next three-year period and the balance and direction of this programme will have to be considered by the Council. Almost 18 per cent of our net expenditure is devoted already to education, and we cannot afford to assume further commitments lightly. With this in mind the Government is seeking as far as possible to make the necessary facilities available on a day-school basis. A special review has been made of the plans of District Education Boards for the development of elementary education in their areas. The aim has been to improve the balance between primary and intermediate education in an advance towards the ideal of a full elementary course for all children, the basis for which is well established in many areas.

Building has begun on the site of the Nairobi Technical Institute and the Government has declared its support for the conversion of the Royal Technical College into a second University College in East Africa offering facilities for study in degree courses in special relationship with the University of London.

To deal next with agriculture, the Agriculture Ordinance will remain the basis of the Government's policy. The committee under the chairmanship of Sir Donald MacGillivray which is examining the work of boards and committees in this field is expected to make an interim report in December or January, and its recommendations will be considered during 1960.

Farmers in the scheduled areas will be encouraged to diversify their output on an alternative husbandry basis. In the Kikuyu districts, as a result of consolidation of fragmented holdings, it is becoming possible to develop whole districts of this fertile and well-watered province on a sound farming basis. Another 5,000 acres of coffee will be planted in African areas. Tea will be expanded, including a new tea area in Meru District.

All this increasing production must find markets. Although world conditions for most commodities have eased a little since last year, competition from other

(H.E. the Governor) countries has grown stronger. Efficient marketing will continue to receive special attention.

The Government has set forth certain proposals for the pyrethrum industry in Sessional Paper No. 9 of 1958/59. Since the publication of this Sessional Paper, negotiations have opened between the parties principally concerned, namely, the Pyrethrum Board of Kenya, and Messrs. Cotts Holdings (E.A.) Ltd. The Government believes that the interests of the industry would be best served by an agreement between the parties, and the Government does not intend to debate the Sessional Paper until the fullest opportunity has been given to them to reach agreement between themselves.

When my predecessor addressed this Council last year he made reference to the encouraging progress of land consolidation in the Central Province. I am glad to be able to tell Members today that this progress has been continued and the agrarian revolution is going ahead at an accelerated pace. There are now some 200,000 farmers in the Central Province registered as freehold owners of their land. During the coming year it is hoped to complete the registers for the Kiambu and Nyeri Districts where the main remaining problem is the laying out and registration of plots in permanent villages. It is hoped that the process of consolidation and demarcation will be completed in the Fort Hall District by the end of September, 1960, and in the Embu District during 1961. In the Rift Valley Province enclosure, demarcation and registration will be continued in the Nandi District and in certain locations of the Elgeyo/ Marakwet District; registers have been completed for about 1,000 farmers in the Nandi District, and in the Elgeyo country about 120 farmers are already registered. In Nyanza Province, Honourable Members will be interested to learn that voluntary consolidation has been extended to half the locations in Central Nyanza and to large areas of the Elgon and North Nyanza Districts. A pilot registration scheme will be carried out in Kericho District where a large number of farms were enclosed and demarcated some years ago.

Financial Estimates will be laid before you in due course. Ordinary expendi-

ture will, for the first time since 1954, be financed in full from our own resources, without assistance from the United Kingdom Government towards Emergency expenditure. The absorption into ordinary votes of certain continuing provisions, previously met from Emergency grants will inevitably absorb a considerable part of the normal growth of revenue at existing levels of taxation.

The Government's proposals for Development expenditure in the period 1960/61 will be laid before you as soon as possible. The Government hopes to be able to finance a programme on broadly similar lines to that for the period 1957/60.

The economic outlook is encouraging and it is thought that by the end of this year the national income, which is what ultimately governs the provision of services by Government, will have again started an upward climb.

The building of the new Broadcasting House has begun on a site near the National Theatre. It will contain the studios of the three National Services and of the Nairobi Regional Service, and when they are ready about July of next year they will enable the Kenya Broadcasting Service to improve the quality and extend the scope of its programmes.

The report of the Television Commission should be received by the end of this year.

In regard to the labour situation and in the important sphere of the docks industry the recommendations of the Board of Inquiry under the chairmanship of Sir Ian Parkin have largely been accepted by the parties concerned and a Bill dealing with the establishment of a Dock Labour Board is to be placed before the legislature in due course.

The present surplus of workseekers for whom jobs cannot immediately be found is engaging the attention of Government. In time the agricultural betterment programmes and the development of markets for our products can be expected to provide employment opportunities for more people, not the least in the African lands.

Turning next to future developments in the fields of commerce and industry, there is good reason for believing that the steady industrialization of Kenya will continue.

[H.E. the Governor]

In this connection, the construction of an oil refinery at Mombasa, which was recently announced, will, I believe, act as a major stimulus to further industrial development. There will be great benefits to all aspects of Kenya's economy and the country's revenue. The refinery will in fact represent the largest single investment in the Colony since the construction of the railway. The decision to proceed with the project is an act of faith on the part of private investors in the country's future.

Work on the original project at Nairobi Airport has now been completed. Expert advice is being sought on all the problems caused by the impending introduction into service of large jet aircraft, such as the Boeing 707.

During the past year a most generous grant of £10,000 has been made to the Kenya Association of Youth Clubs by the Dulverton Fund, and this gift is being used to provide equipment and instruction in the existing clubs which number 95, and to extend the scheme to new areas, raising the number to 144.

I should like to mention at this point the valuable work done by the Probation Service, and the growing awareness of the value of the probation system in dealing with certain classes of offenders. My Government is very much aware of the seriousness of the growth of juvenile delinquency amongst all races and is constantly reviewing the situation.

I am glad to learn that during the past year the Police Force has discharged its many responsibilities with credit. Priority will continue to be given to training and to consolidating the improvements in the Force's efficiency. The present Police Ordinance was placed on the Statute Book in 1948. In the light of experience a number of amendments to the Ordinance are now required, and a new Police Bill will be published in due course.

A Bill will also be introduced to amend the Traffic Ordinance by adopting the recommendations of the O'Connor Committee on Minor Traffic Offences. The Police will thereby be relieved of much unproductive work and the Traffic Branch will be enabled to give more attention to road safety.

During the last year there has been a disturbing increase in the number of

short-term offenders. In consequence, prison accommodation is generally overcrowded. It will be helped in some small degree by today's Act of Grace.

Prison training, which was a subject dealt with by the Committee, under the chairmanship of Mr. Fair, and the problem of the short-term offender are matters which are receiving my Government's urgent attention.

Two Municipal Authorities have achieved full Council status, a third may well have achieved it before the end of the present Session, and the first Unofficial Chairman was appointed to an African District Council. The Government is keeping in mind the possibility of making further unofficial appointments according to the success of teach Councils.

The electoral principle has been extended, and it is the Government's policy to continue to extend the principle where the local communities have a positive residential and financial stake in the local authority concerned.

A year ago it was stated in Sessional Paper No. 1 of 1958/59 that it was intended to produce a Bill to amend the Municipalities and Townships (Private Streets) Ordinance. The task of revision has proved to be slower than was anticipated but it should be possible to present an agreed measure to the House later in this Session.

A Bill to amend the Local Government (County Councils) Ordinance will shortly be introduced on first reading. The Bill contains few radical changes of policy.

Two years ago this Council gave its approval to the Sessional Paper No. 1 of 1957/58 on Financial Relationships between the Government and African District Councils. The Paper provided for a financial review of African District Council finances and preparatory work is now taking place for the holding of the first such review.

For some years the need for comprehensive town planning legislation has been evident and discussions between the Government and Local Authorities have now reached the stage when it is hoped that a draft bill will be laid before this Council early in 1960.

[H.E. the Governor]

It is proposed to employ an additional Planning Officer for town and country planning work in the African lands and, as soon as an officer has been recruited, this urgent work in the Central Province will receive the first priority.

The Ministry of Tourism and Common Services will continue its efforts to develop the tourist industry of the country. The Ministry has been seeking ways and means of overcoming the shortage of accommodation in the National Parks lodges—and will continue its efforts to find a solution acceptable alike to the Parks Trustees and the Government. Similarly, close attention will be given to measures for improving hotel standards and for attracting capital into this industry.

Finally I will deal with housing. During the last year the joint scheme between the Government and the City Council for the construction of 1,400 houses at Ofafa for African occupation was completed; and all these houses are now occupied providing homes for 7,000 people. The building of another 500 similar houses by the City Council is now going forward, financed by a loan of a little under £250,000 from the Central Housing Board. The first of these have been finished and the remainder will be completed in the near future.

It has been decided by the Government and the City Council, subject to the approval of this Council, to build another 3,000 houses of similar type which will complete the project of approximately 5,000 houses originally planned.

The development of the two satellite villages near the boundaries of Nairobi in the Kiambu District, at Riruta and Kangemi, has gone forward during the past year and the first of these villages was officially opened by the Minister for Housing two months ago. This is a new development whereby Africans are loaned the money to build on their own land, to which they now have written freehold title.

I apologize that the complexity of the details to be finalized for my announcement about the Emergency, together with my eager instinct to make a comprehensive announcement at the earliest possible moment, have led to less notice than usual being given to Honourable

Members and to the "strangers" in this House of the opening of the Session.

I also apologize to Honourable Members and to the Ministries that the importance—and consequent length of my announcement about the Emergency have meant that my references to all the other work on which the Government is engaged have been shorter than the nature of the work deserves. As a newcomer I am encouraged as I learn more and more of what is being done in so many spheres to help all the people of the country. I pray that those people may themselves ensure that this never-ending work to their benefit is not again held back by the distraction and expense of civil disturbance or strife.

For such uninterrupted progress our best hope will be if all the many sections of the Kenya community, with differing backgrounds, outlooks, customs and feelings, are able to feel secure, are able to feel at one as Kenyans, in working together for an agreed future. This will require wisdom and faith and understanding of the world and its trends in no ordinary degree. Some of us are to be given the challenge of the chance of becoming the founders of such statesmanship at the London Conference. May we not miss that chance.

We welcome the forthcoming visit of the new Secretary of State for the Colonies in preparation for that Conference and that challenge.

The main theme of my message to you today has been one of forgetting the past and looking to the future. We are fitting the blinds in our show-window and it will be a sad day for mankind if they need to be drawn down again.

We shall not, all in one leap, reach our mark of a stable, fearless, prosperous Kenya, a Kenya in which all Kenyans may give their best. But we can all, always be moving nearer to our mark if we can agree together what is the right direction; if we can stop scurrying in small, frightened, selfish parties to all points of the compass.

Mr. Speaker, Honourable Members, I am already beginning to be a lover of your Kenya scenery in its widest sense. Lovers differ in the moment of their love when they feel compelled to spend their energies in writing sonnets or quoring poetry. I think that I shall have to

[H.E. the Governor] wait until after the London Conference, groping and perhaps frustrated, but strangely hopeful, before I shall know whether I shall wake up to a dark and cloudy morning or whether, as I rub the sleep of ignorance from my eyes, I shall be able to say with Shakespeare in an emergent Kenya dawn—

"Night's candles are burnt out, and
found day
Stands tip-toe on the misty mountain
tops."

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

NOTICES OF MOTION

POLICY DEBATE

Mr. JONES (Nominated): Mr. Speaker, I beg to give notice of the following Motion:—

THAT the thanks of this Council be recorded for the exposition of public policy contained in His Excellency's Communication from the Chair on 10th November, 1959.

CANNING CROPS EXEMPTION FROM INCOME TAX

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

THAT this Council approves the exemption from income tax, for the year 1958 and succeeding years, of the income of the Canning Crops Board derived from any cess imposed under section 26 of the Canning Crops Ordinance, 1957.

BILLS

FIRST READINGS

Hindu Marriage and Divorce Bill

Order for First Reading read—Read the First Time—Ordered to be read the Second Time tomorrow.

Local Government (County Councils) (Amendment) Bill

Order for First Reading read—Read the First Time—Ordered to be read the Second Time tomorrow.

Personal Tax (Amendment) Bill

Order for First Reading read—Read the First Time—Ordered to be read the Second Time tomorrow.

ADJOURNMENT

THE SPEAKER (Sir Ferdinand Cavendish-Bentinck): That completes the business on the Order Paper. I understand that it would be for the convenience of Members if we did not assemble tomorrow morning. I therefore adjourn Council until 2.30 p.m. tomorrow, Wednesday, 11th November.

The House rose at forty-five minutes past Four o'clock.

Wednesday, 11th November, 1959

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

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

PRAYERS

NOTICES OF MOTIONS

SESSIONAL COMMITTEE—APPOINTMENT OF

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

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

Chief Secretary (Chairman),
Minister for Legal Affairs,
Minister for Finance and Development.

Group Capt. the Hon. L. R. Briggs,
Capt. the Hon. C. W. A. G. Hamley,
O.B.E., R.N.

Hon. N. F. Harris,
Hon. S. G. Hassan, M.B.E.

Hon. Sheikh Mohamed Ali Said el Mandy.

Hon. C. B. Madan, Q.C.
Hon. Sir Charles Markham, Bt.

Hon. T. J. Mboya,
Hon. D. T. arap Moi.

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

Hon. C. W. Rubia.

MINISTERIAL STATEMENT

THE CHIEF SECRETARY: Sir, I would like just to take this opportunity of informing hon. Members that, in accordance with the promise given by His Excellency in his speech yesterday the Bills to which he referred in that speech were published yesterday and should by now be in the hands of Members.

NOTICES OF MOTIONS

REVISION OF LABOUR LAWS

Mr. KIAMULI (Mombasa Area): Mr. Speaker, Sir, I beg to give notice of the following Motion:—

THAT in order to establish a permanent, contented, secure and efficient class of urban labour, this Council

urges the Government to consider as soon as possible a revision of and necessary adjustment in the Labour Laws of Kenya.

FIXATION OF RURAL WAGES (RURAL AND SEMI-URBAN)

Mr. OLE TIPIS (Central Rift): Mr. Speaker, I beg to give notice of the following Motion:—

THAT this Council urges the Government to introduce legislation for the fixation of minimum wages for all rural and semi-urban areas, so as to avoid the exploitation of African workers.

AFRICAN WILLS LEGISLATION

Mr. MUCHURA (Specially Elected): Mr. Speaker, Sir, I beg to give notice of the following Motion:—

THAT this Council urges the Government to introduce as soon as possible legislation by which Africans would be enabled to make wills.

ABOLITION OF COMMON ENTRANCE EXAMINATION

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

THAT in view of the serious and unpleasant situation which arises from large numbers of African children being turned out after their fourth year at school, this Council urges Government to abolish the Common Entrance Examination and provide education for all African children to the end of intermediate stage without interruption.

AFFILIATION ORDINANCE—REFEAL OF

Mr. TOWETT (Southern Area): Mr. Speaker, Sir, I beg to give notice of the following Motion:—

THAT in view of the unsatisfactory nature of the Affiliation Ordinance in that it ignores African traditional moral behaviour, this House urges the Government to repeal the said Ordinance immediately and to empower local authorities to make by-laws in place of the Affiliation Ordinance with due regard to traditional codes and rules of behaviour in each area of each local authority.

TRIAL BY JURY: RIGHT OF TO
EVERYONE

MR. MATE (Central Province North):
Mr. Speaker, Sir, I beg to give notice of
the following Motion:—

THAT in view of the changing conditions this Council strongly urges the Government to take immediate steps to extend the right to trial by jury to everyone in Kenya.

MOTION.

THANKS FOR THE EXPOSITION OF POLICY
OF HIS EXCELLENCY THE GOVERNOR

MR. JONES (Nominated Member): Mr.
Speaker, Sir, I beg to move:—

THAT the thanks of this Council be
recorded for the exposition of public
policy contained in His Excellency's
Communication from the Chair on
10th November, 1959.

I am very well aware of the great
privilege that has been bestowed upon
me in proposing this Motion, and with
the indulgence of the House I would like
to enjoy it for about ten minutes.

Sir, the major part of yesterday's communication was dealing with the plans to end the Emergency, and in my humble opinion, Sir, this opens up a new hope for Kenya. If it might be allowed, Sir, to say, that I consider that it has two co-authors, I would say that to our ex-Governor, Sir Evelyn Baring, must go our gratitude and thanks for the firm way in which he brought the Mau Mau insurrection to an end, with firmness, with understanding, and Sir, I think with great humanity, and to the new Governor, Sir, comes the satisfaction of being able at this stage to write what I hope will be the last chapter in that tragic book by proclaiming an Act of Grace, and thereby showing the clemency which is typical of a democratic country. We never hear of Acts of Grace from dictators or of those countries behind the "iron curtain" but which recently declared an Act of Grace to the Algerian rebels, and all those democracies that showed in their generosity towards the war criminals convicted of crime, some showing that in this there are facilities of forgiveness. I not regard to those who have well, in our

own case perhaps—been the victims of the Frankenstein they themselves created in those terrorist days.

His Excellency yesterday, Sir, mentioned a refinery, and perhaps I might be excused for bringing into my speech at this stage a true story, Sir, of those days when in Persia there was a great need for people to drill holes in the ground and get the oil out. There was a shortage of drillers, and the company recruited people from all over the world. These people did not want to go and drill largely because they did not know anything about drilling, but many were sent anyway. They were pushed around by the foremen. They were incompetent. On one occasion an exasperated foreman turned on a chap who was not any good at all and the fellow turned round and said, "Don't go on at me, I am not a driller, I am a barber." And so they sent him back to his haircutting. I am hoping that when some of these people who are going to benefit from the clemency now being bestowed upon them, will become useful citizens and work for the good of the country in much the same way as others have before them.

I think that this Act is something of which we might all be very pleased, but there will have to be safeguards. Sir, from the communication yesterday we are informed that these are being taken care of. I am sure that it will be made possible for these people only to return into their normal walk of life if the people among whom they normally dwell are ready to have them back.

It is a very bold step, this Act of Grace, and it is fitting that it should be tried in a young developing country, and it is to be a success it will need understanding, courage and patience both of those in the administration and those who are coming back to a normal life. Sir, regarding the rest of His Excellency's speech I am sure that others more able than I am will deal with it—but Sir, although my age and background and even physique are against promising political career, or had ambitions to rise high in the Civil Service, I would skim through it and figure out to myself that I would want to get into the Ministry of Education, Labour, and Lands, because it seems to me that there

[Mr. Jones]

would get a chance to overcome most of the troubles and hurdles that will be coming along. On the other hand, Sir, being what I am, I would go through it looking for a nice cushy job in, say, the Ministry of Forest Development, Game and Fisheries, or Sir, perhaps I could be excused for lobbying for a position in the Ministry of Tourism and Common Services, which would perhaps enable me to enjoy a certain amount of overseas travel during this difficult period ahead of us. But, Sir, I would not want to go to Lancaster House in January, Sir, may I move this Motion which I have had the greatest pleasure in proposing.

DR. ADALJA (Nominated Member): Mr. Speaker, Sir, it gives me great pleasure to second this Motion, and as a comparatively junior Member of the House I consider it to be a great privilege to have this opportunity of doing so.

This, Sir, is a communication which is striking in many subjects. It will be received in all quarters with satisfaction. It is one, I believe, which should command ready acceptance.

One of the points that touched me most was the message His Excellency so graciously gave at what I regard to be a psychological moment in the present history of Kenya.

The theme of the message was to forget the past and look to the future. Sir, I came to this country 33 years ago. I have thus spent the best part of my life in this country. When I came to Kenya progress had hardly started here. All these years it has been my wish, my prayer, if I might say so, that Kenya develops into a strong prosperous country in which everyone, whatever what his race is, from this country be originally came, could live in peace, prosperity and in happiness. I am sure that that has not only been my wish and prayer but also that of everyone who has the interests of Kenya at heart. I sincerely hope that the people of Kenya will respond to the message spontaneously and enthusiastically.

It has been noted that His Excellency used the word "Kenyan". That word underlines an idea, and I am all for that idea. I believe it is a right designation to describe all who have made their

homes in this country, who have their first and last loyalty here, and who are ready to undertake the responsibilities of citizenship before asking for rights. I believe that terms like minorities, like "immigrant races", even like "European", "Asian", "Arab" and "African" should give way to this new designation. It is an idea that can bind us together. It is an idea that can create a sense of oneness, a sense of unity. But, Sir, I must emphasize one thing. It is not enough to use the term. It is necessary to think that way, to feel that way and to act that way. I might refer now, Sir, to one or two points in the communication; for instance, the announcement of a firm date for a constitutional conference must now set at rest all doubts as to whether the conditions were right for such a conference to take place. Similarly, the decision as to who should attend must now stop all guesses on that point. From now on, Sir, there will be, should be, one upmost thought in the minds of everyone and that is how to make that conference a success. I am sure, if the people of Kenya, particularly those who are going to attend this conference, determine that the conference will be a success, nothing on earth can do it otherwise. Let us get aside all bitterness, all selfishness, all preconceived ideas, all prejudices, and approach the conference in the spirit of humility, in the spirit of comradeship, in the spirit of placing the interests of Kenya in a paramount position. Let us do all this and more so that posterity might not record that at the crucial moment of the history of Kenya we were a failure. Let us by making this conference a success set Kenya firmly on the road to its rightful destiny.

Government support for the conversion of the Royal Technical College into a second University College must give satisfaction particularly to those who worked so hard to see that the Mahatma Gandhi Memorial—become a part of the College. Their foresight stands today vindicated.

One of the most welcome features in the Communication concerns the Emergency. The decision to take early steps to end it is indeed a happy day and the Government must be complimented on its boldness and generosity as exemplified in the Act of Grace. This decision

[Dr. Adala] removes what was thought to be an obstacle in some quarters to the return of normal conditions and happy relations.

Sir, I beg to second the Motion.

Question proposed.

Mr. BLUNDELL. (Specially Elected): Mr. Speaker, I should like to begin by welcoming the speech—or the first speech—which His Excellency made in this House and I am sure hon. Members will endorse that.

Secondly I should like to support the proposals which the Government put forward for the lifting of the Emergency in this country and for the proposals for strengthening law and order as the result of the lifting of the Emergency Regulations. I would, however, take the hon. Chief Secretary to task in one regard in that matter. The real nub of the whole of those proposals lies in the two Bills which were mentioned in the speech from the throne. And the efficacy or otherwise of the lifting of the regulations and the powers, which are going to be conferred on the Government in respect of the lifting of the Emergency Regulations lies entirely in the two Bills. Now, Sir, to my certain knowledge although they were published yesterday, I do not think that they were available to Members of this House until about twenty minutes past Twelve this morning and I would like to suggest to the hon. Member that he might have considered using today for the ordinary business of this Council and enabled us to start the debate tomorrow when hon. Members—especially hon. Members on my left—had had an opportunity of seeing for themselves the tangible proposals which Government were going to arm themselves with in order to lift the Emergency Regulations.

Now, Sir, I would support myself—or we would support—the Act of Grace. It is obvious, I think, that if the Emergency is going to end some tangible line has to be drawn to signify that ending. And I think that the Act of Grace is an imaginative measure upon which we should congratulate the Government. There are some aspects in regard to it, however, to which I would like to draw the attention of hon. Members opposite. I would have liked, Mr. Speaker, in the

speech from the throne, the whole section dealing with the application of that Act of Grace to loyalists, to have come first before the lengthy, paragraph which dealt with the more intricate problem of the terrorists. Now, I hope the hon. Members opposite will not object to my drawing their attention to this. The plain facts are that the Emergency would not be ended today if it had not been for the steadfast efforts of a large number of the Kikuyu people to rally round the forces of law and order. And I must record that there is a tendency amongst us to consider the terrorists for a number of reasons and the aspect of the loyalist is relegated to second place.

Secondly, Sir, in that Act of Grace there is a matter to which no mention was made and to which I would like to draw attention. It is inevitable after five or seven years of tension that the pressures of action in individual cases carry men outside the ordinary compass of the law. These acts are often dug up long after they were achieved and then the inaeorable processes of the law take place. And one of the great benefits of this Act of Grace, as I see it, that we can draw a line and expunge the past and those men who, with integrity of heart, were carried away by the passions of the moment outside the law, can rest secure in the knowledge that that Act of Grace removes them from the force of law.

Now, I think that is a point to which I would like to draw the attention of the people of this country. That particularly affects, I think, a person who supported the Government during the Emergency, though also it will in a lesser degree affect terrorists.

Now, Sir, I would like to deal particularly with the aspects of this problem in so far as they affect persons who were convicted in one way or another of terrorist crimes. It seems to me that there might well be a natural revulsion against men who had been convicted of such crimes being released into detention release after rehabilitation. Sir, it seems to me that at the moment when for its grave crime, murder, the death penalty is commuted to life imprisonment we should have the humanity also to realize that men should be able to earn their

(Mr. Blundell) passage out to freedom and I think that we are wise to accept that, in these proposals with certain provisos which I should like to give to hon. Members opposite. I would ask—I think all of us would ask—that Government truly satisfies itself in this process of rehabilitation that the rehabilitation is sincere and genuine. It is essential if the public are in support this imaginative act on the part of the Government that the Government's pledge not to release men who have proved irreconcilable will not appear in any way to have been diminished or distorted by political pressure or outside influences.

Now, I especially raise this, Mr. Speaker, because I wish to mention one terrorist. I think there is not great profit in recalling individuals. But, Sir, I must warn hon. Members opposite that there will be uneasiness in the public mind unless they are so satisfied as to Government's genuine intentions in this matter in the case of a man like China who, I think, was guilty of no less than 16 murders. And I put that to the Government because in the ultimate analysis the success of the Government's actions will be judged by the public solely by whether the Government are able to sustain the confidence of the public in their ability to maintain law and order and that the acts which they are carrying out do not endanger the security of the ordinary individual.

Sir, I want to deal with the question of Jomo Kenyatta. I have debated in my mind whether to raise this matter in this House but I have no doubt that it may well be raised by other Members. And, Sir, I want to put a personal view to hon. Members opposite in this matter and I stress that it is a personal view. I think inevitably the Government has been some considerable time now under pressure to release Jomo Kenyatta and his associates and I wanted to take this opportunity of putting to the Government an entirely different point of view. I would like hon. Members opposite to know that there is much moderate but almost certainly largely inarticulate opinion which supports the decision of the Government in this matter. I have said, Sir, that I would speak personally and I wish to do so for the reasons that I am going to give. We

should recognize that Jomo Kenyatta was convicted by a court of law after a long trial. His case went through all the known judicial procedures of appeal right to the Privy Council and the judgment of the Judge was upheld. He is now restricted not under any Emergency regulation whatsoever but by the act of the Judge in awarding to him restriction after the termination of his sentence. There is thus, I believe, every justification for the Government in sustaining the attitude which it has advanced on this matter.

I would be most disturbed, Mr. Speaker, most disturbed by any change in the position of those prisoners and I propose to tell this House why. It seems to me—and I was well in a position to assess this—that throughout the Mau Mau movement there was something essentially evil in much of it. It was almost as if a clash of ideals between the spirit and the civilization which man has laboriously built up over the ages—there was a clash between that spirit and that civilization and the evil, satanic and animal passions which we still often, I regret to say, not so deep below the surface of man's nature. Now, Sir, because I feel that so deeply, the evil element in the Mau Mau movement which some persons generated within it, that I wanted to make it perfectly clear to the Government—that I am certain there is widespread support for the action and the decision which they have taken in this matter.

Secondly, Sir, it is essential to consider the views not so long after these passions were upon us of those who so tenaciously fought against that evil element in Mau Mau upon the behalf of ourselves and hon. Members opposite. And lastly, Sir, I am sure every hon. Member would need to be satisfied that any change in the situation of these persons, would need to be satisfied that any such change would, indeed, not be a danger to security. And, therefore, I thought, distasteful as it is to raise this matter, that I would indicate to the Government what I believe is a widespread but so far little expressed point of view which I hope will encourage them to maintain the attitude which they have adopted.

Now, Sir, I do not intend to say anything more upon the lifting of the

[Mr. Blundell] Emergency restrictions and the Act of Grace and I would like to turn to some of the problems which lie ahead of us and in order to do so I propose to start with the Vagrancy Bill. There has been considerable worry in rural and agricultural areas as to what would happen when Emergency regulations were lifted and persons were free who were seeking employment to come into areas where there might be no proper arrangements for them. And I welcome the suggestion that the Vagrancy Bill will be published and firmly applied. But, Sir, this Bill does not go anywhere near the root of the problem and I wish to make this general criticism of the Speech from the Throne.

We are moving into a new age in this country and it stems largely for a matter to which the Governor referred—Land Consolidation. That Land Consolidation is a process which I vigorously supported when I was the Minister for Agriculture. Without it we cannot raise the economy and development of this country but it brings with it consequential problems which, I believe, the Government must address itself to with vigour and energy. Those problems, Sir, are really the destruction of the traditional way of life of many of the people of this country, especially amongst the Africans. We must remember that the moment we indulge in the physical act of land consolidation and issue title deeds a landless class is created. With that landless class the traditional security to which they have been accustomed has gone and we are faced with the problem of unemployment.

Now, here, Sir, I want to express my criticism of the hon. Minister for Education, Labour and Lands. We are delighted, Sir, that he should be in this country. We have benefited from his incisive brain. But, Sir, I cannot let pass—and I suspect that it was either his own personal drafting or the drafting of his Ministry—these words: "A surplus of workseekers." That, Sir, offended my sense of English. I felt, Sir, it would have been better and more easy to have said "unemployed". And, Sir, the root of the problem is that the unemployed are suffering from a deficiency of wealth creation. A surplus of workseekers

means automatically that they will suffer from a deficiency of wealth creation.

THE MINISTER FOR LEGAL AFFAIRS (Mr. Griffin-Jones): I am grateful for the hon. Member for giving way. As he is claiming to correct one of my hon. colleagues in grammar, does he suggest that all unemployed are necessarily workseekers?

MR. BLUNDELL: No, Sir, but I do suggest that a surplus of workseekers is a grave distortion of the beauty of our language. Sir, I appreciate the contribution which the hon. Member is making to our country but I did not want him to bring the distortion that is generated in Whitehall to the freedom of our own language usage.

Now, Mr. Speaker, unemployment is therefore an imminent personal problem to many Africans today and to many Europeans and Asians. And it follows from that that old age becomes a worry. I think that we are not tackling this problem in this country with the energy and imagination which is required. These problems as land consolidation continues will increase and I would urge the Government to pay more attention to it.

It is for this reason, Sir, that we have put down a number of Motions dealing with unemployment, security in old age and the Civil Service. In the debates we deal with the matters in detail. I will not refer again to them. But I wanted to tell the hon. Chief Secretary that we are disappointed that no reference was made to a change in the outlook of Government on the entry and training of local people in the Civil Service. I would have liked a positive statement from the Government to say that they are going to do their utmost to incorporate the people of this country as quickly as possible into our Civil Service, bearing in mind that no one wishes to see a reduction in the standards of that Civil Service. I was immensely struck when I was in the United Kingdom at the quality of our students there and in replying to indicate to us what efforts are made to contact these students, to attract them into the Civil Service, to whether any priority standards being maintained, is available to them. I am certain that we have got to pay more attention to the absorption of the local people into Government which is one of

[Mr. Blundell] our biggest employers. That is a contribution that we could make to this change in the social conditions of our country.

And now, Mr. Speaker, I would like to turn to the White Paper on Land. I do not know, Mr. Speaker, how you will rule on this matter because if we are going to debate it in detail we do not want to deal with detail today and I only wanted to put shortly to the Minister concerned some aspects of the matter.

I would urge the hon. Member to realize that this White Paper affects every land owner outside the African land units, Europeans and Asians as well. Because the White Paper was very compressed in its presentation, many of the details are obscured in it. For instance, I think the hon. Minister himself would say that there is no clear-cut picture of how the control of fragmentation or subdivision is going to take place and this has aroused a great deal of what I believe is needless fear. I think that the Government intended to produce a mechanism whereby land owners of their own free will and as public opinion evolves, could make the changes which they wished; though certainly I am sure there was no intention on the part of Government to impose changes by force through the mechanisms set up by the White Paper.

Now, the hon. Minister would do well, I think, to make that clear. And it would also be well to allay the fear that a debate will take place early before outside opinion has had an opportunity of reviewing the matter and placing its views before the Minister. I would urge the Minister to listen to criticisms on this White Paper, I believe that he would be well advised, having done so, to publish an explanatory paper for these reasons. Having myself listened to many of the criticisms—and many of the problems which have been raised—I must warn this House that the debate will be an immensely protracted and detailed affair unless the Minister is able to undertake some action of this sort. When the Minister replies to that debate he will find it almost impossible by reason of the magnitude of the problems and the extent of the detail which is presented to him to reply adequately and I would like to suggest that we should

as far as possible clear out of the way the sensible reasonable criticisms which are made and satisfy the public on them so that the basic principles behind the Paper can be debated.

Now, Sir, in saying that, I want to make it clear that I myself support strongly the principle which is inherent in that Paper. It seems to me that that principle stemmed from the Royal Commission Report which I would remind hon. Members expressly stated that they believed in changes of this nature as a method of freeing the economy and helping to remove racial tensions.

There are three small matters, Mr. Speaker, to which I wish to refer. No mention is made in the speech from the throne about police housing and police terms of service. Now, as I believe—looking around me in other territories—that perhaps we are likely to move into a more emotional phase in politics in this country and in conditions generally, I think it is essential that we build up one of the mainstays of law and order by doing our best to meet their housing and terms of service needs. And as this debate is supposed to anticipate and direct the minds of hon. Members opposite in preparation for the Budget, I thought that I would like to raise this.

Secondly, Sir, I would like to make one comment on the pyrethrum dispute. I do not propose to deal with it in detail because the hon. Minister has said that he will not debate the Paper in the hope that the industry will come together. I wanted really, Sir, to suggest to the hon. Minister that he should not hesitate to use the threat of legislation or again the withdrawal of legislation—in other words, the acceptance by Government that there is no need for legislation or otherwise to move the parties together. For this reason, Sir, that the supplies of flowers to any processor will be much better filled on goodwill generated out of mutual agreement than it ever will be by what we might call the force of Government legislation. And I want to put that forward especially to the processing industry which is involved in the dispute. They would be well advised, I believe, to seek agreement and win the goodwill of the industry on a permanent and long term basis than rely on the impermanence of legislation.

4 Motion—

[Mr. Blundell]

Lastly, Sir, in small matters, I think we ought to congratulate the Minister for Commerce and Industry for his part in the bringing of a major capital investment to this country, the Shell refinery. In congratulating him, Sir, I did not intend that he should feel warm and easy. I imagine that this act on his part will remove from him much criticism during this debate. I therefore wanted to ask him as he may well have nothing else to reply to whether he would indicate to us clearly what is the progress of discussions and what are the opportunities which may come forward for us in the matter of cheap air fares out of this country. I believe the country and the House would welcome such a statement from the hon. Member and if he can be as successful in that matter as he has in the refinery, we will almost promise next year not to raise his subject at all.

Now, Sir, I want to end with a reference to the conference in the United Kingdom. I think it would be improper of me after His Excellency's first speech in this Council to join issue with him immediately on one aspect of it but I would, Sir, suggest that so far one can have reason to doubt whether the right atmosphere for that conference has been created. When I read the speeches which some hon. Members make outside—even which I may make myself—when I read the interviews which they give to the Press, I feel inclined to doubt whether we have created the right atmosphere for the conference and I wanted to urge Members—especially on our side of the House—to do our utmost, if I may follow the Minister of Education, Labour and Lands, to use modern English, to denigrate the atmosphere so that we do create the right spirit in which we can reach agreement in London.

Now, Sir, let us be quite factual on the matter. Most Members would agree, I think, looking round this House, certainly looking round the Front Bench opposite, that we have too large an executive. Secondly, I think most Members would agree, looking round wider, that we have too large a House in itself for what is essentially still a country with a low economy. And I also feel, Sir, that many Members who have sat here for many years would agree that for one reason or another there appears to be

in our House an excessive emphasis on rate. Those are matters I think which most hon. Members would agree upon. It seems to me that from that small beginning might stem a wider agreement. It might well be that Professor Mackenzie in his movements between us will find some thread which will draw our minds together. Of one thing I am certain, Mr. Speaker, it is this. Members who wish to bulldoze their views through the conference—Members who selfishly wish to further a sectional interest—and Members who merely wish to preserve a status quo merely because they dislike change will not be successful at that conference, and I would ask every hon. Member when he goes to it to remember what I think are the real needs of this country. Those real needs, I believe, are the elimination of a sense of insecurity and fear amongst everyone in this country and secondly, to understand and to encourage the thought that every single person in this country can make a contribution to it, and I believe that if hon. Members would adopt a self-denying attitude in regard to creating tensions and would sincerely put before themselves the real interest of this country, they would understand that willy nilly everyone of us has a contribution, great or small, to make to its future, then, Mr. Speaker, we might well find a lasting solution to our difficulties.

I beg to support.

SHEKH MACKAWI (Arab Elected): Mr. Speaker, Sir, I rise to support the Motion laid down by the hon. Nominated Member, Mr. Jones, and I welcome His Excellency's speech from the Chair.

Sir, I would like to thank to His Excellency for ending the Emergency and making a good beginning as Governor by referring to the people as "Kenyans".

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

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

We hope that his advice will be accepted and people will act and behave themselves as if they are Kenyans. The time has come for the Government of

5. Motion—

[Sheikh Mackawil]

Kenya to follow the example of His Excellency by showing a broad vision, by taking into confidence all races by deeds and not in words only. Now, Sir, it is the duty of the Government of Kenya to make the people feel that it is their Government. I feel, Sir, the Government should be more positive, more definite and more firm in these matters, but, Sir, I feel that the Government has not been sufficiently definite on that.

Sir, referring to Professor Mackenzie. He has spent two weeks in Kenya in September and met some of the leaders of other races and not the Arabs. I hope this time when he comes again for a month Professor Mackenzie will visit and meet the leaders of the Arab community at Mombasa.

Mr. Deputy Speaker, referring to the oil refinery, the people of the Coast are very happy that it has been decided to build an oil refinery at Mombasa. This will tend to increase the sphere of local government, but what is more important is that this decision is an expression of faith in the people of Kenya. I am confident we, the people of Kenya, will not do anything to make anyone regret the making of this decision to set up an oil refinery at Mombasa. Sir, I would like to express the hope that in the matters of employment the Coast people will receive preference first, and I would like an assurance from the Government to this effect.

Regarding housing, Sir, His Excellency mentioned a scheme between the Government and City Council of Nairobi for the construction of houses in Nairobi, but, Sir, on many occasions, at the time when Mr. Havelock was the Minister for Housing and since Mr. Amalemba has been appointed, I have not heard them speak or mention that the Government will allocate some funds to build some houses for the Arabs at Mombasa, and also His Excellency did not mention anything about a housing scheme for the Arabs at Mombasa.

Sir, I beg to support.

Dr. KIAND (Central Province South): Mr. Deputy Speaker, Sir, there is much to be welcomed in the speech that His Excellency delivered yesterday. As far as the Emergency is concerned I would like to register my delight at the relaxations

that were announced and the Act of Grace. I would like to say, however, that what was said yesterday has tended to create confusion in some of the African areas, and particularly Nairobi, because in a way it is understood the Emergency is over, and in another way it is understood that the Emergency is not over. You know this speech is not so easy to follow, particularly when it is translated into the Swahili language, and I would like to request the Government when they come to answer the various points made here to make it quite clear about when the passbooks and the movement passes will no longer apply. It will be very good if they could actually give an approximate date as possible because already people have a feeling that they no longer apply, and yet His Excellency warned the Council that those with them should not throw them away as yet. Perhaps the Minister does not know there are many people who are very willing to get rid of these documents, and I have already heard people talking of cooking meat with piles of passbooks instead of piles of *Ami*, and therefore it is important to make it quite clear as to how soon these documents can be destroyed.

Secondly, Sir, due to the fact that His Excellency allowed the announcement of the ending of the Emergency, there will be confusion among my people before they could really know what was said and what was not said. I would ask the Minister for African Affairs, and perhaps the Minister for Legal Affairs, to consider the possibility of not being too harsh with those people who might break the movement restrictions or the passbook restrictions if they have the mistaken opinion that the passbooks no longer apply. If a person has been misled I would request that Government, who has already said they will abolish the passbooks, and who has already said that they will abolish the passes, I would like them not to be too strict on the people who might actually break the law today or tomorrow in regard to passbooks believing that the Emergency is lifted. There are many people who believe that the Emergency has already been lifted, yesterday; whereas it was only the decision that was made yesterday to end it when the necessary legislation has been passed.

Now, Sir, I would like to address my points to the two Bills that His Excellency says the House should pass before the ending of the Emergency is effected. One is the Preservation of Public Safety Bill, and the other is the Detained and Restricted Persons Special Provisions Bill. Now, Sir, I am not quite sure that this is not another way of retaining in the legal system of Kenya, a substantial amount of Emergency powers disguised as ordinary peacetime legislation. I do not believe, there are people in this country, particularly in this House, although other people might have a different opinion—I do not believe there are people in this House who do not want to see peace in this country. We are the people who believe that the proper purpose of politics and Government is the good life for the people—the raising of the standards of the people—and the prosperity of the country, and you cannot have prosperity without having peace. And I feel, therefore, that those of us who are here are the people who try to raise the standards of living of our people, who are interested in the prosperity and economy of our country, and so cannot but be people who are interested in peace, and in that regard it is unnecessary, I think, to imply that with the removal of the Emergency there are people in positions of responsibility who would deliberately act against public safety. I do not believe that at all, and I have a feeling that when we arm Government with powers that are not likely to be necessary as far as ordinary leaders are concerned, that we are giving Government an unnecessary weapon, and the old adage that "power corrupts and absolute power corrupts absolutely" would prove the case should this House approve these two Bills requested by His Excellency. I would rather say that the laws of Kenya as they are in terms of safety and treatment of people who break the law are sufficiently strong to deal with such a situation and should an Emergency arise—and I hope it never will—but should it arise, then I am sure Her Majesty's Government and His Excellency and the Government of this country will find enough powers in the law books and have enough lawyers to produce more power out of the present laws to deal with the situation. I per-

sonally want to register my opposition to these two Bills because I do not think they are necessary.

Secondly, Sir, the Act of Grace would have been a welcome step, and I think it went very far in indicating that the new Government means new administration. To that extent he is to be commended. However, I feel that the Act of Grace did not go far enough. I say this because we have just had a lecture given a few minutes ago by the hon. Mr. Michael Blundell telling us that there must be—that there should be rather—'he is not in a position to say what must be' in Kenya—there should be a *status quo*, a sort of lack of change of attitude on the part of Government regarding some particular people in this country. Now, Sir, there is an attempt on the part of some individuals to try and hinder change in this country, and yet change is a characteristic of the Africa of today, and in the main change is wanted from Government of opinions regarding Jomo Kenyatta after these six years. It is not a crime, it is not foolishness, it is not careless, to review the position and see whether matters might not have changed! If we were to hold the same opinion of other people we know in this House, then I am sorry, and even the conference we are anticipating next January would be meaningless because this is a day when we must value and revalue, and I am of the opinion, Sir, that perhaps the greatest thing the Governor of this country could have done to show his courage and confidence in the future and confidence in his ability to administer Kenya, would have been to say the Act of Grace must also extend to every detained person including Jomo Kenyatta. He has tried to say that Jomo Kenyatta was detained as a result of some law passed in 1948, but everyone knows in this House that the name of Jomo Kenyatta and the Emergency are directly connected, and if the Emergency is lifted and he is not freed you cannot convince the majority of the African people that it is over. To them the Emergency is not ended, and therefore, in taking direct opposition to my friend, the hon. Specially Elected Member, Mr. Michael Blundell, I would say that the new Government must not be guided by the old theories and old prejudices and old fears about Jomo Kenyatta, but should look

[Dr. Kioko]

at the matter afresh, and by looking at the matter afresh seek to reduce tension and fear and suspicion in this country by freeing every detained person. I am not quite impressed myself with what is called public fear and public anxiety by the hon. Specially Elected Member, and I think he was referring particularly to the public in his community with reference to the relaxation of the Emergency and the Act of Grace. I believe, Sir, when you talk of the public of this country we should concern ourselves not only with the public of a small segment but the public of the country as a whole, and I think the public of Kenya as a whole would not be particularly anxious or particularly disturbed—in fact there would be much rejoicing—much rejoicing in many parts of the country—if the Act of Grace extended to all detainees and to Jomo Kenyatta. They would say, "the Government are starting a new Kenya and we are not going to be guided by the rules of the past".

Now, Sir, I come next to the question of education, which His Excellency mentioned yesterday. As a former lecturer in the Royal Technical College I am glad to hear that the College has advanced and I fully endorse with gratitude and happiness the idea that the Royal Technical College is likely to be a second university college in this country. I think this is urgently required and let us hope that this in no way prejudices the possibility of still more university colleges not only in Kenya, but also in Tanganyika, in Zanzibar and elsewhere. There are people who are wondering whether East Africa can afford a second and third university college. I am of the opinion that if a country cannot afford the education of its youngsters, that country is going to be in serious difficulties and I would commend the sacrifice in making the Royal Technical College a university college of Nairobi or in Kenya or whatever we choose to call it. In the same tone, I would like to say that His Excellency's speech on education was of course too brief to be indicative of what Government really has in mind. The Government well knows that one of the chief concerns of the African parents is the fact that their children who start education at the age of seven, many of them have to termi-

nate their schooling at the age of eleven, at the time of the examination, and I know no matter how you put it, whether you say you will try to increase the facilities or what, what the African parent is interested in is the removal of the examination and the feeling that every child in this country whether he is an African or European or an Asian child has the same or equal opportunities in education as every other child.

When an African is born he or she is not sure whether he or she can go beyond the Standard IV. When a European or Asian child is born it is quite sure that at least he can look forward to at least seven years of education, and the day has come for the Minister for Education to assure us that it will be the policy of this country to equalize the opportunities of education for every child of this country, and to equalize therefore the number of years a child is assured of going to school without interruption, to equalize opportunities in the sense that there will be no difference in the expenditure *per capita* on European children as compared with the *per capita* expenditure on Asian children and as compared with the per capital expenditure on African children. A child is a child, and that is all we care so far as education is concerned. As it is today the discrepancy is too much and I am likely to be told that there is lack of money. However, as I have said, before, let us try to share what we have got and share it as fairly as we can. There must be equality of education for African children equal to the European and Asian children.

I have heard, Mr. Deputy Speaker, people talking about the fact that we are Kenyans, and so on. I have often felt that in this country we have too many idealists and too few realists. We talk of being Kenyans and forgetting our race, of being Kenyans and forgetting our differences, when we know that these differences do exist and that the racial differences do exist. The very pattern of government in Kenya today is based on difference and I feel that until that day when there is an entire upheaval of the nature of government in this country, these differences will always play a large part.

We are told by one speaker that Government should begin to integrate and

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continue to take people in the Civil Service and increase opportunities for all; and that the speaker is a member of a group that does not speak very well or without hesitation regarding integrating our children to study together in the same schools. If a person really believes in being a Kenyan, then that person is a Kenyan and should not care whether he has blond or brunette children in school. They should go to school as Kenyans. What I cannot understand is this idealism, not when until you come to practical levels you suffer the same laws as I suffer and suffer the same deprivations as I suffer and the same difficulties as I do. However, they say "Oh, no, I have got my privileges and I am not willing to share them with you at present." We have got too many idealists in this country and too few realists. If somebody wants to be a Kenyan then that person must be for individual equality and vehemently denounce racial separatism which is an enemy of the people.

Now on the question of land, Sir, I do not want to go into the details of it. I only want to say that my community—at least the community I represent in this House—has looked at it with disfavour. As the Sessional Paper on land actually stated and as far as I can gather and as I personally believe, this Paper will be utterly unacceptable to the African community. It is unacceptable because two main points as far as the Africans are concerned, one land controversy, arouses that sense of injustice that many of us feel, that originally some injustice was committed in the alienation of land of the African community, and secondly, and perhaps even more pressing, is this, that when we press for the Highlands to be opened and they should never have been White—when we said that the Highlands should be opened we had in mind the possibility of some sort of settlement scheme for those areas that are overcrowded in which there is any land at present not being utilized, and if there is any land made available by a person who gets tired of Kenya (as some people will) and decides to go back to Britain and wants to sell his farm, any such land that gets available could, perhaps, have been used for the settlement of people—

under supervision to make sure that the production remains high. But if you try to solve the land question on the basis of non-racial willing buyer and seller, you forget the poor landless person. You see this is a solution which can be made use of by people with some money but not by people without money, particularly the landless ones and I think the failure to address themselves to this question is essentially the major criticism against the Land Paper Number Ten.

"I was particularly interested, Mr. Deputy Speaker, by the hon. Member who talked about land consolidation resulting, among other things, in landlessness in African areas and at the same time that person did not seem to think that a review of the land policy could in a way bring an answer—not a complete answer but some sort of answer—to this question of landlessness. If he is worried about landlessness in the Central Province as a result of land consolidation he should at least support the idea of land planned settlement schemes for Africans in the Highlands, because we are not here to try and please the rich, we are here to try and solve the problems of the poor.

Now, Sir, on the question of the Constitution Conference, I can only say that it is good that Her Majesty's Government has agreed to arrange for this Conference in Britain. If the atmosphere is bad in Kenya it will be bad in Britain. I feel that if that conference is to bring a success, how much simpler it is just to sit and talk about our viewpoints, but also Her Majesty's Government ought to make it very clear what type of future for Kenya they have in mind. If we are just to go there and we try to put our ideas together, the fact that we are physically out of Kenya will not make the slightest difference in our minds. We would like Her Majesty's Government to say "All right, you are here to determine the Constitution of Kenya for the next year, 1960, but I as a spokesman for Her Majesty's Government say we want to make a democratic Kenya in which the rights of the communities will not make any sense constitutionally but in which the individual rights of any person will be respected, and also in which nobody will go around talking about minority safeguards. Why only the Europeans or Asians? Why not even take the minority

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of Christians or the minority of anything else? We cannot run a government of people banding together on the basis of minorities. We are interested in a government in which the individual citizen has a right as an individual citizen, and the only minority safeguards will be rejected." We would like some statement like that from Her Majesty's Government in order to give some sort of guidance in these discussions and I believe, Sir, that if there is anything for one to bulldoze one's ideas about it is this rejection of minority safeguards. There is nothing wrong with bulldozing ideas constitutionally and within the friendly atmosphere. As a matter of fact, the accusation that some people try to bulldoze the ideas in the Conference can only be referred to as self accusation, because we have seen a lot of bulldozing of ideas in this House by some groups whose size is nowhere comparable to the noise they make. I refer to them in terms of membership.

Therefore, Sir, we should not try to talk about people trying to bulldoze ideas. If I believe in something I will speak on that and try to convince everybody that it is right and that the other person has a complete right to speak on the same idea, but if we begin saying that if other people speak it is bulldozing and if I speak vehemently on it I am simply advising others, I will say that will not be the way to improve the atmosphere.

Finally, Mr. Deputy Speaker, my constituency particularly awaits the word from the hon. Chief Secretary or from the Minister for African Affairs saying specifically about how soon we can be free from these chains that have tied our hands for so long, and also the movement restrictions, and to say that the so-called Vagrancy Bill or other forms of Bills—I do not quite remember how we are going to term them—will not be made in any further attempt to restrict the movements of people under the guise of vagrancy charges, I support.

MR. ZAIFRU DEEN (West Electoral Area): Mr. Deputy Speaker, Sir, the speech of His Excellency contained many points that we hoped it would contain: Sir, the announcement that the State of Emergency will be brought to an end is a good augury for the conference on

which so many hopes for the future of Kenya are centred. The Emergency, with its tragedies, trials and hardships, has left many imprints in a way that only time will be able to repair. Although it has taken an inordinately long time to restore normal conditions, let us hope now that a new era for Kenya will begin and that by the joint and united will of the people we will march on, to the road of peace and progress.

I agree that the maintenance of law and order is essential for advance in all directions and that the stability of the country depends on unhampered peaceful pursuits where every man is able to carry on his undertakings without fear or coercion. But at the same time it is hard to follow that laws introduced during the Emergency should now find a permanent place in the laws of the country. Any arguments in favour of these proposals do not convince those who are devoted to the ideal of human liberty. Sir, the Act of Grace is a most commendable step which must be appreciated without reservation, and I sincerely hope that in the not too distant future this will be extended to those who are not yet considered by the Government ready to receive this clemency.

Sir, in regard to education, it is difficult to understand how the existing funds will be found sufficient to meet the growing needs of the population of Kenya. The income of this country will have to be increased so that funds are made available for mass education. This question, Sir, like many others, will become a political issue of great magnitude if the present disparity in educational facilities is allowed to remain as it is, I hope, Sir, that the building of the Nairobi Technical Institute will be completed soon. We have been looking forward to this scheme for a long time and we hope no time will be lost to see that the Institute starts its life once the building is ready, and I would like the hon. Minister for Education to inform us whether the arrangements for staff, etc., are already in hand, because it has been found on a number of occasions that when the buildings are ready the school does not actually begin to function.

Once again, and lastly, Sir, I wish to raise the point that the system of representation on the local government bodies, particularly the county councils, is totally

[Mr. Zafud Dean] unsatisfaction, and this question must be looked into together with the other changes proposed in the speech.

I beg to support.

Mr. MULIRO (Nyanza North): Mr. Deputy Speaker, Sir, I also associate myself with my colleagues who have paid compliments to the Governor for his first speech in this House. His Excellency's speech was couched in such highly legalistic language that many of us who are laymen actually could not understand what he was talking about until we read the speech written for him. Some of us were delighted to think that it was a very good speech, a first-class speech, from the Governor of Kenya, for the first time, but I am sorry to say that in spite of the fact that it was announced that the Emergency has been declared lifted, and that it is coming to an end soon, I would say with Karl Marx that man is born free but everywhere he is in chains. I think, so far as the African is concerned, when he hears of the Bills, the substantive laws, the Ordinances, which are going to be laws, coming into effect, he is going to say exactly the same thing. He has been under the Emergency conditions for 7½ years now, and although he has been told that the Emergency laws are going, the same powers are going to be embodied in the permanent legislation of Kenya, which will always affect him. I would say, as the Colonial Secretary recently said in his interview with the B.B.C., that one of the root causes of the evils of Kenya's Emergency was land, and I say this. Whatever the Government may be thinking of, whatever proposals the Kenya Government might have, and however much we might wish to see that the Emergency comes to an end, as long as we do not remove the causes of the Emergency, the causes that brought these evils, terrible as they are, to Kenya, these evils are unsolved. There is the question of land hunger among the Africans. Land consolidation is making this problem more and more urgent. There is the question of unemployment. Many Africans who are having no means of livelihood will move from the rural areas and going to the urban areas, and when they do so they will be caught under another cobweb called the Vagrants Ordinance, which is another Bill coming forward. So the

prisons which have been there for the Mau Mau detainees and the people who committed violent activities are still going to continue for the same people because these people are unemployed. The Government and His Excellency have said very little about unemployment. The question of unemployment is one of these causes that brought about the Emergency. One is not interested in a bullet through his heart, but he is interested in something to fill his belly. As long as these Africans remain unemployed, and as long as they have no land from which they can get a livelihood, then the problems of the Emergency are going to remain unanswered. Mr. Deputy Speaker, therefore, I ask the Government of Kenya to take a real forceful step towards getting everybody in this country who seeks employment to get it, to create industries in rural areas so that people can be employed in their own districts and get a livelihood, whereas at present they cannot.

There are serious social problems which are facing Kenya now, and some Members in this House, as well as some people in this country think that because of relaxation of the Emergency laws or powers, the lifting of the Emergency will create serious social problems. But one cannot use social problems as a mere means of keeping the Africans perpetually in detention camps or prisons and, therefore, we ask the Government of this country to remove this insecurity so that we can move towards true prosperity in the future.

Now, another issue is lack of education among the African children, and the Minister for Education, Labour and Lands thinks that when the children are discontinued from studies at Standard IV level we are getting rid of the Emergency laws in Kenya. We are not. Those are the ones who are the perpetual hoodlums and spivs, they are the perpetual jailbirds and, therefore, as long as we have these people with us, we are solving no problem. In this country we want to create a society of equals, but we cannot create a society of equals on an un-egalitarian educational foundation. If we want citizens of Kenya to be citizens of Kenya irrespective of race, colour and creed, then we should build schools for all these children. We should see that all children are accorded equal facilities for their

[Mr. Muliro] educational advancement. As long as we do not deal with this problem we are not going to solve any inch of what we want to solve.

Another disappointment, Mr. Deputy Speaker, is the question of Jomo Kenyatta. I am sorry to repeat this when one of my colleagues has already mentioned it.

(Mr. Deputy Speaker (Mr. Conroy) left the Chair)

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

But, Mr. Speaker, I regard this as a most serious issue that could have been disposed of by the Government of this country. The fears which exist in the minds of many Government people and the fears which exist in the minds of a number of people in this country are all unwarranted, because I cannot see how Archbishop Makarios, the former terrorist leader of Cyprus, could have been the keyman in the solution of the Cyprus issue; yet to say that Kenya could never assist in the solution of Kenya's problems, a person who is acknowledged by all as the leader of the Africans in this country and, as such, is the leader of the Kenya people, because anyone who has accepted to live in this country who acknowledges that Kenya is his own home and no other country is an African, and as such he should welcome the coming back of a person who is highly respected, responsible and who could assist in the solution of this country.

Mr. Speaker, some time last year when there was an Ordinance when the Minister for Legal Affairs introduced this Deportation of British Subjects (Amendment) Ordinance, at that time I opposed that very, very strongly. I opposed it because I knew that it was under such pretext that any African politician in the country or a politician who claims the fight for the rights of individuals in this country, as an individual will be subjected to sudden deportation, and now we see that the Emergency Regulations are coming to an end but certain political leaders are being deported permanently. Also one of my greatest

disappointments is that Elijah Masinde, the former leader of *Diani ya Mwaniba*, has been detained—his sentence has been completed and he has been detained—for the last 12 or 13 years. Now, if religion is something that is very private to the individual, I do not see how a Government which claims to be Christian could ever keep perpetually someone away from his home, from his relations, simply because he wishes to worship God in his own way.

Well, Mr. Speaker, that, I feel, is a very serious issue and I think it is high time the Kenya Government released Elijah Masinde and his followers in Suk as well as those people from my district.

Another point that I would like to raise in this debate, Mr. Speaker, is in regard to the police force. Now that the Emergency is coming to the end, and during the Emergency the Kenya Government had in the police force quite a number of rude officers, and these rude officers—to be rude in the police force has been somewhat of a qualification for some good policemen so far as the Government of Kenya has been concerned. Now, I think with the lifting of the State of Emergency the police force should be overhauled. Some rude officers should be dismissed and some constables and all that should go away so that the ones who remain are well paid, respectable and well housed. I say this because it is in the best interests of this country. I say this because you must have the Africans in this country. There are Africans congested in police quarters and I think they are congested because of the State of Emergency. Now, to require some police people to handle the people of this country.

We require a reduction in the police force. I cannot see any reason why our education in this country should suffer while the Government of Kenya keeps a very strong police force looking after security in the place and all that when there is nothing to be looked after, when there is nothing to be worried about concerning the security of Kenya any more.

Also I must associate myself very strongly with the feeling which others have already expressed regarding the Royal Technical College. I think it is the greatest honour to us in Kenya and

[Mr. Muliro] Africa as a whole to get a second university, because our students who have been going to the Royal Technical College for the last couple of years, many of them have been a waste, although some of them have seen their way to Makerere, but a number of them have missed chances to continue with their education. And now the Royal Technical College is going to be given University status and all of us in Kenya do welcome that very highly.

Now, I will say a little bit about agriculture. I must say that all of us who are interested in the government of this country are very worried about the reduction in the amount of coffee that we are going to export from Kenya to other countries. This is going to affect our lives to a very high degree because coffee has been one of the crops for which Kenya has been getting a lot of money and many people are now going in for the growing of coffee. A great acreage is going to be brought under the cultivation of coffee, but I think the Minister for Agriculture and the Government should go in very seriously for market research to see where we would get our coffee sold if on the traditional markets we are being cut down. If the Government of this country cannot carry out that duty, I do not know where we are going to land ourselves.

Also I would ask the Minister for Agriculture to carry on experiments of cash crops in all provinces of Kenya. There are areas in Kenya—in the Coast Province, the Central Province, the Nyanza Province, the Southern Province—which have hardly any cash crops and it would pay if the Government of this country would go in seriously for research in various cash crops in various provinces because I do not believe that the future of this country can ever be decided when some areas are very backward economically. We want to move up, first going ahead towards our own independence; but the poor man will never be independent. He will always be dependent on some rich person. And therefore it is now the duty of the Minister for Agriculture and the Minister for Commerce and Industry to find out new industries, to make serious research in various undertakings so that we can see

how we can put up our economy in this country.

All this should be borne in mind and the fact that as long as we have millions in this country of people who are poor we are never going to settle our issues.

Now, many people in this country argue that all Kenyans are Kenyans and I am one of those die-hard advocates of Kenyans. But I maintain that any person who claims to be a Kenyan must stand with both his feet right on the soil of Kenya. If he thinks of himself, at times as a minority, at times as an European, at times as an Asian, this person has no right to meddle with our problems in Kenya.

Mr. Deputy Speaker, it was mentioned by the hon. Specially Elected Member, Mr. Blundell—he is now out. He questioned the genuineness of the rehabilitation scheme and he argued that a man like General China who was convicted of 16 murders would never be let out to freedom as easily as that. But what I would also propose to the Government is this, that the Government should never panic. If the Government makes up its mind that there is a sincere movement towards the solution of Kenya's problems, they should go forward determinedly without caring what any individual says because a person who murders 25 people also might have murdered them at a given moment when he was in the condition of a fit and therefore a person like that can never be regarded as irreconcilable—if it is a question of this country—whom I regard as irreconcilable—there are individuals in this country—whom I regard as irreconcilable—who have had no sentence. I would say those people should also quit Kenya to create a good atmosphere in this country.

Now, I would say a little bit again on the question of land. I would say this to the Government of this country, that if we are wanting to find solutions for Kenya—we must bear in mind that Africans in this country are far more than any other group in this country and that any future democratic Government of this country demands that these people should be given an increasing part; that these people should be given satisfaction economically and socially. And therefore the guiding policy

[Mr. Muliro] of the Government, on land—I am not going to say much—I say this, that always the African landlessness should be borne in mind. The land which is undeveloped and which is not being used by anybody should go immediately to the Africans in this country. If someone has been having land for years, I think it is the duty of the British Government to create in this country goodwill if they feel that Kenya should develop democratically and therefore the British Government should compensate those European farmers who have paid some premium a certain amount of money in the form of payments to—

Now, the main reason why I say that is this, Mr. Deputy Speaker, that the British Government has shown generosity at some stages. When the British Parliament declared that Britain was no longer going to have anything to do with the slave trade and that the slave trade was illegal they took measures to compensate the owners of slaves in South Africa. And if the British Government wishes now to see that Kenya should move forward in determination and confidence in everyone the settlers who have got undeveloped land should be compensated by the British Government and that land should go to the Africans immediately.

Now, I would also say, and this is my last point, about the R.T.C. or the Round Table Conference, that we are all approaching the Round Table Conference with a determination to make it a success. If anyone accuses the African Elected Members or Members of the Constituency Elected Organization that we are approaching the Round Table Conference with the spirit of wanting it to be a failure, we would be the last people to do that because we are the only people to have asked for a Round Table Conference in this country. Nobody else asked for it. Those who never asked for it probably would wish to see that it becomes a failure. We are interested in seeing that the next step in Kenya's development is a step on a sound footing; is a step whereby we shall see that the Government which will take place after the next election will be a Government in which all the people in this country will have confidence. As long as the Government of this country

has no confidence among the people on this side at least, I think, Mr. Speaker, we are deluding ourselves. We would be deceiving ourselves to say that any Government, however good it might be, however many of our representatives (7) might be there, that if it does not enjoy the confidence of the majority of the public of this country, it would be a failure and with this I say we attempt to make a success of the Round Table Conference. And those who do not ask for it, we do not want them to frustrate the efforts being made.

With this, I beg to support.

MR. MATE: Mr. Speaker, Sir, the news of the end of the Emergency before long will be received with the greatest applause in the Central Province. Sir, we have heard up to now the Emergency is to be lifted and especially how it affects the K.E.M. Now that Government have firmly indicated that the end of it is in view I am sure everybody in the Central Province will be so happy about it and also for the Act of Grace that affects people in detention camps and those restricted where it may be easier to go back home. But, Mr. Speaker, I would like to give Government a warning of the dangers of this kind of joy because many people as my friend the hon. Member for the Central Province, South said—have begun to spread rumours that the Emergency is ended. They are going round and are likely to break passbook rules more than they ever did before. This is because news does not reach very far away places in the Central Province; in good time, and rumours travel quicker, and I would want the caution, to plead with the Government not to mistake these peoples intentions if they should find people moving more freely than they have done before, and especially to warn the police, who are not always so careful, that as a result of this kind of thing unless Government makes it very, very clear, there will be a flow of people from these places. The same will apply in Nairobi as in the Province where the curfew should be removed and has weighed very heavy on the K.E.M., and on the question of passes in Nairobi and its suburbs today. I would like to remind Government that there is still a lot of difficulties—a lot of problems—connected with

[Mr. Mate] it, and this arises especially from the ignorance of the police and the lack of knowledge of the law. Mr. Speaker, I will give an example of what happened only last week when I met a friend of mine who was an active loyalist. He had served as a home guard and is now retired from the Tribal Police, and is a trader. He happened to be in Nairobi and around the street and two policemen asked him, "What tribe are you?" He said, "I am a Meru," and they said, "Have you got your papers?" He produced his identity card. He produced his tax receipts and his passbook: These rather ignorant policemen said, "They are not in order." Well, he said, "I do not know what else has to be in order." When I went up there, knowing the man, I said, "What is the trouble here?" and the two policemen said, "This man has got the papers and wants from him." In any case he was only here for a short time. The policemen told me they must go to the police station and that we cannot do much about it. There they found a European officer. He said, "There is no harm at all." This just shows the general picture of the ordinary African constable. He practices certain ways of behaviour towards an African that I feel are not quite his occupation or his vocation as a policeman. I would again stress what the Governor said yesterday, that these policemen want training and retraining, and I am afraid to say that but it is the African policeman who do not understand who causes the trouble. But my main point was, that Government should realize that people who tend to feel more happy about the news and they may break these small rules without meaning harm.

Mr. Speaker, Sir, the next point that was mentioned yesterday is the question of land. Here, Sir, I feel Government over the question of Crown Land has not gone far enough. As far as the African community is concerned, the Government has missed the point altogether. It is not the wealthy African who is in need of land. It is not the trader—land, or the man with a bit of land already. It is this class of landless people who move from place to place. He wants a dwelling place. He has no security for the future. The African

needs security for the future. On it he lives. On it he digs and on it he is buried. It is this type of African who is going to go without. They have no money to buy, and the land hunger, as far as the African is concerned, has not been touched upon at all by the Government.

The other two points about the land policy proposed is that the African wonders what right had the Kenya Government originally in alienating the land as it did, making some of it African areas, some White Highlands, some of it Crown forest, and when the Government talks of selling land one wonders what price they paid for the Crown forest, or even for these other estates which they have to let and which have been got from other people. What right have they apart from the powers of the Government, and it is up to Government to understand the difficulty of the ordinary African in the question of having to buy land back.

The second point is, of course, poverty, because the majority of these people cannot afford to buy land. There are many cases of justified claims of African over the appropriation of their proper land.

Take the example of the Meru land between the two rivers on the border of Manyiki District and Meru District and through a mistake that piece of land between the East Luguthu and West Luguthu was taken from the Meru people just because somebody mistook one river for another. Sir, I do not think we are supposed to take these things lightly, and assume because Government talks of harmony of race, the colour and all that we are going to be satisfied. There are some finer points about the land hunger in our country today that Government must face, so that as far as possible there is empty land that can be settled it should be made available for these people.

Mr. Speaker, in the future, as people multiply land will be needed everywhere, and by then there will be no hope of giving a piece of land, but by then I hope education will be in a position to support these people and they will become careerists, but for today there is no case at all for Government to assume that their policy is going to meet the need as far as the African is concerned.

[Mr. Mate]

So far as the question of African education is concerned, I will not say any more because I raised a Motion on education. So far, Sir, the progress in putting up schools is very slow, and the only thing I would like to remind the Minister of is vocational training for those boys who will leave school at Standard IV and also at Standard VIII. When these boys leave school many of them have nothing to turn to. The Government should have a good plan for training them to have a good plan for training them to be useful in rural crafts, farming, or any other kinds of trade that would benefit them, and I am sure that if Government could think of more rural schools for rural training it would help them a lot.

Also, Sir, I am not satisfied with the projects started in places like Mombasa and Nakuru for using their own resources for the general progress of the unemployed ex-Standard IV and VIII boys and girls.

So far as land consolidation is concerned, Sir, many things have been said and the Governor mentioned how the programmes in the Central Province have been and are going to be accomplished. In the case of my district I would like to remind the Government that the land system is much more intricate. We are more land-conscious than many other people. We are not so individualistic and it will take some time before the general population understands these things; and I would ask the Government to try to get those types of officers who are ready to learn and who are anxious to learn the customs of our people and not rush any officer into the district hoping to get quick results. I would like to see the Government recruit people who are steady and who are careful in their approach, otherwise the people might not understand the land consolidation and it might retard progress, but if the proper officers are appointed—and by this I mean the local men—to help these people it will make the consolidation plan easier to accomplish. Otherwise there is quite a big difficulty because people are not able to understand the individual ownership; they are more used to clan ownership, the common ownership of land.

I welcome the starting of the tea-growing plan in Meru District and I

hope this will prove to be successful and that it will spread to the other parts of the district, especially along the forest edge. However, connected with that is the problem of roads, where this tea will be grown. If the Minister travels to the Nyambene Mountains he will have difficulty and we must have a good road. If any transport is to be effected or if any work is to be done up there then we must consider opening up more roads in that area, otherwise things will be very difficult. I hope he will collaborate with them in their desire to open up more roads, and also the extension of the road between Meru and Embu town.

On the question of agricultural development, Sir, the Government seems to be paying very little attention to the markets, the internal markets. So much is said about the export markets, and I do not know whose good it is going to be for, Sir, if the ordinary African grower, trader and consumer is suffering every day; and yet we talk of the external markets. For the citizens of which country will that be? Mr. Speaker, the Produce Control Regulations have become a burden and a nightmare to the African traders and growers. Today in Meru District we produce more maize, peas, and everything else, and yet people in Kitui are dying of hunger; but we cannot transport our maize to them just because of the Maize Control.

SIR CHARLES MARKHAM: Question!

MR. MATE: No, no question; there is no question, Sir, at all about it.

SIR CHARLES MARKHAM: They are not dying of hunger.

MR. MATE: I do not think the hon. Member for Ukamba knows what I mean when I talk of moving produce.

SIR CHARLES MARKHAM: Are they dying of hunger?

MR. MATE: Yes. The problem is that the small trader is tied up by the machinery of the Control, and I do not know what the Government means when they say they have the Maize Control to look after the problem. If one saw the amount of millet which is poured back, one would wonder what was the use of the so-called looking after the external market. The Government, Sir, should think of this problem seriously.

[Mr. Mate] very seriously. I do not think they have more thought of it from the farmers and traders' point of view at all. We have marketing officers but they are not marketing officers at all: they are marketing policemen. They are negative, not positive, in their approach. They are only there to see who has moved this and that from one area to another. I hope that the Minister for Agriculture will address himself to this problem much more seriously than heretofore. Of course, this problem is that crops of some farmers in Kenya are guaranteed and others are not, and I feel that this is a very serious situation.

Mr. Speaker, on the question of the training of the police, I mentioned this earlier in connexion with the news of the lifting of the Emergency. I would like to stress the point that the general practice with the police force today is to treat the people according to their race and colour of their skin. Not a long ago I was stopped on the road by two African policemen. They wanted to see my driving licence. I showed it to them. They wanted to see my insurance certificate. I showed them that and my road licence. They then asked me for something which they called a road service licence for my car. I did not know what they meant at all. But what surprised me was this: Just as I was waiting an Asian came along with a car full of people. As soon as they approached he said: "Shauri zani, bwana kubwa?" and pleading with the policemen. The answer was: "You had better go." I was still waiting. At the same time from another road came another car with a European. They went up and said: "What is the trouble, bwana?" Then they said: "Have you got the papers?" The man looked at them and said: "What papers?" He showed them his driving licence and went. Then I said: "What is happening here? I was the first customer." I asked them: "Why am I not being served?" Well, at the same time another European came along and he had no licence at all. This European was asked for his driving licence and he said: "I am going to see the district commissioner. I think I forgot my driving licence." The two policemen said: "O.K., we shall charge you", and they charged him with driving without a licence. I thought they were

very good for that. The man made a statement and he went. I said: "What cannot I do?" I said: "For goodness sake, please save my time." They said: "Why are you so rude?" I said: "I am rude because you are wasting my time." The men said: "Just like a Meru," and I said: "Very well, but I am not in Meru and I am going to make you pay for the time you have wasted." At that time I thought I was being a bit troublesome to them, I said: "Look here, I am Mr. So-and-so." Straight away they began saluting. The reason for this behaviour is because they do not know what they are doing and they keep people waiting. I am sure this is not an individual experience and I appeal to the Minister for Internal Security and Defence to think of this a bit more because the police have a duty to the public. When people see this kind of behaviour they begin to be rude. When a man has a vehicle and is treated like this then why should he not be rude? I think if this sort of thing were stopped it would remove some of the dissatisfaction and it would improve the general feeling in Kenya.

Mr. Speaker, the hon. Specially Elected Member from the Rift Valley talked of fear. I wonder, Mr. Speaker, who is afraid, he, or I? If it is he, who is afraid of me, Sir; I do not know, because he is always talking about the African masses or the African population. We are not masses; we are individuals; and we are talking of individual people who should get better rights, both living and working. Mr. Speaker, this is a question of humanity. If we are not equal we will not move forward. His preaching of his philosophical idealism will not work with the ordinary human qualities which we want. The moment he talks of the African masses then I think we are too many, and I think we are going to multiply. The moment he talks of the African masses then our feelings are hurt and we cannot forgive him for thinking that we are masses. We feel that the human dignity should be the same for everyone in Kenya, black or white.

On the proposed constitutional conference I would join with the Member for Nyanza North when he says that it was the African Members of this

[Mr. Mate] Council who asked for such a conference and, in all sincerity, it does not matter whether we agree with them or not because the sincerity is not questioned. The question of agreement is a different matter but the question of sincerity is not a matter of good work or trying to pass over some of the problems.

Mr. Speaker—I beg to support.

Mr. BOMPAS: Mr. Speaker, I should like to lend my support to the Motion before this Chamber. In doing so, to refer specifically to some of the phrases which were used by His Excellency in the speech from the Throne, starting if I may with agriculture.

His Excellency told us that it was his Government's intention that farmers in the scheduled areas would be encouraged to diversify their output on an alternative subsidiary basis. I would like to be assured that it is Government's intention that that diversification, if that is the right word, be extended to all areas and not merely to scheduled areas. We learnt that, later in His Excellency's speech, Sir, that within a comparatively short time the African coffee areas would be extended by some 5,000 acres. I have no quarrel with that. The Government went on to announce that marketing would continue to receive a special attention. This particular aspect was touched upon by the Hon. Member for North Nyanza, and it is one point on which I find myself in complete agreement with him: that is, that it is so vitally important that we can in fact dispose of what we produce. In the light, Sir, of the latest information that its coffee crop, one can only hope that Government will continually be examining the possibility of alternative crops to coffee, and indeed to other commodities which show signs of achieving some saturation in world markets.

One hesitates to quote the old, very old, saying that one must beware of having too many eggs in one basket. Sir, I do think; under present circumstances, the Government proposals for increased coffee areas should proceed with the very greatest of caution.

Sir, if I might turn now to law and order, and welcome the assurances given

of Government's intention to maintain law and order, and in particular public security, I was a little disturbed. Sir, at the very frequent reiteration of that phrase: His Excellency used that, or synonyms for it, time and time again. I would have wished that equal emphasis could have been placed upon the control of ordinary crimes as opposed to the control of quasi political ones. It is true, Sir, that His Excellency did say that he was glad to learn that during the past year the police force had discharged its main responsibilities with credit. Sir, I would like to endorse that statement: I believe the police, for the most part, have been doing a very excellent job in this country, but there are occasions which make one wonder whether that force is not inadequate to its present task, inadequate in numbers that is; or whether its disposition of its men is wrong, because one hesitates to think that thieves could very regularly outwit the force as they seem to do.

Sir, I do not propose to touch upon the serious crimes, crimes of violence, taking place more particularly in the constituency which I have the honour to represent. Some of those matters are *sub judice* at the moment, I would like, Sir, to speak of the minor crimes, minor possibly in the mind of the person who reads the newspaper, if these things ever get into the newspaper, but certainly not minor, in the eyes of the individual sufferer. Sir, in one area of my constituency there has been an almost constant state of housebreakings. The most audacious ones are by thieves who have habitually defeated the police, and indeed are no respecters of persons, as will be borne witness by one of the Government Ministers opposite me. He is one of my constituents, Mr. Speaker.

Sir, in another area in my constituency this has taken the form of persistent produce thefts: I have a letter here, received only today, from one of my constituents. The essence of this matter is that this unfortunate man, who is making a living out of growing flowers and produce of that sort, is habitually raided. He is raided about twice a week. I have made representations to the police, starting from the Commissioner downwards. I have received the greatest help; everybody has been extremely sympathetic; the superintendent in charge of

[Mr. Bompas] the area has made a personal visit on more than one occasion to the farm to try to make some suggestions whereby, with the co-operation of both the farmer and of the police, something could be done. But, Sir, these malefactors are winning and they continue to win. I would like to know what can be done about such a situation, because it is quite deplorable, Sir, that petty thieving, which nevertheless is costing this particular man at least £20 a month, should continue month after month, week after week.

Sir, I should like to turn now to the question of land, an aspect of which does not occur in the White Paper, and to ask the Government whether it will be prepared to define now—or certainly before the White Paper is discussed—the definition of "Public Purpose". Sir, I agree with the hon. Specially Elected Member, the leader of the New Kenya Group, who said how necessary it was and how desirable it was that we should winnow away some of the chaff from the White Paper so that we could see the wheat that was left; if indeed it was wheat. We would have less at least to discuss. This I would suggest, Sir, is one particular thing which certainly should be winnowed before we go any further. I have looked in vain, Sir, for an interpretation in the law of "public purpose". It was suggested to me that I would find it in the Interpretation and General Provisions Ordinance of 1956: it is not there, Sir. I have looked in a number of other quarters. I do suggest, Sir, that unless that phrase is defined quite clearly, any controls which were imposed in legislation are quite meaningless, if they can be circumvented by Government placing its own particular interpretation on that phrase, to suit their book at any time.

There was another aspect on land which I had not meant to touch on, but the hon. Member for North Nyanza did, if I understood him correctly, refer to a method of compensation. I may have misheard him: I may have misunderstood him; but I gathered his thought was that Government should compensate settlers and thereby conveniently get rid of some recent arrivals, who are not awfully interested in the country, and merely put money here for better

or worse as an investment. They would perhaps be quite happy to get out, but I believe the vast majority of people in this country, people who have made their home here and who love it, have not the slightest intention of taking compensation from Government and quitting Kenya.

Finally, Sir, a notable exception from the speech from the Throne was there was no reference at all to roads. Here, Sir, I want to get completely parochial and again make a plea in respect of the dual carriageway to Kahawa. Sir, it is a proven fact that the accident record on that road is truly appalling, and when Kahawa is developed, as is now in the course of happening, that accident rate will be even worse. It is no use, Sir, for Government or the Road Authority to say they have not got the money. I do not believe that, in a case like this, one can measure life in terms of cash.

Mr. Speaker, I beg to support.

COL. JACKMAN (Nominated Member): Mr. Speaker, Sir, I personally was most impressed by His Excellency's speech from the throne which we listened to yesterday. I think it was a remarkable achievement by one who has been such a very short time in this country, and if the amount of work which must have gone into it is any indication of how His Excellency is going to deal with the very many problems in this country, I think we are very likely to be lucky in his appointment.

I was very heartened by his speech, Sir, which asked us all to look forward rather than back, and he also gave many concessions under the Act of Grace to further this forward look, but at the same time I think he made it quite clear that both he and the Government were prepared to govern firmly and to ensure the security of this country, come what may.

Now, Sir, we on this side of the House have agreed to share the load in this debate and so avoid unnecessary and somewhat wearisome repetition, so I do not propose to wander all over the field covered by His Excellency's speech, but to confine myself to three points only, and those very briefly.

Sir, my first point concerns Sessional Paper No. 9 on the pyrethrum industry, and with your permission I would like

[Col. Jackman] to quote what he said in the printed speech. This reads as follows:—

"The Government believes that the interests of the industry would be best served by agreement between the parties and the Government does not intend to debate the Sessional Paper until the fullest opportunity has been given to them to reach agreement between themselves."

Now, Sir, no one could agree with that proposal more than I do. I believe the only way which you can get lasting satisfactory results in this industry is by mutual agreement rather than by cast iron legislation. On the other hand, Sir, I happened to have taken a great interest in the argument which has been going on and in this respect I would like to thank the Minister for Agriculture for having so kindly kept me fully in the picture as regards his own ideas on this matter. But, Sir, I do know that negotiations or proposals have been made between these parties over a very considerable period, and the only thing that is worrying me is what exactly does the Government mean by the "fullest opportunity"? I believe, Sir, we would all agree that with any agreement between two people there must be two people concerned in it, and it is extremely difficult to reach agreement about anything if one or other of the parties is standing adamant on something which the other is not prepared to agree to. If the Government, as I believe to be the case, do wish this matter to be settled by agreement between the parties, I would like to suggest that the time has come when they should make that quite clear as their intention and not leave any idea that, by holding out, one or other of the sides might get something extra.

My second point, Sir, concerns Sessional Paper No. 10, on land outside the African areas. When I first read this Paper, Sir, I am afraid I got the impression that it had been drawn up on the assumption that my community were going to oppose tooth and nail the principles contained in the Paper. Now this, Sir, I do not believe is the case at all. I believe that there are a very large number of people in this country, of my community, who accept the principle in the Paper, but what they are really wor-

ried about is the machinery by which that principle is to be implemented. I was very pleased indeed therefore to hear that before this Paper is debated in this Council the very fullest opportunity will be given to all interested parties to present their views on this machinery. I hope that when the Minister concerned speaks later on he will be able to give us some indication of how he proposes to collect and collate those various views. I believe that if this is done we can sort this matter out and make it acceptable to a great number of people who at present are not prepared to accept the machinery as laid down in the White Paper. I hope, Sir, that this will be done.

My third and last point, Sir, concerns what I consider a somewhat unfortunate omission in His Excellency's speech, and that refers to one of my pet hobbies, this matter of game preservation. This the time last year, Sir, during the debate on the Governor's speech, I raised this matter myself, and I said that I hoped that the Council would have before long an opportunity of debating the Game Policy Committee's Report. Since then, Sir, months have passed and I do not believe in this respect, game preservation, the position has in any way improved. In fact I think probably things have gone back and I do believe that with this great asset of ours, the wild life of this country, we are not going to get anywhere until we do know what the Government policy is, even if in some respects, owing to lack of money, they are not in a position, immediately, to implement certain parts of their policy.

I have heard, very recently indeed, Sir, that there is now a White Paper on the Game Policy Committee Report which will shortly be laid in this Council. I hope this is true, Sir, and I hope the Minister, when he speaks, will be able to confirm this. I think this is a matter of great urgency and that we should not waste any more time in getting down to it.

Sir, I beg to support the Motion.

MR. NOOME (Specially Elected): Mr. Speaker, I want to congratulate the Governor's speech on the White Paper made here yesterday, and I have a few comments to make, and one is about the Emergency, and the second is Joim

[Mr. Ngome]
Kenya. Jomo Kenyatta has been mentioned on various occasions in this House, and what I know of Jomo Kenyatta—I do not want to stand here with a blowing of trumpets, in a form of "His Master's Voice." I have known Jomo Kenyatta since he became a politician in this country. The first time I knew him was when he was a clerk here in the Nairobi Corporation in the Municipality which was at that time the Nairobi Corporation. I have known him as a clerk and I have been walking with him, eating with him, and I am sorry to say in this House that I am the man who knows Jomo Kenyatta very well, more than anybody else in this House. If Jomo Kenyatta was subject through conviction by the court of law and sent out from here to Lodwar, I do not think we should take part in defending him here in this House. He is not a leader of Africans in this country. What I do not understand, Mr. Speaker, is whether he is a leader of *Mau Mau* in this country, or whether he is the leader of good Africans in this country. That question has not been answered here or outside.

Mr. Speaker, I will give a case that happened in Nairobi. Some years ago there were two brothers, one a lawyer and one was accused in the court for unnatural offence. The brother, I think the lawyer, appeared before the magistrate in Nairobi and after 24 hours considering what to do with this brother he told the court, "My Lord, I withdraw defending the accused in this case." Now it was because of the nature of the case in which his own brother was accused, he withdrew from that case, and what I would appeal to my friends in this House is if we are satisfied that Jomo Kenyatta did nothing good for this country, we should wash our hands in the same way that that lawyer did, withdraw from the case of his own brother because he knew he did nothing good for the people in the country.

Mr. Speaker, I am not here to defend the people who are law-breakers in this country—I am here to be on the side of the people who are good citizens in the country and who are aiming to be good, and develop the country, and in that case, Mr. Speaker, I am not in favour of seeing that the country is still running

into difficulty of intimidation and violence, robbery and murder. I am in favour of withdrawing the Emergency law in this country. I think Government will be making a big mistake to agree in this House that the Emergency Laws should be ended when the situation in the country is not normal.

During the last World War, Mr. Speaker, there was a Frenchman who was taken prisoner of war and was sent to a British commanding officer, and when he went there he had his revolver and he started shaking the officer's hand, but the officer told the escort to remove the revolver from him. Now, after the revolver had been removed, the British officer commanding had to shake hands with him. It was all right then, but he would not agree to shake hands with him when the man was armed.

Now, it is our duty when we see that the country is free from intimidation to come here and appeal to the Government to withdraw the Emergency Laws, but we must only do this when we know that the country is in peace.

Before I end my speech, Mr. Speaker, I would warn every Member in this Council, whether European, Asian or African or Arab, that it is no use coming to this Council trying to serve our people when, at the same time, we are engaged in secret societies. I would not mind whether they are Europeans, Asians, Africans or Arabs, and in quoting this I would like to give an example. During the First War, I believe that it was in 1915, Mr. Speaker, there was a station master at Mauungu, who was a good station master during the day, but at night he used to be friendly with the Germans. He went on like that for a short time—not long—and the result was that he was executed in Mombasa. That was in 1915 and I remember the incident very well. In that case I would warn the Members here to be very careful not to come here as good Members of Legislative Council and then at night become members of secret societies that will end with no good result—I, personally, would not stand here during the day as a Member of Legislative Council and then, outside, encourage these secret societies which are the bottom of *Mau Mau*, and the bottom of those people in the forest. As far as I am aware, and as far as my information

[Mr. Ngome]
goes, these movements of secret societies are still going on in the forests, and if they are going on, who are supporting them? It may be people who are here and like the station master who was very good to the Railway Administration during the day, saw all the trains off all right, and then at night was very good to the German soldiers and serving them with *posho*. But what was the end of it? He was executed, and I fear here, in this Council, that we may not be honest here and doing our duty to serve the country if we are being pushed from behind to engage in secret societies which will result in the same fate as that station master, who was rather sorry at the last moment.

Mr. Speaker, before I sit down, I would like to read one sentence from the Bible, and that is the First Epistle of St. Paul to St. Timothy, Verse 8, Chapter 1: "But we know that the law is not made for the righteous man, but for the lawless and disobedient."

We all know that the law is not made for the righteous man, but for the disobedient and, therefore, the Emergency Law is not for the righteous man but for the law-breakers and those people who are engaged in unlawful societies and for people who are generally criminals, so why should I fear the law? I have no quarrel with it, and if the law says that people should not walk at night, then I will go to bed in conformity with the law. Why should I worry? If I do worry at all, should I worry for all those people who go at night and rob other people, and is it my duty to stand here and help those people and say that Government should withdraw the Emergency Laws because my brother robber is suffering and my mother should be given a chance to kill another man and go free? We have got to use our common sense. If we stand here with goodwill, and understand what the law is—then perhaps the lawyers here will be able to understand what I really mean and say when I quote this passage from the Bible.

As I have just discussed, outside with the African Nominated Members here, whether Specially Elected Members or Elected Members, our feeling must be that—and that is to serve our people in this country: we are not here to be

divided, or to think that we are here to let our poor brothers suffer outside. Those who break the law must suffer even if they are our brothers, fathers or relations. If my wife breaks the law she must suffer, not I, and why should I get into trouble for nothing? If a man is insulting his wife during the night, and the next day his neighbour says, "You did very well", then the result is that that type of man should go to prison for cruelty, and that is the end of friendship.

When we go out from here and we are asked, "What happened with the White Paper and what happened with the Governor's Speech?" and we reply, "Well, the Governor's Speech was not very good"—which is good? Perhaps we will get a message from God which will say this is the good news for you—but even when God's news came here we did not like it, and we did not receive it nor did we accept it.

Mr. Speaker, I do not wish to waste the time of this Council but, as I said, I will not either here or outside support any Motion in this Council about Jomo Kenyatta. If Jomo Kenyatta did good for this country, then he must come back. If he did not do good for this country, then he must remain there for ever and that is the speech which I am giving to this Council.

I support the Motion.

COMMANDER GOOD (Nominated Member). Mr. Speaker, in common with the last speaker on this side of the Council, I should like to touch on that part of His Excellency's speech which he described as his main theme that is to forget the past and to look into the future. He went on to say: "We shall not all in one leap reach our mark of a stable, fearless, prosperous Kenya, a Kenya in which all Kenyans may live their best, but we can all always be moving nearer to our mark; if we can agree together what is the right direction."

Mr. Speaker, all of us here in this country have, I believe, but three objects—one, is to obtain security, physical security—and His Excellency's words and reassurances on the question of security were good to hear. The others are prosperity and happiness—far more difficult things to achieve. I would suggest to this Council that these can only be

[Commander Goord].
achieved through co-operation. Now, what does co-operation mean? I suggest that it means that the more advanced must be ready and willing to help the less advanced of us, but the less advanced on their part must not only co-operate with the more advanced for their own good but they should realize that they will need the help of those more advanced people.

We live in a rapidly changing world, Mr. Speaker, in which new inventions, new sources of energy, and everlasting complications are descending upon us—and will very soon depend upon us here in Africa. And when that comes, the indigenous people of this country will need other Kenyans to work together to build the prosperity which this country needs so badly.

Here, Sir, in passing I would like to comment on the point made by the hon. Member for the Central Province North on the question of manners. I do believe that the first essential step in obtaining co-operation between the races, which is so necessary, is that all our people should remember their traditional standards of courtesy whatever their walk of life. If we can achieve that we can achieve much.

I have said, Sir, that the development of prosperity is paramount; and I would suggest that the confidence which calls for is not engendered by such talk as that of expropriating land, or compensation for the expropriation of land. I do not wish to go into any details on this land problem, but I would like to suggest to some hon. Members opposite that the value of land to the country and the people lies in the wealth it can produce over many years, and not in who owns it. It is for that reason that Government's policy of basing its ideas on plans for land mainly on economic considerations is utterly right, and in the interests of all the people in this country; and the fact that this people or that people may suffer from a disease known as land hunger does not alter the essential factor of the case, which is that the land policy must in the long run be based on economics.

It is regrettable, Sir, that this Council does not spend more time on economic problems than on constitutional affairs.

Nevertheless, we must recognize that some political change is inevitable, and at the right time, right, and we must recognize that we are in this country moving progressively towards a form of representative government, and I believe that it is of the utmost importance that the people should be prepared for this as rapidly as they can absorb that preparation. One step we can take is that of creating, over a period of years, an informed people from which there will be derived an informed electorate. I think this is of such very great importance that I do regret that the speech contains no reference to the Information Services which are so vital to the future of this country. I believe, Sir, that it is of paramount importance that what we have in the past referred to as Information Services should develop to a full scale service of adult education; a service which would not only increase and produce literacy and factual knowledge, but one which would also help to produce good citizens and inculcate a sense of individual responsibility in all our presently backward people. Such a service should use all known mediums—radio, television, cinema and all the others—and such a service would not be cheap. I do believe that we have got to consider whether we can afford to go without it. I believe, Sir, that we must produce a nation of informed people before they are overwhelmed by politics; and I hope the Government will give serious consideration to this proposal before the introduction of the next Budget.

I beg to support, Sir.

MR. TRAVADI (Central Electoral Area): Mr. Speaker, Sir, I beg to support the Motion moved by the Nominated Member, Mr. Jones. It was last time that I begged to differ from the motion of thanks as I was feeling conscientiously that the things promised in those days were not agreeable to me and to the public as a whole. From my point of view, His Excellency's speech is very bold and courageous statement and when I listened to him yesterday, I marked the time and it lasted for 53 minutes; and I was very much moved indeed.

A newspaperman last week asked me on the telephone what I thought of His Excellency. I replied that he was a very

[Mr. Travadi]
free and frank minded man and that he talks and mixes with everybody; but he was not satisfied with this reply and again questioned me, I then said "He will probably play the same role as Lord Mountbatten when he handled over India to the Indians." He thanked me and said that was as far as his job went; but here I am prepared to say that here is a man who, if he is not bullied—I should say by the Europeans as I do not want to say the settlers generally—as it everry now and then happens—in such cases on the land fight, if he is not bullied into submission, then I think and I am sure that the next round table conference will bring the desired results; that is my firm conviction.

The Specially Elected Member, the hon. Mr. Ngome quoted from the Bible, and at that very moment something came into my mind that it is said somewhere: "Knock at the door and it shall be open." For the last 15 months we on this side of the Council have been knocking at the door of the Government to end the Emergency, to have a Constitutional Advisor appointed and to have a round table conference, and the greatest bluff—the Reservation of White Highlands for the Europeans—even that house of cards has fallen. Well, having had these three things, and with a round table conference coming on soon. I think I can conscientiously thank the Governor for this bold step which he has taken to appease the public.

I am aware that Jomo Kenyatta and some four or five other persons are still rotting in detention, but if a month or two go past without any violence whatsoever, or any untoward thing happening, I am pretty sure His Excellency will give full consideration to the release of these four or five persons.

THE CHIEF SECRETARY (Mr. Coult): I thank the hon. Member for giving way. The people to whom he has referred are not rotting; they are well fed and properly looked after and in very good health.

MR. TRAVADI: I would not like to say anything more on that.

Mr. Speaker, my worry for the Round Table conference is that since the inauguration of the United Party—the extreme party—there is another extreme

party also created on the other side, and between these two extremes there is a possibility for the two moderate ones—the Kenya National Party and the New Kenya Group being wiped out. If that does not work, then, my worry is that there is going to be a sort of a deadlock or a breakdown. I hope better counsel will prevail and take into consideration the general welfare and interests of the Colony as a whole and not develop into a sort of unnecessary tug-of-war and ruin the future—the bright future—which is ahead of Kenya.

It would have been better on the part of the Government had it also announced the target date of the responsible self-government for this Kenya Colony. After all, as everybody knows, the natural evolution of a Colony is self-government. The final target, so far as I am concerned and my party is concerned, we have fixed 1968—the Kenya National Party—but it would have been a very good thing for the Government to declare some date so that the transitional period, whatever it may be, could have been worked out by stages to reach the particular goal. What may be, it may be or it may not be—Kenya may attain by self-determination a sort of self-government—but standing as I am, as an Asian, particularly for the Indian community, I will not be prepared to sacrifice my community's honour and self-respect. We have suffered for it during the past and I would go all ahead for equality. I do not challenge the position of the Africans of this country and I claim myself an African, and as such I am supporting the African nationalism, but if there is going to be any reservation—any separate thing—maybe the Executive, the Legislative Council or the local government or anywhere—I shall be demanding full equality with Europeans. As to that, nobody should remain in doubt.

This statement of His Excellency—I am sorry to say that last time I also said that it did not contain any reference to citizenship legislation at all, and this time too there is nothing so far as that particular legislation is concerned. Everybody and every party has talked about a Bill of Rights and citizenship legislation; there is a demand from all the parties. I hope a Bill will come forward for introduction into this Council embodying at least a

[Mr. Travadi] universal charter of human rights which gives all types of freedom or freedom of thought or freedom of expression, as that an individual citizen, as a Kenyan, will have his rights guaranteed, whatever the Government and whatever the type of Government, whether it may be an Indian or European majority or even an African majority, whatever it may be. But I would like to see it here, during the coming year, that this legislation is introduced.

Now there is a reference to education and whatever I see in the word "Education" I feel it only refers to Asians and nobody else. I know the Europeans and Asians are concerned. There was a reference made last time, and the Minister for Education said the Government would abolish double sessions. My whole community is very much concerned over this particular problem, but there is no reference whatever to this.

I, as a member of the Asian Advisory Board of Education, moved—and it was unanimously accepted—that the Compulsory Education Ordinance be applied to all Asian boys and girls all over the Colony of Kenya, and I was told: "Where is the money?" When I hear "Where is the money?" my heart sinks. When the Government had money, nothing was done. Now when the people demand it, the same excuse comes: "Where is the money?" If I may take the liberty, Mr. Speaker, I want to point out that in the first Development Plan over £1,000,000 was not spent. During the second Development Plan about £250,000 was not spent. I do not want to take up the past; I am always told to forget the past. Let us look at the present, this latest 197 to 1960 Development Plan. Of the money for that—the first two years provided as capital expenditure not even half is spent. And I am told in black and white that there remains a big amount of £411,000, to be spent during the coming six, seven or eight months, i.e. up to the end of June or 1961. I feel very much upset. Is there not a demand for money from the Asian community? From every quarter of Kenya there is a demand for Asian education—money, money, money. Government seems to have declared moratorium over Asian education. God

knows—by the education officer; God knows—by the Director of Education; God knows—by the Minister for Education; or God Knows whether it is the Minister for Finance, who is issuing the instructions. How is it that this money is not spent at all and a big amount is still remaining unspent.

I was thinking, Mr. Speaker, about the coming 1960 to 1963 Development Plan and I know what amount of money is provided. I feel very much that the money provided or proposed to be provided is hardly sufficient—hardly one-tenth of what I was asking last time, and I hope the Minister will give a little more sympathetic consideration to the Asian case for education. Even the Europeans—even a man you call a die-hard who is deadily opposed to the Asian community—he agrees that injustice has been done to the Asian community. In spite of sympathy from all quarters we still find that the necessary money is not forthcoming and there are shoals in the world that underdeveloped countries should be provided with money to provide this and that. Something substantially is required—money, some loan, something—and we can afford to spend millions on this Emergency!

I have been very worried—and worried tremendously during the past week or so—about the K.A.P. examination paper, which is repeated every year. If I put the English question paper to either the Minister or to the Director, I dare say in the period of one hour given to them they would not be able to finish it or even pass. I hope the Minister will look into this and see what can be done.

Mr. Speaker, there was one point raised in His Excellency's Speech—the conversion of the Royal Technical College into a second university college offering facilities for studying degree courses. There is also a suggestion in the name to Royal College. At present it is bracketed—associated with the Gandhi Memorial Academic Society. I hope the Minister will look into it and see that those words do not disappear. Mahatma Gandhi is a tremendous influence, not only in India but all over the world, and by the ending of the Emergency, I see a new era of non-violence has set in, and

[Mr. Travadi] if I may be at liberty to suggest that on the first floor, where we see the two statues of Sir Winston Churchill and Field Marshal Smuts, I also feel that this country does not need violence but it needs non-violence, and the apostle of peace and non-violence—Mahatma Gandhi—should have been there. That is my personal feeling. I am not proposing anything should be done.

The land policy—the removal of barriers. I would want to say, Sir, something on that issue, but the last time when I was speaking on Education, Harper Sessional Paper on Education, the Minister said: "Mr. Travadi, you are in advance speaking; the Sessional Paper will be debated later on." I will reserve my comments on that. So many people even in this place and other places are talking about the breach of promises and pledges and I know what those promises and pledges are. I do not want to go into that now but if that kind of occasion arises I am fully prepared and I think I will give them a thorough reply. Since my coming into this Council I have been talking to our Minister for Housing, Mr. Musa Amalambo, about the African housing for Asians, and this is probably the fifteenth or sixteenth month of my being in this Council and yet he always tells me the negotiations are on with the Mayor of Nairobi and with other people but nothing so far as materialized. I would only request him—he is the Minister for Housing not only for one race, but probably I would say for all races and the Asians do deserve some sympathetic consideration.

There is one last thing, Mr. Speaker, which I would like to touch upon—unemployment among the Asians, which is nearly 7,000. There is a Motion already tabled and even His Excellency the Governor, has touched upon it. I would urge again that something substantial and concrete is done so that unemployment disappears, and sooner the better. I beg to support.

MR. OLE TIPIS: Mr. Speaker, Sir, I just rise to pay my small contribution to the Motion before the House. Before I commence making my comments, Mr. Speaker, I would like to put to the hon. Specially Elected Member, Mr. Ngome, to look on some points made by him in

the course of his speech, which, in my way of thinking and in the way of the Africans' thinking, are quite uncalled for and as such should not pass unchallenged.

First of all I was really annoyed to hear the hon. Member, if I understood him aright, Mr. Speaker, say that some Members of this House appear in this House as Members of Legislative Council and as soon as they withdraw from this House they go somewhere in the night and become members of secret societies. With your permission, Mr. Speaker, I would like—

MR. NGOME: Will you sit down?

MR. OLE TIPIS: —to ask the hon. Specially Elected Member to substantiate his allegations.

MR. NGOME: Mr. Speaker, I do not say there are Members here; I said there may be. You have to compare the words—there may be.

MR. OLE TIPIS: Well! If that is the question, that there may be, then of course he should make clear his grounds for saying so or else withdraw those allegations.

Now, Mr. Speaker, he also touched on the question of Jomo Kenyatta, who is now restricted at Lodges—either the hon. Member is remaining or lives most of his time in isolation or that kind of thing—I do not know—but I am glad to say that his views are only shared by himself and not by the African community as such.

Mr. Speaker, if I may now touch on the very thorny question of land in Kenya which has, right from the start, been the major bone of contention in Kenya politics, I have got a few observations to make and I would strongly urge our Government not to try and evade the issue at stake but to be realistic and not try to beat about the bush, because as long as this question of land remains unsolved in Kenya we cannot expect any stability or any progress or the contentment of all the people who inhabit this beautiful country. It is a fact, Mr. Speaker, Sir, and a fact which I think is a very true one.

The Sessional Paper has very, very little to offer to the African people, if anything at all. It is not a question, Mr. Speaker, of lowering the land barriers

[Mr. ole Tipli] I know who put these barriers there; it is this Government which put these barriers there. The question of removing the land barriers—as far as the African is concerned he would not care a hoot. The African did not put these barriers there and when this Government comes forward and talks softly of willing buyer and willing seller, it does not make any sense at all in the mind of the ordinary African. That much I can tell you.

The way this land was taken away from the indigenous people of this country is well known to all of us in this House and we must face it. It was not a question of a willing tribe vacating its land and leaving it to the settlers; it was not that at all. It was the question of: "You quit, get a few *kitoboks*, or else we use force and drive you on and put you on new boundaries." I see the hon. Minister for Local Government shaking his head, and I think that he ought to know to whom his present farm belonged to originally.

Now as far as that goes, Mr. Speaker, I think the Government is entirely wrong in its land policy, when you have big areas of land unused, undeveloped, which remains idle, untapped at all, and at the same time you go outside this country and invite immigrants to come in and settle on this land whereas you have millions of landless Africans who have no other ways or means of making their livelihood, is beyond any human imagination. I should suggest, and suggest strongly, to the Government that this land should be made available immediately to the landless Africans.

I hear again, Mr. Speaker, the same hon. Minister—who is a close friend of mine—mentioning that question again. Every time I speak here, Mr. Speaker, somebody interrupts and mentions the Masai land. Surely if you cannot keep away from mentioning the Masai land you must be very, very ungenerous people indeed, for the simple reason that nearly the whole of the Rift Valley was once the Masai land. Now these people were pushed right onto the other side of the country—waterless—and today, one of the most famous tribes in the whole Colony before the European came in, is one of the backward tribes. What is done for these people?

Now the same hon. Minister also reminds me on this question of the Masai land, which I would like at least to get some clarification about because unless I do it will have very serious repercussions indeed, and that is that the Masai are the only people among the African tribes which have signed any treaty or agreement with the British Government, and as such they are worried and I think it will not be long before they come to the Government of this country and ask for this clarification. The assurance they want is whether this question of lowering the land barriers will mean abrogation of the present treaties as far as they are concerned. I would like to have that assurance, Mr. Speaker, Sir.

Before I leave that question, I think the hon. Minister for African Affairs will entirely agree with me. These people are really backward. They do not know what is happening here in Legislative Council, and then we are wanting to introduce these Bills for lowering the land barriers and with the intention of making their land a dumping ground for the over-population of other people, whereas you have the Highlands which are unused.

(Cries of "Question.")

Oh, yes, I expected that, of course, but there is no question about it. Let us have that place.

Now that much is not acceptable and there is no question at all of opening the African land units for any immigrant races. It is the duty of the Government to protect we, the Africans, who are financially weak. Why should you allow everybody who comes from Europe or wherever he comes from to buy us out? We have no places of employment; we have no old age security or any sort of places at all for our working population; and what do you expect us to live on, I wonder?

Now the other point I would also like to touch on is this question of education. I do not want to repeat very much what other speakers have said, but I repeat what I have said previously in this Council: I am just beginning to wonder whether it is the policy of the Kenya Government to let those who have more, have more, and those who have practically nothing, to decrease what they have. As far as the question of education

[Mr. ole Tipli] I think our backward areas should be helped out if we are to move forward together.

The question of game, which has been mentioned by my hon. Nominated friend, Colonel Jackman, I also regard it as one of my hobbies. Whenever I drive through in the night past that beautiful game country I enjoy seeing them. As such I know that the Minister for Game and Forests will soon introduce a game policy report to be debated in this House. I have not got very much to say—I will wait until then—but suffice to give him only one remark, and that remark is this: we all regard our wild life and "its game as our big national asset as well as everybody who loves Kenya, we know we get quite a lot by attracting tourists into this country. I do not want to look aggressive or in a way, so far as this goes, but on the question of game I think I would only advise the Minister to consult the people, especially the Masai people, who have, I think, played a major part in preserving the present game. There is no doubt about this. There is no question about that. And they will continue to play that big part. And I think they ought to be congratulated by all of us. One should at least consult them so as to avoid any conflict or any misunderstanding between ways and measures of preserving the wild game life of this country and at the same time avoiding priority being given to game at the expense of the Masai.

That is all I have to say and I will reserve—I have got quite a big pile to say when this report on Game Policy is introduced.

Now, the other thing, I listened with great interest to the speech made by my hon. friend, Mr. Michael Blundell. For one thing, he had some realities at times, but at times I find that, if he chooses to, he can be as evasive as anybody, even me! When we talk about the Round Table Conference, the forthcoming Round Table Conference; and when we say that we should not go to the London Conference as Asians, Europeans or Africans as such and when one refers to a political meeting and at least talks to the question of education, that complete integration will lower the standard of Europeans or Asians or that kind of

thing; well, by all means, if that is what it means, then such people have no right to remain in a country which is lower, which is not of their liking; in which—on the other hand—their children are regarded as superior to the children of other races. That is quite illogical. And then, at the same time, when someone goes on trying to look into the funds allotted to the various communities for educational purposes in this country, you find that the African is not given a fair share at all and that all the time there are obstacles placed in his way of educational advancement. That is a complete barrier and I hope the Minister for Education will soon remove that one, and remove it completely, not in a slight and very minor way as he has tried to remove the land barrier.

Now, if I may also touch the question of the lifting of the Emergency, this question, I think, is that there would be very few people who would want to evade the issue, who would want to ignore the suffering, the public expense, the loss of life and misery, which this country was forced to undergo in the last 74 years. I think it is gratifying to note that the Government has decided to lift the Emergency and I hope that will never occur again in this country. But what annoys me is the introduction of two Bills, which, in a way, will retain nearly all the Emergency powers. The first one is the Preservation of Public Security Bill and then comes the Detained or Restricted Persons (Special Provisions) Bill. I should have thought that even before the declaration of the Emergency the Government had powers. We heard during His Excellency's speech that people like Jomo Kenyatta are detained under an Ordinance passed in 1948. That was before the Emergency. Surely, should the situation deteriorate, the Government has all the laws, all the forces, all the speed required to bring in any measures. But such measures as are now contemplated in these two Bills are not in keeping with the peaceful development of our country. And as long as the Government think that by introducing such legislation, ignoring all the aspects which contribute to the discontent of the people, thus making them easy preys of mischief and trouble, then they can write any volume of legislation but all that will be in vain. I would ask the

(Mr. ole Tipis) Government at least to pay special attention to the needs of at least those hard-pressed people who are faced with no other alternative but to try, in any dirty means, to make a livelihood. People who cannot find, for instance, employment anywhere. They have no land to live on or derive their livelihood from. So what do you expect them to do? To die? They must die in the struggle of trying to get something to put into their bellies. And so? They come to places like Nairobi; they go and steal and use violence and all that kind of thing. These things should be thoroughly gone into and I think the Government has also learned—we have all learned a very big lesson during the Emergency. We have spent millions and millions of pounds to bring an end to this violent, subversive movement and we have all suffered. How better could those millions of pounds have been spent if we were far-sighted and spent those millions of pounds in various development projects to raise the standard of living of this country's inhabitants and raise our national income. The Government should pay special attention to this, Mr. Speaker, Sir.

Now, as far as the Act of Grace goes, I am sorry I do not think it went far enough. I think, and I repeat again what other speakers on this side of the House have said, that at least all persons who are restricted, or detained—should have had this clemency. Now, as far as that goes also, we have asked and I have asked it again, that Jomo Kenyatta should at least be released and allowed to come back to this country. I do not think he will constitute any more danger than those murderers who have actually murdered persons during their terrorist activities and I think if on his release the Government at all still suspects him they can at least keep an eye on him. And if necessary and he proves a nuisance, then again they have all the powers, but by releasing him it would create a good feeling. It will ease things because as long as he is released the African feels, and make no mistake about it, the African in this country feels that this man is the father of the Kenya African politics. It does not matter how much he was implicated in the Mau Mau uprising, but at least he

worked all along for his peoples' rights, and as such is recognized as such. They do not recognize him simply for the name of Kenyatta. That is not a better name than any other person's name, but they recognize him for what he did for his people before the Emergency was declared.

Now, Mr. Speaker, if I may also touch on what some people regard and talk a lot about all the time—racial harmony and co-operation. We cannot have it both ways, Mr. Speaker. We can either accept our individual rights and regard ourselves as true Kenyans, or else those who are very much concerned with their race or the colour of their skin, I think it is their business to try at least and go to where that colour can stay alone without mixing with another colour, because that is what it implies. When we talk of racial co-operation and harmony, how are we going to create this? It is not the creation of racial co-operation. It is the creation of a Kenyan nation. The creation of a Kenyan nation where the basic principles of undiluted democracy—where the majority will and wish of the people shall prevail—which is quite the opposite to what it is today—that is what we should aim at. Anything short of that will only be useless, a waste of time and a waste of our energy, and in the end we shall all regret it, and I do not think we want to talk much about it.

Now, I think, Mr. Speaker, I still have a few minutes to propound a few other things here. I was actually a bit disappointed at the remarks that when the Emergency is lifted there might be introduced a few other measures to control the movement or the entering of the workless class of people in some urban areas and other places like that, and I heard one Member of the other side of the House mention that the settled areas will be affected by that new move. Well, we are not out for trouble. We are not out to help the mischief-makers or the troublemakers, but we are out to see that the people of this country have equal opportunity. I mean, at least to look for employment in a decent way because on the whole when you control them, you control them in the Kikuyu land units and there they have no employment. There they have no land. There they are doing practically nothing,

(Mr. ole Tipis) do naturally, what do you expect them to do? They enter my hon. friend's constituency—the Member for Kiambu—and commit all these crimes of violence, and then disappear in the night, but if we could create more industries in the rural areas and at the same time release the congestion which exists in more congested tribal land units, and give them Crown lands and unused land and undeveloped land in the Highlands, then it will help a great deal until we have planned sufficiently as to how we shall plan the future of our country.

As far as going to London, if I may repeat again, is concerned, it is not the question of someone going there on selfish ideas—somebody going there on racial ideas, but it is the question of going to London with an open mind as to what we want in this country—as to whether we want to live all alone in strife, in increasing the racial tension, or we are out to remove the evils which have fallen on our country in the past through mismanagement—if I may call it so—or through influence from selfish persons. I believe, Mr. Speaker, that we have enough in Kenya if it is shared properly, but we have not got enough, and that is where the trouble comes from, to satisfy some of our friends selfishnesses.

Now, Mr. Speaker, with these few remarks, I beg to sit down.

ADJOURNMENT

THE SPEAKER (Sir Ferdinand Cavendish-Bentick): We are near enough to the time for the interruption of business not to call on another speaker, and I therefore adjourn Council until 2.30 p.m. on Thursday, 12th November, 1959.

The House rose at twelve minutes past Six o'clock.

Thursday, 12th November, 1959.

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

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

PRAYERS

NOTICES OF MOTION

AFRICAN TEACHERS SERVICE REGULATIONS

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

That this Council being aware that the present African Teachers Service Regulations are discriminatory against African Teachers, urges the Government to unify the terms of appointment for all teachers in the Colony.

SHOPS IN AFRICAN MARKETS AND TRADING CENTRES

MR. NGALA (Coast Rural): Mr. Speaker, Sir, I beg to give notice of the following Motion:—

That this Council being aware of the progress made by Africans in business, urges Government to grant to Africans who have or intend building permanent shops in all African markets and trading centres in rural and urban areas, a 33-year hold-lease so that their property is mortgageable to banks or Local Loan Authorities. This will enable the Africans to get loans on long-term basis to carry on their business effectively.

CITIZENSHIP ORDINANCE

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

That this Council urges the Government to enact a citizenship Ordinance for Kenya in view of the fact that some aspects of social and political instability in this country are brought about by some people with dual citizenship rights.

UPLANDS BACON FACTORY: EXTENSION OF GUARANTEES

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Lt.-Col. McKenzie): Mr.

[The Minister for Agriculture, Animal Husbandry and Water Resources] Speaker, Sir: I beg to give notice of the following Motion:—

THAT this Council note that Government has extended further assistance to Uplands Bacon Factory by increasing the loan guarantee by £35,000 to £275,000 to provide deep freeze facilities; by increasing the guaranteed overdraft by £62,000 to £92,000 to provide additional working funds; and by extending the loan guarantee period by one year to allow a moratorium on repayment for one year.

ORAL ANSWERS TO QUESTIONS

QUESTION No. 1

MR. NGALA (Coast Rural) asked the Minister for Education, Labour and Lands:—

- (a) How many African juveniles are employed in Malindi, Mamburri and Gongoni townships, breaking up the numbers according to the townships?
- (b) What salaries are the juveniles, employed as house boys, hotel boys, water-fetchers, etc., being paid in 1959 and what are their hours of work?

THE MINISTER FOR EDUCATION, LABOUR AND LANDS (Mr. Mathieson):

- (a) There are 48 children employed in Malindi, 21 in Mamburri and 8 in Gongoni.
- (b) In October, 1959, monthly wages for children in domestic employment varied from Sh. 30 with rations and Sh. 40 without rations to Sh. 75 at Malindi, from Sh. 20 with rations to Sh. 30 without rations at Mamburri and from Sh. 8 to Sh. 15 at Gongoni. Hours of work range from 24 to 40 per week.

MR. NGALA: Arising from the reply, Sir, would the Minister state whether these regulations have been complied with by employers in Mamburri?

THE MINISTER FOR EDUCATION, LABOUR AND LANDS (Mr. Mathieson): Mr. Speaker, Sir, through the vigilance of the hon. Member, a very unsatisfactory situation was brought to the notice

of the Labour Department. The situation now is that the rules are being observed and a number of prosecutions are being initiated.

QUESTION No. 2

GROUP CAPT. BRIGGS (Mount Kenya) asked the Minister for Works to state (a) the number of serious or fatal accidents which have taken place on the Makuyu-Sogana road during the past 12 months and how many were due to the dangerous quality of the murrum available?

THE MINISTER FOR WORKS (Mr. Nathoo): There were three fatal accidents on the Makuyu-Sogana road in 1958 and one in the first nine months of 1959. Police records do not attribute any of them to the state of the road.

There were four accidents involving injuries classified as serious in 1958 and seven in the first nine months of 1959. One of these accidents was attributed to skidding.

QUESTION No. 4

MR. COOKE (Coast) asked the Minister for Education, Labour and Lands if the Government is aware that there is grave and increasing unemployment amongst juveniles in the African areas?

And that many of these juveniles find their way into the towns looking for work, causing much delinquency?

If the answer is in the affirmative, will the Government consider some form of paid public work for such people?

THE MINISTER FOR EDUCATION, LABOUR AND LANDS (Mr. Mathieson): A recent survey of this question by Labour Officers does not indicate that the problem is as serious as the hon. Member suggests. In its continuing attention to the problem of unemployment the Government will certainly bear in mind the particular importance of encouraging suitable employment for juveniles.

QUESTION No. 5

MR. NGALA (Coast Rural) asked the Minister for African Affairs:—

- (a) Whether Mwambirwa Kiramba cha Rong'e Forest in the Taita District

[Mr. Ngala] belongs to the Crown, the A.D.C., the Weni-Mwana, or individuals?

- (b) If the forest belongs to the Weni-Mwana or the individuals, could the Minister state whether the individuals will be charged for the seedlings and labour provided by the Forest Department in the forest?

THE MINISTER FOR AFRICAN AFFAIRS (Mr. Johnston):—

(a) The Rong'e Forest in the Taita District forms part of section XXXIX of the Coast Native Land Unif. As such, the land is vested in the Native Lands Trust Board which administers it on behalf of the local indigenous peoples.

(b) As regards the second part of the question, I am advised by my colleague, the Minister for Forest Development, Game and Fisheries, that neither the Weni-Mwana or individuals will be charged for seedlings and labour provided by the Forest Department. The Rong'e Forest is being developed by the Forest Department under funds provided by the Swymertown Development Plan. Thus, development expenses are being met by the Central Government, but whilst this is a forest under development any revenue accruing will go to the local African District Council for the benefit of the local people.

MR. NGALA: Mr. Speaker, Sir, arising from the reply, would the Minister explain why in spite of the insistence of the people at Rong'e that the forest should belong to the people it has been seen fit that it should belong to the A.D.C.

THE MINISTER FOR AFRICAN AFFAIRS (Mr. Johnston): Mr. Speaker, I am advised that the Weni-Mwana to which I referred in the first part of the question are a group of indigenous elders who have customary roles to play in the forest, but have no powers of management of the forest. I would also add, Sir, that the Taita District Council and Local Land Board have recommended that this area of the forest be declared a forest area administered by the Forest Department.

MR. NGALA: Mr. Speaker, Sir, would the Minister explain what sorting out he has done with the people who have objected to their land being used for such forest?

THE MINISTER FOR AFRICAN AFFAIRS (Mr. Johnston): I have no indication, Sir, that there have been any objections to this particular area being declared a forest area. Since the matter, however, has to be referred to the Native Land Trust Board in due course, and since the hon. Member is a member of that Board, he will no doubt raise the matter then.

QUESTION No. 10

MR. USHER (Mombasa) asked the Minister for Education, Labour and Lands what steps are taken to inform parents and guardians of young people intending to take courses at educational institutions overseas in regard to the value of the qualification offered by such institutions for the purpose of professional practice or of obtaining employment, whether in the public services or otherwise, in Kenya?

THE MINISTER FOR EDUCATION, LABOUR AND LANDS (Mr. Mathieson): The Higher Education Section of the Education Department can provide this information to any parent or guardian seeking advice on a particular course or institution.

QUESTION No. 8

MR. SLADE asked the Minister for Local Government, Health and Town Planning:—

- (a) Does Government approve the present practice of sending to Maternity Hospital persons who are not certified as insane, but merely placed under observation?
- (b) If not—what alternative accommodation is to be provided for such persons while under observation?

THE MINISTER FOR LOCAL GOVERNMENT, HEALTH AND TOWN PLANNING (Mr. Havelock):—

- (a) Under the provisions of the Mental Treatment Ordinance, 1949, a magistrate may commit a person suspected to be of unsound mind to a mental hospital, or any place

[The Minister for Local Government, Health and Town Planning] which he deems suitable, and for a period not exceeding 30 days, for observation by a medical practitioner. At the present time, Mathari Hospital is only one of the places to which persons suspected of being of unsound mind may be detained and it is frequently necessary to accommodate them in a police station or a prison if no other suitable place is available.

(b) The Government is not satisfied with the present position and has plans to build a further mental institution and provide mental wards at provincial hospitals. If the management committees of general hospitals not under the direct control of the Government are prepared to accept the responsibility and to provide safe and suitable accommodation, there is no reason why persons suspected of being of unsound mind should not be sent to such hospitals for observation.

PERSONAL EXPLANATION

MR. MATH: Mr. Speaker, on a point of explanation, I wish to make it quite clear that when I referred yesterday to people in Kitale dying of hunger, I did not mean the actual physical deaths taking place, but rather I wanted to stress that there was very little food there, that there was a grave shortage of food in that district.

MOTION

SESSIONAL COMMITTEE—APPOINTMENT TO THE CHIEF SECRETARY (Mr. Courts): Mr. Speaker, I beg to move that in accordance with Standing Order No. 118, the following Members be nominated as members of the Sessional Committee for the current Session:—

Chief Secretary (Chairman),
Minister for Legal Affairs,
Minister for Finance and Development,
Group Capt. the Hon. L. R. Briggs,
Capt. the Hon. C. W. A. (G. Hamley,
O.B.E., R.N.
Hon. N. F. Harris,
Hon. S. G. Hassan, M.B.E.
Hon. Sheikh Mohamed Ali, Said et al.
Mandry.

Hon. C. B. Madan, Q.C.
Hon. Sir Charles Markham, Bt.
Hon. T. J. Mboya.
Hon. D. T. arap Moi,
Hon. J. M. Muchira,
Hon. J. C. M. Nazareth, Q.C.
Hon. C. W. Rubia.

Mr. Speaker, I regard this as a purely formal Motion and I beg to thank you to question the names of the people who have been suggested for the Sessional Committee (and all groups have been consulted beforehand on this) or to make changes. I do not see that there is much more we need to say about this matter except to remind hon. Members that there will be a meeting of this Sessional Committee at the rising of the Council.

Sir, I beg to move.

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

Question proposed.

The question was put and carried.

MOTION

THANKS FOR THE EXPOSITION OF POLICY BY HIS EXCELLENCY THE GOVERNOR

MR. HASSAN (East Electoral Area): Mr. Speaker, Sir, I rise to pay tribute to His Excellency the Governor for his very bold, fearless and constructive speech which he gave regarding the policy which is to be followed in this country. It was a very remarkable speech for him to have given within a few days of his arrival here, touching upon some of the most difficult and important problems and suggesting solutions to those problems which I believe will be to the satisfaction of everybody in this House.

Firstly, he gave us information about the removal of the Emergency. Now, for seven years we have been through this most difficult period which gave considerable losses in property and in life to this country and we were expecting that work by the previous Government, that the removal of this Emergency by the new Governor was a very good piece of news for us all.

He gave us information as to how those people in the detainee camps are going to be dealt with, and those who are in prison who are going to be

[Mr. Hassan] removed to the detainee camps. I fully agree with the suggestion that he made and I would like to suggest that it should be brought to the notice of His Excellency the Governor that in matters of this nature, when these people in the detainee camps are to go through this organization, if possible, representatives of the Africans should be given an opportunity to be consulted in their final release.

Another matter which was referred to by His Excellency was in connexion with those who have been put under restriction orders due to the application of the substantive laws. I mean particularly the crowd along with Jomo Kenyatta. His name has been mentioned by the previous speakers and, although he is not included among those who shall have the Act of Grace applied to them, nonetheless he is one of those along with this clique who were actually punished with imprisonment on account of offences committed in the creation of *Mau Mau*. And it is for those actions of his that he was considered dangerous and that substantive law has been applied to him. The Act of Grace is not going to be extended to him but I would like to appeal to the Government that representation on behalf of or from this community will not be prohibited.

Sir, due to the Emergency Asians and Europeans—particularly Africans—suffered considerable loss in property as well as in life. So far as the Asians are concerned we associate ourselves with His Excellency regarding the Act of Grace and the system of rehabilitation of those criminals. We are quite prepared to forgive and forget. And I would like to point out to the Government that due to human nature those people who suffered very serious losses in property and life, they usually remember that occasion in very, very strong words and I would not call them extremists because it is human nature in some ways to express their annoyance in stronger words.

The second point referred to by His Excellency was the question of land. Some of my African friends did not feel very happy about the White Paper that was laid on this Table. They thought that this change for those people who are rich, who can afford to buy land, and Africans will not be in a position to do

so. I would like to point out or explain to them in this House that the question of the reservation of land was first objected to by the Asian community over 50 years ago. And they did not object to it because they wanted to have possession of that land. They objected that to reserve land on the basis of race and colour of the person is an economically unsound proposition and it will never help to develop this country fully and it will have its implications which will be disastrous for the unity of the people living in this country. And the Government has agreed to remove those restrictions now. I would like to point out to my African friends that no individual, whether he happens to be a European or an Asian can possibly expect to spend thousands of pounds on a farm and develop it. There have been considerable numbers of European individuals buying farms in this country and to my personal experience they did not succeed. And it is with the help of co-operatives and companies when they had unlimited sums at their disposal that they made a success of ranching as well as agriculture in this country. Therefore, it will not be very heart-breaking news to the African that permission or freedom will be granted to anyone to own land in the Highlands if they follow the same system which the successful companies of mainly British people have succeeded in agriculture in this country. Of course, they have their district councils and they can levy a rate on their own people and raise enough funds to buy land when available and to develop it in a modern way just like any other company has done. And I believe that restriction of purchase of land by members of any community in the Highlands was the principle which was objectionable and it has been removed and should be accepted as such.

So far as the Asians are concerned although individually they have not made a success in the farming in this country to a very great extent; however, in the shape of a company they have made a success in Kenya as well as in Uganda so that they are now controlling the sugar supply of both Uganda and Kenya.

The third point His Excellency touched upon was the Conference. This Conference is the outcome of the demand on behalf of the Constituency Elected Members, and by the assistance of the

[Mr. Hassan] Government of Kenya, and the fact that the Secretary of State has agreed to have a conference in England with a view to determining and laying the foundation of a constitution which is acceptable to all groups. I think in such a short time after the Lennox-Boyd Constitution it is very good that this opportunity has been given to all of us and it is expected that when we all go to England to deliberate upon founding a constitution acceptable to all of us, unless all groups behave like good 'boys, we shall not create a very good name in the place where we are going to have the meeting.

It is necessary in my opinion that all groups when the constitutional expert is here should try to lay their cards on the table and see if they can come to some understanding so that with a little give and take they should succeed in making a success of this conference. It is essential that we must have political peace in this country. Unless we have political peace we cannot possibly give any attention to the most essential development of this country without which Kenya cannot be on the map of the world.

Another point which His Excellency mentioned—he gave tribute to the police. I associate myself with that tribute. We have some extraordinary good people in the police service, very efficient people who have done some extraordinarily good jobs during the Emergency and we have nothing but praises for them. But I would like to point out to the Government, Sir, that there is no shortage of a few misfits and inefficient men among their ranks. They usually undo a lot of good work which the good policemen are doing in this country and I would draw the attention of this Government that greater attention should be paid to seeing that some of those inefficient men and misfits are not allowed the responsibility to undo the good work which is done by the police.

With these few words, Sir, I support.

MR. ARAP MOI: Mr. Speaker, Sir, I find it difficult to support the Speech from the Throne and I do not know how I can escape it. I do not know—but I should like to touch on certain matters on the Government's policy.

Now, Sir, many things have been done and I sincerely appreciate the fact that

the Emergency has been declared at an end. This is what the Africans have been longing to see. Mr. Speaker, many things have been left out though, of the Government's policy. I do not need to speak first on the Emergency but would like to touch on certain matters which ought to have been incorporated in Government's policy.

First, the Government did not touch on anything about the health of our people. We wonder whether the Government has any plans at all to expand health services in all areas, and all such matters that would eradicate diseases and some other things which affect most of our people.

Now, Sir, I only wish to speak for a short time. I should like to make three or four points. First, during my journey to Lodwar I found that the Turkana people are really the people who are suffering and I am wondering what Government is doing to help these people. I think in about 40 years, if Government is not going to do anything, these people will be extinct. I fail to understand why Government has not made any money available to make water available for these people. I drove over something like 60 miles without seeing any water and furthermore there is a chance, near Lodwar, where Government could put up a dam and irrigate the land near the Lodwar township to help those people who live around Lodwar because this is really very important if we mean to help really backward people. I am surprised to see that the Member for the Northern Province is not here.

THE CHIEF SECRETARY (Mr. Coult): On a point of information, Sir, the hon. Member is ill.

MR. ARAP MOI: Oh, I am very sorry. I hope he will be well and able to travel in those areas and find out what troubles those people have.

Now, Sir, I should have liked to see the Government put forward something tangible which Government intends to do in the next coming year. Government ought to have made money available for producing bore holes or putting up dams or some other things, to make the water available in most of the dryer areas. I know how much Government has done in dry areas but I should like to

[Mr. arap Moi] see more done particularly in the Northern Province. I have read something about the Dike Report on water facilities in the Northern Frontier District, but I do not see Government following it up.

Now, I come to one of the most thorny problems which affect most of the pastoral tribes and that is destocking. There are many things which affect the Minister for Legal Affairs as well as the administrative officers in all areas. Where cattle trespass into Crown land, Government confiscate those cattle and make them Government property. I do not see why Government speak always of protecting private or individual property when they cannot honour individual property. The Government knows pretty well that these people are ignorant; they do not know what laws are, and yet, when we demand self-government here in this country, you tell us, "You are ignorant!" And when these people go into Crown land the Government says that they ought to know the laws. There have been many cases in this respect, Sir, which Government ought to consider very sympathetically. I have got people who have lost 160 cattle. They were taken to a magistrate and the whole lot were confiscated and Government says that they may not consider giving back the proceeds to the owner of the cattle. And this is going to create very serious repercussions, particularly when Government intends to destock in African areas and also help facilitate markets. Africans do not, in any way, object to selling their cattle provided that these sales are done by themselves. Many cattle are brought to auction sales and I see no reason why Government should interfere at all. Furthermore, in many schemes that I know of, Government also interfere in that they apply the Crop Production Ordinance, Legal Notice No. 98/1958, which they are using now when cattle go into a certain grazing scheme and they force the owner to sell his cattle—not assessing what amount of cattle would support a family. I thought that these actions violate the very principles of elementary justice and I should like the Government to take this into account and to consider such cases very sympathetically and not merely to apply the laws because they are there.

Now, Sir, turning to education—I do not want to speak much because I have put a motion in already—what I should like to touch on is the fact that the Government has brought television into this country. Government intends, perhaps, to sort of bring pleasures instead of providing money for education, particularly for Africans. The Government may say, "Well, we are not thinking of providing money for television." But I do not want somebody to interfere with this because I know that the Government intends to make people contribute towards television instead of contributing towards the education of their children. And there is no question, I know that we should aim at improving the standards of our people generally and not merely provide people with television and with pleasures, for people who can afford to pay for them.

THE CHIEF SECRETARY (Mr. Coult): I thank the hon. gentleman for giving way. I want to ask him what he knows that one of the terms of reference is whether and to what extent television should be brought into this country. So far Government has made no decision on it whatsoever, certainly not *vis-à-vis* food and other social services for the people.

THE SPEAKER (Sir Ferdinand Cavendish-Bestwick): I regret, but I must nevertheless draw the attention of the hon. Member to the fact, that his interpolation is neither on a point of order, nor, as he has not yet spoken in this debate, is it an explanation of what he himself said. The hon. Member will have ample opportunity of answering the Member now speaking when he himself speaks to the Motion.

MR. ARAP MOI: Thank you, Mr. Speaker, after all, the Government is contemplating doing something to that end.

Now, Sir, I want to touch on one very controversial matter which is land. Personally, I regret this very much, the land question. I have no hatred against anybody but I think Government has misfired on this. If Government intended to secure a stable future—a stable settle or secure all of us in this country future—for all of us in this country Government ought to have consulted particularly African leaders before bringing forward this Bill for discussion because whether Government passes this Bill in this House or not, yet there will

[Mr. arap Moi] be continuous opposition and continuous struggles over this question of land. It is rather serious to suggest that all land in the Highlands should be open to all races as if there were landless people other than Africans. I know that this country depends on agriculture but I cannot agree that lands such as Kilombe, Tindiret, Sergoit and Kapkoi in West Suk should be opened to all races. This is ridiculous.

As to Kenya Highlands. Of course, personally, I hold very strongly that it is being held in trust for the natives of this country. And if it is held for the natives of this country, even if title deeds are passed, still they are held in trust for the Africans. If the views of the Africans have not been incorporated in such a policy, to me it should not be forced on them, because in India I do not think I can get any land in India—the laws of India on land excludes a non-Indian from owning land—(Cries of "Wrong.")

Even if some hon. Members suggest that I can get land in India I would not be worried in the least. I have already suggested and said publicly that the Asians who have an upper hand in trade should not be really allowed to farm in the Highlands. And it is not nonsense. I am sure that even the Europeans will be bought out by the Asians who are very wealthy. And surely the Government should not implement this policy if Government intends to have a stable future in this country. I suggest that the Sessional Paper be withdrawn and be discussed by African Leaders whose views are necessary so that we know exactly how the land should be reformed. I believe that there should be a complete land reform in the Highlands and I do not think that even African reserves should be opened to other people because, after all, there is no land in the African reserves.

SIR CHARLES MARKHAM: No what?

MR. ARAP MOI: There are no vacant lands which could be occupied by any, other than Africans.

Now, Sir, I want to turn to another point. I think my people have spoken of Mr. Jomo Kenyatta. I have seen

SIR CHARLES MARKHAM: You will be joining him!

MR. ARAP MOI: Even if I join him, it does not matter. But the fact is that I do not think he is a wise man. He is a leader of the African people and those who do not agree with me will one day agree that he is. I do think that the knowledge he has can even help to lessen the tension which has been going on in this country for many years. Those who think that Mr. Jomo Kenyatta should not come in into normal life, to them I should suggest further that he should even come and participate at the next round table conference; and further, that he should have an interview with His Excellency the Governor and we should hear even what he says about the Kenya Highlands. He is not hostile as you think; some of you may be thinking that he is extreme. But the Africans know him and although he was implicated with the *Mau Mau* I sincerely believe that if he is released today this country will be in a better position than it is today.

Mr. Speaker, I beg to support.

GROUP CAPT. BRIGGS: Mr. Speaker, Sir, I would like to associate myself with other Members on this side of the House who have congratulated His Excellency on his extremely clear and forthright exposition of Government policy which was contained in the Communication from the Chair. Nevertheless, there are certain criticisms and observations which I must make on a few matters which I think are of some importance.

Now, the first of these concerns His Excellency's remarks on the land issue. Sessional Paper No. 10 is, of course, already the subject of a Notice of Motion so I take it that any proposals in that Sessional Paper cannot therefore be dealt with in this debate and indeed it would be a great waste of the money and the time of the Council to do so and I think we must confine ourselves to matters of principles. But I would say this, that I very much welcome what appears to be the intention of the Government to discuss the proposals fully with the various bodies concerned in this matter, before proceeding further. And I very much welcome the intention to defer the debate at the moment.

Having listened to some of the remarks by some of my hon. friends on

[Group Capt. Briggs] the left I do believe it would be extremely helpful if the Government—perhaps with the collaboration of some outside persons—could produce a short and concise history of European settlement in Kenya—why European settlers originally were established; the course of events since that time; and, if I may humbly suggest, the need for European settlement to continue if this country is to prosper. But there is one matter of principle to which I must refer, and that is without a shadow of doubt the Government has gone back on all the past pledges and assurances which have been given to the European community over a number of years, and which were the basis on which, of course, European settlement and investment of European capital inland took place. Indeed, the settlement was encouraged on the basis of those assurances. I would like to quote for the record a few of those pledges and assurances for the information of the House and also for the record. I am going to start in March, 1908, but I assure you I am coming up to more recent times.

March, 1908—Lord Elgin in Command Paper 4117 of 1908 said this: "With regard to paragraph 4 of your despatch, I have to inform you that I approve of your adhering to the principle acted on by your predecessors, viz. that land lying outside municipal limits, roughly lying between Kiu and Port Ternan, should be granted only to European settlers."

January, 1922—Mr. (now Sir) Winston Churchill: "We consider that we are pledged by undertakings given in the past to reserve the Highlands of East Africa exclusively for European settlers, and we do not intend to depart from that pledge. And it may be taken as a matter, which is definitely settled."

1923—the Duke of Devonshire—Command 1922 of 1923. "As early as 1908 the question of the grant of land in the Highlands to non-Europeans had arisen for consideration, and Lord Elgin, who was then Secretary of State for the Colonies, informed the Commissioner (now styled Governor) that... A reasonable discretion should be exercised in dealing with applications for land from natives of India or other non-Europeans. The principle which had been acted upon by the previous Commissioner, namely

that agricultural land in the Highlands should be granted only to Europeans, was approved."

Lord Milner, then Secretary of State—this in 1921—made it clear that the reservation of a certain area for Europeans implied that a similar reservation should be available for Indians who wished to take up agricultural land, and he contemplated a reservation of such land in the Lowlands of Kenya on the understanding that the land offered to Indian settlers would be examined as to its suitability and adequacy by a representative whom the Indian Government might send. After reviewing the history of this question and taking into consideration the fact that during the last 15 years European British subjects have been encouraged to develop the Highlands and that during that period settlers have taken up land in the Highlands on this understanding, His Majesty's Government have decided that the existing practice must be maintained as regards both initial grants and transfers. An area of land in the Lowlands which can be set aside without infringing on Native Reserves and without conflicting with native requirements will be temporarily reserved in order that it may be ascertained by experience what demand there is for agricultural land on the part of Indians who will give suitable guarantees of their intention to develop the land themselves. After the expiration of a limited period, the reservation of this area in the Lowlands will be considered in the light of the experience so gained.

1932—His Majesty the King (Royal Commission appointing the Kenya Land Commission). The terms of reference were "to define the area, generally known as the Highlands, within which persons of European descent are to have a privileged position in accordance with the White Paper of 1923".

Sir Philip Cunliffe, Lister—Coalition Government—authorized the Governor to instruct the Chairman of the Commission that the words "privileged position" in the terms of reference involved—

"(I) the right of Europeans to acquire by grant or transfer agricultural land in an area now to be defined and to occupy land therein, and

[Group Capt. Briggs]

(2) that no person other than a European shall be entitled to acquire by grant or transfer agricultural land in such areas or to occupy land therein."

1935—Sir—Philip—Conliffe—Lister—Coalition Government—informed the House of Commons that "in 1932 he had given the above instructions". The following Members of Parliament made statements consistent with the previous pledges, and I may say inconsistent with the present proposals in regard to the White Highlands.

1936—Mr. Creech-Jones.

1939—Mr. Malcolm Macdonald.

1949—Mr. Creech-Jones.

1950—Mr. James Griffiths.

1952—Mr. Lennox-Boyd said—"It is not alienation of land that has led to land hunger among the Africans. If the whole of the White Highlands were handed over tomorrow to Africans it might lead to a small and temporary alleviation of the problems, but it would be at the total loss of the whole economy of the country... We have to try, etc. The way to do that is not by futile reclamation over land settlements that has been accepted by many Governments of all parties."

1953—Her Majesty the Queen—"Royal Warrant appointing the East African Royal Commission—as follows: "... and that in their deliberations our Commission should take account of existing obligations incurred by treaty, agreement or formal declaration of policy in relation to the security of land reserves for the different races and groups in various parts of the territories concerned..."

1954—Mr. Lennox-Boyd (Conservative Government)—"Her Majesty's Government are not likely to lend themselves to encouraging people to come if they intend to betray them or their predecessors."

Now, Sir, from this, it must be clear that the Government has, in fact, abandoned all those obligations, and indeed has gone much further than originally suggested in the Report of the Royal Commission. Indeed, as I see it, the Government continues to respect the

Masai Treaty but no longer respects the obligations to the European community. Indeed, they seem to have discarded these obligations with no qualms or conscience whatsoever.

Now, Sir, I would like to leave land and turn to some other matters. I welcome the intention declared by the Government in producing permanent legislation to replace the Emergency regulations where it is necessary for those regulations to be replaced in order to maintain law and order, The Act of Grace is, of course, a generous gesture, typical, if I may say so, of British tolerance, but I have some doubts as to whether it will be fully appreciated by all the beneficiaries, and I trust that it will not result in any increase of acts of violence. Indeed, I must draw Government's attention to a rather disturbing development. Since the relaxation of restrictions of movement under the Emergency regulations it does appear that there has been some increase in armed banditry. Small gangs appear to be moving out from the reserves to rob and rob with violence. Indeed there have been two such incidents in my own area within the past few weeks.

Now with regard to the round table conference, I object very much that the Government should have totally ignored the demand of what I believe to be the vast majority of the European community in this country, that a general election should take place before the round table conference. I believe it is quite wrong that the people of this country should have no say, and no choice as to who should represent them at that conference. Furthermore, I have heard no tenable argument so far put forward for refusing this entirely reasonable proposal, and indeed, the date of the conference has now been fixed for an earlier date than was originally anticipated, and I think that is most unfortunate. I cannot believe that either the atmosphere or I might add the climatic conditions in London in January are likely to lead to an agreed solution, and indeed, I think, what I must describe as (inaudible) on the part of the Government in regard to this matter does suggest to me that the real intention may be to impose yet another constitution on this country without giving the people any opportunity of consulting their constituents. If this should be so, it would,

[Group Capt. Briggs]

of course, be the third imposed new constitution in the course of six years. Surely the paramount need in Kenya today is for a Government which is stable and which is in responsible and experienced hands, and I fear that this may not materialize in the circumstances I have outlined.

Mr. Speaker, subject to those observations, I beg to support.

Mr. ALEXANDER (Nairobi West): Mr. Speaker, Sir, it is most interesting that the hon. Member for Mount Kenya should take us through the history so far as it concerns the area known as the "Highlands". What would have been useful is if he would have completed the history and told us on 12th November, 1959, whether he and his party agree or do not agree with the principle of the removal of racial land barriers. What I do know, Mr. Speaker, is from a most responsible meeting of farmers assembled in Nairobi today—the Kenya National Farmers' Union—they have at least made it perfectly clear that they agree with the principle in the year 1959 of the progressive removal of land barriers. I think it is added that bit because I think it is useful to complete the history that has been so ably recounted to us by the Member for Mount Kenya.

May I just touch on one other matter that he referred to, and that is representation at the constitutional conference in January of next year, and to assure him that I, and those who think like me will certainly be there representing all enlightened and progressive European thinking in this country, and I can assure him, Mr. Speaker, that if a count was taken I believe it would be in the majority today.

When the leader of the New Kenya Group spoke yesterday he did, and very rightly so, appeal to all of us to impose on ourselves in this House and outside to this constitutional conference next year. He appealed to us all to show moderation and restraint in our words and deeds in order that we might arrive at that conference in an atmosphere which will give it a reasonable chance of succeeding. I would like, Mr. Speaker, to try and carry the words of the leader of the New Kenya Group even further.

It may be a vain hope, and it might be regarded as a little meek voice in Kenya crying in the wilderness; but I do want to appeal to the press, the radio and the television of Britain also to impose upon themselves, for our sakes, for their sakes and for the sake of the Commonwealth also a self-denying ordinance during this period, and particularly during the period of the conference. And I would commend to them Mr. Speaker, the behaviour in recent times of our own press and radio in this country. Certainly so far as the European press is concerned they have, I believe, shown great balance and perspective and moderation in the presentation of the news. I hear the Member for Central Nyanza saying "no". Of course he would have liked the—I can understand his point of view—he would have liked them to headline all these exaggerated statements that he makes from time to time. I merely congratulate them, Mr. Speaker, for having not done so, and to ask the folk in Britain who are responsible to show the same moderation. May I go so far, Mr. Speaker, as to suggest, that from the moment we arrive in Britain for this conference, right throughout the proceedings there should be imposed by ourselves—and if we cannot do it—then imposed by the Colonial Secretary—a restriction on any press interviews, television or radio interviews.

I, and I believe many others, wonder whether it is wise to have had this conference in Britain. The decision has been taken and we will be there to do our best, but in keeping away from the pressures in this country, and that I believe is most of the reason for taking the conference to London—in keeping away from the pressures in this country—are we likely to run into even more dangerous and more sinister pressures. I believe that there is a chance of us doing this unless there is very great discipline on our own part and very great discipline on the part of people in Britain who should at this time be wishing and seeking to help us, and I do appeal to those people—and I hope that my voice goes out from this Council Chamber today that they will listen—I do appeal to them to realize how difficult they will make it for us if they indulge in such Press reporting and stunt and dramatic attempts at television and radio.

[Mr. Alexander]

I have been prompted in this particularly, Mr. Speaker, and I must refer to it, and then dispose of this subject, to an article that has just arrived in this country printed in the *Sunday Express* in London of last Sunday. An article in a paper that has a circulation of many millions—I understand some 5,000,000—and part of the headline is "The foreign deck finds a threat of new crisis in Kenya". And then there is an interview with one of our African leaders, and I would like to quote this with your permission, Mr. Speaker, because I am sure if our Governor had read these words before he made his speech he would no doubt have come to the conclusion that the atmosphere was not right for a conference in January in London, and this is what I said, and I quote.

AN HON. MEMBER: (Inaudible.)

MR. ALEXANDER: I would not mind going to that very pleasant country, that the Member has just tried to interrupt me has mentioned, I would have loved a conference in the delightful tea country up in his own constituency, and I am quite certain we would have found the great wisdom which he shows us from time to time to a far greater conclusion than we are going to come to in London. As somebody said the other day, Mr. Speaker, "We can disagree here for £3,000, why go 5,000 miles away to do it." I would just like to quote from this African leader, in this article in last Sunday's *Express*, and I quote, "The time is running out fast. If the Colonial Office does not accept this idea, then we shall introduce our own methods. Then it will be difficult for the British Government to hold this country beyond the next five years, and five very uncomfortable years they will be. We are committed to a struggle through positive action, not violent at first, but if that is not effective. . . . That, Mr. Speaker, was printed and is in circulation in this country this week and I have merely quoted it as an example of the type of untimely words that will cause us considerable distress before ever we get to the Conference and certainly if that is the mood in which the Conference starts, so far as I am concerned and those for whom I speak, Mr. Speaker, this House can rest assured that we are going there

in a true spirit of co-operation to seek a real answer to our problems in Kenya for as far ahead as we care to see.

May I just deal with one other subject, education, in order to try, Mr. Speaker, to provide what I hope is a reasonable answer to this constant repetition about the differences in the *per capita* expenditure on the education of the different races. It is perfectly true that the least amount *per capita* is spent on African education, the second least is Asian and the most *per capita* is spent on European education.

The suggestion whenever this subject is raised is that we ought to share out the money equally *per capita* between all pupils. Now what would that, in fact, do, Mr. Speaker? With our very meagre amount for education, heavy in relation to our total budget, but meagre in relation to the general demand, if we shared it out equally it would merely mean that there would be a lowering of standards at the top and in the middle and I am quite certain, Mr. Speaker, that my African friends who put forward this point of view do not really in their heart of hearts want there to be any reduction in standards. What they do want, and what is perfectly understandable and natural, is that they shall have for their children the best. That is what they want and that is what we want to see that they shall get, but it will help nobody, Mr. Speaker, for there to be a reduction in the higher standards that have been achieved in education in this country, and I say that not only in relation to European education, I say it in relation to African and Asian. For instance, the teacher, quality at the Alliance High School is extremely high and I would never agree to a reduction of those standards in order that the money might be more equally spread across a greater quantity of people. I do believe that if my African friends would accept the sincere way I am trying to put this forward that they will agree that what we have got to strive for is, to see that as soon as we possibly can we have the best education for all our children. But let us be quite certain, Mr. Speaker, that there is not a hope of doing it from the time we do know that primary education for every child in this country would cost some £10,000,000. We do know that

[Mr. Alexander]

the number of additional teachers required would be some 17 to 18 thousand teachers. Well, Sir, these are figures and they are quite impossible for us from our resources in Kenya to meet and what must happen is that Britain must realize quickly her full responsibility in this matter and to take the opportunity while it is still hers exclusively to come and really deal and help us to deal with this vast problem in our country so that we can move with their help towards the day when we can claim that all our children are getting a proper and the best education.

Mr. Speaker, I beg to support.

THE MINISTER FOR INTERNAL SECURITY AND DEFENCE (Mr. Swann): Mr. Speaker, Sir, I would like to reassure the House that the ordeal to which they are about to be subjected will be mercifully short. I would also, Sir, like to express my condolences with my hon. friend the Chief Secretary. No doubt at the moment, Sir, he is feeling in a manner very similar to the great Duke of Wellington in the course of the Peninsular War. The great Duke viewed his new recruits from the United Kingdom, and when he made his famous remark "I don't know what you will do to the enemy, but you put the fear of death into me."

To turn, Mr. Speaker, Sir, to the points which have been raised by hon. Members in the debate. The hon. Specially Elected Member, Mr. Blundell referred to the Vagrancy Bill which will shortly be placed before this House and he said, Sir, that he thought that this Bill did not go far enough to meet the present situation.

Now, Sir, I would like to assure the House that the Government is fully aware that you cannot deal with problems of unemployment by a Vagrancy Ordinance alone, and the House will see this side of the House later in the debate that it is the intention of Government to go into the whole question of the workless.

I will not go into detail with the Vagrancy Bill, but in general terms it is calculated to deal not with the genuine work-seeker, but with the spivs and the drones who do tend to congregate in large numbers in the larger towns.

The hon. Specially Elected Member, Sir, also raised the question of police housing. Now, I can assure the hon. Member that police housing is a matter to which we are giving the very closest attention and at the moment we are endeavouring to concentrate all our resources to the proper housing of the Police Force in Kenya. To that end we are allocating practically all our funds from development funds for that very purpose. The policy at the moment is that there should not be further expansion of policing until we can properly house the establishment, which we have at the existing stations.

Now, as an example, Sir, in the current financial year, of a total police development vote of £147,000, 126,000 is being spent on police housing. In addition, Sir, to the money which we hope to get from the Development Committee for police development projects, as hon. Members will have seen in the Papers, we hope to get in addition £250,000 of mortgage finance for police housing in Nairobi. So I think the House will see, Sir, that the Government is fully alive to the seriousness of this problem and is doing everything in their power to meet it.

The hon. Member also raised the question of police terms of service. Now, Sir, this is a vexed point and quite naturally, as the Minister responsible for the Police Force, I would like to see substantial increases in the rates of pay for the police. But as hon. Members will appreciate, one cannot take unilateral action in one department without considering the cases of officers performing similar duties and carrying similar responsibilities in other departments, so that the overall bill will be an extremely large one. We have, however, Sir, since 1st April, 1959, done all that we can to alleviate hardship in the case of members of the Kenya Police stationed in Nairobi and Mombasa. In Nairobi the following officers non-commissioned officers and constables 'non receive' the following allowances: Chief Inspectors and Inspectors Grade I, Sh. 100 a month; Inspectors Grade II, Sh. 80 a month; Assistant Inspectors, Sh. 50 a month; Sergeants, Corporals and Constables, Sh. 30 a month. In the Mombasa area Sergeants, Corporals and Constables receive a special duty allowance of Sh. 20 per month. That is in recognition of the fact that there is a

[The Minister for Internal Security and Defence]
greater pressure of work upon police officers in Nairobi and Mombasa than in the rural areas.

The hon. Member for Nyanza North and the hon. Member for Central Province North both raised complaints about the behaviour of the police.

Now, Sir, I would like to assure the House that both the Commissioner and myself will do everything in our powers to ensure that the police exercise their powers in a reasonable manner, and I can assure hon. Members that if they would approach the Commissioner or myself with any specific instances, we will most certainly go into them. But I would like to say, Sir, in fairness to the Police Force, that a large number of complaints, which I receive and which we do investigate, I regret to say that in some instances it is the members of the public, who are at fault. It is often said, Sir, that the Police Force of Kenya should adopt an attitude to the public similar to that adopted by the Police Force in the United Kingdom. I would like to add, Sir, that if in some cases the public of Kenya supported the Police in a similar manner as the public of the United Kingdom, we might obtain a speedy reconciliation. At the moment, Sir, I have to say with regret that, if a thief is chased in certain areas, the public are more likely to trip up the policeman than the thief.

The hon. Member for Central Province North, Sir, complained of racial discrimination at police road blocks. Now, I was very interested in this instance, Sir, because in the instance which he related, while he was allowed to go free, a European motorist was charged because he did not have his driving licence. I would be surprised, Sir, if the hon. Member had intended that the police should have taken action in an opposite manner.

The hon. Member for Kiambu, Sir, raised the question of petty crime in his constituency. Now we are well aware, Sir, that petty crime is rampant in that area, but all that I can say, Sir, as a small measure of comfort, is that although there was an increase of crime in the area in the first six months of 1959, compared with the corresponding period last year, the crime figures for the three

months ended 30th September, 1959, show that the increased crime trend was arrested. I can only say, Sir, that if the hon. Member can bring me any specific instances in which he would like help, I will be only too happy to discuss them with him and the Commissioner of Police.

I would also thank the hon. Member for Kiambu for his generous praise of the Police Force, which was also done by the hon. Member for the East Electoral Area and I would express my thanks that these somewhat rare expressions of appreciation were given by the hon. Members in question.

The hon. Member for Mount Kenya, Sir, raised the question of the increase in crimes of robbery with violence since the lifting of the passbook regulations, and I think—perhaps, Sir, in fairness to the Central Province Area, I should say with regret, that these incursions by armed bands are not confined to the hon. Member's constituency only. We have had recent incursions by armed bands, not only in that area but also in Nyanza Province, particularly on the areas adjacent to the interterritorial boundaries with Tanganyika and Uganda. We were able there, Sir, by the despatch of two general service units to bring the situation under control, and I am informed, Sir, that there is now a general service unit in the Mount Kenya constituency, which is dealing with the crimes to which the hon. Member alluded.

In conclusion, Sir, I would state that I am sure hon. Members will agree that although at many times we may suffer considerable inconvenience ourselves from the law, the alternative is not a cheerful one and that if we were to remove our much criticized police and security forces, the anarchy which would result would, I submit, be of little assistance to anyone. I can assure hon. Members, Sir, that we do not regard the situation with complacency and that the Government will do everything in its power to ensure that we do not return once again to the unhappy conditions from which we have just emerged.

Mr. Speaker, Sir, I beg to support.

AIR COMMODORE HOWARD WILLIAMS (Nairobi North): Mr. Speaker, Sir, I would like to support His Excellency the

[Air Commodore Howard-Williams]
Governor's Speech in general, although I have one or two observations I would wish to make in particular.

First, about the land, I do not propose, Sir, to comment at length on the subject of the land, save very briefly, at this juncture in that we shall have a chance to tear the heart out of the Sectional Paper No. 10 later.

I presume Government will honourably abide by the pledges given in the past to all races. It being an honourable Government, any other course would be distasteful, dishonourable and disastrous, and certainly would not lead to racial harmony as the scramble for land proceeds. Presumably all races will be treated alike, if this is to be a multi-racial state, if this is to be a multi-racial state, of Almighty God the Colonial Office has got to inflict this unholy multi-racial bastard upon us, I am afraid I do not know. I prefer the term—

THE SPEAKER (Sir Ferdinand Cavendish-Bentinck): Scarcely a parliamentary expression!

AIR COMMODORE HOWARD WILLIAMS: May I withdraw, Sir? Child of unmarried parents, if I may say so. I prefer the term "non-racial". Also presumably all races will determine what is to happen through boards consisting of their own landlords. So what is all the *kelele* about? Or is that not to be so? The alternative could but be to exacerbate racial tension.

Now, Sir, the second point I would like to talk about is education. While noting the progress to be made, may I ask, Sir, that the excellent suggestion put forward by the Member for Central Area South in the last session of the House should not be lost sight of? To raise the money for a universal education with which we all sympathize is suggested a special poll tax. May I say that were the children to pay too, even at Sh. 3 a head, that would bring in £1,000,000—enough at least to prime the pump.

On the subject of the police, I was pleased to hear praise for them in the Speech, May I remind the House that the police provide the backbone for the security referred to by His Excellency the Governor.

With the observation benignly made by some of the hon. African Members

about the police force, I trust consideration will be given to strengthening the European element in the police so that more may be able to go out on beats at night with their men.

On the subject of prisons, Sir, the Governor said he had proposed by his act of grace to release some 2,440 prisoners and he went on, "During the last year there has been a disturbing increase in the number of short-term offenders. In consequence, prison accommodation is generally overcrowded. It will be helped in some small degree by today's Act of Grace." May I ask of the Minister concerned—I agree I am a little late now—how many remain in prison, bearing in mind that the 2,440 in some small degree will help?

The Governor also said on the subject of the Electoral Roll. The electoral principle has been extended and it is the Government policy to continue to extend the principle where the local communities have a possible residential and financial stake in the local authority concerned." What about the promises, Sir, made about the existing electoral rolls with their spate of dead voters thereon and the missing legion who are not there? Surely, the system should be put right first?

Taking a leaf out of the magna opera of the specially Elected Member Mr. Michael Blundell, let us now look at the Government, which has, over the last four years or so steadily risen from eight Ministers and 54 Members to 16 Ministers and a grand total of £100,000. At 18 Members costing some £100,000. At this rate, in geometrical progression, by 1968, in only eight years' time, we could have 64 Ministers and some 250 Members of this House costing much more—a fantastic thought you must admit. Indeed, for a private person it is already becoming quite difficult to contact Ministers, whereas, in the old days, one used to go from one office into the next. I know of altogether four charming Ministers who could safely be dispensed with, including those without *kikapoos* who, I claim, are merely there to justify the existence of the Government in its present shape. This does stop the rot by which officials now write letters when they wish to go and see each other, which is surely something.

[Air Commodore Howard-Williams]

Now, Sir, I have opposite me here some delightful Nominated Members whom I respect and admire, but scarcely a week goes by without some other ones appointed. The only possible opposition to the Government, unhappily rather race-ridden, are 34 out of 5 Elected Members, then why must we have 54 chosen by Government and its associates? I offer a practical solution, Sir. It is that in the interests of economy at the top, where it is effective, at the new Conference we support the idea that we dispense with four Ministers and half the 30 Nominated Members who are patently redundant. I am coming to a conclusion, Sir. We British have two trails in our national character which have done more for us than anything else to make us great, those which have enabled us to develop the Commonwealth of Nations, the greatest experiment in all history—our capacity to compromise and our sense of humour. We have always met at the halfway house of common sense and laughed at ourselves. This seems to me to be an opportunity.

I support.

MR. ODINGA (Nyanza Central): Mr. Speaker, Sir, I must express my regret for not having been able to be present when His Excellency was delivering the Government Statement of Policy.

Mr. Speaker, before I comment on the general Policy Statement itself I will just try to deal with some points which have been raised by some of the hon. Members here. For example, the hon. Member for Nairobi West has just paid a short tribute to the European Press in this country while putting some of the most dishonourable charges against the non-European Press and asking that some control should be imposed on those. Well, Sir, I would say that on these troubles in this country: everybody loves everything about his own race and thinks that all things are perfectly correct. Well, the Member for Nairobi West should not say something wild when I also stand going on to defend, because he also goes on to offend, the European case, whether it is right or wrong. I know it is very well known that if there is any Press which is so prejudiced it is the

European Press in this country. It is more irresponsible on the part of the non-Europeans. It never actually takes their views down. He will only take the views of my hon. friend the Member for Nairobi West and put it right to the top. At the moment you will see this. I am now also speaking. I am now speaking and the Member for Nairobi West has spoken, probably much less than I did. Tomorrow you will see him flashed all over the paper and that is the example of a responsible person what he would like us to believe.

The same Member went on to talk about the education and he went to cover himself by the usual thing which he always does, of talking about the standard, that we would not like to lower the standard of education in this country and so on. Well, the standard of education is what that country can bear, and can pay for. You can never have a set of imported standards of life from another country and impose it on the country when that country cannot afford to keep up with that standard. In Kenya our standard will just be built slowly by our own efforts and by our own resources and as such we must begin where we can afford, we cannot hide behind that, and say that the Europeans should live that standard and that the Africans should be low. No, all standards should be based on human equality, and the standard will begin from the same level, and it will start developing as the resources of the country also increase.

Now, Mr. Speaker, I will only again explain. You know that exaggerated stories which my friend would like always to put to me; I will tell him that I do not believe in all those ideas which he has. I also charge him, rather than seeing true realities. He should see eye to eye with realities and only try to stick to realities. I have never believed those people who speak of multi-racialism, non-racialism, or Kenyans. I never believe those people because they talk of things which cannot actually happen, things which are only probably in the air, things who live here and who call themselves Africans, whether they are black, grey, or whether they are white: we are all Africans; and we should not be ashamed of calling ourselves Africans

[Mr. Odinga]

when we all live in Africa. Now, Mr. Speaker, when I was once in Bombay I was invited to go to address a meeting of East Africans, and when I went to that place I was surprised to find they were all Indians from East Africa. While in Bombay they call themselves East Africans; when they are in Kenya they want to be known as Indians. What is that? When I was recently in London I went also to a great meeting of East Africans, European students, Asian students, and African students, and they all called themselves East Africans. Why not be proud of that name when you are also in Africa? Why discriminate against yourself in Africa and call yourself something else? You see, you should want to call yourself an African. What about the Americans in America? There are white Americans, black Americans and red Americans and all sorts of Americans. And that man, Mr. Speaker, who is ashamed of calling himself an African, then that is the man to whom I say that there is no place for him here in Africa and no place for him here in Kenya. Well, we do not know whether later on Kenya alone can make a nation. That is why I would not use the word Kenyans because Kenya may be a very small place and we do not know whether it will form a nation by itself. It will need other places to form a nation and when that time comes if we decide to use the word Kenyan or any other word, that would be the time but not now. It is most unrealistic to use it at this time.

Now, Mr. Speaker, I come to His Excellency's Speech and the Policy Statement. I would say, Mr. Speaker, that many speakers here have expressed their gratitude for the ending of the Emergency and other things but I only arrived in Kenya yesterday night and when I came the first thing that I took was His Excellency's Speech and I read it throughout the night. In the end I drew up my own conclusion. I do not know why, but I think that the whole thing is no more nor less than that the Emergency is going to be removed—that is, that the word "Emergency" is going to be removed—but that all those activities which had been going on during the Emergency will be retained in one way or the other. And therefore whether the word alone means anything to us I do

not know but according to me the word alone means very little indeed. Even if we say that the word "Emergency" is gone—it is not going to be used any more or anything—I do not think that that alone is enough.

Mr. Speaker, the ending of the Emergency without the release of our national leader, Mr. Jomo Kenyatta, is not complete in the mind or in the hearts of the Africans. It is not complete at all because an African would like to feel that these people just as His Excellency the Governor has so rightly expressed here—made a very honourable statement here when he said, "In the growing spirit of challenge and adventure which I find so striking around me here, let us put the darkness behind us and look bravely to the future." Mr. Speaker, this is very honourable statement and I consider it so and I am also very pleased to see that His Excellency feels that there is a growing spirit of challenge and adventure which means that his Ministers are prepared to go into the adventure, to see that we all remove the dark past and come forward to the bright side of things. Well, that cannot happen; we cannot deceive ourselves that it will happen if our national leader Mr. Jomo Kenyatta is still in prison or detention. It cannot possibly happen. In the eyes of the African people, they feel also that their hearts are in the wilderness where Jomo Kenyatta is. And as such you can never, never get their co-operation without bringing all these people back and therefore I thought that the Government together with His Excellency should have made a bold step of just saying, "Let us end the Emergency. Let all these people come back." As we have said in the House, let us all forget the past. We have all learned from our own experience and mistakes and now let us start afresh again in this country. At us we might hear that some people are still harbouring the unnecessary fear in their hearts that if this will happen, but I tell you and I assure you that Kenya is the only country which has not had very many riots as you have had in other countries, even in countries round about us here. Probably every two or three years you hear there is a riot somewhere or something of that kind but in Kenya the only thing which has happened has been this

(Mr. Odinga) but this happened when people had struggled to get their rights and what they wanted for many, many years and it is only after so long that they actually got frustrated and they broke into all this confusion. And as such, I think that if the Government becomes bold now and says that we should start afresh, "Let us forget all these grudges, let us not keep grudges but start afresh again." I am that kind of person who would return to normal and would become a much happier country than it would become with the present suppressive measures that I have seen here. His Excellency and I think the Government also—realize that there is a lot to be rectified and I was very sorry that in the whole of the Speech I did not see a paragraph dealing or attempting to deal with the root causes of the trouble which broke out into violence. It is only dealing with security measures and all sorts of things like the Vagrancy Bill and so on but the very root causes of all those troubles no one seems to care about as to get down to them and try to solve them.

Of course, the root causes are known—even to the Government—only they are not prepared to come forward with them openly and try to solve them and to get the solution of them. They are trying indirectly here and there to meet them half way but that will not help. The best thing would be, and I put it to you, Mr. Speaker, that the Government should at this very stage invite a commission of enquiry to go into all the root causes of the trouble which has been happening in Kenya and to let them put forward their report with their recommendations.

You will remember, Mr. Speaker, when last year I stood here and I said definitely that K.A.M. was something to do with land consolidation, that it had something to do with those people who object to land consolidation. I was heckled here and told that I was talking all sorts of exaggerations, as my friend on this side would say, but when the Fair Committee came they confirmed my own statement, Mr. Speaker. They confirmed it. We understand, Mr. Speaker, that the root causes of the trouble in this country are agrarian and economic and political and all this sort of things. I know the Government is trying things like land consolidation in the

hope that when the land has already been consolidated and everyone has got their piece those people who have got their land will not have any claim on the Kenya Highlands. They will not have any claim on any land at all. They will be satisfied with what they have got. Well, I understand that they, the Government, also know that it is also economic. The trouble is economic, and because of that the Government, by introducing now the Vagrancy Bill, aim to keep shop-breakers out by removing them and keeping them in the reserve and hope that they will be satisfied and keep there and they would not be able to break into the houses, shops and other properties or do anything like that. But despite all these things, a man must eat. He must eat. Wherever you take him he must feed himself. You might succeed at the very beginning to keep him where he is for a certain time, but the time is coming when you cannot. It is like the water which comes from the top of the hill. If you put a stop to it you can stop it for a certain while, but when it gathers force whatever you do it will break through and find its own course right down to the deep sea. And therefore, these restrictions and suppressive measures will not help. They will only be temporary, but they cannot help.

Mr. Speaker, the last time I raised here the question of this money which is being spent—huge sums—which are being spent on rehabilitation—and when I raised this point the Minister concerned only wished in his reply, that I should have been given to him to rehabilitate me. I can now only tell the hon. Minister that I think the time has come when all Ministers who had something to do with the Emergency, either ought to be rehabilitated or, if rehabilitation is not possible, they must be relieved of their duty. They are not prepared to see anything beyond the Emergency. Everything has to be seen in the light of the Emergency, and so on, and I think that that is the problem. Now that we have got the new Governor, and as we have also a new Colonial Secretary, I think the time has come when many of the Ministers also should be renewed.

Mr. Speaker, I do believe, and I know that it is a waste of time and wastage of public money in trying to keep these people behind the iron bar with the

(Mr. Odinga) excuse that they are being rehabilitated. I can assure you there is no question of rehabilitation of a full-grown man. He has held his opinion in life. Those people who are still held in detention camps are the very sincere people—the people who hold strong principles, and will sacrifice everything but their own political beliefs. They will not change simply because you are threatening them with rehabilitation and so on. They are the true and genuine people who when you convince by reasoning and fair play would co-operate for the good of Kenya. Such are the people now remaining and suffering in the detention camps. And I think that it is time the Government, if it is being realistic at all, returned these people to their homes, because they will not change any of their strong political views unless they are convinced, of course, by reason and fair play and not by threats.

Now Mr. Speaker, I come to the question of the round table conference. Now I have read here that the conference will be held in London, and that all the Elected representatives would be present and that together with them there will be Specially Elected Members, but Mr. Speaker, I oppose very strongly, Specially Elected Members, because they are representing no one. Who are they going to speak for in that round table conference, and at the same time we, the African Elected Members, do not recognize them. It is we who speak for the round table conference, we want to eliminate what is called the Specially Elected Seats, and it is the creation of that office which appointed those Members, and it would be embarrassing to them when we attack and try to change that part of the Constitution. How is it going to be with those people in the round table conference? I have not consulted my African Elected Members, but I am going to consult them very seriously on this and reconsider whether the Specially Elected Members should take part in that conference.

Now, Mr. Speaker, to end up—I can see that there are some people who would like me to end now—Mr. Speaker, there is only one thing—I would only comment that in His Excellency's speech, the Governor's speech conveys nothing really new, but we can still understand

why it should be so because he has just recently come to Kenya. And as such you probably have noticed that ever since he came he have been very quiet because we want to give him time to study the problems here and also to see what changes or the attitude that he is going to take. We are not going to do anything until we find that he is also following the wrong course. If we find he is following the right course we are prepared to co-operate with him and to work together.

Now with these few remarks, Mr. Speaker, I beg not to support.

Dr. ISMAIL (Nominated Member): Mr. Speaker, Sir, I beg to support the Motion before the House, and in doing so I wholeheartedly welcome His Excellency the Governor's communication, as I find it most inspiring. I consider that it is a most heartening sign that there is going to be at long last some change in the political climate of the country and that after seven years of fear and suspicion and insecurity we have at last turned the corner and can now look forward to better and happier days. This, I believe, has in no small way been made possible by the efforts that have been put forward by the forces of law and order and they deserve our wholehearted thanks and congratulations for the results that we can see today.

Mr. Speaker, I think it is time for rejoicing for universal rejoicing—and at the same time it should give us an opportunity for sober meditation. While rejoicing we must not forget all those who have suffered in the past seven years. In these years Kenya had earned a very bad name in the world because Kenya has already been associated by nothing but *Mau Mau*. And now, Mr. Speaker, it is up to us, the people of this country, to redeem the good name of Kenya. It is up to us, the people of Kenya, to see that a new leaf has really been turned in the history of our country, and that none of those terrible episodes through which we have passed shall be repeated in the future. Above all, let us meditate calmly and see if there have been any mistakes that have been made in the past and also some of the causes that led to *Mau Mau*. We must find out those causes and uproot them—that is the only way that we can do anything, and no palliative

(Dr. Imañil) measure will suffice. We must find some radical cure.

Our outlook on certain problems needs a complete change. What we need is a little less selfishness and more of charity and goodwill. Let us consider this lifting of the Emergency as a challenge and let us see that the new Kenya emerges by our united efforts and through co-operation of all the people. This, I consider, is a right moment for this change of heart.

Now, Sir, I am particularly glad that, together with the lifting of the Emergency, and this wonderful Act of Grace which has been announced, steps are being taken at the same time to remove some of the sores that have been festering in the body politic. I believe that the biggest sore has been this question of land, and I am glad that Government intends to remove this, one of the biggest injustices in our country. I am sorry even now at this late stage that there are forces of reaction in opposition to the Government's proposals. It is well known that in every country there are these forces of reaction who obstruct all the ideas of advancement. These are nothing, but what is regarded as vested interests, and I only hope that Government will be firm in their efforts to get on with their plans and will not show weakness in their determination to see that only justice shall triumph.

I will not go into details at this stage, Mr. Deputy Speaker, because we will have ample opportunity of discussing Sessional Paper No. 10. I will only say this, that I am in wholehearted agreement with the Sessional Paper so far as the principle is concerned.

I have said there are certain sores festering in the body politic in Kenya. One of them is land, another is education, and I am only sorry that the Government has got no such bold imaginative plans so far as education is concerned. The sort of plans we have now got for land, there are some real and genuine cases where some real work as education is concerned, which must be removed. There is a welcome development in the direction of non-racial education in the higher fields of education, and I only would like to see at

least a beginning by Government in the primary and secondary stages as well.

About the forthcoming conference, I am glad that the Government now recognizes that the conditions are ripe for the holding of this conference. Here again, now it is up to our leaders who have been agitating for the holding of this conference to see that they do not disappoint the country. If they do I suggest that the re-entry permits should be cancelled and that they should be told that they are no longer welcome to come back to this country. This time I would like to suggest also that let us have a constitution which is both stable and lasting so that it gives us some chance of a sense of security instead of these repeated cries of revision, being raised every two or three years. It is I am sure most unhealthy for any country. If they fail this shall be said of them:—

"To brutish beasts, and men have lost their reason."

Mr. Speaker, Sir, I beg to support.

MR. KHAMINI: Mr. Speaker, Sir, I beg to join those who have congratulated His Excellency on the communication from the Chair which we heard a few days ago. Indeed it is very gratifying to see that the new Governor on his arrival has brought about the end of the Emergency and therefore with his coming this country is beginning a new era of its life, in the history of East Africa. We as Africans have borne the greatest brunt of this Emergency, and we are the people who have suffered more than any other community in this land, and therefore it was just and fair that we who have suffered most should at this stage press Her Majesty's Government and the Kenya Government to remove the Emergency which no longer existed, ever since two or three years ago.

Just to remind my friends on the right here, some of whom said that the Asians and the Europeans suffered most through the Emergency, I would like to tell them that the total number of civilians who were suffering during the Emergency—were: Europeans—32, Asians 26, and Africans—over 1,800. Of the security forces who died during the Emergency—Europeans 63, Asians 3, and Africans 525. So the Emergency actually affected us more

(Mr. Khamisi) than anybody else in this country, and when we ask that it should be lifted completely we do understand what we are talking about when we make such a request.

I do also congratulate His Excellency for the Act of Grace which he has bestowed on the convicts and the *Mau Mau* prisoners and the only thing I am sorry about is that he has not seen fit to announce the immediate release of our beloved national leader, Jomo Kenyatta, and his associates. With the ending of the Emergency, Mr. Deputy Speaker, we thought that we should have no more emergency but it appears from the Bills that are going to be placed before this House quite shortly that the rule of Emergency is still continuing. For this, Sir, we hope that even those three Bills will be removed as soon as possible because we hope to take the earliest possible steps to move Motions for their removal from the statute book.

Coming now to the question of land and the White Paper No. 10, a lot has already been said about the White Paper and a lot more will be said when we shall be debating the contents of the Paper itself, I understand quite shortly. But we are measuring the usefulness, or the profit to be gained, from that White Paper on two or three things. First of all, we want to ask the Government to tell us whether all the unused land in the Highlands will be returned to the Africans who want that land. Secondly we want to know, and we expect the Government to announce, whether all Crown lands in Kenya, which could be usefully put to agricultural cultivation, could be opened up and given to the landless Africans. The third thing, Sir, I would like the Government to give us an assurance that the land in the native land units will be protected against exploitation by immigrant races.

Sir, as you know, the African, whether he is a worker or whether he is in Government or in private employment, or whether he is self-employed, has no security for his future and because the only land to which he wishes to return when he is old, it is for that very important reason that so many Africans as possible should be provided with land in Kenya,

because they have no other means of subsistence. If they are not provided with land then it would be necessary and obligatory for us, as leaders, to ask the Government to make provision for them, either in the almshouses so that they can pass their old age without any botheration, or to give them life insurance—free Government life insurance—or such kind of protection during their old age.

Now, Sir, at present the only security that we are asking the Government to provide is to see that as many landless Africans as possible each have got at least a piece of land. I understand in other countries in the world the Government set apart two or three acre pieces so that they can cultivate for their subsistence. In this country there is no provision for such things, and we remind Government that it is their duty to see that these people who are providing by their taxation to Government expenditure, should when they are old be provided also with security for their old age.

Coming now to the question of the Constitution, I welcome the Government announcement that a constitutional conference is going to take place in London on 18th January, I too am in doubt whether it is of any material benefit that those who do not represent the public should be allowed to participate in that conference. After all, the Specially Elected Members were elected by this House; they are responsible to us in this House; therefore we who elected them would be sufficient to represent their views in the constitutional conference. There is no need for these people to be allowed to go to that conference.

Sir, one of the first prerequisites for the success of this conference, I believe, would be, an announcement by the British Government, or by the Kenya Government, as to what goal is intended for Kenya. We want to know whether it is the intention of the British Government that Kenya will be a democratic country or whether it will be something else, because with one of these backgrounds, when we go to the round table conference, we will then know the aim of the conference, and will direct our attention to bringing about a constitution which will lead to the ultimate goal. In connexion with this, we are asking that the Government might see fit to announce,

[Mr. Khamisi]— that responsible government will be granted to Kenya as early as possible, and possibly after the next general election.

Now, Sir, we are demanding for this country a common roll with adult franchise. We do not believe that there should be any discrimination for members of the different races, nor do we believe that there should be any privileged race which should have more members than any other. We rather think that all the citizens of Kenya should have equal rights, whether they are European, Asian, Arabs; they should have equal rights in this country. Therefore a common roll is the only solution to bring about that equality.

Now coming to the question of local authorities, we have heard already with interest the remarks made by His Excellency in his communication from the Chair, that a few local authorities have been raised to the status of Council, I personally, Sir, am rather concerned at the franchise which has been set for the Council at Mombasa. The franchise is too complicated; it excludes very many people, and it is only very very few people who can get their names into the voters' roll, particularly the Africans. How do you expect in a place like Mombasa that a man who is qualified to be included in the voters' roll should at least live in a house where he is the principal tenant, and where he must occupy at least 150 square feet? And that he must have been at least 18 months as a trader, or in employment, and this is almost ridiculous, and it has excluded a lot of people. The forms themselves say that if you give any false information the fine is going to be £1,000 or something like that. So right from the beginning, if a man gets a form and wants to have his name in the voters' roll, he has to be very careful to think whether he can afford £1,000 if he slips in any detail, or if he by bad luck happens to give the incorrect information. So it is for that reason that very few Africans have attempted, after taking the papers, to have their names registered in the municipal voters' roll. I would urge the Minister for Local Government to see that immediate steps are taken to rectify this situation so that we have at least an adult franchise for those who want to be

enrolled in the voters' roll for the Mombasa municipal elections.

Sir, these forms appear to have been compiled by perhaps lawyers or legal people who are accustomed to complicated forms, and I am sure a simple question and answer paper could have been compiled so that anybody who can read and write could easily understand what is required in order to be entered into the voters' roll. I would ask the Minister and the Government when making forms of this nature to consider that most of our people are not learned magistrates or lawyers and that the simpler they make these forms the better for all of us.

Coming to the question of housing, I was glad, Sir, to read from the communication that very successful schemes of rural housing have been brought about at Britia and Kangemi and I have seen myself one of these schemes when I visited the settlement there. Well, Sir, I envy the people who live round that place, and particularly the people in the Central Province and I believe that is one of the profits they have gained from the Emergency. I should ask Government to consider that good services or good schemes of that nature should not only be given after an Emergency or after a riot—they should at present try and plan for good housing schemes throughout the country, and I believe the Minister for Housing will be able to tell us whether it is possible to plan such a good housing scheme in and around Mombasa area, including, say, Mombasa and Mazara or Mariakani, where there is ample Crown land and ample land available for such projects. I am sure if money was able to be found for the Riruta and Kangemi schemes, with a little bit of effort Government will also be able to find money for these schemes which I am suggesting now.

Now, Sir, coming to the question of education, there was nothing in the communication from the Chair to indicate that there would be any extension of educational facilities for the towns, and particularly for my area. Sir, we need schools, a primary girls school for Mombasa, and we need a day secondary school. These needs have been there for a long time and we would like the Government to give us some indication that some action will be taken to provide us

[Mr. Khamisi]— with these very urgent needs of the people.

Coming now to the question of roads, Mr. Deputy Speaker, we feel that the only national road that I may call it, is that which we have in Kenya is the Mombasa/Nairobi road which extends from Nairobi right up to Kampala. It is therefore the duty of Government to see this road, is improved to such a standard that it can deserve to be called a national road. It is a road which is very much used and I for one Sir, will not accept that if this road is improved it will compete with the railway. The argument which is being put forward by the Road Authority and the Minister for Works now and then is that first of all, before a road can be built up, the demand must be very great. Now, Sir, I would argue also that unless you have a good road very few people will use it, and therefore there will be roads which will never be put up to a good standard. I believe, Sir, by the importance of the road which links the gateway to Kenya and Uganda and the capital of Kenya and Uganda, it is necessary that it should be made up. If we adopt the attitude of the Road Authority, that unless the road is used by many vehicles it cannot be made up, I am sure we would never have built the Uganda Railway, because when we built it, not many people were going to Uganda. It was only after the railway had been built that the people started to use the railway. Unless this road is put right people will not be able to use it because many people will be afraid to damage their cars on that bad road. I would ask of the Government, Sir, to see that the improvements which have been approved—the 25-mile stretch of road from Mariakani to Mackinnon Road—should be put in as soon as possible and not wait until all other roads have been made up in Kenya. I believe that Mombasa was the first town in East Africa, and it should take precedence over other towns, its roads as well.

Sir, the question we come to now is the question of civil servants. His Excellency the Governor, in his communication, does not appear to have touched upon the question of the civil servants.

[Mr. Deputy Speaker (Mr. Bechgaard)]— left the Chair.

[Mr. Speaker (Sir Ferdinand Covenish-Bentline)] resumed the Chair.

We feel, Sir, that after 60 years of British administration in this country it is shameful that we have not got even one African district commissioner in this country. Our neighbouring territory, for instance, Tanganyika—which came under British rule much later, after the Great War, has not only several African district officers, but has also one full African district commissioner, and they are going ahead as fast as possible to Africanize the Civil Service. We feel it is time that the Government of this country should recognize that we want to see Africans in the Civil Service and many of them. Many of them are frustrated when they come here after seeing the conditions, to find that they can only be given the lower end of the service. They want to go and do private work. I believe the Government, which is spending money on training these people, should see that they are properly occupied on their return into this country, and we should like to see in all services in this country Africans being given opportunities for progress like any other people who are here. In fact, I would go so far as to say they should be given preference to other people because this is their country, and this Government, one day, will have to be run and manned by Africans. The sooner this Government realizes the necessity for a change in their attitude, and bring about changes that are deserved, the better it will be.

Now, Sir, we have been told, and we understand, that the Emergency is going to end very soon, in two months' time. We would like the Government to tell us whether the surplus chiefs and Tribal Police, and the police who have been used during the Emergency, will continue to be used during the peacetime. We feel that these chiefs, and the Tribal Police, have done their job during the Emergency and now, since we are entering into peacetime, these posts which they hold should now go to peacetime people. The chiefs and the Tribal Police, up to now, still believe in their Emergency powers, and when it has been lifted they will still harbour the same servants.

[Mr. Khamidi]—The idea in their minds that they are still in the Emergency and will act as if the country is still in the Emergency. I feel, Sir, when the war was won the Government which was in the United Kingdom was superseded by a peacetime government. It is equally necessary, that now since we are going into peacetime, these multiplicity of chiefs and headmen and Tribal Police, and Home Guards and what not should all be washed out. We should allow peacetime people to take over. Take, for instance, my constituency of Mombasa: we had one chief for many years. Now we have got 24—doing how many chiefs—about 24—doing little of nothing. I feel, Sir, this country cannot go on paying these people during peacetime. We were able to get Emergency money from Britain, and from other sources, in order to continue to prosecute the Emergency up to its end. Now that the Emergency has ended, I believe all our money should be turned into useful channels. I believe, Sir, although the Emergency has ended, we have started on a new era of reconstruction, of progress, and I feel that the new Minister for Finance should try and use all his skill to try and get us more money for education, social services, health centres and hospitals, so that we can progress and can look forward with confidence to the future.

With these few words I beg to support the Motion.

MR. ROGERS (Nominated Member): Mr. Speaker, I would just like to deal with two points raised by hon. Members opposite in regard to roads because it did occur to me that they were perhaps criticizing the Road Authority of which I am a member. Now, like most other persons in this House I have the privilege to serve this country on one or two boards and committees and councils and I will at least say one thing for this service at once, that we can never under any circumstances say that we are forgotten. We can never say that we are working away tucked into a corner and that no one is giving us notice. If, for instance, one is a member of the Industrial Council the Chambers of Commerce fly at one. If one wishes to serve the business community and the business interests of Kenya then we find that Housewives fly at us with the greatest

ferocity. But I will say one thing for the Road Authority, that they are quite unique, for everyone flies at the Road Authority and I will also say one thing for the Road Authority, that I think we will accept criticism because it is the public money we are spending, and representatives of the public have a perfect right to spur us on to greater efforts.

First of all Mr. Bompas raised the question of the road to Kahawa. Now, the Road Authority is very greatly concerned in regard to this road's capacity to cope with the growth of the traffic and particularly in regard to the prospect of increased military traffic when the establishments at Kahawa are built up. The Road Authority of course would very much like to improve this road as they would very much like to improve many of the roads in Kenya and in fact all of them, but in view of the money available and in view of the general state of the roads of Kenya we are afraid we must say that there are other works which must come before this road. In broad outline our policy is to push out and bituminize roads between and extending to the main centres and to all the main points of the Colony. Many of these roads are not bituminized at all and some of them are only partly bituminized. I will just give four names: Nyeri, Kisumu, Eldoret, Kitale. Now, the Kahawa road, I am afraid, can quite definitely only be done at the expense of these and I will develop how much it would cost in broad terms in a moment, and although we of course bear these matters continually under review. I am afraid I must say that it does not seem to us that we will be able to attack this particular stretch of road in the period 1960-63.

Now, the Road Authority, apart from the fact that we want good roads everywhere, are, as regards this road, very deeply conscious of the very high accident rate. This is due largely to the fact that it was one of the first bituminized roads built outside Nairobi. It was built during the war, furthermore, when time and attention and thought could not be spared to it as is the case today. For instance, the sight distances, the width and the curves are, of course, out of date because they are now 15 years old. The Road Authority, however, have

[Mr. Rogers] recently put in bus lay-byes where the buses pull in to collect and drop their passengers which, I think, has had a markedly good effect on the road, and they are putting numerous white lines on the road. We have considered very carefully whether we should impose a rigorous speed limit and even stretches where there should be no overtaking at all. On balance, though, Sir, we are very dubious whether this would not impose unnecessary restrictions on the public and one of the difficulties in this particular road is that it has very high peak density periods because it serves one of the main dormitory areas of Nairobi. It is very much in this way—this will help those people who know the United Kingdom—like the Kingston By Pass. Now, I am fully aware that the fact cannot be acceptable to everyone that everyone wants their own piece of road perfected, but I am afraid we must consider this matter on a broad basis, even the accident rate, and I can tell you that in relation to its density, compared with other countries, even Rhodesia and bigger countries like South Africa, the accident rate is not so high in relation to its density as the accident rate in these countries. Mr. Bompas very rightly mentioned a dual carriageway, and that would be the idea of the Road Authority, I think, when we do come on to this road. We would almost certainly put in a dual carriageway and indeed we feel that it would be of little value to do anything below this because it would be out of date in under five years.

Unfortunately, Sir, this road goes through a particular stretch of country which is very difficult for making roads as it runs across the grain, as it were, of the country, so that a dual carriageway would be even more expensive than it is in most parts owing to embankments and bridges. I would therefore ask the public who use this road to bear with the Road Authority once again, I am afraid, a few more years. Now, I am aware that a "misfortune" in others is little consolation to ourselves, but perhaps the public could console themselves with the fact that for its density that particular road is far better than the great majority of the roads in the United Kingdom.

Turning now, Sir, to the hon. Member for Mombasa Area, who was, strangely enough, talking about the Mombasa road, I am afraid the reasons given in regard to the Kahawa road are stronger still in regard to the Mombasa road. On a "traffic count" basis alone it cannot measure up today to being bituminized on its full length; nor can it really be considered a matter of urgency in regard to development of that particular part of the country. However, I would point out to hon. Members that it is being greatly improved to standards which are the best we can attain with the amount of money available at this time.

Sir, I beg to support.

MR. MUMU (Kitui): Mr. Speaker, I would like to add a word of thanks to His Excellency for the many comforting things he said about this country in his speech. I would like next to go to the question of the Emergency which took most of His Excellency's speech and which has occupied much of the time of this Council.

Mr. Speaker, I am thinking of the end of the Emergency and comparing it with the time when the British Government and the Government of Europe passed an Act declaring the abolition of slavery and the liberalization of slaves. Now, what happened in those days when the slaves were liberated? I read that in America many of the slaves who heard they were free and that they could go where and when they liked could not believe it to be true. I also read that many of them preferred to go back to their former masters because they did not understand clearly whether or not they were free.

Now, Sir, here we have a great many detainees who have been set free. Are they really free? I feel Sir, when the Bill on vagrancy is introduced and made a law, many of these people will not be free people. There are already a great many vagrants in the urban areas because there is no work in the rural areas, and in most of these cases these people have been driven into the urban areas because of the prevailing conditions in the rural areas, and unless these conditions are looked into and unless work can be found for these people, they will still be detainees even after the passing of legislation.

[Mr. Muimi]

The next point I would like to tackle on the question of the Emergency is one on which I was asked a question by a girl on Christmas Day in London last year. We were talking about the Emergency, and one of the children present asked us to tell him something about the administration of the *Mau Mau* oaths, because it is very strange as it is read in the papers and elsewhere. After telling the child what I understood of the administration of the *Mau Mau* oaths, I was asked by some other person to tell him whether there is any proof that Jomo Kenyatta has ever taken the *Mau Mau* oath, and I could not answer this question because in the whole course of the history of Jomo Kenyatta, nobody has ever proved that Kenyatta was at any time ever administered the *Mau Mau* oath by anybody. In the same way, Sir, I would not like to abide very long on the question of Jomo Kenyatta, but I would like to mention some of the things that we feel very strongly about, more especially after learning to what extent the Act of Grace is going to be exercised.

We take for example people like Paul Ngei. I believe, Sir, that a man like him is not only a very unfortunate being who was caught in the net by joining what is called in England "Mugwungs Union"—the association of those who wait—and comparing this man with a person like General China who, under the Act of Grace, as expressed by His Excellency the Governor, has the opportunity of being rehabilitated and in the end being set a free man, to compare him with a man like Paul Ngei. I believe that a man on whose name a record of 16 murders stands cannot be in any way compared with somebody who simply joined an association of those who wait. Therefore, Mr. Speaker, I feel very strongly that Government should review its case in regard to those people who are detained together with Jomo Kenyatta.

Mr. Speaker, I now go on to the question of land. Much has been said, but the question of land, I must say right from the outset that I must say right as tabled by the Government is unacceptable to the Africans, and it is unacceptable for these reasons. The United King-

dom Agriculture Act, which was passed in 1947, was passed after many years of experience, and it was passed after many years of British civilization. Now there are many problems facing the question of land in this country, and one of the essences of good land management is the consolidation of holdings. Now, land consolidation has just been started in the Central Province; in some districts it will be complete in the next few years, but in many districts of this Colony the question of putting together the fragments will take quite a long time and I was just wondering whether it is the right time for the Government of Kenya to introduce this White Paper, or whether they should have waited until things had evolved to the extent of what it was in Great Britain when the Agriculture Act was passed in 1947. I believe we have a long way to go, and if this policy is made law, the greatest sufferer will be the African.

I would like to state now, Mr. Speaker, not my own, but the African mind. What does the African regard the land that we call Kenya Land? The first question that the African asks is what claim has any immigrant man over the question of land, and I remember a stupid question which was once put to me—how many handfuls of soil did any of the immigrant races bring with him here? I could not answer this. Again, someone said that it was surprising when any immigrant man claimed a piece of land here when on reaching Mombasa by ship he dusted his shoes so that there is no English soil brought into Kenya. Well, these words of people mean less or mean more, but the African mind believes that all land in Kenya is black native's land, and everybody who holds any land in Kenya only holds it in trust for the black Africans. The African also believes that the African Land Unit, after the land had been apportioned has never at any time become a bone of contention in this country. Consequently, the ordinary African believes that the Crown Land in the Highlands which has not been alienated should be given immediately to him because it belongs to him. He also believes that any unused and unalienated land owned by anybody—by European, Asian or anybody else—should be bought back from these persons by the British

[Mr. Muimi]

Government because the British Government were the willing sellers and the settlers were the willing buyers, and therefore this land should be bought by the British Government and given back to the African. That is what the African believes.

Mr. Speaker, the African also has another thought—and that is on the agreement made between the British Government and the Sultan of Zanzibar in 1885. He does not understand how somebody in Great Britain could bargain with somebody from Asia over African land, and what the African wants over this land is that the same willing seller should buy it from the same willing buyer and give it back to the owner, and that is the African.

Mr. Speaker, I now come to social matters. If any man in Kenya wants freedom, I must say it is the African. The European, there is no doubt, and the Asian, there is no doubt, can have his freedom in either Europe or in India, and therefore, he does not want any freedom at all. The only person who wants freedom is the African. The African wants freedom from fear; he wants freedom from want; he wants freedom from everything, but you find everywhere that the African is in trouble. That is not the rule of the British: in addition to the other freedoms, the freedom from fear is one of the greatest freedoms, but the African in this country is, in most cases, under great fear. Now, let me give an example, and this I refer to the Minister for African Affairs. If you go to most of the districts or most of the locations in, say, the Kiitui District, and many other districts, you will find that only women and children are in the country. The men have flown away, and drifted into the towns and many other places through fear of what is happening in the rural areas. The Government has a duty, and has got to ask themselves—what is the cause of this fear which drives people from their homes? We have told the Ministers concerned of the reasons why people leave their homes and go to the towns and become vagrants and homeless people. The Government must do something to remove these fears.

Now, Sir, I come to rather a personal appeal to the Government on a matter which my friend the hon. Member for Central Province North mentioned, and that is that there is no doubt that there is real starvation in certain parts of the Kiitui District, more especially in the northern division and the eastern and southern divisions of that district. Right from the old days, our help for food in times of starvation came from the Embu, Meru and the Kikuyu Districts, but as it is today, because of many controls, it is difficult for people to get food from these districts. I remember, Sir, when I toured the Central Province on the land consolidation tour, I had the opportunity of speaking to some of the district commissioners in the districts I have mentioned and I was assured that, as in the old days, they would allow bartering practices between the peoples of my district and the peoples of the districts I have mentioned. But, what is happening, Mr. Speaker, is that in spite of the help these people are going to give to my people, when they get into the districts, they are arrested, deprived of their foodstuffs and, in many cases, imprisoned or fined. I would like to appeal to the Minister to remove these hardships and see that people in the Kiitui District are helped by the people from the Embu, Meru and Kikuyu Districts.

In conjunction with this, Mr. Speaker, I would like to express my grave concern over a circular recently passed by the Ministry of Agriculture requiring people from Kiitui to carry their foodstuffs from Konza Station. I have on many occasions spoken to the authorities concerned with this question, and advised them that the most convenient place for these people to go to collect their stuff is Thika, for the very simple reason which I have mentioned that the people who suffer most are from the northern, eastern and southern areas of my district. Now, Konza is out of the way, and you cannot, for example, in wet weather, which we are now expecting, travel on the Machakos/Kiitui road because of the low bridges over which we have complained so many times. Again, most vehicles from the Kiitui District have their permits, or their licences, to travel along the Kiitui/Thika road into Nairobi and, therefore, it becomes more difficult when people cannot get short-term licences to travel on the Kiitui/Machakos road, and

[Mr. Mufim] it becomes even more difficult when the rains come and the rivers between the Machakos and Kitui District become impassable. Therefore, Mr. Speaker, I do appeal very strongly to the Minister to remove these barriers because it increases the hardship of the people of Kitui.

Now, Sir, I come to the question of roads. I know much has been said, and I would only like to remind the Minister that he needs, in his deliberations on the construction of roads, to keep in mind the construction of high-level bridges over the Athi and Kiya rivers on the Kitui/Machakos and the Kitui/Kibwezi roads.

Now, Sir, I come to local government bodies, and in this connection I have in mind the African district councils. I feel, Sir, that the time is not only ripe, but long overdue when legislation should be introduced laying down clearly the methods to be applied in the election and the nomination of candidates for election to the local authorities and especially the African district councils. As it is today, the whole question of nominating and even electing members of the African district councils is left in the hands of the local councilors. They have no statutory laws to follow. They have nothing to direct them and the result is that we have returned to the African district councils people who are not representatives of the people because they are not elected by the people, and I feel, and I should like to appeal very strongly to the Minister, to bear this in mind and to introduce legislation for the election of African district councilors.

Mr. Speaker, Sir, I would, in this connection also, like to say to the Minister for Local Government, Health and Town Planning, that there is serious inadequacy of lighting in the Kitui hospital and I do appeal to him and the Government to do something to improve the lighting facilities in that hospital. Again, Sir, I would also like to appeal to him on the necessity and the urgent demand for an X-ray plant in the Kitui District—because of the long distance that the Kitui patients have to travel to Nairobi for X-ray examinations and again because of the long distances from which patients have to be drawn from

the Kitui District into the Kitui hospital. I think, because of these reasons, there are grounds for asking the Government to consider the question of installing an X-ray plant in the Kitui hospital.

Now, Sir, I come to my last point—the question of the round-table conference. Much has been said—not to influence the British Government nor to influence those going to the round table conference—but I would like to put one question to all concerned. Is every person going to the round-table conference prepared to adjust himself or herself? If we go to the round-table conference with certain people having behind their minds the idea that they are going to meet there their kin and kith in the Government then the round table conference will be a failure, but if we go to the round table conference as Kenyans, with the determination to see that something is done to bring about a good Kenya, then I am sure we shall achieve something.

As my hon. friend, the Member for Central Nyanza, said, I was only too startled when I heard that among the people to go to the round table conference elected people, who are the cause and the root which prompted pressure for the calling of the round table conference, I should like to suggest, Mr. Speaker, that the right people go to the round table conference are those who asked for it and who wanted it. The Specially Elected people and many other people have been included on the list of those going to the round-table conference; they did not ask for it; they did not ask for it at all; therefore I suggest that the 14 Africans and their allies who surrendered their allowances for six months, who suffered to go and see the British Government at home, are the only people who wanted the round table conference, and they are the only rightful people who should be allowed to go to the round table conference.

I support the Motion.

MR. CONROY: Mr. Speaker, Sir, a good deal of confusion seems to have arisen in the minds of some hon. Members opposite about the position of Jomo Kenyatta, and I thought it might be convenient to the Council if, at this stage of the debate, I tried to remove some of that confusion.

[Mr. Conroy]

Sir, I think we all agree that during the Emergency a great deal of bloodshed, murder and wickedness occurred. Listening to some hon. Members, the suggestion appears to be that that was really caused by the Government declaring the Emergency; that is of course, nonsense. The bloodshed and murder and wickedness were caused by *Mau Mau*, and the person who was primarily responsible was the manager of *Mau Mau*, and Jomo Kenyatta was convicted—after a full and open trial on evidence which proved beyond all reasonable doubt that he was the manager of *Mau Mau*. That was the offence for which he was convicted, and, Sir, his conviction was taken right up the appellate ladder as far as the Judicial Committee of the Privy Council, and there all the appeals—all the way up—all failed. The conviction was therefore confirmed in the highest court that existed.

Now, Sir, having been convicted for being the manager of *Mau Mau*, there was a judicial recommendation made that he should be restricted at the end of his sentence of imprisonment and, Sir, he is restricted. Hon. Members opposite talk about him being imprisoned and being in detention. That is not so, Sir. He is restricted. The hon. and learned Member for the Central Electoral Area said yesterday that he was "rotting in detention". Now, Sir, in the first place he is not rotting. The doctors say he is in very good health. In the second place he is not in detention. I suppose, with those two qualifications, it could be said that what the hon. and learned Member said was accurate.

I only quote that as an example of some of the statements which have been made opposite by hon. Members about him which show the confusion which exists. Kenyatta has been restricted in accordance with a judicial recommendation and in the interests of security. He does not come within the Act of Grace and, Sir, in consequence, he is remaining in restriction in the interests of security.

Sir, the second matter on which I thought I might be able to give a little assistance to hon. Members was two questions which were asked about the date of the end of the Emergency. The hon. Member for Central Province South

said that it was not clear to Africans whether the Emergency had ended or not; although I must say he said later in his speech that no African would be convinced the Emergency had ended while Jomo Kenyatta was in detention. The Governor made it quite clear in his speech when the Emergency was going to end. The Emergency is brought to an end by a Proclamation and His Excellency said—and I can refer hon. Members to the relevant passage which is in the first column of page 2 of his Speech—he said we would require the help of this Council to pass legislation before he could take the formal action of relinquishing Emergency powers. "There must be passed into law legislation to replace those Emergency powers which we still require. It is my hope that the replacement legislation which it has been decided is necessary and which will be published today or tomorrow will be passed into law in the minimum statutory time so that the relinquishment can be carried out in the early days of the new year." Sir, that is the closest possible date that can be given; and when exactly that is depends upon this Council.

Sir, the next question was—has the Emergency ended or not? The answer is it has not until the Proclamation ending it is proclaimed.

Then the hon. Member went on to deal with what happens to people who are guilty of minor infringements of Emergency regulations, for example pass-book regulations, and again, Sir, the Governor made it abundantly clear what the position of these people was. Those people who have been convicted will be covered by the Act of Grace. Those people who are in prison will be released. But he went on to say this, Sir. He said "while persons who have been convicted for these offences and are in prison will receive clemency in respect of offences committed before today, Emergency legislation must be complied with so long as it remains in force and no clemency will be extended to future offenders in this category," that is to say offenders between the date of the act of clemency and the final termination of the Emergency.

Then, Sir, various complaints were made by hon. Members with regard to the replacement legislation. I think it was

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[Mr. Conroy] the hon. Member for the Central Province South who said that all that is being done is all the Emergency powers are being put into substantive legislation. Now, Sir, that is not true. In the first place during the past 12 or 18 months there has been a very considerable relaxation of Emergency powers. Emergency regulation after Emergency regulation has been revoked, Sir, in respect of the future, the Governor made it quite clear in his Speech that we should only retain those powers, and put them into substantive legislation, which are absolutely necessary for the maintenance of law and order.

Sir, the hon. Member said: "Oh, it is quite simple; the Government has plenty of powers and if another Emergency arises then they can take plenty more powers to deal with it." Sir, what a defiant attitude! The Government must not let another Emergency arise. It is the Government's duty to prevent an Emergency arising. I think, on reading the draft legislation, that if the few powers that the Government seeks to pass into substantive legislation had existed in 1948 or 1949 or 1950, we might well not have had seven years of bloodshed, murder and wickedness to say that the Government is going to take all the Emergency powers and put them into substantive legislation displays, Sir, the fact that the hon. Members have not read the proposed legislation which has been published. The hon. Member for the West Electoral Area said that he thought the proposed legislation was irreconcilable with human liberty. With regard to that I would leave hon. Members with this thought, and that is that liberty must sometimes be limited in order to be possessed.

Sir, I beg to support.

MR. PANDYA (Eastern Electoral Area). Mr. Speaker, Sir, the Communication from the Chair of His Excellency has been, Sir, the most encouraging for some time for we now feel the impact of years ahead of reconstruction and hope for the stable future of peace and prosperity in this country. I specially welcome, Sir, the tone and character of His Excellency's speech, which emphasizes a fresh and bright approach to the im-

mediate problems and underlines the confidence in the future activities in this country.

No speech could have been awaited with greater interest than the one we are debating here today, and there can be no doubt about the Government's intention for the theme of the speech is a clear landmark and a constant reminder to us of our deliberations and in the work that we have set ourselves to do in the years that lie ahead.

Mr. Speaker, Sir, the British Government, by announcing an early date for the constitutional conference, has shown its determination to stand by its announcement of 22nd April, and has already taken the first steps to the holding of such a conference with the representatives of the people who strive, in this House, to serve the interests of the country to the best of their ability.

Sir, I was surprised to hear the remarks of the hon. Member for Mount Kenya before the fresh elections before the constitutional conference, for surely, Sir, people had their choice of who should represent them for the next four years, whatever the conditions in this country, and to suggest that the present hon. Members—particularly the Elected Members—are not the representatives of the people is more or less, Sir, an insult to the present Elected Members of this House.

Now, Sir, opinions may differ on whether conditions are suitable for the holding of such a conference, but I wonder whether Members have pondered in their minds the consequences if such a conference were not held in the very near future, for we must get together and find a solution that is acceptable to most of us. If not to all of us. We have had enough time to discuss many of the constitutional matters and it is time that all the parties get together and thrashed out this problem and made a success of the opportunity that is offered to us. We must dedicate ourselves afresh in the service of this country, and assess its conditions, its needs, the conditions of stability, and not try to impose our views on other people, not try to put forward selfish interests, but approach the conference in a spirit of goodwill and good intentions for the betterment of all the peoples of this country. I know, Sir, it also requires great courage, great states-

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[Mr. Pandya] and a large measure of agreement, which I think we ought to start getting now, with the advice and help of the constitutional adviser who has been provided for this purpose. While the dark clouds may loom on the horizon, I am certainly of the firm conviction that we will overcome them to usher in a new era of peace, co-operation and understanding in this country.

Now, Sir, I think it is evident from the announcement of the Secretary of State and from his recent utterances, and particularly his intention to visit this country next month, that we can look forward with confidence to the constitutional conference and, indeed, in the speech of His Excellency he announced the long-awaited news of the end of the State of Emergency which has hovered over this country for the last seven years.

It is, Sir, a bold and a forthright decision, most welcome indeed to all sections of our community. From the speech it is evident that good progress has been made in all walks of life to enable us to create conditions from which we can make further progress in the interests of this country. This encouragement, Sir, in spite of what has been said by the Solicitor-General, is slightly dimmed by the prospect of new legislation which will be shortly before this House, and while it is true that the hon. Members have not had enough time to study this legislation, it essentially looks preventive in its nature, but one cannot help thinking that similar restrictions are being placed in another manner. I think it would be very difficult to avoid this psychological reaction in the minds of the people. I trust, Sir, it will not be necessary to use these laws at any time. I would say that every citizen would very rightly and warmly support the maintenance of law and order and that he would not allow effective public security to be jeopardized in any manner whatsoever.

Now, Sir, referring very shortly to the Act of Grace, I think the Government has acted very generously and judiciously in this matter and this very generous Act has been welcomed from many sides of this House and I think people who have been affected by it will be gratified to know that they can return to normal life and by their own free actions play

their part in the building up of this country instead of in the fruitless and dangerous pursuits that they were engaged in in the past.

In this connection, Sir, while I followed the very lucid arguments of the Solicitor-General of the Government's intention to restrain Jomo Kenyatta and his associates, I personally feel here was an opportunity to have made some relaxation in the restriction and to test whether there was any danger in the future from such relaxation. This would, Sir, have created a better atmosphere in the new type of climate and conditions we wish to create in this country.

Now, Sir, many Members have spoken on the question of land, and of course, as has been said before, an ample opportunity will be given to debate Sessional Paper No. 10. I was very much interested in the various quotations of the hon. Member for Mount Kenya and of the European history of settlement in this country. I think it would be advisable for him also to read the history of the settlement of other communities who have made their home in this country. Sir, the point is that the situation with regard to land has to be seen in the light of conditions as they exist today and not of the pledges that have been given several years ago.

Now, Sir, I welcome the Sessional Paper in that the use of land is to be put on a non-racial basis and that at long last the struggle of the last 40 years of men of vision and faith in this country has borne fruit, and one of the last vestiges of racial discrimination is on its way out. It was, Sir, very discourteous and insulting to people of non-European race to be denied equality of opportunity for the last so many years, particularly in agricultural pursuits which, after all, is the backbone of this country. Here, Sir, I would like to refer to the remarks of the hon. Member for North Rift. I regret, Sir, very much that he found it necessary to make his remarks as he did. I think it showed a thoroughly irresponsible attitude and very limited vision, for I could not understand the hon. Member who has been preaching democracy and equality of opportunity, to tell this House and deny the right of Asians to hold land in this country. Does he suggest that we should designate different vocations on a

[Mr. Pandya]

in this country so that land is reserved for Africans, trade for the Asians and industry for the Europeans, or does he want all the races to work together in all the peaceful pursuits in this country? I wish such remarks should not be made in this House, for on one side when we talk of equality of opportunity and the granting of democratic institutions, we cannot tolerate these remarks coming from what one would hope are responsible people.

Now, Sir, I would like to make one point with regard to the intentions of the Government, that is the announcement that it has no intention of removing the restrictive covenant that have been in the existing leases, although it does not propose to enforce them in the future. I cannot understand, Sir, for whose benefit or whose safeguards these restrictive covenants are to be retained, and I cannot understand, Sir, how people who are not parties to the agreement should be given an opportunity to make objections to the Government. I feel, Sir, that the Government should know our objections to their intention of retaining the restrictive covenants and that it would be well if they made clear their intentions and the purpose and the reason for the maintenance of the restrictive covenants.

Now, Sir, coming to education, I was very much disappointed at the very scanty reference to education in His Excellency's Speech. While we spend 18 per cent of our net expenditure on education alone, we were not clearly told of the future Government policy on this vital social service. I think, Sir, that Government should have seized its opportunity, as it did, of course, in many other cases, to bring a fresh approach to our problems, to declare that it intends to put education on a non-racial basis. Here, Sir, if I may refer to the remarks of the hon. Member for Nairobi West, on the 10th of January, I really cannot understand how standards could be lowered by the introduction of non-racial education. Indeed, Sir, what we are asking for is that the standards should be improved and maintained at a very high level.

My point is, Sir, and I think it has been agreed in the past, that education on a racial basis has created and even

perpetuated different standards in the different schools for the different races. But this policy, Sir, cannot be allowed to continue and I think that all communities should be allowed to share the high standards only provided for the few and that other schemes should be set afoot to raise the standards of these schools of those communities which have lagged behind for the last so many years. Lack of finance, Sir, is no reason to perpetuate the low standards of one community, particularly that community which has shown signs of self-help and those which are prepared to sacrifice anything to attain better standards for their youth. I think all the money that is available should be used for the benefit of all the people of this country and that equality of opportunity should be awarded to all the students in this Colony. And if a system of gradual transformation from a racial basis to a non-racial basis is devised this might attain the situation that we wish to have in this country.

I trust, Sir, the Government will give this matter its most urgent consideration in the light of the remarks that have been made in this House.

Now, turning to immediate problems, I would like to join hands with the hon. Member for Central Area in his comments yesterday on the recent English paper in the Kenya Asian Preliminary Examination. The high standard that was set this year bears no relation to the very poor standard of teaching, in English in the Government schools and this, Sir, makes us wonder and doubt the proper intentions of the Government for the future of the youth of the Asian community.

Now, Sir, I would very warmly the construction of an oil refinery in Mombasa. Coast residents are already beaming with activity and hope at the future prospects of this great enterprise. It has already accelerated the economic activity and faith in the country. There is another reason, Sir, to congratulate the Government for at last they have begun reconstruction of the Port Reitz Airport to bring it up to Canadiana standard. It is good to know, Sir, that we are not being neglected all the time although this work really should have started some time ago.

[Mr. Pandya]

Now, Sir, I wanted to make some comments on the police force but in view of the assurances that were given by the Minister for Internal Security and Defence I should not like to deal with the subject at any great length but only to emphasize that during training I hope it is instilled into the minds of the police that they are essentially the servants of the people and that their behaviour and attitude should be above reproach. It is, after all, good relations which will go a long way towards making the maintenance of law and order effective in this country and that creation of confidence will bring forth more co-operation from the public to this end.

Now, Sir, I was very glad to note from His Excellency's Speech that the Government is alive to the importance of the tourist industry in this country and particularly it proposes to overcome the shortage of accommodation in the various national parks lodges. Several complaints, Sir, have been brought to my notice, particularly by my constituents, of discrimination on the grounds of race implemented in a very subtle manner that there is no room at a particular lodge. It is understandable, Sir, that a different class of accommodation is provided but there should be no discrimination on the ground of colour in the allotments that are made in these lodges. I think, Sir, it is time we moved away from such practices for the honour of the citizens of this country is at stake in continuing such discrimination. I do not think we should exhibit this type of discrimination at its worst to visitors in this country. I trust the Minister will look into this matter and try to put the matter right.

I hope, Sir, steps will be taken to revise completely the Bankruptcy Ordinance in this country. It does not meet the exigencies of the situation and it must be brought more into keeping with the current trends of commerce. I have come to know, Sir, of a case the other day when an application for bankruptcy was made in December, 1958, a court order made in late January, 1959, a winding up order was gazetted at the end of March, 1959 and a statement of affairs was filed by early June, 1959. I think, Sir, these facts speak for themselves, of the delays encountered and the anxious time

the creditors must go through before they know their fate in such cases.

Finally, Sir, I would like to refer to the hon. Member for Central Nyanza when he talked about Indians still speaking of themselves as Indians in this country. I think, Sir, if he will refer to many speeches made by myself and other Indian Members in this House, we have emphasized the fact that we regard ourselves as Kenyans and Africans and we wish to be regarded as such by the others. I cannot find a better place, Sir, to make this statement than this hon. House and if it is in HANSARD everybody will know that we are very sincere and very proud of calling ourselves Africans and the less these insinuations are made against us the better it would be for the happy relations of all the communities in this country.

Mr. Speaker, Sir, I beg to support.

THE MINISTER FOR AFRICAN AFFAIRS (Mr. Johnston): Mr. Speaker, Sir, I should like to deal with some of the points raised by hon. Members in respect of the rehabilitation of *Mau Mau* and *K.K.M.* and *D.W.M.* adherents. But first of all, Sir, I should like to pay a very sincere tribute to these officers of the Administration, the Prisons Department and the Department of Community Development and to the loyal *Kikuyu* who have had, over the past five years, the unenviable task in the camps of converting fanatical *Mau Mau* into ordinary citizens. No one, Sir, unless he has had first-hand experience of the hard-core *Mau Mau* can imagine what patience and restraint is required by those in charge of it; nor measure in terms of devotion to duty the inspiration and faith or what it has cost them. I should also like, Sir, to pay a tribute to the churches of all denominations in Kenya for the immense help which they have given in this formidable task.

Sir, we are now entering a new phase in rehabilitation, a phase where the emphasis can now be placed upon reclaiming the remaining hard-core on an individual basis. And I am convinced that under the leadership of the new Special Commissioner and his force of specially chosen officers, a considerable measure of success will be achieved. I would, Sir, reiterate again what His Excellency—the Governor—said in his

[The Minister for African Affairs] Speech on 10th November announcing the Act of Grace and he said this, Sir. "The extent of this Act of Grace is determined by my wholehearted endorsement of past assurances that the dangerous men; while remaining irremovable, will not be permitted to return to menace security." And, Sir, in accordance with the previous practice, there will, of course, be full consultation with district and divisional committees before final releases are effected.

Now, Sir, to come to some of the points made in debate and first by the hon. Specially Elected Member, Mr. Blundell. He mentioned and approved proposals for the 16 convicts who have been convicted of murder, whose sentences were commuted to life imprisonment. I am glad to hear that support was given to this proposal. Some of these particular persons are women and others, though not juveniles in the strictly legal sense, were persons of relatively young age, and some took part in these crimes, under intimidation. Some also made confessions which assisted the police. The hon. Specially Elected Member expressed some fears about the rehabilitation as a detainee of "China". I would say, Sir, that "China" did, in fact, give valuable information to the Security Forces but, naturally, when he is placed in the pipeline we will look at him extremely carefully and in his case, as with the other convicts that I have mentioned, Sir, the Government will not contemplate their return to their districts unless it is completely satisfied that they have been properly rehabilitated.

Sir, the Specially Elected Member, Mr. Blundell, mentioned that the issue of individual titles had created a landless class, and somewhat surprised, Sir, that one who so successfully filled the office of Minister for Agriculture, and has taken such an interest in land consolidation should, in fact, make a statement in these terms. I hoped that while we were colleagues on the Front Bench he had realized that land consolidation and the issue of titles merely confirmed the existing rights of holders in the freehold possession of their land, and did not, of itself, create a landless class. I agree, of course, Sir, that the problems of the Ahoi, and the Arambi must be tackled but the development of the consolidated

farms under the Swynnerton Plan will certainly provide a wide avenue for employment, and others of that class can, and have, already become tenants, on a proper basis, of the landlords.

Turning now, Sir, to the speech by the hon. Member for the Central Province South, he mentioned two points. He asked when the movement of control and passbooks would be abolished, and my hon. friend, the Solicitor-General, has dealt with that, but he went on to say that they thought it would be considerable confusion in the minds of many people as to what had been said in this context, and he asked the Government not to be too harsh with persons who broke the regulations. Sir, the Kenya Broadcasting Service has taken all possible steps to see that the facts are publicized. It has been commented on in Kikuyu on the night of the Speech from the Throne, and further broadcasts were made the following morning and the following evening, particular emphasis being laid on the point of passbooks, not only from the Nyeri broadcasting station but also in the African national programme, and it will again be broadcast today and tomorrow, and in addition, Sir, I have instructed the provincial administration in the Central Province to give the widest possible publicity to the fact that movement control and passbook regulations are still in force and are not being revoked.

Sir, I turn now to statements made by some hon. Members on Kenya, and the fact that he should be set at liberty because he is the acknowledged leader of the African community, and has fought for the freedom, my hon. friend, the Solicitor-General, has explained that he is held legally on restriction, and has explained that he was a person convicted of managing the *Mau Mau* society. Now, Sir, the majority of hon. Members who supported the request for the release of Kenya have no personal experience of the bitter fighting that went on in the *Mau Mau* rebellion—no real understanding of the massacres of innocent men and women and children in their hundreds—no conception, Sir, of the sacrifices which have been made by the loyal Kikuyu, not only in the Emergency but in the years which preceded the Emergency, and there is not the slightest doubt, Sir, that the propagation of *Mau*

[The Minister for African Affairs] *Mau* and the conduct of that vile oath campaign was directed by a central committee in Kiambu and later in Nairobi, presided over by Jojo Kenyatta under the guise of the Kenya African Union. Sir, no true or responsible leader of his people would have played his country into what was a full-scale rebellion. Nor, Sir, do I believe that Kenyatta is the acknowledged leader of the Africans in Kenya, and I flatter myself, Sir, that I am in reasonably close touch with the opinions of responsible and mature Africans in this country. The real leaders are those Africans who have their full share of patriotism but who realize the chances of evolving a stabilized and civilized African community lie in co-operation with the Government.

Sir, the hon. Member for Nyanza North spoke of one Elijah Masindi—the leader of the *Dini ya Mambwa*, and said in substance of him, "If religion is private to an individual, how can a Christian Government keep him away simply because he wishes to worship God in his own way," and he urged the release of people from his district. Sir, there is only one of the people from his district detained, namely Elijah Masindi. The rest have been rehabilitated and set free, but Elijah Masindi—again if I may remind the hon. gentleman—is detained by an order of a judicial authority, and he is detained because of his peculiar brand of religion which bears no resemblance whatever to what the hon. gentleman said of it. If I may, Sir, briefly recapitulate what were the tenets of the *Dini ya Mambwa*, and what happened to Elijah Masindi, the *Dini ya Mambwa* was a sect based on pagan ancestor worship drawing support from liberal interpretation of passages from the Old Testament. It purported to cure blindness and sterility, and advocated polygamy. The sect spread rapidly in the Elgon Nyanza District, particularly among the Bukusu, as I believe the Kikoi are now called, and Elijah himself became noted for his defiance of authority. He had several convictions for conduct likely to cause a breach of the peace and assault, one of which included the ambush and injury of a sub-chief and two Tribal Police and the burning down of an agricultural officer's house, and he was subsequently committed to Mathari for a

period of two years. He was released from Mathari in 1947 and immediately resumed his activities which had spread by this time into West Suk, when he encouraged his followers to make guns with which to drive out Europeans, and generally exhorted them to defy lawful authority. He was also, Sir, responsible for the forcible circumcision of Kikoi girls. In February his activities resulted in a crowd attacking a police officer, and in the ensuing fracas seven persons were killed and 13 injured. He was arrested on 16th February, 1948, and after a judicial enquiry, as I said, Sir, was deported. Deportation did not stop his followers, however, because one of them, Lukas Kiptoech, in West Suk led the assault at Kollon on a party of police and in that assault three European officers and one Tribal Police corporal were killed. Sir, I cannot believe from this record that I have read out that there can be any question of Elijah Masindi being released.

THE SPEAKER (Sir Ferdinand Cavenish-Bentinck): It is just time for the adjournment.

THE MINISTER FOR AFRICAN AFFAIRS (Mr. Johnston): I have some more to say, Sir.

ADJOURNMENT

THE SPEAKER (Sir Ferdinand Cavenish-Bentinck): The time having been reached for the interruption of business, I now adjourn Council until 9.30 a.m. on Friday, 13th November.

The House rose at fifteen minutes past six o'clock.

Friday, 13th November, 1959

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

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

PRAYERS

PAPER LAID

The following Paper was laid on the Table:—

Sessional Committee Report of 12th November, 1959, on the Amendments to Standing Orders.

(BY THE CHIEF SECRETARY (Mr. Coutts))

NOTICES OF MOTIONS

AMENDMENTS TO STANDING ORDERS

THE CHIEF SECRETARY (MR. COUTTS): I beg to give notice of the following two Motions:—

THAT this Council do adopt the report of the Sessional Committee dated 12th November, 1959, and do make the amendments to Standing Orders therein recommended, such amendments to take effect on and subject to the approval of the Governor.

And

PRIVATE MEMBERS' MOTIONS—BALLOT AND LIMITATION

In view of the large number of Private Members' Motions awaiting debate, this Council approves the recommendation of the Sessional Committee made on 12th November, 1959, that—

(a) a ballot be held in this House each Friday, or on such other day as may be decided by the Speaker, for two Private Members' Motions which will be taken for debate on the following Private Members' Day, i.e. on the following Friday; and

(b) that the maximum time which shall be allotted to the debate of any Private Member's Motion thus drawn by ballot shall be two hours.

COMMUNICATION FROM THE CHAIR

PRIVATE MEMBERS' MOTIONS

THE SPEAKER (Sir Ferdinand Cavendish-Bentinck): In anticipation of discussion on the Motion of which Mr. Coutts has given notice, I would inform hon. Members that I propose that on next Friday the following should be the Private Members' Motions which will be debated. Firstly, the Fixation of Rural Wages by Mr. ole Tipti; secondly the African Wills Legislation Motion by Mr. Muchura; and thirdly, if time, the Abolition of Common Entrance Examinations Motion by Mr. arap Moi.

MOTION

THANKS FOR THE EXPOSITION OF POLICY BY HIS EXCELLENCY THE GOVERNOR.

Resumption of Debate interrupted on 12th November, 1959.

THE MINISTER FOR AFRICAN AFFAIRS (Mr. Johnston): Sir, when the debate was adjourned last night I had finished dealing with rehabilitation and with the position of Kenyatta. There was one omission, Sir, that I made in my speech and that, Sir, was to congratulate the Minister for Internal Security and Defence on what I thought was an extremely lucid and well expressed maiden speech.

Sir, I turn now to four points which were made by the hon. Member for Central Province North. The first point he touched upon was land consolidation in the Meru District and he asked that it should be borne in mind that the Meru were particularly clan conscious and that it was necessary for local persons who understand their land tenure to deal with it. Of that, Sir, I am perfectly well aware, and the Government has taken every opportunity to consult with the local indigenous body, the Njuri Ncheke over how land consolidation and the registration of titles should proceed. We have not yet come to an agreement with the Njuri Ncheke, but I am hopeful we shall do so in the very near future.

He then mentioned the necessity for a rural Jeanes school for vocational training for those children who failed the common entrance. K.P.E., and hoped that something might be done for them. Already, Sir, quite a lot is being

[The Minister for African Affairs] done for those particular children in the Meru District. We have this training centre at Kiloro, another one further down the Embu Road and there are a number of youth clubs being set up in that district to cope with this particular problem.

He went on to say that when the boundaries of the Meru District were put in a mistake was made, and that one river was taken as a boundary which should not have been. Now, Sir, this is an extremely "old hare" that has been run by the Meru for a great many years. It was exhaustively examined by the Kenya Land Commission, and their report makes it quite clear in sections 563 to 569 that the Meru claims were not admitted.

Finally, Sir, the hon. Member for Central Province North mentioned; I think I am right in saying, I was not in the House at the time, that Kalmosi should be made available for African settlement. I do not know if he is aware that in fact, of course, there is a settlement in the Kalmosi area in the same way as there is a settlement in the Sarara area of the Kipkaren farms.

Now, Sir, the hon. Member for the Rift Valley Central mentioned that the Masai, who were once the leading tribe in Kenya, were now the most backward; Sir, most of us know a good deal about the history of the Masai. Most of us know they suffered from rinderpest and smallpox and were decimated at the end of the 19th century, but Government itself has taken every possible step to try and bring the Masai forward. If they are backward, Sir, it is because they themselves have wished to live in the past.

Sir, the hon. Member for the Rift Valley North; I presume as a result of his recent safari to Turkana, said that the Turkana people were suffering greatly, and wished to know what Government was doing to help them. Now, Sir, I have served in Turkana and not so long ago I did a fairly extensive tour in Turkana, and nothing that I saw led me to suppose that in fact the Turkana people are unhappy. It is perhaps because they have no politics there. I thought that they were extremely happy. But that their country is dry and inhospitable and lacks water is perfectly true. But water

can be provided in large quantities in that area. The Turkana must realize that they are over stocked, and they must take steps to deal with that over stocking, and then Government can make provisions for water supplies, but I am sure it is quite the wrong policy to provide water in advance of destocking. The hon. Member did not mention the fact that there is an irrigation scheme just outside Lodwar, and that quite a lot of money has been put into that scheme. I know he saw it because I saw the report by the district commissioner on his visit there, and I know that he was impressed with what he saw.

Sir, the hon. Member also touched on the question of cattle trespassing and large numbers of cattle being confiscated and sold and the proceed not returned to the owner. Sir, I have had similar complaints about this when I went round the Nandi District the other day, but when I enquired of some of the complainants there and said, "Do you know where your boundaries are?" they said, "Yes, we do, but we took a chance on it." And I am quite convinced, Sir, that most, if not all of the cattle owning tribes know perfectly well where the boundaries of their districts are, but they are always perfectly prepared to have a go and see whether they can get a bit of extra grazing. In fact, it is *si vilyora kujaribu*.

He also touched upon the difficulties that were being experienced by some cattle owners in grazing areas under the Crop Production and Stock Ordinance. I was not quite clear to which Ordinance he was referring, but I should be grateful if the hon. Member would discuss the position with me because I really cannot believe that in a controlled grazing a certain person who is there by right has had all his cattle taken off him.

Sir, the hon. Member for Nyanza Central, in his usual amusing way, once again was hammering at the question of rehabilitation. And he said, as he has often said in this House in the past, that it is a waste of time to rehabilitate grown men. Well, Sir, I can only draw his attention once again to the figures, there have been over 78,000 people rehabilitated, and I am glad to say that very few of them have come to unfavourable notice since they were released.

[The Minister for African Affairs]

The hon. Member for Mombasa Area spoke about the number of chiefs in Mombasa and the number of tribal police, and what would their future be, and he gave a figure of 20 chiefs. I am happy to say, Sir, that there are more chiefs than that. There are eight chiefs and 15 subchiefs, which makes a total of 24.

AN HON. MEMBER: (Inaudible.)

THE MINISTER FOR AFRICAN AFFAIRS (Mr. Johnston): I am most grateful for the correction. My arithmetic is not very good. 23. But, Sir, the reason for this large number of chiefs and sub-chiefs is that every tribe in Mombasa wishes to be represented as part of the administration because tribal feeling there seems to be just as keen as it is elsewhere in the Colony.

Now, the hon. Member for Kitui, Sir, mentioned a gentleman called "Paul Ngei", and if I am right in what I thought he said, he said that he was an unfortunate being caught up in the net and was, in fact, a member of the "Mugwamp's Club". I do not know what a "Mugwamp's Club" is, Sir, but it is perfectly plain to anybody, I should have thought who could read, that Paul Ngei was, in fact, an organizer of the *Mau Mau* movement, and he was convicted at Kapenguria, with other organizers of that movement. He was certainly not caught up in any net. He was the prime factor in the *Mau Mau* rebellion. We will have to see, Sir, whether he, who is restricted under substantive legislation by order of a judicial authority, can be looked at from the point of view of rehabilitation, but if he is it will be a long time in the future because we have first of all got to deal with the other and less important members of the *Mau Mau*.

The hon. Member for Kitui apparently wanted freedom from everything and freedom for all, and he went on to illustrate his meaning in one particular, the freedom from fear, by saying, if I have got this right, that in the Kitui locations only women and children remain, the men have gone away to the towns, and he instanced that as presumably the men, feeling so fearful, had all gone away to the towns and left the women and children to bear the brunt. Now, Sir, I am unable to understand this. Most

people know, I think, Sir, that the male Kamba of Kitui and Machakos supply, I am glad to say, a very large proportion of the King's African Rifles and of the Kenya Police and the other Security Forces; and the reason why there are quite a large number of men away from those two districts is because they have enlisted in the armed forces of the Colony and are doing excellent service on behalf of this Colony.

The final point made by the hon. Member for Kitui, Sir, was the question of starvation in the northern, eastern and southern divisions, and he asked whether consideration could be given to reopening their old areas of purchase of crops which he said were Embu and Meru. He felt that the controls were, in fact, making things very difficult. Now, Sir, under the present legislation it is always possible for anybody from Kitui or, indeed, from any other districts to go to Embu and Meru and to purchase sufficient to take out on his head, that is to say, a 60-lb. load. Recently, I am given to understand, that there has been considerably more than 60-lb. loads taken out into the Kitui District. But, Sir, we must abide by the present legislation. We must also realize that illegal movement of food outside those two areas of Embu and Meru means that African, district councils are losing large amounts in cesses. I am quite certain that the Provincial Administration will make food available, as they have done often in the past, in the Kitui District, when it is required, and at reasonable prices.

Sir, I think I have covered the majority of points that have been made so far as my Ministry is concerned; in this debate, and I beg to support the Motion.

MR. SLADE: Mr. Speaker, Sir, I support this Motion with enthusiasm, with considerably more enthusiasm than I have been able to feel in any corresponding speech in the years in which I have been in this Council. Along with other utterances that we have heard from His Excellency during the very brief time he has been with us, this contains a message of courage and hope and inspiration such as to give others courage and hope. In his appeal to put the darkness behind us and look bravely to the future, he has given us exactly the right spirit which we need at the present time.

(Mr. Slade)

Sir, apart from being unusual in that respect, the Speech was also unusual in its balance in that it concentrated very largely upon the ending of the State of Emergency and had little room left for dealing with the other more ordinary problems of the country from day to day. I welcome it for that also, Sir, and because of that weight given to the ending of the State of Emergency I should like most of what I have to say also to be on that subject.

Now, Sir, that we are coming to the end of a State of Emergency that has lasted with us for seven years, it might be worthwhile considering for a moment exactly what a State of Emergency means and what is the significance of its ending, because sometimes I think people get confused. Mr. Speaker, I think I am right in saying that a State of Emergency declared by a Government means no more and no less than that the situation has got so bad in the country that Government is no longer able to control it with the aid of the ordinary laws of the country, and has to resort to special powers which are contrary to the accepted principles of liberty of the subject and other liberties that we cherish in any free country. That is the meaning of a State of Emergency. When you come to the end of a State of Emergency, which naturally everybody wants to see ended as soon as possible, so that our ordinary liberties can be restored, that means that Government has recovered itself control the situation with the aid of ordinary laws alone. For that reason, Mr. Speaker, I am afraid that I cannot agree with one of my hon. colleagues who said it was too early to end the State of Emergency. Government indeed must be the judges of that, and if they themselves feel confident that they can manage without these Emergency powers, we can welcome and give support to their confidence.

Admittedly, Sir, it has been made clear to us that before the State of Emergency is brought to an end and these powers are abandoned there will be legislation which will strengthen the hand of Government in ordinary times, or rather enable the Government to take rather drastic action without having to declare a State of Emergency. Now, Mr. Speaker,

I welcome that idea; I can see very clearly the point made by His Excellency that you do not have to resort to the sledgehammer if you can possibly avoid it; and if you arm Government with certain powers that might be called—as I have heard them called—"twilight powers" then you may enable Government to take such firm action as will avoid the necessity of the sledgehammer. Now, if we are going to do that, and we are wise to do so I think, we might well have been advised in 1952 to have done that and so to have nipped the trouble in the smaller bud. But I must say, Mr. Speaker, that when we come to study this legislation we must make very sure that we are not preserving what are really Emergency powers in the guise of ordinary legislation. That is a fear which has been expressed by some of the hon. Members on this side, and I think they are right to express it. We do not want to deceive ourselves. We do not want to give the Government powers of serious interference with the liberty of the subject without the obligation to declare a State of Emergency. Then we are getting too near a police state.

At first sight, Sir, the legislation which has been published in the Bills before us now is within bounds; but I do fear that we shall have to look at it very carefully to make sure that we are not, in accepting that legislation, too greatly deceiving ourselves and giving the Government too great a power of acting at all times with Emergency powers without the obligation to declare a State of Emergency.

Now, Mr. Speaker, I was talking about the significance of the ending of the State of Emergency and I only have one more thing to say. Various people may seek to claim credit for the ending of the State of Emergency. It has been suggested that because of public clamour the State of Emergency has been ended. What I want to make clear is this: that you do not find any Government able to end a State of Emergency through public clamour; indeed, you get the reverse. The more clamour you get the more anxious Government is liable to become, and the more likely it is to cling to its Emergency powers. No, Sir, the credit for this situation which we have now, rest, it goes entirely to those who have made it possible; to those forces of law and order that we have in this

[Mr. Slade] from punishment, and doubtless there are many of these people who would be a great public danger if they were at large tomorrow. Therefore, Sir, I welcome the course that His Excellency has outlined, of still keeping under control people who are now going to be relieved of their punishment, until such time as we are sure that they are no longer a public danger.

There is only one further point that I would make there, Sir, that a man can be a public danger even without having the intention any longer to be such. People who have been public figures in the past may regret their past performance, but others in large numbers may remember their past performance and their past status, and look to them again as figureheads and press them to be figureheads. And so, Mr. Speaker, I do not think it is quite enough that—in the words of His Excellency—we should only assure ourselves that these men who have been dangerous have now ceased to be irreconcilable. We have got to go a little further before we give them their full liberty, i.e. be sure that, even though they are reconciled, they will not still be seized upon as a figurehead for mischief by others.

Mr. Speaker, now I only want to talk for a few moments on the future that the Governor, His Excellency, sees for us and the part that we—the members of the public—have got to play in that future. His Excellency spoke of looking bravely to the future; and, in a very striking phrase which the Minister for African Affairs used with reference to the Masai just now, I would like to agree with reference to all of us, not only the Masai, that "if we are backward it is because we wish to live in the past". His Excellency is asking us to live in the future. I was very pleased to see his reference to the spirit of challenge and adventure which he finds so strikingly around him. I am very glad that that spirit has struck him so forcibly so soon: because I can assure him that it is there in the minds and hearts of very, very many of us of all races in this country.

Now, that being so, Mr. Speaker, I only hope that His Excellency and his Government or his Ministers and other officers will use that spirit to the full; will really draw upon it to give strength to their arms and wisdom to their counsels.

[Mr. Slade]

It is not the first time, Sir, that I have made this appeal. I believe today I make it with greater hope than on other occasions.

Speaking yesterday or the day before, Mr. Speaker, the hon. Arab Member, Sheikh Mahfoud, said Government is not firm enough; and in a way, at any rate, he is right—possibly not quite in the way he meant. The reason Government sometimes appears weak is, I think, that it does not make contact with responsible public opinion at an early enough stage. Therefore, it blunders forward blifflingly, and hits a rock and has to swerve to one side. And it is that swerving to one side that gives the appearance of weakness that could easily have been avoided. Now, I have heard it said, Sir, that Government must govern; and that is true. But it is only half the truth. Government must govern with the support of public opinion. It is that second half that matters so very much. Sitting alone in a cloister or an ivory castle, people can work out very right decisions, very fine policies with which theoretically no one could argue. But still, however right those policies may be in theory, if they do not carry the public with them they are not right in immediate application. So much depends on the time and the way in which you put into effect a right policy, and that is where these members of the public with their spirit of challenge and adventure can help so much and can be used so much more. Examples, Sir, of what I mean have been only too clear in two White Papers we have had recently: the Paper on land and the Paper on the pyrethrum industry.

Mr. Speaker, with regard to the Paper on land I do not want to go into detail. There is plenty of time for discussion, and better quiet discussion. But it must be clear to all of us, including hon. Members on the Government side, that if only Government had spent a little more time in ascertaining the temper of the country, and the way in which things are understood by the public, and the way in which they are misunderstood, they could not have made such a bad start with this White Paper. There was help there to be had as to the timing and the formulation and expression of what Government intended which was not used, and hence a great deal of unsuccess-

sary trouble and fear. So it is, Sir, the Paper on the pyrethrum industry. There again, it would be wrong for me to comment on the proposals until we know whether or not the parties concerned can reach agreement among themselves; but it was astonishing, Sir, that in such a Paper, particularly a Paper affecting the future of a statutory board, that Government itself had created, composed mainly of unofficial members of the public, a board designed to look after the interests of a very large section of the public. Government should have plunged so widely without consultation with a wider range of responsible public opinion.

Well, Sir, those are two examples; but today we have an example that points the other way and gives, as I say, reason to hope that in future Government is going to use us more, and use us at the right time. And that lies in what His Excellency had to say to the Kenya National Farmers' Union yesterday. There, Sir, we do see His Excellency appreciating the help that can be drawn from us, and I only ask that he will continue to look for that help and use it; and I can assure him and how members opposite—not only for the Europeans or the Asians or the Africans but for all of us that there is always very responsible opinion to be found and used to great advantage at an early stage.

I beg to support, Sir,

MR. TOWERT: Mr. Speaker, Sir, I hope I will not take a long time this morning, but I have got twenty points to speak about, and I will take three minutes for each point, and therefore it appears to me not a very long time.

Mr. Speaker, Sir, before I say anything about what His Excellency told us in this House I should like to point out something which I thought was not very acceptable as far as I was concerned in this House during the time His Excellency was here. It is about the arrangement of the guests who came in to the House on that day, Mr. Speaker. I never thought that only one African lady was the only respectable person to sit on this side of the gallery. You people sometimes forget that this practice of racial discrimination—what you call the "colour bar" is not what you preach, it is: what you do: When Africans come

[Mr. Towett] and sit on the other side of the gallery and they see only one African on this side of the gallery and all the others are white. I do not think that is a good seat. We have got to have them mixed.

MR. SLADE: *Si monumentum queris circumspice.*

MR. TOWETT: Mr. Speaker, we are trying to create a country in which we live peacefully all together, and when you come and show discrimination inside the Legislative Council and colour practice, I do not think we shall get very far. I am sorry to have to point that out, but I think we have got to correct things as we see them and not let things worry us and spoil our otherwise good harmony.

MR. SLADE: On a point of information, the hon. Member points out things as he sees them, but I see three Africans there.

MR. TOWETT: Mr. Speaker, Sir, thank you for the remarks made by my hon. friend, the Specially Elected Member, but I was saying that it was on the day when His Excellency the Governor was expounding, or giving an exposition of his speech that there was only one African lady on that side on that day, and that African lady was Mrs. Amalamba. Only her—nobody else, and I was not speaking generally on what happens every day in the House, but I was speaking of that special occasion. I hope that the hon. Member is now satisfied.

Now, Mr. Speaker, I am now leaving that serious side of things, and I go to what His Excellency said. He said there is a new Government in England, a new Secretary of State and he also has a new Governor, and he thought that they will work hard to follow or to continue what their predecessors have done. Always, Mr. Speaker, when you are a beginner it is quite possible to look at the aspect of being a beginner from two points of view. If you are a beginner in an office either you are timid—by times and you do not work hard because you do not know what is happening, and so you need time to learn, and there is one aspect. The other aspect is, if you are a beginner you may do things because you are not timid, and then realize that you have done them wrongly, so when we

have two beginners—one beginner is the Colonial Secretary, and another beginner is His Excellency the Governor—we must be very patient and wait and see what these two beginners will produce for a country like Kenya, and what I ask for is patience for at least six months before we can begin criticizing our beginners.

My point number three, Mr. Speaker, is in connexion with something like this, which His Excellency said: "A clear pledge has been given that dangerous men will not be released until they have shown themselves to be no longer a danger to their fellow citizens." I accept that without reservation, but also there is another point of view. The fellow citizens who are supposed to be peaceful may at times in their co-operation agree to suppress others. You see what happens is this: we at times make laws because we happen to be the Government and we make laws and suppress others. So what I say is we should not make laws which appear to be terrorist in order to suppress others and to stop them from coming and dealing with us harmoniously. It is always like that. Government can combine and then suppress others and call them terrorists, whereas, from the point of view of justice, they are the terrorists.

My point number four, Sir, is connected with what the Governor said in the following words: "I am most determinedly aware that a Governor's first duty is to maintain law and order. Yes, nobody has challenged that, and to tell us is to imply that there has been some challenging somewhere. But law and order cannot be maintained in places where there is no food, in places where there is no employment, in places where there is no shelter. How can you maintain law and order when you are hungry? How can you maintain law and order when you do not have a house to live in? How can you maintain law and order when you have no work? Those are just thoughts. What we should do, instead of talking in terms of law and order is to try hard and create some form of employment for most of the people in this country and try to show them the right way to get food for themselves, get shelter for themselves, and then they will be peaceful. That is how law and order is maintained. Law and

[Mr. Towett] order, I could accept to be killed; I could accept to suffer in order to get food. I leave that point, Mr. Speaker.

I will go to another small item here. His Excellency the Governor said he was hoping, or it was the Government's intention, to strengthen the permanent law of Kenya at proved weak points affecting the public security. Yes, we accept that. We have not opposed that, but that law, which is supposed to be strengthened should have the support of the people. We are supposed to be the people, and the Government, as it is at the moment, is the Government of our employees, so we want to make it perfectly clear here that the employees must listen to the employers where they are to go. I, if I employ anybody in this world, I do not expect them to come and govern me, the employer. It is the other way round. I employ and I make laws, and so, Mr. Speaker, I want to tell this House and the Government that whenever any law made, it must be made with the approval of the people, and when I say "the people here in this House," I do not mean our civil servants, the employees. I mean we, the elected.

My point number six, Mr. Speaker, concerns the general provision by His Excellency to remove the Emergency Regulations. It was very nicely timed, but I have said that the Government could not have done otherwise. It was just a natural development of things, and I was not surprised that we came to the conclusion that the Emergency regulations were going to be lifted, because it was something you could not stop, so when the Governor told us that, I welcomed it as a natural development of things. But there is one Member in this House, Mr. Speaker—one hon. Member—Mr. Ngome, the Specially Elected Member—who said, and I put in inverted commas what he said. He "was not in favour of withdrawing the Emergency laws in the country," he said. He was "not in favour of withdrawing the Emergency laws in this country." I really do not understand. I may be, as I said before, mad, or if I am not mad, then it follows that the whole world is mad. Now, when we come here and we say we are to put things right, and somebody gets up and says we do not want to remove the Emergency Regulations, why

do we not have an island somewhere and then send people there who want the Emergency Regulations to be continued and send hon. Members—some of them—over there to live under the conditions of Emergency. We do not want them. We want peace in this country, and when we get up and say we do not want the Emergency laws to be removed, we are not talking sense. How can you stop it? It has got to come, and you cannot stop it.

I come to my point number seven. I quote what His Excellency said: "I should also make it clear that the releases which I have announced will not affect persons under restriction under the substantive laws of the country." That, I thought, was not the right thing to be included in this exposition of His Excellency's Speech. Of course, I am not blaming His Excellency, I blame the Ministers. I think we have 16 of them, or 15, and all those combined produced this very thin pamphlet; and then they allowed the inclusion of that statement which I have just quoted.

In that connexion, I came to think like, or people like, Kenyatta. I have all along been keeping quiet. I have never said anything about Jomo Kenyatta in this House, but today I think I should say something. I have never said he should come out. I have never said he should not come out. I have only just kept quiet, but today I feel that something has got to be said. When you have this Act of Grace, it is graceless if you do not go the whole way. The Act of Grace has been explained to us, what it means, and that Act of Grace would have done better and would have been welcomed if people like Kenyatta and his friends, and all of them were just let free. One thing which has puzzled me is this. If the Government is so afraid of Kenyatta in this country, why does not this very same Government let Kenyatta free to go outside Kenya until the Government feels that they can tolerate such a person in this country? I feel that very strongly. If we are afraid of him, let him go out and let him go and earn his living outside this country and his pay, and wait until we feel that now the country is good for Kenyatta to come. Why do we not do that? Why should we subject him to the horrible conditions at Lodwar? The climatic conditions are not good.

[Mr. Towett] Kenya could be of benefit to this country if he were to go out and go and write books for us. He could write books on anthropological books—books that would matter in the future. Let us have him out and if we are afraid of him, let him go outside Kenya and be free outside Kenya. Then, regarding Jomo Kenyatta's restriction orders, it was said that he was sent to Lodwar under the Deportation of British Subjects Ordinance, 1948, but if that is the case—if he was not sent to Lodwar in connexion with the *Mau Mau* charges—I think it is only right now to say that Kenyatta never had anything to do with *Mau Mau*. This 1948 Deportation Ordinance was there before *Mau Mau* started, and so Kenyatta should actually be let out, to go outside this country or to come to this country, and if he must stay there—a thing I very much regret—if he must stay there at Lodwar, we should not say he was in any way connected with *Mau Mau* charges, because he is now there under a different custody. He is a free man, and if we accept that when we come to power we shall call him to be our leader because he is not in connexion with *Mau Mau* charges—he is there under the Deportation, the Immigrant British Subjects Ordinance, and that would be very good. I am pleased he is free from *Mau Mau* charges and is under a different category now.

One Specially Elected Member, Mr. Ngome, again, I am sorry to say, said that he knew Kenyatta very much. They had worked together, they had eaten together, and they had been friends together. He had known Kenyatta for quite a long time, and then he went on to say that he would not either here or outside support any Motion in this House about Jomo Kenyatta. He would not support any Motion—mind you, any Motion—about Jomo Kenyatta. If there was a Motion about Jomo Kenyatta that he should stay at Lodwar, he would not support it. If there was a Motion saying that Kenyatta should come back, he would not support it. So, Mr. Spedker, he is a negative man. It is quite obvious. He will not support any Motion in this House—maybe he should not be in the House—either to support or to oppose.

My point number eight, Mr. Speaker, comes more to the House probably than

most of the things I have said. It is about what I call the "R.T.C."—the round table conference, not the Royal Technical College—and the hon. Member for Mount Kenya said that he had never been convinced why we should not have elections in Kenya before the round table conference. He wanted us to have elections, and have new Members in this House, and those new Members would go and have this round table conference. Now, let us go back to thinking. Who called this round table conference? Who called it—the people to come or the people here now? Those to be elected or those who are now elected? It is quite a side logic to say you go and ask for a thing and then when it is offered, you say, "No. I do not want to accept it—I want to go and get someone else to come and receive it."

Now, Sir, we demanded that we should have this round table conference. The African Members, plus our Asian friends, plus Mr. Cooke, and others, who gave us a lot of support in the idea and action, until we got the promise from the Colonial Office that they had agreed that we should have a round table conference. Now people at home did not know anything about what was happening, they did not know what our demands were. So it is like this, if the Colonial Office have accepted that there should be a round table conference then we already here do know what these people want, anyone newly elected will not know all the reasons why we wanted a round table conference. One can say that we can postpone it, or have elections first, but I was trying to convince the hon. Member for Mount Kenya that it is illogical to demand something other than that we have the round table conference when we are still in Legislative Council—because we know why we want it and we must go and see what we can do.

Now, in that respect, Sir, I should like to touch upon a very minor-point regarding the Specially Elected Members going to this round table conference. I have always said that the Government is sometimes wrong and crazy and unaware of what is happening. Is this a democratic country or not? We hear everybody saying that it is a democratic country. This is just incomprehensible to me—Here

[Mr. Towett] there are people who we regard as co-opted Members in this House, the Specially Elected Members. I just regard them as co-opted Members. Now, when we have them in the House we give them responsibility which is equivalent to that of people who are responsible to their people, namely, we, the Elected Members. The Government must think rightly. Let the Government nominate these Specially Elected Members and put them on the Government side; we would like to see them sitting there and hear about the Mombasa coast, and trees; and stories from the Bible from that side, let them cross the floor, but for them to be on this side of the House is just an absolute denial of democracy. We must be democratic or non-democratic so I believe that when it comes to this idea of Specially Elected Members going to Great Britain, if they must go, let them go there for a holiday. If they want to see the Colonial Secretary by themselves then let them do so because we shall not stop them. But we, the Elected Members, have got to solve the problems of this country, not the Specially Elected Members. If the Specially Elected Members want to speak about what they think then let them have a conference of their own. Did they ask for it? Were they brought here by the people at home? Why are they here? I just do not know why they are here, really, I do not know.

Well, Sir, my ninth point concerns the Masai and this is a very thorny point. I am supposed to represent those Masai because the Government could not, probably, think of getting somebody to represent them better than I could. The Government says that the Masai are incorrigible in several ways. They cannot be civilized, so the Government say, and therefore the Government has done nothing, it has made no effort at all to try to civilize them because the Government has taken the proposition that they cannot be civilized, and therefore, they say, it is no use doing anything at all for them. That is a very wrong attitude. It is very wrong. You cannot work that way. The Government says that the Masai like to live in the past. Who does not like to live in the past? You come here and tell us about British tradition. You held a very nice parade when the Governor came here. It was beautiful:

there were beautiful things and nice music, and so on. But it is that not living in the past? When you say that the Masai want to live in the past it does not mean that they do not want to live in the present, so if we must forget the past, will we forget this traditional parade which we have. Therefore we must have a mixed culture, the past and the present, so I would urge the Government to remember or to try and see what to do for the Masai. The Masai are mobile; they take their cattle from place to place for grazing. The way to civilize the Masai is to provide mobile schools. Masai schools, in caravans, big ones. Then, when the Masai go with the cattle the school goes with them. That is the way to civilize the Masai, like the Eskimos. That is the way. If the Government could do that it would be practical. The Masai children look after the cattle, and when the cattle are taken away the children follow the cattle so the school has got to follow the children and the cattle. That is the only way. I hope that the Minister for Education—I am sorry he is not here at the moment—will do something to that effect. We have got to civilize the Masai, or if you want them not to be very mobile what you can do is simply this: get some piped water into the Masai country and the Masai will live where there is water. If you get piped water into the Masai locations they will be more sedentary; they will live in one place more than they do now; and then you will be able to erect temporary schools there. That is what can be done.

We have been saying that Kenya is a wonderful country. Jomo Kenyatta said that Kenya was the land of conflict. I think he knew. Here we talk of television commissions and here we have a human zoo in Masai country. Now, how can you use the television, which is supposed to be coming, to civilize the Masai. Forget about television; forget about commissions for television and have a commission to go and look into the Masai ways of living. Let us civilize the Masai first before we think in terms of television sets and television for Kenya. What are we going to televise?

MR. ALEXANDER: The Masai.

MR. TOWETT: The human zoo. They are going to televise the human zoo and show the world and attract more tourists.

[Mr. Towell] That is the wrong way to look at things. We must remember that the British Government made land treaties with the Masai in 1904 and in 1911. They were pushed from Laikipia; they were pushed from the Rift Valley. They were pushed this way and that way; they were pushed, pushed, pushed. Then the treaties were made. Now the Government wants to open the land in the White Highlands for all people instead of taking the unused land and giving it to the settlers instead of the Masai lands, in the Rift Valley, and in all these places like Laikipia, instead of telling the Europeans there to go to other places where nobody is living and allowing the Masai to come back, they say that the Africans can buy land. This question of buying land can only come from an insensitive Government. You come and take my coat by force and the following morning you say, "Right, now you buy it." It is incredible. Why do you try to pretend? Does the Government think that Africans in this country do not know that this country was theirs? You cannot rehabilitate us so far as that is concerned. It is very difficult. How can you do it? We know it. Our children will know it. The only way, is to accept the fact that the land is ours and ask us to give you a piece. You see, I am not trying to be funny. I am trying to present the facts as they appear and as they are and as they were. If you want us to be without peace from now onwards and forever, Amen, it is because of ignoring the fact that this country, by right of past residence, was ours and is ours. You cannot forget that. You cannot deceive us and nobody will. Either we are killed, all of us, and the land becomes available for those who came after us, or we accept the fact that the land is ours and we can agree to share it. But the proposition must come from us, and it cannot come from the Government which is, after all, foreign. It cannot come from the Colonial Office. Somebody was referring to treaties made between the British Government by Mr. Churchill and the Colonial Secretary, and some people some time ago. Who gave him authority to decide things then? Did these men consult the Africans in this country? Did they? No. You tell of about pledges outside our field of action; you are not committed and we

are not committed. The British Government with its civil servants in this country made those pledges; they made their own pledges. They do not concern us in any way.

My tenth point, Mr. Speaker, concerns education. Well, we are told here that almost 18 per cent of our net expenditure is devoted already to education. I should like to see that figure raised up to 25 per cent. Reduce all the other unnecessary things and expenses and have this figure on education raised. Reduce the number of Elected Members in the House; reduce the number of Ministers; reduce the number Nominated Members or abolish them; then, and only then, will you have money for education.

MR. ALEXANDER: What about the piped water supplies for the Masai?

MR. TOWELL: That is a form of education. Now, let us do that. Give us peace in this country not by employing many policemen but by behaving nicely towards the people, the citizens. I know that when you reduce the police force there will be unemployment. How can we get out of this problem? When you reduce the police force you leave some people without work. As I said some time ago, we must create work for these people; we must try to borrow money and raise the figure of 18 per cent to a minimum of 25 per cent for education.

My eleventh point concerns the Royal Technical College being a second University College in East Africa. I do not know what will happen to Makerere College. Makerere College has got some tradition behind it, the British system or idea of tradition. I do not like, personally, to see the students from Kenya being debarred the chances of going to Makerere. It has got tradition and I do not want to be very parochial in Kenya and say that Kenya students should go to the Royal Technical College only. We want to have these inter-cultural studies. In Makerere, Sir, we meet people from Tanganyika and from Uganda, and during my stay there a long time ago, I met students from Northern Rhodesia, and we understand the world better. So I hope the authorities concerned in the future will not say that because we have the Royal Technical College in Kenya we shall not send our students to

[Mr. Towell] Makerere, because we must always try to send them to Makerere; there should be an exchange. That is right.

I am going to skip my point No. 12. It deals with agriculture and I do not think I should say much because our land at Kericho is nicely done. We have got very good paddocks. If anybody wants to see agricultural procedure they should come to Kericho and we will take them round and show them the country; they will come back highly impressed.

So, Sir, I come to my point No. 13. I must congratulate His Excellency the Governor on one paragraph which was put here. It concerns Sessional Paper No. 9 of 1959. It says, "Since the publication of this Sessional Paper negotiations have opened between the parties principally concerned, namely the Pyrethrum Board of Kenya and Messrs. Coits Holding (E.A.) Ltd., and the Government believes that the interests of the industry would be best served by agreement between the parties." Yes, I want the Government to go along those lines. I want the Government to realize that this country's affairs can best be dealt with if we get agreement from the people concerned. I am very pleased and I am very happy and I say that the Government could not have done better so far as that, Sir, is concerned.

I must rush. So far as my point No. 14 is concerned, 'Sir,' it deals with local authorities. I am sorry that the Minister for Local Government is not within local residence. I repeat that I do not want any other local bodies on a racial basis. I do not see why the Asians in Kericho should not pay rates to the African District Council there. I do not see why the Asians in some of our locations should not pay rates to the African district councils. I want us to have inter-racial or non-racial local authorities, of elected people. Why do we have all this nonsense about one council being an African district council, and another being an urban council, and another being a rural council. Let us simplify all these things in the local authorities and forget about colour and race.

I now come to point No. 15, and it was going to be the last one but I have some other points which came from

speed of some of the other previous hon. Members. This concerns Shakespeare. His Excellency gave us a portion from Shakespeare and I would comment on that by saying that in Shakespeare, you have comedies and tragedies, so I hope that we shall not have tragedies from our new Governor but that we shall have a lot of comedies from him.

I wish to comment on some of the points raised by previous hon. Members. I will skip my point No. 16 because I have heard it raised by someone else, and so I come to point No. 17.

Now, this is a very serious one. People want us to go to the Colonial Office for decisions. They want us to go and have leave in England. I do not know why we should. Sir, depend on decisions from the Colonial Office. Those people who still cling or stick to Colonial Office ideas have no faith in themselves. They know that they are incompetent to do anything in this country and they try to run and have refuge, not in God, but in the Colonial Office. Why all this? Why do you people not have faith in yourselves and say what is best for Kenya. How can we best improve this country and decide things?

Now, a wonderful thing is going to happen. We are going to Great Britain on 18th January to agree there. What a nonsensical idea. Why cannot the Elected Members of the people of this country, the rulers, the law-makers of this country, meet among ourselves? Do you think we shall go and meet God in London to put us right if we are not right here? It is just nonsensical. If we, as 36 Elected Members in this House, cannot agree here, then how shall we be able to agree when we go to Great Britain. How will we agree there? I just want to know. Why do people not think? Why do they think that going to Great Britain is going to change things. Do you think going by air, the aircraft will change us? If we choose to go by boat perhaps we shall be purified on the way. It is nonsensical. Let us agree to say that the 36 Elected Members can agree to meet here and talk and talk with good hearts and try, to see where we can agree. If we cannot agree here then why go to Great Britain at all for a holiday. It is nonsensical. I cannot accept. Unless we meet and talk honestly like honest

[Mr. Torwell] citizens of Kenya and agree on certain points, and see how we can live peacefully together, make concessions where necessary, and see how we do concessions are required, unless we do that, we might as well go to Russia, America, or to South Africa which is nearer. If we go to Australia we shall not meet God there to put us right or to make us agree. So the whole thing is on our hands, the hands of the 36 Elected Members. I wish some of my friends could see that point of view and I wish all of us 36 could see that point of view and agree here. For the Colonial Office have hinted, "Whatever you agree—", as God said: "That if two of you shall agree on earth about anything that you shall ask, it shall be done for you by My Father which is in heaven." The Colonial Office has said the same thing! "When you agree among yourselves, it will be done." Then, what is keeping us from agreeing?

My point No. 18, Mr. Speaker, concerns what the Member for Nairobi West said. He said that he wanted to appeal to the Colonial Secretary or somewhere that the English Press, when this conference is in England, should not put anything in writing or publish anything from us. Well, that is a dictatorial attitude. I did not expect the hon. Member would say that. We must let the people think and speak; let them say what they want. But if we know in our hearts what we want, we should not be afraid of what people say. So I do not want to accept that idea of appearing dictatorial to the Press. Let the Press go ahead.

I think this is the last one—my point No. 20. It concerns the police. I am always pro police but I think this time I should not be very much pro police. You see, during my travels between Nairobi and Kericho I meet several policemen on the way. But on one occasion I met a police officer who after we had talked rather heatedly told me that his area was not Nairobi. And I wondered whether we had two separate systems of law in Kenya, two systems of law in Nairobi and the law for police outside Nairobi. That is what I wanted to say about the police. I hope the Minister for Internal Security and Defence will try to talk to his police officers and show them that law or

behaviour should be uniform throughout Kenya. I do not want to hear any police officer telling me that, where he is not Nairobi, Nairobi is different from where he is supposed to be stationed. That is very illogical.

I have one "subpoint", or you might call it No. 20 (a). The hon. Member for Nairobi North in his nicely written speech and his audibly read speech said that it was difficult to meet Ministers and I must endorse that statement. Now, when one goes to the Secretariat one finds a big man by the door and at the counter who says, "What do you want? Do you know where you are going? You know? Don't go! Whom do you want to see?" One says, "I want to go and see so and so." "All right, do you know the room number?" You say, "Yes." "I will tell you, it is room No. 60 or 53," or whatever it is. The next time I go there he will tell me the same thing and there is a notice board for visitors—I do not know whether I am a visitor there nor what is meant by "visitors." When I go there I am in a hurry most of the time. I just want to go where I know I should go. When I have got an appointment at, say, five o'clock, when there is nobody in the office, perhaps I should go there directly. If I have got an appointment with the Chief Secretary at nine o'clock in the morning I must be there at nine o'clock. If I go there and there is somebody wastes my time on the counter outside for five minutes I do not like it. So I must support the statement that it is difficult to meet Ministers and even for Ministers to meet themselves—that was stated by the hon. Member for Nairobi North.

And, lastly, Mr. Speaker, I think I have not taken very much time, but I think I should conclude by saying that it was inevitable that the State of Emergency should be lifted or should be declared to have come to an end. It will be difficult for us to get anything that is considered a solution in England unless we agree here in this House—I mean the 36 of us. And what His Excellency said in his speech, Mr. Speaker, is not entirely or absolutely correct and I should not say it is bad but I should like to give His Excellency a name! he is element in his attitude.

So, Mr. Speaker, I beg to support—50 per cent support.

MAJOR DAY (Aberdare): Mr. Speaker, Sir, I personally would like to start by welcoming the speech from the Throne generally and anything I may have to say in criticism of it, will not alter the central fact that I consider that considering the time in which His Excellency had been in this country the speech was one which, I think, augurs very favourably for his tenure in this country in the future.

Now, particularly, Sir, I would like to say one or two words on the question of the Act of Grace. It has already been said by one hon. Member in this House that an Act of Grace is rather one of those gestures which are peculiar to us, the British people, and our traditions. It has been in the past, Sir, on many occasions been successful, and I hope sincerely it will be on this occasion. It is merely a question of whether the tolerance and the clemency—to use a recently quoted word—are abused or not abused. Having heard so many hon. Members in this House talking about the release of Jomo Kenyatta one begins to wonder, Sir, whether this gesture of clemency will, in fact, find the response throughout the country in all the races in this country which we sincerely hope it will because, if I may be permitted to say so, Sir, it is possible that I am one of the few or one of a small number, shall I say, of Members in this House who actually served in the reserves during the Emergency as a regular soldier. And the things that I saw on occasion there, Sir, perpetrated by Africans on Africans, were almost incapable of description—helpless women and children only just born.

It is therefore, Sir, my sincere hope that if the Africans are asking—and it is natural that they should ask—for an increasing share in the responsible government or in the responsibility of government in this country, they will show by their response to this Act of Grace that they are worthy of it.

Now, Sir, in so far as a lot has been said on this constitutional conference, I am one of those people who still believe that the true democratic procedure would have been to ascertain the recently formed opinion of the people of this country before proceeding to a conference such as this because, Sir, there is a danger that these repeated conferences

will nauseate all races in this country with the thought of conferences. You cannot go on, Sir, having conference after conference which does not come to good and does not produce that period of stability which I think everyone—every reasonable person here—hopes for and is working for; that period of stability which is indeed in my opinion perhaps the only hope for a reasonable future in Kenya.

I should like to touch briefly on education because I feel, Sir, there is a good deal of misunderstanding on this question. It is the universally accepted principle, politically both in the United States of America and in all the civilized countries of Europe, and indeed in Great Britain herself, that a man has the right to educate his children in the traditions and under the circumstances which he himself wishes and which he himself was educated in. I think if that factor, Sir, were recognized in this country, a lot of the misconceptions would disappear. Of course, there is always the fact that when you get the question of finance entering into it a certain degree of cynicism is made of this rather, shall we say, reasonable sounding axiom, and that is indeed, I consider, what the Europeans in this country are merely asking for.

So far as the franchise is concerned, Sir, it is to me something that has hardly been mentioned. It was, I think, only barely touched upon by His Excellency in his speech from the Throne. But nevertheless, it is a matter which is barely second in importance to this question of land which has exercised us so much in the very recent past. I think, Sir, it would be honourable and right if the Government were to give us indications as to how precisely they propose to go forward in this business of the franchise towards the final issue of Government, and how the final powers of Government will be vested in this country.

Now, Sir, I would like to talk not too briefly on land. There is a famous British song, Sir, called the "British Grenadiers" and it starts like this: "Some talk of Alexander, and some of—I think it is—Hercules; of Hector and Lyander and such great men as these." Now, I would like, Sir, at this juncture to hasten to reassure any particularly susceptible Member in this House that

[Major Day] I have no intention of or no idea in any way of referring, by using the name Alexander, to him personally. Now, Sir, I would like to continue by asking the indulgence of the House and to take you on a brief journey into the ancient world.

SIR CHARLES MARKHAM: Sirs; has done that already!

MAJOR DAY: Now, Sir, I would ask you to accompany me—painlessly I hope—to the day of Alexander, the Alexander in fact whom I am referring to: Alexander the Great.

Now, Sir, he had been pursuing his endless quest of conquest and he had reached a beautiful country and together with his forces and the camp followers, I regret to say, had chosen a site for himself where he could view the beautiful plains which stretched out in front of them and where he could on turning round look up to those forest-clad mountains which towered above this place. Now, I would like to say, Sir, that he was a very progressive man, Alexander, in spite of the fact, that he lived so long ago, and he after resting his people for a while decided that he should have a conference. He was not unconscious of the pressure of world events. He realized the times were changing in the ancient world and he said to his chief Minister, "I would like to assemble together here tomorrow not only my Ministers who are accompanying me on this campaign and my commander-in-chief but also—if you can find them—representatives of this country." Well, the conference duly assembled and there was a good deal of talk which I will not take your time up with but towards the middle of this conference his commander-in-chief approached him and said, "I have received a petition from the officers and men of your army, and it is this: they have now been marching through this country bloodlessly, we are happy to say, and we have decided to petition you that we should be allowed to settle here and to farm here."

Alexander, as I told you before, was an extremely progressive man and also he was very democratically minded because you must remember that Ancient Greece was the cradle of democracy.

SIR CHARLES MARKHAM: Ancient Greece?

MAJOR DAY: I would beg any classical scholars not to take me up too carefully as to time and space.

Anyway, having heard this, his first reaction was to say, "What about the inhabitants of this country?" to which his chief Minister to whom he addressed his remark said, "Well, the inhabitants of this country that we have met so far are very few. Seldom, in fact, have we ever progressed through a country where there were so few to be seen. In any event," said the Minister who was famous, among other things, for his after-dinner speeches, "these people appear to be very war-like and they are apparently perpetually at war with each other. But they appear, nevertheless, to be very friendly disposed towards us."

So, after a good deal of investigation, the Emperor was told by his chief Minister that he could see no reason why this soldier-settler scheme should not come about. And also his commander-in-chief mentioned to him quietly, "You may remember, your Imperial Highness, you did mention the possibility of establishing a base here and that must be taken into consideration also." So finally Alexander said, "Yes, I will agree to your scheme providing no single inhabitant is deprived of his property in this land. Any land they possess must be guaranteed in perpetuity." This was satisfactory so far as it went and the commander-in-chief then turned round and said, "If we settle and make our lives so far away from what have been our homes, is it not fair that we should have similar assurances?" To which Alexander replied, "I will agree to no scheme that did not apply to every race in this country." The commander-in-chief then said to him quietly, lastly, "One last word if I may, I am a great friend of your chief Minister but, after all, he is a politician and we would much prefer to have the assurances under your name for all the races. Politicians have been known to change their minds." Alexander looked at him, smiled and said—nothing.

[Interjection by Mr. Alexander.]

MAJOR DAY: If the cap fits wear it. And that, Sir, brings us to the end of what, I hope, has not proved to uninteresting a little journey into the past and I would now like to come back to the present day here in this country.

[Major Day]

A similar situation, Sir, in a sense, confronts this country, today, in so far as the Europeans are concerned, and I am a European Elected Member, and I therefore propose to put their point of view. Similar assurances were given in the past to induce people to come and put money, skill and their lives into Kenya. I refer to the European farming community.

We are told in some quarters that these are not binding legally. We are told in some quarters that they are meaningless today because the world has changed, and is changing so rapidly. Well, Sir, I contend that the world has always been changing. Sometimes, admittedly, more rapidly than others, but I think the basic virtue of honouring obligations, Sir, should never change, otherwise what is honesty, and what can be relied upon and what cannot.

I will not bore you—Sir, if the hon. Member wishes to say something I will be pleased to give way. I will not read out, because I know the hon. Member for Mount Kenya read out yesterday the various pledges—they may bore you, but even if they bore you I intend to go on talking about them. I will not, however, bore you to the extent of reading them out again, but I do consider that there is this moral responsibility. I do consider that these pledges which have been given in the past must be considered, and I cannot believe, finally—I cannot believe—that they will not, in fact, be considered.

And one last word, before I sit down, is this. Having heard the last hon. Member who spoke I would like to say that I agree with him entirely that we should approach this conference in a spirit of complete and utter honesty. We are certainly at one on that, and I was a little surprised to hear him say at one juncture that the hon. African Elected Members had forced this conference, or produced this conference, and then for him in the latter part of his speech to turn round and say that he considered, as far as I could judge him, and if I am wronging him I am prepared to take it back, that he did not consider that this conference should, in fact, take place, but it should be decided out here among the 36 Elected Members. That, Sir, I think, has a good deal of merit in it—

that suggestion—but one is forced to wonder precisely what he means, when in his speech of some duration he apparently completely contradicts himself in the course of it.

Now, finally, Sir, I should like to say that it has sometimes been suggested that those people who think like myself are not looking to the future. Sir, that is, indeed, precisely what we are doing, and I must remind you that although it is an adventurous gesture to go marching boldly forward into the future, you never march without assurances—you never march without ration—and you must inevitably be conditioned, under any circumstances—we all are—every single man—every single Member in this House—by the past and so I would lastly suggest to everybody present here today that you cannot ignore the past, because we are the result of the past, whether it be bad, whether it be good, whether it be indifferent.

I beg to support.

MR. MILLER (Director of Education): Mr. Speaker, Sir, I think it would be fair to say that the trend of the present debate has been the suggestion that there should be a new look for Kenya. I would not be so presumptuous myself, Sir, as to suggest I should try to make a completely new look for education in Kenya, though I note that the Member for the Southern Area was quite prepared to make the rather odd suggestion, that schools, at any rate in Masailand, should be put on wheels. I am afraid I cannot really accept his suggestion of mobile schools.

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

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

But I would like to put in a plea, Sir, for a more realistic attitude in this country towards the problems of education. It seems to me the average person's attitude to it, more than to any other service, is very unrealistic. From the speeches made and opinions expressed, it both inside and outside this House, it would appear that many people think that my hon. friend the Minister and myself should perform the role of

[Mr. Miller] magicians. We should be able, at anybody's will and behest, to produce out of our pockets, like rabbits out of hats, intermediate schools and teachers and everything that education requires. Unfortunately, we cannot do that. I was glad to hear the hon. Member for the Central Province South urge a realistic approach to Kenya's problems. He was speaking mainly, I think, of the forthcoming constitutional conference, but I was disappointed at his failure to apply this realistic attitude to education. He demanded, apparently immediately, universal primary education of not less than eight years for all African children. Now, we often hear of this demand in the House and elsewhere, but we seldom, if ever, hear anything about the proportion of African children who are actually receiving eight years' education at the moment, and I think it is important that I should point this out.

There has been, as was mentioned in the Speech from the Throne, an investigation into district education plans for primary and intermediate development over the next development period. If these plans materialize, as I am confident they will, the proportion of African pupils in intermediate schools all over the country by 1962 will rise to 27 per cent. I agree that this leaves considerable room for improvement, but when one considers that ten years ago there were practically no intermediate schools at all in this country, one sees what great progress has been made. That is the overall average over the territory as a whole; but there are certain areas where effort has been concentrated and where the figures are better. For instance, in Nairobi, we are approaching the figure of 70 per cent. We certainly shall, over the next few years, obtain universal education up to seven years in the cities.

I would also like to assure the hon. Member for Mombasa, that we have plans for similar expansion in that area.

Now, Sir, I note from the previous debates that various estimates have been made as to the additional cost of introducing seven- or eight years' education for all the children of this country. These estimates have varied from £10,000,000 to £20,000,000. I am not very satisfied with these figures, but I have made some investigations of my own. These show

that if expansion proceeds at the present rate from 1961 to 1965 the percentage of children in intermediate schools would rise from 27 per cent, which I have already mentioned for the year 1962, to an estimated 33 per cent in 1965. That is assuming progress at our present rate. But supposing one sets ones target over this period at 50 per cent of the children for such a course, my approximate estimate of the additional cost to the Government of this exercise would be one and a third million pounds spread over the five years in question. In addition to this one and a third million from the Central funds, the African district councils would be involved in something like £600,000 in addition. That would make a total increased expenditure by Government and the A.D.C.s of £2,000,000 over and above what we now expect to spend to achieve this target of intermediate education for 50 per cent of African children in the country. In addition to this the African district councils or some other local body would be involved in capital costs of something like £600,000 over the period even assuming that these buildings were all put up in traditional materials.

On the teacher training side, too there would be additional cost to the Government of something like £500,000 over the period in question. I do not imagine my hon. friends opposite would be satisfied even if 50 per cent of the children were attending, and I therefore made the further calculation to estimate the cost of two-thirds of the children going through the whole course. Here I estimate the additional cost to the period at 2.2 million to the Central Government, with £1,000,000 to A.D.C.s, making a total of £3.2. There would also be very considerable capital costs. I would mention these costs because they do show the magnitude of the problem, although it is a problem, I agree, which we have to face.

As hon. Members may be aware, there is, at the moment, in the Nyanza Province, a departmental committee at work looking into this question of the difficulties of financing education. We have chosen that area because the difficulties are particularly acute in that part of the country. I am very hopeful that this investigation will produce a lot of most useful information which may, I hope, indicate to us certain ways in which

[Mr. Miller]

we can rationalize our schools system and perhaps save a great deal of money on our present primary schools, and put that money to this very badly needed development.

I must point out, however, that the problem is not only one of intermediate schools. At present 10 per cent of the intermediate children go on to secondary schools. If, therefore, the number of intermediates show a great increase, then we shall have to go on and maintain vast expenditure on secondary expansion, which would also be necessary. We are constantly told—and rightly told—of the needs of this country for an increased number of local civil servants, for an increased number of candidates for Makerere and the Royal Technical College and for entry into local industries, etc. All these demands require expansion, and I would like to remind my hon. friends opposite that one cannot expand one part of the system without meeting similar additional demands for other parts. We must therefore look at the system and our problems as a whole, and that is what I propose to do. We are at the end of one planning period, and we must certainly produce further plans, but they must be realistic.

The hon. Member for the Southern Area has referred to education in Masai land, which he described as practically non-existent. I am sorry he is not here at the moment, but I would like to point out that we have paid special attention to the needs of the Masai, and in our plans for 1962 we have included provision of £12,000 for a girls intermediate boarding school. We also give remission of fees in Masai schools to a much greater extent than the 10 per cent which is the normal rate. I would also point out that many Masai live in the Ngongu area, particularly those interested in education, and they can, and do, avail themselves of the educational facilities in the Nairobi area.

My hon. friend, the Member for the Central Province South also suggested there should be the same per capita cost of the various forms of education, etc., irrespective of race. Here again, we have to face realities, one of which is that we already have in this country over 3,000 aided primary schools for Africans. The great majority are scattered all over the

country, and some are in very remote areas. It happens, in the case of Asian and European children, that they are mostly concentrated in the urban areas, and I suggest, Sir, that it is quite unrealistic to suggest that the per capita expenditure on children attending these 3,000 or more aided schools in the remote parts of the country should be the same as the per capita expenditure for children of all races—I repeat of all races—in the towns. I would also like to point out that the difference between the various types of schools, especially at the higher levels, with regard to cost are not so great as many people think. To take one example, for instance, At European secondary schools the net cost per child to Government per year is £104. At an African secondary school it is £59, so there really is not very much difference at that particular level, though you will realize, of course, that this is partly due to the fact that the Europeans at their school pay a very much higher rate of fee.

Now, Sir, if I may turn to the remarks by the hon. Member for the Central Electoral Area, I understand he is worried about the continuance of double sessions of Asian schools, and maintains nothing is being done about it. I am really getting rather tired of his despondent attitude, which is completely based on ignorance—although I do not think he is really ignorant—but I would like to believe that he is. I would point out as a result of building new primary schools or extending existing Government primary schools, 640 new places have been provided between 1957 and 1959, and a further 3,360 places are expected by early 1960—a total of 4,000 new places in Government primary schools. In addition, Government capital grants in aid enabled aided schools to provide 3,065 new places in 1957/59 and a further 2,640 by early 1960—a total of 5,705 new places in aided schools. To claim that nothing has been done to reduce double sessions when over 9,000 new places at primary schools have been, or shortly will be, provided, is obviously quite absurd.

I must point out too, the annual increased enrolment at Asian schools is high, being about 10 per cent per annum regularly. If Asians themselves increase the rate then of course our efforts to

[Mr. Miller] reduce double sessions will be correspondingly less effective. Otherwise, there will certainly be a big reduction in double sessions in 1960.

The same hon. Member also made his usual excursion into the mist of time regarding past development programmes, and I do not intend to bore you by referring to this in detail.

However, I would like to correct one very serious misstatement of fact about the present programme. He stated that he had it in black and white that £400,000 in the present Development Programme would not be spent. That, Sir, is quite untrue. The fact is that up to 30th June, 1959, we had spent £203,000 in the first Development Programme, leaving £411,000 to be spent during 1959/60 and we have firm plans for carrying out all this expenditure. During the first four months of the current financial year over £150,000 of this money has been spent. I have no doubt whatever that with continued co-operation from my hon. friend the Minister for Works this programme will be completed and that all the financial year will be spent by the end of the financial year. I trust when that happens the hon. Member will not hesitate to apologize to Members of this House for his misleading prophecies.

He also referred to the advisability of extending compulsory education to all Asian children throughout the territory. I can only say here, Sir, that I do not like the term compulsory education; it is a misnomer when you consider that school fees have to be paid at all schools. It is, however, our aim to introduce universal education for all races as soon as we possibly can, and on the Asian side we have made very great steps. I think, in that direction, I would say myself that there are not more than 1,000 Asian children, many of them girls, for whom there are no places in the schools in this country, and they will be children living in small and most-remote areas. It is very difficult of course to be accurate on these things because we have no up-to-date figures; we do not know how many children we are trying to cope with in the various sections.

The hon. Member for the Eastern Electoral Area joined my other hon.

friend with a complaint about the English paper in this year's Kenya Asian Preliminary Examination—I am glad to see that my other hon. friend has now entered; I am sorry he missed some of my replies to his remarks—I have made enquiries about this paper, Sir, and I consider that it was a perfectly reasonable one. The examiners, too, tell me that the proportion of passes is proving to be very adequate. I would like to remind hon. Members that even if this paper were not satisfactory that is just the sort of situation which the much abused moderation system was introduced to put right.

I have endeavoured today, Sir, to show some of the progress made in education and to estimate roughly some of the additional sums which will be needed to bring about the much required expansion. I venture to express the hope that hon. Members opposite will bring to the notice of their constituents the more pleasant facts of educational life in addition to expressing the unpleasant ones. I say this because they appear only too ready to attack the defects of the educational system and to use this as a political stick with which to beat the Government. No doubt that is a legitimate form of attack, but I do suggest, in all fairness, that the achievements in the educational field, as well as the failures and deficiencies, should be publicized; and I have tried to do this to some extent in my remarks today, Sir.

With these words, I support the Motion.

MR. ALEXANDER: On a point of explanation, Mr. Deputy Speaker, answering a question recently the Minister for Education said that additional primary and intermediate education for every child would cost an additional £10,000,000 a year. How does he reconcile that with the figure, now of two-thirds of African children going to intermediate school and costing only an additional £1,000,000 a year?

MR. MILLER: I would like to repeat my remarks. If I may, Sir, Lots of people have made many attempts at producing this figure. I have made another attempt today at tackling this particular question of the cost of expansion of intermediate education for a limited number of Africans. The figure quoted just now was for universal primary intermediate education

[Mr. Miller] for children of all races. I do agree that we have got to make up our minds how much this is going to cost. I will look into it and give final firm and agreed figures as soon as possible.

MR. NGALA: Mr. Deputy Speaker, Sir, I rise to support the speech of His Excellency the Governor, but I have a few observations that I would like to make. I do not have as many as 20 points and therefore I hope that I will not bore the House.

The first point I would like to make concerns education. I am very pleased that the Royal Technical College has got this new status of being a second university college in East Africa. I think here I should show real appreciation of the efforts the Minister has made, besides the efforts which were made by the Director of Education and the Chairman of the Governing Council of the Royal Technical College. However, I am very disappointed, Sir, that in the development plan which has just been described by the Director of Education there is not much hope for the Africans. African education in the past has not measured up to any standard at all, and even last year we emphasized to the Director of Education that a standard of African education should be created. We reiterated the fact that European education had a standard and that the Education Department was struggling to maintain a very high standard; and we also said that the Asian education had a standard but that the Education Department was trying to improve the standard of Asian education. Now, the Director of Education has just said that we must take a realistic attitude in dealing with or spending money on education. I do not think that the system of education is realistic because on the one hand you have a section of people who have a standard of education which is being maintained very efficiently on the public money, and on the other hand you have one community which has no standard; and how the Director of Education can explain this balance, and how he can justify a system of education which is so lopsided, is a mystery to me. I maintain very strongly, Sir, that if the Minister for Education will justify the system of education, particularly for the Africans, the

standards of European education must be lowered and the standards of Asian education must also be lowered so that the African system of education can be improved at this stage. It is no use giving us figures in millions and in thousands when the present money that is given by this House to the Ministry of Education is spent with discrimination; and I am very much against this. I think that something must be done about the system of education as it stands today.

The other aspect of education, Sir, which I would like to touch on is the explanation of the development of intermediate schools. I am pleased to see, Sir, that there is a Commission of Enquiry starting in Nyanza. I hope that this Commission of Enquiry will come up with something pointing out as to how the expenditure should be made on the elementary education for the Africans, but I also hope that it will be followed up by seeing ways and means of how to get the money so that the standard of education for Africans can be improved.

I agree that the number of Ministers should be reduced, as has already been suggested by so many Members, and also that the number of Nominated and Elected Members just here should also be reduced. Perhaps if that were done something could be done to give the Education Vote more money so that this system of education in Kenya is made less weak and less racially bad.

I was eagerly listening to what the Director of Education would say about teacher training plans. This year our results of the Kenya African Preliminary Examination have been very bad. I pointed out last year that the staffing in the intermediate schools was very bad. It was very inadequate in the sense that teachers of the right calibre or teachers of the right qualifications were not in the intermediate schools. I would like to point out to the Director of Education that most of the Members of the Legislative Council here have not been teachers in intermediate schools and therefore I am not referring to the ex-teachers who are in the House.

I wanted to see the Development Plan on how the teacher training system in Kenya would be developed so that in the next development period from now until

[Mr. Ngala] We see exactly how the intermediate schools are bound to increase, and also how the staffing is going to improve. That was a very serious omission, Sir, in my view, so far as the exposition of the Director of Education was concerned. I hope that the Minister will tell us a little about his plans for the teacher training in the country, particularly the K.T.I. group.

Now, while on the policy of education, I would like to deplore very strongly the discriminatory way in which the K.T.I. African teachers are treated as against the Asian/K.T.I. teachers. This is a very fair copation on the part of the African community because I think the Minister also realises it, but I do not know what political pressure is on the Minister's hands which makes it impossible for him to effect that change. I hope the Minister will explain his immediate steps in trying to do away with this type of discriminating among teachers of the same qualifications serving the same country and serving in the same type of schools.

Now, Sir, the other point that I would like to touch on was mentioned by His Excellency in his speech, that the Vagrants Ordinance will be strengthened. The present situation, Sir, is already serious. In places like Mombasa there are Africans genuinely looking for work. They have no intention of disturbing the law and order or even the security of the town. They have been arrested and put back in their districts which, in some cases, are only about a mile from Mombasa. Some of these people only have to cross a bridge to Likoni or Kisauni or to other places. Now, Sir, I think that strengthening an Ordinance of that kind will only result in extra and unnecessary action being taken against the Africans. I must point out, Sir, that this strengthening of this particular Ordinance has, so far as I know, applied only to the Africans. There have been jobless people of other races in the places I am talking about who have not been touched at all although they are going about looking for work just as Africans are going about looking for work. Now, His Excellency emphasized that a person would be about the town affected the security of the place. But, Sir, to my experience, these people who have been arrested and

put back into their districts have not been proved to have been interfering in any sense with the security of the townships; they happen to have had no money in their pockets. Many policemen have inspected them, as to whether they have money in their pockets. Now, I do not see why a person who is looking for a job should be expected to have money in his pocket to buy his lunch, because he is looking for a job to get the money, and there is no sense in inspecting him as to whether he has any money in his pocket so that you can be sure he will be able to buy his food or maintain himself reasonably. If he had money he would not have bothered going to the town in order to look for work. He looks for work in order to get money. I hope that such an Ordinance will not be strengthened because what we have already now is a sufficient bother and a sufficient hardship, particularly on the Africans. I hope it will not be applied discriminatorily, as it is being applied now, only on the Africans. So far as Mombasa is concerned, Sir, I hope the Minister concerned will take a serious step so that any person who can tell the police that he is living at such and such a place, in such and such a house, and is genuinely looking for a job, will be left free to look for a job. I think that any way of mistreating them according to this Ordinance is entirely unnecessary and unfair. I am not suggesting that people who are interfering with security should not be touched, but I am suggesting that people looking genuinely for a job should not be interfered with because they are in their own town. That town is in their own country, and I think they should not be disturbed unnecessarily.

The other point I would like to touch on is the question of the oil refinery. I am particularly grateful that the Minister for Commerce has made this very terrific effort and got this for us, but I would like to know a few things about it. The refinery will use much water, and I understand that this refinery is going to get water at a cheaper rate. Now, I would like to know from the Minister whether the extra charge on the water will be on the taxpayer of this country or whether the Minister is going to arrange things so that we do not have to suffer for the existence of this oil refinery.

[Mr. Ngala]

The other aspect I would like to touch on is the fact that supervision of the labour there, has been very poor indeed, and the oil refinery will add to the labour responsibility at the Coast. At the moment the whole Province, I think, is having about three officers, all placed in Mombasa.

Now, the other places up in Malindi, Lamu and Vanga and all these Taita areas, they have nobody, no officers to run up and down, and some places are not seen for a year or six months. Now, I think this is a very hopeless arrangement. People are being employed without being seen by inspectors of labour for years. It is only by accident that you come across an incident and then you put it right. But generally, the placement of labour officers in the Coast is very, very ineffective and very, very poor, Mr. Speaker. I hope the Minister will explain to us how he is intending to change the placing of labour officers in the Coast and labour inspectors in the Coast so that effective inspection can be done.

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

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

The other thing is the difference between the attitude of the Labour Department to people working in townships and people working in the rural areas. There is already a Motion, Sir, which I think will be discussed and we shall have the opportunity of arguing our case but I think this is a very serious weakness, where an Ordinance is not existing, which could help the people who are working in the rural areas because I think that in some places they are being heavily exploited by employers and due to the bad playing of officers there is nobody to check up on what is happening in many areas. This is something which should immediately be looked into so that it could be put right.

Now, the other point that I would like to touch on is the question of the Emergency. Now, I am pleased that the Emergency will soon be ended but I am very sorry that the Emergency Regulations are going to be incorporated into

the ordinary life of the people. This state of affairs is very discouraging to the African community because to us it looks as if, as the hon. Member for Central-Nyanza has said, it looks as if only the word "Emergency" has been removed but the effects and the conditions of Emergency are continuing with us. And this does not make the position any better. The Coast Province, for example, has not known the Emergency in a real sense except in the sense of the measures over political restrictions on political meetings, political organization restrictions and many other measures. If these measures are going to continue what is the difference between having the word "Emergency" on and having it removed to us and to many other people who have not had the physical effect of the Emergency? I have noted that the two Bills will be discussed in this House and probably I need not go into detail on the two Bills.

In the minds of many Africans, it is completely impossible for us to disassociate Jomo Kenyatta from the Emergency and for this reason we would have liked to see that the declaration of the end of the Emergency went with the release of Jomo Kenyatta and the other colleagues in Lodwar. This could have brought a real sense of relaxation and a real sense of appeasement on the part of very many Africans in the country. But we notice that it has not been possible or that Government has not seen fit to release Jomo Kenyatta and his friends. However, I hope that Government will review the position seriously from time to time and see that he is released and his colleagues are released.

We believe very strongly as the Mover of this Motion suggested that it is characteristic of the British Government to review aspects from time to time and I hope this characteristic will be applied on this part of Jomo Kenyatta and his other colleagues so that in time they are released and become free people among themselves.

As far as the land policy is concerned, Sir, I have very little to say because much has already been said but I would like to emphasize that a lot of headaches that have been created on land matters in this country have been created by the

[Mr. Ngala] Government originally. The Government has used from the time they first came in this country a wrong approach to the land question. The Coast Province, for example, is where we are having a lot of headaches because the British Government and the Sultan of Zanzibar used a very wrong approach in interfering with the African land. It is no use trying to pretend that it is not African land. It is just like somebody who has a sword and tries to pretend that he has no sword. This we know is African land and the point is, this is the Government going to acknowledge this? Then it can work all its schemes with the co-operation and the consent of the people who are the owners and rightful owners of the land. I would like to say that all the land that we have belongs to the Africans originally and it is the property of the Africans but we do not say that any other people who come to Kenya cannot use the land. All that we are saying is that there should be proper consent from the owners of the land who are the Africans.

Now, as far as my hon. friend, Mr. Ngome, is concerned, his remarks have been dealt with and although I intended to express my views very strongly I think a lot has been taken away from my mouth by other Members. Therefore, I need not say much to say that this is a honourable man feels that because there is much robbery in Kenya and much stealing in Kenya and much intimidation in Kenya, therefore Emergency regulations should continue. Now, if a lot of stealing justifies us having Emergency regulations continued in the country or being incorporated into the ordinary life of the people, then every country in the world would have Emergency regulations every day and every year because there is stealing everywhere, there is robbery everywhere and there is intimidation everywhere and I think this is a piece of logic which no Member other than this hon. Member does appreciate in this House.

The other point, Sir, which is my last point and I would like to touch upon is conference. Now about the round table conference, I have two points to make. The first point is that we have all asked for

the round table conference, particularly the African Members who have been very much concerned and we are going to discuss our Constitution but I would like to remind the Government of Kenya and the British Government that they have a real responsibility towards the success of the round table conference. It is no use saying that we shall leave it to the people of Kenya to agree first before coming in. It is no use saying that the communities must agree first. It is quite clear that different communities have their own personal ambitions and aspirations—Some of them, however much of a minority they are, would like to have the upper hand in the Government of Kenya. Some of them, however unrepresented they are, would like to have a say. But I feel very strongly that the British Government has a real duty and the Kenya Government will be well advised to advise the British Government to see that the forthcoming round table conference is a success. At least the Kenya Government should not fail to induce the British Government to point out, however vague it is, what the political objective for Kenya is, the direction and the goal for Kenya. To us we have to state very clearly that our goal is a Government which is democratic, a Government where all the citizens share equality, political equality, and we have made it quite clear that things like a qualitative franchise are completely unacceptable to us. There are some people who have feared being dominated by Africans. Now, if you come to a country, for instance, if I go to Denmark or Holland or go to Spain and if I fear to be dominated by the natives of those countries, surely I must have something wrong in my head! I happen to be in a strange country, I happen to be in a country with the indigenous natives who are naturally more than the other people who have just gone into the country. Therefore domination is necessary. Whether we like it or not, we must be dominated by the indigenous people. The question is, are we prepared to acknowledge the domination even before we go to the round table conference because if we do not accept domination before we go to the round table conference I can smell quite an unpleasant situation in London during the discussion. There are some people who fear to be swamped

[Mr. Ngala] Kenya—political policies—and I hear a lot of insincerity and I believe this has come about because of the personal ambitions and personal ambitions that different people have if we could look and be realistic as we are told to be realistic from the other side. If we are very realistic we shall see that the problems at the round table conference are of the right mind and if they have the right attitude. But further than this we cannot go. We cannot be asked to sacrifice our majority right for the fears of the minority people. This is quite unfair and nobody should ask us to go lower than what we have already done. It is true that the minority groups have some fears but these fears should not be used to be an obstacle against the rights of the majority. Once you do that, then you create a situation which is completely impossible and you create a situation which will encourage African nationalism which will sweep everybody off their feet. Whether you like it or not this must come and the only answer is to have a right attitude to a very inevitable situation.

Now, those people who feel that they can hold up this very inevitable situation or inevitable consequence are, I think, in my view seriously deceiving themselves. We are not prepared to be debarred by any small society just on their selfishness, and on the other hand we do not feel that small societies should be mistreated in a majority. If we are out for integration, going together as Kenyans as many people have said, then all this question of multi-racialism and partnership and government on racial basis, all this talk should go because once you embark on that you are on very dangerous ground. There are some people who believe that they are economically the more important community. I think this also should go because whoever has made capital or whoever has investments in this country, he must depend on the majority either for their labour or for their co-operation or for their attitude. Therefore, we are all necessary to one another in this country but the attitude which the minority have towards the majority must be changed. Must be put right. There is a lot of difference, I must say, Sir, as far as the different political policies are concerned. There are about four policies today in

Kenya—political policies—and I hear a lot of insincerity and I believe this has come about because of the personal ambitions and personal ambitions that different people have if we could look and be realistic as we are told to be realistic from the other side. If we are very realistic we shall see that the problems at the round table conference are of the right mind and if they have the right attitude. But further than this we cannot go. We cannot be asked to sacrifice our majority right for the fears of the minority people. This is quite unfair and nobody should ask us to go lower than what we have already done. It is true that the minority groups have some fears but these fears should not be used to be an obstacle against the rights of the majority. Once you do that, then you create a situation which is completely impossible and you create a situation which will encourage African nationalism which will sweep everybody off their feet. Whether you like it or not this must come and the only answer is to have a right attitude to a very inevitable situation.

With these few words, Sir, I would like to support the Motion.

Mr. COWIE (Director of the Royal National Parks): Mr. Speaker, Sir, I always think it is somewhat of a miracle that any new Governor or any new senior member of the Civil Service can come to a country, and within a very short time acquire such a remarkable grasp of what is going on in the country, and it therefore pays great tribute to His Excellency in the speech which he made. It also stands as a tribute to the Government machine for being efficient and capable of informing His Excellency of the essential factors in this country. But, Sir, it is inconceivable that any speech, or any communication from the Chair would ever include all the points that all the Members of this Council would like to hear, and I think that, perhaps, gives one some opportunity of justification for mentioning one or two which stand as omissions.

The subject, Sir, in which I am particularly interested is the use of land, and I hope that the hon. Members opposite will not have to play a game of 20 questions to find out whether I am talking about animal, vegetable or mineral.

I accept, Sir, that in Paper No. 10 there are various proposals for the creation of new boards and the change of status in other boards, but I do not think that Paper provides the opportunity of turning attention to what I regard as the most important thing, and that is the use of land.

[Mr. Cowie]

As I see it, we have a Judiciary which is built up in the tradition of our race and of which we are very proud because it is isolated from the Executive. It stands as a defender of the rights and liberties of people. When you come to land, we have no particular authority in this country charged with the trusteeship of the land and how it is used. I have seen, over the years, many competitive schemes, even Ministries in competition with each other, and Government departments in competition, and other uses of land which are not in the interests of the land, and lurking beyond our borders and not very far is this threat of the encroaching desert. I know it is a statement which many people do not believe, but it stands there as a threat, and if we do not safeguard our land and our water I think all these other things such as the end of the Emergency and the release of prisoners or a constitutional conference will become less important because we will not have the land and the water which is necessary for our very survival. I therefore commend, Sir, especially to the hon. Minister for Agriculture, that there would be virtue in setting up what you might call a "Land Use Board". I think it should be a very small body, mostly of technicians or scientists, advisory only to the Council of Ministers, or really to His Excellency the Governor. I do not think it should be under the chairmanship of any particular Minister, but its functions should be as a trustee of the use of land, and therefore not under any particular Ministry. If that were done, Sir, I think it would augur well for the future of our forests and our agriculture and our use of land, so that in time to come we would not find that we had plundered it, and therefore reduced the opportunity of keeping our water supplies and the number of people who could live on the land. This use of land, Sir, naturally brings me to my main question, and that is the preservation of wild life.

I am very grateful to hear, Sir, that it is possible that the Game Policy Committee Report and the White Paper on it may be brought before this Council fairly soon. I only hope that it can be debated at an early stage, because there are a number of questions which require fairly urgent attention. That unfortunate Game Policy Committee, of which I was

a member, was appointed in 1956, and it was a very strenuous effort on the part of the members to refrain from knocking each other's heads off. It was an extremely difficult committee to handle because the problems were so great, but they came forward with a report, which was signed in March of 1958 and, therefore, it is, I think, Sir, very timely that it should be considered soon.

The kind of questions which I think require attention, Sir, are first of all the appointment of a Chief Game Warden. In this country now we have run for a period of something like a year without a Chief Game Warden, and the Game Department has had great difficulty in fulfilling its duties. I can remember the day when, in the period of Capt. Ritchie, the Game Department, under his direction, was an important pillar in our public relations. Capt. Ritchie himself was a man of international reputation, and so it does seem unfortunate that we should now go through a period of nearly a year without even the appointment of a Chief Game Warden.

Then, Sir, there is the old hackneyed question of poaching, but it is not really hackneyed because it is building up again. I have told hon. Members in this Council before how we staged a campaign and brought poaching very much under control in the Coast Province a few years ago, but the trouble with that kind of activity is that the moment you release the pressure on the poachers it can grow up very quickly, and poaching is taking more subtle forms now. Africans are resorting to devices which are very difficult to detect and animals are being killed all across this country at a rate which is quite alarming and, therefore, attention must be paid to poaching.

On the financial side, I think there should be some debate, if possible, on the amount of money that can be made available for these various purposes. For example, for the Recurrent Vote for the National Parks Trusts, although pegged by an arrangement for four years, was reduced after two years, admittedly only by a small amount, but the arrangement was changed.

I also think, Sir, that some of the Africans, especially hon. Members of

[Mr. Cowie]

would like to know what this Council, would like to know what can be done about game damage. What steps can they take and what steps can the Game Department take to prevent serious damage to crops? It is a burning question, and I believe they require an answer to it.

Then, Sir, there is this local question near us here, of the danger to traffic on the aerodrome road; high-speed traffic travelling on that road and colliding with wild animals that come out of the Nairobi National Park. That again is an urgent question, and if it is important enough to reduce that danger to the traffic on the road, it is important enough to be debated under the heading of "finance".

Then, Sir, we have this other question of road development and tourist development, and I think that is a question which is extremely difficult because the financing of it is very complicated, but it would do well to ventilate the various points of view by a full debate in this Council. If I may digress for a moment, Sir, and answer a question raised yesterday by the hon. Member for Eastern Electrical Area, Mr. Pandya, when he alleged that there is racial discrimination in the lodges—the safari lodges—of our National Parks, let me assure him, Sir, that the policy of the Trustees has always been not to have a colour bar in these lodges. But I will tell him what happens. Members of his community quite frequently expect to obtain accommodation in these lodges at very short notice without for a moment recognizing that other people have booked a long way ahead, and if they are then told that the lodge they have booked is full, they say this is racial discrimination. As an example of that, an Asian gentleman rang me up at about 10 o'clock on Christmas Eve last year. He asked if he could take a party of 12 people to Amboseli the following day—Christmas Day. Christmas is a period when many people try to book in advance, and my answer was that I knew the lodge was full. He was very angry and he rang off.

Well, Sir, that is only one of many examples where Asians endeavour to book in these lodges at very short notice expecting that they must get preferential treatment. Anyone is welcome at these lodges as long as they behave reasonably

and conduct themselves in accordance with the regulations.

Then, Sir, there is a very interesting pilot scheme experiment, which some Members know something about, and that is called the Galana River Game Management Scheme. There are many eyes in Africa looking to that pilot scheme to see how it will work because it is a new method of using bad land and farming game, and I think it might open a new sphere of activity in the use of land. I think that many hon. Members would like to know more about it.

Then, Sir, there is the old question of research, and I have hopes that there may be a prospect of obtaining some money from the Colonial Development and Welfare Grant to help towards research.

Finally, Sir, I come back to the Game Policy Committee Report. In that report it says that the immediate financial requirements are estimated to be at least £30,000 a year. Now that was labelled as urgent in March, 1958. Unless it is possible for the Government to allocate at least that amount of money for the various questions I have mentioned, there will be no great virtue in debating the Game Policy Committee Report, but that figure, if I may point out, represents only one-thousandth part, roughly, of the total budget of the Colony, and that is the amount we are really talking about. If some money could be made available, and if the preservation of game is important enough to do so, the amount is not very great.

We are virtually, Sir, on the threshold as to whether or not we can preserve wild life in this country or not, and the question I often ask is, "Does it matter? Does it matter if all wild animals are destroyed in British Africa? What do we lose?" I would say to my hon. friends the African Members on the opposite side, that it would not be unreasonable in my opinion if not protecting wild life in this country more thoroughly than it is being done now, for the very reason that it is one of their greatest assets. If you think of any other nation, they have art galleries, they have museums, and they have a great tradition of culture behind them. If you think of the Africans in this country, one of their

[Mr. Cowie]

greatest cultural assets is wild life, and therefore, in time to come, I think they will realize that we would be fulfilling a trust to them and the people who come after them if we safeguard a reasonable quantity of this wild life for future generations. If it is not possible, Sir, for the Government of Kenya to accept the full financial responsibility of these various measures, I wonder if the time has not come to ask for the help of Her Majesty's Government. Why I say that is because the situation of game preservation from Rhodesia to Abyssinia is somewhat deplorable. All these British-colonial territories are having difficulty and therefore if the British Government could be invited, firstly, to declare a general policy in regard to the preservation of wild life, and secondly, to support it with finance, then I believe it would be possible for all these countries to have a common policy and safeguard a heritage which will be of great use. I therefore, hope, Sir, that it will not be very long before we can have the opportunity of debating the Paper on the Game Policy Committee Report. I beg to support.

BUSINESS OF COUNCIL

THE CHIEF SECRETARY (Mr. Coutts): Mr. Speaker, Sir, I thought it would be of some use to Members if I outlined the business for the coming week. We will continue with this debate on Tuesday afternoon. If hon. Members accept the recommendations of the Sessional Committee in the Motion of which I gave notice today, we will not be sitting on Wednesday morning, but will sit on Wednesday afternoon to complete this debate. There will be ordinary Government business on Thursday, and Private Members' Day as usual on Friday next week.

ADJOURNMENT

THE SPEAKER (Sir Ferdinand Cavenish-Bentinck): I adjourns Council/Until 2.30 p.m. on Tuesday next, the 17th November.

The House rose at thirty minutes past Twelve o'clock.

Tuesday, 17th November, 1959

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

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

PRAYERS

PAPERS LAID

The following Papers were laid on the Table:—

The Prisons (Amendment) Rules, 1959.
(BY THE MINISTER FOR INTERNAL SECURITY AND DEFENCE (Mr. Swann))

The Examinations (Local Entry Fees) (Amendment) (No. 3) Regulations, 1959.

The Employment (Forms) Rules, 1959.
The Education (Scale of Fees in African Grant-Aided Schools) (Amendment) (No. 2) Regulations, 1959.

(BY THE MINISTER FOR EDUCATION, LABOUR AND LANDS (Mr. Mathison))

ORAL ANSWERS TO QUESTIONS
QUESTION No. 3

MR. COOKE (Member for the Coast) asked the Minister for Tourism and Common Services, will the Government consider the introduction of legislation making it an offence for hoteliers to refuse admission to their hotels without reasonable cause?

THE MINISTER FOR TOURISM AND COMMON SERVICES (Mr. Crosskill): The Government has considered the introduction of legislation for the purpose suggested by the hon. Member for the Coast, but has concluded that such legislation is unnecessary and undesirable because the Common Law relating to inkeepers (which already applies) is adequate.

MR. COOKE (Coast): Is the hon. Minister aware that with respect to Africans that two of them, both university graduates were recently refused admission to hotels?

THE MINISTER FOR TOURISM AND COMMON SERVICES (Mr. Crosskill): I should be grateful if the hon. Member would give particulars of the incident

[The Minister for Tourism and Common Services] after the Council and I shall be very glad to take the matter up. Government has made several representations where necessary, and in almost every case they have been successful.

MR. ARAP MOI: Arising out of the Minister's reply, is he aware that Eldoret and Nakuru is worse in this respect?

MR. MBOYA (Nairobi Area): Mr. Speaker, Sir, would the Minister indicate what (inaudible).

THE MINISTER FOR TOURISM AND COMMON SERVICES (Mr. Crosskill): The Hotel Keepers' Association is in complete sympathy with Government policy, which is in favour of abolishing all forms of colour bar. I am in regular touch with the Hotel Keepers' Association, who are giving every assistance in working towards this end.

MR. KHAMISI: Mr. Speaker, Sir, arising from the Minister's reply, is the Minister not aware that a certain hotel in Mombasa is practising racial discrimination in spite of the fact that I brought this to his notice last year.

THE MINISTER FOR TOURISM AND COMMON SERVICES (Mr. Crosskill): Mr. Speaker, I think I am aware of the hotel, but as the hon. Member also knows there is a restrictive covenant which affects the operation of that hotel.

MR. SLADE: Mr. Speaker, is the Minister aware that the racial discrimination formerly practised by hotels is rapidly of its own accord disappearing from this country?

THE MINISTER FOR TOURISM AND COMMON SERVICES (Mr. Crosskill): I am grateful to the hon. Member for making that statement, Mr. Speaker. I am aware and satisfied that real progress is being made. As I stated in Legislative Council about six months ago, I feel that the manner in which we are seeking to break down this bar is the one which is most likely to be successful in the long run.

MR. ALEXANDER: Mr. Speaker, Sir, is the Minister aware that an answer of this nature might give the impression outside this Colony that the colour bar exists everywhere in our hotels, and will he take measures to put it right?

MR. NAZARETH (Western Electoral Area): Does not the Minister think it right to come to the aid of the hoteliers which have got into difficulties because of restrictive clauses by introducing legislation?

THE MINISTER FOR TOURISM AND COMMON SERVICES (Mr. Crosskill): That is another question.

MR. COOKE: While we are on that, Sir, is the Minister aware that those hotels who respect the law are in a disadvantageous position, viz-a-viz other hotels?

THE MINISTER FOR TOURISM AND COMMON SERVICES (Mr. Crosskill): I note what the hon. Member has said.

QUESTION No. 6

AIR COMMODORE HOWARD-WILLIAMS asked the Minister for Internal Security and Defence is Government completely satisfied there are enough European officers in the Kenya Police to safeguard the inhabitants of all races against the depredations of the thug element that has been recently released from preventive detention, depredations that are noticeably prevalent around Muthaiga and Kahawa areas and are similar to the forerunners of the 1952 Kikuyu rebellion?

THE MINISTER FOR INTERNAL SECURITY AND DEFENCE (Mr. Swann): Appointments and postings in the Inspectorate and Gazetted Ranks of the Kenya Police are made on ability, irrespective of race. The Government is satisfied that there are sufficient Gazetted Officers, Inspectors, N.C.O.s and Constables of the Kenya Police for the proper maintenance of law and order in the Muthaiga and Kahawa areas.

AIR COMMODORE HOWARD-WILLIAMS: Arising out of that reply, Sir, will the Government and the Minister resign if they should be proved to be wrong?

Answer?

THE SPEAKER (Sir Ferdinand Cavenish-Bentinck): It is entirely at the Minister's discretion as to whether he wishes to reply or not.

Next order please.

MOTION

AMENDMENTS TO STANDING ORDERS

THE CHIEF SECRETARY (Mr. Coultis):

Mr. Speaker, I beg to move that this Council do adopt the report of the Sessional Committee dated 12th November, 1959, and do make the amendments to Standing Orders therein recommended, such amendments to take effect on and subject to the approval of the Governor.

I think, Sir, that a copy of the report of the Sessional Committee has been circulated to all Members, and they will see that it is proposed to make the alteration in section 9 (1) which relates to the times when Legislative Council sits. As all Members know, largely as an economic measure, we decided some time ago to sit all day on Wednesday, but in regard to Wednesday morning sittings we have had representations from the Sessional Committee to the effect that Members are finding Wednesday morning sittings extremely inconvenient. Many people also find that they take up too much of their time and that they do not therefore wish to continue with them. The Sessional Committee therefore considered this matter afresh and has proposed that we should no longer meet on Wednesday mornings and that in order to compensate for the time which we would thus lose an extra two hours per week would be gained by meeting each afternoon one quarter of an hour earlier than at present and by sitting on for an extra quarter of an hour at the end of the day. On Fridays, in order to gain this extra half hour, it would mean that we would start at 9 o'clock instead of 9.30 a.m.

With these words, Sir, I think that the Motion is perfectly clear, and I beg to move.

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

Question proposed.

Mr. COOKE: Sir, would it not be preferable to extend the evening sittings by half an hour and sit at 2.30 as at present, because 2.15 p.m. is the rush hour and it is very difficult sometimes to get here on time; and also, Sir, many of us have dined at luncheon, and that makes it very difficult for some of us to get here

by 2.15 p.m. Would it not be better to extend the proposed time by an extra quarter of an hour each evening in those circumstances?

MR. PANDYA: Mr. Speaker, I would like to support the Member for the Coast in the suggestion that instead of 2.15 p.m. we should meet at half past two and adjourn the House at 6.45 p.m. in the evening, particularly in view of the heavy traffic we encounter round about two o'clock. We are in agreement with the principle of the Motion, but we should dispense with the Wednesday morning session and have the extra time as suggested, and particularly I agree that the session should start at 2.30 in the afternoon and finish at 6.45 p.m.

I beg to support the proposed amendment, Mr. Speaker.

MR. SLADE: Well, Mr. Speaker, I want to propose another amendment. It is not connected with the question of time. Perhaps we should dispose of the other suggestion first.

MR. CONROY: We have a Motion before this Council which does not mention any times. The Motion is that we approve the Report, and it is very difficult to amend a Report which is not in the Motion before the Council. One possibility is that the Report be sent back to the Sessional Committee; another is that the Report be accepted or be rejected. It seems there will be a great difficulty if we are going to try to amend the report made by another body which is not included in the terms of the Motion.

MR. BLUNDELL: Mr. Speaker, I would like to ask the hon. Chief Secretary whether he would like to withdraw this Motion for further consideration of the Sessional Committee with a view to putting it forward again at a later date.

THE SPEAKER (Sir Ferdinand Caven-dish-Bentick): I know there is another amendment which Mr. Slade wishes to produce, and perhaps it would help everybody if the Sessional Committee could also examine his proposal.

THE CHIEF SECRETARY (Mr. Coultis): I think it would be a good thing if Mr. Slade did move his amendment, and thereafter I have, Sir, some observations I would like to make.

MR. BOMPAS: Before we proceed with Mr. Slade's amendment, perhaps some of us who have views which do not necessarily concur with what has already been said might be allowed to make our point. Sir, may I proceed?

THE SPEAKER (Sir Ferdinand Caven-dish-Bentick): Yes.

MR. BOMPAS: Sir, I disagree most heartily with the view expressed by my hon. friends from the Coast. I think they are endeavouring to introduce some of their coast habits to the Highlands, Sir. I disagree entirely also with the thought that there is still a rush hour after two o'clock. The rush hour, in my observation, Sir, is complete by five minutes past two o'clock, and it is perfectly simple to get to the House by quarter past two o'clock and I would support very strongly the original Motion before this House, Sir.

MR. SLADE: Mr. Speaker, with reference to what the Solicitor-General said, I do suggest that when this Council is invited to adopt a report it can adopt that report with some amendments; but in spite of that I also agree that it may be more convenient and easier to work out if we invite the Sessional Committee to reconsider their report in the light of arguments put before us today. That being so, Mr. Speaker, I do not want to move any formal amendment, or rather I would move an amendment that the Sessional Committee be asked to reconsider their report.

I had another point, Sir, to make by way of amendment. Sir, I have no strong views as to whether we sit at 2.15 p.m. until 6.30 p.m. or 2.30 p.m. until 6.45 p.m., but whichever we choose I fully support the intention of this Motion, which is that we should sit longer in the afternoons and do away with sitting on Wednesday mornings. The comment I have to make has nothing to do with that but it is related to the same Standing Order, and it might be convenient. Sir, if we are going to amend that Standing Order now, to put this amendment in as well, Sir, under the Standing Order, you, Mr. Speaker, have a discretion as to the exact time at which the Council meets. The Standing Order provides "unless for the convenience of the Council Mr. Speaker otherwise directs" the Council shall meet at 9.30 a.m. on

Fridays and 2.30 p.m. on Tuesdays, Wednesdays and Thursdays, and that discretion is preserved for you by the proposed amendment on which the Sessional Committee has reported. There is no discretion, Sir, under the Standing Order for Mr. Speaker to vary the precise time at which we rise; and the amendment now proposed by the Sessional Committee likewise does not allow any elasticity at all as regards the precise hour at which we rise.

Now, Mr. Speaker, we have had experience on many occasions when it is obviously for the benefit of the Council to close five minutes before time or, say, ten minutes after the set time, in order to avoid requiring somebody to start on a speech with only a few minutes to go, or to allow a Member to finish the speech instead of having five or ten minutes on another day. Sir, I want to suggest, Mr. Speaker, to the Sessional Committee that in the course of reconsidering their report they consider extending that discretion, which is given to you with regard to the hour of starting, to the hour of closing as well; that is to say, that these words, "unless for the convenience of the Council Mr. Speaker otherwise directs", should govern the hour of rising as much as they now govern the hour of starting the sitting. The precise wording, Sir, I am prepared to discuss with the Chief Secretary, if he is prepared to accept the idea in principle.

Sir CHARLES MARKHAM: Mr. Speaker, whilst supporting the suggestion that we should reconsider this matter in the Sessional Committee, we did find ourselves in difficulty last time in trying to amend the hours of sitting each day by a rebellion from the back benches of Government which resulted in the Sessional Committee report being turned down at the time and the amendment being moved which resulted on Wednesday morning sittings. Sir, I do not know whether the hon. Tobacco King is representative but I would like to suggest, Sir, that we are in some difficulty from this side of the Council under procedural rules because we cannot find out now what the views of Members are.

My own views, Sir, are that if people wish to go on—I was going to say "waiting"—perhaps I had better not—talking on and on during the evening they should do so without extra expense

(Sir Charles Markham) to the taxpayer, and my own view is, Sir, that we should finish Government Motions on the day concerned however late it might be and after a certain time, Sir, that that will bore people to death and the Motions will be carried.

Now, Sir, it is very difficult in the Sessional Committee, which, after all, is representative of both sides of the Council, to go anything more than an expression of opinion of individual members of the Committee. I do not know, Sir, how you suggest we can do it today, but I think it would help if perhaps we go into Committee so that we can discuss the things quite informally. I feel that a lot of Members of this Council, rather than having set hours from either 2.30 p.m. until 6.45 p.m. or alternatively from 2.30 p.m. until 7 p.m.—a lot of us would prefer it if there is Government business before the Council that it should be finished on the day concerned, I am thinking particularly, Sir—we are wasting a lot of time now and I am responsible for some of it—of the amount of time we are spending on the debate on thanks to the Chair for the address by the Governor. Quite frankly, Sir, it is unsatisfactory going on day after day when we should finish the debate in so many days; it necessary sitting right through until early morning to get it out of the way, I do not know how you can do it, Sir, and I ask your guidance, but I feel it would help the Sessional Committee and those on this side of the Council if we could have some viewpoints expressed on hours of sitting rather than a formal Motion and formal amendments which, of course, often result in viewpoints being lost in procedural difficulties.

THE CHIEF SECRETARY (Mr. Coutts): Mr. Speaker, Sir, if I might add a few remarks to those which have just been made, may I first of all misquote Queen Victoria by saying that there is no rebellion in my House! But I would like to point out to hon. Members that this matter has been very exhaustively discussed by Sessional Committee and by individual Members and by Ministers and by the Nominated Backbenchers of the Government. We have run into considerable difficulty in coming to a conclusion which is acceptable to everybody. For instance, if we sit until 6.45 p.m. hon. Members must remember that we may have an adjournment debate

thereafter. It is very unusual for the Opposition to disagree violently with the Government and we do not have very many adjournment debates but we have got to keep in mind that if we do sit until 6.45 p.m. and there is an adjournment debate we will be here until 7.15 p.m.

SIR CHARLES MARKHAM: Why not?

THE CHIEF SECRETARY: Many Members have expressed the view that during that hour there are very often social engagements which they wish to keep and, therefore, they do not wish to sit here beyond 6.30 p.m. or 6.45 p.m. In view of this, Sir, I feel that it would be a great help both to the Government and to Members of the Sessional Committee if we could have an expression of opinion from individual Members of the House regarding this somewhat difficult matter.

MR. TOWETT: Mr. Speaker, Sir, I thought that the Member for the Coast had actually told us what is worrying us. What is worrying us is not what the Member for Kiambu says, that by 2.15 p.m. the rush hour is finished. By 2.15 the rush hour is finished if one is starting from outside Legislative Council. But, Sir, if you are starting from places like Langa side, or from the other side, say, Thika side, by the time you get here it is already 2.30 p.m. So I feel, Sir, that it depends on where you are. Those who always stay here, like I do most of the time, do not worry very much about what time they start out. But I think that 2.30 p.m. is very adequate and it is the time we want.

Now, some Members leave home on Tuesday mornings and if you push back the time to 2.15 p.m. you are actually increasing their speed. So I feel that 2.30 p.m. is the ideal time.

Now, what time you finish in the evening, 6.45 p.m. or 7 p.m., does not worry me, so 2.30 p.m. is what I advocate for.

THE MINISTER FOR LEGAL AFFAIRS (Mr. Griffin-Jones): Mr. Speaker, Sir, can I suggest that really the only way of satisfactorily determining this fundamental issue before us is to have the amendments put to the House and to have a free vote on them. Then we shall know precisely what the majority wants and it seems to me that we should then, at any rate, achieve something which will be opposed only by a minority.

MR. ARAP MOI: Mr. Speaker, Sir, I would oppose particularly the suggestion made by the Minister for Legal Affairs. He is suggesting that the majority should decide? After all, the Government side constitute the majority.

HON. MEMBERS: Free vote!

MR. ARAP MOI: O.K.I

THE SPEAKER (Sir Ferdinand Cavendish-Benllick): I can only suggest that as I have no precise amendment before me, it might be reasonable to adjourn this particular discussion until later on this afternoon when I might have been given two specific amendments to put before the House. We can resume this discussion later. But I have at the moment no precise amendment. So let us pass on to the next order.

MOTION

PRIVATE MEMBERS' MOTIONS— BALLOT AND LIMITATION

THE CHIEF SECRETARY (Mr. Coutts): Sir, under section 28 of the Standing Orders I seek to have permission to put forward my Motion on balloting for Private Members' Motion. Notice of which was given last week, in a slightly amended form, in fact as it appears today on the Order Paper. This amendment allows the Speaker, you, Sir, to draw more than two Motions in the ballot thus ensuring that the House will have adequate business on a Private Members' Day if the event of a Member withdrawing his Motion before it comes up for debate or the possibility of a Member not being present to propose his Motion. In the course of the debate on this Motion, if there is a debate, Sir, I would like the House to decide whether a Motion drawn but not debated goes back into the hat to take its chance in a later draw or whether it will stand over until the following Friday. The actual difference between the previous Motion (if I may repeat it), and this one is that we originally proposed that the Speaker should draw "two Motions". Under (a) of the Motion now appearing on this Order Paper it says, "as may be decided by the Speaker, for those Private Members' Motions". There is a difference between "two Motions" and "two Motions". Sir, may I have your ruling as to whether I may propose my amended Motion?

THE SPEAKER (Sir Ferdinand Cavendish-Benllick): I was consulted before and of course that is perfectly in order.

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

THAT in view of the large number of Private Members' Motions awaiting debate, this Council approve the recommendation of the Sessional Committee made on 12th November, 1959, that:

(a) A ballot be held in this House each Friday, or on such other day as may be decided by the Speaker, for those Private Members' Motions which it is proposed to take for debate on the following Private Members' Day, i.e. on the following Friday; and

(b) The maximum time which shall be allotted to the debate on any Private Member's Motion thus drawn by ballot shall be two hours.

In this latter connexion some people felt that two hours is not long enough for a certain Motion but do not want to make it quite clear that the Sessional Committee also added a rider that certain Motions might be of national importance or of much greater importance than certain others and if that is so it is suggested and I put it to the House that you, Sir, perhaps assisted by a Member from each side of the House, might decide which of these Motions are of national importance. If you do decide that they are of national importance then the Government will allot time to these Motions. In other words, they will not come up for ballot and not be taken on Private Members' Day.

The reason why the Sessional Committee has decided that we should ballot for Private Members' Motions, and indeed balloting, as you know, Sir, is that done in the House of Commons, is that we felt that it was necessary because of the very large number of Motions which have accumulated and which are obviously now coming before this Council. We felt that it would be the fairest way of allocating time to Elected Members to express their opinions to the Government. Leading from that, Sir, I would like to say that the reason why we suggested ordinary Private Members'

[The Chief Secretary]

Motions should last only two hours is that we regard such Motions as an expression of opinion. It is possible for the Opposition to express in half an hour on an adjournment debate an expression of opinion of which Government may or may not take cognizance. We feel that it is possible to bring before the Government a complaint or—as I said earlier—an expression of opinion in, say, an hour on their side and giving the Government an hour in which to make their views plain.

The arrangement, of course, would also allow Ministers time to study the problems which are raised because at the present moment it is very difficult to know, if you are a Minister, when your particular Private Members' Motion is likely to come up. We feel, Sir, this will deal with the problem that we have on our hands fairly and I hope, Sir, also expeditiously.

I beg to move.

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

Question proposed.

MR. TOWETT: Mr. Speaker, Sir, we have in front of us actually two Motions in one form. Which one I should start with first I do not know. Actually the one that matters is section (b) because section (a) is not there at all.

Whether you take balloting and then you discuss one today and one the next day and another the week after, you will have in any case to discuss all the Motions given. So from my point of view—it may be wrong—I think section (a) should not be there. All Motions have got to be discussed and when you just come and say ballot it does not alter the number of Motions given and I do not know what the Government is doing. We have got to discuss all of them. So it does not matter which one comes first and I feel that that section (a) should be withdrawn.

Now we come to section (b) which is the most important item here. Now, speaking on behalf—which I have taken on without being sanctioned—of my 14 friends, now 13, I should like to say this. We usually speak from African backgrounds, not one background but 14

SIR CHARLES MARKHAM: Under-grounds!

MR. TOWETT: No, backgrounds; if Mr. Speaker, the hon. Member for Ukamba understands background to mean underground, then I leave him to understand it that way. So I feel that we 14 here have got to express 14 times, probably, three or four districts' backgrounds. So we must be allowed enough latitude to speak on behalf of those people we represent who number different backgrounds. You see when I get up to speak I am supposed to speak on behalf of the Masai. I give their point of view. If it comes to this Maize Marketing Board and all the rest of the maize controls and so on which the Masai do not have anyway, I am supposed to discuss from the philosophical attitude of the Masai and when it comes to the Kipsigis I have got to discuss the Maize Control effects from the philosophical point of view of the Kipsigis.

Now, when it comes to my friend, the Member for the Mombasa Rural Area, he has got about five different districts and those are five different backgrounds so he has got to consider each background from the philosophical point of view of each particular area. So we need more than two hours for 14 Members on our side. You might argue, I know you are uniformly backgrounded. You see, because of your transformation of culture and your unification of culture, you have come to think just like one man thinking for everybody else. We are still different. We think individually according to our backgrounds but you are one so it does not matter whether you are one or whether there are 20 among you, it is just one idea. But with us, No. So I hope one of my friends will move an amendment to the effect that a minimum of three hours is possible—a minimum of three, maybe four. Mr. Speaker, I am serious about this. Those who say "No" are people who are thinking like one person. But we think differently. How many tribes does one man try to represent? We are under-represented and we have got to express our views.

Mr. Speaker, Sir, the noise made by the hon. Members gives me more heat and if they could keep quiet then I would finish sooner. If they go and say,

[Mr. Towett]

"No, no," then I could talk more. Mr. Speaker, I beg to oppose the Motion by saying that section (a) does not exist in logic and section (b) should be amended.

THE SPEAKER (Sir Ferdinand Cavendish-Bentlick): Are you proposing an amendment?

THE MINISTER FOR LEGAL AFFAIRS (Mr. Griffith-Jones): Sir, the picture painted by the last speaker is really rather a deterrent one. If all our friends on the other side are going to wear a plurality of hats, in respect of each subject which we debate, we shall never get through. Perhaps they might care to leave it to the one hatted gentleman, who could represent them.

Sir, I think the hon. Member has rather mistaken the purpose of paragraph (a) of the Motion. It is that since we have a large number of Private Members' Motions of which Notice has been given, all of them competing for time on Private Members' Day, the order in which they should be taken should be decided by ballot so that at the end of one week's sitting a ballot would be held which would decide which Private Member's Motion should be taken on the succeeding Private Members' Day. It is only a convenience, an expedient, whereby an order for Private Members' Motions to be taken can be fairly decided by chance. And so far as the second part of the Motion is concerned, the restriction of the time to be allotted to Private Members' Motion—two hours—as my hon. friend the Chief Secretary has already pointed out, it is the intention that any Private Member's Motion which is of national or general importance and not purely sectional or local importance could qualify to be taken in Government time. That will remove it both from the ballot and from the restriction as to time and it will therefore leave, both for balloting as to the order to be taken and for limitation to this suggested limit of two hours, those Private Members' Motions which are of purely sectional or local or otherwise minor importance. And I do suggest, Sir, that for the expeditious disposal of the business of the House this is an extremely useful suggestion.

MR. TOWETT: May I have permission, Mr. Speaker—

THE SPEAKER: On a point of explanation?

MR. TOWETT: Yes. I wish to say it is not logical, I mean the time is determined by the time the Motion is given notice of here—just in that order. That is the moral ideal.

SIR ERNEST VASEY (Nominated Member): Sir, I rise to support the Motion moved by my hon. friend, the Chief Secretary, but, Sir, in view of the remarks made by the hon. Member for Southern Area I wonder, Sir, whether it is not necessary for both this House and the Sessional Committee to think again on the basis of limitation.

Sir, the point that I see that is wrong with the Motion in its present form is that this deals with Private Members' Motions. In this way any Private Member can indeed give notice of eight or nine Motions and thereby lengthen the chances of him getting an unfair portion of the time before the House. The point, I think, Sir, is that we have two types of Motions. Obviously, Sir, we have the Motion referred to by my hon. friend, the Chief Secretary, and by my hon. friend the Minister for Legal Affairs, in which they pointed out that where a Motion was regarded as an official Opposition or group Motion it could be taken in Government time. But where you come to a Private Member's Motion then I think the position is different. My hon. friend, the Member for Southern Area, does not seem to understand that the basis of a Parliament is that the Private Member, of whom there are a great number, shall, within the limited time available to the Private Members, be restricted in the amount of time in which he can address the House and the number of subjects upon which he can address the House. And I would suggest, Sir, that the better principle really is not to ballot for the Private Members' Motion but to ballot for Private Members and to leave them, if they are chosen, as in the House of Commons, Sir, to select the Motion that they will put before the House which may be one that is proposed by somebody else. But in this way, Sir, every Private Member—and I would hope—the Unofficially Nominated Members on the Government side, would be given a fair chance to take that portion of the time of the House to represent some particular point of view

[Sir Ernest Vasey] which he felt should be put forward. In this way, Sir, I think we should get the proper idea that the Private Member who proper idea that the amount of time should be limited in the amount of time that he can take of the limited time that is available for Private Members. I would suggest, Sir, that the Sessional Committee should look at this again in the light of the ideas that I have now put forward.

Sir, in the circumstances I understand the urgency of passing this Motion and I will support the Motion but I hope the Sessional Committee will have another look at the principle they are embarking upon.

DR. KIAMO: Mr. Speaker, Sir, I beg to oppose this Motion and to support my friend, the Member for Southern Area. The Chief Secretary in moving the Motion said that a Private Member's Motion is essentially an expression of opinion by a Private Member. But, Sir, it is more than that. It is an attempt really to prove to this Government—and sometimes they are responsive to our ideas—to prove to them that they might be wrong in a certain situation and to try and persuade them to see the light. And I do feel, Sir, that to restrict that to two hours in a House of more than 80 people is to really curtail the freedom of this House in discussion of all the points that are raised.

Secondly, Sir, a Member may move a Motion about something which may appear to be sectional to some people but it actually appears to us to be of national importance.

Thirdly, Sir, on this question of balloting I must say that we have enough experience on this matter in this House and we know that whenever balloting occurs it often happens that on this side lose the ballot. And therefore I say that although they may say that it will be a free vote or a free ballot we cannot rely on that method. I do believe, therefore, that what is most important is that we in the Council should perhaps limit the length of the time allotted to a speaker but not the time in which the discussion should take place.

I therefore entirely oppose this Motion.

SIR CHARLES MARKHAM: Mr. Speaker, may I say that there seems some confusion on this Motion that when the Sessional Committee is appointed there are, Sir,

racial appointments in order to include all groups on the Sessional Committee. And I regret, Sir, very much that the hon. Member on my left who is a member of the Sessional Committee should not have explained to his colleagues the reason for this Motion.

Now, Sir, when I am told by the hon. Member for Central Province South how unfair this ballot is, then I look, Sir, at the results of the ballot of last Friday. Sir, I think his arguments are completely fallacious because of the three or four people who gave notice of Motion earlier, not one of them has their Motions on the Order Paper. Of these Motions from the ballot, all of them are from African Members.

Now, Sir, I would suggest, despite the eloquence of my hon. nominated friend, the gentleman in the second rank, that Sir, there is merit in his argument. If we were a Parliament, but Sir, we are not. We are a Legislative Council, with no Government and Opposition as such as in England. I believe there is merit, Sir, in considering his viewpoint, but I cannot see how we are going to solve the difficulty which the Chief Secretary explained to the House. Every Member, Sir, of this Council, be he on the Government or the Opposition side, imagines that his particular Motion is the important one. When we suggest, Sir, on the Sessional Committee, and do agree, Sir, was that those Motions which are of, you might say "consistency" importance as opposed to national importance should be Private Members' Motions. What I think, Sir, is that we could cut this debate short if the Chief Secretary would explain to the Council what he means by a Motion which is of national importance. There is the impression, having heard the hon. Member for Central Province South, that the Government will stop Motions coming forward which are of importance, but I think, Sir, it is tied up with the previous Motion, which has been adjourned at the moment—Order No. 5—because we could make every Motion of national importance, and I do not see why the taxpayer, the wretched taxpayer, the miserable taxpayer, the overtaxed taxpayer, should pay for waste of time for everybody who thinks his Motion is of national importance.

I beg to support,

MAJOR ROBERTS (Rift Valley): Mr. Speaker, Sir, I would like to support this Motion. I feel that a great number of the Motions tabled could be dealt with in the House by a form of question. If the questioner is not satisfied, I think he has the right to move it on to the adjournment, but if more thought was given to these Motions and some attempt was made to amalgamate some of them before they come before this House, this necessity would not arise.

Mr. HASSAN: Sir, I am sorry, I do not agree with quite a number of remarks that have been made by several hon. Members. We, in the Sessional Committee were faced with certain difficulties, and we had to make a decision. After almost two hours discussion we came to the decision which is there in this Motion.

Now there was no doubt that the Sessional Committee was given to us as given that morning, and no member of the Sessional Committee who was representing a particular group had an opportunity to call a meeting of his group and ask their views on this matter, which was on the agenda of the Sessional Committee. We had to use our discretion in the Sessional Committee, and we thought this was one of the best ways to accommodate the Private Members' Motions and under Private Members' day to allow as many people with the reduced time limit given to them, to move their Motions and have the satisfaction that their Motion was debated within the session. I feel that all the Members who like to give their opinion in this matter should give it freely and I think we shall have to reconsider this matter again in the Sessional Committee, but in the meantime the members of the Sessional Committee should discuss this matter thoroughly with their groups and come with a mandate. This is my opinion, Sir.

MR. OLE TIPSIS: Mr. Speaker, Sir, I rise to oppose the Motion before the House very, very strongly.

Now, the hon. the Chief Secretary has tried to tell us that by holding a ballot of the House Private Members' Motions would be given fair consideration. Now, Mr. Speaker, I think we all remember the sort of ballots that we had in this House last year. There was a ballot, or a sort

of election under the auspices of the Specially Elected Members, and Sir Ernest Vasey lost his seat on account of the same ballot, and this will happen again, Mr. Speaker.

THE MINISTER FOR LEGAL AFFAIRS (Mr. Griffith-Jones): I am grateful to the hon. Member for giving way, but he and the hon. Member for Central Province South have completely misunderstood the reference to the ballot. The idea of this ballot is that Mr. Speaker should put the various competing Motions into a hat and pull out the requisite number to be taken on the next Private Members' day. There is no suggestion of a ballot by the whole House. Mr. Speaker will, by ballot, draw the Motions to be taken on the next Private Members' day.

MR. OLE TIPSIS: Well, Mr. Speaker, I thank the hon. Attorney-General for his explanation, but to my way of thinking it amounts to the same thing, because after all, what is the use of me giving notice of a Motion today, and then the debate on this will be decided by a ballot. What am I here for? If I give notice of a Motion I want it to be debated. I am not concerned whether it is by ballot or what.

Now, the hon. the Chief Secretary also, Mr. Speaker, tried to draw a comparison that Private Members' Motions in the House of Commons are decided by a ballot. Anyway, what he did not tell us, and I think this might have slipped his mind, is that the House of Commons—the Government in the United Kingdom—is an elected Government, whereas the Kenya Government is not an elected one.

AN HON. MEMBER: A nominated one.

MR. OLE TIPSIS: It is a nominated one, and we are under-represented in fact. I represent a constituency, Mr. Speaker, which is represented by five European members, and when I have not given notice of a single Motion in six months, it has to be decided by a ballot. I will not agree, if we get an adequate representation as well as an elected Government in Kenya, then we are justified in following the procedure of the House of Commons, but not today, Mr. Speaker. I very much beg to oppose strongly.

CAPTAIN HAMELY (Nominated Member): Mr. Speaker, I suggest that this debate is meriting on for two reasons. One because so few Members are aware of the facts, and the other because no one has corrected the misapprehension of the hon. Member for the Central Province South, when he said that all Private Members' Motions had to be taken. That is the whole point; they have not. Only such Private Members' Motions as taken as can be debated in the available Private Members' days, and that is the whole trouble. They cannot all be got in! There are large numbers of Motions coming forward which are obviously hopeless to get a place in the days available, and therefore it has been proposed that there should be a ballot, so that all get a chance no matter how many are put forward, and they shall be limited to two hours so that other Members may have a chance. If you keep those things in mind there is no need to argue round and round the point, as is going on now.

MR. KHAMISI: Mr. Speaker, Sir, I did not want to intervene in this debate, but in the first place, I do not agree with the first part of the Motion because I feel the fairest way to deal and dispose of this matter is that the Motions should be debated in the order they are handed in and not be decided by ballot. If a Motion is given in late it should take its place in the queue, and any other Motions should take their place in the queue.

Now, the second question is the question of limiting the time. I feel that this is very unfair because two hours would amount to the Mover speaking for half-an-hour and replying for half-an-hour—one hour—and all this side would have only half-an-hour, because the Government would also have half-an-hour, and for the half-an-hour, giving fifteen minutes to a speaker is only two speakers. Some of these Motions are so important because they do not only apply to particular places or particular constituencies, but they do apply to the whole country. Take, for instance, the Motion we debated here the other day. Well, if that Motion had to be decided in two hours, you can well understand how inadequately the position would have been exposed to the Government.

For those two reasons, Sir, I beg to oppose the Motion, but I would be prepared to move an amendment that the second part of the Motion, instead of two hours, should be four hours:

MR. COOKE: Mr. Speaker, with regard to the words of the hon. Member for Rift Valley South, I, too, cannot see much sense in number one section of this Motion. If a balloting committee obliterated completely Motions as, in fact, it does in the House of Commons, then I could see some sense in this, but it does not obliterate, and surely the right order is the order in which the Notice of Motion is first given, and that should continue to be the situation. I thoroughly agree, of course, that the Motion should be limited to two hours because I think there has been a lot of repetition, and the only way is for the Members to discipline themselves and if they have an important Motion agree one or two Members shall make the big points of the Motion instead of everyone saying precisely the same thing in almost the same language. But I do agree with the hon. Member for the Southern Area that number one is illogical when you consider it in the light of number two.

MR. BLUNDELL: Mr. Speaker, I should like to support the Motion which the hon. Chief Secretary has moved before the House.

The plain facts are that if we accept the arguments which have been adduced by my hon. friend, the Member for the Coast, who has just sat down, and the hon. Member for the Mombasa Area, no African-sponsored Motion would come before this House for four months at least. I think I am right in saying that the order in which the Motions are moved by Members presupposes that mainly Motions moved by European Members of this House would come first, and I think that is ill-advised, and unfair to the hon. African Members, who moved many of their Motions on the second day.

Secondly, Sir, I think it is unwise of us to attempt on this side of the House, as it were, a race for the moving of Motions to get them on the Order Paper.

Thirdly, Sir, we have to face facts. There are 22 Private Members' Motions before the House. There are only a

[Mr. Blundell] limited number of days for Private Members' Motions. Either we must accept that some Members merely move the Motion for the sake of moving it and will never have a chance of debating it, or we must accept some such system as a ballot.

For those reasons, I support the ballot proposals.

And now, Sir, I would like to speak to the proposals in regard to the limitation of time. The hon. Members opposite have made it perfectly clear that if there is a Motion of "national importance" it will be taken in what they are pleased to call "Government time". If it is a Motion affecting the general people of this country, ample time will be given to it. It is only those Motions which are sectional, parochial or of limited interest which will be reduced in time, and I would submit this strongly to hon. Members, that if we will not exercise self-discipline in the amount of time we take to speak, then the proceedings of this House will largely be completely nullified. With all due deference, Mr. Speaker, I would say that many Members speak at length on what could be said in a very much shorter time, and I believe that the two-hour limitation on Private Members' time is a useful exercise in self-discipline for everyone on compressing his thoughts into short and succinct speech, and that being so, Mr. Speaker, I strongly support the proposals of the Sessional Committee.

MR. BOMPAS: Mr. Speaker, Sir, I too, rise to support very strongly section (b) of this Motion. So far as section (a) is concerned I have only one reservation, Sir, and it is this. It seems to me very inequitable that notice of a Motion, which may only be given, perhaps, in a month's time, should achieve the same degree of priority in a ballot as Motions which have already been given notice of in the past. Sir, I do not know if there is any way of getting round that difficulty, but subject to those remarks, Sir, I would like to support this Motion.

MR. ARAP MOI: Mr. Speaker, Sir, I think in view of the anxiety of the various Members, particularly on this side of the House, I think the matter should be referred back to the Sessional Committee, because although I raised

the matter as to the merit on certain Motions which are of great importance to the country, nevertheless, the inclusion of the words "on any Private Member's Motion thus drawn by ballot shall be two hours"; and I find that a Motion, which even I moved, which affects the country as a whole—Abolition of the Common Entrance Examination—is affected by imposing two hours, so that it cannot really be exhausted fully by all Members.

I therefore, Mr. Speaker, beg that the matter be referred back to the Sessional Committee.

MR. COOKE: On a point of order, Mr. Speaker, would I be in order in moving a vote of "no confidence" in the Sessional Committee?

MR. NAZARETH: Mr. Speaker, Sir, Motions of this kind always lead to difficulties, and the Sessional Committee has proposed what I suggest is a practical and fair way of dealing with this matter. We have not unlimited time for debate here and the result is that you have to debate a number of Motions, notice of which has been given by Private Members within a limited number of days. There has been a certain amount of misconception caused by the use of the word "ballot". It might, perhaps, have cleared the matter if we had said the Motion should be drawn by lot. Once that is clear, then the question is how we can fairly divide the time between the Members. The suggestion has been made by the hon. Nominated Member Sir Ernest Vasey that we should follow the House of Commons procedure and ballot for Members, but that leads to difficulties—first, I was attracted by the suggestion—but it leads to this difficulty, that all Members in this House are not on the same footing as in the House of Commons. Some of us have constituency responsibilities, and others have not, and we cannot be treated alike, and that is a point of distinction between the House of Commons and this House, which leads to difficulty in accepting Sir Ernest Vasey's suggestion. If that is the difficulty there, it is a question of choosing as between Motions, and I can see no practical method of choosing as between Motions other than by ballot, because if we give priority to time of notice, then we would have a rush of Members all putting forward their

(Mr. Nazareth) Motions at the earliest possible moment. Motions will be ill-considered Motions all put forward and struggling for priority, and that would be very unfair to the House to have this kind of struggle going on. One appreciates, of course, that the fortunes of the ballot may not be the best way of choosing, but if there is no other way available which is fair, then we are driven to choosing ballot.

As regards limitation of time, two hours, I would suggest, is sufficient for discussing matters of limited importance. Matters of national importance—it has been made clear, will be debated in Government time. Now, the last hon. Member who spoke thought that that was somewhat unfair, and that Motions of national importance would still be limited to two hours, but he must remember that clause (b) uses the words "thus drawn by ballot" and Motions of national importance will not go into the ballot and, therefore, will not be limited to the two hours. I think no purpose would be served by referring this matter back to the Sessional Committee, because they would come forward with some other suggestion, and some Members would object to that, and in that way we would keep on discussing this matter indefinitely.

Sir, I do suggest to the House that we accept this Motion as it stands and that we do not take up time referring it back and back again to the Sessional Committee.

THE MINISTER FOR LEGAL AFFAIRS (Mr. Griffith-Jones): Mr. Speaker, I beg to move that the Mover be now called upon to reply.

SIR CHARLES MARKHAM seconded.
Question proposed.

The question was put and carried.

THE CHIEF SECRETARY (Mr. Coultis): Mr. Speaker, I am glad that expressions of opinion have been given in this House and I must say that I find myself wholly in agreement with the hon. Specially Elected Member, Mr. Blundell, and the speaker who has just spoken. We have discussed this *ad nauseam* in the Sessional Committee and whereas my hon. friend the Member for the Coast

says that they have no confidence in the Sessional Committee, my retort is that the Sessional Committee has obviously now very little confidence in the House.

In answer to two of the hon. African Members who spoke, I would like to make it quite clear that the proposals were agreed so that it could be the fairest possible way of getting Private Members to express their opinions before this House: the proposal was that Mr. Speaker would draw from a box, into which the various Motions had been put, two, or three, if he so desired, for each Friday motion. If as my hon. friend the Member for Central Rift says, that he would like to have his Motion debated, if we take them in order suggested by the hon. Member for the Coast Area, it is very probable that the hon. Member for the Central Rift's Motion will not be heard, possibly, for a year, and I want to make it quite clear at this point that if we run out of Government business, this House is not going to sit purely and simply to hear private Members' Motions. It is a complete waste of money for the taxpayer to keep the House sitting for this purpose only. What we are prepared to do as often as we can is to give Government time for Private Members' Motions and if, for instance, we were in the middle of a week and we ran out of Government business, I would be quite prepared to recommend that we had Thursday as well as Friday that week so that Private Members should get a chance but I see no good reason why we should go on endlessly on Motions which people may wish to put down at any time. Reverting to the question of taking them in order, there are two further points I want to make. A man may put down ten Motions in one day and if he is lucky enough to catch the eye of the Speaker (which puts a great burden, I may say, on the Speaker as to whom he is going to call) to give his Motion first, if they are going to be taken in order that person will then have the right of Private Members' Day for the following five weeks. I do not consider that to be fair at all and I do consider that after a lot of mature thought the Sessional Committee has put up what we believe to be the best possible answer to a rather difficult situation.

Question proposed.

The question was put and carried.

THE SPEAKER (Sir Ferdinand Cavendish-Bentinck): I believe that Mr. Slade, and Mr. Conroy have concocted a Motion. I think it might prove to be more satisfactory to Members if we deferred any debate on Order No. 5. I think it would be wiser, if hon. Members agree, to put the proposed Motion on the Order Paper tomorrow, the first item of business to be taken; this will give all Members a chance to see exactly what we are proposing to discuss.

THE MINISTER FOR LEGAL AFFAIRS (Mr. Griffith-Jones): Will the House sit tomorrow morning, or not? You have the power already under Standing Orders to vary the hours.

THE SPEAKER (Sir Ferdinand Cavendish-Bentinck): Yes, and as has been clearly expressed, hon. Members do not wish to sit on Wednesday mornings, subject to the House's wishes, I propose not to assemble the House tomorrow morning.

MOTION

THANKS FOR THE EXPOSITION OF POLICY BY HIS EXCELLENCY THE GOVERNOR

Resumption of debate interrupted on 13th November, 1959.

MR. JANIDAR (Central Electoral Area): Mr. Speaker, in the general chorus of acclamation, welcome and thanks, I would like to join the small minority which has sounded a discordant note.

How can we, the Opposition, fulfil our function to oppose, if the speeches of the Head of the Government came to be so perfect, so faultless and so satisfying as this document? This speech has in it all the idealism of youth with all the maturity of an adult mind. It is a harmonious blend of beautiful poetry, and excellent wisdom. There is not one paragraph, one line, one word which can be justified in criticizing and yet, in fulfilling our functions, criticize it we must. And so, Sir, when His Excellency says that the Emergency shall now be lifted, we shall say "Well and good, but this does not go far enough". When he says that the land barriers shall be lowered, we shall say again "Who is going to buy the land, who has got the money?" This is completely unacceptable and we must reject it in its entirety.

When he says that there shall be an Act of Grace, which we never expected anyway, we shall say, "This does not go far enough, either." When he says that all the Specially Elected Members and the Elected Members shall go to the London Conference we shall say it is true that although we all want to go to London, in fact, "to London" is our battery, we shall still say, "Why have the conference at all?" because if we cannot agree here in this House, how are we going to agree in London?

The hon. Specially Elected Member said the other day that during the days we are legislators and during the nights we are subversive revolutionaries. It reminds me of the slogan of a certain secret society, which was "During the days we are brothers and sisters and during the nights we are husbands and wives".

Some would say, Sir, that the speech is very lengthy and others that it is very short. Some say that it deals too much with the Emergency and others that it omits all reference to the Ministry of Works, Asian Education and Asian Housing. But I say that politicians are very difficult to satisfy and it is probably as well that they are so.

Sir, the speech deserves in our thanks and I express the same wholeheartedly. I think that the lifting of the Emergency and the Act of Grace are both magnificent gestures and the country's gratitude is owed to His Excellency.

Concerning Jomo Kenyatta, however, in view of the fact that we have already reliable reports that Jomo has, like most of us in this country and in this House, improved considerably, having probably benefited during the last seven years, from his detention, and that he has served this sentence now, and since this Act of Grace is being extended to all the murderers, all the criminals and all the rest, why should in such a case it not be extended also to Jomo Kenyatta?

Sir, when murderers and the rest are being rehabilitated, is it fair that this process of rehabilitation will not be tended to this one man?

At this point, Sir, in this country, amidst all the facade of non-racialism

(Mr. Jamirad)

of the non-racial parties, there is unprecedentedly strong racial feeling, and it is essential, therefore, that a person who has such great influence as Jomo Kenyatta has on the African mind should be given a chance and, perhaps, if immediate release is not possible, it may be considered that a committee, be appointed, a committee to go into the personality, into the influence, into the attitude of this man and to give us a report from which, perhaps, we can decide if Jomo should be released or not. I understand, Sir, that a team of psychiatrists is going to help with the rehabilitation and the understanding of the personalities of some *Mau Mau*. Perhaps it may be possible to use this team of psychiatrists also and, incidentally, this help may be extended to some of the Members of this House as well!

Sir, on the policy of land, which is referred to in His Excellency's speech, I feel that this was a great gesture and our thanks are very much due to him and to the Minister for the same. I was surprised that after a long fight, on the eve of victory some of my hon. friends should now express their strong disapproval of this; that they should try to infuse racialism into a policy from which, at long last, now racialism can be purged.

Sir, I understand that consideration of social and economic justice will require that the landless of the country should be dealt with in a fair way and, therefore, I would support the policy of resettling these landless people on unallotted or undeveloped land, but when they say, like my friend from North Rift that Asians should be excluded from the White Highlands, that the White Highlands should now become the Black Highlands and things of that sort, then, Sir, I feel sorry that I am unable to support such policies. If the goal of this country is that of a non-racial society, nationhood, how can anybody, Sir, who has already signed documents supporting this self-same non-racial policy, come forward now before this House and say that members of one particular race for reasons of their belonging to that particular race alone shall be excluded from the benefits of this policy.

Sir, another gentleman, another hon. gentleman, has referred to the question

of African domination. That, he says, is something which is inevitable and the minorities must learn to accept it. There is a certain element of reason in this particular type of approach. But, at this stage, when we are all preparing for nationhood and we know that the races are feeling the strain, when we know that the races have not yet integrated and fused into a national whole, does this type of language serve any purpose whatsoever to secure that which we have set out to reach?

Sir, there is this point of view to discuss, that the Asian support which has always come for the African demands is there only because we have felt and we still continue to feel and we shall continue to feel in future that there has been a certain element of right and justice in the case the Africans have put forward. This support does not emanate from fear, it does not yield to blackmail of any sort, and therefore in this House or outside this House, if some people feel that by attacking Asians in a nonsensical manner they are going to make sure of support, Sir, I would say that they ought to have another think. This does not, of course, mean that this support would not be extended to them whenever justice and right is on their side or that it would not be given to any other groups who might have justice and right on their side.

Sir, dealing with the Ministry of Education, it is surprising that the Minister who has lowered the land barrier could not now condescend to lower the race barrier. We have said this so many times before, when we have pleaded the case of non-racial education and I do not at this moment intend to repeat the arguments which I have myself already put forward on several occasions.

Sir, how are we going to achieve the integration of our non-racial society if children of all races must be put into artificial compartments and the children of one race be trained to be the leaders of the country and another to be the sheep. Sir, children who have been brought up together would not live in fear of each other and therefore it is most essential our most progressive-minded Minister should consider this question afresh and introduce bold and imaginative policies for non-racial education.

(Mr. Jamirad)

Sir, to the Minister for Education I would also like to mention another slightly controversial matter, and that is that it is high time that we also considered the lowering of the sex barrier in education. We are bringing up our boys and girls separately at a time when they need the company of each other, the most and at a time when they are most likely to benefit from the companionship of each other. Sir, co-education has great psychological and social advantages and our Minister ought to consider this matter also.

Finally, Sir, I must express my hearty approval of the intention of the Government to invite all the Specially Elected and the Elected Members to the London Conference. An invitation based on a party basis would not have worked because, Sir, the parties are too new, too embryonic, too amorphous and too vague for this type of purpose. It is not at all unusual to find in a single party at least three points of view prevailing and if invitations were to be extended on a party basis I feel very strongly that that system would never have worked.

Now that we are being invited in our individual capacities it would be possible, very much so, to meet each other to talk things over and to smooth out differences. One thing is quite certain, Sir, that in the forthcoming conference we cannot expect to reach agreement on all the details of the new constitution, but given a sufficient measure of good will, perhaps we can agree on the broad outlines of this constitution or at least agree on one or two major matters of principle and that, Sir, would be achieving quite a lot.

THE MINISTER FOR COMMERCE AND INDUSTRY (Mr. Hope-Jones): Mr. Speaker, I wish only to deal with three points and to make some remarks very briefly about a fourth.

The first point I wish to deal with is that raised by the hon. Member for Coast Rural. I thought he made some very kind remarks indeed about the agreement to establish an oil refinery at Mombasa and I am most grateful to him. He then asked what the implications were likely to be arising out of the agreement reached with the refining company for the supply of a large amount of

water. It is not possible to assess precisely at this stage whether this agreement will involve additional cost, but as the hon. Member is aware, since he is a member of the Pipe Line Board at Mombasa, the Government has received assurances from its technical advisers that in any event any shortfall would be very small. The Government had to weigh this possibility against the tremendous advantages which would result from the establishment of the refinery in the shape of accelerated development at the coast and in Mombasa and the many other benefits achieved, not least of which would be a very substantial increase in direct and indirect revenue as a result of the establishment of the refinery as well as an increase in the rate revenue for Mombasa itself.

The hon. Member sought an assurance that things would be so arranged that "we do not have to suffer"—I quote—"for the existence of this oil refinery". I can assure him that Mombasa will greatly benefit, as well as Kenya as a whole.

Now, Sir, the hon. Specially Elected Member, Mr. Blundell, referred to the question of cheaper air fares. He spoke to me afterwards and said that if he had been in the House on the last day of the last Session he would not have phrased his question in the way that he did because, Mr. Speaker, hon. Members will remember that on the last day of the last Session I replied to a most searching question of one of my hon. friends opposite on this point and answered in great detail some supplementary questions. The hon. Member concerned was good enough to express his satisfaction with my reply.

Now, Sir, I do not wish to bore the House by going over the same ground that I went over in that question, referring back to the unanimous declaration of the European Elected Members in favour of cheaper fares provided certain conditions were met. This, Sir, is on record in HANSARD.

The hon. Specially Elected Member, Mr. Blundell, was good enough to say that he has since refreshed his memory by looking at the HANSARD to which I have referred. Nevertheless, Sir, I would like to add something to what I said that day.

[The Minister for Commerce and Industry]

Mr. Speaker, it will be remembered that at that time the International Air Transport Association was holding one of its periodic meetings in Honolulu to consider the possibility of extending cheap air fares on routes other than the North Atlantic to which those cheap air fares had not so far been extended. Unfortunately, at hon. Members will know, that conference failed to reach agreement, although it did reach agreement for cheaper air fares on certain routes to the Continent of Europe and the continuation of cheap air fares on the North Atlantic route. Since then, Sir, statements of some significance have been made in the United Kingdom by Ministers and indeed by others even more exalted, than in their view the British Government should now explore the possibility of certain Commonwealth routes—that is, in respect of routes originating in parts of the dependent Commonwealth and ending in the United Kingdom—in other words going to those particular routes. Now, Sir, what has been said is only an indication that that matter will be examined. Some hon. Members may say, "Why cannot the Kenya Government go it alone?" There is a very simple answer to that because, as was said in a most distinguished Kenya journal this morning, there are two ends to an aeroplane route. It is no use us pretending that because we say to an airline, "You may fly into Kenya on your conditions" that it will work, because it is no use to them unless they can land at the other end of that particular route. That permission is not in our power to give; but, Sir, I think it will be of interest to hon. Members, and indeed to the public, to know that the Kenya Government has made strong representations regarding cheaper air fares, bearing in mind the conditions laid down by the European Elected Members, making it quite clear that we support such a course.

Now, Sir, I do not think it would be wise or indeed appropriate for me to say anything more on this difficult and complicated subject. I think it is true to say that I and every Member of this House wants to see cheaper air travel. We believe that it is only by a break through into new areas of potential custom that

the full development of what is the air travel age can be achieved. So far as I and the Government are concerned, we will continue to press within the bounds of prudence and sound business, practice for cheaper air fares.

Sir, the other point that I wish to refer to briefly, because there is a Motion down on this subject, is the question of unemployment. The hon. Nominated Member sitting opposite, and many other hon. Members, have spoken with feeling and great sincerity on this subject. It is a problem with which this country in common with others is faced, and, Sir, I would at this stage only make one observation. It is necessary that we should not lose sight of this human and social problem of great significance to the stability of our country. It is also important, in my submission, Mr. Speaker, that in doing so we should not lose sight of the fact that the only cure for under employment is not mere make-work schemes but the promotion and sustaining of schemes that promote development and which therefore create permanent employment. I only make that point because I think it is necessary to do so at this stage. I believe that when the Motion that is down in the name of my hon. friend is debated the matter can be ventilated more fully.

The last point I wish to make refers to the constitutional conference. I do not propose here, Sir, to refer to the various views that have been expressed as to why it has been called, upon whose initiative, and who is to take the credit, and indeed some Members have already gone so far as to suggest who should take the blame if it breaks down. I do not propose, Mr. Speaker, to refer to matters such as that. I merely wish to refer to one point which I venture to suggest is fundamental, not only for the success of this conference, or any other constitutional conference, but for the success of the country after any such conference has taken place. I hope that some hon. Members who have expressed views that I believe can only be considered as extravagant before the conference has started will bear it in mind that whatever the result of such a conference it is only the economic viability of our country that will make possible the working of any constitution whatsoever. In saying this I would ask all hon. Members to bear it in mind.

[The Minister for Commerce and Industry]

whoever they are and whatever side of the House they happen to be on, that if they make remarks either before the conference, or during it that will destroy the confidence which is fundamental for the economic progress of this country, they will destroy any chance of constitutional viability.

MAJOR ROBERTS: Now, Mr. Speaker, Sir, I too was very greatly impressed by His Excellency's Speech and the quick grasp that he has acquired of Kenya's problems—and also for the very forthright manner in which he outlined Government intentions.

However, Sir, there are certain criticisms and observations which I would wish to make. Firstly, Sir, I wish to place it on record that it is my firm conviction that the timing of the round table conference is wrong and that it should be held after a general election. Now, Sir, I cannot agree that the conditions in this country at the moment are favourable to holding such a conference and during the last 12 months we have seen emerging organized political thought. That, Sir, is something which has been required in this country for a very long time and I feel it a great pity that that thought as it emerges should not be allowed to crystallize before having this round table conference. If it were allowed to crystallize I believe that much of that thought would start to get together and that in a year's time we could go to a conference better equipped than we are today.

Now, Sir, my hon. friend, the Member for the Eastern Electoral Area, has said it was an insult to Members of this House to ask for a general election before this conference. Now, I would remind him, Sir, that the Prime Minister of England gave as a reason for going to the country the fact that the British people, the English people, were faced with matters of very vital importance and that he felt it necessary that the country should give a mandate as to who should carry out negotiations and discussions for them on these vital matters. Does my hon. friend feel that the Prime Minister of England insulted the Members of Parliament by doing just what we are asking for over this round table conference. No, Sir, I think that he was behav-

ing in a democratic and honest manner. However, Sir, we must face the fact that the conference has been called and I and my colleagues will go there in a spirit of goodwill and will endeavour to try and bring about some agreement.

But, Sir, some misapprehension has been expressed in this House, at the hope of getting agreement at that conference. Outside this House one or two useful suggestions have been made. One is that the aircraft should land in the Sahara and leave there a supply of water for two days and say that they would not come back until agreement had been reached. I, Sir, would like to suggest that we should be incarcerated in London in the winter without fire except Sir, a fire to produce white and black smoke as I think is used on certain occasions in Rome.

Now, Sir, the hon. Member for Nairobi West advocated that stunts and publicity by the various groups should be prevented in London during the conference. Now, Sir, I could agree with him entirely if everything were equal. But I would point out that he in his particular group has had the advantage of having Ministers in London there at public expense who have been able to put over his group's point of view.

SIR CHARLES MARKHAM: So was your leader there.

MAJOR ROBERTS: I said Ministers at public expense. I think it does have quite a lot to do with the conference because I think it was you who raised this particular point. Now, Sir, my hon. friend, he must not be surprised if other groups in this House having the opportunity to go to London do not take the opportunity to express their views to the public in England. I hope, Sir, that my hon. friend is not making a sinister attempt to muzzle other groups from taking advantage of being in England.

Now, Sir, returning to land, I notice with pleasure that His Excellency does not intend to press for the debate until after further discussions. Now, Sir, I would like a further assurance from Government on that. I would ask them Government on that. I would take until that that debate must take place until after the round table conference. It is going to take a long time to have proper discussions with these various groups and I am only amazed that Government did not consult these other groups before

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[Major Roberts] producing this Sessional Paper. They have had a very long time in which to prepare it and it is somewhat surprising that only now after great opposition has been raised to it do they decide to consult these other groups.

Sir, I do not consider that it is possible to divorce the land question from the constitutional issue; to remove the control of land from the Europeans; removes the one safeguard they have. Various politicians visiting this country have said over and over again that in any future constitution the minorities must have safeguards. When we ask them what those safeguards are they hold up their hands and say, "We don't know. You tell us." Well, Sir, I contend that the control of our land is absolutely essential as one of our safeguards and an assurance by Government that they do not intend to debate the Sessional Paper before the round table conference will do much to reassure people that the round table conference is an honest attempt to find settlement to Kenya's problems and not a pretence that will result in the emergence of the McLeod Plan. It has been fashionable in recent years for successive Ministers of State to give us, to impose on us, a new constitution. Some people fear that that may be the intention this time. Sir, now what on land I must turn to by comments made, again by the hon. Member for Nairobi West, on the speech of my colleague, the hon. Member for Mount Kenya wherein he said this: "It was most interesting that the Member for Mount Kenya should have taken us through the history so far as it concerned the area known as the Highlands. It would have been useful if he could have completed the history and told us on 12th November, 1958 whether his party agree or do not agree with the principle of the removal of land barriers."

Now, Sir, we do not agree with the principle of the progressive removal of land barriers.

MR. ALEXANDER: Your chairman does!

MAJOR ROBERTS: Sir, to say progressive.

THE SPEAKER (Sir Ferdinand Cavendish-Bentinck): Order, order. I must ask hon. Members to remember that every Member of this House has a right to give his opinions without interruption.

MAJOR ROBERTS: Sir, to advocate the progressive removal implies that there comes a time when they are completely removed and we consider that existing tribal and racial boundaries—I much prefer the word "boundaries"; "barriers" conjures up in one's mind a sort of brick wall; something which is artificial; we prefer to refer to them as boundaries—and we consider that existing tribal and racial boundaries should be respected. But, Sir, if Government intend to enforce tribal and racial transfers on us, then we contend that it should be only by consent of the tribal and racial landowners themselves. In other words, the tribal and racial boundaries are respected and acknowledged as existing.

If Government feel that for certain economic reasons it would be in the interests of the country for a certain area to be devoted to smallholding farming by Africans or if they consider that certain areas in the African land units would be better if utilized for use by large companies, then, Sir, it is up to the Government to "sell" those ideas to the people concerned and not to enforce their will on people who are unwilling to accept it. Therefore, Sir, when the hon. Member asked if we agreed with the principle of the removal of land barriers, thereby implying their complete removal, the answer is "no". To quote from our policy statement, we said this: "We insist on a system of land control whereby authority over land is vested in the landholders themselves." We agree, however, that this system should apply to all areas.

Now, Sir, turning to education. Hon. Members have claimed there should be equal opportunity for all children to attend school. Now, Sir, every one of us would like to agree with that, and that it should be made possible. I am quite certain that is the intention of Government with the full backing of everybody in this country, but we must ask ourselves, and my hon. friends on the left must ask themselves, "Where is the money coming from?" and "Where are the teachers coming from?" They may say, "Why have the Europeans compulsory education and not the Africans?" Sir, that is a right question for us over the best part of 2,000 years. It is a custom we have acquired by hard work. It is a custom we cannot give up. European skill and European capital would

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[Major Roberts] not come to this country unless those facilities were available, but, Sir, it is up to us to pass a custom such as that on to the other people, and I think that a great effort is being made to do so. Compulsory education has only been in existence for little over half a century. Sir, I do not feel that the Africans could expect to get it at once; I do not say that it will take 2,000 years for them to get it, but it would be reasonable to expect it to take 100 years—but it is not going to take 100 years—because during the last half century the advance made in African education is quite phenomenal, and so here I would like to quote some facts and figures that I ascertained yesterday. I believe my hon. friend, the Director of Education, made some reference to these figures in his speech. I wish to add to them, and should I be wrong, then no doubt Government will correct me. I understand, Sir, that today 96 per cent of African male children are able to enjoy primary education, and 45 per cent of the girls. That is the first primary education. Now of those boys and girls, 28 per cent are able to go on to the intermediate stage of education, and, Sir, of those, 13 per cent are able to go on to secondary education. I think those figures, if they are correct, are most enlightening, and I do feel, that my African colleagues should express their appreciation to Government for having achieved that in such a short space of time. Sir, I feel that those figures should be published and made available, and I shall turn to them when I deal with the information services.

Now, Sir, great play has been made in this House on the question of Kenyans. It has been said that we should all become Kenyans. Now what I want to know, Sir, is what is the definition of a Kenyan. I gather, Sir, that a good number of people seem to look on it as making us all as one. Now, Sir, that is so, what are the customs and traditions that we are going to follow? Sir, shall I look to the day when I address a letter to my hon. friend the Member for Nairobi West as "Reginald Mac Alexander, c/o Chief: Blundell, Headman, Amalemba, Location 4, Nairobi"; or, Sir, do I look to the day when my hon. friend for Nyanza Central delegates his picturesque robes to the

bedchamber and appears here in a morning coat and top hat? I notice today he has made a step in that direction. Or do I look to a day when the hon. Members of this House are surprised to hear that my hon. friend, the Member for the Coast, has acquired three wives? Sir, these differences in our customs are very real, and I do believe that any idea of bringing the people of this country closer together, we must face this and realize that they exist. Sir, the United Party did take that into account when producing their policy statement, and I do warn people that unless we do, juggle those difficulties into account we will run into chaos.

Now, Sir, I should like to return to education. Sir, I know that the Africans claim that so much more is spent on education for European children than for African children, but, Sir, they must realize that we do pay considerably more towards the revenue of this country. I believe that possibly the Asian and Europeans subsidize African services possibly to the extent of ten millions a year, but, Sir, we do not know that figure, and I think figures which do clearly show what proportion the various races do produce in this country is something that should be made public, and that, Sir, brings me to the Information Services.

Sir, I would like to agree and support my hon. friend, the Nominated Member, Commander Goord, when he said how vital the information services were to this country. He covered a great deal of ground, and I would like to go a bit further. I feel, Sir, that Government should produce a booklet which gives details of exactly what is done in this country, by whom and for whom. It is part of the education and this country should know the facts. They should know the history so that so much misunderstanding is not brought about, and the people overseas are better informed on this country of ours. I have Sir, here in my hand, a booklet of that sort, produced by the Central African Federation. I am sure the Government somewhere have a copy of that. I would ask them most sincerely to consider producing something on the same lines for Kenya. At the moment, at the Information Department appears to do very little. It is not the fault of the staff, Sir. It is the fault

[Major Roberts] of Government who starve them of finances, and I do ask them to really consider in the next Estimates greatly increasing the Vote for the Information Department.

Mr. Speaker, Sir, I beg to support.

MA. USHER: Mr. Speaker, Sir, may I, at the outset, for the sake of the record, correct what I think was a misunderstanding in the speech of my hon. friend, the Member for the Eastern Area, when he took to task my hon. friend, the Member for Nairobi West for suggesting that non-racial schools would result in a lowering of standards. I think if he looks carefully at the HANSARD he will find that my hon. friend, the Member for Nairobi West, did not touch on the subject of non-racial education at all. The point he was on was if you had an equalization of cost—*per capita* cost that is—of children of all races, either the standard would have to be lowered or we should have to find money by one of two means—either by increased taxation, or by inviting our friends from overseas, in the mother country, to provide the deficiency, and that, of course, the latter is what we would all wish to support. I am quite sure that the hon. Member for the Eastern Area was innocent of any such to use an unfair argument, and that he probably just misheard what my hon. friend, the Member for Nairobi West, said.

Now, Sir, if I might ask another point in the speech of my hon. friend, the Member for Nairobi West, I do applaud what he had to say about the restraint and the discretion of the Press in this country. I think it has been quite admirable. Of course, some people feel they had not had a fair crack of the whip, but on the whole I think that they have distributed their favours evenly and reported fairly, and I think there is one phrase used in a recent leader which is worthy of commemoration, where the writer speaks of "frenetic" reporting to mark up the ego of the correspondent. The trouble is of course that some of these correspondents are writing for people who, although literate, are not perhaps quite as educated in the proper sense as when we did not have, in England universal literacy, but where parental discipline and the education of

the home was more apparent and was certainly more effective.

Sir, an educated people is a law-abiding people, developing its ideas in the family and in the market place, rather than deriving those ideas from the cinema and the radio and the less reputable specimens of the Press.

Before I leave the Press, Sir, if I might introduce a rather lighter note into the matter, might we know from the front Bench about these foam rubber mattresses? Were they ordered? Are they supplied at the Home Camp, and in the prisons? Lastly, were they in fact supplied to the applicants?

I was interested in the excursion by my hon. friend the Member for Aberdare to ancient Greece. I think he spoke of it as the home of democracy and I believe it has been so-called before, but I think we might consider for a moment what that democracy was, particularly if he is referring to the city state of Athens. In the fifth century they had evolved, after Athens rose like sunrise from the sea, many noble institutions, some of them democratic, but democratic in perhaps rather a restricted sense. They had indeed one man one vote, but who were the men who had that vote? They were just the members of the clan, and we need not forget that. Slaves did not have votes; the metics, or colonials, did not have votes; and of course they did not have education in the sense in which we understand it at all. Their education again was in the family and in the Agora, and it was derived from contact with their fellow beings in games and in discussion.

I do not wish to speak about land, Sir, except to say I believe the Government would be well advised to consider what they are going to do about defining a "public purpose". They have been long in gestation over the town and country planning legislation, and I believe that it may be their intention to define the meaning of "public purpose" because it is going to be of very great importance and significance to us. As things are, if the Government desires to acquire land it proceeds that land by notice and says it is for a public purpose, to wit, so and so and so and so, and nobody may dispute that it is a public purpose thereafter. You cannot go to court and say this is

[Mr. Usher] not a public purpose at all, as I understand it. May I illustrate the kind of thing I mean. Long ago, the Government went very naughtily and proscribed some land in Mombasa, around what is now the Kilindini Railway Station. They said they wanted it for a railway station. They acquired it and paid compensation for it, and then found out that they had twice as much land as they wanted. What did they do? They decided that they would exploit what was left and sell it to those people who wished to trade on it. In other words, cut it up into a trading estate. They were not allowed to continue with this malfeasance because they were challenged and eventually it got to the Privy Council. But I merely mention this to show that the Government cannot perhaps always be trusted to know what in popular acceptance a public purpose is or should be.

Now, Sir, if I may pass on to something a little parochial. There are two or three matters which I must take up with the Minister for Works, who is not here now but who I understand will be speaking later in this debate. The first is in regard to the Ramisi-Gazi road. This is not a trivial matter—but this is a large enterprise which might cost something like £150,000. Now, the Ramisi sugar factory is doing a work of development which has been long sought by this Government—it is the production of sugar, and it is putting real money into the thing, and in the time I think of £1,000,000. Now, it has been argued in this House "Give us the communications and we will produce the goods". Here the boot is on the other foot. Now, I know perfectly well that the Road Authority cannot produce any such sum. I also know it should be produced quickly so I am asking the Government to find ways and means of getting this money to aid essential development.

May I now come to an old friend, the Likoni Ferry, and I should like us to start by quoting from a recent debate some words of the Minister for Works. They are these: "Government generally does not favour a toll system unless it can provide at the same time an alternative route by which they can travel without paying any money." Now, Sir, on the coast we have a free ferry at

Kilifi. We have a free ferry at Mtwapa. We have also a bridge there, and at Nyali, which is subsidized to the extent of about 50 per cent. At Likoni there is no subsidy whatever and the charges are heavy. I am told that to give them who use this ferry the advantages which are equivalent to those of Nyali bridge might cost something like £22,000 and I believe, Sir, that that money should be found because there seems to be no fairness in the situation as it is. I know that I have support from up-country—Nakuru—on this very point, because we have not only to consider the resident of Likoni and the resident of the south coast; we have also to consider our tourists and visitors from up-country.

My third point with the Minister for Works is upon works contracts. We in this House, Sir, have very frequently in the past urged the Minister for Works to put out as much as he can to contract, and I believe that he has, by and large, followed that principle, and that conditions are very much improved, but there is in fact one particular case which I should like to call to his attention. That is, the Port Reitz Chest Hospital. I do not know what the value of the work is, but it is something of the nature of £30 or £40,000, perhaps £40,000. Now, Sir, I understand that it is being done departmentally, and it is not unnatural that our builders who have not got much to do these days—they are enjoying fairly lean times—have called our attention to this matter. May I ask the Minister to reconsider this matter and consider whether he cannot, even now, let out this work to contract and may I ask him at the same time for a general review of the situation of contract as opposed to departmental work?

Another parochial matter, not addressed particularly to the Minister for Works, is the lighthouse area in Mombasa. I understand that the Government has now agreed that part at least of that area should be released and used for public open space as it was in the past when our children used to frisk and gambol there, and I am very glad to hear it. What I would like to know is whether they cannot go a bit further and find other accommodation for the militia who are supposed to require a part of this area. I do not think it is very suitable for military occupation.

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and we should very much like to see the whole area cleared and thrown open except for that small portion which is required for navigational purposes.

Now, there is a matter on which I did not wish to enlarge at the moment, but which I should like to be examined both by the legal and the medical authorities. Recently there have been cases which have caused a good deal of disquiet in the medical profession. They are connected with the procedure for the holding of inquests in this country, and with the effect of these penal sections of which members of the medical profession, either medically or surgically, may fall foul. The law, of course, as we know, differs entirely from that in the United Kingdom. I am speaking generally at this moment because there is a case which is, or may be *sub judice* very shortly and what I wish to say is that this part of the law be carefully examined, whether it is possible or desirable that we should proceed to a system of inquest by coroner's courts. I do not know, but I think it should be examined, and in particular section 396, in regard to inquests, should be examined and the sections 235 to 238 of the Penal Code.

I think I have about come to the end, Sir, but I think I should like before I sit down to congratulate the Mover of this Motion and to express my appreciation of his speech. For conciseness it could hardly have been bettered. It was leavened humour. I have never heard the hon. Member entering into anything which might be called political before. In that respect he is, if I may say so, a blithe newcomer, and I heard him and his voice was not a wandering one, nor was anything that he said remotely connected with cuckoo.

Sir, I beg to support.

THE SPEAKER (Sir Ferdinand Cavendish-Bentinck): I would ask Members, because they do tend to speak in great detail on very parochial matters, to at least go through the formality of linking what they say to the Governor's speech even on local matters, because otherwise there is no limit to the scope of this debate.

MR. WAWERU (Assistant Minister for Education, Labour and Lands): Mr.

Speaker, Sir, I will join other hon. Members who have paid tribute to the speech which was delivered by His Excellency the Governor, and which is at present the subject of our debate.

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

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

His Excellency remarked that we should put darkness behind us and forget it and get on with the future. When this was spoken by His Excellency from the Throne I thought that it was a very remarkable expression which did put me back to the old and very difficult times of the Emergency, and I thought that His Excellency had in mind the dark days of the Emergency. But during the debate on his speech several Members of the opposition have repeatedly said that they want Jomo Kenyatta and his associates to be released. That, Mr. Deputy Speaker, put me back to the time when the whole of the Central Province was full of fear, a lot of intimidation, a lot of murders, and I happened to witness a few cases where I saw the activities of *Mau Mau* in the field. I can mention that to you, Sir, one of whom is the Lari massacre where 150 civilians, men, women, and children, were butchered by the *Mau Mau* followers who had been taught how to do it by Jomo Kenyatta and his associates.

MR. ODINGA: Shame on you!

MR. WAWERU: Some of those were young children. Some children had not even come from their mothers' wombs, and the one who was responsible for all that murder at Lari, in Kiambu, is the one some of the Members of the opposite side of the House are demanding should be released.

The hon. Member for Nyanza Central has shouted the word "shame", because I mentioned the activities of *Mau Mau* in my own area and the leader of those activities. Unfortunately the hon. Member during that time found it fit to be quiet.

MR. ODINGA: On what grounds.

MR. WAWERU: If I am right, Mr. Deputy Speaker, I should say that he is not seven years old. He could have then

[Mr. Waweru] supported Jomo Kenyatta and then shouted "shame".

The same followers of Jomo Kenyatta attempted a second massacre in the Kiambu district. This I will never forget, because it happened just very near my home, and I was one of the first home guards who went there to assist those who were being butchered. The place is called Marige, and I am glad to say here, Sir, that the Minister for Internal Security and Defence was my then district commissioner.

In the home which was attacked by *Mau Mau* there were children peeling potatoes; they were butchered; and we found when we arrived that some of the children, and the husband and wife, were at the point of death. Anyone who has seen these things happening and then hears the hon. Members demanding that the leader of such a secret movement should be released to come back here and probably reorganize a second secret movement, I would say that they do not know what they are talking about.

If my figures are correct, Mr. Deputy Speaker, the civilian loyalists who had been murdered by *Mau Mau*—the followers of Jomo Kenyatta and his associates—were 1,821 innocent people. Members of the security forces from the African side number 525. I can quite see the wisdom of His Excellency exercising the Act of Grace to those who were led to do so, and His Excellency to refuse the teacher to come back, and probably organize another subversive activity, I do appreciate His Excellency's wisdom and I wholeheartedly support what His Excellency said, that Kenyatta and his associates will not be included amongst those who will be affected by this Act of Grace.

Among those who have been murdered by *Mau Mau* were some of the leading members of the Kikuyu, Embu and Meru tribes, some of whom, had they been alive, would have been of great benefit to my Province; as a result of their wisdom. Some of them were like the late Senior Chief Waruhiu with whom I have had very close contact in working for the good of my own district, as well as Senior Chief Nderi of Nyeri. Another very energetic man who was always for

the good of the whole district, called Mr. Kihori; he was also murdered. Luka, Joshua, Hinga—who were also murdered; in hospital, not by Kenyatta but by Kenyatta's own pupils. Some teachers, who were going to teach the future leaders of this country, were also butchered by Kenyatta's pupils.

MR. ODINGA: Substantiate that!

MR. WAWERU: The hon. Member for Central Nyanza is telling me to substantiate that. What interest has he in this? What interest has he in what we have lost? As I see it, Sir, I think that it is mere words: "I wish he could have seen what really happened." Mr. Deputy Speaker, if the hon. Member's own people had been murdered, I am sure he could have understood what I am saying. But he did not take place in his own province, and as he was not affected by the Emergency, and the Emergency Regulations, then he cannot understand.

MR. ODINGA: As an African, I am involved and more concerned.

MR. WAWERU: Remarks were made, Sir, by my hon. friend the Specially Elected Member, Mr. Ngome, that the Government was making a mistake to uplift the Emergency powers. I wonder whether he really knew what the Emergency powers were. I think that the only people who can understand that are the people who can understand that are the members of the Kikuyu, Embu and Meru tribes; and I am sure when I say this, Sir, that no other tribe or tribes, other than the Kikuyu, Embu and Meru, welcomed the Governor's declaration. Ask the members of the tribes of the Central Province!

The hon. Member for Central Nyanza also opposed the Motion, and with that I did include the quick ending of the Emergency, and putting the two Members together. Sir, I wondered if they have had any experience on the administration of the Emergency powers such as curfew, passes, passbooks, villagization. When we moved from our homes to the villages, and the date was fixed when to move in. A lot of building went on; very few were assisting each other; and after we had stayed in the Emergency villages we had to move back either to the farms, and this is now going on, Sir, or to the permanent towns, the cost of which has been colossal. I wonder if they really

[Mr. Waweru] understand the difficulty that has been experienced by the members of the Kikuyu, Embu and Meru tribes. Have they ever been restricted in the way the Kikuyu, Embu and Meru have been restricted? If they had, Sir, then I am sure that they would be the last people to speak in this privileged House where one can say what he wants to say. However, I will not go on with that, Sir.

I would ask, Sir, that all those who have been demanding the return of Jomo Kenyatta should be asked a few questions. Where were they three or four years ago? Why could they not fear them? Were the members of the Kikuyu, Embu and Meru tribes not suffering then? Were they not speaking for us then? If they think that the Emergency powers are very beautiful gowns then why do they not ask the Government to impose the Emergency powers in their own provinces and experience what we have experienced? All I can say there, Sir, is that their speeches in this House have been nothing but electioneering speeches.

His Excellency said that we should now look bravely to the future. I would here like to mention what the ordinary African man in the street would like to see. The small farmers would like their difficulties to be known; more loans should be provided for them as well as for the traders. By doing so, their standard of living could be raised and, as I said early in 1957, Sir, good farming, when the land consolidation process is completed, would raise the standard of living of the African people. Why do we not bother ourselves to go and think about them instead of coming here and forgetting those important people who are the backbone of our Colony's economy? The houses, Mr. Deputy Speaker, which are being built on the consolidated holdings and in the enclosures, will need electricity, telephones and dispensaries near them. I think that the ordinary man needs these things. His interest would not then be who is the next *bwana mkuhwa* here or there, but his interest is who is looking after our affairs. I will not say very much, Sir, on the White Paper No. 10 of 1959, but I hope that the landless Africans will not be forgotten because this country depends entirely on agriculture and although I

know, Sir, that we have not any more landless Africans than we had before the land consolidation or before the enclosures, I strongly feel that when the time comes when we will debate the White Paper this point will not be forgotten.

The Act of Grace, Sir, I welcome the Government's move, but I would appeal to the Leader of the House that the *Mau Mau* who are still at large be informed either through their relatives, as we are assured that they are known name by name, or by pamphlets as were used in the case of the surrender terms when they were passed into use, otherwise it may be difficult for them to know that they have been offered this last chance to surrender themselves.

About the Civil Service, Sir, I feel that more recognition should be paid to the incoming overseas students who can serve in the various Government departments. Complaints are circulating in the Colony that they are not cared for as much as they should be.

Mr. Deputy, Speaker, I welcome the two Bills which were announced by the Governor because of one reason, that we, the Home Guards, had been complaining before the Emergency that the Government was far too slow to take action, but these two Bills will help to affect the individual and not the mass, and therefore I think the Bills will serve a very great purpose.

I would conclude, Sir, by paying tribute to our former Governor, Sir Evelyn Baring. I first met him in 1952 a few days after his arrival, and during all the difficult times of our problems, he and the Lady Mary Baring were visiting the disturbed areas frequently, encouraging the members of the security forces as well as the loyalists, and they continued to do so until they retired. I think we could not have had a better Governor during the worst time of the Emergency.

With these few words, Mr. Deputy Speaker, I beg to support.

THE MINISTER FOR EDUCATION, LABOUR AND LANDS (MR. MALIBSON): Mr. Deputy Speaker, I had hoped, with an incurable optimism, that the brief references to the responsibilities of my Ministry in His Excellency's communication might perhaps have diminished to

[The Minister for Education, Labour and Lands] some extent the plethora of observations, which one normally encounters on education, labour and land. Unfortunately, that expectations has not turned out quite as I had hoped, and there were, I feel, a number of points made to which I should make reference this afternoon.

To take, first of all, Mr. Deputy Speaker, the question of land. Most speakers have touched on the reference in His Excellency's Speech to the Government's approach to the administration and control of agricultural land outside the native lands. The hon. Member for Nairobi North, with a display of amiable ferocity, said that he looked forward to having an opportunity to tear the heart out of Sessional Paper No. 10. It might help if we consider what is the heart of the matter here. I think it can be found in the principles of policy which have been referred to in the Motion of which I have given notice, which it is the Government's intention to invite this Council to endorse when the time seems propitious for us to have a debate on this important issue. The Government does not intend here and now to bind itself to any particular date for such debate.

The first principle is that, in a unified approach to the problem of making the best use of agricultural land, we should aim at getting the tenure and management of such land on a comparable basis throughout the country; and also promote a growing similarity in the methods and machinery for the control of land transactions in all agricultural areas. It would, I think, be unrealistic for us to expect to be able to impose an identical pattern at the outset in all areas since we must have regard both to history and to prevailing and differing circumstances. So what we aim at is a convergence of policy and practice in these fields.

The second aspect of the Government's policy is its desire to ensure, that the determining considerations governing the ownership and occupation of agricultural land should be those of the economic use of land; sound agricultural development and good husbandry.

A large number of speakers in this debate, Sir, have indicated that they endorse these principles of policy and I think I should make it clear that the Government itself has no doubt that these are the right objectives to pursue.

On these principles it was not possible so easy to determine the attitudes of the hon. and gallant members for Mount Kenya and the Aberdares who between them spanned some 2,000 years of history. From some reported observations of the hon. Member for Aberdare, I gather that he felt, held himself very close to other members in his approach to Sessional Paper No. 10, the only point of difference was that he opposed the principles and the details whereas the other Members with whom he felt some affinity were opposed only to the details! If the hon. Member is indeed opposed to the principles which I have stated, and the hon. Member for the Rift Valley has asserted his own opposition to those principles, it seems to me quite unnecessary that he should concern himself with the detail of their application, unless he wishes to make sure that any machinery involved will be designed to frustrate rather than to apply the principles in question.

Having once myself been apprenticed as an ancient historian, I found his parable of Alexander the Great very interesting. It, perhaps, apocryphal indeed, I would not have been surprised, if he had followed history through from the point at which he left it, if after the disintegration of the Macedonian Empire we did not perhaps have some Members in this Council who could trace their ancestry back to the veterans of Alexander who settled in the Indus Valley. But I imagine his parable was designed to support the view put forward by the hon. Member for Mount Kenya that, because of past pledges, the concept of exclusive European occupation of agricultural land in the Highlands must be maintained inviolate for all time.

I think that both hon. Members, Sir, tried to read too much into policy statements of the past. The hon. Member for Mount Kenya who I am sorry is not here today—and I am even sorer as I understand he is not well—the hon. Member was right in suggesting that land

[The Minister for Education, Labour and Lands]

policy in the British East Africa Protectorate was directed from the start to the establishment of productive enterprise to feed the newly established railway with traffic. The fundamental purpose of early statements of policy was to encourage the settlement of a prosperous, energetic and confident community farming the then virtually unoccupied lands in the temperate zone of Kenya by modern methods which involved the application of imported capital and imported skill. It was in accordance with this practice that Lord Elgin, then Secretary of State for the Colonies, made in 1908 a statement to which the hon. Member referred. In doing so, Sir, I think he failed to quote an important qualification attached to this statement, namely that it would not be in accordance with the policy of His Majesty's Government to restrict any section of His Majesty's subjects from holding land in British Territory, although he went on to say that, in view of the comparatively limited area suitable for European cultivation, a reasonable discretion should be exercised in dealing with applications for land from non-Europeans in the temperate zone. That proviso, I think, makes it clear that what was enunciated was not a racial policy but essentially an economic policy which was to be promoted by administrative practice. The continuance of this practice was reaffirmed in successive statements of policy and the assurances can perhaps best be summed up in a quotation from the White Paper issued by the United Kingdom Government in 1923 when the Duke of Devonshire was Colonial Secretary. This reads: "There will be no drastic action or reversal of measures already introduced—no drastic action or reversal of measures already introduced—"the results of which might tend to destroy or impair the existing interests of those who have already settled in Kenya. The problem for those charged with honouring those assurances is to devise measures suitable to the changing circumstances of our time which will maintain the essential interests of those who have settled in Kenya under the encouragement of past statements of policies."

[The Deputy Speaker (Mr. Conroy) left the Chair]

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

Now, can these essential interests best be served by attempts to maintain a racial exclusiveness in the areas defined as the "Highlands" by the Crown Lands Ordinance of 1938, supported by the Highlands Order in Council of 1939? I do not believe that this is so. There is some indication, indeed, Mr. Speaker, that the same possibility may have occurred to the United Kingdom Government of that day. If one looks at the records of the debates which took place in this Council in 1938, when the report of the Kenya Land Commission was debated, some hon. Members urged strongly that in any enactments designed to implement the recommendations of the Commission in regard to the Highlands, the words "White" or "European" should figure prominently. The commissioner for Local Government, Lands and Settlement, Mr. Mortimer, as he then was, made the following statement in the course of the debate on 29th April, 1938: "It has been repeatedly affirmed that the Order in Council will contain no legislative discrimination either against or in favour of any particular race. That is the reason why the suggestion from the other side of the Commission cannot be accepted for the introduction of this qualifying adjective 'White' or 'European' before the word 'Highlands'." After consultation with the Secretary of State, this view was reaffirmed in the debate which took place in August, 1938 when the relevant legislation came before this Council.

I therefore, Mr. Speaker, find it wholly consistent with past declarations to refuse to acknowledge the proposition that the security of the farmer in the enjoyment and development of his rightful property in the Highlands depends on one factor only, namely the race of his neighbour. Surely it depends much more on making sure that his neighbour of any race has a respect for the responsibilities inherent in the ownership of agricultural land and shares his determination to maintain the productivity of the soil and the high reputation of Kenya produce.

The hon. Member for Mount Kenya shared for some time responsibility in the executive government of this country with colleagues who were certainly not

[The Minister for Education, Labour and Lands]

of pure European descent and who were his neighbours on these benches here. I know that he would say, if he were here, that he approaches such questions on the basis of merit and ability. If so, surely he cannot object in Nanyuki to having as a neighbour a farmer of any race of merit and ability. The principles of policy which have been put forward by the Government are designed, in the light of experience, in the light of the passage of time and in the light of the wide analysis of our problems by the Royal Commission, to afford and promote the security of the capable farmer of any race in the Highlands and enhance the prosperity of Kenya.

Matters might indeed be otherwise if it had been within the intention of the Government to contemplate the measures suggested by a number of hon. Members opposite who said that they were frankly not really interested in the prospect of acquiring agricultural land in the Highlands and considered that any policy short of the expropriation of the existing proprietors and the handing over of their land for African peasant settlement was unacceptable to them. A policy of this nature, Sir, would be the high road to economic disaster. It could be adopted by no responsible Government.

I do not propose, Mr. Speaker, on this occasion to comment at any length on the detailed machinery of control. The hon. Member for Kiambu and the hon. Member for Mombasa drew attention, I think, to the importance of defining a public purpose in connexion with this proposed machinery, and my hon. and learned friend, the Attorney-General hopes to be able to deal with this point when he speaks later in the debate. On the main machinery for control suggested, I would only say that all the thoughtful criticism on these matters which has appeared since the publication of Sessional Paper No. 10 has not been directed at the general framework of the control proposed, but rather at the subordinate details of the powers and functions. This we can very easily and profitably debate when the Government have been able to review its proposals in the light of advice from the interested bodies when His Excellency announced

it was our intention to consult. The hon. Nominated Member, Col. Jackman, asked for some indication as to how these views were to be collected and the sources of advice contemplated by the Government. The Government has already invited the Board of Agriculture to collect and collate the views of the agricultural committees and subcommittees on these questions and this process is well under way. I understand also that my colleague, the Minister for Agriculture, expects to receive from the Kenya National Farmers' Union the considered views of that organization on the machinery for the control of land transactions. If there are any other representative bodies who feel that they have a particular point of view which they wish to make known, I shall be very glad to consider any representations they may make. I should, however, remind Members of Council that such representations will only prove to be constructive if they are devised within the broad limits of the policy objectives which the Government has set before it and to which I have referred today.

I would like now, Sir, to turn to the question of labour. The hon. Specially Elected Member and former colleague of mine, now a work-seeker from Subukia, took me to task for certain phraseology in His Excellency's reference to the employment situation. If I might follow the hon. Specially Elected Member in his penchant for transatlantic neologism, the use of the word "work-seeker" seems, as he would put it, from the advice of the Labour Commissioner who points out that there are many persons who are not employed and who are anxious to avoid employment, and many who are seeking work but who already have a job which they wish to change. At present our only accurate measurement of the level of unemployment, I admit, is only a very partial measurement, is the total of those who present themselves at employment offices and register for employment. These are the people we describe as "work-seekers". But this measurement is, I confess, not enough to be able to assess the general employment situation in the country or the size of the unemployment problem with which we perhaps should be engaging ourselves more closely than we have before.

[The Minister for Education, Labour and Lands]

The Government, has, indeed, already set in hand the collection through the Administration and the Labour officers in the field such basic data as we can obtain—the level of unemployment—or—the number of those who would offer themselves for employment, if employment was likely to be available for them, in preparation for mounting a detailed enquiry by an officer specially posted to this task early in the new year. We hope that this will reveal to us the size of the problem and will also give the Government an opportunity to decide in what way its general economic policies should be adapted to relieving this problem.

Still on the subject of labour, I would like to turn to some remarks made by the hon. Member for Coast Rural, who alleged that there were striking inefficiencies in the activities of the Labour Department at the coast, and that in fact there were only two officers in Mombasa, who did nothing but spend their time around the docks.

MR. NGALA: I think the hon. Minister for giving way. I never said they did nothing but spend their time about the docks. I said they were all based in Mombasa.

THE MINISTER FOR EDUCATION, LABOUR AND LANDS (Mr. Mathison): I accept the hon. Member's correction, but he did infer that these officers concern themselves only with the labour problems that exist in the municipality of Mombasa, and showed a complete disregard for similar problems in the rural areas of the coast.

MR. NGALA: Sir, on a point of explanation, I think the Minister is purposely quoting me wrongly. I never said they did nothing but spend their time about the docks. I said they were all based in Mombasa.

THE MINISTER FOR EDUCATION, LABOUR AND LANDS (Mr. Mathison): Mr. Speaker, I would never purposely misquote the hon. Member, I was quoting to the best of my recollection from what he had said. If he has no complaints about the activities of the Labour Department in the Coast Province, then I need not pursue the argument any further, but I should like to point out for the record that the Labour Department staff

assigned to the Coast Province and based on Mombasa consists of, in the senior range, one senior labour officer, three labour officers—one of whom is permanently working in the port area—one senior labour inspector, one labour inspector—who is shortly to be joined by another, and two wages inspectors. Now the distribution of the labour force in the Coast Province is that in the Mombasa municipality employees number 26,600 and in the remainder of the province 23,800, and the great majority of the 23,800 outside Mombasa are concentrated in a relatively few large plantations which are frequently visited and thoroughly inspected by labour officers. Most of the remainder are employed in small townships or trading centres which are visited fairly regularly by labour officers and more frequently by labour and wages inspectors.

I should like to give a few figures of the work done by the Labour Department staff in the Coast Province over the past six months, that is from 1 May to October of this year. Full inspections undertaken of one kind and another by the senior labour officer or by the labour officers are 35 in Mombasa and 56 in the remainder of the Coast Province. That, surely, does not show partiality on their part for the municipality. Full inspections by labour inspectors—101 in Mombasa itself, 26 outside, and wages inspections—390 in Mombasa and 113 in the remainder of the province. Factory inspections—359 in Mombasa and 107 factories outside the municipality. Admittedly in some cases these figures show a preponderance of attention to the situation in the municipality. That derives from the fact that industrial and similar activity in the Coast Province is very largely concentrated in Mombasa, but I am satisfied—from the enquiries which I have made—that the Labour Department is carrying out its full range of functions in the Coast Province. I should be very glad if the hon. Member continued to draw my attention to any particular deficiencies which he thinks exist.

If I have time now very briefly, Mr. Speaker, to turn to the educational field, the main points which have been raised in the debate have been dealt with by my hon. friend, the Director of Education. I would like to touch on one point

[The Minister for Education, Labour and Lands]

made by the hon. Member for the West Electoral Area who enquired whether the Government was considering the need to recruit staff for the Technical Institute.

I can assure him we already have recruited and appointed a principal for the Institute and other senior staff are now being recruited. Good progress is being made in the construction of the building.

I was also very pleased that the hon. Members for Central Province South and for Coast Rural welcomed the intention of the Government to support the proposal by the Working Party on Higher Education, that the Royal Technical College in Nairobi should be developed into a full university college in special relationship with the University of London. The hon. Member for the Southern Area asked if this meant that in future, when this development had taken place, all Kenya students would be channelled to the new college and would no longer go to Makerere. That, Sir, is by no means the intention of the East African Governments. We regard Makerere and the Royal College in Nairobi as complementary institutions which will have, both of them, certain basic faculties but will also specialize in other directions. It is our hope and intention that the student body of both will continue to be fully representative of all the East African territories and that they should go there because the particular college in question offers a particular facility which they want, and not because they happen to be situated in one or other of the territories.

The hon. Member for Coast Rural also, in his remarks on education, asked if I could say something about our plans for teacher training which must march in step with our plans for the expansion of schools. I should, like, very briefly, to assure him, Sir, that indeed we have this very much in mind and are examining closely the possibility of developing our teacher training facilities which condition more almost than any other factor the rate at which we can expand schools. We are paying particular attention to the needs of the growing number of intermediate schools for more highly qualified staff. This year we have 734 African intermediate schools, and by 1962 our plan provides for us to have 1,150. Each

of these schools has four standards, and therefore needs, if it is to be properly staffed, six teachers. At the moment we are substantially understaffed in existing intermediate schools, so far as teachers with a "T" qualification are concerned. Therefore it is our intention to reorient the activities of our teacher training centres as from the intake next year to provide for a large increase in the training of K.T.I.'s and T.2's and a halt to the pace of expansion in relation to T.3's. We hope that we will be able to take in—we hope we will get in—to teacher training centres for K.T.I. and T.2 training in 1960, 340 new entrants. We are making provision for the accommodation and the teacher training staff to take in this number. I do not yet know whether this number will, in fact, come forward and that may determine the success or failure of our endeavour.

This grade of trainee is recruited from Form 4 of the secondary schools and we expect about 850 students to be leaving Form 4 in 1959. If we are going to meet our teacher training requirements, one-third of these will have to go into teacher training. Past experience shows that in general only about one-fifth of those who leave the secondary schools opt to enter teacher training, so I hope that anything hon. Members opposite can do to encourage a flow into our teacher training centres, which we are expanding to meet this need, they will do.

With these words I beg to support.

MR. KIAMBA (Machakos): Mr. Speaker, Sir, I must join all the other Members who have said that His Excellency the Governor's speech was praiseworthy. I know that all African people all over Kenya, and particularly the people in the Central Province, will be very happy to hear that the Emergency Regulations will come to an end. The Government should also be prepared to end the Emergency in a proper way, because it is no good saying that they are going to pardon some of the criminals and offenders and the people who have been detained for doing bad things, and yet forget some of the people who have been sentenced, finished their sentence and then they are restricted somewhere in Kenya under another law of the country in which live also the other people who have been punished.

[Mr. Kiamba]

We feel that this time the Government is right in extending clemency of grace to these offenders, because these people, as we know, are human beings and they have been activated by some feelings of some kind to do all what they did. We all agree that it was bad things that they did, but every time there is a war and the war comes to an end, then the question of pardoning the people concerned arises, because if the Government does not seem to do that then there will be a feeling that the war is never ended.

I think I remember reading that in the Governor's speech we were reminded that the world has been watching Kenya. I hope the same world is doing the same at this very time—the same time that we are forgetting the past and concentrating all our efforts on forgetting what has happened in the past and look to the future. We can properly do that by forgetting all that has happened and coming together, knowing that we all belong to this country, and make Kenya a country where democracy prevails. I know that there are some people, who might be afraid of democracy because they would urge that a large number of inhabitants in this country are not ready for it. I would not agree with them, because I maintain that it is the right of every human being to be free, even in a small way. I remember that when people went to fight the two wars, they were fighting for *Uluani*. It is the same *Uluani* they are now asking without fighting. I mean the way in 1914 and the war in 1939. If those soldiers who have been fighting side by side would forget things that have been done by Hitler and his group, then I do not see the reason why they should not be able to forget the little deeds done by the sons of the Government because I do not compare the *Mau Mau* people to be great enemies like the enemies of other nations that fight the British nation. This was a question of the son fighting the father and not a nation fighting another one and I do not see why some Members should think it is impossible for the country to forget what has happened and then join together and put the country on to a good footing and improve the living of the masses. It is no use asking for responsible Govern-

ment if it is not going to be any better than the present Government we have.

Some people have fears about going to the round table conference in London. They urge that if we cannot agree in Kenya, why do we have to go to London? I may say that in London, the grandfather lives there. Therefore if the children and their brothers do not agree in this country, they should go to their grandfather and see what he will do about it.

With these few remarks, Sir, I would like to support the Motion.

MR.—NURMOHAMED (Nominated Member): Mr. Speaker, Sir, I too was very much impressed with the speech from the Throne of His Excellency, the Governor, and I rise to support the Motion which is before this House.

The end of the Emergency and the Act of Grace announced by the Governor have already had a favourable reception in the country and also overseas. This will, in fact, end the unhappy chapter of the past seven years and I think, Sir, that the African community will appreciate the generous gesture by the Governor. The Act of Grace is, in fact, an act of generosity, and it was a generosity on the part of His Excellency, the Governor, to grant clemency to a large number of convicts and offenders and I think this will have a very good impression upon the whole population of Kenya.

Sir, the round table conference is now to meet in London some time in January and almost all the Elected Members and the Specially Elected Members are going to attend the session, of course, in very cold and foggy weather, but I hope, Sir, if they go there with warm hearts, cool heads and sincerity of purpose. I am sure they will at least level down the differences in their political outlook for which they are fighting in this country and at last try to bring about some solution.

Otherwise, Sir, we will have, I am afraid—an imposed constitution No. 3 and of course that will work, but we will not have peace in this country unless our political parties can come together and discuss and at least arrive at some solution by which they can work in co-operation and a feeling of doing something good to this country.

[Mr. Nurmoahmed]

The man in the street is after his bread and butter only and we can make him happy and prosperous if we would direct our energy and wisdom towards peaceful economic development of the Colony and the welfare of our people. But if we are going to run amok, as we do now in party politics and domination, we will be doing a great deal of harm to the country and cause misery for the people in place of peace and happiness. It is a healthy sign to have so many political parties in Kenya during this year; they are both moderate and extreme parties and I believe, Sir, that moderation will ultimately prevail and the responsible element of the community will take a more active part to mould the destiny of our country.

On the question of land policy, Sir, the European community must appreciate that times have changed and it is not that by accepting this historic Paper they are going to lose the Highlands or to lose their farming. Now it is a simpler policy of removing the land barrier and it is a willing buyer and willing seller policy, and I would request them to accept this Paper without any fear or suspicion.

In His Excellency's speech there does not seem to be any mention about the future policy on health, but I hope, Sir, that the Asian Hospital Relief Bill will probably come before this House during this sitting, and I am sure that it will be adopted here so as to come into operation as soon as possible.

The Government deserves thanks for changing the status of the Royal Technical College to a second university college, which will have a link with the University of London. I am sure this declaration will encourage more students to go to this Royal Technical College for technical education instead of going to England for the same purpose.

At this juncture, Sir, I would like to raise a question and I would like the hon. Minister for Education to inform this House about the status of the Mombasa Institute of Muslim Education. This institute was receiving specific contributions from the Tanganyika and Uganda Governments, which I understand have now stopped, and it will be the responsibility of the Kenya Government, and

I should be glad if this matter could be clarified in this House for general public information.

Sir, there were some points in connection with commerce and industry, but as my friend, the hon. Minister for Commerce and Industry has already replied to the points raised by other Members on the opposing side in connection with the oil refinery and other things, I would not like to repeat the same here again.

There is one point, Sir, the Mombasa/Nairobi road, and as we all know there is some provision made in the £4,000,000 estimate to blumizane the Mariakani/Mackinnon Road section, but in addition to that there are certain sections which are very bad indeed, and I hope the Minister will see that they are properly maintained so that the motoring traffic on this road should not damage their cars even now and then, particularly some of our hon. Members from the coast—they come to Nairobi by car and if their cars are damaged it is a loss to the Government.

Sir, with these few words I beg to support.

MR. SHATRY (Arab Elected Member): In the debate on the Governor's Speech I feel, Mr. Speaker, that it is expedient that I should start off with a word of welcome to him to Kenya. He has come, indeed, to start us on a new era in our history, as already signs can be seen from the impact of his Speech to the Legislative Council. The news of the intended lifting of the Emergency is, indeed, welcomed from all sides, as all will have, in one way or another, suffered from the application.

There are remnants of the past which we might very well forget; the challenge to public security has not altogether gone, and one can appreciate the Government's desire in one way or another to continue in operation some of the Emergency laws. Let it be hoped, however, that in doing so it will not use this excuse to perpetuate a situation in the country that may very well bring about a state of new disturbances.

I hope that the Government has been wise in its clemency towards people who have given the country poverty and misery. It is very important that the people towards whom this clemency has

(Mr. Shatry) been shown should be conscious of what the Government has done for them.

The news that the constitutional conference will be held in London about the middle-of-January must have pleased most of my colleagues, if not all. It is important, therefore, between now and then, that we foster an amicable spirit that will enable us to enter our discussions with the spirit of success.

The Governor's speech has been mainly concerned, Sir, with the Emergency and much connected therewith, but he has also touched upon the question of land farming and the labour situation. Land is a controversial problem and it is important that the Government must take immediate steps to settle those landless people. All land in the country must be made productive or put to some use, and those who have land but cannot make use of it for economical reasons, to them the Government must be prepared to extend the system of agricultural loans.

This, I feel, Sir, is very true in regard to the Coast Province, Both African and Arab farmers require Government assistance to help them to develop their land. In the North Coast where the people are very poor and have no regular employment the Government should do more to encourage farming and the development of fisheries. Fish is said to be plentiful at the Coast but its price is still prohibitive to the ordinary people. Arrangements should be made to provide loans to individual fishermen to organize them into co-operative groups so that they obtained the full benefit from their work. Unemployment is on the increase at the Coast, and I would like to say here that wherever possible first chances should be given to the local people as it seems not to be the case now.

The news of the oil refinery long awaited at the Coast will be a booster in industrial development and I trust that the full benefit of its presence will be felt by the peoples of the Coast.

The Government has praised the police for its work. That is understandable, but the public must note with regret that thefts seem to be on the increase as well as attacks on lonely people. A number of the thefts go unaccounted for. Chances for promotion in

the police force should be thrown open to all races. The Arab community which has served well and loyally with the force has great cause for complaint as most of their men are being by-passed.

With these few remarks, Sir, I beg to withdraw.

Mr. Brown (Acting Director of Agriculture): Mr. Speaker, Sir, several hon. Members in the course of this debate have demanded that any unalienated or unused land should be acquired by the Government and allocated to Africans. The Member for Kitui said that any unused and unalienated land owned by anybody should be bought and given back to Africans. The Member for Central Province South said that any land which is or becomes available should be used for the settlement of Africans. The suggestion is that first these lands were taken from Africans and secondly that any available land must be handed over to Africans.

I thought it would be advisable to bring to the notice of the House the possible consequence of such a step. In doing so, I am working on the basis that it is the wish of every sensible person here that each acre of land should be used to the maximum productive extent for the good of the country. This necessitates an objective view of the facts unaffected by emotional considerations.

It has often been stated that much of the best land in Kenya was taken by Europeans. This view is regularly voiced by strangers to the country and frequently appears in supposedly authoritative publications. The fact that it is erroneous is not usually well received by people with preconceived notions or axes to grind. Nevertheless it is. The study of available data reveals the following facts.

Of the land in Kenya which has a rainfall of over 30 inches per annum—8,500 square miles lies in European areas and 32,306 square miles elsewhere in the Colony, chiefly in African land units though some are in Crown land. In other words, there are at best one acre in five in this category available to Europeans.

A large proportion of the European land is also cold, poorly drained, or has shallow soil, and the area available for mixed farming is reckoned to be about 4,700 square miles in fact. Some of these same factors affect African lands in this

(Mr. Brown) category, but the proportion is smaller. There is, for instance, only a small proportion of African land badly drained and little of it is cold above 8,000 feet. Africans, in fact, concentrated in the past on those areas of the country enjoying an adequate rainfall to grow crops and where it was comparatively warm. Similar pictures, Sir, emerge with ranching land. If you examine the areas of ranching land with a rainfall between 20 inches and 30 inches there are 4,025 square miles available to Europeans and 37,621 square miles elsewhere, i.e. about one acre in ten is in European hands.

Now, Sir, there are the basic facts of the division of agricultural land between the various racial groups at present. If we are to decide soundly on the future policy, we must see what these groups have done with the land they have. To take the overall picture, first, gross farm revenue on European and Asian land is of the order of £33,000,000 per year, excluding subsistence for resident labourers living in the area and represents about 46 per cent of the Colony's total production of agricultural products. Of this, nearly £20,000,000 worth becomes available for export. That has been the average over the last two years. From the very much larger acreage of African land a total production of about £40,000,000 worth is estimated including all subsistence for the people living there. Of the total production in African areas some £5,500,000 worth is available for sale and not all of it goes for export. In other words, taking the Colony's figures for surplus production as a whole and neglecting land of less than 20 in. of rainfall, about 12,500 square miles produces four-fifths of the surplus while the remaining 70,000 square miles produces one-fifth. These figures, Sir, are, I am confident, a reasonable guide to the actual productivity of the land as it stands today.

To be a little more particular, Sir, the gross farm revenue per acre for six European districts predominantly occupied in mixed farming is about Sh. 95, excluding, as I say, the subsistence obtained by numerous resident labourers therein. The gross farm revenue for a comparable African area including all subsistence for the people living there is about Sh. 60 an acre. The average gross

farm revenue per acre for European and Asian districts based largely on plantation crops is nearly Sh. 500 per acre. The value of plantation crops planted in African lands is already included in the figure of Sh. 60 which I have already quoted. The gross farm revenue per acre in European ranching areas is about Sh. 25 and the most optimistic estimate I can make for African pastoral areas is about Sh. 3 per acre per annum.

The picture therefore is, Sir, that if all the land in Kenya were in African hands its productivity would be much lower than at present. In addition the wage bill of over £10,000,000 for agriculture would not find its way into the pockets of Africans living in the present European Highlands. I need not point out that this wage bill alone is nearly twice the total value of surplus crops produced in African areas.

No doubt Members opposite would say that Africans would be just as capable of maintaining production on productive farms that might be acquired as anybody else but in view of the fact I have given this appears very doubtful. In particular I believe that the Colony's livestock industry would suffer. The effect in bald figures of replacing European and Asian planters and farmers with Africans mainly interested in subsistence agriculture would be to reduce the present marketable surplus of agricultural products from about £20,000,000 worth to less than £2,000,000 worth, and I doubt, myself, even if that second figure would be reached. It would, as the Minister for Education, Labour and Lands has just said, be the highroad to economic disaster. I would not like it to be thought by Africans that I am trying to say that they would not be able, at some stage, to reach comparable productivity per acre with Europeans or Asians. Africans have made tremendous strides in this respect in the last ten years, and I am very glad that I, personally, have been associated with, and have, to a large extent, guided those strides, but the facts are at present, that only a few African farmers are realizing the full potential of the very fine land they own, and the building of a sound agricultural tradition in African areas is a slow process, very seldom assisted by their elected representatives.

[Mr. Brown]

I would add one more point, Sir, and that is on the figures I have given it must be plain that to look for a solution to the African population problem in productive land already farmed by others would be futile, since the total area is small by comparison with the land already in African lands. There is no easy solution to population problems, of which we, in Kenya, have a rather mild one in comparison with, let us say, places like India. That answer is, as was said by the Minister for African Affairs in his speech the other day, to develop the full potential of the African land by any means possible, and with the aid of whatever finance we can lay our hands on. It will then be found that there are many opportunities for landless Africans and others for employment in trade within African lands, while the whole economy of the country will be stimulated and not stricken, as it would be if the views of certain hon. Members were accepted.

Mr. Speaker, Sir, I beg to support.

Mr. HARRISON (Nominated Member): Mr. Speaker, Sir, I would like to join hands with the previous speakers in paying tribute to His Excellency the Governor on his most encouraging exposition from the Chair of public policy communicated at his inaugural opening of the Session on Tuesday of last week.

Firstly, Mr. Speaker, I would like to touch on the ending of the Emergency. The announcement has given everyone a great sigh of relief, more so the K.E.M. tribes. Despite all the misdeeds of the past, I am glad that the Government has that spirit of forgive and forget. This is as it should be. The Emergency, Mr. Speaker, was brought about by general insecurity in the country. The situation does not, to some extent, exist today, and the ending of the Emergency is therefore quite welcome. However, I would like to tell a little story. Once upon a time, there was a brave Brahmin and a tiger. The tiger went about terrorizing everybody, so much so that they were scared stiff. At last the brave Brahmin thought he had better trap the tiger. The tiger was caught eventually. The Brahmin thought he had better leave the tiger in the trap for a couple of days. On the third day he went to see the tiger

and the tiger on seeing the Brahmin started pleading, "Lord Brahmin, please let me out. I have been suffering so much here. I am starving—please let me out. I know you are a good man. You are human. You are a Brahmin," and although you are not a Christian, you are human. Have mercy on me. I will behave." In the end the poor Brahmin, in a spirit of forgive and forget, let the tiger out. Once the tiger was out, he turned back and said, "Now you old silly fool, what will stop me now from eating you up, having been caged for so long." Now the poor Brahmin was at a loss.

There is a saying, Mr. Speaker, "once bitten, twice shy," and therefore there is much wisdom, I think, in the introduction of the Preservation of Public Security Bill.

Secondly, Mr. Speaker, I would like to make some more observations on the subject of the forthcoming London conference. From what I have so far gathered from the speeches made by the various Members in this House since the opening of this session, I am beginning to be not very much optimistic of its success. It would appear to me, Mr. Speaker, that it is merely going to be a pleasure trip and a waste of public money. If my assumption is right, then I think I had better move a Motion to the effect that the whole House, including you, Mr. Speaker, the Clerks of the Council, the Sergeant-at-Arms and the whole staff, should go on this pleasure trip. And I have no doubt that if I were to do so all the hon. Nominated Members of this House would support the Motion.

Someone said to me the other day, "How is Legislative Council doing?" I said to him, that due to the long recess it was suffering from political indigestion and I was not far wrong, because all of us have seen the number of Motions of all sorts passed, or is it moved, since the House reassembled.

Mr. Speaker, I will not touch on education or land policy because these things have already been covered by more able hands. To me, Sir, however, the future prospects of this lovely land of ours are very bright for the making. With goodwill, and co-operation, with a spirit of give and take, with understanding and compromise, I cannot see why we should

[Mr. Harrison]

not succeed in making a better Kenya. A Kenya that is fit for all to live in, in peace and tranquillity. It is said, Sir, that "where there is life, there is hope." We people of the coast now have hope, thanks to Mr. Hope-Jones, for through the efforts of Sir Evelyn Baring and Mr. Hope-Jones our hope of an oil refinery at the coast has materialized. We must all be grateful to God. We must all count our blessings. We must all continue to work hard, constructively, for the good of the country, and I am sure God will grant us all and more.

Mr. Speaker, I beg to support.

COMMUNICATION FROM THE CHAIR

AMENDMENTS TO STANDING ORDERS

THE SPEAKER (Sir Ferdinand Caven-dish-Bentick): Hon. Members, in order to tidy up our procedure, I would remind you that when we were debating Order No. 5, I suspended discussion as we were getting into rather deep water on that particular Motion. I warned hon. Members that two hon. and learned Members were preparing a new Motion, which would enable us to air our views on the subjects which were under discussion later, perhaps tomorrow or the next day at the beginning of business. In order to tidy up our procedure with your leave, I would ask Mr. Counts who proposed the Motion which stands as Order No. 5, to withdraw that Motion, if he sees fit, with the leave of the House and I would then ask you to give him leave to give notice of a new Motion which has been duly drafted, in order that we could discuss it tomorrow.

NOTICE OF MOTION

AMENDMENTS TO STANDING ORDERS

THE CHIEF SECRETARY (Mr. Counts): Mr. Speaker, Sir, with your permission, I would like to withdraw the Motion standing in my name as Motion No. 5 today, and to give notice of the following Motion:—

THAT this Council amends Standing Order 9 as follows:—

"Such amendment to take effect on and subject to the approval of the Governor—

(a) by deleting paragraph (1) and substituting therefore the following new paragraph:—

(1) Unless for the convenience of the Council Mr. Speaker otherwise directs, the Council shall meet at 9 a.m. on Fridays and at 2.15 p.m. on Tuesdays, Wednesdays and Thursdays.

(b) by amending paragraph (1) by substituting the figures 6.30 p.m. for the figures 6.15 p.m. where they appear in the first line of that paragraph.

Motion No. 5 today, by leave, withdrawn.

ADJOURNMENT

THE SPEAKER (Sir Ferdinand Caven-dish-Bentick): On the Order Paper tomorrow I understand there will also appear two proposed amendments to this Motion. They will be on the Order Paper so that hon. Members can also consider these in good time.

I now adjourn Council until 2.30 p.m. tomorrow, Wednesday, 18th November, 1959.

The House rose at fifteen minutes past six o'clock.

Wednesday, 18th November, 1959

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

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

PRAYERS

NOTICE OF MOTION

EASTLEIGH ROADS—INVESTIGATION ON MR. TRAVADI: Mr. Speaker, Sir I beg to give notice of the following Motion:—

THAT a committee consisting of residents of Eastleigh and others, and presided over by a Supreme Court Judge, be immediately appointed to investigate and report as to why roads and streets in the Eastleigh area of Nairobi have not, so far, been constructed by the City Council of Nairobi.

MOTION

THANKS FOR THE EXPOSITION OF POLICY BY HIS EXCELLENCY THE GOVERNOR

Resumption of debate interrupted on 17th November, 1959.

MRS. SHAW: Mr. Speaker, Sir, I rise to join other hon. Members in giving thanks to His Excellency for the most gracious Speech from the Throne, Before he arrived in Kenya little was known personally of Sir Patrick Rensison, except that he had a reputation for being a strong man, a reputation borne out by his handling of a difficult situation in British Honduras. People who knew him there told us he is not a man to take things on trust but he likes to see for himself, weigh up the situation and then make his decision. Certainly this assessment was borne out by the speech he made in this Council and again at the opening of the K.N.F.U. conference, when he already showed an extraordinary understanding of our past achievements, and present perplexities as well as an intense eagerness to learn all he could of Kenya and her people in the shortest possible time.

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

[Mr. Deputy-Speaker (Mr. Conroy) took the Chair]

The end of the Emergency, Mr. Deputy Speaker, was a bold and an imaginative step. To some it may seem precipitous, but underlying the whole speech was the Governor's determination that never again should a situation be allowed to develop in this Colony which made it necessary to introduce a state of emergency, for he said that he was most determinedly aware that the Governor's duty was to preserve law and order. With this end in view, the necessary powers have been retained under the proposed Public Security Bill, and with this enabling Bill on the permanent Statute Book of the Colony; Government would have the powers which had they had in 1948 I believe would have saved us seven years of terror and misery of a rebellion.

Mr. Deputy Speaker, Sir, I feel most strongly that such a past may be forgiven, but cannot be forgotten. Therefore, it filled me with amazement and disgust when I heard the hon. African Elected Members, including even the representative of that extremely fine and loyal tribe of the Kipsigis, say in this House that Jomo Kenyatta is the greatest leader that the Africans have ever had. The man who conceived, planned and organized what I believe was one of the most bestial societies that has ever been known. If there is any possibility that there were Jomo Kenyatta released from restriction he would be hailed as the acknowledged leader of the Kenya Africans; then, Mr. Deputy Speaker, he is still a grave potential danger to the security of this Colony, and I hope and pray that never again will he be in a position to lead the African people into the misery and tragedy that he brought on the Kikuyu tribe. They say the burnt child dreads fire, but some children find playing with fire a fascinating pastime. This does not mean, Mr. Speaker, I do not welcome the Act of Grace, but I welcome it particularly as it acts as a general amnesty for those loyalists who still have the fear of prosecution for acts committed in the heat-of-battle when serving with the Emergency Forces hanging over their heads. I also welcome the release of Kikuyu loyalists who were serving sentences for similar acts committed during the Emergency for which they were prosecuted. I am afraid that I am rather sanguine that there is much hope of rehabilitation of such degraded

[Mrs. Shaw] murderers as the man who was known as "General China". Yet it must be realized, and I do not think it is altogether throughout the Colony, that although the act of clemency has been extended to include such men, they are only being released from prison to go into detention where they will be given the opportunity to work their way down the pipeline to freedom. It is some comfort to know that they are not being loosed on the general public of this Colony, and that should their intransigence not permit of a change of heart they will be recommitted to prison to serve out the rest of their terms.

Mr. Deputy Speaker, while realizing that the necessity of so much of the Speech having to be devoted to the detailed explanation of the ending of the Emergency powers, and the Act of Grace, made it impossible for His Excellency to make mention of much of the work being done by Government departments, I would only like to mention one notable omission which has already been remarked upon by one hon. Member of this Council, and that is the Health Services. In doing so, Mr. Deputy Speaker, I should like to pay a very high tribute to the Director of Medical Services and all the officers serving in his department for all they have done and are doing to bring health and happiness to the people of this Colony; for without a healthy body there can never be a healthy mind. What has been done in such a short time in combating the scourge of malaria alone is quite remarkable, and many other diseases fall into that category, such as leprosy, tuberculosis, dysentery, malnutrition, and others too numerous to mention. But yet, although there has been much achieved, there is still much to do in both the medical and the educational spheres, and, indeed, in all branches of development, and I would remind hon. Members of this Council that the money required for these services can only come through our economic progress. That is why it is so tragic to see the economic life of this country disrupted by industrial strife; for in the words of Noel Coward's song, riots, strikes and revolutions bring in their wake unemployment, poverty, hunger and general misery and not the much vaunted *Uhuru*.

This brings me, Mr. Deputy Speaker, to what I believe is the gravest problem facing Government today and threatening our security in Kenya, namely unemployment. The figures for unemployment have already assumed alarming proportions and if strikes persist, Sir, will increase. I would remind the Government that only last year a well known District Commissioner was heard to remark that for every 100 people released from detention it meant another 100 facing unemployment and possible hunger. Perhaps that statement was exaggerated; yet, if it was not true of yesterday it may well be true of tomorrow. I am sure that our Government are only too well aware of this and that under the new Governor they will tackle this immense task with energy and imagination. But, Mr. Deputy Speaker, it will need more than imagination to find the answer; for the answer can only be found in creating more employment through the increase of our secondary industries and, indeed, in the widening of the whole basis of our economy. But employment must be found if the heralded new era of hope is to dawn in Kenya.

More and more the dark continent is lit up by the glare of radio and television which, today, is more far-reaching than the tribal drums. We have been much in the British News in the last week. Since with the ending of the Emergency what has been described as a "bold but calculated risk" has been taken. Some papers point out—and this is true—that all the credit cannot go to the new Colonial Secretary, not the new Governor; for a great deal has been done in bringing about a situation which was made possible by their predecessors. This, of course, is absolutely true. But all agree that they deserve much credit in having the courage to seize the moment. In the opinion of the *Manchester Guardian*, Mr. McLeod, the new Colonial Secretary, if only on a "wait and see" basis deserves the confidence of the Africans.

There is much to be done, Mr. Deputy Speaker, in the weeks ahead, the blinds are up in the Kenya shop window; and, Sir, we have all our part to play towards the promotion of a right atmosphere. I am one of those who are convinced that there is a fund of goodwill amongst all people in Kenya, and you

[Mr. Shaw] only have to travel in the up-country areas certainly to be able to see, evidence of this comforting truth.

Members of this Council, in the weeks ahead, can do much to promote the right atmosphere for the round table conference. Let us see to it that each of us does what he can so that we may go to that conference in a spirit of good will, harmony, tolerance, for so much depends on it for all of us. As His Excellency, Mr. Deputy Speaker, said, in the weeks before us we will be groping and often frustrated; but let us, Sir, be, I am, strangely hopeful.

Mr. MOHINDRA (Nominated Member): Mr. Deputy Speaker, there was a time when I thought that coming in at the beginning of a debate was a disability because one did not know what to say. I now realize that coming on in a debate towards the end is a greater disability because one is so confused. Most of the things one wants to say have already been said.

During the last 18 months, Sir, sitting in this House and listening to Members from both sides, I have become convinced of one thing and that is that although truth is so scarce a commodity, it is in a greater supply than there is a demand for it. It also appears to me, Sir, that there are two types of hon. gentlemen in this House. There is one group who think that the Government should support them, and there is the other group who think that it is the people who should support the Government. I, Sir, want to find the middle way. I think it is the duty of Government to support the people but I think it is a greater duty of the citizen to support the Government. I believe if every one of us adopted the attitude towards life we should be able to make Kenya into a very happy country indeed.

I was sorry to see that the speech from the Throne did not lay emphasis on the creation of a local-civil service. The hon. Specially Elected Member, Mr. Blundell, stressed the point that our young men whom he met in England are really first class material and that we should make more and more use of them. It happens so, Sir, that although since Libary there is supposed to be no discrimination in the civil service

principle, there are complaints being levelled outside this House that there is administrative discrimination still being practised. We should be prepared to give a lie to any such rumours or any such allegations from whichever quarter they come.

[Mr. Deputy Speaker, (Mr. Conroy) left the Chair]

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

We have at the moment, Sir—an individual in the United Kingdom whom we call the Student's Advisor. I think the Student's Advisor's further duty should be to act as a sort of liaison between the Civil Service Commission here and the students that are studying abroad. I have pressed time and again, Sir, the difficulty that our students are having in obtaining apprenticeship in highly technical jobs after having obtained highly technical degrees. This should not be so, Sir. We have in this country training schemes in certain departments where we take people under our care for training them for these highly technical posts. These local schemes should be available to these young men who are finding it difficult to obtain apprenticeship in England because the demand in England at the moment from all over the Commonwealth is so great. It is said, Sir, that the D scale appointments in the local civil service here are not known to anybody except the heads of the particular departments. People generally know nothing about these D scale pupil engineers or pupil appointments at all and it is the heads of the departments or the administrative establishment secretaries who go and pick individuals and bring them into these D scale appointments and a criticism is laid on the door of Government that there is discrimination being practised there.

I am not making these remarks disparagingly, Sir, because I know that the Civil Service Commission as at present constituted is a first class body. There is no discriminatory practice being carried out by the Civil Service Commission and if there is any discrimination being practised it is by certain heads of departments and I would like to bring this to

(Mr. Mohindra) the notice of Government so that if there is really any foundation in the allegations being made these could be removed and the confidence and trust of all the other communities in this country be obtained by the Government.

I am aware, Sir, of the tremendous efforts that have been made by Government in raising the agricultural economy of this country. Memories are very short and people are likely to forget things very easily. The Meru District is personally known to me because years ago I was a constant visitor to the Meru District practically every three months. The surplus produce that the Meru people were able to put on the market in those days of the 20s never amounted to more than about £10,000 per year. The recent coffee crop that has been obtained from the Meru District is going to bring in nearly £750,000 to the people of Meru and a similar revolution is taking place in Embu, Kisumu, Elgon Nyanza and elsewhere. So far as agriculture is concerned, Government is doing a very good job indeed.

The Department of Commerce and Industry is doing a very good job indeed in training Africans for carrying on trade in the reserves. But, Sir, there is one thing where I think we could do quite a lot and that is under the community development scheme we should, I think, as soon as possible, bring in an impetus for the people to go in for cottage industries. These cottage industries will keep the people employed and if they keep them employed they will keep them out of mischief.

With these words, Sir, I wish to add my thanks to all the hon. Members who have expressed their interest for the clear exposition of policy by His Excellency the Governor and I beg to support.

Mr. MOYIA: Mr. Speaker, Sir, on the fifth day of this debate on the Governor's speech naturally a lot of things have been said and especially having been absent I hesitate to take very much time lest I repeat much of what has been said. There are, however, a number of points that I thought ought to be dealt with for no other reason than for the purpose of further clarification and, I think, further definition of the stand and position which our various people take. I would

like to deal with some aspects of the Governor's speech itself. I notice, Sir, that the Governor has given, and rightly so, a lot of emphasis to the question of the need to maintain law and order.

Now, no one will quarrel with the simple statement of the need to maintain law and order. But, Sir, it so happens that we also have experience, especially in the last seven years of what can happen depending on the approach that is taken by the persons concerned in an attempt to maintain law and order. And I think that the Government especially with the hopes that he has created due to his new appointment and the possibility of his taking a new line on these matters will seriously take into account the fact that in maintaining law and order it is not a question of suppression and control that is going to matter; it is a question of how far the people have confidence in the Government and also how far they respect and accept its policies and those functionalities who are charged with the responsibility of carrying out these policies in the day-to-day life of the country. I am submitting, Mr. Speaker, that if the maintenance of law and order is going to be accompanied by policies of suppression and control, then we will not have advanced or moved from the previous very unhappy relations that we have had in this country. We would, therefore, suggest to the new Governor that it is necessary to recognize that what is needed in this country is to first win the confidence of the people for the Government and also those responsible for carrying out Government's policies; and, secondly, create better relations between the people, the police and various administrative staff in the field that are carrying out these policies.

Unless this can be done, in his attempt to ensure that law and order is maintained in this country, he will find it most difficult to create the harmony, the goodwill and the genuine common understanding which, I am sure, he is out to create. We are, I am sure, prepared all of us to see created in Kenya a new era in which there is harmony, understanding and peace. But we must emphasize that if this is to be based on suppression or control, especially of one section of the people of this country, the African

[Mr. Mboya] people, then that sort of co-operation is negative and it will not be forthcoming.

Mr. Speaker: Sir, the question of the laws of this country. Now, it is all right for Members to stand here and talk to us about how much we should respect the Government—we should accept the Government—how far we should work with the Government. But, in my humble submission, the question is whether this Government or any other Government for that matter, is to be accepted just because it is a Government or because it is a fair, just and representative Government. I do not want to predict what will happen in London but I do want to say this, that before we can have the full confidence and respect of the people of this country in the Government and the laws of this country, we have to convince them that that Government represents all their interests, genuine interests, and that they have a full and effective say in the determination and carrying out of its policies. It is not a question of telling them, "Because this is a Government, you must accept it regardless of how it is formed, what it does or what its attitude may be." It is necessary too, Sir, that we convince the people that the laws themselves are just and fair and are meant to be just and fair. My submission, Sir, is that some of our laws could never be presented as being just or fair, especially if they appear so obviously to be aimed at suppressing and controlling the people, not so much in the interests of what has been said here so often—law and order—but what happens to appear in the eyes of our people to be other motives.

Mr. Speaker, we have said in the past, and I think we ought to say it now so that His Excellency may have a very definite idea of our feelings, we have said in the past of this Government that it was too much dictated by fear, so often panicky and quite often unreasonable. We were encouraged to hear the Governor say that he will be directed by—especially when he referred to public meetings and political organizations—a policy based on what was good rather than on race. Now, this is encouraging and I hope that in interpreting this we can say that this will remove once and for all the previous attitude and policy of this Government that only the Afri-

cans in this country have a propensity for crime, violence and subversion; that we will not be condemned just because we happen to be Africans, therefore any organization which we form is bound to become subversive. We hope, Sir, that this will mean that every community, every person regardless of his political feelings or attitude, will be given the same chance and only judged on the basis of what he has done, not what he might do next year, next week or even tomorrow. In the mind of some person who thinks he knows better how to judge what we are up to.

We hope, Sir, that this will mean greater freedom for our political organizations, for us to organize, for us to hold public meetings, to speak like everybody else. We hope, Sir, that this means that the Motion which was passed in this House this year and the restrictions under Emergency legislation relating to country-wide political organization will be reviewed immediately in interpreting this particular section of the Governor's speech.

Mr. Speaker, the Governor wishes us to forget the past and we join him in wishing everyone to forget the past. If that be the case, then I submit that the African people and the African leaders should also from now on not be judged by the past; not be judged by something that happened or might have happened in 1950 or 1949. Let this also mean that the African leaders and the African people will be given the same opportunity to develop and to be judged only by what they have done, not what might have been done some years ago and on which the present administration bases every policy. I have heard it said some time back that the main purpose of this Government's policy was to prevent the repetition of some of the things that might have happened previously or in the past. His Excellency has repeated that. And we, too, hope that there will be no repetition of some of the things that have been done or those that have happened in the past. But on what basis is this going to be? And here I would like to suggest that the only basis on which we are going to move forward to that Kenya which both His Excellency and some Members have tried to paint in this House in the last five days of debate is—by recognizing certain basic

[Mr. Mboya]

of them is that Kenya should no longer be treated just as another colonial territory being administered without a sense of direction and without acknowledging the fact that we have entered today a stage in Kenya's development which must force everyone dealing with our problems constantly to bear in mind that the next step for this country is the attainment of her complete independence under a Government of the people themselves. Unless our development is related to this fact, then, Sir, a lot of what is being said and done will fall too far short of meeting the urgent and immediate aspirations of our people. And it is in this spirit that I hope His Excellency and the Government will approach their tasks in the present day and in the near future.

I want to touch on another aspect of the Governor's speech. I am sure that most of us welcome the Act of Grace as published in the HANSARD and at least welcome this attempt to show an open heart or an open mind in his approach to our problems. However, on the question of the Emergency, I want to make the following points. First, I want to say this very strongly, that what we are looking for is not just the declaration of the end of the proclamation of the State of Emergency. What we are asking for is the end of the Emergency in all its forms. But, Sir, if some Emergency legislation is going to be transferred into the substantive law, I think we strongly question how far this action will have relieved our people and country of the grievances, the dissatisfaction and the frustration that they have suffered under the State of Emergency. It is not good enough merely to tell the people that "We have transferred these laws now into the substantive law and we are now ready to declare at an end the proclamation of the State of Emergency." Are these new laws really necessary? On what are they related? Is it not merely on the fear that there is likely to be a repetition of the past? Is it not merely on the desire to ensure that suppressive measures, or control measures can be taken as and when the Government feels like it? Mr. Speaker, if that be the case, how far shall we have moved from the State of Emergency, the psychology of it and the frustration that has come from it? We would like to

see not only a gesture of removing the State of Emergency. We would like to see the Emergency brought to an end in this country. We would like to see the country going back to a normal life; to normal and ordinary legislation that would be found in any country that has no Emergency. Should there be a need one day—and I hope there will be need one—for such measures, strong, sometimes arbitrary measures, ever to be used again, the machinery still exists which could be used or invoked should it become necessary. But we urge the Governor to review this situation most seriously and we submit to him that we are not satisfied merely by a transfer of Emergency legislation into the substantive law and putting it before our people as a very generous Act of removing the conditions against which we have been complaining.

There is a point, Sir, that my colleagues have mentioned in their speeches and which I would like to emphasize, that is, relating to Jomo Kenyatta. We want to say in no uncertain terms that his release is an important factor in any attempt to bring about cordial relations, harmony and confidence between the Africans and the Government and between the Africans and the other racial groups. We want to leave no one in any doubt on this particular question and we do not consider that steps will have been taken to end the Emergency if Kenyatta is not released, not only because we think it is right that he should be freed, but also he has—his Government insists that he has—to be punished for anything that he has been punished. There is no justifiable reason or right on the part of the Government for his continued detention and indeed that of his other colleagues and all the other Africans now restricted or detained. We therefore submit in the strongest possible terms to the Governor that Kenyatta be released forthwith as part of this act of easing the Emergency situation.

We also submit, Sir, that facilities be made available for Kenyatta to be able to be consulted on the question of the constitutional development of this country. Now, I would like to touch on just one other point that has been made in the speeches in this House and especially I want to refer to the speeches of the Member for Nairobi West and the

(Mr. Mboya) Director of Education. Now, we cannot overemphasize the urgent need for more educational opportunities for the Africans in this country. On this subject, we have raised a number of points in the course of the last three years. We have urged the review of the system entirely. We have urged the review of the whole question of Standard IV and Standard VIII examinations. We have urged the review of the question of higher education. We have also mentioned the question of the *per capita* distribution in the expenditure on education. Now, Sir, reading in the HANSARD I notice that the Member for Nairobi West is pleading—I think, for the *status quo* to be retained—in other words, for the present structure of education as between the different racial groups and also as relating to the difference in the *per capita* expenditure on the education of the children of each of the various racial groups. That it would not be wise to interfere with the present arrangement because this might result in a lowering of standards.

I thought that the Director of Education supported this view, and in supporting the view he made a most curious remark by saying that to try and have an equal *per capita* expenditure on the education of children would raise a problem of the *per capita* spent on the African children in the rural areas and the *per capita* spent in the towns. Now, Sir, supposing we had to spend equally in *per capita* terms in the education of our children, if, indeed, there is any argument to justify a difference in the rural and urban areas, then let us have that argument put forward, but how do they want to justify, for example, the difference between the *per capita* spent on African, Asian and European children in Nairobi City, or, for that matter, African, European and Asian children in any of the rural areas. Neither the Government, nor the Member for Nairobi West have given any convincing reason for the retention of the present state of affairs. To speak about lowering of standards of education, Mr. Speaker, is to suggest that the African standard of education today is much lower than what to make the submission, with my experience and knowledge of my colleagues, who have been more involved in

this than myself, that African children and European children and Asian children sitting for Cambridge School Certificate in this country, or the Higher School Certificate, for that matter, have not shown anybody any real convincing reason to make the statement that there is a difference in the standards. I can understand it if the Member for Nairobi West is talking of standards in relation to the comfort and welfare of the children and probably urging us to accept the *status quo* in which European children may have better dormitories and dining halls and china plates and the rest of it, but, Sir, is this a country which is going to be urged to accept higher living standards for certain people at the expense of the state, just because they feel they are used to this? If they are, let them go to private schools. But if the Government is going to spend public money on education, then we submit every child of every race is entitled to the same treatment. Every child of every race is entitled to look forward to equal opportunities. I do not know how this Member for Nairobi West looks at this point, and especially when, with the same breath, he says he is going to convince us to look at each other as equals, as the same persons, as Kenyans and the rest of it. Except, I think, he is always trying to tell us that some people are more Kenyans than others, and that must be himself and his group.

Now, Sir, the land policy has been referred to, and it is good to know that His Excellency intends to give every person an opportunity to discuss this matter further and to air their views, but I think we must state, right at the outset, that the present White Paper fails to meet the Africans' urgent demands over the land question. It fails to accept and acknowledge the long-standing dispute over land. It fails to take into account the economic aspect of this question, both in terms of land hunger, or lack of land in certain areas, and also in terms of over-population and in terms of the comparative ability of the various racial groups. It is very attractive to try and convince us that land barriers are going. Yes, land barriers may be going, but the Kenya Highlands Order in Council, but will they really go under the proposals of the present White Paper? That is the question to which we would like to draw attention.

(Mr. Mboya) Let me conclude, Mr. Speaker, by referring to the speech made by the leader of the New Kenya Group, I think he referred to something about the need for a "self denial ordinance". I was wondering who was going to deny themselves what? Some of us are in a position to deny themselves something. Others are in no position to deny themselves anything, and unless, Sir, we are being asked to submit to certain people's wishes in order to be called "moderates" or submit to what the New Kenya Group would like to see as the best policy of this country, and be regarded as well meaning and understanding. What is it we are being asked to do? I saw in the Press the other day a very curious statement made by the leader of the New Kenya Group, and I wondered whether this statement did give away for any self denial ordinance because in that I thought he said he was making the demand for general elections before the round table conference, and in opposing this demand—I thought he said in the newspaper, that he did not think it was the right thing to do because it might lead to a situation in which African extremists, nationalists, might be returned in a majority. I do not want to interpret what my friend might have meant, but I thought it was pretty obvious, and, Sir, if that is the basis of the relations, he would like to create, or anybody else, then I say that there will be no co-operation because we shall not accept that basis. The African, like any other community in this country, is entitled to representation at this conference, or any other conference, only by those people whom the African himself has chosen, accepts, recognizes, has confidence in, and has elected, not those whom someone else thinks would be the most palatable—the most acceptable to his way of thinking.

SIR CHARLES MARKHAM: Mr. Speaker, when the hon. Member for Nairobi Area talked about co-operation a moment ago, I thought of the very brief co-operation we have had because I was due to speak before him, but we agreed together that he would come first because he has some important business elsewhere. I would like to say, Sir, in view of where that business is, that I wish him the very best of luck in solving the trouble.

Alternatively, Sir, if he cannot solve it, he might help out in the luggage shed!

Sir, this debate, as speakers have said today, has gone on a very long time, and as the Chief Secretary has to wind up this debate, he will have a great deal to answer. I do not think he will have a lot from what I am going to say, Sir, but I want to touch on one or two subjects which have been mentioned, and I would like to mention them again.

Every speaker, I think from this side of the Council, has talked about the Government White Paper on land, but in view of the fact that the various responsible bodies, such as the K.N.F.U., are examining the detail of this Sessional Paper, I do not propose to go into details myself today, Sir, except to say one thing which I think might upset the Minister for Education, Labour and Lands, but I think it should be said, if any civilian public relations consultant had issued a White Paper as ambiguous as that one, he would have been sacked. Quite frankly, Sir, I believe that half the misunderstanding on this White Paper has been caused by the way it was handled, by the fact that the impression has been gained that the matter has been rushed, and there are, quite frankly, quite a few contradictions in it. I hope, Sir, that this will be an example to Government officials, who are going to bring forward views, they should do it after taking advice, in order to avoid misunderstandings.

Sir, on land, there is one aspect which I would like to mention, because I am confused in my own mind of the attitude on this side of the Council. The Parliamentary Group to which I belong has made its own position very clear, but there seems to be some doubt still of what the position is over land barriers. For example, Sir, when the hon. Member for the Rift Valley was speaking yesterday, both my hon. friend, the Member for Nairobi West and myself interrupted, until, Sir, you told us off. But the hon. Member did say one thing, which I found rather amazing. He said, Sir, and I quote from HANSARD, "We do not agree with the principle of the progressive removal of land barriers." Well, Sir, he was asked to make it perfectly clear, and he has done so, and I am grateful to him. His chairman, on the other hand, of the party of which he is a Member,

[Sir Charles Markham] will on 30th October. "Yes, we agree to the opening up of the Highlands, and on the same basis as other areas provided control is vested in the land owners themselves." Well, I think, Sir, that is rather mystifying to me. What exactly is the official policy of Members who are talking in this House, first of all against the principle, but actually some of them seem to be going into some of the details, and I think it is important that we should get this right. Particularly, Sir, I am amazed that the hon. Member for the Rift Valley said what he did yesterday, when you look at what he said when the Second Reading took place of the Land Control (Native Lands) Bill. He said, Sir, and I quote, "But, Sir, care must be taken that these controls do not become so cumbersome as to make transactions in land complicated and long drawn out, so as to discourage sales or leases taking place." Well, Sir, as that particular Bill put land on the same basis for anybody to purchase, subject to the consent of the Local Board, I think, Sir, again, I am mystified as to what his attitude is to this day.

MAJOR ROBERTS: I am grateful to the hon. Member for giving way.

The object of my statement yesterday was to clear up any misunderstanding there was. I hope my hon. friend is now quite clear as to our intentions in the matter.

SIR CHARLES MARKHAM: Sir, as clear as the very muddy pot which I had at lunchtime. For very good reasons, Sir, I do not know whether they are in favour of opening up the Highlands, or not. One person says they are not and one says they are. I have said all along, Sir—I have been asked—and I have made it perfectly clear that our policy is "Yes, Sir, we do agree with the progressive lowering of all land barriers in all areas."

Now, Sir, there are some other subjects which I want to mention. One subject now, is the subject of agriculture, and the Minister so far has had a very easy time in this debate. I think all of us are awaiting with interest the result of the report of the McGillivray Committee, which was set up by the Minister, but there are one or two other aspects of reorganization which I would like to

suggest to the Minister for his consideration.

First of all, there is a tendency for Government, under his Ministry, to develop more and more into the field of private enterprise through various organizations such as A.L.M.O. and A.L.D.E.V., all of which, are of benefit, I expect, to the people, but there is a dangerous precedent being created, and I would hope, Sir, that perhaps the time may have come, when the Government should consider whether it is the function of a Veterinary Department to run beef farms or, whether they should send the animals to the Meat Commission at the Athi River as opposed to the ordinary commercial operators; I think the Veterinary Department, who are doing a wonderful job for Kenya, have enough "on their plate" without being given more and more functions of a commercial organization. I am not saying, Sir, that these various bodies should be abolished, and I would not like that impression to be gained at all, but there is to my way of thinking, perhaps a belief that the Veterinary Department should just be the Veterinary Department, and not have all these other functions. At the same time, Sir, I think there is as well an overlapping between the Agricultural and the Veterinary Departments, and I would suggest, Sir, that there should be an amalgamation of the two into one separate department under one Minister, as it is at the moment—I would like to say that you can get the same officers, like livestock officers, working in one area rather than different people in two different departments. If the Minister would like details of certain areas which I am thinking of I will give them to him gladly, Sir, rather than waste the time of the House this afternoon.

There is one other thing affecting the Minister's portfolio. Some time ago in this House, either last year or the year before, I did ask the then Minister for Agriculture, to look into the question of allowing the free sales of fat stock with a minimum floor price being guaranteed by the Kenya Meat Commission, and the Minister did say he would look into it and give us, or give me, some information. Well, that was either 18 months ago or a year ago, or even two year ago, and I have heard nothing of it, Sir, and

[Sir Charles Markham]

I would like the Minister, if he speaks in this debate, to tell us what proposals he has on this particular problem. I will give an example to him, Sir, where I think the farmer has a genuine grievance at the moment. The prices for beef as laid down are very low for some of the poorer grades, and I am thinking particularly of animals which are known as fat cows. The price the farmer gets from the Meat Commission is very small, although there is a ready demand for these animals from the Kikuyu butchers, who are unable to obtain them without permit, the permit being very hard to obtain indeed, and of course the price the farmer would get for such animals is very much higher than the present fixed price paid through the Kenya Meat Commission. I am certain, Sir, something must be done in this direction because it will avoid the black market, or the illegal transaction which we know takes place.

My last point on agriculture before I turn to something else is talking about the marketing, and I would like the Minister to tell the House of any news about the question of agreements with the Federation on some of our agricultural projects. Again, Sir, we are concerned that this year has been the disastrous failure of the rains, with the danger of famine, but with the impact of what is known as the Swynnerton Plan coming more and more into the economy of the country, I believe that this subject does require a really great effort by the Government to find markets for our produce. I am thinking, Sir, of other markets so near to our borders, such as the Persian Gulf, Aden, the Belgian Congo to a certain extent, and of course, Mauritius. And I would also like, Sir, if the Minister would tell the House what action he has taken as the result of the report on the marketing conditions of Mauritius. That report was supplied as a result of the Royal Agricultural Society of Kenya's bursary to investigate the problem.

Sir, very little has been said in this debate on matters of finance. We have, Sir, a new Minister for Finance, and I do hope that before this debate finishes the House can be given some idea of what the financial position of the Colony is at this present moment. We are this year standing on our own feet without further money from Great Britain and it

would be interesting if we could have a brief review from the Minister as to the state of the financial health of the country.

I have two other small points, Sir. The first on the question of the Emergency and law and order. I was rather amazed, Sir, reading in my HANSARD the HANSARD of Friday, 13th—which is perhaps a very good day to be said—a speech made by the hon. Member for the Southern Area, and he said this, Sir—whether he meant it I would like to know. I quote, "I think it is only right never to say that Kenya ever had anything to do with Mau Mau." Well, Sir, what a wonderful understatement. Quite frankly, Sir, when we are asked by all the African Members to support them in the demand that Kenya should be released, when we see or hear remarks like that made, then, Sir, somehow it is difficult to believe that the people asking for such a release are responsible people.

MR. TOWETT: I thank the hon. Member for giving way. I was developing my form of argument, based on the Deportation Ordinance. If Kenya was now restricted on that Ordinance it is hardly logic and right to say he had anything to do with Mau Mau, as far as his present restriction is concerned. That is what I was trying to develop, and I hope the hon. Member is perfectly satisfied with that.

SIR CHARLES MARKHAM: I thank the hon. Member for his explanation, although, again, I cannot quite understand his logic. It does not matter, Sir. We will let that go, and I am sorry that I misunderstood what he was speaking about.

Sir, like other hon. Members I am concerned about the Act of Grace in so far as the release of some of the thugs who are at the moment in prison for Emergency offences is concerned, and I do hope, Sir, that the Government are completely satisfied that rehabilitation does not just mean confessing to what you have done in the past, and that before these people are allowed back into their own tribal areas, the local people will be consulted. In the past local opinion perhaps has been over-ruled, but it is vitally important that those people who sought for the Government or who we know as

[Sir Charles Markham] the Kikuyu loyalists, do not find their lives made a misery by the return of these convicted murderers and other foul Mau Mau offenders. The Act of Grace was understandable, and I support the idea behind it, but I just hope for that assurance that law-abiding citizens will not be prejudiced in their activities by the release of these thugs.

Sir, my final point is on this conference in London, and I must admit that for the first time, and I am certain not for the last time, I disagree profoundly with His Excellency. I do not know, Sir, how His Excellency could say in his Speech from the Throne that the atmosphere was right for a conference at the moment. Well, Sir, if the atmosphere is right at the moment, I hate to think when the atmosphere is going to be wrong.

I read—I am sorry I was not here—but I did read the speech of the Minister for Commerce and Industry, when he mentioned briefly this question of the constitutional conference, and I would like from this side, to endorse everything he said regarding the need for wise thinking, particularly as no constitution will have any effect at all in this country unless we start being realistic and getting down to ordinary matters such as the financial development of this country. However, Sir, what I am concerned about is the fact that we are having this conference in London. I cannot see the point, Sir, with respect to both the Secretary of State and His Excellency, of chartering an aeroplane at great expense to take a mass of people to England so that they can agree to disagree or disagree to agree. I would have thought, Sir, that the obvious thing would have been to have this conference first of all in Kenya—Holsa Camp might be a suitable place—and then if agreement was possible, perhaps later to fly delegations back to England, but I agree entirely, Sir, with my hon. friend, the Member for the Southern Area when he said in the course of that same speech I misquoted a moment ago, "If we, the elected Members of this House cannot agree here, how shall we be able to agree when we go to Great Britain".

I would have thought, Sir, really that by far the best thing would be to have a preliminary conference here in Kenya

to see whether agreement was possible. I am very frightened of two things in England: first of all the weather, and secondly, the idea of sitting for three weeks in Lancaster House arguing, arguing, at the taxpayer's expense, which seems to me a wonderful way of making quite certain of an increase in taxation by the Minister for Finance next year.

I hope, Sir, that these remarks of mine on this question, which are my personal views only, could result, perhaps, in reconsideration by the Government as to whether we need to go to London in January. May I suggest, Sir, next autumn which I would not mind at all, I have a reason for going to England next year, but not in January. Alternatively, Sir, if we do not want to go, will the Government give us some money to go later on for a holiday?

In all seriousness, Sir, I do think that at the moment we are, perhaps, taking this matter lightheartedly, but it is a wrong principle to be told that the atmosphere is right after the Secretary of State gave us a specific assurance when, quite frankly, a lot of us think that the atmosphere is anything but right. I hope that the plea made by my hon. friend the Specially Elected Member, Mr. Blundell, for a self-denying ordinance will have effect all over the country. I very much doubt it, Sir, but the best thing would be a self-denying ordinance and none of us to go to the conference which would save a lot of money. I beg to support.

MR. MAXWELL (Trans Nzoia): Mr. Speaker, I was more than favourably impressed by the forthright manner of His Excellency when delivering his Address from the Chair on Tuesday, 10th November, but I do hasten to add that I am not in agreement with Government's proposals on land as they stand at present. I visualize His Excellency as a confident sea captain, with his feet firmly on the bridge of a ship, sailing through troubled waters. I trust he will keep a steady hand on the helm and fearlessly sail the good ship Kenya into a secure harbour, through the present stormy seas of politics, where it would be possible to promote and foster a spirit of genuine friendliness and build up a true desire for the fullest co-operation between all races in this Colony in order to continue the development of

[Mr. Maxwell] this grand country in an orderly and proper fashion. The sooner we make a genuine and honest attempt to work together in harmony, for the common good of this country, the sooner will that airy, cheerful or "jocund day" to which His Excellency referred, rise gloriously over the mountain tops.

Before proceeding to express my views on land, I wish to refer to one or two other matters. Recently I heard a rumour to the effect that the Road Authority proposed to deviate from the original programme announced with regard to the bituminization of certain roads in this Colony—scheduled to begin early in 1960. Some months ago the hon. Minister for Works gave the priorities as follows: "Nairobi to Nyeri, Mau Summit to Kitale via Eldoret, Mau Summit to Kericho, Kisumu." I would very much appreciate an assurance from the hon. Minister that there is no truth or foundation whatsoever in the current rumour.

Invariably I find myself in violent disagreement with a great deal of what my hon. friend, the Member for the Southern Area, says in his lively and entertaining manner, but I do agree with him and also with my hon. friend, Sir Charles Markham, that the proposed round-table conference should be held in Kenya, at any rate in so far as the initial proceedings go. Doubtless we could find many peaceful, secluded sites in Kenya, away from the maddening crowd, and I do wish to make it quite clear that I am strongly opposed to a round-table conference taking place in January of 1960. I am yet to be convinced of the urgency. In my opinion it should be postponed until after the next Kenya general election so that any constituency member can attend with a clear mandate from his or her electorate. Since the Colonial Secretary has, in fact, decided to hold this proposed conference in London, presumably the British Government will meet the very high cost which will be involved.

There is one small point I wish to put to the hon. Minister for Agriculture, and that is, in his opening address at the Kitale Show, I think it was on 31st October, he stated that he intended to post a senior veterinary officer at Kitale. I have no doubt that he is as well 'keyed

up as any of the other Ministers to prevent unnecessary expenditure. I would indicate to the hon. Minister that we have five European qualified veterinary officers in the Trans Nzoia, plus a first-class Government Stock Inspector together with a very competent African staff, and I feel that this expenditure is quite unwarranted, but no doubt the hon. Minister will have a genuine reason for the establishment of this post.

I was surprised to learn from the hon. Member for Ukamba, a few minutes ago, that he supported the progressive lowering of land barriers, without any mention of controls or safeguards, and I would mention that this is quite inconsistent with his electioneering policy of 1956, in which he made it quite clear that the pledges in regard to both European and African land units should be maintained.

Referring to Sessional Paper 10, Mr. Speaker, the European Elected Members, after many lengthy discussions, finally agreed to accept in principle that all land tenure in Kenya should be on the same basis but subject to the overriding condition that landowners themselves, acting through elected control boards, would have the right either to approve or refuse any proposed land sale or lease. Personally, I deplore the use of the words "progressively eliminating" or "lowering land barriers" as I would have preferred Government in particular, to have said that it intended to introduce legislation to provide for a degree of flexibility in land transactions between different races, subject to adequate controls.

In the debate last week, the hon. Member for the Eastern Electoral Area said—and I quote from HANSARD—"I was very much interested in the various quotations by the hon. Member for Mount Kenya, and the European history of the settlement in the country." The hon. Mr. Pandya was, of course, referring to the promises and pledges made by the British Government in regard to that part of the Highlands occupied by the Europeans. He went on to say, "I think it would be advisable for him to read the history of the settlement of other communities who have made their homes in this country. Sir, the point is that the situation with regard to land

[Mr. Maxwell] has to be seen in the light of the conditions as they exist today and not for the pledges given several years ago."

Mr. Speaker, Sir, I was amazed, indeed distressed, to learn from the lips of a man of the integrity and calibre of the hon. Mr. Pandya that such promises and pledges by the British Government should be so lightly set aside, dismissed or ignored. I take this opportunity to remind him—unfortunately, he is not here—and other members of his community, amongst whom I claim many friends, that if it had not been for the enterprise, skill and pioneering efforts of the British Europeans in taking the initiative to open up British East Africa, it is extremely doubtful that the existing flourishing Asian population would be here today.

I rather expected and was not at all surprised at the bitter and unreasonable remarks made by the hon. Member for the Central Electoral Area, Mr. Travadi, when referring to the Sessional Paper on land he said, with a triumphant facial expression, that "the whole Highlands for Europeans, even that white of cards has fallen". Mr. Speaker, such utterances do nothing towards creating a spirit of goodwill in this country.

The majority of the African Elected Members have made it abundantly clear that they have no intention of agreeing to the opening up of their reserves, and in support of this statement I quote the hon. Member for the Central Rift, Mr. Ole Tipi, who said, "There is no question at all of opening the African land units to any immigrant race." However, there is one remark the hon. Member made with which I find myself in sympathy, he says, "It is the duty of Government to protect we, the Africans, who are financially weak."

Mr. Speaker, if the proposed legislation in regard to land is to operate there must, indeed, be a *quid pro quo* between all landowners in this Colony. If the Africans are adamant and say no entry to their land units, then the Europeans are perfectly justified in creating a similar stipos in regard to that part of the land they occupy in the Highlands of this Colony. I reiterate there must be a *quid pro quo*.

Sir, it gives me no pleasure to say what I have to say now. Yesterday, the hon. Member, the Minister for Education, Labour and Lands tried to convince hon. Members that the pledges given regarding land in the Highlands were related to economics and farming methods and nothing to do with race. I must challenge him on this matter. At least he admits that pledges have been given. I would just refer him to some of those pledges. My colleague, the hon. Member for Mount Kenya, in fact, listed in detail all of them, and I would ask the Minister to refresh his memory by reading the details given by my hon. friend. In 1922, Mr. now Sir, Winston Churchill said this: "We consider that we are pledged by undertakings given to reserve the Highlands of East Africa exclusively for European settlers, and we do not intend to depart from that pledge, and that it may be taken as a matter which has been definitely settled." Is there any mention of economic reasons in that statement? No, it just refers to Europeans. It makes no mention of farming methods.

My hon. friend gave his interpretation of the Devonshire White Paper of 1923, but he forgot to mention this passage—this was a passage dealing with the fact that certain areas of land had been set aside for European settlement and it says this—"After reviewing the history of this question and taking into consideration the facts that during the last 15 years European British subjects have been encouraged to develop the Highlands and that during that period settlers had taken up land in the Highlands on this understanding. His Majesty's Government have decided that the existing practice must be maintained as regards initial grants and transfers." The operative words are, "Have taken up land on this understanding." What understanding? Economic reasons? Good farming reasons? No. For reasons that the land was reserved for European occupation.

I would also refer him to an extract from the Highlands Order in Council, in fact it is quoted in the Sessional Paper. If he refers to paragraph 16 of the Paper, in which the functions of the present Highlands Board are discussed, he will read this: "While the Governor is not bound by law to accept advice submitted by the Highlands Board, unless its consent is required in respect of matters specifically described by law, it

[Mr. Maxwell] will be apparent that if the Governor rejects that advice, his decision in a particular case will be regarded as indicative of a change in the broad policy pursued up to that time of the reservation of land in the Highlands for European ownership and occupation." This clearly shows that the pledges were in respect of Europeans and had nothing to do with economics and specialized farming. He has, in my opinion, completely misconstrued and, I contend, distorted, the whole issue. Pledges were given, the question is, do the British Government intend to honour those pledges or do they wish to break their word with their own people? I have always thought that an Englishman's word was his bond and I hope that we can continue to believe in that.

Again, it is well to remember that the Europeans came to and settled in Kenya in good faith. In fact, they were encouraged to do so by the Governments of the day. European settlers have made their homes in this country, have built up its wealth and are, indeed, responsible for its development to a very large extent. Also make no mistake, the European contribution to the future progress of this Colony is of the greatest importance and that one of our major tasks, the advancement of the Africans—is a task we have always shouldered and are willing to continue to shoulder. The Europeans have every right to expect the Government of today to safeguard their interests as well as those of the Africans, Arabs and Asians.

Also it should not be forgotten that the British Administration put an end to slavery in this Colony not so very many years ago and, in fact, established order out of chaos and have made it possible for any member or individual of an African tribe to travel from one end of the Colony to the other in peace. Mr. Speaker, I beg to support.

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. MacKenzie): Mr. Speaker, Sir, one of the disadvantages of our existing practice of taking the Budget at the end of April and getting it out of the way before the end of the year is that we often have to frame it on the basis of an estimated out-turn for the year which is coming to an end and because of these factors we have to make

our estimates some 2½ months before the close of the financial year. For that reason, they can never be quite as accurate as we would like them to be. So far as I can see, Sir, there is no way of getting out of this difficulty unless we were to, for example, change our financial year and bring it forward to, say, the 1st of April. If we did something of that kind we could always consider having a vote on account procedure and adhere to the existing timetable and get the whole thing out of the way more or less by the same time as at present. I am not advocating any such change at the present time but I think the House should know that until we can get to something on those lines we shall always have to accept out-turn figures which, as I say, are not absolutely correct, and which never can be absolutely correct. All we can do is to hope that the margin of error is as small as possible as, indeed, I think we can say it has been.

This year's experience, Sir, has been no different from the general rule. I am, therefore, taking this opportunity of bringing the House up-to-date with the financial picture. Before doing so, however, I would like to express my personal thanks to my predecessor, Mr. Ernest Vasey, for having at the end of seven very difficult Emergency years left the finances of the Colony in a far healthier state than, knowing the difficulties during that period, one could have ever expected.

I should like first, Sir, to deal with the Ordinary or Colony Account, which is, of course, of the utmost importance. That is the account from which our ordinary, everyday expenditure is met and which is financed from the proceeds of ordinary taxation. I believe, Sir, that it is of the utmost importance that this House and the whole country should always keep a most careful eye on this particular account. I believe that it is vitally important, taking one year with another, that the revenue side of this account should always cover expenditure. I go further and suggest that in a small country like this, with relatively small revenues, it is important to aim every year at having a small balance, however small it may be, on the right side. It may be that, occasionally the estimate will be thrown out of joint because the revenue does not come in or because

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I should like first, Sir, to deal with the Ordinary or Colony Account, which is, of course, of the utmost importance. That is the account from which our ordinary, everyday expenditure is met and which is financed from the proceeds of ordinary taxation. I believe, Sir, that it is of the utmost importance that this House and the whole country should always keep a most careful eye on this particular account. I believe that it is vitally important, taking one year with another, that the revenue side of this account should always cover expenditure. I go further and suggest that in a small country like this, with relatively small revenues, it is important to aim every year at having a small balance, however small it may be, on the right side. It may be that occasionally the estimate will be thrown out of joint because the revenue does not come in or because

[The Minister For Finance and Development]

for one reason or another, some emergency crops up which increases expenditure to a higher level than was expected. Now, when that happens, however, also believe that everything should be done to rectify the position in the following year and to get the account straight. Large and affluent countries which control their own credit and which have vast resources may, very occasionally and they can only do it very occasionally—be able to afford the luxury of deliberate deficit financing on their ordinary finance account. But for small countries like us that is not, in my submission, Sir, the way that we can continue.

Now, Sir, to turn to the figures. In 1958/59 we rather more than achieved the aim of a small surplus on Colony Account. Exchequer receipts were £33,335,000 against issues of £32,249,000, giving a balance on the Exchequer of £1,286,000. The revised estimate, which was presented to you in April with the financial statement and for which I accept full responsibility was that receipts would be £32,721,000 and issues £32,610,000, giving a balance of only £111,000. The difference was, of course, less than 5 per cent of receipts and less than 21 per cent of receipts plus issues combined. In actual terms, however, it put us £1,175,000 on the right side at the end of the year. I think I should point out, Sir, that included in the actual Exchequer receipts or at least off-setting the Exchequer issues to a certain extent was £750,000 carried forward from 1957/58. That has got to be taken into consideration when looking at the Exchequer receipts as a whole because it was carried forward this year. The actual surplus on the account in 1958/59 was about £900,000—the actual surplus of revenue over expenditure.

This sounds, Sir, quite a large figure but it is, in fact, made up of relatively small items. Some £300,000 in Customs and Excise better than we expected and improvement of a similar sum in income tax, an improvement of £215,000 in all other revenue Heads and a shortfall of £160,000 in expenditure as compared with the revised estimate. In each of the cases, as hon. Members will see, Sir, the margins are so small that I think

it is as well to remind ourselves that things could just as easily have gone the other way.

Now, Sir, on Development Account, receipts were £7,681,000, which was a little over £200,000 below the revised estimate. Fortunately, however, issues at £8,204,000 were nearly a million pounds below the revised estimate so that overall all the final position on development was that we finish up rather more than £750,000 better off than we anticipated.

One of the interesting things about last year's Development Account is that nearly half of the total receipts, £3,674,000 to be exact, was raised in loans on the local market. For those who are interested, the East African Currency Board contributed £1,500,000 of that and the rest of the market £2,174,000. I think it might also be good for the House to know that since then the Currency Board has off-loaded some £300,000 of its investments to outside subscribers, which is rather illustrative of the way in which the Currency Board helps to finance our loan programme and will continue to do so in addition to being prepared, when necessary, to give us short term support. It is a remarkable fact, I think, Sir, that in this, which is the fourth year since we last raised a loan in London, we should have been able to bring our overall Emergency Account for the year to within only a little over £500,000 of balance.

The final part of the Exchequer Account, at least as it was presented last year—this year we have added another section to cover short-term borrowing that was not there last year—concerns tax reserve certificates. There we estimated we should have a balance of about £1,400,000 at the end of 1958/59. In actual fact the balance was £1,257,000. This figure is, of course, apt to fluctuate quite considerably in the year in accordance with the rate at which tax payments are coming in. By 31st October it had recovered to £2,300,000 and actually the last date for which I have an exchequer return—14th November—it was up to £1,320,000.

Overall, Sir, taking all these accounts together, we started this current financial year considerably better off than we expected to be. We were, however, still over £2,154,000 in overall deficit and if it

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had not been for the tax reserve certificates, which represent tax paid in advance, it would have been £3,000,000 in deficit. That is better than we estimated and it is better than we stood a year earlier when, again having taken account of the tax reserve certificates, the deficit was £2,586,000. But, Sir, a deficit of £2,154,000 is quite enough, if not too much, for a small poor country like this to be carrying in the way of floating debt at the end of the year when all the revenue has come in and all the expenditure has been incurred. It shows that our improvement is only relative and it must underline the fact that it cannot be a signal for a spending spree, but an indication of what can be achieved if we look after our housekeeping in an economical and thrifty way and encourage it to continue in that way in the future.

There are other reasons, Sir, why we must aim at exercising every economy we can. Our estimates for the current year aim at improving the overall position on all accounts by a further million pounds. But, Sir, a major assumption in drawing up these estimates was that we would be able to raise loan funds on the market to the extent of a million pounds. So far this year, Sir, we have raised about £600,000 on the local market and I would like to say in this connexion that of that £600,000 some £93,000 have been produced by our Kenya savings bonds which were first issued at the beginning of October. And in addition to that we have taken £1,500,000 in Exchequer loans.

There is £800,000 which would also otherwise have had to be borrowed which we have been able to take by winding up the Sugar Equalization Fund. As the House knows the purchases of sugar are now undertaken by the Sugar and Cereals Finance Corporation and we shall get another £200,000 at least from running down the Motor Vehicle Advances Fund. But even when all this has been taken into account we still have nearly £5,000,000 to raise on the development account. We hope to be able to raise a fair amount of that on the local market and we also know that if—as seems likely—we cannot get on to the London market, we shall be able to raise a good deal of what we require by means

of Exchequer loans. We can, however, be by no means sure that at the present stage we are going with any ease to raise the full amount and for that reason again it is quite imperative that the watchword should be economy.

I have already said, Sir, that the most important of our accounts is the ordinary one. This year's estimates aimed at an ordinary surplus of £68,000. The present indications are, Sir, that we should at least achieve that. At the end of October revenue was coming in very nicely. Customs and Excise were up, on last year and, of course, so they should be in view of the increases in the duty levels which were imposed at the time of the Budget and, of course, so they must be if we are going to achieve our estimate.

They are, in fact—only they were at 31st October—a little below one-third of the estimate but if the trend of the year is followed that amount of deficit itself within the rest of the year.

As regards Income Tax, although that was down at 31st October compared with the same period of last year, that was due to an administrative change which has been made in the dates for payment of Income Tax and in actual fact by 14th November the figure had caught up and rather overtaken the last year's figure for the same date.

Overall, making all the adjustments to everything that must be adjusted, we are at present rather more than level pegging on revenue with the position last year. It is always dangerous to prophesy because the revenue comes in at different times of the year in different speeds in different years and it is never possible to fix a date and say we have gained so much by such and such a date and that we shall get on as much by the end of the year. We have tried to do it and we have always been proved wrong. It is dangerous to prophesy but I believe that we have no reason for thinking that we shall get not only this year's estimate but we should do at least as well as we did last year and last year's actual collection was better than this year's estimate.

But here again, Sir, although on the revenue side things look reasonable and we can be reasonably confident about things, there are no grounds for giving too hearty a cheer. Expenditure at the end of October was also £600,000 up

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on last year's figure. To a certain extent this was due to the fact that whereas last year Departments carried forward £750,000 or more from their Exchequer balances, this year they have only carried forward £433,000 and so they have to go to the Exchequer rather earlier than they had to last year. But at the same time, it undoubtedly represents a genuine increase in expenditure. Last year's economy exercise made Ministers trim their votes pretty closely and the indications that I have at the moment are that one or two of them probably trimmed them too closely and may have come back for supplementary provision later in the year in order to cover essential requirements. But I am pretty certain that overall the expenditure for the year should be under the overall total as estimated. Even then it is certain that we cannot rely at the end of this year on large scale underexpenditure to balance the amount and, therefore, Sir, for that reason too I believe that I should once more stress the need for continued economy and good housekeeping.

Another reason for care, Sir, is that we have got to look to the future. During this debate many speakers from all sides of the House, have suggested ways in which existing services could be expanded and new ones introduced. Of course, all these things would cost money, Sir. The only proposals for reductions in the actual expenditure have been that we might have fewer Ministers or that we might reduce the size of this House. That would provide a candle end at any rate, Sir; but I think it should be borne in mind to keep the thing in perspective that even if we saved the whole of the money that we spend on this House that would only give us £105,000 and that is only about one-third of the additional increased expenditure which we provided this year for a service such as African education alone. It would not begin to compensate for the proposed increase in services which would only be financed from new taxation.

• Since Sir, one of my major duties, at least I regard it as one of my major duties, is to look after the interests of

the taxpayer, that idea does not particularly appeal to me.

Next year, Sir, we have to stand on our own feet and we have to absorb any remaining Emergency expenditure left with us. That includes, Sir, a good deal of expenditure by the police, by the provincial administration and a certain amount but not so much by the prisons. There is also, I should say, a certain amount of expenditure which particularly on rehabilitation measures will be met on the development side. The total on the ordinary side, however, may well exceed £600,000. That in itself must naturally absorb a good deal of the ordinary increase in revenue next year. In addition, Sir, we have to cover our increasing public debt charges and other outstanding charges such as those for pensions. We have to cover the cost of our expanding services which have been provided to a large extent through our development programme. We need to do all this if we can without any overall increase in the general level of taxation. The balance will not cover all the expenditure envisaged by Departments in the most recent forecast which I have and it will much less cover the sum of what has been asked for in this debate.

I believe, however, that we can achieve all our essential objectives if we continue to exercise the utmost economy; if we turn a fairly deaf ear to most demands for new services; and if we keep in check the expenditure creep which we killed here last year but which for some reason or other does not seem to have remained dead. That brings me, Sir, to the question of what we could do or should do with any annual surplus which greater or smaller will arise on the ordinary amount if the line I took earlier in this speech is followed.

What, for example, should we do with last year's ordinary surplus which, as I say, was about £900,000. At present it is being used to finance the temporary deficit which we always have at the beginning of a new financial year before the large payments of Income Tax begin to roll in. That should, however, rectify itself late in the year and then the surplus becomes a true one. I am quite sure of one thing, Sir; we should not use it to allow a level of recurrent

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expenditure to be reached which will be higher than current revenue estimates, and future prospects justify. Some people might say that as an alternative we should put it away for a rainy day. At first sight that has an appeal, but in practice we could not do it because whatever the theory is, any surplus on ordinary account is likely to be needed to finance a deficit on the development side of the exchequer account, and I might add, Sir, that even if it were not so, I think it would be rather short-sighted to invest a surplus on ordinary account short-term while we have got to pay a rather higher rate of interest to finance the development programme.

Legally, however, Sir, our consolidated fund is one fund. We only cut it up into various accounts for our own convenience. I think, Sir, we should get into the position of standing back and looking at the financial position as a whole. If we do that I am inclined to think that the answer as to what to do with recurrent surpluses will appear quite clearly to us. I believe the sensible thing to do with any surplus on one part of the account, and indeed with any other fortuitous windfall of a similar kind, would be to transfer it direct to the development account. I might say in passing that our development account is not a capital budget, and I think that there are certain parts in it which are very appropriate to being financed by money transferred from our ordinary account if that can be done. By doing this, we not only, to a certain extent, offset our current deficit, but we also, to a certain extent, defer the date on which we have to raise an additional loan, and thus we reduce the requirements of loan charges in future Budgets. It amounts indeed to the same thing as the custom of ensuring that any surpluses on current accounts are used to reduce the level or burden of the national debt.

The balance, Sir, between ordinary revenue and ordinary expenditure leads me to make a further point about development expenditure. We all know that the scope for development in Kenya is almost unlimited. We also know that we are most unlikely to be able to obtain all the development money that we could profitably use, but, Sir, we have every

reason to believe that if we try hard enough we shall, in one way or another, get all that we can finance in the way of continuing loan charges and other continuing expenditure. Now, Sir, here is the crux of the matter, my mind. We must, in the years that come, try at the same time not only to increase what we spend on development but also to increase our ordinary revenue, so that we can afford to pay for the development money which we obtain, and which we need to obtain. It is for that reason, Sir, that it is so important to my mind that we should always keep the balance of our development programme well under control, and that, as my hon. friend, the Minister for Commerce and Industry, said yesterday, we should continue to give the first priority to those development projects which will bring in an earlier, and if possible an immediate, return, in the form of increased national wealth, from which, of course, the Government will obviously obtain its own benefits. It is only in this way, Sir, that we shall ever be able to afford to expand those other services which are not immediately remunerative, but which are so important to us, such as education and health services, and all the rest of the gamut of the social services. I would very much like in mind when we are talking about development matters: If, Sir, we do not devote as much as some people would like to the development of the social services, it is not because we do not recognize their importance, or because we do not wish to see them developed as rapidly as is possible. It is because we can only develop them soundly and steadily if we are sure of the continual expansion in our economy. If we allow the expansion of these long-term services to get out of hand, Sir, we may, it is true, be able to make a very rapid progress over one or two years, but such growth will be a mushroom growth, and it will rapidly fall away, and the Government, Sir, as I submit, does not wish to see mushroom growth; it wishes to see sound and steady continuous progress all along the line, and it is for that reason that our first endeavours must always be to promote and increase our economic growth.

Turning, Sir, now to the general economy for a minute or two, provided we all work hard and avoid further

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Energetics, I think the outlook at the moment is as cheerful as it has been for some time. Imports are still below the peak, but they are recovering well from the recession. In spite of the fact that relief has been given from income tax in two Budgets, the revenue from that source is still being maintained. The oil refinery will bring additional prosperity to the Colony, and so on a different and smaller scale will the expenditure of the Imperial Forces at Kahawa. That expenditure generates further income into the Colony. Sir, and means indirectly that there will be more and better services for all the people of the Colony. Above all, there is the expansion in agricultural production going on throughout the Colony, nowhere less than in those areas which have benefited from the Swynnerton Plan. We are now beginning to reap the harvest of that investment, and provided we all put first things first and remember that to make two blades of grass grow where one grew before deserves better of mankind than the whole race of politicians—necessary evils though they are—we shall continue to enjoy greater and greater harvests of this sort. I might say, Sir, at this moment, in answer to a point made by one of my hon. friends on this side, that the Government hopes in the next development programme to be able to provide additional funds both for loans to African farmers and, of course, also to provide additional capital for the Land and Agricultural Bank.

There are, Sir, of course, hazards. There is always the risk of a sharp drop in our coffee prices, and I think, Sir, that the fact that we have had that hanging over our heads for a number of years does not make it any the less real. There are, Sir, as we all know, all the natural hazards of tropical agriculture. There is the danger of being priced out of the market. There is the danger that policies, or even accidents in country, or fire away from us, might in one way or another affect us to our detriment. There is, finally, always the danger that people will not go on putting first things first, and looking to the economy and development as being the most important thing that any of us have to do. There is the fact, Sir, that although our national income has increased steadily in money

terms over the years for the last two or three, in real terms it has just about been at a standstill. We have reason to believe that that should be changing now and that we should be ready to take another step ahead, but we cannot afford to overlook the fact that the trend has been low.

To sum up, Sir, I believe that on the economic side, provided we are all prepared to work hard and to put the economy first, we can look forward to a period of renewed progress. On the financial side, provided we exercise every reasonable economy, we can look forward to balancing our accounts. In short, Sir, it is a time for hard work, hard heads and tempered optimism.

Sir, I beg to support.

THE MINISTER FOR TOURISM AND COMMON SERVICES (Mr. Crosskill): Mr. Speaker, this Council has been deeply concerned with matters of tremendous importance—land tenure, constitutional conferences, and so forth—and there have been little comments on tourism—rightly—but there are three points which I consider are of importance which I should like to mention.

The first is with regard to certain apprehension which was created a few weeks ago—the belief that Government intended to curtail severely expenditure on tourism and publicity for tourism. This, Sir, was created by a Leader in the *East African Standard* about a fortnight ago, which I must unfortunately describe as being uninformative and uninformed. I do not think I have used such criticism of a Leader in that paper before. It derived, Sir, from a report by the East African Tourist and Travel Association in which the report, peculiarly enough, appeared to disagree with the Association's policy. It was very contradictory and it has given rise to this misapprehension. But I can assure Council that there is no ground for any such belief, and I myself would not support the policy of the East African Tourist Travel Association were it to that end, but it is not. The alteration in the policy is in order to streamline it, bring it into line with modern conditions and to create an organization in which East African Governments can increasingly invest as the requirements become clear. The article in the *Standard* deplored the closing

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of a shop window in Trafalgar Square. We deplore such things as the passing of flying boats—they were comfortable and convenient, but they could not live in the present day of high speed. And for that very same reason, from time to time it becomes necessary to adjust policies and adjust methods of approach in the accomplishment of various tasks. The intention is that the Association shall work in the future in closer touch, in fact in complete collaboration, with such organizations as air lines, shipping lines, and tourist agencies, who have, if we consider it, identical purpose with that of our Association and ourselves in the promotion of tourism. We, therefore, wish to use their shop windows (and there are thousands of them) and to use their staff which is there in abundance in the joint and co-operative promotion of tourism, rather than that the Association should work as it has done so far, more on its own. That is the only difference, and I welcome it and feel that we can now invest increasingly in this organization which has been streamlined. In fact we are already spending more and have increased Kenya's contribution to that Association.

It is visualized that the work now will be carried on by peripatetic couriers who will make personal contact with the thousands of tourist agents. The Association is in contact with about 1,000 in the United Kingdom, about 1,000 in the United States, and some 200 on the continent of Europe, and I am quite certain that if we can, by personal contact, provide them, their shop windows and their staff with information, that is the way to get it across to the customers rather than to have small shop windows ourselves scattered about the world.

The second point I wish to make, Mr. Speaker, is one which I think will be felt as a matter of deep concern by Council. The big need in this country, which has been continually and rightly expressed in this Chamber is for money—money for schools, money for roads, houses, hospitals, the development of land, and a hundred and one other things that for this reason mainly it was decided that the tourist industry should be developed in

this country. We have all the natural assets to make a success of this. We wish to broaden the basis of the economy of the country. At the present time we get a gross revenue of some £4,000,000 into Kenya per year, and I have said before that there is no reason whatsoever, even with the facilities expanding at the somewhat slow rate at which they are growing at the present time—there is no reason why we could not double this sum to £8,000,000 in the next few years. We need further accommodation and further facilities as we go along. When I was recently in London I spent several days negotiating with financiers and business houses in the city, and obtained near agreement to investment of approximately three-quarters of a million pounds in this country in tourist facilities. That money would be invested and would provide the money, as I have said, that we need for schools, roads and so forth. But unfortunately at the end of October I received a letter from London saying, "I am afraid the recent reports in the Press about the riots in Nairobi have rather damped the enthusiasm." And then again I heard, in a letter dated 9th of that month, that the general opinion among financial circles seems to be that they should wait for a year or two. That three-quarters of a million has been lost as an investment in Kenya, and I think it is very sad indeed that the riots, if they were riots, should so have deterred capital investment in this country. I would assure hon. Members opposite to consider whether in future it is not better to do as we do when we feel indignant or frustrated and write to papers rather than have a riot.

The question arises—was it a riot? I am inclined to think that, to a great extent, if it had been in one of the university towns it would have been termed a "rag," but nevertheless that is the effect that it had in London, and whether it was a riot or a "rag" would ask hon. Members to consider that a lark such as that can have most dreadful effects on the flow of capital into this country. It may be said that the Press were responsible for misreporting. I have made enquiries into this and I am convinced that that was not so. The reports in the papers in England arise from brief syndicated reports which go back from this country and are amplified and expanded

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into more sensational stories than real ones, and I fear that this small demonstration was exaggerated. But I would ask the Press to do anything they can to report such demonstrations and such actions in the right perspective so that they will not have any undue and unnecessary dampening effects on investment in Kenya.

Finally, Mr. Speaker, I would just like to enlarge on the question of hotels, to which I referred yesterday when answering a question by the hon. Member for the Coast. He gave me, at my request, details of two instances of alleged racial discrimination, and I have now, since yesterday, had time to investigate these. The first one concerned two gentlemen who went five miles out of their way to take tea at an hotel which they should have known, possibly did not know, was under a racially restrictive covenant, and therefore I think that if they had only gone to one of the dozen hotels nearer to them to have their tea, it would have been wiser. They realize Government's difficulties over these existing covenants, which have been debated in Council many times.

The second instance referred to Nakuru. The hon. Member was unable to give me the name of the hotel but I found it out by telephone, and I can assure him that neither of those hotels in Nakuru—the Stag's Head nor the Midland Hotel—has any racially discriminatory practice whatsoever in Nakuru. If he had gone into the incident more carefully he would have known that this gentleman travelled from Uganda, arrived at midnight, was offered a room, registered, but subsequently became very abusive to the African servants in the hotel and was asked by the manager not to take the room but to leave. The management of the hotel would welcome any legal action by this gentleman so that the details would come out into the light of publicity.

Mr. COOKE: The full details, Mr. Speaker, were published in a paper in Nairobi and the hon. gentleman had the opportunity of reading it two or three months ago, and of contradicting them if they were untrue. The names were given and the full details were given of what happened in both instances.

THE MINISTER FOR TOURISM AND COMMON SERVICES (Mr. CROSSKILL): I am aware, Mr. Speaker, that it was reported fully in the *East African Times*, and I again reiterate that the hotel would welcome any action taken which would bring out the details in evidence in court. I am satisfied myself that this hotel (and anyone can inspect its register), is continually accepting people of all races.

My point in referring again to these today, Mr. Speaker, is merely that I should like to say that while we cannot claim that discrimination on racial basis has been eliminated, I do think that in these two examples are the best that the hon. Member could produce, it indicates that little racial discrimination remains, and I think it also indicates that Government policy is having a high degree of success. That policy is through stimulating evolution and through spreading enlightenment. I think if hon. Members compare the situation here with that even in the Central African Federation, where only recently legislation has been enacted whereby hotels may apply for a licence to practice multi-racially, they will realize what tremendous progress has been made in Kenya. I think it is true to say that all the best hotels in Kenya at the present time are virtually non-discriminating racially, and that most of the small ones are in a similar state of progress.

Finally, Mr. Speaker, I would like to repeat a statement which I have quoted before in Council on the subject of legislation against racial discrimination. That is a statement which was made by our present Secretary of State for the Colonies when he was Minister of Labour in the last Government. He then said, "I do not see how we can make men wiser or behave better towards their fellow men by law." Our policy in this country is guided by those wise words. What we are striving to obtain, and are achieving, is a gradual acceptance by a process of enlightenment that discrimination in any way in hotels, on a racial basis, is wrong.

Mr. Speaker, I beg to support.

Mr. NAZARETH: Mr. Speaker, Sir, much support has been given to the speech of His Excellency from the Chair, and I join in the general welcome that

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has been extended to that speech. I particularly welcome the decision to end the Emergency legislation; that decision has been accompanied by a decision to introduce legislation to safeguard public security. We all of us have a very great vested interest in law and order, and none of us will in theory quarrel with this desire to maintain public security. The form the legislation is to take is more or less in the form of a blank cheque, which is to be filled up with regulations if the situation so requires, so that we might venture to express the hope that no situation will arise which will necessitate the passing of regulations under that Ordinance, by bringing into force certain sections by the declaration of the Governor giving him then the right to introduce those regulations, in consequence of some situation, some difficult situation, that arises. So the essential nature of this legislation is in the nature of a reserve. That is the nature of the Preservation of the Public Security Bill, The Detained and Restricted Persons Bill, is, on the other hand, intended for immediate operation against the end of Emergency legislation. I sincerely hope that there will be no field left as a result of the earliest possible release of those who are detained, for this legislation to continue to operate when it has been passed by this Council. On the other hand I cannot help feeling that the decision to continue the restrictions on Jomo Kenyatta and those who were convicted with him, and who are detained with him, that that decision is not the right one. The hon. Solicitor-General has justified that on the ground that he is restricted by judicial order in the interests of security. I consider it undesirable that final responsibility for restrictions which have such far reaching consequences and such important political repercussions should be placed upon a magistrate or on a court. The present continuance of those restrictions is a matter of policy and that is a matter for decision by the Executive.

On the question of security, Jomo Kenyatta has been convicted for offences and he has expiated those offences for which he was charged by serving his full sentence, and it is therefore for the Government to fully satisfy the country that the restrictions on his liberty are now

necessary or absolutely essential for the maintenance of security.

Jomo Kenyatta is a person with such wide support in the country and particularly among the African people, that the continuance of restrictions after the serving of his sentence may well do more harm than good. If Africans by and large consider that the continuance of restrictions on him are an injustice to him, that they are a wrong done to themselves, then security may be actually prejudiced rather than promoted by continuing the restrictions on him. It is extremely doubtful whether, having regard to the strong demands and strong stands made by the Africans all over the country, including hon. Members of this Council, whether he would adopt more extreme stands. But on the other hand his name is used in such a way that Government in effect appears to get the worst of both worlds. On the one side it suffers the odium of restricting him, and on the other hand his name is used almost as effectively as if he were present in person outside, while at the same time he has no power to control the situation or to influence it. I therefore would suggest to the Government that there are two sides to this picture. We have been looking at it primarily from one point of view, but we might look at it from the other point of view that there are advantages in releasing him and seeing whether the security position is thereby prejudiced, not only by releasing him but others who were detained with him and whose case for release is, at least as strong as his. I hope therefore that the Government will reconsider the situation as early as possible, and particularly before the round table conference, and decide whether the public interest would not be better served by releasing him than by continuing to keep him under the present restrictions.

I welcome the decision of His Excellency and of the Colonial Secretary not to postpone the round table conference until after general elections are held in this country. They have yielded to the agitation which has been going on would have as has been said already, been a departure from the basis on which that conference was promised, and the Colonial Secretary might well—I do not say that the charge would have been justified, but quite possibly the charges would

[Mr. Nazareth] have been made—have been charged with a breach of faith on his part or on the part of his predecessor, that the conference which had been promised, which had been promised for so much, should have been postponed. From the practical point of view the postponement of the conference might well have reduced such chances of agreement as exist. If the conference were postponed until after general elections, persons would have come to the conference charged with all kinds of mandates, conflicting mandates, and such chances of agreement as exist would have been reduced very considerably. Many of them would have attended the conference as delegates charged with mandates, and as representatives to give their consideration to such proposals as were put forward, and the chances of agreement at a conference which was commenced after a general election would have been very small indeed. The whole basis of the conference would have been changed.

There have been several matters in connexion with the round table conference which have been mentioned and I would refer particularly to the statement made by the hon. Member for Coast Rural who said that he wanted a democratic Government, that a qualified franchise would be totally unacceptable to him and that there must be one man one vote on a common roll basis, and nothing below that. I would suggest to him that it is undesirable to take up publicly and finally uncompromising positions on ways and means to achieve a democratic government, and that in the present context the ways and means he suggests must be implemented, might be the stepping stones not to democracy but to autocracy. We are, as I have said once before, inclined to dig large ditches, and taking such ultimate stands so early might well bury the conference in a ditch before it has started. I cannot help saying that I consider it tragic that the hon. African Elected Members have not been able to achieve unity in their own ranks in a wider circle and context of interracial co-operation and a non-partisan political party transcending the barriers of race. I might remind them of the very great progress that Tanganyika has made and which there are reasons for believing it is likely to make in the very near future, by reason of the interracial

co-operation that was established there. It is surely a matter for great consideration on the part of the hon. African Elected Members whether they would not make much greater progress at the round table conference and in the next Constitution by working on the basis of interracial co-operation than working on the basis of an exclusive racial party or group. The present policies pursued by the hon. African Elected Members might lead to a period of stagnation, conflict and bitterness, which, so far from promoting political advance, might actually retard it.

I also must deal with what has been said by the hon. Member for North Rift. He has taken up a stand which I feel is impossible to reconcile with the aim of democratic government. He has demanded that Asians should be prohibited from buying land in the White Highlands. Now, there is not much danger of Asians buying land on any great scale in the White Highlands. They have been free for some time to buy land in Tanganyika and they have not bought land on any great scale there, but such lands as they have bought they have developed, and made a considerable contribution by their development, in Tanganyika. They are not likely to act very differently in Kenya. It is desirable that Asians should invest and take part in the agricultural industry as much as the other races and that they should not be driven to send their capital abroad for lack of openings in this country.

The door has been firmly closed by the proposals made in the White Paper against speculation in all communities, and the door is equally closed to Asian speculators. I would suggest to the hon. Member that the attitude that he adopts—and I hope that he has not got the sympathy of his colleagues in that attitude—is the very negation of democracy and has not the slightest justification, either factual or ethical or political or economic. I say to him that the Asians are as much entitled to buy land in any part of the country as any other citizen of this country, and I insist that there should be a preference by reason of race and race alone then I say that he is undermining the very foundations of democracy. This, I think, is an instance of that kind of leadership from behind of which we paid the

[Mr. Nazareth] penalty, suffering it for many years in the past, from another race.

I congratulate the Government on the Sessional Paper on Law and Tenure which it has laid. I do not know whether I am the first one to do that. The attack has come from two sides: from the Europeans who say that it has gone too far, and from the Africans who say it has not gone far enough. I consider it unfortunate and regrettable that it did not implement the ideal of nationhood by forthrightly removing or declaring all racial restrictions on land as null and void; and alongside such a declaration it could have taken steps, as it has to some extent taken steps, to protect area standards, to protect standards of cultivation, farmers, and tenants, to protect them against speculators; landlords, money-lenders, and other such persons. All that could have been done, and I feel that the time has arrived for a bold step to be taken to declare all racial restrictions on the ground of race alone as null and void.

However, the proposals do represent a very great step forward, and I hope that the Minister will not be forced or induced by agitation or by criticism as to detail to depart in any way from the main principles on which that Paper has been based. In fact, Sir, I think he gave us a sufficient assurance yesterday when he spoke, that he would not allow the principles on which the Bill is based to be whittled down, and although I welcome his decision, his very wise attitude, to give the fullest opportunity to this House and to the country to debate those measures, to consider matters of detail, I hope that he will stand by the assurance he has given that he will hold firmly to the principles on which that Paper is based. I think he deserves the warm thanks of the country for having taken this courageous stand, and in that the Government is fully associated of breaking down this great psychological barrier which has their inception. One can see no valid reason. It is true that the White Paper does not contain any economic proposals to enable the landlessness of Africans to be tackled and for landless Africans to be settled, but after all we have been a limited supply of money. We have been hearing many complaints of financial

stringency and I would not be surprised if the Government had at the back of its mind, as the next step forward, some practical plans to enable landless persons to be settled. Those persons would be, primarily, Africans, but of course they ought not and should not be regarded as exclusively Africans.

MR. ARAP MOI: Question!

MR. NAZARETH: I do not see why the Member should raise any question on that point. I do not think that there is anything in the nature of an African that makes him exclusively the subject of landlessness and which prevents members of other communities from being also equally the subject of landlessness.

I would urge that the service which has been performed is a very great service, and I personally, and I am sure, the Asian community, will be very grateful to the Minister for having taken this very courageous step.

It has been suggested that the Government has been guilty of a breach of faith. That matter has been adequately, I thought, dealt with by the Minister yesterday when he spoke. This matter ought to be approached from two points of view. It is an elementary constitutional principle that Parliament does not bind its successors on matters of policy and equally I think no Minister binds his successor on matters of policy. As the Minister said yesterday, this was economic policy carried out by administrative practice. It has never arisen, I say, above that level. If pledges had been given then I would suggest that they would have been immoral at their very inception. On the other hand it has been explained that the British Government refused to be a party, by legislation, to exclude the members of any one race from owning lands in this country. That being the position, Sir, I do not see how a charge of broken pledges could be made; but if there were pledges I would say that such pledges, if given, were immoral at their inception. One can see no valid reason why the European community should have been preferred for all time to be exclusively entitled to land in one part of the country. How could any Government give such a pledge and expect that it would be regarded as unalterable as the law of the Medes and

[Mr. Nazareth] the Persians. I suggest that that was never the basis on which these declarations or statements of policy were made. That so-called pledges have always rested on the basis of policy, and, now that circumstances require that that policy be no longer continued, the Government has the fullest justification for putting an end to it and to now regard land as an economic asset to be exploited to the best advantage.

The hon. Member for Trans Nzoia said that Asians would not be here but for the Europeans. I was not here when I understand he said that, but I was told that he said that. I do not want to take up too much time on this but I would suggest to him that the Asians were here first in the country, that they made a very great contribution towards the building of the railway, that the railway would not have been here but for the Asians, that Asian troops frequently were used to maintain order in this country, and that the Asians have as much right to be here because they have made as great a contribution to the country as the Europeans. Therefore, you might as well say that the Europeans would not have been here but for the Asians as say that the Asians would not have been here but for the Europeans. Either proposition could be equally accurate.

I warmly welcome the decision of the Government to support the proposals for converting the Royal Technical College into a university college.

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

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

As a former president of the Gandhi Memorial Academy Society, and as a member of the Royal Technical College Governing Council, I would like to take this opportunity of thanking the Working Party, as a result of whose recommendations this great step has been taken. These recommendations are of the highest educational importance. There is one matter I would like to deal with here, Sir, and that is the name of the College. I hope that no step will be taken which will bring about the removal

of the words which are at present used in the title of the College, the words "Incorporating the Gandhi Memorial Academy." There is nothing in the Working Party's Report as to the removal of those words, and I think great misunderstanding would occur if those words were removed. I do not think that any difficulty would arise by the retention of those words and I sincerely hope that the Government will spare no effort to retain those words in the title of the College.

I do not propose to take up time on the matter of education, but I would like to refer to one matter which has been referred to more than once, and that is the opposition to interracial education upon the basis of a possible lowering of standards, of a desire to preserve the rights of parents to educate their children in schools of their own choice. I want to make a limited suggestion on that matter and not enter into large questions of policy. I would suggest that there would be no danger of lowering standards or of interfering with the rights of parents to choose their own schools if a limited number of children of other races were admitted to schools primarily intended for one particular race. A 5 per cent or 10 per cent admission of students of other races would not in fact have any tendency to lower standards. On the other hand, Sir, it would show the sincerity of the Government and of those who say that we should turn ourselves into a nation, it would be a proof of their sincerity, if they regarded schools as primarily intended for members of one race but not exclusively intended for members of that one race. That would, I think, bring about a considerable lowering of racial feeling by taking the next step which is now demanded and desired.

I would like to conclude with a plea for small centres which tend to be overlooked. There are constantly complaints made by little centres which suffer from lack of water, difficulty of roads, and so forth. We tend to have lop-sided development in Nairobi, Mombasa, etc., and these places tend to attract all the development, and the small centres tend to get overlooked. I hope that when development estimates and other estimates are considered, the needs of these small centres will not be overlooked. They tend

[Mr. Nazareth] as get postponed year after year; they are put at the bottom of the list and then their priority is taken away, and their development is constantly delayed.

I would suggest one step to the Minister for Works and the Road Authority in connexion with those great plans they have for long trunk roads. In all the centres they might traverse the roads, it would mean a small amount of additional expenditure taken out from these miles of roads in open country without any habitation nearby, but it would add considerably to the amenities of these small centres. I hope that the Road Authority and Minister for Works will give their attention to that.

In conclusion, Sir, I should like to say that the Speech from the Chair has been a very great personal achievement on the part of His Excellency. He had a very short time to prepare his policy statement and it is a very good augury that with in this short time which he had at his disposal he has been able to frame a policy statement which has given such cause for general satisfaction. In fact, Sir, so few were the points of criticism raised that my hon. friend, the Specially Elected Member, Mr. Blundell, had to descend to points of good English in order to find points of criticism. My first reaction to the speech was that it represented a balanced approach to our difficult problems, and having heard so many hon. Members speak, Sir, that remains still my conclusion; and I have, therefore, great pleasure in supporting the Motion.

Mrs. HUGHES: Mr. Speaker, Sir, I would like to add my welcome to His Excellency's communication because I think underlying his challenge to us was a really forthright, realistic approach to our problems. He did mention throughout the word "Kenyan" and my hon. friend the Member for Rift Valley seemed to have a little difficulty in understanding what was meant by the expression "Kenyan", and he did put forward that it was a sort of standardization of it was a sort of—out-here-and-I-out-ways-and—customs—out-here-and-I cannot think of anything more depressing because Kenya is a land of contrasts; and I think those contrasts—I was going to say make the joy—but I think that possibly is not the right expression, but it does make for the vitality of Kenya

as it is today, and my view of the word "Kenyan" is that all those whose home is in Kenya should work primarily for the benefit of Kenya as a whole and, Sir, I am sure that the majority of Kenyans are anxious to accept this challenge and to build up our country with courage and faith in the future, but only if we are assured of the Government's intention to govern without fear or favour or discrimination.

Sir, in this confused and troubled scene which is Kenya today, His Excellency's opening remarks that he is determined that one of the Government's first duties is to maintain law and order, I think, is like a breath of fresh air to all of us, but, Sir, it must be "seen to be done" and we must all be able to express our thoughts and to live our lives free from fear of intimidation, assault and crime because, it is this intimidation that often makes people act contrary to their nature, and, indeed, these constant crimes—stock thefts and so on cannot but make for irritation and bad feeling amongst the races here. And, Sir, to ensure the maintenance of law and order, I believe that it is vital that we have the best quality police officers and, Sir, particularly in the grade of inspectorate.

Now, much has been said about the police force in this debate and I must say that I welcome many of the Minister's remarks about the police force. His maiden speech, too, I felt, was very sincere with a real and vital interest in the affairs of the country, but I do not think too much stress can be laid on it. Men in the inspectorate can gain the confidence of the people owing to their very close daily contact with them, but I doubt, Sir, whether they do have the terms of service which are compatible with the responsibilities that they have in this country. They, as far as possible, too, I think, should be recruited from local youths and I say that because it is our local youths who have the knowledge and the understanding of the ways and the language of the people here.

Now, Government does pay lip service to the employment of our local boys and girls, but, Sir, from the very many cases of which I hear, of qualified youths who are given very little encouragement, indeed, if any, to join the service in general, Sir, I doubt if they do pay more

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(Mrs. Hughes) than lip service to encouraging our youths who are really qualified to take the proper positions they should have in this country. And, Sir, I would like to just go back once again to the police force and to suggest to the Minister that before he sends young police officers out into the areas where the towns, that they should at least have two or three years of experience. It is a very different way of lift to the towns. Sir, I would ask him to consider this and not to send the young, inexperienced members of the police force out into the country areas to deal with problems of which they have little knowledge or experience.

Sir, to extend this confidence in our future, I feel that when it is necessary to make cuts in staff, that it should be considered first of all at the headquarters end rather than the ranks of the field officers on whose devoted sense of vocation we all rely. We must be very firm and broad on the ground because these people are amongst our loyalists and they should receive due recognition and encouragement. These are the men, and I might say the women, who can be used to spread factual information, the knowledge without which we cannot even begin to understand one another within the country. It does seem to me, Sir, that the pyramid has been reversed in so many of our Ministries.

Now, Sir, the hon. Specially Elected Member, Mr. Slade, mentioned "ivory towers" and I am sure those ivory towers have golden gates. I think those golden gates should be opened more often so that their occupants could go out into the lovely country beyond the towns—of course, I am specially thinking of Western Kenya—to see the real Kenya and to give to those officers in lonely places their assistance and their encouragement.

Now, Sir, the Speech from the Throne covered a very wide field indeed and I would like to just mention one or two aspects, aspects which have received very brief mention indeed, and those are the aspects of welfare and remedial institutions. There is a very great and urgent need for remedial measures to rehabilitate or prevent future occurrences of crime and delinquency and, in our measures to restore law and order, I do believe that we must keep the balance

and put our minds and thoughts very deeply into remedial measures necessary, that is if we are going to develop in this country in an orderly manner. And in connexion with that, the Minister for Legal Government did answer a question the other day about mental institutions, but he did not specifically say whether he has any intentions of creating a Broadmoor for criminal lunatics. I believe that it is vitally necessary because so many of these criminal lunatics are at the moment being kept in prisons because of lack of space at Malthai and taking up space which is very limited indeed, and I do hope that consideration will be given to that aspect.

Sir, a place of safety. I think Government must realize the necessity for a place of safety in Nairobi, particularly for little girls, and in talking about a place of safety I want to distinguish from a remand home: they are utterly different institutions indeed. Our children need a home where they can be protected and cared for and loved with the object and the possibility of rehabilitating them without having courts. These children need to be safeguarded and prevented from ruining the future of their lives.

I did note, with pleasure, that £10,000 has been allocated to youth clubs, and I would like to say how very impressed I was at attending the opening of the Starehe Club last Saturday, and in this connexion I would like to show my appreciation of the fact that this club has very kindly agreed to accept four deaf and dumb children. I hope this will prove a success because there are many children, deaf and dumb, with no form of communication whatsoever with other children, and over the age of 11 years it is quite impossible to give them an academic training. Perhaps the Minister for Education, who I know feels very sympathetic towards these handicapped children, would consider training of a practical nature to help these children who cannot benefit from any academic or school training that we can give them and that we are, too, prepared to put forward for them.

To end, Sir, may I say how necessary it is to think of Kenya in the terms of our children. We, most of us, have lived our lives here, and very good lives they

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(Mrs. Hughes) have been too, but to our children comes the task of building up on the inheritance that we are leaving them. And for those of them who are the second and third generations in Kenya, there can be no talk of compensation for what is their birthright.

Mr. Deputy Speaker, I beg to support.

THE MINISTER FOR LEGAL AFFAIRS (Mr. Griffith-Jones): Mr. Deputy Speaker, Sir, it has been gratifying to observe during the course of this debate the general measure of acceptance by this Council on both sides, of the policies contained in the Governor's Speech, and to observe also the ready response of this Council to the spirit of hope and courage for the future which permeated the whole of His Excellency's Speech.

(Mr. Deputy Speaker (Mr. Conroy) left the Chair)

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

I think it would not be overstating the position to say that the points which have been raised, certainly those with which I am concerned, have been, as is only to be expected, some points of dissatisfaction as to detail.

Now, first of all I want to deal with a point raised by one or two Members regarding the 16 *Mau Mau* convicted murderers who are to be converted into detainees for rehabilitation. I think there has been general—indeed I think I am right in saying universal—acceptance of His Excellency's intention to give these men a chance to redeem themselves, but, understandably, there is insistence that they should not be released unless and until they are fully and genuinely rehabilitated. His Excellency has included in his Speech an assurance, and indeed, I think, more than one assurance, in that regard, and it is with that end in view that their life sentences are not being remitted but are being held, so to speak, in reserve against the failure of any of these men to attain the standard of full and lasting rehabilitation required as a prerequisite to release. There is further assurance in the experience of the rehabilitation organization in judging the genuineness

of rehabilitation and whether or not, and when it is safe to release a detainee. There is reassurance in that judgment which has been so spectacularly vindicated by the comparative lack of recidivism among over 78,000 detainees who have been released.

I should like to assure my hon. and learned friend the Specially Elected Member, who used to represent the Aberdare—I am following the Parliamentary convention of periphrasis, however circuitous!—that the point which he raised of the danger of some of the more prominent of these men being made, or being regarded as, a figurehead or symbol of subversion or a rallying point for further subversion, is undoubtedly a matter which must and will be taken into account in regard to the release of such men and the repercussions of their release on the public security.

Now, I want to pass, Mr. Speaker, to points which have been made on the continuation of powers to retain control over those who still remain in detention or under restriction. I want to say this: in the first place, the Government stands four-square on the undertakings which have been given in the past that dangerous men, while still dangerous, will not be allowed to return to menace society. Secondly, quite apart from those undertakings, it must be apparent to any thinking person, that no responsible Government could abdicate its primary function and duty of maintaining law and order by letting these men go free, unrehabilitated, to revive the murderous conspiracy of *Mau Mau*. It is unthinkable that any responsible Government could possibly condemn the country to such a fate or incur the hazard of security to that extent. But, thirdly, I want to reiterate a point, which has been made many times before, which we will continue unremitting efforts to reclaim each and every one of these men as decent citizens. But not until success in this has been achieved can the power to retain them under control in the compelling interests of security be relinquished, and I would remind the Council that, as the Fairn Committee pointed out, this task is likely to take a considerable time.

Now, it is for this reason that the Detained and Restricted Persons (Special

[The Minister for Legal Affairs] Provisions] Bill is being introduced. It is a special ad hoc measure to deal with this special residual problem of the Emergency. Without the enactment of that Bill, without the possession in the Government of the powers which it will provide, the Emergency could not be lifted. But by containing the remaining extent of this problem in this Bill, and by confining the scope and extent of this Bill within the compass of the remaining problem, we have been able to isolate the problem from the rest of the implications of the State of Emergency and to relieve the country as a whole of the incubus of the Emergency.

Mr. Speaker, a good deal has been said in this debate about the continuance of emergency powers under another guise. Let us examine the true position. The emergency powers which have been available and exercised during the last seven years in this country have been derived from an Order in Council which can be applied to a territory as and when needed, by a proclamation, in time of public emergency. This is what the Secretary of State has recently described as the "sledgehammer" of full emergency powers. We have needed and used that sledgehammer during the past seven years. We are about to lay it aside. But it will remain ready and available to be taken up again if ever, unhappily it should again be needed.

Now, Sir, the onset and the demise of an emergency are not guillotine processes. There is the period of developing danger, of erosion of the state of law and order, before the full blast of an emergency breaks on the country. And there is the period of run-down or diminishing intensity as the menace is gradually overcome and conditions progressively return to normal. What, therefore, is our purpose in the legislation which we propose to this Council for enactment? It is two-fold. First, it is our purpose to arm ourselves under the substantive law against what the Governor described as "incipient lawlessness," that is to say, the type of activity which, if unchecked, leads to a gradual erosion of authority and of the state of law and order. Measures to this end, by way of amendment or replacement of existing Ordinances, will be

presented to the Council in due course during this Session, and will be directed mainly against the various forms of defiance of authority, intimidation, and the like which could develop into a threat to public security and lead to violence and disorder.

Secondly, our purpose is to enable ourselves, without resorting to the sledgehammer of full emergency powers, to take effective action in good time against fresh threats to public security if they should develop, and by the same token to enable ourselves in the early phase of an emergency, such as we are in now, to contain the security position in that phase to such an extent as may be necessary for the preservation of public security.

Now this latter purpose is the purpose to be achieved by the Preservation of Public Security Bill. Under that Bill, as the Governor has intimated in his Speech, he intends to continue to provide for such controls of political organizations and public meetings as he may then consider to be still essential to security. Sir, to describe this as a perpetuation of all, or substantially all, Emergency powers or Emergency measures, is quite frankly, ridiculous the more so if one takes the trouble to review the scope and the extent of Emergency powers used, and of controls and restrictions imposed under them, during the last seven years, and even of those remaining today.

The purpose of this Preservation of Public Security Bill is essentially preventive. It does not provide for running powers to be used at any time, but it does provide that the necessary powers can be brought into being by the Governor if the situation demands it.

These powers are in two tiers. Only in the second tier—which has separately, specially and specifically to be brought into being—only in that second tier do the powers of detention and compulsory labour become available.

The underlying concept of this legislation is that it is surely better to prevent, by limited, but effective action in good time, the slaughter—the terror—which necessitates resort to the curative sledgehammer. It is better to prevent this rather than to have to wait until several lives

[The Minister for Legal Affairs] have been lost and the people are terrorized before taking action. Prevention will avoid the use of wider and more drastic powers; it will avoid the greater restriction of liberties; it will avoid the ghastly loss of life and the widespread human misery and suffering which we have seen in this country during the last seven years. Similarly, it will avoid the stigma of the word "Emergency", which, although we may not realize it because it has become something chronic in our lives after seven years, has a most destructive effect on confidence both here and abroad. It causes incalculable damage—and has caused incalculable damage—to the economy when that word, with the full "sledgehammer" which it connotes, is applied to this country or any other country.

Sir, this measure is precautionary and is, indeed, no more than a prudent insurance for the future in the light of the lessons which we have learned the hard way in the past.

Some hon. Members have referred to liberties. I should like to say, as the author of this legislation, that the requirements of the Human Rights Convention, in which human liberties are enshrined, have been most meticulously observed and complied with.

Therefore, Mr. Speaker, the future pattern of powers to deal with subversion is one of three prongs. The first prong is the reinforcement of the substantive law against incipient lawlessness; the second prong is the Preservation of Public Security Bill under which powers can be assumed, if necessary, to deal with fresh threats to security; and thirdly—as the third prong there remains the sledgehammer of full Emergency powers under the Order-in-Council which, God willing, we shall never again require in this country.

Some Members have said that this legislation is unnecessary. If it is not needed—if it is never used—then the Government, and I personally, will be delighted. If it is unnecessary, if it is not going to be needed, then nobody need bother themselves about it at all. But let no one make any mistake: if it is needed it will be used, and let all intending trouble makers bear that in mind. (Laughter by some African Members.)

Let me also, in the present atmosphere of hilarity, make further reference to the suggestion that it is not necessary. I hope that that suggestion proves correct, as I have said, but let us examine the position now. It is not a question here, as the hon. Member for Nairobi Area said, of forgetting the past; we are not such fools as to forget the lessons of the past. Let us examine the present.

I have, on previous occasions, more than once recounted to the House excerpts from public speeches made by some of my friends on that side of the House. They have not made very happy reading, as hon. Members will recollect. Shall we now refer to the reported statement which has already been referred to in the House by the hon. Member for Nairobi West, a statement made by the hon. Member for Nairobi Area, as reported in the *Sunday Express* of 8th November? Now I know that the Member for Nairobi West read the speech of the Member for Nairobi West, because he referred to it, and he has not seen fit to deny or repudiate the statements attributed to him in this paper. This is the reporter speaking: "In a cultured half whisper he—that is, Mr. Mboya—outlined for me a programme which admitted no quibble over its shades of meaning." Now he starts to quote Mr. Mboya: "We intend to put an end finally to European domination—the said smiling across his desk." At the round table conference in London next year we shall demand a responsible Government—by which I mean a fully elected Legislative Assembly, instead of the present nominated body (a nominated body, Sir, with a majority of Elected Members). Then the party with the majority of seats would run the Government, with the Governor still having power of veto. But time is running out fast. If the Colonial Office do not accept this idea, then we shall introduce our own methods. Then shall be difficult for the British Government to hold this country beyond the next five years and five very uncomfortable years they will be. We are committed to a struggle through positive action. Not to a struggle at first. But if that is not effective—Mr. Mboya shrugged his shoulders and twisted round his finger a gold signet ring.

For any responsible Member, who can for a moment stop giggling, to suggest

[The Minister for Legal Affairs] said that in the face of a public declaration that that nature it is not necessary for the Government to take precautions to safeguard law and order in this country—well, words fall me. I just cannot describe it in parliamentary language—

That statement puts us on notice, if nothing else has done before, that at any rate in the mind and intention of the Member for Nairobi Area, violence is to be used if he does not gain his ends by other means. There have been, in one look through the pronouncements of that particular hon. gentleman—and indeed perhaps of some of his colleagues—pronouncements regarding the use of violence; and there has been a very considerable degree of equivocation. Now we know. There is no point of equivocation now. We know that that is the intention. To suggest that precautionary legislation is not necessary when we have heard the hon. gentleman speak glorifying the idea of going to prison—introducing this fatuous honorific of "prison graduate"! Let us make no mistake: if a man goes to prison he is a criminal, and there is nothing to be glorified in that.

We have been told today that we, as a Government, are frightened; we are motivated by fear; that we are panicky. We were told also that we must win the confidence of the people: Mr. Speaker, Sir, we are not frightened. We are not complacent, but we are confident that after seven years' pretty violent apprenticeship we know something about handling thuggery. We are determined that we shall retain the powers necessary to do so. Now I ask you, Mr. Speaker, does a Government taking a stand of that nature command more confidence from the law-abiding citizens of this country than a Government which is prepared to abdicate in the face of threats?

The hon. Member for Central Rift said that these Bills were unnecessary because Government could, if special measures were required, bring them into being very quickly. Of course, that is precisely what these Bills propose. I trust, therefore, that they will have his support when they are debated and voted on in the House.

So much, Sir, for the legislation on the ending of the Emergency. I now come to deal with one or two small points raised by hon. Members opposite.

One or two hon. Members have referred to that paragraph in the Sessional Paper on Land Tenure—No. 24 it is—which refers to the powers of the Crown to resume land for public purposes. I would just read the paragraph—it is only a couple of lines. "The right of the Crown to resume land for public purposes as described in the Crown Lands Ordinance will be continued in respect of the new freehold title". I think one or two Members want to know what the powers of resumption are and for what public purposes those powers exist. The powers referred to are those contained in sections 106 to 110 of the Crown Lands Ordinance and they refer—I do not want to read all the sections out—but in section 106 they refer to the setting up of poles and the carrying of electric lines across land, laying of sewers, water pipes or electric lines therein, without paying compensation but making good all damage. The next section refers to entering on land and doing work necessary for maintaining or improving the flow of water in any river or stream on the land, constructing and maintaining dams, diverting rivers or streams, without paying compensation, except for buildings and crops destroyed or damaged. The next section deals with the resumption of lands for roads, railways, tramways, canals, water channels, trigonometrical stations and outposts, without making compensation for the land, but compensation is to be paid for buildings and crops destroyed or damaged; that is where the holding exceeds 400 acres. Where the holding is less than 400 acres there is power to resume for roads, railways, tramways, canals, water channels and outposts, paying compensation for the land taken. There is power under section 110 of resumption for railway stations, sidings and other public works of whatever nature, similar to those mentioned or not, paying compensation for the land taken. Those are the reserved or implied powers of resumption under the Crown Lands Ordinance to which the Sessional Paper makes reference.

My hon. friend, the Member for East Electoral Area, made reference to the administration of the bankruptcy laws.

[The Minister for Legal Affairs] He said that there had been heavy delays in entering the law. Now I do admit that there, delays and, the accumulation of arrears, because the department of the Registrar-General, which deals with bankruptcy, has really been very heavily committed. A good many forms of registration and similar activities have been thought up by this Council in the past few years and they are always quite cavalierly put on the plate of the Registrar-General, and his staff has really been overwhelmed by the volume of work in the multifarious sphere of registration, and the like for which it is responsible. But we are increasing the staff. We have made some increases already and that process is continuing, and the delays in the administration of the bankruptcy laws are decreasing and arrears are being worked off.

The law, as the hon. gentleman will remember, the law regarding bankruptcy, was recently strengthened by an amending Ordinance passed by this House and is now capable of more effective enforcement, and I hope that with the increases of staff and the improvement in accommodation—and accommodation records and the like—which will take place in a few months' time we shall be able to achieve better and more expeditious results.

Now my hon. friend, the Member for Mombasa, referred, Sir, to inquests and the functions which in England are performed by a coroner. The purposes of our procedure here are much the same as those in England—the determination of the cause of death, the determination of criminal liability if any should be disclosed. But we do not have coroners specially appointed as such; coroners are discharged by magistrates. It would, of course, be ideal if we could have coroners—men both legally and medically qualified—but in the first place such paragons do not grow on trees, whether in this country or anywhere else, and in the second place the expense entailed would be very considerable. At present magistrates carrying out these inquiries have to make their decisions, in so far as medical matters are concerned, on expert evidence given by doctors before them. That evidence not

infrequently conflicts, as it does of course in legal proceedings other than inquests—in trials, in civil proceedings, there is very frequently a conflict of medical evidence, and indeed, possibly, of other expert evidence, and of course in the case of inquiries or trials the magistrate or judge has to decide as best he can on the basis of the evidence available to him.

As regards the liability of the medical profession for negligence, I should say that the law applies to them, criminally and civilly, as to anyone else, including members of other professions, and obviously there can be no preference over them. There can be no preference under the law of negligence for the medical profession or, indeed, any other branch of society. In cases involving liability of members of the medical profession, that liability is usually assessed by the courts on the basis of the evidence of other medical officers or members of the medical profession. That is the case both in criminal and in civil cases.

There is a section, to which I think the hon. gentleman referred, section 235 of the Penal Code, which does provide doctors with a degree of special protection in regard to criminal law, in respect of surgical operations performed with good faith and with reasonable care and skill, if the performance of the operation is reasonable, having regard to the patient's condition and the circumstances, etc.

There are two other sections which I think he also referred to—236, which is of general application, no merely confined to doctors, and which deals with the excessive use of force where some degree of force is authorized, and 237, which is also of general application, which deals with the invalidity of the purported consent of a person to the causing of his own death or to the causing of maim to himself. Now it has not been previously represented to me that members of the medical profession are particularly concerned in regard to these sections, but I can see that they might be concerned in regard to the reference to "maim", which is, by definition, the destruction or permanent disabling of any external or internal organ, member or sense. That might very well, of course, happen in the course of a surgical operation and I will give this matter consideration to ensure that that invalidity of

[The Minister for Legal Affairs] consent to main does not operate to make doctors liable for operations performed in good faith.

I think, Mr. Speaker, that I have dealt with the points which concern me and I only want to make one short comment in conclusion. As I said, Sir, in opening, the spirit of the Governor's Speech was one of hope and courage for the future—hope and courage after the nightmare of the past. Now the building of that future lies with us—us—who at this important and perhaps critical stage in this country's history have been, in the words of our daily Prayer, "called to the performance of important trusts in this land." We shall build well for the future, and faithfully discharge our trust, only if we build together, with goodwill and a sense of common purpose. If we are selfish, if we seek only to promote our own sectional, racial or personal ambitions, we shall betray our trust. God grant, Sir, that we shall not fail in this task.

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Lt.-Col. McKenzie): Mr. Speaker, Sir, there is not much division on agriculture in this debate and as we only have twenty minutes left I do not want to keep the House long because there are still five other people to be fitted in within that twenty minutes.

I would like to answer the hon. Nominated Member, the Director of National Parks, who drew my attention to the advisability of setting up a land use board. I would like to tell him that we have already within the Ministry put a senior officer on to look at both agriculture in the African areas and in European areas with a view to assessing the type of agriculture best suited to the various parts of the Colony. And I would be quite prepared when I have that report to discuss it further with him.

Mr. Speaker, several hon. Members in the course of debate have referred to the pyrethrum industry. Government is at the moment in the course of difficult and delicate negotiations with the principal parties concerned in this matter and it would not be wise for me at this stage to make any statement. But, Mr. Speaker, I do, however, wish to say just this, that it is the intention of the Gov-

ernment not to take any action on the part of the Sessional Paper which deals with the reconstitution of the Pyrethrum Boards and the establishment of a growers' processing organization before the McGillivray Committee have submitted their report to me and Government have had time to digest the report.

Mr. Speaker, the hon. Member for Nyanza North and, I think, the hon. Member for Kiambu both expressed concern about alternative cash crops to coffee. I would like to inform the two hon. gentlemen, Mr. Speaker, that we have stepped up research considerably over the last two years. We now know that there are approximately 800,000 acres in African areas which can be put down to tea and approximately 20,000 acres have already been licensed in European areas for tea. Over and above that, we have been experimenting with Turkish tobacco in the lower parts of Embu, Meru and Fort Hall and the first crops that we have had from these areas are most promising. We are also at the moment carrying out experiments for drought resistant maize in the Machakos area and have started a programme which will ultimately produce hybrid maize at the Kitale Research Station. The hon. Member for Nyanza North, Sir, also questioned about experimental work going on at the Coast. I would like to tell him that we have a new variety of cotton which has come out of our research at the Coast which has been most promising and will turn out this year 6,000 bales of cotton at the Coast which will be a record.

Now, Sir, I would like to take this opportunity to warn farmers that we have had a further outbreak and a serious outbreak of S.A.T. Type 2 Foot-and-Mouth disease ten days ago in the Samburu area but very near the Laikipia ranching area. We have had outbreaks before in our lands along the Tanganyika border and we have had these outbreaks further north in the Samburu District but ten days ago we had this outbreak near the ranching areas of Laikipia and although the Veterinary Department in conjunction with security authorities are doing their utmost to hold this at bay, I think that farmers ought to be warned that if they have any outbreak within the Laikipia area

[The Minister for Agriculture, Animal Husbandry and Water Resources] of foot-and-mouth—and, just to complicate the picture, we have Type O in that area—they should not hesitate to let the Veterinary Department know. We hope our research institute will be ready to be opened in February of this coming year and we hope, as soon as it has been opened, not only to get down to evolving vaccines of our own but to be able to test far quicker than is possible at the moment what type the outbreaks are.

Sir, the hon. Member for Northern Rift raised a point about water supplies in the Northern Province. ALDEV in the last 13 years has spent over £100,000 in the Northern Province on water supplies including irrigation trials. At the present moment, we have just completed spending £7,000 on flood irrigation trials in the Turkana District itself. We have at this moment a special ALDEV officer, Mr. Black, who is working up in that difficult area and has been there since June. And we hope by his being there that we will be able not only to gather information on what we can do further in that area—and I would like to tell the hon. Member that we are keeping that area very much in mind.

Mr. Speaker, the hon. Member for Ukambani raised four or five points. One was that boards such as A.L.M.O. were, if anything, beginning to operate against private enterprise. Well, that is one of the aspects which I hope we will get in the McGillivray report and it is one of the points that they are looking at.

He also mentioned Veterinary Department beef lands, I cannot quite make out what he has been getting at other than perhaps he was getting at the immature stock that the Veterinary Department hold on farms for sale to farmers for breeding and for fattening, and sending to the Kenya Meat Commission. If that is not the case, I hope that he will take the opportunity of telling me what it is.

SIR CHARLES MARCHAM: I will!

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES: He also mentioned the overlapping between the Veterinary Department and the Agriculture Department. This was debated at some length in the Kenya National Farmers' Union

conference and I am quite prepared to tell him what I told them that I am quite prepared to have a look at it.

He also mentioned that he had spoken to my predecessor not only in the House but outside the House with reference to sales of old fat cows from the European areas. What I would like to tell him is that the Kenya Meat Commission are in the new year going to start these sales at Naivasha and Nakuru so I think that that worry is now over.

He also mentioned, Mr. Speaker, the agreements which we may be having with the Federation on trade. The Kenya Co-operative Creameries have members of their Board down there at the moment negotiating trade for next year and I have been asked to go down to the Federation to discuss matters down there early next year and will be taking the opportunity of going down.

He also raised one small point, Mr. Speaker, about what had happened to the Mauritius Report. Well, the Marketing Organization which was set up by the K.C.F.A.I. and the A.P.I.E.A. has looked at that report and have sent somebody again to Mauritius to go into the matter further and I am told we will have a report ready for me within the next week or ten days.

Mr. Speaker, the Member for Trans Nzoia asked about the Department putting a Government veterinary officer at Kitale. He was not a senior veterinary surgeon, he was just one of our veterinary officers going to Kitale. Mr. Speaker, the reasons were two-fold. One is that we are carrying on experiments at Kitale which will need a veterinary officer in attendance on odd days and at odd times. Over and above that, because of the lack of vaccination of cattle in the Southern Sudan, we are having outbreaks of rinderpest in the Suk country and we want a qualified officer at our station at Kitale so that we can keep an eye on that. I think one of the hon. Member's worries is that this veterinary officer may take away private practitioners from the private practitioners at Kitale. I would like to give him an assurance that this will not be the case, Mr. Speaker.

I see I am taking longer than I am supposed to, Mr. Speaker. The headmaster is out at the moment so I may

[The Minister for Agriculture, Animal Husbandry and Water Resources] would like to carry on for a minute or two!

A number of hon. Members, Mr. Speaker, have expressed anxiety about the marketing of our coffee and questioned the wisdom of the increase in acreage of coffee in Kenya at the present time. This is not a subject that can be explained in a few words, Mr. Speaker. I will take the convenient opportunity in the very near future of putting this House fully in the picture on that one. I do not think I have any other points of great importance, Mr. Speaker, other than two points which were raised by two hon. Members opposite, I think by the hon. Member for Kitui and the hon. Member for—I cannot remember but I think it was—Central Province. It was on marketing.

Mr. Speaker, I will see that those two are put in the picture by writing to them which I will do within the next day or two.

Mr. Speaker, I beg to support.

MR. LUSINO (Nominated Member): Mr. Speaker, Sir, I see that the time has gone and there are only ten minutes left but I would like to make a short speech in that time. Sir, I would like to take this opportunity to pay a compliment to His Excellency the Governor for his inspiring Speech and also for he and his Government having decided to bring the Emergency to an end. This decision, Sir, has been received by the people of this country with great pleasure. Because, Sir, I have to be very brief in what I want to say, I will only touch on points here and there in my speech. I would like to join other hon. Members who spoke before me in welcoming the two Government Bills. The first one, dealing with the preservation of public security, and the other one with the detained and restricted persons. The reasons for which have already been given by those other hon. Members who have spoken before me, one of them being the hon. Solicitor-General and the Minister for Legal Affairs.

With regard, Sir, to the Act of Grace, I take it to be one of the most generous things the Government has done towards those people found guilty of offences related to the Emergency.

I would like to add that I do not agree with those Members who have stated, or requested, that the Government should release Jomo Kenyatta, because I do not think that the relatives of those innocent men, women and children who were murdered by Mau Mau would be happy or would show smiling faces to Kenyatta if he was released. I do not think, Sir, that it would be very wise to ask the Government to release him.

Now, Sir, I turn to the question of Elijah Masindi from my own area. I do support all the remarks which were made in this House last week by the Minister for African Affairs. The request by the hon. Member from North Nyanza, Mr. Muliro, that Elijah Masindi be released is not in agreement with the people of both Elgon and North Nyanza. Masindi, Sir, had exactly the same rebellious ideas as those of Mau Mau. He, under the guise of a religion known as *Dint ya Msambwa*, intended to drive away the Europeans and the Asians from this country, and this was announced by Elijah Masindi publicly, and before he put his intentions into practice he took his followers to Mount Elgon, where a white goat was butchered and given as a sacrifice to their god, whom they said would help them in achieving what they wanted. This, Sir, was reported to the Government by the peace-loving Africans, and the Government took immediate and drastic measures and the movement was brought to an end. Mr. Speaker, Sir, Masindi, if released, would still be a danger to the people of North Nyanza as well as to those in Elgon Nyanza because, as to now, he is still irreconcilable. Otherwise, the other hon. Members on the other side of the House have mentioned, he could have been released.

My last point, Sir, is about land. I do welcome the Government Sessional Paper No. 10, but as we are not directly debating that Paper I would at this time point out to the Government that there are some districts in this country which are quite congested, such as Margoli and Bunyore. The people who live in those areas are so poor that they would find it impossible to purchase any land. I would, therefore, Sir, beg the Government that before the Paper is debated they should be considering what to do to help those people.

[Mr. Luseno]

Sir, with these few remarks I beg to support the Motion before the House.

MR. COOKE: My hon. friend, Mr. McKenzie, the Minister for Agriculture, seems rather to have jumped the queue, but he being a big man, I will not argue about it! I have only four minutes to go before the evening's time will be up.

Now, Sir, I would say how much I welcome the speech by the Minister for Finance—the first one he has made since he has filled that important post—and he put very sincerely and moderately what his policy in the future was going to be, and I must say, that as far as I am concerned, I welcome very much his remarks. Obviously he is not going to adopt a policy which will build up a very big surplus balance in future—a policy from which we suffered 10 or 12 years ago—and if there happens to be any surplus balance he has promised, in accordance with sound financial principles, to use that balance either to pay off our debts—as in England they pay off the national debt—or to put it into the Development Account for the development of the resources of this country and, I think, if I may say so, that is a very wise decision on his part.

Now, Sir, I do not wish to keep the House very long, although I have to speak a little more, but I would like to refer to Government's new land policy, and to say how much, personally, I welcome it, and I just could not understand the furor that arose when the Sessional Paper was published, because surely it is a decision which we have been expecting to come sooner or later for a number of years past, and certainly since the Royal Commission Report was published. But I think, personally, it was possibly a mistake to have published at the same time, as the details of the Government plan to carry out the policy, to have published at the same time Government's recognition of the principle that there must be no more land barriers. I personally would have advised the Government to have arranged for His Excellency to have mentioned that principle in his speech, and later on for the Minister to have consulted the various interested parties in this country before he made any statement as to the details of the carrying out of the policy, because a good many people in this

country immediately jumped to the conclusion that the Sessional Paper was a sort of blue print, and it was like the law of the Medes and the Persians, which could not be altered. Of course that is not so, because the details are susceptible to amendment or alteration when the matter is debated in this Council, and I think in consequence, my hon. friend, the Minister for Lands has received a good deal of unmerited criticism, because I cannot for a moment imagine that the Sessional Paper emanated completely from his own mind, as has been said by a number of people in Kenya. So I would like to have an assurance from my hon. friend the Chief Secretary, that the details—the proposals—in this White Paper were thoroughly considered by the Council of Ministers, and indeed also by my hon. friend, the Minister for Agriculture, and by his predecessor, the lately Minister for Agriculture. If, indeed, he tells me that Mr. Blundell has seen the details of the proposals, then any criticism that would come—and much criticism has come from his party—from members of his party—is really criticism of Mr. Blundell himself.

MR. BLUNDELL: What a charming fellow you are.

MR. COOKE: A charming fellow, yes—sometimes too charming, at times!—But I do feel that any criticism that has come of Mr. Blundell, from his own party, puts him—would put me, at any rate, if I were in his place—in rather a difficult position.

Now, Sir, it seems to me that there are three categories of land in this country, which have got to be dealt with. There is the unalienated land, amounting to roughly, I think, 20,000 acres. There is the alienated land in the so-called "White Highlands", much of which has not been usefully developed, and number three, there is the fully developed land in the so-called, or lately called "White Highlands". Now, I feel, Sir, that the unalienated land, which I said amounts to about 20,000 acres, should be at once made available for African settlement—I think it is no use making promises—"Hope deferred", the Bible says—"maketh the heart sick" and when we are always saying we are going to do this, that and the other thing and make no start to do it, naturally—very naturally indeed—the

[Mr. Cooke] African people of this country become suspicious of our intentions. Now, I feel, Sir, that the unused land, or land which has not been put to productive purposes, should be acquired from those who have not put it to productive purposes. I would not personally object to refunding to such persons stand premia, and the rent paid over the years. It is obvious—world opinion being what it is today—that people who have this undeveloped land must be compelled either to develop it, or to get rid of it. And number three, there are the European areas which have been developed. Now, it would be unthinkable, to my mind, to have any kind of confiscation of that land. Europeans have done a magnificent work in the past, and are doing it today in developing the land and adding to the economy of this country, which nobody else could have done, and we must, in that respect, at any rate, have complete respect to the principle of non-confiscation.

Now, all this is going to cost money, and it seems to me that there must be established some kind of a fund—where the money would come from I would not at the moment say—but there must be established some kind of a revolving fund by which Government can buy and purchase land from the willing European seller. Now, the European seller, at the moment, may not be able to get a market for his land. I think he should be treated not only justly, but generously in a matter like this, and there should be established this fund—just as was established in Ireland 50 or 60 years ago when the Irish Land Acts, by which tenants purchased land from the landlords, was passed. In the case of Ireland, I believe, it ran to something like £100,000,000, but I do not think it would be anything like that sum here. At any rate it would be a revolving fund and what is paid will be refunded later on. I think it is essential that something of this nature must be done, because otherwise we would soon be faced with the position that a number of European settlers—I anticipate there may be a certain amount of dissent from this side of the House—will wish to— for family reasons or other reasons to get rid of their farms, and it would be most unfair if those farms had to be sold at

a great cash, potential cash, loss to themselves. Therefore I think that Government, who were in the past—to a great extent responsible for the difficult situation over land in this country, should by one means or another put aside a large sum of money in the form of a revolving fund. What is advanced will be repaid on sale. In Ireland I believe it was arranged on a basis of 18 years purchase paid back over 49 years, at I think 4 per cent. That is a detail which would have to be worked out, but if Government thinks that they can implement this Sessional Paper without such a fund as this, I imagine they will have to think again.

Sir, I was very glad to hear, I think in his maiden speech here also, the sensible remarks which the hon. Member for Defence had to make about the position of the police in this country. He is the first Minister who had recognized fairly that the police do make mistakes, and they are not a bunch of archangels, which some people think they are, and I think over the last 20 or 30 years that it is a pity that the discipline of what was once a very fine force seems to have deteriorated. That is due, I think, to the fact that a good many of their officers, and a good many of the administrative officers as well, who were in charge of police, are rather reluctant to punish: the police for offences. That, in a disciplined force, is one of the greatest harms that one can do to that force. These men were not in any way compelled to enter the police: they entered a disciplined force at their own will and while they are in that force there should be no hesitation whatever in disciplining them when it is necessary.

Now at times—I can see my hon. friend smiling—but with all due respect to him, he has not got quite the same knowledge of this country as I have, I have noticed what I think has been this decline in discipline and in default of any other reason for it I assume that some of the officers out here at the moment are not using disciplinary powers as they should.

Now, Sir, just one last point about the conference pending in London. I personally welcome it: in fact I was one of those who supported—the African and Asian Members who went home—to ask the Secretary of State to reconsider his decision, and I too join with those who have spoken about this conference and

[Mr. Cooke] that it will be a success. Now I hope that it will be more than I can say now about the preliminary arrangements for the conference. I understand my hon. friend is going to give us a talk later on about what arrangements have been made. May I remind him what I said to him about a week ago about a number of those going to the conference wishing to make their own arrangements about where they will lodge. I think personally it would be a mistake to put all the delegates in one hotel, because they must get away from one another. Friction will be reduced if that is done, so I do hope that he will reconsider any notions he has about the matter. Of course those who do make their own arrangements about lodgings should be paid the sum which otherwise would be paid for lodgings at the Rubens Hotel. It will, I am sure, lead to less friction if people can then make their own arrangements about entertaining and getting in touch with important and other people in England.

Sir, I am not going to keep the House any longer except to say that I support the Motion.

ADJOURNMENT

THE SPEAKER (Sir Ferdinand Cavendish-Bentinck): It is well past the time. I therefore now adjourn the Council until 2.30 p.m. tomorrow, Thursday, 19th November, 1959.

The House rose at thirty minutes past six p.m.

Thursday, 19th November, 1959

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

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

PRAYERS

ORAL ANSWERS TO QUESTIONS

QUESTION No. 9

MRS. HUGHES asked the Minister for Tourism and Common Services—

(a) To what institutions in the United States, if any, are copies of HANSARD sent?

(b) Would the Minister consider a wider distribution of HANSARD to universities in the United States where they have African studies and also such institutions as the African American Institute and the Council of Foreign Relations?

THE CHIEF SECRETARY (Mr. Coult): Mr. Speaker, Sir, I beg to reply: until recently copies of HANSARD were not being sent to any institutions in the United States.

As regards the second part of the hon. and gracious Member's question, the Government is reluctant to supply HANSARD to certain universities in the United States as it would be difficult to refuse requests from others; it is considered that the increased cost of printing HANSARD would not be justified by a widespread distribution to universities. After discussion, however, between the hon. and gracious Member and the Ministry of Tourism and Common Services, the Government Printer has been instructed to send copies of HANSARD to the African American Institute, the Council of Foreign Relations, and the British Information Service, in New York.

QUESTION No. 15

AIR CHIEF-MAGISTRATE HOWARD-WILLIAMS asked the Chief Secretary the Government has for several years promised that the voters' roll shall be brought up to date, numerous dead and missing persons being removed. When are they going to implement these promises?

THE CHIEF SECRETARY (MR. COULTS): The Government is anxious that the voters' rolls should be brought up-to-date. In order that this should be done properly, legislation to amend the existing Legislative Council Ordinance is necessary. I can assure the hon. and gallant Member that the Government will introduce a Bill to amend the existing electoral law as soon as the moment is appropriate, and that every effort will be made to ensure that the voters' rolls are brought up-to-date before the next General Election.

QUESTION NO. 18

GROUP CAPT. BRIGGS asked the Chief Secretary having regard to the reply to Question No. 61 given on 11th November, 1958, to the effect that the report of the enquiry to examine the origins, methods and growth of *Mau Mau* would be finished by the middle of 1959. Will he now state when the report will be published?

THE CHIEF SECRETARY (MR. COULTS): The report has been received. It is a lengthy document which requires careful study. As soon as the Government has had time to consider the report it will be published.

GROUP CAPT. BRIGGS: Arising out of the reply, Sir, can the Minister give some fairly definite assurance as to the date?

THE CHIEF SECRETARY (MR. COULTS): No, Sir. All I can give the hon. Member is an assurance that it will be published as soon as we can humanly get through the document.

MOTION

THANKS FOR EXPOSITION OF POLICY BY HIS EXCELLENCY THE GOVERNOR

Resumption of debate interrupted on 18th November, 1959.

THE MINISTER FOR FOREST DEVELOPMENT, GAME AND FISHERIES (MR. BLUNT): Mr. Speaker, this debate has now gone on for a full five days and I am sure that Members are hoping that it will soon draw to a close. I will therefore be as brief as I can be.

I do not propose to take up any time on discussion of the main themes in the Communication from the Chair, but

there are a number of game matters which have been raised to which I would like shortly to reply. The first one was raised by my hon. friend Col. Jackman who pointed out that the Report of the Game Policy Committee was laid over a year ago in this House and that nothing appeared to have been done about it in the meantime. I would assure him that quite a good deal has been done and a good many of the recommendations in that Report, particularly in the Interim Report, the important ones, have been put into operation, and I would like to assure him and the House that the Sessional Paper has been prepared and I hope to lay it not later than next week, and at the same time to give notice of a Motion for its approval so that the Paper may be debated in the near future. In view of that position and the fact that we shall have a full dress debate on Game quite shortly I do not propose to reply at any length to the numerous questions that were raised, but I would like to refer to the points made by the hon. Member for Central Rift and to say how much I appreciate what he said. He indicated how he himself took a great delight in seeing game and that we should all regard our wild life and game as our big national asset. I should like to welcome very much that expression of opinion and hope that it goes for all Members on his side of the House.

There is no question but that the game preservation in this country is going in the long run to be dependent on the attitude that is taken with regard to game by the general population of the country. The hon. Member also went on to remark on the part that the Masai people had played in preserving game in their area, and there I would like to welcome the opportunity that it gives me to support and confirm what he has said. In fact, had it not been for the attitude of the Masai towards game in their country many of our best game areas would not now exist.

He appeared, however, at the end of his remarks about game to suggest that we were not consulting the Masai people in regard to game and almost that we were trying to impose things upon them which they did not want. I would like to assure the House that that is not at all the case; that we do consult with the people concerned and in fact there have

[The Minister for Forest Development, Game and Fisheries] been over some months past very important negotiations going on with the Masai in connexion with game and I have every hope that in regard to some of these negotiations at any rate we shall come to a satisfactory agreement in the very near future which will be to the benefit of the Masai themselves and the country as a whole.

My hon. friend the Director of National Parks put a large number of questions on game matters and I feel sure that he will forgive me if I do not answer them in any detail now since as I have said the opportunity for a full discussion of these questions will arise in the near future.

There are just one or two points he made, however, to which I would refer. The first was in the matter of the appointment of the Chief Game Warden. He pointed out that it was a long time since our last game warden left and the difficulties which were being met with by the Game Department from not having a Head Game Warden. There I entirely agree with him. We had some what protracted negotiations about the appointment of the Game Warden, and not very long ago we were very fortunate in that Mr. Swynnerton from Tanganyika accepted the post. But within a matter of three or four days of our receiving his acceptance we heard the news that he had suddenly died, and I think I shall be in order in expressing the regret of this House at that very sad event.

The hon. Member then went on to refer to the question of land use, and I shall have a good deal more to say on this matter in, so far as it affects game when we come to discuss the Report of the Game Committee.

Another aspect of the matter was dealt with yesterday by my hon. friend, the Minister for Agriculture. Sir, I will say no more about that at present.

The third matter that he mentioned was the extreme need for carrying out some faunal research and I am happy to tell the House, Sir, that we have obtained a grant from the Colonial Development and Welfare Fund for that purpose. The grant actually amounts to between £6,000 and £7,000 for the first

year but owing to the fact that the Colonial Development and Welfare Act terminates, I think, in about a year's time, we are not certain yet about what we shall get for subsequent years but I have every hope that we shall have further grants for at least two years after this first year and that we shall be able to start not a very large research unit, it is true, but a unit which will be able to get down to finding out some of the basic facts about our game without which we are very seriously handicapped in trying to plan how we should manage it.

The expenditure of that first year's grant we hoped might have started this month but we have met with a difficulty that is not unusual in these sort of cases of finding the right man to take on the job. But I have every hope that we shall very soon get someone who will be suitable and that we shall be able to make a start. But people with the necessary qualifications for this work are not easily found.

There was only one other point, Sir, which I would like to refer to and that is that raised by the hon. Arab Elected Member, Sharif Shatry. He asked if loans for fishermen could not be granted. I am glad to say that this matter also is going forward. We have the money; it is available. Draft rules governing the issue of such loans are now under discussion and consideration and I have every hope that it will be possible to issue the first of these loans very early in the new year.

Having said that, Sir, I think the House will appreciate that I should not say much more on game matters since we shall discuss them fully at an early date and, Sir, I beg to support the Motion.

THE MINISTER FOR WORKS (MR. NAIHO): Mr. Speaker, Sir, I rise to reply to some of the points which have been raised by hon. Members opposite about matters coming under my portfolio.

In the first place, Sir, the hon. Member for Klambo raised the question of the road to Kahawa. My hon. friend, the Nominated Member, Mr. Rogers, who is also a member of the Road Authority dealt with this point. But I would like to say this, that it is not that the Road Authority is not fully conscious of the

[The Minister for Works] fact that the heavy traffic that is on the road at the moment and the probable traffic which would be generated there after the establishment of the new Cantonment; that we are not willing to do anything more on this section of the road. The position is this, that the money which is to be obtained by contractor finance has been ear-marked for the roads which go through production areas and which we consider are of the utmost priority. It is not the Road Authority's intention that this money should be diverted. But I would assure the hon. gentleman that at this very moment the Road Authority and my Ministry are looking into the question as to what measures could be taken to make that road more safe, both by speed limits and by attending to the various humps on that road which I know are very dangerous as at times they completely obstruct the oncoming traffic from the driver's view. In the meantime, I am going into the question to see if any further finance can be made available so that this road can be attended to. The only solution, I think, for a traffic problem of 5,000 vehicles per day in that area is a dual carriageway. I have been approached by the military authorities who are getting very concerned; by the police who are very worried about safety of the public, and I can assure this House that I am fully aware of the situation on that road and that within the finances we have available, and which we may be able to get, everything possible will be done on the road.

At this juncture, Sir, I would like also to place on record my gratitude and sense of appreciation of the work the various members of the Road Authority are doing. There are several members in this House, Sir, who devote a great deal of time to the work on that board. Time and again they are subjected to tremendous pressures as it is customary in this country that when something is done and people have some opposition to it, pressure is built up by letters in the Press, by holding crowded meetings of ten people in remote places, to tell us what should be done and what should not be done. But, Sir, I would like to pay the Road Authority members a tribute, that in spite of all these pressures

they have stood up for their decisions when they have considered that their decisions were the right and impartial ones.

Now, Sir, the hon. Member for Kilifi raised the question of low bridges on the Machakos/Kilifi roads. Now, I know, Sir, that on the Tiva River and on the Athi River there are bridges which could be raised with advantage. But the cost is so prohibitive that *vis-à-vis* the other claims on the Road Authority's funds, it has been found that it is not possible to attend to these matters immediately. I have, Sir, taken measures to see that as many precautions regarding the safety of the public are taken on these bridges, and the approaches and as regards the state of the roads to which the hon. Member referred. These roads are maintained by grants from the African district councils with grants from the Road Authority and I think in the first place if he is dissatisfied with these roads the obvious answer is to approach the African district council and then make representations to the Road Authority who are always willing to listen to legitimate complaints.

The hon. Member for Mombasa, Sir, raised several points, one of which was also raised by the Nominated Member, Mr. Nurmuhammad, as regards the Mombasa road. Sir, the people at the Coast quite wrongly feel that the only reason that the Mombasa road is not being attended to or tarred is because it does not affect the people at Nairobi or up-country. But, Sir, I would like to assure all these hon. Members and generally, Sir, one is frightened of the galaxy of the Coast Members of various communities and various groups and various parties which sit in this House—I would like to assure them and I think I am speaking for a large number of up-country residents when I say that we should certainly like to see a tarmac road to Mombasa which we could reach in about four hours and have what sometimes some of these Coast Members wrongly call "sanity at sea level". We should like to take part not of their "sanity" but certain of their sea.

MR. USHER: Only, Mr. Speaker, on a point of explanation, I dissociate myself from that part of the remarks from the Coast. I do not think I mentioned the Mombasa/Nairobi road.

THE MINISTER FOR WORKS (Mr. Nathoo): Sir, I am grateful to the hon. Member but other hon. Members have mentioned this matter in this House and I think it is but right to tell them that when under the contractor finance up to the partition between Mackinnon road and Marakani will have been tarred and a certain amount of betterment work will have been done on the section between Kibwezi and Mitio. Andei it will be of a standard which we should learn to put up with and I think it is a reasonable standard when people can get to Mombasa in seven or eight hours quite comfortably.

Now, Sir, the hon. Member from Mombasa raised the question of the Likoni ferry and suggested that the Government should give some subsidy to this concern. Sir, it would be quite wrong for the Government to give subsidies to the Likoni ferry for the simple reason that it falls within the municipality's boundaries. I would like to mention for the information of the House, Sir, that some time ago when the question of the future of this ferry was being discussed, we said to the Mombasa Municipal Board that if they were prepared to undertake this scheme and if there was any loss and they agreed to pay 50 per cent of this loss, the Government and the Road Authority would try and pay the other 50 per cent. But, unfortunately, Sir—and I think the hon. Members will agree with me—Mombasa Municipality was most reluctant to have anything to do with this, and I think if the Coast people have any grouse in this matter on that ground it is against the Municipality and not against the Government.

The hon. Member, Sir, also dealt with the question of the road to Ramisi. Now, I would like to say this, that I am fully conscious of the fact that the sugar factory at Ramisi has done a magnificent job of work and proposes to sink a great deal of money into the development of that area. We have looked into that question, Sir, and have found that, apart from this sugar factory, it is very unlikely that any great benefit can accrue to the general development of the country from this source. But, Sir, the position is that that road, if it were made, would cost a great deal of money. At the moment, Sir, I am looking into the question and am discussing with the

interested parties to see if they are prepared to shoulder some of the responsibility and some of the burden that they may be able to help—I am not saying that we will, it will depend on how we are placed financially—but we shall make every effort to see that we also do something towards the expense of that road so that it might be brought up to a tarmac standard.

Now, Sir, the hon. Member for Mombasa also referred to the Mombasa Port Reitz Chest Hospital and said that this was being done by private contract and that he thought that generally it would be a good thing if these contracts went out to private contractors.

Sir, I would like to say this, that as regards this particular scheme it was such a fiddling job and so difficult because what had to be done there was when the patients were still in the premises. Now, Sir, generally, contractors when they do work want to get the work over as quickly as they can and it is very difficult for them to do their work with full force when they have to look out for the various interruptions which the patients and the authorities there demand. And we felt that in view of all this it would not be fair to let a contractor do the work, but that we should do it departmentally.

Now, Sir, I would like to refer to the question of going to private contractors both as regards the contractors and the private consultants. And, Sir, I have got a set of figures here which I would like to place on record here in the House to show what progress has been made in this direction.

Sir, in the various divisions—that is, Nairobi, Nyeri, Nakuru, Kitumu, Mombasa—in those divisions, Sir, if you look at the record over the last few years, particularly since the time, Sir, when I came into the Ministry, this is what we find: In 1954/55 the total work which was put out to private contractors was 24 per cent; in 1955/56 it rose to 28.2 per cent; in 1956/57 it rose to 44.1 per cent; and in 1957/58 it has gone up to 58 per cent. The work, as far as the construction division of the Ministry goes, Sir, 100 per cent has gone out to private tender. As regards private architects also, I would like to say, Sir, that apart from briefing the various architects and accepting schemes such as

[The Minister for Works] the Ministry of Works' building, it would be very wrong for us to go to private architects for it, I think, for more than one reason, that generally it is the policy of the Ministry and of the Government that wherever possible work should be farmed out to private contractors and to private consultants as thereby, I think, the public feels—sometimes not quite reasonably, but they still have that feeling—that the work can be done much more cheaply and perhaps more efficiently.

I should like to assure the hon. Members that so long as I have got anything to do with the Ministry it is my intention that wherever we are able to make use of private contractors and private architects we shall certainly do so.

In the outlying districts in the past we have found that these contractors are most reluctant to go and, if they go, the cost is prohibitive. But there is tendency now, I am glad to say, Sir, that the contractors are willing now to go out to the various districts and do the work there at competitive prices. Wherever this position exists I can assure the House, Sir, that we shall make full use of private enterprise.

Sir, I beg to support.

MR. MUCHURA: Mr. Speaker, Sir, I wish to join with the other Members in congratulating His Excellency the Governor on his speech. So much has been said on what he said that I do not have to go into details about it. But there is a second point which makes me wish to congratulate him even more and that is to say that his predecessor, during his time of office, was never able to find time to visit Nyanza Province. This he has done. It is the first province he has visited since taking office. I am sure this is something I, personally, and probably a few other people, will be very pleased about.

There is one other point which I would like to raise, Mr. Speaker, and that is that we realize that it was of necessity that the Governor had to take a long time over the Emergency part of his speech. It was inevitable. He could not have done otherwise. But I wonder why the Government did not think it wise to prepare a policy statement as was done last year to cover all the other

Ministries and do something that will give us a little more explanation of the policies of Government in as far as other things are concerned. I am not saying that he should have curtailed the necessary explanation with regard to the Emergency and the necessary things that had to be done about it, but I would have thought that it would have been right if Government had prepared a policy statement as was done last year.

Now, the next thing I must say is this, that I am not going to be involved in all the other matters that have been fully and thoroughly ventilated by all the Members on both sides of the House, that is, the constitution, Sessional Paper No. 10, and various other things connected with the Emergency. But I must say this about the Emergency, Sir, and that is that the lifting of the Emergency is welcomed. I know the suffering, the frustration and all that sort of thing that happened during the past seven years. Now, as is often after such an Emergency or a war, we have got to a stage where we have got to consider social services and problems following the Emergency.

There is one thing that surprised me. It appeared in the Government's *Kenya Gazette Supplement No. 72* and it was with regard to the money that was paid into the Labour Department by various employees—menys that belonged to people who were convicted or detained. And in fact notice has been given that this money should be returned to those employers and that the employers are still liable for the claims, if these people turn up to look for their wages. I would have thought, Sir, that the chances were that some of these fellows might have lost track of their claim—if they had a claim, some of them did not keep books of accounts—and then I do not know whether anybody, any employer, was particularly keen to take that money back to his books and then to have to pay it out again if the employee turned up and I would have thought in this case something like putting that money into the African Trust Fund to be used for the social and reconstruction work that was inevitable after the release of the detainees and all the rest of them. I would have thought that would have been a better course and some means

[Mr. Muchura] could have been found whereby, if a particular employee did turn up for the money, the means could have been found where he could be paid from the Trust Fund, but in case it was claimed, the money was used for the benefit of the African people generally, especially the orphans, and the sufferings resulting from the Emergency activities.

Now, the next point I would like to touch on, Sir, is the question of housing and trading centres mainly as they concern Africans. I am not qualified to talk on things that I do not know very much about and I know a little bit about Africans. Now, there is one complaint that has arisen here—I do not know what the Minister for Local Government would say—in this, that there are certain places marked as trading centres in Nairobi, African areas or in Eastlands. There has been a complain from some of those traders and business men to the effect that before they are given a plot of land on which to build a shop, they must carry the Sh. 30,000 or Sh. 40,000 in cash to an interviewing body. I would have thought that was not very wise and I would have thought the plot should have been complained because that was asking for trouble. In any case, that apart, I would have thought that the normal thing would be to interview—if that must be done—a person and say whether he is really a suitable person and likely to make a good business man and say, "Right, we will give you a plot of land, you will guarantee that within such and such a period you will have put up the building and will occupy it. If you do not do this within such and such a time you will forfeit the piece of land and whatever money has been paid." But the idea of getting the money, all stock and barrel and carrying it in cash and showing it to a committee I think is asking a bit too much. Give the plot of land, the person can go to a building society or make some other arrangements and that is much easier without necessarily causing a lot of pain.

Now, also on the same issue, Sir, I recall on an incident which happened up-country. In this particular case the man had put up a building, he had got the title deeds but with a clause inserted saying that before he can mortgage the title deed to borrow some money to

enable him to do some Business he has to get the permission of the Housing Authority—or I do not know the name or what the phrase is, but in this particular case it was the district commissioner. The district commissioner turned round and said, "No, I will allow you to sell the house but you cannot mortgage it." Now, he does not want to sell the house, all he wants to do is business and he has a property which he can mortgage to enable him to borrow money. I cannot see why he should be compelled to sell and not to benefit at all from his property. I would like to hear from the Government what the actual policy is. These things are some of the worrying points which are most important.

Now, on the question of housing, I welcome the idea of contractor finance which I understand is going to be debated. But I would have liked some sort of orientation on this question of housing, especially in African areas. I know I will probably be told that the tenant-purchase scheme at K.G. VI has failed. It has failed for very many reasons, most of them as far as I am concerned are quite understandable. But can it not be possible to arrange that occupation of these houses and flats could be, instead of on a rent basis and people actually living in them, be for tenant-purchasers and for them to buy them over a number of years? The City Council complain—for instance, of big overheads in mismanagement in estates and all the rest of it. Supporting it were suggested that this be turned over to a tenant-purchase scheme so that in time flats or the rooms are taken over and owned in this way and then they become ratepayers. I would like the Minister for Housing to consider and see what can be done in this particular case.

The next point, of course, will concern the Civil Service. Here I am not trying to forestal or to start discussing the Motion that has been tabled here but I am going to deal with one aspect of the Service and that is the industrial relations or the negotiating machinery as it exists or should exist in the Service. I am told that over the last one year or so there has been very little in the field of negotiations. I understand also that there has been formed a Kenya Civil Servants' Union and there is in the

[Mr. Muchura] course of formation the Senior Civil Servants' Association to cover, I understand, from C-5 upwards and another one to be known as the Junior Civil Servants' Association to cover from C-5 downwards. This, I think, is rather unfortunate. I know what happens in the British Civil Service, I know what sort of organizations they have, but of all these numerous organizations and branches they go up to one national Whitley with all sorts of small negotiating bodies like the J.I.C. and the like.

Now, I think it is unfortunate that all these things should have happened because I am told that these civil servants have not been able to reach agreement with the staff on the Union and of the Association. I understand also that the Government has given recognition to the Senior Civil Servants' Association in formation, the Junior Civil Servants' Association in discussion—not actually formed and with no membership—and I understand also that the Government is prepared to start to have joint industrial councils to cover industrial and manual employees of the Government. No constitution has been brought up. No discussion of the possible constitution of the J.I.C. and so far as one side is concerned they are just waiting.

Now, the next point is that it is difficult to understand why a body can be recognized before it is born. And then, secondly, the difficulty between the three main bodies that I have mentioned is that one lot of people think that from C-5 downwards should go under the Union which is already there and those from C-5 upwards should join whatever organization they would like to join. I am told on good authority that that will be probably most acceptable. And then, one thing is that the C-5 lot joining the Union instead of the Junior Civil Service could have divisions within that Union so that the divisions could represent them at the J.I.C. and whatever machinery was available for negotiation and the whole Union to be represented in the national Whitley Council.

Now, all feel that although the Libbury Report has been with us for about three years or so it has not been fully implemented and therefore the idea of having an organization which is going to be

channelled directly with the Libbury report is a bit difficult in the sense that although there may be officers of the same grade and status there comes a time when he has got to look to somebody else as opposed to the fellow officer of his own status. And therefore there is a reluctance and almost a resistance to being channelled into the Junior or Senior Associations. And, therefore, of all the question comes to this, can the Government categorically tell the House that Libbury Report has been implemented in full. My own impression is that it is not implemented in full; not that the Government does not want to do it but this service has been here for at least since 1920—it took a good 40 years—and the change from the racial services as existed into a non-racial service overnight was not possible. But if the Government can guarantee to the House and can tell the House that this report has been implemented in full, then there is a very good reason to say, "Now, look, this is what we are going to follow. We will probably follow the British Civil Service pattern in this, that all the problems are identical in the various categories of officers." And if it is not, I think Government would be well advised to try and allow these staff matters to be negotiated through the possible organizations that bring to Government all sorts of complaints and the feelings of the Service itself.

Now, I know, for instance, some of the things that have been quoted, for example, in the question of housing. Housing has never been put in one pool and they say, "Now, look, there is no use even if one was a doctor to go and say, 'I am a doctor; I will not belong to Association B.'" Then he goes and joins his other fellow doctors and when it comes to the question of posting and housing they are subject to differential treatment, in matters like appointments uniformly and especially with regard to other territories Tanganyika, Uganda and Kenya. In the other territories the Public Service Commission deals with all the appointments in most cases and there is no question of inducement.

I am not trying to forestall the debate which will give us more time to discuss it in full but what I am doing is dealing with the staff matter and staff negotiations or industrial relations in so far as

[Mr. Muchura] the Government and its own staff is concerned. And, therefore, I would ask the Government to tell us for certain that everything is identical and there is no other consideration when officers are transferred, appointed or anything else. I feel that they be a bit more considerate to consider and reconsider, I suggest, this idea of what they are going to have in the way of associations and machinery for negotiations.

[I may come back again a little bit on labour I would like to raise a point I think should be raised—I know there are two Motions, one tomorrow and one a few days after. I would be very interested to hear from the Government what happened to the Social Security Report. It should have been taken more seriously, especially now with the lifting of the Emergency, land consolidation, which will mean more people will be probably completely unemployed and with no other means of existence. The report should have come in very seriously.]

Now, the next point is I would like to know what the Government is thinking about the Carpenter Report. I know it is behind time and I would like to know what the Government is thinking about it. I would suggest after asking that question that it is high time the Government started thinking seriously of having another committee—whether the Government wants to use its own machinery or appoint a committee—follow up on the Carpenter Report and various other problems that may be coming up during the debates over the next few days of the week. As far as the Medical Department is concerned, I am very grateful to hear that they have a job and that we may have another place to help Mathari. As I said in the last debate, Mathari was really getting impossible for any human being.

The other thing I would have liked to ask is whether it is possible to have a ward, shall we say, attached next to the King George VI Hospital which can cater for people of different, shall I say, of mixed races, mixed marriages, and anybody who would like to be somewhere near to, and attended by specialists. I know I discussed this with members of institutions here who have found themselves in difficulties, who would probably not like to go to a European hospital or

necessarily one of the nursing homes but would rather be near the King George VI Hospital with all the good work that is done by the staff there.

Lastly, I left out what most Members have talked about. I am only concerned with one aspect of it. I believe, as I am, that the primary need of any human being is what he feels affects him more or less, shall I say, directly. All the other things come secondary to his own personal feelings and wishes. Some of the problems we have in Kenya today are based on the practices of the past and some of those practices of the past have given rise to some very strong feelings. One of my experiences was—I think it must have been in 1952 or 1953—I should not have done so but I did, I went to the Memorial Hall to see the leader of the European Elected Members Organization. I said I dared because it was unthinkable to go and talk to those gentlemen and discuss anything that was likely to be unwelcome as far as they were concerned. At that time I said, "Now, look, if you have got any sense, the only thing to do is not to refuse Africans going into the hotels," and suggested that they all had to go to say that anybody can go to any hotel provided, of course, the normal conditions of the management reserving the right of admission and so on and so forth are there because once that happens you will hardly see Africans flocking into your hotels and, of course, one thing will have been done and that is—the source of bitterness will have been removed. We had a long discussion on various other matters until eventually the then Chief Secretary, later the Resident of Zanzibar, Sir Henry Potter, came into the picture and this was done. All that is necessary is it is only a matter of time before the anomalies which are obvious, and we must keep moving with the changing times we will have a much better country. And if we can concentrate on those more fundamental things we will be much further forward in a short time with all of us happy.

Mr. Speaker, I beg to support.

THE MINISTER FOR HOUSING (Mr. Amalemba): Mr. Speaker, Sir, the new Governor must definitely have started on the right foot. He has been supported on both sides of this House and what we are both sides of this side is just to clarify a few

[The Minister for Housing] points that have been raised which were not included in the Governor's Speech.

I feel that his effect on the country has brought or increased the spirit of co-operation and understanding that had started to show itself in various forms. I hope, should make the Members of this House work more in co-operation particularly as we approach this time in January that many people fear to be cold when we discuss what our future constitution is going to be.

A few points which have been raised that affect me indirectly or directly I will explain in brief. The arrangements were that the Governor should give a definite sort of general policy and if Members felt they had any point they wanted to be clarified they should raise it themselves on the Floor of this House and the Minister responsible for those particular subjects would clarify. Before I do that on my own Ministry I would like to touch on the question of the police.

Some hon. Members opposite have been complaining that police have not been treating them well, may I say that it is not a monopoly for the Elected Members alone to be treated that way. We, some of us, on this side—including the Chief Secretary—have been handled by our police. Of course, we do not walk about with a label on our faces to say, "The Chief Secretary", so that they may know him. But we have to exercise patience and forgiveness, because they are learning and we should encourage them to improve their relationship with the public. So that it is not for us to blame them but to try and help them to do their duty properly. They are our servants and if your servant is not working properly you do not start abusing him or using dirty language, you try to explain and help. That is what I think we ought to do. I had a very recent experience at Molo and I was very sorry that they did not really appreciate the assistance I was giving them because I had to tell them afterwards, "If you had fallen into the hands of some other people, you would have had it." And they apologized and went away. I did not pursue the matter any further. And I would like us all within this House and outside to try and encourage our police to learn and to correct their mistakes as and when we meet them.

The other point is about Jomo Kenyatta. It is obvious that it would be impolitic if I did not mention Jomo Kenyatta when other people have been mentioning him. Mr. Speaker, in 1956 there were elections in this country and all the Members in this House—the African Elected Members, campaigned for their seats in this House. By that time Jomo Kenyatta was serving his sentence. The present Members were elected by the Africans with the confidence that they were their leaders and I am sure even today the present African Elected Members are the leaders of the Africans in this country. My own Member in Nairobi is still my leader in this House. I belong to Nairobi and half of me belongs to Northern Nyanza and therefore when in Nairobi I regard the Member for Nairobi Area as my Member as well as the Member for Nyanza North. These are my two people to whom I can give my problems. But, Mr. Speaker, they are telling me that I should not; that I should take my problems to Jomo Kenyatta. Is that really asking the public to withdraw their confidence from them or is it encouraging the public to recognize them as their representatives in this House. That is the only point I want to mention in this House. It is a question of whether the African Elected Members want us to recognize them as our leaders, or do they want us to withdraw recognition from them all over the country and wait for whatever number of years until the leader they are directing our thoughts to, comes back? Sir, I leave it at that point.

The other point that comes in, has been raised by the hon. Member for Central Electoral Area. Sir, he was complaining that my Ministry is doing nothing for Asian housing. And I would like to say this, Europeans are also complaining that I am doing nothing for their European housing. But, Sir, for many years those two communities have been in the habit of helping themselves. They have had sufficient money or documents with which to negotiate loans with various lending societies. And, therefore, their shortage of houses has not been as serious and critical as the African's. We have therefore Government—treated the housing shortage for Africans as the most pressing need and

[The Minister for Housing] the most needy people for accommodation. That is why, Mr. Speaker, I have directed my efforts towards African housing. Nairobi alone—I will be telling you about it when we come to the Region—has had over 34,000 people for whom housing has not been anything in reality. We cannot account for where they sleep—34,000 people! Africans! Mr. Speaker, that made it necessary for Government to take that particular problem with special emphasis to try and accommodate these people as far as possible within the means of our financial ability. When I have reduced that problem to its minimum, it is my intention to widen the scope of the Central Housing Board so that it also applies to Asians and Europeans. We are also in the process of amending the Housing Ordinance No. 17 of 1953 to get away from the racial housing labels where you always say European, Asian or African housing, so that we have it in a form that would be applicable to everybody of all the communities in the country. I am intending to take away those three labels, and substitute them with words that would be applicable to the whole country in the form of densities so that anybody could fit into any housing scheme according to the ability of the pocket. Mr. Speaker, that would solve the problem of having racial houses and racially residential areas. And, therefore, I would ask the hon. Member to wait a little and carry on looking after himself as he has done in the past while I am preparing to come and help him when he gets stuck. Sir, the Asian who is a civil servant is receiving exactly the same treatment as the other members of the community. In the new Eagle Star housing schemes they have the right to apply and participate in that scheme as Africans and Europeans today. Therefore, it is not entirely that we have forgotten the Asian but we are looking after him.

The hon. the Arab Member has also asked me to remember the Arab community in this country and provide housing for them. Mr. Speaker, the Central Housing Board provides houses for Africans and that word "Africans" includes—Somalis, Arabs, Baluchis, Abyssinians, Malagasies and Comorians. It includes the Arabs, therefore, and

every scheme that we have had in the past has been open for Arabs to participate in, wherever it has been. I am therefore very reluctant to introduce another estate or location in Mombasa to be known as an Arab location. The trend of things in this country, Mr. Speaker, are such that we are now working towards a national basis of existence and I should not continue to split the peoples of this country into various racial groups any more. I am quite prepared to consider any applications that the Arab community may have, whatever they may be, and we would consider ever they may be, and we would consider whether we would fit them anywhere in any of our schemes.

Mr. Speaker, the hon. Member for Mombasa, I thank him very much for appreciating what the Central Housing Board is doing under the Ministry of Housing, he however, asked me to say whether I could introduce similar schemes as we have at Kirita, about six miles from the centre of Nairobi, whereby people, through the district council, borrow money and build their own houses outside the municipal boundary. Sir, this is already in hand, and I am very glad that he reminded me of it, but there is a hitch in that area. Once we get over it we shall go ahead with full steam. The hon. Specially Elected Member, Mr. Muchura, mentioned the King George VI scheme which we have unfortunately had to withdraw. That scheme was intended to cater for the highly paid Africans or say the Africans in the higher income group who are at the moment renting houses in the city council's estate, which are not adequate according to their standards, and we thought a better house where they are them with a better house where they are able to pay more for those facilities, might perhaps be a very good thing. Sir, a house under that original scheme would have cost between £2,000 and £3,000; they would require to pay as a deposit 10 per cent, and they would be given a loan of 90 per cent. Only five people were interested in that scheme, and there were 89 houses or plots to be given out. We thought perhaps that was a little expensive, and we modified the design and the scheme, we reduced the size of the plot from 50 ft. by 75 ft. to 50 ft. by 50 ft., and brought the cost of this

[The Minister for Housing] house to a very reasonable amount of between £1,500 and £1,800. We had enquiries which amounted to about seven and we thought perhaps there was something wrong. We went round again and tried to persuade the Treasury to let this scheme apply to the civil servants, and as well as that given them a 100 per cent loan.

Mr. Speaker, it is very shameful that we had only 13 enquiries, when they were not supposed to put down any money at all, no deposit, and the scheme was open to all. Of those 13 there were only about six genuine enquiries who were prepared to go ahead. The rest were just enquiring to see what was happening. Mr. Speaker, if you call that a scheme that is not welcome, I do not know what it is, because to give someone 100 per cent loan, I do not know whether it is good business. I think we were getting round our head. However we have withdrawn that scheme. You can tell me that there were other reasons but those other reasons were tested and proved to be without foundation.

Mr. Speaker, Government has then decided that there is no need amongst Africans for high-class African housing, and therefore we have withdrawn that scheme but will leave the door open until there is such genuine need for it. But it is very disappointing when you think of assisting those who ought to be assisted and they do not respond, then I do not think you can blame anybody.

MR. MUCHEHA: Mr. Speaker, point of explanation. One of the points objectionable to this was, who is a high-class African?

THE MINISTER FOR HOUSING (MR. AMALEMBA): Thank you. May we call it high-class housing then.

The other points, Mr. Speaker, are the question of our conference which we are facing. Many of my friends have referred to the conference as the deciding factor for our future in this country. I also feel the same, and I hope that this spirit that is visible in this House will continue to work amongst us and enable us to come to definite conclusions which will benefit this country. I hope that we shall not be selfish and think about our own interests. I hope we shall put the

country first and our own personal interest second.

I beg to support.

MR. JONES: May I concede my right of reply to the hon. the Chief Secretary.

THE SPEAKER (Sir Ferdinand Cavendish-Bentley): Yes—if you so wish in accordance with Standing Order 52.

THE CHIEF SECRETARY (Mr. Courts): Mr. Speaker, Sir, when I mentioned to the hon. Nominated Member who has just sat down that it would be his duty to concede his reply to me, he said "I do so willingly". I must say in opening the closing remarks on a debate of this kind, I feel that it is an extremely onerous lot on anyone to try and pick up the threads of a debate which has ranged over so many subjects, despite the fact that many Members have felt that perhaps even more subjects should have been included in the speech.

I always remember my mother saying she had a church worker who was always "arranging a meeting in order to arrange a meeting". I wish here this afternoon to give a great welcome to the welcome which has been given to this speech by practically all Members of the House. I feel that it is due largely to the nature of the speech itself and also very much to the way in which it was delivered to this Council. This speech was no quiet exhortation. It was a trumpet note stirring people out of their lethargy, and of their preconceived ideas and making them think for themselves as to what they should do for the future.

Therefore, Sir, I feel that the thanks of all Members of this House are exceedingly due to His Excellency the Governor for doing just this, if nothing else. The speech was full of constructive thinking and it was full also of a number of subjects with which Members have dealt.

On the question of what was going to be put in and what was going to be left out, of course, naturally his closest advisers advised, and I am sorry if certain Members felt that it should have been necessary either to lay a Sessional Paper, or for that matter to include in what we already felt was an over-long speech—and indeed His Excellency himself felt that it was an over-long speech—further subject matter upon which Members could comment.

[The Chief Secretary]

I did not notice this, incidentally, that it stopped Members from commenting on what they wanted to comment on, irrespective of whether it was in His Excellency's speech or not.

Now, Sir, dealing with the various points which have been raised by Members, the hon. Specially Elected Member, Mr. Blundell, if I can use the phrase which was happily coined by the Minister for Education and Labour, "The workseeker from Subukia", I would like to say that I apologize to Members for the fact that they did not receive the Bills 24 hours before the opening of the Legislative Council. Due to certain last-minute amendments it was not possible to get the draft Bills to the Printer before Tuesday morning, the 10th. We must appreciate that the Printer had the Governor's speech to prepare, the ordinary issue of the Gazette, and its supplement, and the sets of Bills for Legislative Council to deal with simultaneously. Unfortunately there was a specially big Gazette that day, 28 pages of the Gazette and 32 pages of the Proclamation Rules and Regulations, and 16 pages of Bills Supplement. It was not possible to complete all of this business until 10 o'clock on Wednesday, the 11th: they were received in this building shortly before 11.30, and were put in Members' pigeon holes by 12.15. I regret and I offer you my apologies that it was not possible to get these into the hands of Members earlier, but will realize that the special nature of the contents of both the speech and the Bills prevented them from being ready until Tuesday morning. I hope, Sir—and His Excellency himself has apologized for the short notice given to Members—that in future we will do better, but we were in fact restricted by reasons of having to get a great number of points tidied up before we could come to Council.

Now, Sir, as I am dealing with the speech as such, and the arrangements which were made for the opening of Legislative Council, I would like to comment on one point which an hon. Member made regarding the invitations to the Legislative Council on that day, Sir, I understand that it is customary throughout the Commonwealth to regard the official yearly opening of new sessions

of Parliament as an official occasion, at which the Monarch or the Governor appears instead, and all representatives together with a number of Judiciary, senior military officers, and high dignitaries of the Church are invited to attend.

I understand that this is even the custom in the House of Lords. This custom has always been followed in this country and it is here, as elsewhere regarded as normal. Our difficulties, Sir, in making arrangements for this occasion are immensely increased by the fact that certain hon. Members practically never reply to an invitation. Now I must ask hon. Members on such occasions, when receiving invitations, to reply as quickly as they possibly can, otherwise naturally they will not be given tickets for their friends.

I would also add that if Members are dissatisfied with the normal procedure I think it would be more appropriate for them to raise the matter either with you, Sir, direct, or with me, or at the Sessional Committee, and not make speeches in the House in which they indirectly, and I think quite unjustifiably, accuse you, Sir, of exercising racial discrimination.

Incidentally, I would like to point out to hon. Members that you, as Mr. Speaker, cannot be criticized in the House except by the introduction of a substantive Motion which is a very rare and most unusual procedure.

Now, Sir, turning to a couple of points on the Prisons which were raised after my hon. colleagues spoke, I would like to assure the hon. Member for Mombasa that there is no truth in the rumour that foam mattresses have been issued, and I would like also to inform the hon. Member for Nairobi, North that the numbers in prisons and the numbers in detention camps—and when I am talking about detention camps I mean Cap. 80 detainees, not those detained under Emergency Regulations—are approximately the same at the moment and there are roughly about 9,400 in each case.

Turning now, Sir, to one of my own subjects, which is the Civil Service, on which a number of points were raised, the Specially Elected Member, the workseeker from Subukia, asked if local people contact students in the United

[The Chief Secretary] Kingdom. I was particularly gratified to note that the hon. Member himself, when he was on leave, commented on the good quality of the students that we had in the United Kingdom, and my answer to that is that we have, as he probably knows himself, a Kenya students' adviser who lives in London. He also has an assistant, and knowing him well I also know that he gets through a great deal of work on both the purely educational side—that is helping the students with their particular educational problems—and also of course trying as best he can to deal with their many welfare problems. It is almost a super-human task for one man to do all this, and we have at the moment plans for trying to assist him, particularly on the welfare side. When I was on leave myself recently I addressed the Kenya students in London and I was remarkably struck by the fact that they appeared to be not ignorant but unskilled about the type of information which they wanted from the Kenya Government, and also from Kenya generally. Many of the questions which I was asked concerned their future, and many of the questions also concerned purely establishment matters which were concerned with scales of pay and things of that nature. As a result of that I did discuss with the student adviser who has been here recently what we could do about this, and we have prepared a special handout which gives the students at home, I hope, all of the information that they need regarding their future prospects. This will be widely distributed and I am also going to make quite certain that the adviser has in hand any further information which they may want from time to time.

The same Specially Elected Member raised the question of recruiting civil servants from the people of the Colony. This has been raised many times before and I must say I was quite horrified when my good friend the hon. and gracious lady, the Member for Uasin Gishu yesterday said that Government only paid lip service to this question of recruiting local people into the Civil Service. Since Lidbury no recruitment is permitted overseas unless the Civil Service Commission is completely satisfied that the post cannot be filled in the local market, and I want hon. Members

to know that in dealing with these matters I personally have time and time again impressed upon the people responsible that we must recruit on the local market before we go overseas. In addition to that, we have got special appointment boards which have been set up to deal with local candidates for appointment to those posts which fall outside the auspices of the Civil Service Commission; that is normally the professional and the administrative grades, and every encouragement is given to properly qualified local persons who come into the service of this country. In addition to that one of my hon. friends, the African Members—I think it was the Member for the Mombasa Area—talked about students feeling frustrated after being overseas. Now, Sir, I think most hon. Members realize that I do my best to speak as frankly as I can in this House, and I would like to try and analyse the situation as I see it regarding this question of local recruitment.

The European is anxious that standards should be maintained, and I also emphasize the point which the same hon. Member made, that there should be no reduction in standards. But he sees certain people who have to be recruited from overseas paid at a higher rate than the person who is recruited locally. That is apart from the administrative and professional grades, because it is necessary to try and get these people on inducement to come to this country. He feels that the person who is here, locally born, should be brought in at the same rate. We are trying to build up a local Service which will not in the long run cost the taxpayer too much. We say therefore that they should be prepared to come in at local rates without inducement, which we hope will ultimately disappear. The local Europeans feel I think that if they cannot get that salary with inducement then they must go elsewhere. Now, Sir, Government has never tried to compete with big business or commercial interests who normally pay higher salaries. Big business and commercial interests usually pay higher salaries because they do not always provide a number of other perquisites which go with a job provided by the Civil Service, and we say that if they are not prepared to accept the salaries which we offer, we cannot take

[The Chief Secretary] do. I do make one proviso to this. That is, that if in fact it is true that salary scales that are offered, are insufficient and I believe it may be true that there may be a case for appointment between the salary scales which are offered and those on inducement, which might attract more people, then obviously it is up to Government to consider this particular problem and see whether or not we can adjust salaries in order to attract the best people we can. I do want to make it quite clear, however, that the Government cannot embark, certainly not at this stage, and I doubt if the House would agree on a complete salaries revision for the whole of the Colony. What we have said is that where we think particular grades are not sufficiently paid, then we are prepared to look at that particular grade. But I do throw out this point, Is this a service, or is it not a service? Is the question of service—that is service to the community—gone amongst our younger people now, or are there people who are prepared to join because they feel that it is a service worth joining? or I do feel very often that many people say that they are not prepared to join because the monetary rewards are insufficient. That was not the case I believe 25 years ago, and I do feel that some of us who are in responsible positions should get into the heads of some of our young that there is more in this life than just money.

Turning now to the remark which the hon. Member for Mombasa made, as regards people who returned from overseas frustrated; my personal experience, which has been an unhappy one in many respects, is that the African who goes overseas and gets a degree, comes back and says that unless he is put into a particular grade, which is usually a good deal higher than the grade which we are normally offering, and unless he is put at the top of that grade, then he is going out into private practice or into private business. Well now, it is up to him to choose if he wishes to go out into private business. He may do so. But I feel that these people must realize that, if they do in all walks of life, there is an apprenticeship which we have all got to serve. All of us have got to start at the bottom some time, somewhere, and do our best

to work our way up to the top, and I do feel that that also might be brought home to those people who come back with degrees and with other qualifications from the United Kingdom.

As regards my Asian friends, I have a feeling that they put their fingers together like this and they pray to Allah, or else to Rama, or else to Guru Govind or Krishna, and they say: "This is a service in which we will serve and we will continue with it." And in some respects I feel that the Asian has got something to teach us in the service in this country.

Now, Sir, the hon. Nominated Member, Mr. Mohindra, talked about discrimination, particularly when he was discussing about trainings schemes. For his sake, and no doubt, for a large number of others, I would like to explain how this happens. All departments, it is true, are asked to submit training schemes, but their scheme goes to a committee over which presides Mr. MacDonald in his personal capacity and not as Chairman of the Civil Service Commission. But you will notice that there is a link there between the committee which considers the scheme and the Civil Service Commission itself. In this respect, I would like to quote from a circular letter sent out by the Establishment Division in 1957, where it says: "Candidates for training grade posts who may be serving in the service, must, in all cases be specially selected by the Civil Service Commission." That is the point that I want to make to him. When the scheme has been approved, the posts in that scheme must be submitted to the Civil Service Commission: they must be advertised and the people selected from advertised and the people selected on the "D" Scale. As regards entry into positive about this circular is absolutely positive to the "D" scale. It says: "For direct entry to the 'D' scale the candidate must possess a degree of an approved university." This means you do not get into the "D" scale, as he himself said. You do not get in by discrimination—you get in because you possess a degree of an approved university. If you have a School Certificate, or Higher School Certificate, you enter the "E" scale, but if you complete one year and if you are approved again by the Civil Service Commission, you may move up to the "D" scale, and I

[The Chief Secretary]

hope that that brief explanation will make the point absolutely clear to the hon. Member.

I would like to mention to my hon. African Members that it would reward them when they are talking on the question of the Civil Service, particularly of the higher and the executive grades, if they would examine the figures of those Africans who, in the last two or three years, have been admitted to these grades.

One hon. Member talked about Tanganyika, about district commissioners and district officers, and I think he will find that the number in Kenya has increased considerably recently. May I answer the hon. Member by what I said earlier: there is a question in life of apprenticeship of learning your trade before you go to your next step.

MR. ARAP MOT: We have been under apprenticeship for too long.

THE CHIEF SECRETARY (Mr. Courts): I do not want to go into the Whitley machinery in detail, and no doubt there will be opportunity in the not so distant future to comment on what is happening with Whitley machinery, but I would just like to point out to the Specially Elected Member Mr. Murchura that the recognition which he mentioned was provisional recognition only to an executive committee in order that they could produce the memoranda and various other necessary papers for submission to the Government.

Turning now to the question of land, I must say, in a debate of this nature, I am surprised how much of the time of the House was taken up on a subject which we are about to delete at some stage or another in complete detail. I can understand why, because a subject of this nature lies very near to the heart of everyone and it is, to a large extent, an emotional one.

The Minister for Education, Labour and Lands has dealt with a number of the points and he dealt particularly with the point regarding pledges. The Specially Elected Member, Mr. Blundell, said that we should publish an explanatory paper. I must say I cannot really agree with him there. I would have thought that the paper itself explains what Government's views are on this

subject and I should have thought also that because of the considerable criticism, because of the discussions which have gone on in the country, that these discussions in themselves would have produced the explanations for which the hon. Member asked.

Another Specially Elected Member, Mr. Slade, said we had plunged wildly and not consulted public opinion. I would like to ask the hon. Member, on a subject such as this, what would have been the result if we had consulted public opinion? My answer to that would have been that there would have been three entirely different points of view put to the Government. There are three different points of view which have already been expressed in this debate. My view, Sir, and, I think, also the view of my colleagues, is that a sessional paper is the means of consulting the country; that, in fact, is what we are doing at the moment. We have set out our views, I hope lucidly, in this paper, for the country and we have already received a good deal of opinion, a good deal of advice on it.

If I might just answer the hon. Member for the Coast. I think his question was whether every Minister has considered the White Paper. May I inform him that this is a Government White Paper and we are all jointly responsible.

Now, Sir, I would like to mention the question of buying up land in the Highlands which has been brought up, I think, by all hon. African Members. This was not dealt with in the Paper and I must say, Sir, that I feel that this must be based, certainly in the long run, on a misconception. I am not going to deal with the historical part of who owns the land. I think, if we go back into history far enough, the original landowners are either extinct or perhaps they are playing with Mbatia boards somewhere in the Central Federation of Africa. But I would like to take up the hon. Members on the question of buying up land for the landless. Economically, Sir, this seems to be taking a long view, a very fruitless proposition. I remember reading a newspaper in the United Kingdom not so long ago where a scientist had apparently said that with the present rate of population, in a thousand years' time there would be

[The Chief Secretary]

standing room only in the world. Well, I think we can all thank our Maker that none of us are going to be here to see this particular situation when it comes along and it does raise the whole question of the increase of population which, in itself, is tied up with the question of unemployment. But, Sir, economically, the answer to landless people cannot be, and is not, the acquisition of more land, because there is a limit to land anywhere, whether it be in this country or any other country and that, in fact, does not solve the economic problem of the land-hungry and the landless. You can come back to us on the charge of what is Government going to do about it—it's going to be raised, and it's bound to be raised by my hon. friend the noble Lord who has put down his Motion on the question of unemployment. I will deal with it, we will deal with it, then.

I would also just like to raise a few points on that now. The Minister for Labour did say that we are considering this whole question of unemployment. I would like to assure the House—and it has been in the minds of myself and all our colleagues for quite a long time—that we agree, Sir, that it is a serious social problem. We have agreed that a Commissioner should be appointed to go into the whole problem and let us have the main data upon which we can base any plan for solving it.

I notice that the *East African Standard* this morning stated that this was an urgent problem and that we should deal with it at once. But, Sir, until we know the incidence of unemployment, until we know where that falls most heavily, it is going to be tremendously difficult for the Government to plan on a long-term basis. We can, naturally, do quite a lot on an *ad hoc* basis and, indeed, the Government over the last two years has done a very considerable amount on an *ad hoc* basis. The contractor-finance scheme for the roads, the contractor-finance scheme for housing which will be before you today in this House, and thanks to the persistent efforts of His Excellency Sir Evelyn Baring and my colleague, the establishment of the refinery has now been agreed, which is going to help very considerably with the immediate problem.

All of these things we have had in mind, but it is not possible for us to reorientate what amounts to a three-year development plan or a six-year development plan, or a nine-year development plan, until we know exactly what the problem is that we have to play for. In so doing one must remember that it will not be possible to divert a large amount of money which is scarce anyway, to this particular problem only, because otherwise many of our other pressing problems are going to go by the board. I would say, Sir, that as far as we can see—but you were never doubt heard—it already from the Minister for Finance, the possibility of tapping new sources of money for these projects still seems to be as difficult as ever.

Now, Sir, if I might digress for a moment, unemployment was one of the points mentioned by the Member for the Southern Area who took up a very large measure of time in the House telling us about 20 points which he had got. I worked out on the back of a piece of paper that in relation to the cost of keeping Legislative Council sitting here, and while he was saying we should cut down expenditure, his speech cost the Government approximately £266; and while on that point I really would ask, as being the manager of debates of this kind, that if people could confine what they have got to say to between 10 and 15 minutes we would be able to deal with these debates much more expeditiously than we do at the moment. My impression when listening to the hon. Member was that everyone was out of step except our Charlie! He mentioned Shakespeare and he said he hoped that the comedies and not the tragedies would emerge. I went off and I looked up *The Twelfth Night*, of which I am quite fond, and discovered that the clown says: "Foolery, Sir, does walk about the orb like the sun, it shines everywhere." It was only by sheer chance that I happened to be looking round the Chamber at this moment. Having seen my hon. friend for Central Province North-wearing a new garb, I thought I might pass on to him the clown's next remark, which was: "Now Jove, with the next commodity of hair, send thee a beard."

Turning now to information, I welcomed the remarks made by the Nominated Member, Cmdr. Goord. I agree,

[The Chief Secretary]

Sir, that it is vital to the future of the country and I agree also that this part of adult education, when I introduced my budget in the House this year I promised that there would be a very considerable reorganization of the Information Department which is now in train.

It is going to take some time to get the full reorganization of the Department, but I hope that the ideas which are outlined will eventually come into being. But I must warn hon. Members that really coping with information in a country of his nature or, indeed, of any country, does cost a vast amount of money and information can only take its place along with all the other claims which we hear vociferously expressed in this House from time to time. All I can do is to assure hon. Members that I do think about information quite a lot and that I will do my best, as and when we can, to try and improve the services which we have got. I would like just to mention—I think my colleague the Minister for African Affairs has already mentioned it but I would like to mention it in this context because the hon. Member for Central Province South asked whether or not we were informing people of the contents of the speech and what was happening about passports. Within 24 hours or less of the speech being delivered, the information had gone out in Kikuyu and in Swahili and in English on the Kenya Broadcasting Service and also a full translated copy of the speech, both in Swahili and in Kikuyu has already been widely distributed.

Now, Sir, turning to the question of the Conference. The Member for Nyanza North said "We were determined not to frustrate the Conference." The Member for Kitui, along with the Member for the Coast Rural said that only people should go who asked for it. Well, I do not want to embarrass myself in arguments as to who did what and why and when, but I would like to remind hon. Members that this Conference was called by the Secretary of State for the Colonies himself and this, indeed, is his conference. As a result of that he has decided who are the people that are going, because he has decided who are the people he wishes to consult regarding presumably, the next steps for Kenya.

Now, Sir, I would like to say that I did not think that the contribution of the Member for Coast Rural helped as regards an introduction to the Conference and I want to quote his actual words. He said "I happen to be in a strange country, I happen to be in a country with indigenous natives who are naturally born and the other people who have just come into the country, there nomination is necessary. Whether we like it or not, we must be dominated by the indigenous people, the question is, are we prepared to acknowledge the domination even before we go to the round table conference, because if we do not accept domination before we go to the round table conference, I can smell quite an unpleasant situation in London during the discussions."

Now, Sir, I am not going to argue about domination or who dominates what, or why we should dominate anything, but I do think that a statement that if we do not accept domination before we go to the round table conference I can smell quite an unpleasant situation, smacks once again to me, Sir, of "you must do this or else." It is the same old cry. Surely we want to go to this conference—or those people who are going—will go with a spirit of wanting to negotiate freely and not going with preconceived ideas. I would like to quote in complete contrast to this an extract from what I thought was an excellent speech from the Member for the Eastern Electoral Area, who said "I wonder whether Members have pondered to realize the consequences if such a conference were not held in the very near future, for we must get together and find a solution that is acceptable to most of us, if not to all of us. We have had time to discuss many of the constitutional matters and it is time that all the parties get together and thrashed out this problem and made a success of the opportunities offered to us. We must dedicate ourselves afresh in the service of this country and accept its conditions, its needs, the conditions of stability, and not try to impose our views on other people; not try to put forward selfish interests, but approach the conference in a spirit of goodwill and good intentions for the betterment of all the people of this country." To that, Sir, I say "Amen and Hear, Hear."

[The Chief Secretary]

I feel, Sir, that if people are not prepared to agree with the words which I have just quoted from the hon. Member, then we might as well call the Conference off. But I do feel very strongly that the Conference is a chance for producing that same spirit of hope for the future which His Excellency himself has stressed all the way through his Speech.

I now turn, Sir, to the oft repeated question of Jomo Kenyatta. Sir, there is one thing I can understand about this. I can understand the cult and I can understand the mystique which is being built up around the name of this man. We have seen it in the past, we have seen it in Germany where it was said "Ein Volk, ein Reich, ein Führer" and what was the result? The 1939/45 War. We have seen it in Russia with the Stalin personality cult. It seems to me, Sir, that this is nothing more or less than a conventional peg upon which to hang the cloak of nationalism. I personally, Sir, do not disagree with nationalism. Why cannot we all be nationalists? After all, when I go into the House of Commons and Scottish affairs are debated for five minutes, I am quite prepared to become a Scottish nationalist tomorrow! But, Sir, I do not start building up people with a past that his man has got. I think that memories of men are inclined to be short and, indeed, they seem to be shorter than most in Kenya, and because of that, Sir, I propose to read to this House today, with your indulgence, part of the sentence which was delivered by the magistrate on the occasion when he sentenced Jomo Kenyatta. He said, "You, Jomo Kenyatta, stand convicted of managing Mau Mau and being a member of that society. You have protested that your object has always been to pursue constitutional methods, on the way to self-government for the African people and for the return of land which you say belongs to the African people. I do not believe you. It is my belief that soon after your long stay in Europe and when you came back to this Colony you commenced to organize this Mau Mau Society, the object of which was to drive out from Kenya all Europeans and in doing so to kill them if necessary. I am satisfied that the master mind behind this plan was yours. Also I believe that the methods to be employed were worked

out by you and that you have taken the fullest advantage of the power and influence which you have over your people and also of the primitive instincts which you know lie deep down in their characters when they have made so much progress towards an enlightened civilization. You have successfully plunged many of them back to a state which shows little of humanity. You have persuaded them in secret to murder, to burn and to commit evil atrocities which it will take many years to forget. Some small part of the Mau Mau plan to kill Europeans has succeeded, but perhaps the greatest tragedy of all is that you have turned Kikuyu against Kikuyu. Your Mau Mau Society has slaughtered without mercy defenceless Kikuyu men, women and children in hundreds and in circumstances which are revolting and better left undescribed. You have let loose upon this land a flood of misery and unhappiness affecting the daily lives of all the races in it, including those of your own people. You have put the clock back many years and by your deeds much of the respect for your tribe has been lost, at least for the time being. You have much to answer for and for that you will be punished. The maximum sentence which this Court is empowered to pass are the sentences which I do pass, and I can only comment that in my opinion they are inadequate for what you have done. Under section 70 and on the first charge, the sentence of the Court is that you be imprisoned for seven years with hard labour and under section 71 and on the third charge for three years with hard labour, both sentences to run concurrently and I shall also recommend that you be restricted."

Sir, one Member said that this man was respectable and responsible. As far as I am concerned, Sir, and I think I am what speaking for the Government after what I have read out, we cannot believe that this man is respectable and as far as we are concerned he is responsible for the things to which the Magistrate referred in this part of his judgment. I do not want to go over everything that has passed, but I would like to point out two things that arise out of this; the indictment after having sat for weeks and weeks and weeks listening to witnesses; a conviction, which was not upset by all

[The Chief Secretary] the highest courts up to the Privy Council; found this man guilty of having set people to murder, to burn, to slaughter children and, above all—this is the point which I want to make clear—setting Kikuyu against Kikuyu. Also when people say that he has sinned, his senses, can I refer now to what I have just read out here, that the restrictive part of his present confinement was part of that sentence. Also, I was amazed when I heard the Member for Central Rift say that he should be released no matter how much he was mired up with the Mau Mau rising. Sir, you cannot expect any responsible and respectable Government to accept statements like that. Therefore, I want to say now that the Government will not release Jomo Kenyatta. It will not let him go to the conference—in any case he is not an elected Member of the Legislative Council—and they will not let him see Professor Mackenzie because the latter's main duty when he is here on this trip is to discuss points with the participants in the conference.

Now, Sir, regarding emergency powers, the Member for Central Province and others referred to the enshrinement of emergency legislation as permanent legislation. He also said that the Governor has other power. This is not so, indeed, the hon. Minister for Legal Affairs dealt with this matter yesterday in his usual brilliant way. As I would like to add to what he has said is that it is personal experience of my own that when I was a district commissioner about 12 years ago, I had a situation on my hands which was obviously going to lead to trouble. The fact remained that I had practically no powers in the normal laws of the Colony to deal with it at all. The result was that in the end one unfortunate man was killed—thousands of course have been killed since—and law and order in the district disintegrated in my hands for a period of six months. I am not going to say to hon. Members of the House that if I had had these powers that we would have necessarily changed the course of events which then happened, but I believe, Sir, if we had all had the powers, I believe we could have done something to prevent the misery and the bloodshed from which Kenya has suffered over the last five or six years.

Therefore, Sir, I say: from personal experience, that it is necessary to have such powers on the Statute Book, not because we want to use them. I believe that His Excellency the Governor used some such expression as any "reasonable law-abiding citizen has nothing to fear from them at all."

That takes me on, Sir, to the speech made by the Member for Nairobi Area. I am glad to see he is here today because he was not here when the hon. Minister for Legal Affairs dealt with certain statements and matters which the Member himself had brought up.

The Minister for Legal Affairs referred to the expression of opinion of the Member in part of the world press. I believe he was then referring to the *Sunday Express* and I think there was also another report in the *Daily Express* at home. I hope the hon. Member has read his HANSARD because he, himself, said that he backed law and order and he is quite prepared to—as far as I can see—recognize the Government, provided the Government has the confidence of the people, and it is up to the Government to create better relations. He also said that as a Government we were afraid and panicky. I would only like to restate what my hon. colleague said yesterday and say that we are afraid, Sir, of nothing. The only thing, possibly, that we are fearful of is whether we are able to protect the future of innocent, quiet, law-abiding citizens. I hope that we will be able to do so, Sir; and we have suggested that we should put on the Statute Book sufficient powers to do so if they are law-abiding citizens.

But, Sir, the hon. Member said "confidence." To me, Sir, confidence must be a two-way traffic. We are not afraid of anything being said or done, but we do lack confidence in certain protestations. The hon. Minister yesterday gave at least his reasons for it. I have before me a list of prosecutions which have been taken against official members of the Nairobi People's Convention Party. The hon. Member in question is either the Chairman or the President of that party and here apparently is its record. In 1958 the Organizing Secretary, the Assistant Organizing Secretary and two members were prosecuted for conduct likely to cause a breach of peace following a

[The Chief Secretary] demonstration at Nairobi Railway Station. The Organizer of the Women's Wing, prosecuted for an unlawful assembly and breach of the peace for which he got eight months' imprisonment. The Organizing Secretary for possession of prohibited and seditious publications, preparation to disseminate their contents, total 14 months' imprisonment. The Propaganda Secretary in possession of seditious publications, nine months' imprisonment.

Sir, this does not give the Government any confidence when one sees this sort of record and if the hon. Member wants our confidence, as indeed we are prepared to give it to him, then there must be confidence on the other side that, what he feels and what his Nairobi People's Convention Party feels is that the maintenance of law and order is the most important part of the structure of our Colony.

Now, Sir, I do not wish to say any more in this debate except to congratulate the hon. Specially Elected Member Mr. Slade, on his speech, particularly when he talked about the inspiration which the speech has given us of courage and hope. As he said himself, if backward we live in the past: let us look forward. And what I want to say, Sir, is that exhortations are no good. Below us is froth and bubble of all our political coming and goings. I believe there is a good measure of goodwill. I believe that it is on that goodwill that this country is going to weather the next few difficult years. I would ask hon. Members to trade on that goodwill and to believe that each man in his own place is prepared to help the other. We have had a number of quotations in this House and in this debate and we have had several quotations from the Bible. I would like to finish by quoting you what the Apostle Paul said to the Philippians: "This one thing I do, forgetting those things which are behind, and reaching forth unto those things which are before, I press toward the mark . . ." and I believe it is a good future for this country.

Mr. Speaker, Sir, I beg to move.

The question was put and carried.

MOTION

AMENDMENTS TO STANDING ORDERS

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

THAT this Council amends Standing Order 9 as follows, such amendment to take effect on and subject to the approval of the Governor—

(a) by deleting paragraph (1) and by substituting therefor the following new paragraph—

(1) Unless for the convenience of the Council Mr. Speaker otherwise directs, the Council shall meet on Fridays and at 2.15 p.m. on Tuesdays, Wednesdays and Thursdays;

(b) by amendment paragraph (2) by substituting the figures 6.30 p.m. for the figures 6.15 p.m. where they appear in the first line of that paragraph.

Mr. Speaker, Sir, I spoke to this Motion on a previous occasion on a Motion very similar to it and the House, I think, knows my views. It is, in fact, a recommendation by the Sessional Committee that we should do away with our sittings on Wednesday morning and substitute for it half an hour each day, each sitting day, and thus increasing the time for business in the House by two hours in the week. I am very sorry, Mr. Speaker, that most hon. Members appear to have decided that this is a good opportunity to go and have a cup of tea because I was hoping that we could get a free expression of opinion from the House as to what the House itself wants to do in this matter. I have had various suggestions and a number of people have expressed quite wide and varying amendments to what we, the Sessional Committee, have suggested. As far as the Government was concerned, it would be perfectly happy to have a free vote on this Motion and I personally would hope that everyone would vote in order to show the Government what the majority of the House wish. I have nothing further to add, Sir, and beg to move.

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

Mr. COOKE: Mr. Speaker, Sir I beg to move the following amendment:—

That the Motion be so amended by deleting the figures 2.15 p.m. and 6.30 p.m. and (b) by inserting in place of the figures left-out the following figures respectively, 2.30 p.m. and 6.45 p.m.

Sir, I will not occupy the House by repeating the arguments I used the other day. The Member for Kiambu unconsciously in his humourous way has supported what I say about the rush hour which really, alas, goes on until five minutes past two o'clock every day. Now, we all know it is the custom of Members to reach this House usually ten minutes or quarter of an hour before the business of the House begins so that the hon. gentleman will agree with me that coming at two o'clock or five minutes to two or five minutes past two o'clock one will be coming during rush hour. As I said before I thank him for his implied support of this Motion. The reason, of course, why people come here so early is to discuss the Order Paper and if there are any questions to be asked they can make their own little schemes for supplementary questions and so on. But apart altogether from that, there are a lot of public luncheons taking place during the week here such as Rotary and it is going to be very difficult for both members and members of other like clubs to get here at two o'clock or 2.05 p.m. from those sometimes rather prolonged lunches.

I beg to move the amendment I have read out.

MR. PANDYA: Mr. Speaker, Sir, I rise to second the amendment moved by my hon. friend the Member for the Coast for the very well known and obvious reasons which are known to the House now.

Sir, the Chief Secretary in speaking the other day to this Motion had mentioned that the House sometimes does have to debate adjournment Motions and that it would make it very late if the House had to adjourn at 6.45 p.m. and then debate an adjournment Motion. In that case the House would have to sit until 7.15 p.m.

Firstly, Sir, I would like to say that the adjournment Motions in this House

are not moved very often unless they are of a very urgent and important nature and, secondly, Sir, if it does involve some Members in social commitments for that evening I am afraid they will have to decide either to remain in the House and listen to the adjournment Motion or carrying out their social engagements. I personally feel, Sir, that 2.15 p.m. is a little too early to start the proceedings of this House and I would very strongly support the amendment moved by the hon. Member for the Coast.

Question proposed.

THE MINISTER FOR LEGAL AFFAIRS (Mr. Griffith-Jones): Mr. Speaker, Sir, I just want to mention that I shall on this amendment divide the House so that those who have gone to have their cup of tea can jolly well come in and put in a vote and we shall see where we all stand!

CAPTAIN HAMELY: Mr. Speaker, Sir, I oppose this amendment and I am very much surprised that the time of the House is being taken up over a quarter of an hour, whether a Member shall have a quarter of an hour to get over a good lunch or not, The Sessional Committee which is a very good cross-section of this House went into all these matters. It is not a new matter that 2.30 p.m. is a quarter of an hour after 2.15 and I think the last word in this matter has been said by the little lady who usually sits on my left: "It may well be that people want to go away and drink at various times but some of us have families." And I think, Sir, that is quite true; I think many Members of this House want to get home as soon as they can afterwards and I cannot really believe that there is—

HON. MEMBERS: Speak up!

CAPTAIN HAMELY: It might be better for the House if the hon. Member spoke a little lower. I cannot really believe that it is necessary to go into great argument as to whether we sit at 2.15 p.m. or 2.30 p.m. The Sessional Committee has spent much time on it, and this House spent an hour and a half on it the other day. I oppose the amendment and consider that the Sessional Committee's suggestion is a very reasonable one and the House should support it.

MR. CONROY: Sir, might I raise a small, still voice in order to oppose this amendment on behalf of the working Members of this Council. I refer, of course, to us—Civil Servants.

SIR CHARLES MARKHAM: Question.

MR. CONROY: Sir, I see the hon. Member has my point!

We have to do our jobs in addition to being in this House or Council.

SIR CHARLES MARKHAM: Stay away.

MR. CONROY: Well, that might be a solution if we were permitted to take advantage of it. But, Sir, we have our other duties to do. We have to very often go back to a fairly full "In" basket in the evening. If we are going to sit late, and then possibly have an adjournment Motion, Sir, it is going to be a very long time before the working Members are able to complete their attacks on their "In" baskets.

Sir, I am not going to belabour this point any more. This is a free vote, and accordingly we are all free to express our views in the divisional lobby.

Sir, I oppose the amendment.

MR. ROGERS: I would also like to oppose this amendment, Sir, and as I really started the Wednesday morning principle perhaps I could make some slight explanation. The hon. Member from Ukamba was not quite right when he mentioned that there had been a mutiny on this side. Of course, as everyone will know, the Nominated Members are celebrated for their sturdy independence and, of course, the influence which they wield on this side of the House. But as in all things, the Chief Secretary called together his devoted backbenchers and consulted us in this matter and discussed it fully with us. And it was meant of the Wednesday morning principle. I honestly believed that that was universally desired. Alas, Sir, subsequently I found that abuse from every quarter fell upon my bowed and rather ill-proctored head, and so as we have found the Wednesday morning principle is not suitable I think we must, of course, think again.

First of all, the question of the peak hour which I can well understand. The

hon. Member for the Coast's views on this matter must be given consideration, but I personally would suggest to him that it is not perhaps of quite the importance that he thinks. First, it is only a few minutes wherever you live on the borders of Nairobi—actually from the place I live it is only a difference and four minutes from the peak traffic and the off-peak traffic time—and as has been said, to get here at 2.15 p.m. is, in fact, not peak traffic.

Again, the hon. Member for the Coast's point was, as you see, that we have to get here a few minutes early but that still would not be the peak traffic. Furthermore, just about every office in Nairobi starts at 2 p.m. In other words, they have to be there just before 2 p.m. and they are travelling on the absolute peak traffic period. But nevertheless, it still works reasonably well and I cannot see why it should, not work reasonably well here.

I beg to oppose the amendment.

MR. MUMBI: Mr. Speaker, thank you, Sir. Mr. Speaker, I am surprised that the Government Benches should oppose the amendment on the grounds that most of them are family people having no regard to the fact that we on this side of the House are also family people and again on the ground that they have to work after Council sittings. They do not have regard also to the fact that we also work after the rising of the Council.

Mr. Speaker, I am surprised that the Members opposite are not aware that the House of Commons which has backbenchers like they are sit until very late at night, sometimes even after midnight. I would even like to support the idea of having long sittings so as to get the business of the Council finished rather than have allowances made for those who have long sittings such as I have mentioned. I know, Sir, that Government is going to use its majority in the voting—

THE MINISTER FOR LEGAL AFFAIRS (Mr. Griffith-Jones): On a point of order, Sir, the Chief Secretary, the Leader of the House, has made it quite clear that there will be a free vote. There is absolutely no cause to refer to the Government using its majority because it has expressly disclaimed any intention to do so.

Mr. MUMBI: It remains, Mr. Speaker, to be seen, but I am sure that it is those on the Government Benches who will support the amendment.

SIR CHARLES MARKHAM: Mr. Speaker, I cannot quite understand the arguments of the hon. Nominated and gallant Captain and Chief Whip, because he completely defeated the arguments put forward by the hon. Nominated Tobacco King. The last time we discussed this in the Sessional Committee we agreed to sit later in the evening and then from the Government Benches they decided to go against the Sessional Committee and sit on Wednesday mornings.

Mr. ROBERTS: Mr. Speaker, as I have said, I quite clearly understood that it was generally agreed that we would adopt the Wednesday morning principle; there was no question of going against the Sessional Committee.

SIR CHARLES MARKHAM: The hon. Member is not a member of the Sessional Committee. Just because the Sessional Committee has debated this idea it does not bind this House; they are a Select Committee of this House and I hope that the gallant Captain will appreciate that in future.

Now, Sir, the point made by my hon. friend the Member for Kitui is met by meeting later, if we read the Motion, which says: "... unless for the convenience of Council Mr. Speaker otherwise directs." I do hope that the procedure we have in future will allow us to sit later on occasions if there is business before the House. Quite frankly, Sir, I think the idea (inaudible) because if you were working in Nairobi in an office it would be somewhat surprising if you said to your employer: "I am very sorry but I cannot come to work until half-past two", and particularly in view of the remarks made from this side of the Council quite often that civil servants do not work hard enough, if we ourselves are suggesting we have a very small day from 2.15 p.m. until 6.30 p.m., then I would suggest, Sir, and I am going to support my hon. friend now, so he need not get worried that this amendment is, quite frankly, unnecessary because Mr. Speaker will have powers, Sir, in the first part to direct otherwise if occasion arises.

I would suggest, Sir, that we accept the figure of 2.15 p.m. and give it a try.

THE EUROPEAN MINISTER WITHOUT PORTFOLIO (Mr. Harris): Mr. Speaker, I allowed the Chairman of the Kitchen Committee to speak first because I thought he was going to take the opportunity—

THE SPEAKER (Sir Ferdinand Cavendish-Bentick): (Inaudible).

THE EUROPEAN MINISTER WITHOUT PORTFOLIO (Mr. Harris): No, Sir, I think that the "Chairman of the Kitchen Committee" is a parliamentary term. However, Sir, I thought that the Member for Ukamba would take the opportunity, in accordance with the best traditions of the Kenya Broadcasting Service, of advertising the very excellent lunches that could be partaken of by the hon. Member for the Coast if he wishes to be here at 2.15 p.m.

SIR CHARLES MARKHAM: (Inaudible).

Mr. COWIE: Mr. Speaker, to me it seems futile to waste such a lot of time in arguing about this. However, I would like to pay tribute to the high standard of catering for this House. If Members cannot get here by 2.15 p.m. there is a perfectly good alternative—to have luncheon in Parliament Buildings.

I think it might impress some of the hon. Members opposite to know that when a free vote is allowed there seems to be a fairly solid body among the backbenchers in favour of the original Motion. However, I would like to oppose the amendment and I would like to move that the Mover of the amendment be called upon to reply.

THE SPEAKER (Sir Ferdinand Cavendish-Bentick): I would first call on Mr. Hunter who has been trying to catch my eye for some time.

Mr. HUNTER: Mr. Speaker, Sir, I will be very brief but first I should like to state that I do not think my hon. friend the Solicitor-General can claim a monopoly of those who have other things to do outside this House, but I would like to stress that we appoint the Sessional Committee to make recommendations on these points. They have done so and it seems to me to be quite futile to argue about whether there

(Mr. Hunter)

is a traffic rush on at 2 p.m. or 2.15 p.m. If people can get to their offices by 2 p.m. then I think we can get here by 2.15 p.m.

I would like to oppose this amendment.

Question that the words to be left out be left out and negatived.

Amendment, by leave, withdrawn.

Mr. SLADI: Mr. Speaker, I beg to move another amendment which appears on the Order Paper and which I gave reasons for when this Motion first came up the other day. I will not repeat those reasons except to explain very briefly the effect of this amendment.

Under the Standing Order in its present state Mr. Speaker has power to direct for the convenience of the House the precise time at which the Council is to sit, but there is no discretion for Mr. Speaker as to the time at which the House rises. Those times are fixed rigidly by the Standing Orders. The amendment now before us by this Motion, which I welcome very much for the reasons given by the Chief Secretary the other day, still means that the new hours of rising will be rigid, and Mr. Speaker will therefore have no discretion. The effect of the amendment I am now moving is to give Mr. Speaker, or the Chairman of Committees, as the case may be, a discretion as to the precise time of interruption of business. Mr. Speaker, I think that the need for that can arise in two ways. In the first place you may get just a matter of a few minutes before or after a fixed time, which it is obviously better to allow. It may be too late to start another speech, or it may be so near to the end of a long speech that it is better for the speaker and the House to hear the whole of it, and so this contemplates elasticity for say, one-quarter of an hour either way. But, Sir, as my hon. friend the Member for Ukamba mentioned, there are occasions when it is really desirable to go further still—There may be business before the House which is so urgent suddenly that the House obviously would like to see it finished even though it takes more than one-quarter of an hour.

Sir, I am quite sure that we can all rely on the Speaker not to abuse this

power; but if he sees the possibility of the House wanting to sit beyond the specified time, quite a period beyond the specified time, he will sound the feeling of the House, either by express Motion or by the informal means that are open to the Speaker. One does not want the formality of a Motion to suspend Standing Orders when it is merely a matter of another half-hour or so, and it is this elasticity which is proposed by this Motion which I submit, Sir, can only do good.

Sir, I beg to move the amendment.

SIR CHARLES MARKHAM seconded.

THE CHIEF SECRETARY (Mr. Courts): It might shorten the debate on this amendment if I were to say that all hon. Members on this side of the House accept it.

Question that the words to be added be added and carried.

THE CHIEF SECRETARY: Sir, I apologize for interrupting at this stage, but I would like all Members to know that the Motion says "... to take effect subject to the approval of the Governor." Therefore, these times cannot come into force until His Excellency has given his consent, and no doubt you will communicate it to the House when you have received it.

THE SPEAKER (Sir Ferdinand Cavendish-Bentick): Yes.

BILL

SECOND READING

The Personal Tax (Amendment) (No. 2) Bill

THE MINISTER FOR AFRICAN AFFAIRS (Mr. Johnston): Mr. Speaker, Sir, I beg to move that the Personal Tax (Amendment) (No. 2) Bill, 1959, be now read a Second Time.

Sir, hon. Members will recall that a Motion was moved in the Committee of Ways and Means on 5th June of this year by the then Minister for Finance dealing with a reduction of Sh. 5 in the rates of personal tax on income below £120 a year and between £120 and £160 a year. That Motion was carried and this amending Bill is designed to give effect to the 1959/60 Budget proposals.

[The Minister for African Affairs]

Sir, in the Committee stage of this Bill I propose with your permission to introduce an amendment to section 7 of the Personal Tax Ordinance, 1957, to provide that monthly deductions from employees' wages shall not exceed one-half of the total cash payment for that period, since section 7 (1) of the Ordinance, as it stands, could be operated by an employer against the interests of his employees.

Sir, I beg to move.

THE MINISTER FOR FINANCE (Mr. Mackenzie) seconded.

Question proposed.

MR. NGOMA: Mr. Speaker, Sir, I think that I have very little to say on this because the reduction of Sh. 5 at the level of Sh. 50 and Sh. 25 is very much welcomed, although we would have liked a greater reduction; but I would like the Minister to make it clear as to the other general levels of such tax, particularly as far as the Africans are concerned. There are some districts or divisions that are put down to pay Sh. 20 or Sh. 16 or Sh. 14 as general rates. I do not know whether that reduction will be applied to these areas. Sir, these areas have been allocated such very low levels of payment because they are very, very poor areas, and even the level of Sh. 20, Sh. 16 and Sh. 14 is a real hardship on many taxpayers. I would like to know whether the Minister will effect this reduction of Sh. 5 throughout the lower grades of payment as well.

The other point, Sir, which I would like to be made clear, is whether the Minister will consider the request that many Africans have made, that the payment of personal tax now falls due in June, and many Africans have to pay a penalty. The period should be extended to 30th September every year so that those people who have to pay the tax are given a longer period of collecting their tax.

[Mr. Speaker (Sir Ferdinand Cuvellish-Bentick) left the Chair]

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

This particular request is of much importance in the rural areas where people have to depend on their agricul-

tural produce for paying the tax, and most of the agricultural produce is harvested either in July or August, and I would feel that September would be a more appropriate time for collecting the tax and not 15th June.

The other point I would like to raise is the question of deductions. I think that the question of deduction should not be fixed by the Minister. I think that the employees should be given the freedom so that deductions should be made at their own convenience, provided that by the time of fixing the tax they paid the whole thing. I think it is completely unnecessary for the taxpayers to have a fixed amount to pay. I think they should be allowed the latitude they have been allowed in the past of paying whatever they wish to pay provided that they cover up the whole thing within the legal time.

Lastly, Sir, I would like to know whether the Minister is doing something about the assessment committees in areas because last time I asked him, he said that at the beginning the Government had to do the assessments in a rush but that in future he would look into it, so that the assessment committees are composed of people who are knowledgeable. There are complaints which have arisen from the carrying out of the functions of the assessment committees and I think it is quite useless for us to say that if any taxpayer has complaints he should submit his complaints in the appropriate way. I pointed out last time that the attitude of the Minister to it should be to do it as well as he could so as to avoid many complaints and inconveniences for the taxpayers.

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

MR. MATE: Mr. Deputy Speaker, Sir, the reduction is welcomed and I believe it will relieve a real hardship. There is one point, however, which I would like to raise regarding the assessment of personal tax, especially with regard to African taxpayers. I would like to bring to the notice of the Minister that there have been complaints about committees not assessing what a man should pay correctly, going by a man's assets and not his real income. For example, Sir, a man may have a certain number of coffee trees, and a certain number of

[Mr. Mate]

and other goods; and it has been the case that some committees go by the fact that the man has so many coffee trees and they do not go into the trouble to find out how much money he has got. It would be quite easy for them to check with each particular group to find out what exactly the man has got, and if he has got cattle they could find out how many animals he sold, or what milk he sells per month; and they should check the trader's accounts books in order to find out his exact income. I would request—the Minister—to look into this point and make sure that when it comes to assessing the person he is assessed on his actual income which he has received over the particular period and not by his possessions. I know that people may have a lot of goods or cows, but the income they get, if they do not sell them, is very little. This is because sometimes they sell the milk, and they sell very few animals; and some of their assets bring in very little income.

The second point is over students who leave schools and colleges. There have been some difficulties as to whether these students should pay taxes for the first year of employment. This assessment is based on the previous year's income and these students had no income for the previous year; and I think that it is only in the second year of their work that they should be asked to pay because in the previous year they had no income. There are many students who come into this category and there have been some difficulties with some committees as to whether or not the students should pay and what should be paid.

Mr. Deputy Speaker, these are two important points which I wanted to raise over this Personal Tax Bill for the Minister to look into.

Sir, I beg to support.

THE MINISTER FOR AFRICAN AFFAIRS (Mr. Johnston): Mr. Deputy Speaker, Sir, in answer to the points raised by the Member for Coast Rural, he said he wished to know whether the rates below that of Sh. 20 will be affected by the reduction set out in this present Bill. Well, the answer to that, Sir, is that they will not be so affected. If there is a case for a lower level of personal tax payment in any particular district then

that of course will be examined by my Ministry and by the hon. Minister for Finance after recommendations have been made by the District and Provincial Commissioners concerned.

He made a second point, Sir, and asked that the penalty date should be put back from 15th June to 30th September. I very much regret to say that I cannot accept that. The fact is, Sir, that in recent years, I think I am right in saying until 1958, the Poll Tax date was 31st January. It has now been put back to conform with the personal tax to 15th June. The result has been a very considerable decrease in the amount of tax collected and I do not believe that any extension will in fact serve any useful purpose. In support of his argument the hon. Member for Coast Rural said that normally produce is harvested in July or August. That, of course, may be so, but I think he forgets that in a large part of Kenya there are two harvests and that particularly on the coast I am told that cotton is harvested in December and in January, and that therefore there should be ample money in the hands of quite a number of his constituents to pay the tax.

I was not quite sure, Mr. Deputy Speaker, of the point made by the hon. Member for the Coast Rural on the fixation of payment by employees. But, all I am proposing in this amendment, Sir, is to safeguard the position of employees who pay their tax by instalments so that they shall not in fact be made to pay more than 50 per cent of their gross wages for any particular month. It is indeed a measure to safeguard their position.

The hon. Member for Coast Rural also raised the matter of assessments, and assessment committees. I have a feeling, Sir, and I have taken some trouble to find out on what basis the assessments are made, that these committees are assessing taxpayers extremely generously. On an average throughout the Colony, persons who pay above the basic rates. Africans in this case, the number is only five per cent, and in the urban areas, the average of Africans paying above the basic rate is only seven per cent. I have also heard from the hon. Member before that there have been many complaints. I have told him that there is a system of appeal. I have also

[The Minister for African Affairs] said, and indeed I have given instructions, that assessment committees are to take considerable trouble in the assessment of the Africans for their personal tax, and I am quite convinced that as they become more experienced their assessments will be closer, and I expect in fact that the percentage will rise of the persons who pay above the basic.

Turning now, Sir, to the points made by the hon. Member for Central Province North, he complained that the committees made assessments on assets and not on income. In fact the normal procedure is for the committee to place the people who are paying above the basic rates into groups and then to consider what income they should have and what income should be assessed for the purposes of personal tax. He said, the hon. Member for Central Province North, that these committees go into the number of coffee trees. Of course they take the number of coffee trees into account because it is only then and on that basis that they can assess what amount of money is likely to come from the sale of the coffee.

He made the further point, Sir, that there might be some anomaly in the method of assessing the cattle owners, and they should be assessed on the sale of their animals or on the milk sold. I think perhaps he forgot to consider that in fact cattle very often increase, and it is perfectly reasonable to base an assessment on the increase, say of 10 per cent during the year, of cattle belonging to any one particular cattle owner.

Secondly, the hon. Member made the point that students who leave college should not pay for a year after they have left college. That, Sir, I am afraid I cannot concede. It is quite clearly laid down in the Ordinance that while persons are receiving higher education they are exempt from paying personal tax. Once they have ceased, they must do so. I see no particular hardship in this as I believe that my own son will have to pay in this coming year.

The question was put and carried.

The Bill was read a Second Time and committed to a Committee of the whole House tomorrow.

COMMITTEE OF THE WHOLE COUNCIL

THE DEPUTY SPEAKER (Mr. Conroy): I would draw the attention of the Council to the fact that Order 9 is also a Committee of the whole Council and is a Committee of Supply. We will go into committee on both Orders.

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

IN THE COMMITTEE

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

MOTION

COMMITTEE OF WAYS AND MEANS

CANNING CROPS BOARD: EXEMPTION FROM INCOME TAX

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. MacKenzie): Mr. Chairman, I beg to move that this Council approves the exemption from income tax for the year 1958 and succeeding years of the income of the Canning Crops Board derived from cess imposed under section 26 of the Canning Crops Ordinance, 1957.

I should say, Sir, that this Motion has received the sanction of the Governor.

Sir, section 12 (2) of the East African Income Tax (Management) Act, provides that the Governor, by resolution of the Legislative Council, may exempt from tax any income or part of income which accrues in the Colony. As the Council knows, Sir, exemption from tax of gains or profits resultant from any cess or levy on yields has been granted to a number of boards in the Colony such as the Sisal Board, the Coffee Board, the Tea Board and the Pyrethrum Board. The Canning Crops Board represented that it should be granted similar treatment, and this has, in fact, already been agreed to by the Government who have authorized that this Motion be brought forward, and now I am asking the Council to ratify that agreement so that the exemption can be given formally.

I might add, in explanation of this Motion, Sir, that the Coates Committee set out a general policy relating to

[The Minister for Finance and Development]

income tax as applied to commodity boards. The paragraphs in question made a distinction between two types of boards the first being a group of boards which market crops on behalf of producers and either retain a commission or operate under such conditions that the surplus of proceeds of sale over the sum of expenses and the payment to producers is left in the hands of the board. A board of that type is known as a trading board. Secondly, there is a non-trading board which is the type of board which does not buy or sell or process the product but which levies a cess on producers and uses the proceeds for the benefit of the industry. The Canning Crops Board is the one of the latter category and it has been accepted by the Government that the income of this latter type of board derived from cesses should not be subject to income tax.

Sir, I beg to move.

Question proposed.

The question was put and carried.

COMMITTEE OF SUPPLY

MOTION

NAIROBI AFRICAN HOUSING

THE MINISTER FOR HOUSING (Mr. Amalemba): Mr. Chairman, I beg to move that this Council approves the Contractor-finance Proposals for Nairobi African Housing which are contained in Sessional Paper No. 3 of 1959, and to add, that in accordance with section 105 of Standing Orders, the consent of the Governor has been signified.

Sir, the African housing project at Ofafa was originally for 5,000 houses providing accommodation for 25,000 persons. We calculated this on a basis of a family of a man and his wife and three children. This had to be abandoned at the requisite finance was not available. However, phase I was completed when in the last of the 1,400 houses accommodating 7,000 persons was handed over by Government to the Nairobi City Council on 2nd February, 1959. Houses had been handed over in stages from June, 1958 and were rented immediately. What a relief to the housing problem this brought to the Nairobi Africans, and as a sign of appreciation for the high stand-

ard of finish and the attractive layout, the Africans nick-named the estate "Ofafa ya Maringo", and this means in English, the smart estate of OFAFA.

Hon. Members will remember that this was a joint effort between the Government and the City Council. The value of the work involved was about £600,000. The money was found from the £2,000,000 loan which was made to the Government by the Colonial Development Corporation under the Specific Loans (Colonial Development Corporation) Ordinance, 1953 and which was passed on to the Central Housing Board. The Ministry of Housing, through the Central Housing Board, paid the contractor, and as each block of houses was completed, it was handed over to the City Council. The City Council accepted the value of that work as a loan commitment to the Central Housing Board, and, as when repayments are made to the Board by the City Council, the Board will repay to the Government what is owed to the Colonial Development Corporation.

The completion of Ofafa Maringo and the interest it aroused among the Africans in Nairobi gave the City Council the encouragement to start on the second phase. This comprised the building of 500 houses accommodating 2,500 persons, and these have now been completed and occupied. Here, again, Mr. Chairman, the Africans have shown their appreciation. They say that these houses are even more beautiful, and I wonder whether you can imagine the name they have given to this new estate?—Jerusalem! Sir, I have never been to Jerusalem to be able to compare the beauty of that city with the present Jerusalem in Nairobi, but I think they have drawn the inference from the Bible stories which say that Jerusalem is a beautiful and a wonderful city.

However, Sir, this shows how much the Africans in Nairobi appreciate the new estate.

The Central Housing Board has made the City Council a direct loan of £232,000 found, as in phase I, from the Colonial Development Corporation loan. The City Council, therefore, will pay directly to the contractor. The Colonial Development Corporation loan is payable by Government at varying rates averaging about five and three-quarter per cent over 25 years. The City Council

[The Minister for Housing] will repay capital interest at six and three-quarter per cent over 40 years. Government repayments of capital will start in August, 1960 at the rate of £80,000 per annum. Interest has been paid since the start of Ofafa Mbaringo project every March and September.

Mr. Chairman, when I took up the responsibility for housing, I had before me over 34,000 persons in need of accommodation. The problem was huge, and the social evils resulting from such shortage were on the increase. Something had to be done.

Now, Sir, phase 1 and phase 2 between them account for a total of some 9,500 persons. There remains some 24,000 persons in Nairobi unaccounted for, and this excludes any new arrivals to the City. I would therefore like to go on with the third phase. This will comprise the building of 1,000 houses to accommodate 15,000 persons at an estimated cost of £1,600,000 over an estimated period of three years. The City Council have called for tenders in the normal way, and the successful contractor will be required to find the money for carrying out the work. Phase 3, therefore, will be a contractor-finance scheme similar to Colony's road development programme. The minimum conditions required by the Government and the City Council are—(a) no repayment of capital will be made for at least four years from the commencement of the work; (b) after the four years' moratorium the capital will be repaid over not less than three years; (c) interest will be paid at the rate of 6 per cent at intervals of six months. The City Council will enter into direct agreement with the contractor and will be responsible for making repayments to them, but Government will guarantee the repayment of capital at specified times, and, if necessary, will make the funds available to the Council to enable the repayments to be made.

There are some advantages in this scheme, Mr. Chairman. The first one is that owing to the moratorium of at least four years on capital repayment, Government will not have to find any money until the development period which will start in July, 1963. It is expected that

Government will have to find, from its Development Programme, about £450,000 in each of the years 1963, 1964 and 1965.

The second advantage, Mr. Chairman, is that the building will be able to go ahead now while costs are comparatively favourable and to the immediate benefit of the Colony's economy and to the quick relief of the housing problem.

The third advantage is that Government will not have to find, under its guarantee, the full amount of the money spent by the contractor since the rents which will accrue to the City Council will have to accumulate towards the reimbursement of the contractors by the time the Government is called upon for any finance.

Mr. Chairman, with the completion of phases 1, 2 and 3, 4,500 houses will have been built, accommodating 24,500 persons. This only falls short of the original proposal by 100 houses, accommodating 500 people. The rent, I can assure the Council, will be economic. The importance of adequate housing in Nairobi, as in other urban centres, cannot be over-emphasized. Decent housing is an essential part of raising the African's standard of living, and the absence of a decent home can cause much juvenile delinquency; workers cannot become stabilized unless there is decent housing available as an inducement to them to remain at their work and become efficient in it.

Those, Mr. Chairman, are the few remarks which I wish to bring to the Council, and I beg to move that this Council approves the Contractor-finance Proposals for Nairobi African Housing which are contained in Sessional Paper No. 3 of 1959.

THE CHIEF SECRETARY (Mr. Couits) seconded.

Question proposed.

MR. ALEXANDER: Mr. Chairman, unfortunately he is not here—the Minister for Local Government, but whilst we are discussing this Sessional Paper and as I happened to have been had to argue on the other side with the present Minister for Local Government when this new conception of housing started, may I place on record, because I had many heated arguments with him

[Mr. Alexander]

at the time, certainly my recognition and the recognition of many others of the bold and imaginative way in which he, when he had housing in his portfolio, started this newer conception of handling this grave and monumental problem in the City of Nairobi. May I also say how stimulating it has been to know of the way in which his successor, the present Minister, has carried on the task which was so ably started by the present Minister for Local Government.

I can tell the Council, Mr. Chairman, that it was very difficult indeed to get through the negotiations that were necessary with the local authority on this subject, because, of course, both sides very naturally were trying to drive the hardest and the keenest bargain possible, and we do know that the City Council over the road are renowned for the hard bargains that they are able to negotiate.

May I also say, Mr. Chairman, that I do know that the City Council of Nairobi, and all those who had to deal with the subject of this present Sessional Paper are deeply encouraged, and greatly pleased by the way it has all been handled by the Ministry of Housing.

May I now ask, Mr. Chairman, why this Paper issued on 25th February, 1959, has taken this long to come before this Council—some ten months? It is most inconvenient to all of us, I am sure, to have Papers—we do have a mass of Papers we have to try and look after, but when we have Papers outstanding as long as this, it is extremely cumbersome. And perhaps while I am talking about that, Mr. Chairman, I might ask when we are going to deal with Sessional Paper No. 8, dated July, 1959, Ministry of Works and Sessional Paper No. 2, no date? Perhaps that came out at the beginning of this year, and Sessional Paper No. 5, Progress Report on the Three-year Development Programme, but we just have papers—a few papers—that seem to be outstanding and hanging around.

Now, Mr. Chairman, I go on to seek information on this present paper. In paragraph one, the fifth last line and in the second last line it talks about the 500 houses having been handled by the same contractor—that is the contractor who built the 1,400 houses. The next 500 have been handled by the same con-

tractors on a tender basis. Now if those contractors have merely carried on with their previous contract, or put in a new price for the 500 houses—the second contract, wherein can it be claimed that there was any tender basis? May I now go to paragraph two and paragraph three. In the last line of paragraph two it uses the words "living space". What it says is this: "Which will provide living space for a further 15,000 people"—that is the contract which is now described in this Sessional Paper. Then in paragraph three, in line five and six, it talks about—a work of—constructing: these houses and their ancillary services—these houses and their ancillary services—in the normal way. So we are talking, Mr. Chairman, about living space, about houses and about ancillary services. There appears to be no mention whatsoever in here of the very necessary additional amenities that must go with any housing estate. This has been one of the shortcomings of housing in the African areas of Nairobi in the past. That there has been merely a desire to build houses, and very often completely overlooked has been the amenities, particularly for recreation, that should go with the houses. This, Mr. Chairman, this project is to deal with 15,000 people. Now 15,000 people need considerable amenities for recreation and to occupy their leisure time. Could we be told whether the million and a half pounds approximately that is to be spent does include provision for all these very necessary other essentials? And do I include, Mr. Chairman, a proper provision for the adequate planting around these houses? I refer, of course, to the need for the very fine work of the Parks Department that we see in the centre of the City, to be also constructed around this African housing, because I am quite certain that it is not only the inside of the house that matters, equally important is the surroundings, and if we are trying to really help these people we must make perfectly certain that the conditions surrounding their houses are of equal standard.

Turning now, Mr. Chairman, to the latter part of paragraph 3—that is on page 3—we learn that the rate of interest is 6 per cent, and that the money will be returned to the contractor after four years over a minimum period of three years. May we be told, Mr. Chairman,

[Mr. Alexander]

where this figure of 6 per cent has come from? I doubt very much whether any commercial organization, however powerful it is, is able to provide money—short-term money—this seven-year money at its maximum—of 6 per cent. I would suggest, Mr. Chairman, that the price of this money to the contractors, whether he has to borrow it himself or provide it from his internal resources, is at least a figure of 7 per cent. I mention this, Mr. Chairman, because what is going to happen is that the contractors are going to try—are not going to try, they will—recover the additional interest that they have got to pay in the price of the contract, and what will happen as the natural inclination is there, or the normal business way is there, to provide, to make up this added interest—the inclination will be to add a bit more to it while they are at it. What I am suggesting, Mr. Chairman, is that if this short-term money has to be found by the contractor, and I think it would be about 8 per cent this short-term money, it means to say that he has got to find another 2 per cent because he is only going to get 6 nominally under this arrangement—he is going to find the other in the price of the contract. And I suggest, Mr. Chairman, while that 2 per cent is being worked out it will become perhaps 3 or 4 per cent, and I do suggest that in this conception it would be quite unwise to fix this figure at 6 per cent. I would have thought it would have been far wiser to have left it completely open to have allowed the contractor to say what he would charge for the finance provided, and what he would charge for the contract to enable him if he could—if he was prepared to—to separate the two operations. Also, in paragraph 3 we are told that this interest will be paid at this rate at six-monthly intervals. What we are not told, Mr. Chairman, and what it would probably be useful to know, is how the capital fund—the capital sum, or capital commitment—is to be calculated during the period of construction—is it to be an average figure calculated at the middle of every month or the end, or the beginning, or is it a rough and ready round figure accumulating on an estimated basis?

Turning to paragraph 4, Mr. Chairman, in the second line the phrase used

is 'finally agree'. The whole of this sentence is, "The City Council will enter into a direct agreement with the contractor on the basis, that, is finally agreed." Finally agreed by whom, Mr. Chairman? Well, is the Government to have no say whatsoever, and if it is only the City Council who agree, why put the sentence in at all? If there are only two parties to this particular arrangement, well, then, obviously they will agree, and I do suggest that there is perhaps something more to this than is written in here, and that there is—and I believe it would be unwise if there is not—some control by the Government.

AN HON. MEMBER: Inaudible.

MR. ALEXANDER: Well, do you realize, Mr. Chairman, that I was ruled out of order for making a less innocuous remark than that the other day.

THE CHAIRMAN (Mr. Conroy): I heard no remark, Mr. Alexander.

MR. ALEXANDER: What control has the Government over the price, and I think we should have a full report on that? I imagine that somewhere in the guarantee agreement—that would seem the natural place for it—that is the guarantee between the City Council and the Government—the guaranteed contract, there will be some provision for the Government to have some way, I think we are entitled to know what that is.

Going lower down into paragraph 4, we are told in one sentence that interest on the loan will be covered throughout by the rents. Then we are told the rent structure will be designed so that the scheme is fully economic, and will redeem the loan and meet all expenses in the running of the scheme. I wonder why, Mr. Chairman, if the rents are to cover all loan charges and maintenance, why this has not said so in those very simple words? Why has it been necessary to tell us in one sentence that the rents would cover the interest, and then to deal in another sentence altogether with the capital and the maintenance? Can we be assured that all loan charges—that is amortization of capital, plus the interest outstanding—will be covered in the rents, including, of course, the normal overhead charges of another kind, including maintenance?

[Mr. Alexander]

Paragraph 6 explains the deferment of the commitments. It would be useful, Mr. Chairman, to be told whenever we have these proposals for deferment or the repayment or the commencement of we have already committed of the 1963 development programme. We can remember, of course, the road contractor finance scheme. I believe—I recollect there have been others—but it would be useful as we go along with these type of commitments, to know what ahead we have already committed—of our 1963 programme because I am beginning to wonder, Mr. Chairman, when we arrive at 1963 whether we will have any need to consider a programme because it will already have been committed, and by the time we come to 1963 I think we will be dealing with the 1966 programme. We know there is £4,000,000 for roads, there is another million and a half here. We might be told how many other millions we are mortgaging ahead. Perhaps we can be told also what the chances are of the City Council of Nairobi being able themselves to cope with the million and a half or £1,600,000 at the end—or at any time between 1963 or 1965 or after 1965? What we do know is that the City Council of Nairobi have not been able to borrow publicly outside this Colony for some four years now. Their capital programme must be many millions in arrears now, and perhaps we can be told what chances out of their own autonomous borrowing there are of the City Council coping with this.

Lastly, Mr. Chairman, may we be told what the arrangements are for dealing in connexion with this housing and all other of the excellent housing that has been put up in the last two years, with overcrowding. I particularly relate this to the problem of control. We are told in this Sessional Paper that these figures are calculated on a 40 life. We all know, Mr. Chairman, that property can deteriorate very rapidly if it is overused, and there is a very grave danger in Nairobi of this housing becoming overcrowded if there are not adequate measures to deal with it and as we have heard in reference to other matters, that as a result of the withdrawal of regulations that there is likely to be greater movement into the cities—I am not con-

cerned here, Mr. Chairman, and I hope nobody else enters this debate to discuss the merits or otherwise of particular regulations. What I am concerned with is what are the Government and the City Council going to do now and in the future to protect the assets and to make certain that the maintenance figures that have been calculated in the rent are not grossly overspent.

Mr. Chairman, I beg to support the Sessional Paper.

MR. KHAMISI: Mr. Chairman, Sir, although I am one of those people who have lost the Sessional Paper which was given to us early this year, since we have a lot of papers here and there, I would like only to touch upon one or two aspects of the housing problem, particularly in Nairobi.

In the first place, I would like to congratulate the Nairobi City Council and the Ministry of Housing for being progressive in trying to catch up with the problem of housing in Nairobi.

But at the same time, Sir, I would like to say that in Nairobi the houses that are being built are of a very low standard, and it does seem to me that the City Council or the Ministry of Housing are not looking forward to the use of these houses after a certain period. Their plans are confined to the present only and not to the future. I can quote examples of houses which were built in Nairobi which are still being used, and which are absolutely out of date. For instance, the Karisako housing and the Ziwaya housing and the Shauri Moyo housing are absolutely dreadful, and they are out of date. They should be scrapped and more modern houses put up.

Sir, another thing about the housing in Nairobi, is that I do not know where the authorities in Nairobi have got the idea that Africans like to go to communal latrines. Most of the housing estates have communal latrines instead of each house having its own latrine. These latrines, I am quite sure, if the Minister for Housing, or anybody from the Government Bench went about half an hour only after they have been washed, they would use these latrines. They are very filthy and dirty, and I would suggest that in any future housing schemes for Africans—in Nairobi—that special

[Mr. Khamisi] question of providing each unit with its own amenities should be given consideration.

MR. ALEXANDER: That is exactly what is happening.

MR. KHAMISI: Well, I hope it is happening. It is an improvement on the situation. But at the same time, Sir, I should like the Housing Department and the local authorities to do something to all the present state of affairs because in all these housing estates which are now spreading all over Nairobi, some of the houses are fairly good—but the amenities, such as lavatories and so on, are intolerable, and I would suggest that this is a matter which the Minister should look into as soon as possible in order to put things right.

Sir, I welcome the necessity to provide housing, and I hope that more and better houses will be provided, having in view, at all times, that we should not plan houses which are required for today only. We should plan houses which will be useful to the country in 20 or 30 or 40 years' time.

With those few words I beg to support.

MR. BOMPAS: Mr. Chairman, Sir, I think the essence of this matter is summed up in the words of the hon. Member for Mombasa Area, when he talks about "more and better" houses. Those two words, Sir, are inconsistent, unfortunately, and I think it is only fair that, as a member of the Central Housing Board, I should come to the mild assistance of the Minister in regard to that particular phrase.

Sir, this has been, for some time, the policy of the Central Housing Board, to try to balance two almost irreconcilable—that is to create sufficient houses and, at the same time, to create houses of a sufficiently high standard. That, Sir, I believe is being achieved to a very large degree. There have been attempts to create houses of a really high standard—two attempts, one by the Central Housing Board itself and one by the City Council—to create houses that were described rather as an African Mayfair. Those projects have fallen through because the economics did not allow sufficient support to be given by Africans.

Sir, I do want to assure the hon. Member for the Mombasa Area that the Central Housing Board, at least, is fully aware of the desirability to move with the times and to build houses within the reach of individual's pockets, and to be generally realistic in this matter.

Before I sit down, Sir, I would like to articulate myself with the remarks of my hon. colleague for Nairobi West, when he paid a tribute to the Minister for Local Government in his former capacity, Sir, and to our current Minister for Housing.

THE MINISTER FOR FINANCE AND DEVELOPMENT (MR. MACKEITH): Mr. Chairman, Sir, I would like to deal with one or two of the points made by the hon. Member for Nairobi West.

As regards his point over the rate of interest, he is rather suspicious that the Government and the City Council are not very careful they might get themselves into some trouble over this matter, and that they might, in fact, if not in theory, find themselves paying a considerably higher rate of interest than would appear on the surface of it than the 6 per cent which is proposed. I think, Sir, that it is very right that Members of the House should pay close attention to this, and I can assure my hon. friend that the Government, and I mentioned, are generally known to be pretty good and hard bargainers, will not allow those points to escape from their attention.

But, Sir, if hon. Members look at the terms of the Sessional Paper I think that really it is made fairly clear that the City Council and the Government should have a reasonable control over this matter. In paragraph 3, as the hon. Member has mentioned, it says: "It is proposed, therefore, that tenders should be invited by the Nairobi City Council for the work of constructing these houses and their ancillary services in the normal way." And subsequently it says: "The contractor at the same time will be invited to provide the sources of finance," and further on, "An interest rate of 6 per cent is specified." Now, Sir, I think that if the tenders are invited in the normal way it can be assumed, and certainly this is one of the things that the Government can only speak for the Government in this matter—will look for, and I am sure that it is a matter, that the City

[The Minister for Finance and Development] Council will also look at, and that when the tenders are received they will be examined in the normal way. The proposals of the contractors will be properly examined by the official advisers of the City Council and the Government, and I would have expected that competent people of that type would soon be able to notice if, in fact, any contractor had put in some one or two or three per cent of water into the contract in order to, in effect, swell the rate of interest he was getting. It really is, I think, Sir, an important point, but I think it is something which should be well within the competence of the professional officers concerned, and of the advisers of the City Council and the Government to watch, and I can certainly give an assurance as far as Government is concerned, that that will be done.

Now, Sir, to deal with another point that the hon. gentleman made. He asked why there was a delay in presenting the Sessional Paper, and he also referred to delays in debating other Sessional Papers which have been brought before the House. I understand from my hon. friend, the Minister for Housing, that the reason for delay in presenting this particular Paper was that there were subsequent discussions going on between the Government and the City Council, and that it was only when these had been finally cleared up that we were ready in a position to come forward and debate this Paper.

As regards the various other Sessional Papers that have been mentioned, the laying of a Sessional Paper does not necessarily mean that it will be, in fact, debated at any time. A Sessional Paper is laid, generally, for the information of the House, and through the House to the public. In many cases it is necessary for one reason or another for the Government to put down a Motion asking the House to approve the terms of such a Paper, but it quite often may arise that the Paper is merely laid for the convenience of the House and the information of the House. If very often could be on some subject on which there would be no reason to have a debate, and certainly no reason for the Government to initiate one, and in that case the Paper would just lie, and it may well be—I have not

had time to go into the details—but it may well be that that is the position of one or two of the other White Papers to which the hon. gentleman referred. Of course it is always open to anybody on either side of the House to put down a Motion on such a Paper if he feels that it is necessary, and certainly if any hon. Member opposite ever felt that a Paper had been laid which should be discussed and that Government was not taking any steps to discuss it, then he would be fully at liberty to put down something.

Now, Sir, to deal with another point on this particular Paper, I was asked—at least the Government was asked—how much of the 1960/63 programme had already been committed. The answer, so far as the 1960/63 programme is concerned is, I think, that there has been a commitment made in respect of the village at Embakasi and there is a commitment towards the end of the period, not a very large one. I cannot give the figures off-hand, but I should be very glad to produce the figures later in the Session when we bring forward the Development Programme for the 1960/63 period. There is a small amount towards the end of the period for the contractor-finance roads project.

As regards the following period the repayment of most of the money that has been paid out in the roads contract will have to be dealt with in that period to the rate of, I think, approximately £1,500,000; and there should towards the end of that period be something under this programme. I cannot think of anything else but I will assure the hon. Member that this is something which the Government has very much in hand, the importance of not committing the whole of the future development programme money too far in advance, but at the same time the Government believes that it is by doing and undertaking contracts of this kind that in fact we can push ahead and develop the country's resources more quickly than they otherwise would have been developed; it also has been possible to provide a certain amount of employment which would otherwise have been provided; and that, I know, is a matter which concerns all Members of the House.

It might be said that in a way the Government has committed an act of

[The Minister for Finance and Development] is going ahead with work of this kind, but I certainly believe that it has been worth while, that it has been worth while to get the money and get on with the work and to develop the country, to provide houses, to provide roads; and I sincerely hope that that act of faith will be justified by the event and that when the time comes some of those development schemes, certainly the roads, should already be generating some of the additional income which we would hope to have to pay for them.

There was a further point which was mentioned, which was the chances of the City Council being able to cope with this £1,500,000 after 1965. Well, of course, all hon. Members are in just as good a position as I am to guess what is going to be the position on the world capital market in some five or six years' time. We do not know. We hope, certainly, that it would be easier for various bodies, including the Government, to be able to obtain money on the world capital market, but if not the Government will have to—and of course this Paper makes this quite clear—stand behind the City Council if it should be necessary to do so in a matter of this kind. The Government, in fact, is guaranteeing the repayment of the money and for obvious reasons it is most unlikely, in fact it is unthinkable, that the Government would ever allow the City Council not to be able to find the money. But I certainly would hope that by that time we might have had a chance in conditions and that it might be easier to raise money. But that is one of these things which we cannot decide at the present time.

Arising out of guaranteeing, also, the question of the Government's guarantee also needs to be answered, concerning the point whether the City Council be entirely on their own with this, or whether the Government also have some say in the letting of this contract; I think the answer there, Sir, is that the Government is going to guarantee this work and quite obviously the Government will be in close touch with the City Council, particularly on the financial terms of the contract, as indeed they are on all matters where there is a joint

financial interest and, indeed, as the hon. Member knows full well, there is always the very closest contact between the officers of the City Council and all other local authorities in Kenya and my hon. friend the Minister for Local Government, and indeed any other Minister with whom they happen to be dealing.

I hope, Sir, that I have covered most of the financial points which my hon. friend made; and I beg to support the Motion.

MR. BOMPAS: Mr. Chairman, Sir, the Minister for Finance has referred to pushing ahead with these projects and he said that he believes and hopes that time will show that the Government was right in embarking on contractor-finance. I, too, Sir, sincerely hope that time will show that the Government was right. But, Sir, I would have been happier to have heard the Minister for Finance state quite categorically that under no circumstances would Government embark on contractor-finance unless there was no other possible alternative. Sir, I believe that this contractor-finance, which we have been faced with, is the most expensive possible way of doing it.

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Mackenzie): If the hon. gentleman would like me to say so, I am very happy to assure him that the Government would not go in for contractor-finance if it could raise all the money required for its development projects in the normal methods of doing so. That is a fact, and that is the reason why contractor-finance has been resorted to.

MR. BOMPAS: Mr. Chairman, I think the Minister is begging the issue: actually, he has not given the assurance I would have like to have heard.

Mr. Chairman, we keep talking about normal finance. There is no doubt at all, Sir, that contractor-finance is absolutely abnormal; there is nothing normal about it at all. If you look at this, Sir, you will see that you are getting a tender from the only man, or perhaps the only two companies, who have the finance behind them to be able to tender for the job. By embarking on contractor-finance, you deprive almost all the contractors who might be prepared to do the job substantially more cheaply, from tendering.

[Mr. Bompas] Sir, I did want to stress that particular point in order to get an assurance from the Minister.

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. MacKenzie): Mr. Chairman, I beg to move that the Committee do report its consideration without amendment of Order No. 8 on the Order Paper and that in respect of the Motion set out in Order No. 9 the Committee do report progress and ask leave to sit again.

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

Question proposed.

The question was put and carried.

The House resumed.

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

REPORT

CANNING CROPS BOARD: EXEMPTION FROM INCOME TAX

MR. CONROY: Mr. Speaker, Sir, I have to report that the Committee of Ways and Means has considered the Motion that this Council approves the exemption from income tax, for the year 1958 and succeeding years, of the income of the Canning Crops Board derived from any cess imposed under section 26 of the Canning Crops Ordinance, 1957, and has approved the same without amendment.

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

Question proposed.

The question was put and carried.

REPORT

NAIROBI AFRICAN HOUSING

MR. CONROY: Mr. Speaker, I have to report that the Committee of Supply has considered a Motion that this Council approves the contractor-finance proposals for Nairobi African Housing which are contained in Sessional Paper No. 3 of 1959, and does report progress and asks leave to sit again.

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

Question proposed.

The question was put and carried.

ADJOURNMENT

THE SPEAKER (Sir Ferdinand Cavendish-Bentley): That brings us to the time for the adjournment, and I therefore adjourn Council until 9.30 a.m. tomorrow, Friday, 20th November.

The House rose at fifteen minutes past six o'clock.

(Mr. ole Tipis)

To continue, Mr. Speaker, Sir, I do not think I have any words to withdraw from the words I have just quoted, the position is the same today, and what I would like to add is that we cannot have it both ways. Mr. Speaker in that all the Members in this House know with the completion of land consolidation in the African land units the number of labourers employed on the consolidated holdings in the African land units is increasing rapidly, and as such, it is not a question of the race. Of course I agree that at present the majority of agricultural workers are employed on European farms, but as development of the African land units goes on with modern agricultural practices being employed, naturally we are bound sooner or later, in a few years' time, to catch up with the number employed by the European farmers. As such, the wages of the agricultural worker should at least be gone into, and be gone into very, very carefully. I am not for one moment suggesting that the wages should be fixed at a higher level which would cause the reduction of a great number of labourers from the farms. But what I do suggest is that the situation now is very, very serious, and I think hon. Members will support me in that the main intention of the Motion before the House is to make those few selfish unscrupulous employers change their malpractices. If the Minister wants I can give him the names of such employers who are the bad hats—who see fit to employ a labourer at a wage of at least Sh. 15, Sh. 18 or even Sh. 20 a month. A good employer would have nothing to worry about, but I would say, in other words, welcome the introduction of this kind of legislation.

It has, of course, been said, time and time again in this House and outside this House, and it is a fact that Kenya is an agricultural country, and to see our country's agricultural workers, who are the mainstream, I would say of our country's economy, not protected against exploitation is very deplorable. And I think unless we face the issue and all the difficulties and problems facing us today, to solve these intricate matters in an agreeable way, I am sure that we shall be leading or heading to a very dangerous path.

Now, I should say this, Mr. Speaker, that personally I think it is beyond an ordinary man's mind to be able to see say a man—a farm worker—with a family, see how he could be expected to live on a wage of say Sh. 30 and sometimes Sh. 25 or even Sh. 20, which is the starting wage for an ordinary farm labourer today on many farms.

Of course, some people, the employers, argue, and argue rightly too that there are some amenities in kind from time to time, such as rations. Now if I may comment on the rations side of it I agree that these people are usually issued with a pound and a half of *posho*, a bottle or two of skimmed milk, and a little salt. That is quite true, they are issued with the rations which consist of the items I have just mentioned.

They argue, also, on point number two that these people are housed. Of course we have all travelled extensively on the main roads throughout the settled areas, and it should be borne—I think it is inescapable to be borne in mind—that some farmers provide no housing for their farm workers. The farm workers build their own huts, generally of a very low standard, in most cases in their own spare time. Of course they also argue that some of those workers are clothed. Now if I may comment on the clothes, I agree that a blanket is issued to a recruited labourer at the commencement of his contract, and also a second-hand raincoat or a hat is issued with a greatcoat or raincoat to last for a year or so. Of course these items cost money to the employer, but that does not necessarily mean that simply because the working man has a greatcoat or a blanket his family is clothed as well.

Now, also some workers are allowed to cultivate small patches of their employer's land, which does, in a way, supplement the employee's income. The cultivation and the looking after of crops and things of that nature are usually done by the employee in his own spare time, or by his family. Now, of course, we know that on some farms you find a man is working, and his wife is also employed on the same farm, and one or two tons are employed on the same farm. Now that also goes to the extent of supplementing the family budget; but if you look at the wages paid, say, for

Friday, 20th November, 1959

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

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

PRAYERS

NOTICE OF MOTION

KENYA SAVINGS BANK—EXEMPTION FROM INCOME TAX

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

THAT this Council approves that all income of a person resident in Kenya or resident outside East Africa accrued in, derived from or received in Kenya from Kenya Savings Bonds first issue issued under the Kenya Savings Bonds First Issue Regulations, 1959, shall be exempt from income tax.

MOTION

FIXATION OF WAGES (RURAL AND SEMI-URBAN)

MR. OLE TIPS: Mr. Speaker, Sir, I beg to move:—

THAT this Council urges the Government to introduce legislation for the fixation of minimum wages for all rural and semi-urban areas, so as to avoid the exploitation of African workers.

Mr. Speaker, Sir, hon. members will recollect that at the end of the last session I started moving a Motion before the House but the session ended without my moving it which, in other words, necessitated the withdrawal of the Motion, bringing it forward to the present session.

I think, Mr. Speaker, with your permission and in order to remind hon. Members of a few remarks which I made when I first moved the Motion, I would like to remind them of what I said in order to refresh their minds this morning and give them a continuity in moving this Motion. And what I said was this: from the HANSARD of the 9th October, 1959—with your permission, I quote, Mr. Speaker:—

"In my opinion and in the opinion of all Members, I should say, on this side of the House, this Motion is easy and

self-explanatory for the simple reason that it is non-racial. We know that in this country Asians, Europeans and Africans as well as employers of labour and, as such, it is essential that we should do everything possible to protect our employed population from exploitation, from whatever race that exploitation might come.

Now, Mr. Speaker, I would earnestly request all hon. Members to consider this Motion very, very seriously because its acceptance will do a lot of good to both the employers and the employees and the country as a whole, not of course, in any manner which might be considered as racial or anything of that kind, but will, I believe, create that essential human and industrial labour relationship which is of vital importance to a developing country such as ours."

And then I continued, Mr. Speaker: "As we all know, statutory minimum wages have been fixed and have been in operation in all the big towns in Kenya for some time now, but I regret to say that nothing has so far been done by the Government to introduce minimum wages fixation for rural and semi-urban areas where the majority of our country's employed population are employed."

Now, Mr. Speaker, the present labour situation is even worse, in that when you have the labour supply in excess of the demand, which, in other words, a large number of unemployed persons who have no other means of earning their livelihood and where no representative machinery is in existence in these areas for both consultation and negotiation purposes between employers and employees, as to whether wages and conditions of employment are fair and adequate, and also in view of the hostility of most employers of agricultural workers to the establishment of agricultural workers' trade unions, and the Government has not intervened in this serious situation which compels the African worker to accept whatever little he is offered in order, in a small way, to enable him to meet—but I doubt whether he actually does meet—the bare necessities of life. This has created a very strong and justifiable feeling in the African worker's mind that he has been neglected by the Government and left at the mercy of the employers."

(Mr. Ole Tips)

To continue, Mr. Speaker, Sir, I do not think I have any words to withdraw from the words I have just quoted, the position is the same today, and what I would like to add is that we cannot have it both ways, Mr. Speaker, in that all the Members in this House know with the completion of land consolidation in the African land units the number of labourers employed on the consolidated holdings in the African land units is increasing rapidly, and as such, it is not a question of the race. Of course I agree that at present the majority of agricultural workers are employed on European farms, but as development of the African land units goes on with modern agricultural practices being employed, naturally we are bound sooner or later, in a few years' time, to catch up with the number employed by the European farmers. As such, the wages of the agricultural worker should at least be gone into, and be gone into very, very carefully. I am not for one moment suggesting that the wages should be fixed at a higher level which would cause the reduction of a great number of labourers from the farms. But what I do suggest is that the situation now is very, very serious, and I think hon. Members will support me in that the main intention of the Motion before the House is to make those few selfish unscrupulous employers change their malpractices. If the Minister wants I can give him the names of such employers who are the bad hats—who see fit to employ a labourer at a wage of at least Sh. 15, Sh. 18 or even Sh. 20 a month. A good employer would have nothing to worry about, but I would say, in other words, welcome the introduction of this kind of legislation.

It has, of course, been said, time and time again in this House and outside this House, and it is a fact that Kenya is an agricultural country, and to see our country's agricultural workers, who are the mainstay, I would say of our country's economy, not protected against exploitation is very deplorable. And I think, unless we face the issue and all the difficulties and problems facing us today, to solve these intricate matters in an agreeable way, I am sure that we shall be leading or heading to a very dangerous path.

Now, I should say this, Mr. Speaker, that personally I think it is beyond an ordinary man's mind to be able to see say a man—a farm worker—with a family, see how he could be expected to live on a wage of say Sh. 30 and sometimes Sh. 25 or even Sh. 20, which is the starting wage for an ordinary farm labourer today on many farms.

Of course, some people, the employers, argue, and argue rightly too that there are some amenities in kind from time to time—such as rations—Now if I may comment on the rations side of it I agree that these people are usually issued with a pound and a half of *posho*, a bottle or two of skimmed milk, and a little salt. That is quite true, they are issued with the rations which consist of the items I have just mentioned.

They argue, also, on point number two that these people are housed. Of course we have all travelled extensively on the main roads throughout the settled areas, and it should be borne in mind that it is inescapable to be borne in mind—that some farmers provide no housing for their farm workers. The farm workers build their own huts, generally of a very low standard, in most cases in their own spare time. Of course they also argue that some of those workers are clothed. Now if I may comment on the clothes, I agree that a blanket is issued to a recruited labourer at the commencement of his contract, and also a second-hand raincoat or a hat is issued with a greatcoat or raincoat to last for a year or so. Of course these items cost money to the employer, but that does not necessarily mean that simply because the working man has a greatcoat or a blanket his family is clothed as well.

Now, also some workers are allowed to cultivate small patches of their employer's land, which does, in a way, supplement the employee's income. The cultivation and the looking after of crops and things of that nature are usually done by the employee in his own spare time, or by his family. Now, of course, we know that on some farms you find a man is working and his wife is also employed on the same farm, and one or two *totos* are employed on the same farm. Now that also goes to the extent of supplementing the family budget; but if you look at the wages paid, say, for

[Mr. ole Tipis] instance, to the women, which ranges from Sh. 15 to Sh. 20 per month, and for juveniles from Sh. 8 to Sh. 15 per month, you will find that it does not help them very much. Of course, Mr. Speaker, I would like to say this. I am not out to deny that these amenities do exist, and they exist in a very queer way, and their existence only goes to show that the employer had realized that his employees are really underpaid. Sir, to keep him going on the farm he must at least help him out because he is in difficulties, but some employers of course argue that it is very, very difficult to regulate wages on farms simply because of the land which is cultivated, and housing, and firewood, and the like. Well, I am not with them, if at all they suggested that our Government or the people of Kenya are so incapable, so inefficient, as to ignore all these items, or so incapable of valuing them and adding them to the wages.

Now, as I said before, Mr. Speaker, the issue before us is simple in my mind, simple in that it is a great challenge to our Government and to the people of Kenya to let everybody know that those few bad employers who always think about filling their own pockets without taking any consideration for the labourers, people who employ labourers without paying a wage of more than Sh. 18 or Sh. 20, will not be allowed to continue. It is a challenge to the Government, as I have said, to say whether or not they are prepared to protect the lowest paid agricultural worker of this country, no matter who the employer is.

It also may be argued as to how could a minimum wage be introduced for agricultural workers and whether it could be based on an area or industry basis. I think this is a simple question to answer, and our Minister, with all his experts in his Ministry, will doubtless be able to sort things out. It has also been said several times that there is a great danger of introducing a minimum wage for agricultural workers because it will tend to increase the wage already paid and the farmer who is usually left with a small margin of profit will have no alternative but either to reduce his labour force or else mechanize his farming. Well, of course, we are all sensible people. We know that if a farmer or a

trader does not make enough money or profit, then he is forced out of business and then those employees will suffer, but is it at all being suggested that we cannot at least work out the cost of production and the profits in such a way as to let the employer still have enough money in the way of profit to enable him to make money? I think it is entirely wrong to suggest that a thing of that nature cannot be done. On the other hand, how do other countries, who have all along the years fixed minimum wages for their agricultural workers, manage it? Is Kenya an exception to that?

I would also like to say that, back in 1955, I think it was, a Committee was appointed to go and examine the minimum wages legislation, whether it was necessary or not. I am glad that five hon. Members of this House sat on that Committee, but what was in the report I do not know. I think that the Government knows better, but I think if at that time it was considered, when we had a labour shortage in this country, at a time when the local Press was agitating for importing labour from outside Kenya, if the situation then justified the examination of the minimum wages legislation in the agricultural industry then the case is stronger today than it has ever been. I know that we can keep on talking and advancing our arguments, but if the Government is determined or if the Government has already decided on its line of action then my words are not going to change their attitude. As such, Mr. Speaker, in order to allow hon. Members to express their views on this very important subject, I would end by saying this. Let us forget the whole history and let us start afresh. Let the Government have the courage; let the Government come out and protect those who are unable to protect themselves; let the Government come out and remove views which exist in some people's minds, that we, the African workers, have been left entirely with no one to care about us and with the Government doing nothing about us, that the employer pays the African whatever wage he thinks fit. This will be useful at least to try to clarify the position. For nine years, Sir, I myself have worked on a farm, and I know that there are good employers who are really interested in their workers; they look after them very

[Mr. ole Tipis] and they help them all the time when they are in some difficulty. Such employers will not be affected in the least. But the aim of this Motion is to try to make the bad employer think and re-adjust his lowest wages paid to his employees, and that is all.

With these few remarks, Mr. Speaker, Sir, I beg to move.

MR. MBOYA: Mr. Speaker, Sir, in seconding this Motion I do so with a great deal of knowledge of some of the efforts that have been made in the last few years to try and get the Government at least to accept a certain degree of responsibility for the conditions existing in their rural areas and especially in the plantation and agricultural industry.

Mr. Speaker, it will be remembered that the Carpenter Committee's Report specifically recommended that the Government investigated the need or otherwise of establishing some wage fixation machinery in the rural industries. The Rural Wages Committee was appointed some time in 1955. It is unfortunate, Sir, that the Government decided not to publish the findings of the Rural Wages Committee. This might have helped the country and indeed this House to know more precisely the problems that exist in the rural industries or in the plantation and agricultural industries and also the problems that might have to be considered or encountered in trying to set up some wage-fixation machinery. As it is, we will be in a very awkward position even in this debate today because whereas the Government might be replying to this debate with the knowledge of some of the findings of that Committee, Members on this side of the House will not be in the same position. And I am wondering whether the Minister when he speaks today will take this opportunity at least to enlighten the country as to some aspects of the findings of the Rural Wages Committee and especially the reasons that led the Government to decide that that Committee's Report should not be published and also that no further action should be taken in the matter. I know, Sir, that discussions have taken place between some representatives of the agricultural and plantation employers and the Kenya Federation of Labour and also the Government. I know that in

these discussions no agreement was reached between the three parties as to what steps may be taken. As a consequence neither Government nor any of the industries themselves took any action in the matter.

Now, I think that my friend, the Mover of this Motion, has very clearly defined or brought out more clearly the problems in the plantation or the rural or agricultural employment. He has done so, Sir, with the experience of someone who has worked in that industry and who cannot be, therefore, accused of having taken a completely unrealistic view of the situation in the industry, nor of trying to exaggerate the situation merely for the benefit of trying to win arguments in this debate. Indeed, in his conclusion he has paid compliments to some employers in the plantation and agricultural industry who are not only good employers but keen to ensure that the interests of their workers are continuously looked after. We are not, therefore, here, Mr. Speaker, in any sense trying to have an indictment of the employers in agriculture and plantations but we have been saying, Sir, that there are conditions in this industry—it may be a question of a minority of the employers or some of the employers—but we are still saying there may be conditions in this industry which require a better and more regulated system to be set up for the fixation of wages and other minimum conditions of employment.

Today we have for the urban areas a Wage Advisory Board. This Wage Advisory Board, Sir, does not aim at penalizing the employers or upsetting the maximum wage that they should pay. It is mainly a protective device to ensure that all employers at least will pay a wage that is consistent with what is considered to be a subsistence level wage to ensure that least workers—the manual workers—will have a wage that will enable them to live, at least live in order to work the next day.

Now, Sir, arguments that wage fixation by Government or by some regulated machinery might jeopardize the industry cannot really be true nor can it be true to accept arguments that have been used by some employers that this may have the tendency of raising wages to the point where industry cannot afford it. Now,

[Mr. Mboya] the basis of any minimum wage fixation. Sir, is that it will be consistently keeping in review the position in industry and aiming at a wage level within that industry that will ensure for the worker at least as a unit, as a single unit, if not with his family, a wage that will enable him to live at least with minimum decency in order to work for his employer. It is not related to the principle of wage or a wage for the job. It is not related to any examination of the profit margin. It is not related to all these other real economic factors but more to the living standard, and, in that respect, the minimum living standard.

Now, I cannot see that any reasonable employer who feels that the conditions he is offering today are decent and reasonable has anything to fear in this approach at all. In fact, if I may say so, this is intended to protect him from unfair competition by unscrupulous employers. It is intended to bring the level—the minimum level—of wages and employment in the rural industries to an acceptable and reasonable level for everybody. It is intended, in fact, to protect the worker as much as the good employer. Consequently I would expect that the good employer will support us in our efforts to eliminate from the plantation and agricultural industries the unscrupulous employers.

Now, we are not suggesting that these people are swarming around the Kenya plantation industry but we are sincerely and seriously suggesting that there are quite a few of them and that something ought to be done about it. We cannot see that someone is going to do anything about it but the Government and this is why we call the attention of the Government to this problem of wage fixation in the rural and plantation industry.

Now, the Government cannot shirk this responsibility, Sir, because I submit that having accepted this responsibility in the urban areas they cannot but accept similar responsibility on the rural areas. Now, the Government has yet to convince us that there is any reason why they should consider or treat the rural industry any differently from the urban industry in so far as the question of ensuring minimum standards for workers is concerned. Nobody is suggesting that

by establishing these minimum standards, you should bring the rural wages up to the same level as the urban wages, nor is anyone suggesting that the formula used in fixing wages in the rural areas should necessarily be uniform with those used in the urban areas. We are quite prepared to discuss with the Government, in fact, a suitable formula related to the conditions as appertaining in the rural areas. We are quite prepared to consider those factors that are naturally and normally present in the rural areas as against those factors that we find in the urban areas. So our approach here, Mr. Speaker, is not that we have any fixed ideas nor that we are seeking to penalize the rural employers, nor that we are seeking to bring about a levelling of conditions between the urban and the rural areas. But we are saying that there is a strong case for some regulated conditions of employment at least for the fixation of minimum wages and minimum conditions of employment and in this case I refer to things like housing in the rural areas as much as has been accepted for the urban areas. Looking at the practice of the Wages Advisory Board for the urban areas, we see the tendency now of expanding that way as Advisory Board machinery. Formally it only included a certain number of municipalities. But it is becoming more and more obvious that more of the townships and smaller municipalities have to be included within the scope of the Wages Advisory Board machinery.

Now, this, to my mind, is at least a move in the right direction, a move that is consistent with our desire to see created for the whole country some machinery that will provide for this at least protection for the workers especially in a country where the majority of the workers are as yet to be organized into trade unions.

Now, Sir, we cannot escape the fact that almost 50 per cent of the total labour force in this country is in the plantation and agricultural industry. And this imposes on us even a heavier responsibility because whereas we have accepted some responsibility and are doing something for this other 50 per cent of the labour force in this country employed in urban areas, we seem not to be concerned with the conditions of the other 50 per cent of the labour force

[Mr. Mboya] in this country engaged in probably the most important economic activity so far as this country is concerned and that is plantations and agriculture. I would have considered, Sir, that in a country in which we have accepted that the backbone of the country economically is plantations and agriculture that we would have been more concerned—even more concerned—with conditions of the rural employees or workers. The organization of workers in this country for the time being has been limited to the urban areas and to industry and commerce. In consequence, the workers in the urban areas and in industry and commerce at least have this minimum protection emanating from the trade union movement organized in those areas. This is in contrast to the plantation and agricultural industry where there has not been an organization until early this year and even today the very small organizations which we have started in the rural areas have yet to be effective enough to even sit around the table with the employers and negotiate agreements on wages and on conditions of employment.

Thus, Mr. Speaker, it is my submission that if we find it necessary to intervene in the urban areas, where workers in addition to the normal forces of supply and demand have at least organized themselves to some extent into a position to establish wages on the basis of certain economic factors, I think there is even a stronger case for us to intervene in the rural industries where there is not that minimum organization for the protection of the workers there.

Mr. Speaker, a lot of employers have sometimes argued in the plantation and agricultural industries that the conditions there were different. They lived together as families; they had worked together for years and they saw no need for anyone to interfere. But in my humble submission, a lot of these conditions have changed. I do not think, Sir, that the plantations and agricultural areas in Kenya today are very much the same as they were, say, ten years ago. The African worker in the plantation industry—like every worker in other parts of this country—is developing new desires, new attitudes, is becoming more and more conscious of the fact that his relations with his employer are more contractual

than family relations. He is beginning to ask questions about his security in the future; he is no longer really the sort of person who just came to work in the plantation industry and probably after ten or fifteen years still hoped he could go back to his reserve and settle down on some other piece of land. These conditions are changing so rapidly that we must begin to recognize that the relations between the employers and the worker in the rural areas must become more and more contractual relations rather than just family, informal relations.

Now, I submit that in those circumstances, it is in the interests of the workers, the employers and the industry that we should immediately begin to think in terms of developing better regulated relations between the employers and the workers. It is in the long-term interests of that industry that they accept the principle that in their relations with workers there will be what we might refer to loosely as industrial democracy and that the workers and the employers will sit down from time to time and talk about their relations and discuss and negotiate and even accept the principle of consultation in certain aspects of their relations. This is no longer the day, Mr. Speaker, when this industry, or any industry for that matter in this country, can continue to depend entirely on these very informal and vague relations. Already the trade union movement has entered into the plantation and agricultural areas. We have already registered a tea workers union. Already we have applied for registration for a union for the sisal industry and another one for the coffee industry, another one for the sugar industry and very soon we will be considering applying for registration of a union for the mixed farming industry. What we are going to call it I am not sure at the moment. But the fact is that trade unionism is entering into the plantation and agriculture industry. With the entry of trade unions, the employer's mind has to be conditioned to the relationship that must now begin in these areas. That trade union movement has the fact that the trade union movement has a right to enter the plantation and agriculture industry; that the workers have a right to come together, join into an association, discuss their conditions and

[Mr. Mboya] meet the management or employer in order to fix the wages and other conditions of employment. Their mind must be conditioned to the fact that a trade union is not an enemy industry but is a partner in industry wishing to participate co-operatively with the other side in order to raise the standards of the workers and thus also increase their productivity. If a negative attitude is taken in these matters, if the employers become an obstacle in the way of this development, the chances are that they will be endangering not only the interests of their own industries but also the economy of this country.

Now, I submit that if the trade union movement is going to enter the plantation and agriculture industry at this higher level that it might as well be useful both in terms of our own trade union interest and that of the employers that there is this lower machinery set up by Government that might appear from time to time to be impartial but that might be very useful in its functions. I do not know what the Minister for Commerce is thinking about, but I mean it might be useful in this one aspect, that through the facilities that will be provided by Government—especially of ascertaining the minimum conditions in that industry—aspects of production and that sort of thing, the sort of thing we do when we are examining wages in the urban areas may become very useful in the hands of both the trade unions and the employers in assessing more realistically the position they should take at the higher level.

It is, therefore, my submission that what this Motion asks for is not merely something in the interests of the workers. It is something in the interests of the employers, it is something in the interests of the economy of this country and especially more so, so long as this country depends on agriculture in the main for its economy.

Mr. Speaker, I notice that it is the intention of Government to amend this Motion. Now, I do not know what Government means by its proposed amendment and, of course, this is probably not the time to speak about that amendment and I will therefore avoid doing so. But I do want to say this: the Minister for Labour, that he should very carefully study the terms of this

Motion. And I am sure, if he does so, he will agree with us that the introduction or establishment of legislation for the fixation of wages in the rural areas is a process which, in fact, in other words, is the intention in this Motion, to bring to the same level the position in the rural industry and agriculture and plantation industry as already exists in the urban areas and if the Government cannot accept this, then the Government must clearly give good reasons why they think there is a difference, why they think that wages fixation by legislation in the rural areas should be considered any different from the urban areas.

Our submission to the Government is that this is a matter that is long overdue and, in the normal process of the changes that are already taking place in this country and that are bound to continue to take place in this country, the Government must come forward now and introduce some regulated system of wage fixation and fixing of conditions of employment in the rural areas.

To the employers in the rural areas, I have this to say. So often it has struck me that they are very suspicious of any suggestion of this nature and especially of any suggestions which call for Government intervention. They have been used to a system where they have been masters of everything in their own areas. They have been used to a system where they have virtually decided the fate of the workers, virtually decided what he should get, how he should get it, how he should live and what he should say. Mr. Speaker, those times are changing and changing fast. It is not going to help this country or help this industry if they continue to become an obstacle in the way of these changes because these changes are bound to take place and it is in the interests of the industry that they should take place in a co-operative atmosphere rather than in an atmosphere of hostility and conflict.

And we, in the Kenya Federation of Labour, especially want to argue this on a co-operative basis. It is for this reason, Sir, that when the employers approached us during this year with a suggestion that we should not establish an omnibus plantation workers union we conceded the point and agreed to form, instead, industrial unions according to their request. We have conceded this point and we hope they will also concede the

[Mr. Mboya] other point which we put to them and that is the right of these workers to (inaudible) and the right of these workers to be represented and the right to have a say in the conditions of employment in the rural areas.

I beg to second.

Question proposed.

THE MINISTER FOR EDUCATION, LABOUR AND LANDS (Mr. Mathieson): Mr. Speaker, Sir, as forecast by the hon. Second, I wish to move a small amendment to this Motion for two reasons. The first reason is that the Motion, as it stands, urges the Government to introduce legislation for the fixation of minimum wages in rural and semi-rural areas. But, Sir, there is already on the statute books in the Regulation of Wages and Conditions of Employment Ordinance power for the Government to do just this. Unfortunately, that Ordinance is not perfectly well adapted for the purpose of tackling the problem in the rural areas.

The second reason for the amendment which I am about to suggest derives really from the remarks of the hon. Mover himself when he said that this is an entirely non-racial Motion. We should have a non-racial approach and I feel that we would want to avoid any exploitation, if exploitation exists, of any race in Kenya.

I therefore wish to move, Mr. Speaker, the following amendment of which I have given notice:—

To leave out all the words after "legislation" and insert "to provide more effectively for the regulation of minimum wages in employment, including the agricultural industry".

I hope very much, Mr. Speaker, that the hon. Mover and his followers will feel able to accept this amendment since then the Government can place itself wholeheartedly behind the amended Motion. The Government does accept the responsibility as urged upon it by the hon. Mover and Second of this Motion, for the protection of the lowest paid agricultural workers in Kenya. There can be no argument about that responsibility since, as the hon. Second has said, it is part of our general social and labour

policy in the towns and there is no reason, in principle, why it should not be extended to the greater number of workers who work in the rural areas. It is not, however, wholly easy and I particularly welcome the opportunity of this debate in order that the Government may have the benefit of the observations of Members of this House on some of the problems which we face.

I should like, therefore, to outline briefly these problems as we see them, some of the tentative approaches we have made to them, and hope that hon. Members will make as great a contribution as they can in the time allotted to this discussion in order that the Government may thereby be assisted in pressing forward in its policy of fixing a minimum wage in rural areas in a manner acceptable both to employers and to employees.

There are three basic points, Sir, that I would like to make. The first is that there seems to be a widespread misunderstanding in the rural areas, particularly amongst agricultural employers, of the significance and purpose of a minimum wage. I have come across a lot of people who think that when we suggest that we should fix a minimum we are, in fact, making every body pay. I think this fallacy has been very well exposed by the hon. Second when he pointed out that this is a protective device to protect the lowest paid worker from being employed at a wage which was inadequate to maintain health and working efficiency. A minimum wage, therefore, should in no way be designed to reduce employment nor should it have the effect of putting people out of employment. It is directed, as has been said, at the bad employers; at the minority of bad employers who are prepared to exploit a situation where more people are offering for jobs than there are jobs to give them, to employ people at a level far below that which should be contemplated or tolerated by Government in this day and age.

The second argument which is sometimes raised against the whole idea of introducing wage regulation at the minimum in the agricultural industry is that it would have the effect inevitably of increasing unemployment. In a period when there is unemployment and when workers are chasing jobs, it is suggested

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we would make the situation simply worse if we were to introduce minimum wage fixation and thereby induce the farmer to attempt to do the same work with fewer workers.

Now, Sir, I have already said that I do not see that the minimum wage would be fixed at any level that should have the effect of making the reasonably efficient farmer discharge any labour. But even if he did, surely it is socially unacceptable that we should attempt to solve our unemployment problem by employing people at subhuman levels. That is not the way to solve the unemployment problem. We must employ people at decent levels; and if there are people still unemployed we must try to adjust the entire economic policy of the Government to provide alternative employment for them, and I am sure that the representatives of the labour movement in this country would endorse that approach—that they would rather see a certain amount of unemployment caused by the fixation of decent levels of remuneration than see unemployment absorbed by the payment of inadequate wages.

Another argument that is sometimes brought in, and the hon. Member touched on some aspects of this argument briefly, is that a method of wage fixation by the Government is not desirable in cases where there is a possibility of wage fixation through free negotiation between employers and employees. Recently, Sir, the Government of Tanganyika invited Professor Jack, the eminent economist to study the problems which faced them in the field of determining wages, and he had some interesting things to say on this argument. I quote briefly from his report and he says:—“The case for a legal minimum wage derives most of its strength from the absence of satisfactory voluntary wage fixing arrangements, and I think that industry for which suitable non-statutory arrangements exist, or in which other statutory institutions such as the Wages Councils have been set up, should be excluded from the scope of the legal minimum wage. This would have the double advantage that the task of administering the legal minimum wage would be simplified, but at the same time some

encouragement could be given to industry to set up suitable voluntary wage fixing machinery.” Well, Sir, it is the policy of the Government to encourage the establishment in industry of voluntary wage fixing machinery, but where that machinery does not exist, or where it is ineffective, we also recognize the responsibility to step in and to establish a floor below which people should not be employed. As voluntary machinery develops it will be for free collective bargaining to establish the various levels of remuneration and the various conditions of service above that floor, to make sure that adequate recognition is given to higher skills, to make sure that the various ancillary conditions of service, such as housing, leave and other problems, are adequately met. But the fact that voluntary negotiating machinery exists does not necessarily mean that there is no scope in the agricultural industry for the fixation of a minimum wage. Nor would the introduction of minimum wage fixing machinery in any way, to my mind, discourage or delay the development of voluntary negotiating machinery in the various sectors of the industry. I think that if, such machinery were established—for example, in one sector of the plantation industry, and was manifestly working effectively, then it would be sensible for the Government to exclude that particular industry from the application of the minimum wage, since it would no longer be necessary to imagine every employee would be employed above it.

These are the three main areas of argument, Sir, on the desirability or necessity of having this system, and I would be very grateful if hon. Members—if they have any views on these points—would express them during this debate. But if we adopt the position, as the Government does, that it is desirable to establish some machinery for minimum wage fixation in the agricultural industry, then I think we must address ourselves to some of the subsidiary problems with which we are faced.

These problems have, as earlier speakers have remarked, been changing somewhat in their presentation in recent years. I agree very much with what the hon. Member said in that connexion. That is one reason, Sir, why the Report of the Rural Wages Committee, which was

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drawn up at a time when these conditions were very different, is not fully satisfactory as a guide to Government at this time. A great many of the recommendations and observations of that committee have been taken advantage of by the Government in its continuing study of this problem, but there are other views and observations which we felt were not quite so helpful, and I can assure hon. Members that, although that Report has not been published, it has nevertheless remained as a helpful guide and stimulus to the Government in its approach to this problem.

One of the questions—the subsidiary questions—we have to consider, is whether a minimum wage in agriculture should be fixed on a country-wide industry basis, or whether it should be fixed in relation to the various sectors of the agricultural industry, or whether it should be fixed in relation to particular areas of the country. Our feeling is that conditions vary considerably as between different areas and different agricultural zones of the country, and that we should approach it on an area basis rather than attempt to establish a central agricultural wage fixing machinery. That is one reason—the main reason, Sir—why we would have to modify our existing legislation, under which the Wages Advisory Board at the centre advises on the fixation of urban minimum wages.

Another subsidiary problem, which has also been touched on by earlier speakers, and was, I thought, extremely reasonably and clearly put forward by the hon. Member, is how do we deal with the various amenities and additional emoluments in kind which the agricultural worker gets to supplement his cash wage? The approach of the Government to this is that this is a difficult and complex problem, but as the hon. Member said, it is by no means insuperable. We must try some means of dealing with it, and we are confident we can. The general approach of the Government to this is that we should attempt to establish in terms of cash an overall wage which takes account, certainly, of basic ratios. If ratios are, in fact, supplied in kind, then it should be permissible if those ratios are supplied at a reasonable, acceptable level, for a reduction to be

made from the cash wage, but the basic minimum wage should be expressed in terms of cash as a wage which includes ratios and if those ratios are supplied in kind, then an element would be deductible.

On the question of housing we also feel that there should be a housing allowance attached to the minimum wage, which would be payable in cases where adequate housing was not provided.

The problem becomes, Sir, even more complicated when we move into the field of the resident labourer who has other privileges beyond simply the supply of food and housing and a certain amount of clothing. Here again, although the problem is complex, I think that it is capable of solution, and that resident labourers should be treated in the same way as employees who have not that status, in that a minimum wage should be established for them as well.

The wage fixing machinery we envisage, which would be on an area basis and should be participated in by employers and employees in that area, should be machinery which takes account of both the need to maintain in the conditions of the area a decent standard of life for the lower paid worker, and at the same time, has proper regard to the health of the industry in the area and the capacity of the industry to sustain a wage at this level. I would like to re-emphasize that the intention of the Government to aim at establishing a wage-level which will either drive many people out of employment or will prove a burden to a reasonably efficient farmer.

These, Sir, I think, are the main issues which have to be clarified before we can get a positive and precise policy, and we are hard at work and consulting various interests concerned in order to make sure that before we bring forward legislation before this House we have reached as wide a measure of agreement outside it as we can. We have already had the advice of the Board of Agriculture, which has addressed itself to many of these problems, and they have suggested that we should regard the Rural Employers' Committee of the Federation of Kenya Employers as the best employers' representative to help us in our further studies. We propose to accept this advice, and will certainly co-operate to the full with

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the Federation. We also look for considerable aid and assistance and advice from the Kenya Federation of Labour, and I am sure the speech of the hon. Seconder today indicates that we can rely on getting that help.

With these remarks and suggestions, which I hope will be taken up and commented on in the remaining course of our debate, I commend this amendment to the House.

Question proposed.

THE SPEAKER (Sir Ferdinand Cavendish-Bentinck): I propose to make use of my powers under Standing Order 62 and rule that debate on the amendment may include debate on the matter of the Motion.

COMMANDER GOOD: Mr. Speaker, I feel that as a farmer and an employer of agricultural labour I should say a few words on this Motion, but before doing so I would like to congratulate the hon. Mover on the very balanced and un-exaggerated way in which he put his case.

I support a great deal, in fact nearly all of what the hon. Mover has said, but I would like to point out that the terms of this Motion have, in fact, been Government policy for over a year.

He mentioned that there would be a great deal of opposition from farmers to this proposal, and that is of course, true, because farmers are very conservative people, but I do think that there will be a good measure of support from the many good employers whom he has mentioned. In passing I may say that in 1953 I served on a committee of a local government body, taken almost entirely from the farming community which made this precise recommendation to Government, and I would think that it is only because we have been in a period of labour shortage when reasonable wages virtually had to be paid that proposals have not been made before this date. But there can be no question, I think, but that at the present time, entering as we are into a period of labour surplus, that the introduction of the minimum wage is necessary.

There was one statement which the hon. Mover made which I think perhaps

was somewhat of an exaggeration. He spoke of "bad employers filling their pockets". Well, no doubt a few are, but there is another side to the picture. There are many hard-up employers. A few years ago prices were high and farmers entered into a high level of production, which was often expensive. Since then we have had a very sharp fall in prices in the majority of commodities, but many employers have taken great pains not to cut down the level of employment or the level of production, and in doing so they have often found that their outgoings exceeded their incomes.

I would also like to congratulate the hon. Member for Nairobi Area on a very polished and balanced speech—one with which, however, I could not agree in all its aspects. He referred in particular to the changes which were taking place and how the family relationship was giving way to that of the contractual relationship. Well, Sir, of course that is happening, but it is happening very slowly, and I think it would be a very great pity if that very valuable human link was sacrificed before the people were really ready for it. I cannot say that as an employer I would at all welcome the introduction of trade unionism into the mixed farming industry at the present time, simply because I do not believe that the people are ready for it, or really want it, but I do, Sir, support most strongly the proposal which is before the House.

MR. COOKE: Mr. Speaker, Sir, it seems to me a very extraordinary thing that 600 years after the Statute of Labourers was passed that my hon. friend has to confess that this Government has a policy for solving this very difficult problem. I may say also that four years has passed since the Carpenter Committee sat and one would have thought at that date when the Committee began to sit that Government would have been aware of the extreme urgency of the case, especially as the Carpenter Committee—I think I am correct in saying—was arranged on a Motion by the then Mr. Blundell, who was sitting on this side of the House, and one would have thought that a man of Mr. Blundell's prominence in this country, both as a farmer and as a statesman, one might say, that the Government would have given more

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regard to the fact that he had asked for this Committee and has published the Report. It is an astounding thing to me that the Government have never published the findings of the Committee, which makes people suspicious that those findings, in one way or another, were not acceptable to certain sections in this country.

Now, Sir, I can see no reason at all why a minimum wage should not be applied in areas. I do not see why there should not be an area committee. Government and employers and African employees—sitting to fix a minimum wage in those particular areas. I know even that would not be the ideal solution, but it would be better than no solution at all. I, personally, on my very small farm, pay nobody less than Sh. 45 per month plus certain perquisites which they get. I think that these perquisites should not enter into the matter at all. I think that the cash wage should be the minimum, and if anyone wants to give extra help, well, that is up to him. Not everyone gives the same tips at an hotel or a club. You give the tip which you think you are able to pay in response to the services which have been rendered, therefore, in the same way the farmer should be prepared to give a little bit extra in the way of hidden emoluments, as the Government calls it, to the deserving labourer, but the minimum wage should be entirely on a cash basis and should be fixed—as I think the hon. Member suggested himself—I was not here for all the debate—should be fixed on an area basis. Actually, I am supporting the amendment because I think it is better although I agree entirely with what the Mover said, and I also express my appreciation of the moderate way he said it. But I support the amendment because I think it is better than the original Motion.

MR. NGALA: Mr. Speaker, Sir, I have a few words to say about this Motion. I would like to join hands first in congratulating the Mover and the Seconder in the way that they have given out the points so clearly. It has been made quite clear, Sir, that the intention of the Motion is for the interest of the employers and interest of the workers and industries in the rural and semi-rural areas.

As far as the amendment is concerned, I am very much troubled by the wording of it because the Minister has pointed out that we should omit from the word "legislation" and add "to provide more effectively for the regulation of minimum wages in employment including the agricultural industry". Now I would like to know—I would like to put the position here to the Minister as far as the rural areas are concerned. There has not been anything effective in the supervision of labour or workers in the agricultural industries in the rural areas as far as I know, so to say that more effective measures should be employed, I think is not to present the true picture as far as the rural conditions are.

The Minister, Sir, has pointed out that would enable a power in his hand that would enable him to fix the minimum wages for the rural areas, but he has also said that he has not used these powers, and to say that more effective measures should be pursued by the Government when the powers already in hand have not been used, I think, is to give the wrong impression.

THE MINISTER FOR EDUCATION, LABOUR AND LANDS (Mr. Mathieson): I thank the hon. Member for giving way, Mr. Speaker. I did not say that the power has not been used. I said the power which existed for fixing such wages only provided for fixation through a Central Wages Advisory Board, and we did not consider that was the best way to solve the problem. We should like to do it on an area basis, and therefore we would have amending legislation to enable us to do that, which would provide a more effective way for tackling the problem.

MR. NGALA: I thank the hon. Minister for his explanation, but I have just cleared the air to the true reflection that nothing has been done in rural areas as far as the fixing of minimum wages is concerned.

MR. SPEAKER: Sir, the sad lack of minimum provision for wage conditions and labour conditions in the rural areas is a very serious position at the moment. Take the hours of work. In the rural areas I know of many places where people are working up to 10 hours a day—and other places in the week for rest not having any day in the week for rest. One place at Kaloleni I had a very serious complaint two weeks ago and I

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had to see the district officer of the area. What the district officer of the area wrote to me, Sir, was that there is no law to give these people one day of rest a week. Now this is the letter I received from the district officer and it shows the sad conditions which are existing in the rural areas. It is quite true, Sir, that we do not want to necessarily fix the minimum wages at a higher level that would embarrass the employers, or even at a level that would be outside the true value of the work that is being done by the employees, but it is very necessary, Sir, that there should be a minimum fixation of the wages whereby a man can be protected. There are many cases that are being paid very much below the subsistence level, and there is nothing that can be done about it. Two months ago I visited places like Mamburi, Malindi and Bungoni, and I saw these conditions with my own eyes. As far as Mamburi and Malindi were concerned I am grateful to the Minister that he is going to do something about the conditions there, but as far as Bungoni is concerned, he told me, "Look here, this is not an urban area—it is a rural area—and therefore there is nothing that can be done." Now this is a very sad situation because, as already pointed out by the hon. Member, the conditions in the urban area should not be treated so differently from the conditions in the rural areas. At the moment there is a clear distinction, and even the labour officers in different areas emphasize these distinctions between the conditions in the rural area and the conditions in the urban areas.

Now it is quite clear, Sir, that the cost of living is very high in the rural areas these days, and there is a need for raising wages that will give the workers a measure—a reasonable standard of living—is quite unnecessary. In many places we see some juveniles employed at a wage of Sh. 7 per month. I am prepared to give definite figures to the Minister as far as this is concerned. In other areas they are being paid wages ranging from Sh. 15 to Sh. 20 per month, and when we go into this and ask for powers for labour officers so that Government might intervene, we are told that there is nothing to enable the labour officers to intervene in such situations. This, I think, is something which the Minister should go

into and do away with. The rural workers, Sir, have generally longer hours of working than those people who are working in the urban areas—therefore I think that some consideration should be given in providing a fixation on hours as far as their working is concerned. The rural workers have no other provisions like proper housing, or even inspections—regular inspections—to go into the proper provisions for housing in whatever places they may be working. Domestic workers in trade centres and marketing centres are placed in a very awkward, almost dishonourable condition of work, and where these trading centres and marketing centres are existing in rural areas we are told there is nothing that can be done. Now this is why I said three days ago, Sir, that as far as the rural areas are concerned, The Labour Department is doing very little, and we have no reason to appreciate the Labour Department in the rural areas.

Now I think the introduction of trade unionism in the rural areas, and particularly in the agricultural industry must be encouraged and must be accepted. The last speaker, Sir, said that he, as an employer of agricultural labour would not feel that happy with the introduction of trade unionism in such areas. I think the hon. speaker who has just sat down must realize that the time is changing and conditions are changing in these areas. The intention of trade unionism has been made clear by the hon. Member for Nairobi Area, that intention is to work in a very co-operative way—to work for the good of the industry—to work for the good of the worker and employer. Therefore, Sir, the hon. Nominated Member who has just sat down has no reason to fear trade unionism in Kenya, in his area. Also, I think one point which has been made clear by the Nominated Member who has just sat down, which I appreciate, is the family relationship. I do not think that there has been any indication from the Member for Nairobi Area that the good family relationship which might be existing between the employers and employees should be removed. Where this exists, I think the labour movements in the country will never try to interfere with that good relationship or even try to discourage it but the point is that all the employers of people working in agri-

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cultural industries and plantations must be made to understand that trade unionism has come to stay in Kenya and that they should appreciate and encourage it as much as possible, understanding that it is intended to co-operate for the good of the industry, and the workers and employers as well.

Mr. Speaker, Sir, I think that I would like to point out some other problems that do exist in the rural areas. We in the rural areas feel very much ignored and brushed aside by the Labour Department, and while the Minister was speaking I was listening to him very carefully to try to get any reason as to why we have done so much ignored, but I did not hear any reason made during his speech as to why Government has treated the rural areas in this manner.

So far as the amendment is concerned, Sir, I could only accept it on the condition that the Minister will really effectively look into the situation as described by the hon. Member and the hon. Member. If this assurance is not given then I think I would, with my colleagues, be prepared to move this again in a more serious manner in future, because we feel that it cannot continue as it has been in the past. The attitude of ignoring the rural areas and conditions of work in the rural areas, and even the fixation of wages in the rural areas, would not be tolerated by us. We have reached a stage where we find that the urban area and rural area employees should be treated in very similar terms. I do not think or mean that wages should be the same or even that the conditions should be the same, but I mean that the minimum wages or minimum conditions of work should be looked into seriously by the Labour Department.

I pointed out the other day that there has been a lot of concentration in the townships at the expense of the workers in the rural areas as well as, I know, the area I represent. The Minister said that this is because there is a lot of employment in a place like Mombasa, and a lot of labour is employed in Mombasa. I accept this. But taking the country generally, Sir, it has already been pointed out that 50 per cent of our employees are in the agricultural industries or in plantations and therefore

I fail to understand why the Minister should only concentrate on the second 50 per cent and brush aside the other 50 per cent in the country.

The other point, Sir, is that in the rural areas and in the plantations very little has been done by the trade unions. It has already been pointed out that trade unions are coming in only from the beginning, probably, of this year. This therefore makes it quite imperative for the Labour Department to go into the areas so that they can create a basis on which the trade unions can work more effectively. It will be very, very difficult or almost impossible for the trade unions to be working in such areas more effectively if there is no provision made by the Labour Department on which the labour trade unions can build their work. In some areas I know, the managers of plantations are very hostile to trade union workers, and unless there is legal provision to make it possible for these managers or plantation bosses to be managed, then I think we shall not achieve any success although we have introduced a trade union in these areas.

Now, my last point, Sir, is the question of labour cards in the rural areas. Now, in the rural areas there are many places where labour cards have not been issued and although the Minister last time said that his inspectors are visiting many areas, particularly in the coast areas, there are many places where even labour cards have not been issued and nobody has reached these places and nothing is being done about it. In mission stations and in trading centres and marketing centres, very outstanding places, the people say they have not been reached; and if these outstanding places have not been reached by the labour inspectors then it is even more true to say that the rural areas will have hardly been reached; and I would like to accept this amendment by the Government but only on the condition that something effective is really done and gone into as quickly as possible. Otherwise we shall be bound to move this Motion in a more serious manner as we can.

With these few words, Sir, I would like to accept the amendment.

MAJOR DAVY: Mr. Speaker, Sir, I would like to deal with two interesting points raised by the last hon. speaker.

[Major Day]

He mentioned, I think I am right in saying, the fact that he knew certain rural areas where the workers, the agricultural workers, had a 19-hour day. I must say, if I am right in interpreting what I think he said, this, to me, is unbelievable. I have certainly never, never come across any thing like this in my experience, and I have had a good deal of experience in so far as I am a considerable employer of agricultural labour.

It was also said, I think, Sir, that they have no day of rest. That may be true in so far as dairy farming is concerned, because, as everybody in this House knows, cows have got to be milked every day of the week; but I cannot believe that there is a genuine case, except perhaps in the odd employer, and they, of course, always exist, who may be a bad employer; but I would like to submit, Sir, that they are extremely few and far between.

Now, I would like to support what the hon. Nominated Member, Commander Goord, said, and it is my contention that the time has not arrived for the introduction of trade unionism into mixed farms. I consider that there is a case in the plantations but with the reservation, so far as coffee is concerned, because many of the coffee farms are also mixed farms carrying on a mixed farming economy in addition to the plantation crop of coffee.

I think that the amendment, in so far as it says, I think I am right in saying, that the Government intends to provide that more effectively, and I hope that by that they mean—I was, unfortunately, not able to hear the Minister's speech—that they intend to go into this matter carefully and find out whether it is indeed practicable in the mixed farming areas of Kenya; because really the whole basis of what has been said by the members, namely that it would be to the advantage of not only many of the workers but also of the industry and also of the country as a whole, depends largely upon the practicability or otherwise of the introduction of trade unionism in the mixed farms. Trade unionism in mixed farms in other countries has not proved conspicuously successful and it has not, in certain cases, been very strongly sup-

ported by the agricultural workers themselves.

I do not want to take up much time, but I think it all boils down to this. It should be discovered where it is practicable and where it would be to the ultimate benefit of employers and workers in industry, and in the case of certain plantation industries it may well be the answer.

I think, Sir, that this is a subject which should have no political significance whatsoever, and I think it should be examined completely dispassionately.

I support.

MR. NOLA: Mr. Speaker, on a point of explanation, the speaker who has just sat down has misunderstood me because I said that I have known of some places where workers were working up to 19 hours per day. I did not say "agricultural workers". I was thinking of a place near my home where workers—really work 19 hours and they have no day of rest. I have complained to the local district officer there and have been told that there is no regulation giving these people one day of rest.

MAJOR DAY: I apologize.

MR. SMITH (Nominated Member): Mr. Speaker, Sir, in the very few minutes at my disposal I would like strongly to support this amendment as I do think it covers very essentially most of the points raised by the hon. Mover and points which I myself do heartily approve of. I am not sure that we have got the two complete sides of this picture from the hon. Mover, Sir. There is no doubt at all that what he referred to as the bad employer does exist, and I would wholeheartedly agree that legislation must be effected so that they can all raise their wages to some minimum which gives a proper standard of living. That, I think, would be supported by all farmers, Sir, and I heartily concur. But when you talk of fixing minimum wages, and I am now talking mainly for the mixed farmer and not for the plantation industries, Sir, does become very difficult indeed, if you consider, as one must, in the end, all the emoluments which are given. This, as the hon. Member for the Coast said, should be ignored at the moment and only, I think, a basic wage considered. I do not think that it could be fairly

[Mr. Smith]

and just to mention very briefly the sort of emoluments that we in our area do consider, and one cannot go into them in detail except to mention, in the form of rations, maize meal and that would be 2 lb. and not the 1 1/2 lb. mentioned by the hon. Mover, meat, tea, sugar, blankets, coats and other special farm clothing; those are just some of the things. So far as housing is concerned, Sir, I could not quite accept his comments on that matter as I believe that many of us have improved our houses enormously and are doing so. In the last ten years we have put up really good, sound, suitable houses, suitable for anybody to live in. There are other benefits, such as medical benefits, education, recreation, farm shops, water, and other facilities laid on to camp sites, and a lot of us do ploughing and cultivation for our labourers, Sir, and I do not think you can ignore all that completely when considering any wage basis.

This must be very briefly put, Sir, but on the question of wages, too, I would like to go a little further. In many places many farmers, and again I am talking of mixed farmers, give bonuses, bonuses not only on the number of days worked and for good work performed, Sir, but also bonuses on production which is achieved during the year on a farm, whether it be on beef, or milk products, or on crops. That, I think, too, is a very important asset to the ordinary agricultural labourer, because I do feel that a wage fixed must bear some relation to what the employer himself gets from his crop eventually; by a system of bonuses, Sir, I do suggest that the labourer is indeed sharing those profits, Sir.

There were two questions which the hon. Member for the Coast Area raised which have been briefly answered by my hon. elected friend opposite. One was this 19-hour question but I think he is really looking at the thing from the extreme point of view, Sir. I could mention farms where I know that the labourers only work three hours on the full wage but that is the other extreme, too; and I think we must take the more moderate and average figure of six to eight hours a day when we consider the amount of work done.

On the question of Sunday work, too, cows have to be milked every day of the week and there again one fixes a wage structure which covers that—so far as I am concerned, I do—and on a ranching concern one fixes the wages because the labour is working seven days a week, and that does come into consideration.

There was one other point he mentioned, Sir, and that was the inspection of farms by labour officers. As far as I am concerned we do have constant visits by our labour officers. They come and inspect and quite rightly, and we answer all the questions they ask, and I trust that our answers are of some use to that Department. In addition, Sir, the District Commissioner in my own area sends round a Nandi chief and he discusses all the problems with my labourers and then he comes and talks to me, I do suggest that the employer and employer position is very greatly benefited by all these means, Sir.

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

THE CHIEF SECRETARY (Mr. Courts): Mr. Speaker, Sir, I just want to intervene for a moment or two to answer the point which was I think raised by the hon. Member for the Coast with regard to delay. He said "Why has Government not done anything about the Carpenter Report on the particular point of rural wages?". I would like to quote to him, if I may, Sir, what the Carpenter Committee actually said. "On the grounds of practicability, therefore, we do not feel able to recommend any general application of minimum wage orders to rural areas. Our inability to recommend any present extension of the application of minimum wage orders to rural areas does not mean that we preclude the possibility of future action in this field. Should conditions in agricultural employment become standardized, and we believe that economic conditions will accelerate their development, the practicability of applying the statutory minimum wage, either in relation to rural areas generally or in relation to workers in agricultural employment, may well need to be reconsidered." So, in fact, what the Carpenter Committee said was that the difficulties were so great that they could not make any firm recommendations on this at all. The Government, however, did feel that

[The Chief Secretary]

It was necessary to reconsider this point and that is why the Rural Wages Committee was set up by the Government. The Rural Wages Committee ultimately reported. I was then the Minister for Labour, and we considered the recommendations very carefully and we came to the conclusion that in fact these recommendations would not solve this problem because of the immense difficulties which are inherent in that problem. I was then asked, as Minister for Labour, to look at the problem afresh to see whether I could produce something which in fact two previous committees had not been able to produce themselves. I tackled the problem by getting together representatives of employers and also representatives of employees, represented actually by the Kenya Federation of Labour, and the Member for Nairobi Area was present at all these discussions and he would know the results; we broke down eventually because of the inherent difficulties on which this whole problem has broken down the whole time—

Mr. COOKE: All you are saying makes it all the more strange that the report has not been published.

THE CHIEF SECRETARY (Mr. COULIS):—that is fact there was no standardization at all; and if I may say so, to the hon. Member for Coast Rural, the Government has achieved quite a lot over this period, because the mere fact that your trade unions are being set up in your plantation industries shows that considerable progress has been made.

The question of applying a fixed wage to mixed farming, as everyone has said in this House today and in the past, is of such great complexity that we have not yet been able to work out a formula which would apply to the whole of the country. My hon. friend the Minister for Labour has made it quite clear that what we want to do is to deal with it on an area basis.

I beg to support.

THE SPEAKER (Sir Ferdinand Cavendish-Bentinck): I am calling on Mr. TIPS to reply in five minutes.

Mr. SLADE: Mr. Speaker, Sir, I support this amendment. I support also the spirit of the original Motion, but I agree that this amendment is an improvement, particularly in the deletion of the words

“so as to avoid the exploitation of African workers,” not only, as the Minister has pointed out, because other workers may be concerned, but also because I believe there is merit in a minimum wage for other reasons than merely the avoidance of exploitation. In saying that I support this Motion, Sir, as amended, I would like to make it clear that I cannot see that this proposal for a minimum wage necessarily has any connexion with the introduction of trade unionism into agriculture, and so I would not like to be taken as agreeing with the hon. Member that that is an essential concomitant of the result of this Motion.

Sir, I was glad, very glad, to hear an acknowledgment both from the hon. Member and the hon. Member, and other speakers, that the number of bad employers, either Europeans or Africans, in the rural areas are comparatively few. I believe that that is so. However, the fact remains that there must be bad employers of all races; and I do not think anyone can quarrel at all, can possibly argue, about the principle of a minimum wage. It has, I believe, advantages apart from the protection of the worker himself. It has advantage of inducing the employer to be more selective in those whom he employs, and more appreciative of the differing value of his employees. Even among good employers, there has been a tendency, Sir, and there is still too much tendency, to regard all unskilled employees as of equal value. Now, they are not all of equal value by any means, and if you have a minimum wage you give an inducement towards the employer to look at those of greater value.

Another advantage, Sir, is that it will tend to discourage the squatter system, which is not of benefit to this country. It will discourage the system of providing labour with land instead of pay. Of course, Sir, there is no doubt that the greatest advantage of all is the protection of the employee, and it is perfectly true, as the hon. Member said, that the rural employee needs now security more than in the past, because of the decrease

in possibility of his returning eventually to a land holding in his own reserve. That brings us also, Sir, I think, to the question of security in old age, which we have got to face very early. It is

[Mr. Slade]

subject of another Motion later, in this sitting.

Sir, there are great difficulties in this, as has been pointed out by all speakers. There are difficulties of differences in areas, difficulties of assessing the value of incidental emoluments; there are difficulties also in the differing value as between the services of African men and African women. I think everyone will have to agree that a minimum wage for an African man would not necessarily be a suitable minimum wage for an African woman. Her values are different, and for economic and family reasons she, if married, can afford to take work at a lower wage if she wishes to do so. There is also the difficulty which you have got to face, that, if you are not careful with your minimum wage, you may reduce the numbers of those employed and increase the problem of unemployment. You have got to face all those difficulties, but difficulties do not justify us in avoiding them; they are there to be overcome.

Sir, I support the amendment to the Motion.

MR. OLE TIPS: Mr. Speaker, Sir, in replying to the debate on this Motion I should like to thank all hon. Members from both sides, of the House for the interest they have shown and their fairness concerning this Motion. I wholeheartedly thank them very sincerely because I think that if we are to conduct Motions in this House we need this sort of attitude.

Now, Mr. Speaker, I think there has been a misunderstanding or a misapprehension of the reasons why I included in the last line the words “exploitation of African workers.” Well, that might be incidental perhaps, but it is a fact that today the majority of our working population are Africans, and the other communities, although they are great in numbers, have always been in a position to look after themselves.

Now, if I may touch on the question of minimum wages for rural areas, I should first of all like to thank the Government, and the Minister for Labour in particular, for their contribu-

tion of the introduction of the amendment by the Minister is concerned, I regard it as half a loaf is better than no bread at all, and I think he went a long way in accepting the Motion before the House as a whole; and I accept his amendment without reservation.

I would only ask and request him sincerely to do all he can to accelerate the introduction of necessary legislation or regulations, as he put it in his amendment, for the regulation of minimum wages. What we want to establish are the necessary area boards, which he has mentioned, without any delay, and I am sure he will lose no time in consulting the officers of his Ministry in order to introduce the necessary legislation in this House before long to enable him to go ahead with the area boards for the fixation of minimum wages.

Now, Sir, he also mentioned the question of how best could we fix these minimum wages. Will it be based on an area or industry basis? Personally, and I think I have made it clear when I moved my Motion, I have no objection for an area basis because the country as a whole, the agricultural land as a whole, varies so much from area to area, and also the land productivity varies so much. Therefore, an area basis is quite acceptable.

Now, if I may tackle briefly, Sir, what various speakers have said about this Motion, it is true that the hon. Nominated Member Cmdr. Goord mentioned the opposition of some farmers to the introduction of minimum wages. He stated clearly that he was very much worried over the introduction of trade unions for mixed farming areas. Well, as far as the opposition of the farmers to the introduction of a minimum wage through the agricultural workers union is concerned, it is very, very clear because all the time right from the past they have been masters of their own—I mean they had no interference at all and in the old days the general farm labourer did not require the various necessities of life which they now require. But I should tell them this, that we must really change with the times. We must change with the times because their opposition has no grounds. I mean there is nothing to oppose in fact. The introduction of a minimum wage is to safeguard

[Mr. ole Tiji] interests of the workers. So there is nothing to fear. But those few diarchs who think they will oppose will get nowhere. I should like them that they are, in fact, fighting a losing battle and they should surrender.

Now, he also mentioned the question of what I originally called bad employers, filling their pockets and as such, well of course, it is undeniable that there are bad employers. There are also some bad employees, people who can expect to sit down and do no day's job and expect to be paid for it. Now, to these people, to the bad employer, to the bad employee, I would say that it is time they realized the great disservice not only to themselves but to the whole land, to this country, and the economy of this country as a whole. The sooner they readjust their thinking and change their mal-practices the better they will be and the better our country shall be.

Now, of course, various speakers mentioned the average working hours on farms. Of course, they vary from area to area, from one farmer to another. It entirely depends on the management and the type of employer. But I should say that on the whole an average of eight hours' work is not far wrong. I can see my friend Commanshoppers— shaking his head. But any employers— I mean, I have got a few labourers whom I employ and I pay them well. I think— I never, never, never would dream of employing anybody to work three solid hours in the day. Three hours! What for? I should be out of business if I tried to employ somebody for three hours. It is not a question of the employee, it is a question of the employer. It is the employer who is to blame. If the employer insisted in employing somebody and paying him the lowest wage and could not care a hoot whether that man is working at all, or not. Then it is the employer's fault.

Now, Mr. Speaker—
THE SPEAKER (Sir Ferdinand Cavendish-Bentinck): Mr. Tiji, I am afraid I am going to put the question.

MR. OLE TIJI: Thank you, Mr. Speaker. I am sorry that I have not got the time to reply to the various points but in conclusion I would like to touch a little on our labour officers—in the

scheduled areas and I would ask the Minister at least that I think they are understaffed as such. You find a single-handed labour officer in a whole district. And you expect him to visit all the farms as such and at the same time to do all the office work.—I mean, if we had a sufficient number of them at least they would have brought all these bad people to court, you see. But when they are understaffed like that then a lot of good work remains undone.

Mr. Speaker, I am sorry I have no time to complete it but I think we have achieved something good for us all.

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

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

MOTION

AFRICAN WILLS LEGISLATION

MR. MUCHURA: Mr. Speaker, Sir, I wish to move this Motion:

THAT this Council urges the Government to introduce legislation by which Africans would be enabled to make wills as soon as possible.

Mr. Speaker, Sir, the law in operation in this land is the Indian Succession Act of 1885 and is one of the many Indian Acts which are operating in Kenya and which are being slowly repealed and replaced by our own Ordinances. That particular Act, Sir, does not apply to Africans. They are excluded.

Now, if the Council of State had the powers to review and check on what we call discriminatory laws or Ordinances they would have challenged that particular part excluding Africans.

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

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

This particular law when it was applied to Kenya, might have had some justification at the time at the turn of the century but I cannot see it being valid and having some reasonable grounds for continuing in operation in 1959.

Sir, somebody may argue that Africans today are in entirely different stages of development, understanding and education and all the rest of it. And they may go further and say, if that is the case,

[Mr. Muchura] how can we provide a law that will cover all these people. I would say that that question—or if anybody wanted to ask the question—is completely out of place because I think in India from where we borrowed the Act and where it has operated up to this day there are so many people who are still illiterate. If I am wrong I am subject to correction, but that is my belief. There are so many also who are uneducated as well as being illiterate and I must say that the law was enacted and works there. If it did not work, it would have been repealed. Those excuses cannot be used to prevent legislation being made to enable Africans to make wills. I do not think by the very fact that the law exists that I am forced by law to make a will. If I want to take advantage of the law and make a will, then the law is there to make it valid and see that the will is executed according to my wishes.

Also it must be said that where a person dies without making a will or intestate, then the customary law will apply. But there should be provisions to enable him to make one.

Somebody may also argue, Sir, that we should not interfere with the customs that are working so very well among the Africans. I would say that, that so many of the basic customs of Africans of Kenya today have been broken by either Acts or laws passed by this House—for instance, in the question of controls in agriculture, marriages, lands bills, guardianship, taxes and the rest of it. All these things have been changed by the passing of this House of legislation to amend certain things to bring people in this country—and for the betterment of this country—into line.

I believe also that it will not be compulsory if legislation is passed to enable Africans to make wills, as it is with the other races. Somebody may ask, Sir, what is the use of such a legislation when very few Africans only want the right to make a will. Now, that may be a very fair question to ask but, as I said before, the law allows Asians and Europeans to make wills. Do they all make wills? I see, time and again, in the Gazette various notices showing that certain fellows died without making wills. So even if only very few wish to do so today there will be very many tomorrow.

Africans want it; I do not see why there should not be legislation to enable those few today to make wills.

I also believe, Sir, that it will be wrong in 1959 to have in our statute books something which is—I would like to call it—discriminatory because the African of 1959 is—and probably was not in the '30s and '40s—in a position to know and appreciate the value of making a will.

I believe also that it is not only a handful of Africans who are interested in making their wills today. There are quite a number.

The next question which may be asked by the Government will be probably this, whether there is a compelling need to make this change in the law. Must we provide or make legislation to enable Africans to make wills? I would like to say the answer is Yes. And, as I stated, most of the Indian Acts are being slowly and gradually repealed and since it has been found necessary to do the same with other laws like, for instance, the Companies' Bill, which was passed recently, I do not see why we should not do something with Indian Succession Act.

Somebody may suggest, Sir, that this change will take some time. I quite agree that it will take time if we are to go and embark on repealing the whole of the Indian Succession Act. Secondly, I know that there is a difficulty of manpower. The legal draftsmen are the people who will have to draft the law and will have to bring it into line incorporating some of our problems in Kenya today. And, therefore, I am suggesting that legislation be passed to enable Africans to make wills before the completely new law. I must also say that it has passed the stage of usefulness in Kenya as many others have done. Somebody may suggest that in view of the fact that we are gradually, slowly and probably surely changing all our Indian Acts which are applicable in Kenya, why should we produce a small legislation here which would probably last a couple of days or a couple of years, involving all the work, and then in time to be repealed and be incorporated in the main Bill, whatever it may be called. I feel, Sir, that as that exercise will take a very long time to repeal the Act, I suggest that this exercise should be done and for a very good reason, too, that is,

[Mr. Muchura] this small legislation I am suggesting, if accepted, and a small regulation to enable Africans to make wills is passed, we will have the great advantage when the time comes to repeal the whole law, because the legal draftsmen will have seen the snags in the small legislation that when they come to repealing the whole Bill they will have learned by practice. They will be able to incorporate them and make a better draft than would have otherwise been possible without all the snags having been learned.

And, therefore, Sir, I say nothing is better than experience, and if we did this they, the legal draftsmen, will have the experience of how best that law should operate in Kenya.

Secondly, Sir, now the Africans have taken to insuring their lives, properties, etc. Some of these things cannot be dealt with in terms of African customs because the main things that they had as Africans in the past was land, cattle and families. And I cannot see how the African laws and customs are going to divide their present property. How can one divide a car amongst four children? They could have a wheel each but that would not be a car. Nor can there be a question of dealing with cash because that never existed. So the question of customs really, in practice, was dealing with the things they knew all about. With land, stock and cattle they knew how to go about, because they were all part and parcel of their lives and the only things they knew.

Not only that, Sir, but Africans have taken to business. They are, for instance, having houses, big business houses sometimes, and various other things outside their own land units. If, for example, I know of some Africans from Nyanza who live in Nairobi, they have houses here and should anything happen to these particular persons the whole lot of their affairs would be dealt with in this way. First the details will be sent to the district commissioner here who will eventually trace them back to somewhere in Nyanza through their identity cards. The district commissioner in Central Nyanza will write to the local chief of the deceased. The local chief will trace the family and say, "I am very sorry but Mr. X is dead. What about his property?" Now, he has got a house here, he has probably got a

shop somewhere; a piece of land in the reserve and a hut there. How does one go about it? Which customs are they going to use. It is very difficult.

Now, as I said, the question of property and especially in the common sense that we know it today is a little bit beyond what the customary law could have dealt with. And then, of course, my hon. Member, my learned friend, will deal with the more complicated parts of the legal aspects which I am not competent to deal with. All I am trying to emphasize here is this, that there is a need for a legislation to enable Africans to make wills. And one thing, Mr. Deputy Speaker, is this. We do not want to undo all the hard work that has been done in various parts of the country on land consolidation, and because under these customary laws that piece of land must be divided amongst the sons of the deceased whatever their number they are all entitled to a piece. Are we prepared to undo that work by not enabling legislation. I will also, Sir, give some examples of what the difficulties are, and I'll understand it right—I am subject to correction—the normal process of executing the distribution of the deceased African's property is as follows. First the D.C. can operate up to a maximum of Sh. 8,000; and of course, records of how this distribution has taken place are usually not very impressive. If I am wrong about the figures I will accept it, but my understanding is that they operate up to Sh. 8,000.

Secondly, I know of a case of a widow who died round about 1937. The Supreme Court had given this particular widow some letters of administration and three years later the son was refused those rights. It is also true to say that an African, just as much as any other human being, wants to see and make sure, even in his grave, that his property is going to go to the persons he asked for, whereas, at the present time his property can be grabbed from his wife, by his relatives and that is according to custom. There was no question of going to school. There was no question of insurance and there was no question of anything else, and, in fact, the wife and the children were deprived of the property. Are you going to accept that today?

Now there are Africans with savings and I must say this, that, if a person

[Mr. Muchura] could be warned of his death, as could happen in cases of long protracted illnesses like Tuberculosis, a person—instead of as in the case of a friend of mine who had to go straight from his sick bed with his wife and sons into the town and draw all his savings from the bank and transfer all the accounts to other names, which even then did not stop his brother and other relatives grabbing the money—had the right to make a will, he would not have to do all the travelling about when he was very ill and he could make his will to "in his bed, instead of going personally to collect his money and distributing it there and then. It can also be said that supposing he did not want to provide for his family, there are provisions, as in Britain under the Inheritance Provisions Act of 1938, that can take care of this, and I do not see the difficulty as to why the Government will not accept the making of legislation to enable Africans to make wills.

Now in conclusion, Sir, I have proved beyond doubt that there is a need and a case that the Government should make legislation to enable Africans to make a will as soon as possible. I have a feeling that the Government will accept this, and all I am saying is let us have a short legislation to enable we Africans to make wills, and meanwhile get on with the big task of repealing the whole of the Act, and from the experience of the small legislation the Government will know exactly what to do or what not to do.

With those words, Mr. Deputy Speaker, I beg to move.

MR. SLADE: Mr. Deputy Speaker, Sir, I beg to second this Motion. I did refer to this subject when we debated the Native Lands Registration Ordinance some seven months ago, and I am very glad it has been brought before the House again so soon.

Sir, the hon. Member has described very clearly the present position with regard to Africans and the disposal of their property after their death. It is also very clearly summarized in this excellent report of the Working Party on African Land Tenure of 1957/58, and for the convenience of hon. Members I would like to draw attention to one or two paragraphs in that Report. There is a whole chapter—chapter 8—dealing with the

subject of succession, to be found on page 29 of this Report, but for the purpose of this Motion I need only refer to one or two passages. In paragraph 70, the Working Party described the legal position precisely as it has been described by the hon. Member, summing up in the words:—"Wills made by Africans have been held to be of no effect except in certain circumstances when the African concerned was a Muslim." Then, Mr. Deputy Speaker, in paragraph 71, the Working Party explains that such of the African's wills as are valid—"At the time when the Indian Acts were applied (that includes the Indian Succession Act, 1865) all land and most movable property of African was owned communally and not by the individual, and it followed therefore, that since an African did not own any land he could not leave it to anyone on his death. In recent years the concept of individual ownership has emerged in some areas—they give examples—but not enough to alter the position in these areas for some time, the effect and scope of such transactions are to a large extent indefinite owing to the uncertainty of native law and custom. Succession on death still follows old law and custom rigidly as regards land; all a man's heirs are entitled to a share, and although the actual distribution amongst the heirs is often made in accordance with the wishes of the deceased, expressed during his lifetime, or on his death bed, this does not amount to the making of a will."

Now to complete the picture of the present position, Mr. Deputy Speaker, I must just refer to the Native Lands Registration Ordinance, 1959, Sections 79 and 80 of that Ordinance deal with the question of succession to land, in cases where individual titles have been registered under that Ordinance. The effect of those sections is that the African courts are required to determine, when the registered landholder dies, who are his successors according to native law and custom, and then to inform the registrar accordingly, whereupon the registrar will make the appropriate entries in the registry of titles in favour of the beneficiaries concerned. That means, of course, that there is still no provision for the making of wills by Africans, even in respect of individual registered title.

[Mr. Slade]

Now as to the need for the African to have testamentary capacity the Working Party made some important comments, to which I would again refer. In paragraph 73 of their report they said:—“After the registration of individual titles, the position will be radically altered. Individual Africans will have land of their own, and it is reasonable that means should be available whereby they are enabled to make wills disposing of it after their death,” and then they gave the warning, “But this is a matter of very great complexity,” and because of that great complexity which they described in the same paragraph, they recommended in paragraph 75, as follows: “We therefore recommend that until such time as legislation giving testamentary capacity to Africans and making provision for intestate succession is enacted, transition of land on the death of a registered proprietor should continue to follow native customary law.” And so it is that we have at present these sections 79 and 80 of the Native Lands Registration Ordinance, to which I have just referred, but in paragraph 76 of their report, the Working Party said as follows: “We understand that the Law Reform Committee is actively studying a proposal to introduce legislation in respect of testamentary capacity and intestate succession. This legislation would replace with the applied Indian Acts, and would provide a comprehensive code of the law of succession. We apprehend that such a code would not automatically apply to all Africans, but that it could be applied to those Africans whose way of life, especially in the matter of landowning, was sufficiently developed. In view of the changed circumstances which will result in the registration of individual titles to land, we would stress the urgency for the early enactment of this legislation,” which of course, is what this Motion seeks today.

Sir, that is all I have to say about testamentary succession to land, except to make one passing comment. That is have not only the Native Land Registration Ordinance, 1959, but also the Land Control (Native Land) Ordinance of 1959, which is designed to control the disposition of individual titles, but that Ordinance, as I see it, does not, at

present, control the disposition on death of individual titles, and I suppose as the law now stands under the Native Lands Registration Ordinance there is no need for such control, because the land can only go to the customary heirs of the landowner, and there could be no reason or right to object to that succession. But if we are going to have legislation which gives testamentary capacity in respect of land, at any rate to individual landowners, then I would point out that we shall have to have simultaneously provision in the Land Control Ordinance for control of the operation of those testamentary dispositions in the same way as we have control of dispositions *inter vivos*.

But now, Sir, I would move on to the question of property other than land, to which the hon. Mover has also referred and made his points with some eloquence.

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

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

I believe, Mr. Speaker, that this is almost more important than the question of disposition of land, and it is creating more widespread difficulty at the present time. As I see it, the Africans who are now in many places accumulating very considerable moveably property in the form of cash, businesses, vehicles, stocks and shares, are almost completely in the air as to what happens to their property when they die. Indeed, the hon. Mover has pointed out the difficulties that arise, and the way in which sometimes people who are on the point of death feel compelled to make what is known in the law as a *donatio mortis causa* and to give away their property before they die; which is all very well if they do die the next day, but they might be sorry if they recover. So we must deal with this thing very soon. I can see a particular difficulty with regard to stocks and shares. Stocks and shares are registered with the company concerned, and the company can only recognize a new shareholder on a proof of title. Now ordinarily when a shareholder dies somebody proves his will or gets letters of administration and registers that with the registrar of the

[Mr. Slade]

company concerned, and establishes the title of succession to those shares. What do Africans do in these matters? I do not know. I do not see how the proper successor to an African who has shares in a company can establish his title to the satisfaction of the company. But quite apart from that, Sir, the time has obviously come when Africans should have free disposition by will of their moveable property, even if it is desirable that there should be some customary control still of succession to their land. Old tribal and customary laws were designed with regard to land and the things that go with land, and were not created to suit the kind of moveable property that Africans are developing today. So, Sir, I do support this Motion very strongly and submit that the need for this testamentary capacity among Africans is urgent.

I would only say one more thing. The Working Party mentioned the prospect of the Indian Succession Act of 1865 being repealed and replaced by a more up-to-date law for this and other purposes. I welcome that very much, seeing that it is now 25 years since I, and other members of the Law Society, produced a complete draft of the succession law of this country, which has remained in a pigeon hole ever since. I am looking forward very much to the day when it comes out of its pigeon hole.

I beg to support.

Question proposed.

THE MINISTER FOR LEGAL AFFAIRS (Mr. Griffith-Jones): Mr. Speaker, Sir, the Government is very happy to accept this Motion. It accords, as I think must be clear from the quotations which the hon. Secunder has referred this Council to from the Report of the Working Party—it accords closely with the Government's own views and intentions.

Sir, I am a little bit deterred by the hon. Mover's references to “a small piece of legislation”. Time was, until Attorney-General revolted, when the Attorney-General was liable to receive a minute on the top of a stack of files on some subject, “A. G. please draft a short Bill.” Fortunately, due to the intransigence of Attorney-General as a class, that practice has fallen into disuse. However, I do ask the hon. Mover

to bear in mind that very seldom in any legislative project is it merely a question of producing “a small piece of legislation”. Very often, although a Bill may not be very long in extent, it is the result of very considerable research and labour in reducing it to comprehensive legislative terms.

Sir, the whole subject of the law of succession, as it applies in this country, has been under consideration for not only the 25 years to which the hon. Secunder referred but, indeed, according to extant records, at least 34 years. It was indeed in 1925 that the first proposal was made to replace the applied Indian Acts by a comprehensive local Succession Bill. A Bill was then drafted and it was subjected to very careful and close consideration, particularly in relation to its possible application to Africans. Indeed the Bill, with an exclusion of its application to Africans, as was then decided, had a Second Reading in the Legislative Council in 1926. It was reported to a Select Committee. Unfortunately, there it died, or the Select Committee died. I do not mean necessarily physically, but perhaps on prorogation or dissolution. Anyhow, both the Select Committee and the Bill were committed to the limbo of the past. A few years later, in 1928 and 1929, the Bill was resuscitated and refurbished to take into account the Indian Succession Act of 1925, which, of course, did not apply to this country, since it was only the Indian Acts up to 1907 which applied, and then to take into account also the relevant English legislation of that year, particularly the Administration of Estates Act of 1925. The Bill was accordingly drawn and was submitted—and I trust that my learned friend the Secunder will forgive me if I recount these dates, but in view of the implied barb in his remarks about pigeon holes I think it is right that we should get, if you will forgive the distorted metaphor, our pigeon holes into perspective—to our Law Society in August, 1933, for their comments, which they duly furnished in December, 1935. Now, in consequence of the Law Society's comments, the Bill was redrafted—in many respects departing from the Indian model, and a fresh Bill was produced in 1938. That Bill was referred to the Law Society in 1939. The Law Society asked for some additional copies for consideration; in 1949,

[The Minister for Legal Affairs], and my hon. and learned friend, the Legal Draftsman, sought my authority this morning to address the Secretary of the Law Society to inquire when we may expect their report!

Having, Sir, I trust, put my pigeon holes into perspective; I now pass on to mention that the importance of investing Africans either indiscriminately or possibly selectively with testamentary capacity of course became acute when the land legislation to which the hon. Member referred was in course of preparation and in course of consideration by the Working Party. At the same time, or rather, before that, we had considered in the Law Reform Committee the unsatisfactory state of the whole law of succession in this country arising from the fact that it was based on three Indian Acts of considerable antiquity and ignoring any modern amendments or replacements or additions to the Indian Law of Succession, and on two local Ordinances which supplemented those Acts in respect of members of particular communities or faiths. The recommendation of the Law Reform Committee was that we should have a comprehensive Code of Succession enacted by this Council and applying to all persons in this Colony, not necessarily in exactly the same terms but taking into account of course the diversity of personal law. Sir, that is, of course, a very major drafting project and it has not yet been possible, having regard to many other calls of more immediate urgency on our drafting capacity, to make progress in the preparation of such a Code. I had hoped at one time recently that it might be possible to obtain the services of an expert in this field outside my Department to prepare this Code, and I might add that if my hon. and learned friend the Mover were to feel that he had time to embark on this project, which I know he would find of absorbing interest, I should be delighted to invest him with the responsibility of the preparation of this Code with. I hasten to add, suitable remuneration. But, quite apart from the question of remuneration—if he could undertake it—I am afraid that I am not very sanguine about it, knowing as I do all his many other commitments—I should be delighted, as it is, Sir, we shall have to fit it in our legislative drafting programme as best we can.

It is possible, and we shall certainly examine the practicability of introducing interim legislation to deal with the immediate problem of African wills. It will not be, even then, particularly easy undertaking because it will involve not only, I think, provision for testate succession, but also an examination of customary law in regard to intestate succession, because of course we must relate the displacement of customary law, which would necessarily follow from making wills, to the capacity to make wills; and I believe that I am right in saying—although the hon. Member will know this much better than I do—that there is an almost infinite variety in the incidence of African customary law of intestate succession. However, Mr. Speaker, we will do our best to produce this legislation when we can. We have already for some time now had in progress an enquiry into the general terms, the general features, of African customary law of intestate succession, that is to say intestate succession among the various peoples in the country, and when that enquiry is completed we will relate the results of it to the proposed legislation.

Sir, I do not think I need detain the House any longer. We lawyers rather enjoy these discursive discussions on matters in our own field and and I may to assure you, Mr. Speaker, that I could go on probably all today and for such time as you would permit on the next Private Members' Day; but I think I have said sufficient to satisfy my friends the Mover and Seconder that we in the Government are on the same lines as they are and heading in the same direction, but the speed at which we can go is conditioned not merely by our desire to produce legislation on this subject, but by the very considerable burden, as I am sure they will both realize, of our whole legislative programme, in which it might interest the House to know that seldom do we have at any given time less than some 70 Bills, Sir, of varying complexity and length awaiting drafting.

Mr. Speaker, I beg to support.

MR. SLADE: On a point of information, Sir, I have to acknowledge that my hon. and learned friend has put me to flight on the subject of pigeon holes. However, in fairness to the Law Society I think it should be put on record that

[Mr. Slade] between 1939 and 1946, or thereabouts, the Law Society was completely defunct by reason of war service.

THE MINISTER FOR LEGAL AFFAIRS

(Mr. Griffith-Jones): Mr. Speaker, may I acknowledge that? I would not attempt to deny it.

MR. BOMPAS: Mr. Speaker, Sir, I would like to support this Motion and the fact that Government has accepted it means that there is no necessity for me to produce any arguments in favour of my support. However, I would like merely to make one particular point, and it is that when Government is proceeding to examine the new legislation they should concurrently examine the complementary legislation which relates to the administration of estates. It seems to me, Sir, that if the African is to be given the right to make a will, and properly so, there will obviously be a very greatly increased volume of work upon the Registrar-General's Department. The amount of that work could probably be greatly diminished if the processes could be streamlined a bit in the light of changing values. I think I am right in saying, Sir, although I cannot quote the exact Ordinance because I do not know what its correct title is, that it is possible to obtain summary letters of administration in estates under, I think, £200, although it may be £100. As I said, Mr. Speaker, in these days of changed values, I think if figures of that sort could be re-examined, and possibly increased to a figure of something like £500, it would certainly tend to simplify the administration of the estates which will be created by the process of allowing wills to be made.

Mr. Speaker, I beg to support.

THE MINISTER FOR LEGAL AFFAIRS (Mr. Griffith-Jones): On a point of explanation, Sir, may I say that it has been called to my attention that when I made the offer intended for the Seconder of this Motion that he should undertake the drafting of this legislation, I believe that inadvertently I made the offer to the Mover? The Mover will, I trust, forgive me if I feel obliged to withdraw that offer and redirect it to the Seconder.

Thank you, Sir.

MR. MUMBI: Mr. Speaker, Sir, I see that I have very little time left.

If the intention of the Motion is to introduce legislation enabling Africans to make wills, and if the legislation will only be enabling, then that is quite all right, Mr. Speaker. But the moment legislation is passed it becomes law, and I have no doubt that it will have to be applied in its entirety. For this reason, Mr. Speaker, I feel that the law would not be welcomed by, if I may say so, the native African, to whom it will apply. There is a Motion now tabled in regard to the question of citizenship in this country for all the people of this country, and I cannot separate the question of making wills from the question of citizenship in this country, and for the reasons which I am going to state here I think the time is not ripe to introduce such legislation. I feel that it is a matter which could naturally evolve to what it is in other countries such as India, Great Britain and many other countries.

This question of land, Mr. Speaker, for example, is a most irritating one in so far as the African is concerned; and the moment you mention that once a father makes a will in regard to land to somebody, with the result that the land might revert to somebody else outside the family then the African will immediately say "No". He will say, "This is a very bad law."

First of all, Mr. Speaker, let me mention matters on which Africans make wills, because the legislation is especially directed to the African. The Africans make wills on matters such as land; secondly on matters of movable or immovable property; thirdly on such things as money, livestock, and in the modern days, shops and vehicles, which have been mentioned in this House. Now, taking the African in general, and taking the African in the whole country, you find that the customary law and traditions of the Africans differ from tribe to tribe. I am not very sure but I believe that there are more than 40 tribes in the country, and I believe in framing the legislation it will be necessary to consider the varying customary and traditional laws of the various tribes, and it may become necessary to introduce so many pieces of legislation to cover

[Mr. Mulmi] my tribe. That is why I said that until the question of citizenship is settled it is going to be difficult to pass legislation that will suit all the tribes in this country. Let me take, for example, the question of land which I mentioned in the first place, and the ways in which Africans in my tribe, for example, make wills. Having no regard to the many children that a father may have, if a father dies before making his will the customary law is that the land that belonged to the father goes to the eldest son, and consequently the son, as guardian of the young ones, looks after the interests of his young brothers. But let us say, for example, today, as is now happening, an African is married, say, to a European, and they have children or no children, and the husband dies. Now, if the husband makes the will giving all to his wife then it is natural that the European wife may want to marry a European. Therefore it follows naturally that the land reverts to the European. For that reason, Mr. Speaker—and I see that my time is up—the African will not welcome any legislation that would deprive the African native of his land.

I would like to continue from there, Mr. Speaker.

ADJOURNMENT

THE SPEAKER (Sir Ferdinand Cavendish-Bentinck): The time has come for the suspension of business, and I therefore adjourn Council until Tuesday next, 24th November, at 2.30 p.m.

The House rose at thirty minutes past Twelve o'clock.

Tuesday, 24th November, 1959

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

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

PRAYERS

PAPERS LAID

The following Papers were laid on the Table:—

The Accountant-General (Transfer of Functions) (No. 3) Order, 1959.

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

Labour Department Annual Report, 1958.

(BY THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. MacKenzie) on behalf of the Minister for Education, Labour and Lands (Mr. Mathieson))

Sessional Paper No. 1 of 1959/60—A Game Policy for Kenya.

(BY THE MINISTER FOR FOREST DEVELOPMENT, GAME AND FISHERIES (Mr. Blund))

NOTICES OF MOTIONS

A GAME POLICY FOR KENYA

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

THAT this Council approves the Statement of Policy set out in Sessional Paper No. 1 of 1959/60, entitled "A Game Policy for Kenya".

REVISION OF LEGISLATIVE COUNCIL ORDINANCE—SECTION 17 (a)

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

WHEREAS it is normally recognized that the ruling of a superior court in an appeal case against a conviction by a subordinate court, constitutes the complete clearance of the accused both of his character and from the sentence. As a matter of urgency therefore this House calls upon the Government to review the application of section 17 (a) of the Legislative Council Ordinance to comply with this basic principle.

ORAL ANSWERS TO QUESTIONS

QUESTION No. 16.

MR. ALEXANDER asked the Minister for African Affairs what instructions have been issued in connexion with the Land Control (Native Lands) Ordinance to accord with the statement by the Minister for African Affairs to Legislative Council on 27th May, 1959, that leases of land to non-Africans should be approved by the Provincial and not the Divisional Board, and how many such applications have been dealt with by Provincial Boards.

THE MINISTER FOR AFRICAN AFFAIRS (Mr. Johnston): No directive has so far been issued. Draft directives by the Governor dealing with this point, with the control of subdivision and the handling of applications for consent to charge land, are at present under consideration by the Native Lands Trust Board in accordance with section 11 (1) of the Land Control (Native Lands) Ordinance, 1959. No applications for consent to leases of land to non-Africans have been received by a Provincial Board.

MR. ALEXANDER: Mr. Speaker, Sir, arising out of that reply, is it part of this consideration, that Provincial Boards will be directed that the race of a proposed transferee is not to be a ground for refusal of consent?

THE MINISTER FOR AFRICAN AFFAIRS (Mr. Johnston): As I said in my reply, draft directives dealing with this particular point are under consideration. They have also to be considered under the terms of the Land Control (Native Lands) Ordinance by the Native Lands Trust Board.

MR. MBOYA: Mr. Speaker, Sir, would not the Minister agree that in view of His Excellency's promise that there will be a lot of time for discussion relating to the White Paper on the Highlands it is premature to give instructions affecting the Native Land Control Ordinance.

THE MINISTER FOR AFRICAN AFFAIRS (Mr. Johnston): I did say that there were draft directives in the course of preparation. We shall have to have those draft directives in due course.

MR. ALEXANDER: Mr. Speaker, Sir, is it not a fact that Press hand out No. 15

—No. 715 of 16th October, 1959, did contain the words "the Provincial Board will be directed that the race of a proposed transferee is not to be a ground for refusal of consent", and do we take it that since that Press hand out by Government was published, that there has been a change of mind?

THE MINISTER FOR AFRICAN AFFAIRS (Mr. Johnston): No Sir.

MR. SLADE: Is the Minister satisfied that the instructions now in draft are actually within the powers of the Governor under the Ordinance as it now stands?

THE MINISTER FOR AFRICAN AFFAIRS (Mr. Johnston): I am so advised, Sir.

QUESTION No. 17

MR. ALEXANDER asked the Minister for African Affairs has any action been taken, following the statement by the Minister for African Affairs in Legislative Council on 27th May, 1959, to apply the Land Control (Native Lands) Ordinance to areas other than those to which the Native Lands Registration Ordinance applies. If not, why not. If the reply is in the affirmative, what unregistered areas has it been applied to.

THE MINISTER FOR AFRICAN AFFAIRS (Mr. Johnston): No, Sir. Although the Land Control (Native Lands) Ordinance, was drafted so as to be capable of application to any area of the native lands it was, as I said later, in introducing the Bill on 27th May, designed primarily for areas to which the Registration Ordinance has been applied.

The Control Ordinance can only operate effectively in areas where individual ownership is recognized by customary law. It is the policy of the Government to encourage recognition of individual ownership of land so that, eventually, all land can be dealt with on the same basis throughout the Colony; but this will necessarily be a slow process.

MR. SLADE: Mr. Speaker, would the Minister tell us of what will be the policy of Government in the Native Lands Trust Board with regard to the very large areas of land which will not

[Mr. Slade]

be subject to consolidation for many years to come, in the matter of inter-racial transactions?

THE MINISTER FOR AFRICAN AFFAIRS (Mr. Johnston): Interracial transactions will be governed by the Native Lands Trust Ordinance and the provisions for, the setting apart of land in those areas.

MR. SLADE: I was asking a question on policy, rather than on what law would apply. What I want to find out from the Minister is whether the general policy declared at the start of the Sessional Paper on Land, which is applicable to all races and all lands throughout the country, is to be applied by the Native Lands Trust Board to these areas which are not the subject of land consolidation.

THE MINISTER FOR AFRICAN AFFAIRS (Mr. Johnston): Sir, of necessity there will be large areas which will not come under the Land Control (Native Lands) Ordinance. In those areas the procedure under the Native Lands Trust Ordinance will continue to apply.

MR. SLADE: I was asking a question of policy, not of procedure.

THE MINISTER FOR AFRICAN AFFAIRS (Mr. Johnston): The policy will follow the Ordinance in question.

MR. ALEXANDER: Mr. Speaker, arising out of these replies, would the Minister tell us what procedure has been applied to the 600 acres in the Meru reserve which has been referred to in other places?

THE MINISTER FOR AFRICAN AFFAIRS (Mr. Johnston): That, Sir, is another question.

COMMITTEE OF THE WHOLE COUNCIL

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

IN THE COMMITTEE

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

The Personal Tax (Amendment) (No. 2) Bill

Clause 2 agreed to.

New Clause

THE MINISTER FOR AFRICAN AFFAIRS (Mr. Johnston): Mr. Chairman, I beg to move that the following new clause be added to the Bill:—

Amendment to Section 7

Section 7 of the Personal Tax Ordinance, 1957, is amended by adding the following proviso at the end of subsection (f) thereof:—

Provided that no such deduction from the wage of an employee in respect of any period shall, whether taken by itself or added to any other moneys lawfully deducted from the employee during that period exceed one half of the total cash wage for that period.

Sir, although Government is satisfied that the terms of this particular section will not be abused we have thought it necessary to write into the Ordinance certain safeguards for the poorer paid employee. In other words, Sir, this clause proposes and ensures that an employee has at least 50 per cent of his wages left to him after deductions have been made for tax, including deductions which may also lawfully have been made for any other purposes.

Sir, I beg to move.

The question that the new clause be read a Second Time was put and carried.

The question—that the new clause be added to the Bill was put and carried.

Title agreed to.

Clause 1 agreed to.

THE MINISTER FOR AFRICAN AFFAIRS (Mr. Johnston): Mr. Chairman, I beg to move that the Personal Tax (Amendment) (No. 2) Bill be reported to Council with amendment.

Question proposed.

The question was put and carried.

Bill to be reported with amendment.

The House resumed.

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

REPORT

MR. CONROY: Mr. Speaker, I beg to report that a Committee of the whole Council has been through the Personal

[Mr. Conroy]

Tax (Amendment) (No. 2) Bill and has approved the same with amendment.

Report ordered to be considered tomorrow.

COMMITTEE OF SUPPLY

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

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

MOTION

NAIROBI AFRICAN HOUSING

Resumption of debate interrupted on 19th November, 1959.

THE CHAIRMAN (Mr. Conroy): When we reported progress the other day, we had been debating the Motion that this Council approves the contractor-finance proposals for Nairobi African Housing which are contained in Sessional Paper No. 3 of 1959.

MR. BUTTER (Secretary to the Treasury): Sir, I rise to deal with two points raised by the hon. Member for Nairobi West, firstly as to the rate of interest, and secondly as to the effect of contractor-finance proposals on the 1963/66 Development Plan. He said that he thought that the contractors might have to pay as much as 8 per cent for their money and that this would inflate bids and would increase the cost of the houses. Sir, as the contractors would, no doubt add their normal profit both on to the cost of the building and on to the extra cost of the finance. I think I can reassure him fully on this point. In fixing the rate of interest one has to have regard to the period for which money will be out and the minimum period is one of only six years, and if one looks at the back page of any *Financial Times* to get a guide on what gilt-edged rates are—and after all this is similar to a gilt-edged loan as it is secured on the revenue and assets of the Nairobi City Council and is further covered by a guarantee with Government—we find that under British Funds the normal rate of redemption yield on a loan of six or seven years is less than 5 per cent, and for Dominion and Colonial loans of similar periods, is less than 6 per cent. We can then consider

where, in fact, these contractors will be getting their money from and the conclusion is that they will probably at first, at least, approach banks in the United Kingdom. The normal overdraft rate now in the United Kingdom is 5 per cent and the hon. Members may wonder whether the bank would be prepared to put up money at that rate for as long a period as five, six or seven years. I think they would be quite right. I think a little more would have to be paid but the attitude of banks in the United Kingdom with regard to loans is changing, and the Midland Bank, for example, have recently announced a scheme for making loans to businesses, which will be for from three to five years for plant and equipment, and up to ten years, and possibly longer, for business premises. Interest on such loans would be 6 per cent. I hope, therefore, the hon. Member is reasonably satisfied that in fixing 6 per cent we fixed a reasonable rate, and if he is still not satisfied I can only say that I have had discussions with the financial adviser of one of the contractors interested in the project and he advised me that he was expecting to get his money at a rate of over 6 per cent. So I do not think we need worry that there will be a very large element of excess interest in the tender prices.

The hon. Member's other point concerned the effect of contractor-finance on the 1960/63 development programme. The only two schemes that will come into that period are this one and our own project, and the maximum amount that we might have to find in those three years for these two projects is about £4,500,000. It will probably be less. This will have to be considered against the background of a normal development programme of some £27,000,000, instead of nothing at all being left for other projects we would have at least some £22,000 to £22,500,000. We hope, however, that with the growth of the economy and general progress that will take place over the next two years, that it will be possible for the Government at that stage to find the money to repay the contractors and also to finance a development programme which will include essential development projects.

If conditions do not improve, then we will really be no worse off, because we will at least have the houses and the roads and instead of not having the

[Mr. Butter] houses and the roads and having to find money for them we will at least have the houses and the roads there and we will have a further alternative course open to us which is to supplement any funds that we think will be available for our 1960/63 programme by further contractor-finance. We have already indicated that when the four-year programme on roads draws to an end for that stage the Government will consider whether we should try to negotiate better pay for a further three years. And for housing projects there are sometimes special sources of finance that can be found.

To conclude, Sir, I must admit that I share to some extent the hon. Member for Kiamba's instinctive dislike of contractor-finance. If one pays one goes along so much the better but I think we must remember that if the standards of living of the people of this country are to be raised the one thing we must do is try and maintain the level of investment and if the level of investment in the public sector lags behind the whole progress of the economy will be slowed down. And I think we must admit that the two spheres in which we have lagged behind in expenditure in the public sector are roads and housing. We must now catch up and we are trying to catch up. The only way we can do it is, by contractor-finance. I therefore strongly support the Motion before the Committee.

MR. TOWETT: Mr. Chairman, I rise to speak on a few points in general which have just come from the Members opposite. I do not see why people cannot get away from the idea of racial discrimination. I find it difficult to understand how the Government mentality is working. Everything must be in racial categories.

We have here Nairobi African housing. Now why cannot we get away from this racial discrimination idea. We should not talk in terms of African, Asian, Goan housing and what have you, European housing and others, and all the rest of it. Now every time the Government talks of this, of the different racial groups, the Government is perpetuating the racial antagonisms among the people of this country. Why can you not start standard A buildings for all races and standard B buildings for all races and just live as people of this country?

Well, I do not believe for one that this idea of African housing should be supported. I am objecting to that on the basis of racial discrimination and you know the sense that one feels when you talk of African housing and Asian housing and so on. But not only that, in the so-called African housing areas you do not have really what you call social amenities. You do not have social halls. Some of these schemes you find several blocks of houses and there you do not have even somewhere to go and buy a cigarette at night. You have no social amenities. We do not have social halls because you build buildings which you think should be of a standard probably of people in the Belgian Congo or the bushmen in South Africa. We want to mix and you come and preach about your culture, we want to see your culture in the areas where we live. It is no use talking about the European culture when you go and live on the Thika side or somewhere in Nairobi West and keep your culture with you, you are not doing any effective work then.

So, Mr. Chairman, I am totally opposed to this idea of African housing which is racial, and also to the idea of us not having social amenities, social halls, where we can go and meet in the evening and enjoy ourselves living in an admirable atmosphere. It is no use we Africans being shut up somewhere probably down in the new African areas or in Pumwani. We go and stay there in our buildings and in our flats and there is nowhere to go for a social evening. We should have those things and with those very few points and remarks I oppose the whole scheme.

If it is on a racial basis and if it is without social amenities, I oppose the Motion.

MR. MBOYA: Mr. Speaker, Sir, I would like to point out that I was not here when the debate started and therefore might not know about the things the Minister or Members or the Government side may have dealt with in this particular question. I do want to make one or two points of a general nature.

The first one is the question of the standard of housing as such. We cannot over-emphasize to the Government the need to develop housing on the basis that the standards of living and also the

[Mr. Mboya] desires of our people are rising every year. What might be considered good housing for Africans today may not be good housing tomorrow. In planning housing schemes therefore we must not really take a short-term view of the housing problem but rather a long-term view. It is useless to have a brand new scheme this year and give it all the publicity in the world if in five years we find that it has become completely obsolete according to the new standards that our people acquire. The question which my friend raises of discrimination would like to put it differently—the question of treating housing as a racial matter than a social issue does to a great extent affect this whole attitude on standards.

For example, some people think that because they are building a house for Africans they may not put the washbasin in a certain place or the electricity must not be fixed in a certain manner and so on. They have this rather old idea that the African does not need certain amenities.

Now, Sir, if you look at the new housing schemes most of it has become very expensive and the type of Africa who really takes over those houses is the one who is likely to develop, rapidly develop, now desires practically every six months and whereas he may not afford a radio set or a cooker this year, next year he is bound to afford a radio set or a cooker. Then your housing scheme for him becomes totally unsuitable.

I would suggest very strongly to the Minister and the Central Housing Board that these matters are given much greater attention than they have had to date.

The second point that I would like to make is that of cost. In Nairobi, for example, since the Government stopped or rather the City Council refused to accept a subsidy there have been numerous difficulties about house rents. We are today paying the rents on an economic rent but I now want to suggest very strongly that the housing that we build however grand it may look is no use to us unless the people for whom it is meant can afford the rents that are charged. The Government may retort, or the City Council, that in fact all the houses built there are taken up. But at what hardship and difficulty to the occupants? If a person is forced, Sir, to

spend 50 per cent of his total earnings a month on housing, then I suggest very strongly this calls for an urgent review of the situation. In my estimation the general standard that is accepted on the amount—the percentage—that a person should spend on housing for rent from his earnings should be not more than 20 per cent, but we find in Nairobi a situation in which people are being made, because of lack of accommodation at the sort of cost they can afford anywhere else, they are being made to spend some 50 per cent of their total earnings on housing.

Now, I would suggest very strongly to the Ministers concerned that this matter should not be left entirely to the City Council or the local government, that the Government has a responsibility here that it must, in my view, accept. I think it is very weak for the Government merely to say that the City Council has refused a subsidy and therefore there is nothing they can do about it. I think the Government should accept this responsibility to the extent of being able to tell the City Council that they have a moral duty to ensure that accommodation of a suitable nature is provided for the people and to that extent that they have also a moral duty to ensure that the people spend a reasonable amount of their earnings on their rents and housing cost. I would, therefore, urge, Sir, the Government to look into this question even more urgently now because in the Press in the last few weeks there have been suggestions that the City Council intends once again to put the rents in Nairobi up. I do not know why, but it is suggested that the water bill is going up and some other costs are going up. It may be that it is a question of cutting down the administrative costs of the City Council. There is, Sir, a very heavy expenditure in administration in the African areas in the City Council. We have had a duplication of a number of people some of whom I could not certainly tell what responsibility they have in what work they are doing. We have a superintendent, an assistant superintendent, a housing officer—some-ones who merely goes around with padlocks to lock up houses—and a host of other fellows. I am wondering whether all this administrative cost is necessary and why the African tenant should be made to pay for the comfort of some

[Mr. Mboya] of these fellows, especially if they are not particularly necessary or essential in the administration of the African areas.

I submit, Sir, that in the African estates there are a number of Europeans engaged there as assistant superintendents who could be replaced by the present African estate officers. I do not myself see why we should have this duplicity all over the place because some people in the City Council have got it into their heads that they must employ Europeans in the African estate, whatever their qualifications, whatever their capacity. They have got to be there just because they happen to be European. To them "European" and "responsibility" are synonymous. The point which I would like very strongly to emphasize is that this is entirely wrong. And when this involves an expenditure—on the part of some minimum wage-earners—on the part of some of the Africans merely earning subsistence wages, then I think it calls for very serious consideration.

The last point I want to make is regarding amenities. When an African estate is built in Nairobi it takes us sometimes over a year, even two years, to get a road to the estate. During the rainy season the African has to go through the wet mud and water in order to get from his house to the main road where he might have to take a bus to work and so on. Now, Sir, I think it is essential that when a housing scheme is being planned that the roads and the sanitary facilities and the lighting facilities are made part of the plan right from the very start. Now, it is very inconvenient to ask a tenant to pay the full economic rent when, in fact, he does not enjoy all the amenities. I consider, Sir, that it is absolutely necessary—as indeed is done in European estates in Nairobi—that the roads are put in. And by roads I mean proper roads, not footpaths and some of these open spaces that we are made to walk through.

The other thing is again the question which relates to the previous point I made about people considering the African as totally different from the European and Asian. When an African estate is planned nobody has ever got it into his head to think that there may be Africans who own cars and who want to park their cars near their houses.

When an African buys a car to live in the African estate he has got to park it some 200 yards away and walk to his house in the rain and so on. In these higher-class houses that we are told of so much, there is no facility provided for people who may wish to have a car, who may wish to own a motor-cycle and so on. I consider this is a necessary part of the whole planning system for housing and that it should be taken seriously into consideration. Government and the Municipality or City Council must recognize that our people are developing and developing fast and therefore more than anybody else they also want the same amenities that exist in other areas for the other races.

Now, it is particularly unsatisfactory, Sir, if I want a suitable house with all the amenities to have to move from the African estates in Nairobi to live either in Parklands or in one of the European areas. It is just impossible to get anything else in the African areas and those of us who decide to remain in the African areas do so at considerable inconvenience. We cannot even entertain our friends. We cannot even invite some of our hon. colleagues here of the other races to come and visit us because the facilities just are not there. Why should I, because I want to have a higher standard of living, because I want to have a much higher standard, have to move to a European or an Asian area. Why should I be forced by circumstances to leave my own area where I belong, whether I like it or not, which is particularly and primarily provided for my own people and live with the Europeans and Asians. I want to live with my people and I feel that there must be the same standard of housing and living as anybody else. If I decided to remain in that area, and that is why I am most emphatically in support of the statement of my colleague when he says that maybe the question should now change from a question of African housing, Asian housing or European housing to a question of classes-in-housing—class A, class B, class C, or whatever class you like to call it—and let those who can afford class A live in class A but let them be everywhere.

This discriminatory effort, for example and I am sure my friend the hon.

[Mr. Mboya] Specially Elected Member, Mr. Muchura, will remember this—this whole question of asking Africans that if they want higher class houses they must move to a special area is most disagreeable. We feel that higher class housing and lower class housing should at least be built in the same vicinity. We do not want the situation created where the African with a slightly higher income is going to be moved completely from the rest of the Africans because the Government or the City Council thinks that that is the only way to establish higher-class housing for Africans. We want those high class houses to be in the same area as the others. We want facilities in the context of what our people may enjoy in the evenings.

Nairobi has about 125,000 Africans, and the question which neither the City Council nor the Government seem to ask themselves is, "How do these people occupy themselves after four, five and six in the evenings?" "What do they do?" There are no amenities. There are no facilities in the African areas. They have no cars and motor-bicycles to drive into Nairobi and go to cinemas and so on. They have to stay in the African locations, and what is being provided for them today? Three things—churches, beer halls and some quasi social halls, which are not looked after. There are no library facilities in the African areas, and in any such hall where there might be one, the books in it no one would even dream of reading—not even a child of 12. But every-time a new estate goes up they paint the backwalls of these houses bright green, blue, red or yellow colours and that publicizes how wonderful the housing schemes which the Government is producing for the Africans are. We are not asking the Government merely for four walls and a roof. We are asking the Government and the local authorities for homes where our people can live and feel that they are living in a home to raise their families, their children and to live a decent life. We are not merely asking for a place to lay down our heads in the night. We are asking for a place where we can entertain our friends, and where we can feel proud that we have something to show someone else. We are asking for a place where our people can develop a sense of pride and dignity, and

not merely some cubicles and bed spaces and that sort of thing.

I feel very strongly, Sir, that it is high time the Government took a more realistic attitude on this question of housing. If the obstacle arises in the power and strength of the Nairobi City Council, then I think the Minister concerned is called upon to take a much firmer stand with the Nairobi City Council than he has taken in the past.

I want to refer here to the dissatisfaction most Africans had when, through the wrangle between the Nairobi City Council and the Government, almost two years went by without a single house being built because they were arguing not so much whether the money was available but who was going to control it. The African is not interested in whether a house is controlled by this man or the other. He is interested in getting a house—a home. He wants to see them built, and it is a sorry state of affairs that when we recognize there is such an acute shortage of housing that two years should be allowed to pass by without a single house being built, and the only reason is that someone in the Ministry is writing a long memorandum to the Town Hall and the Town Hall is writing a long memorandum in reply, and these people who are so near each other, about 100 yards, are spending two years deciding on whether some people, some unfortunate people, are left in the streets today will have a roof over their head. Sir, we hope this sort of nonsense will not be allowed to arise again. We hope that the lessons of that particular experience will have taught both the City Council and the Government that they have a bigger responsibility than playing around like little schoolchildren.

THE MINISTER FOR LOCAL GOVERNMENT, HEALTH AND TOWN PLANNING (Mr. Hawley): Mr. Chairman, I did not intend to speak, but after the speech by the hon. Member for Nairobi Area I am doing so. I think there was really only one question that was affecting my Portfolio raised before the hon. Member spoke; and that was raised by the hon. Member for Nairobi West in regard to the City Council's own capital programme, and as to whether the repayment of this money would in any way

(The Minister for Local Government, Health and Town Planning) affect the City Council's capital programme, and their ability to raise the money needed for their general development. I would only like to say, Sir, that discussions are now taking place between the City Council and the Government on their capital programme for the next three or four years, and it does look as if most of the money that is required by the City Council for that programme will be found from various sources. I cannot really say more than that at the moment.

Now, Sir, if I may turn to the hon. Member for Nairobi Area, I would first of all like to say that with regard to rents which he raised—that is the rumour that rents are being raised (for the houses in the City of Nairobi)—I have also only heard rumours, and I can assure him that very considerable investigation will take place before any such rise is allowed. In fact, up to nearly two years ago the City Council suggested that the rents might be raised, and a specific investigation was undertaken with the result that we were able to cut quite considerably the expenses of the City Council in those areas, and by doing so not raise the rents. In fact, in spite of general difficulties in administration and increasing expenditure in administration, we have been able to keep the rents at the same level now for a considerable time, and I hope that we will be able to do so in the future as well.

As far as subsidies are concerned, Sir, one has got to be a bit careful. The Government does, of course, subsidize new estates such as the one which the Committee is now discussing in a once and for all subsidy on the cost of services, and we feel that that is a very much better way of doing it. At least one knows what one is in for. A large sum of money is paid over and that is the end of it, but it has been found in many countries, indeed, that a general annual recurrent subsidy for housing can lead the finances of any country or local government for that matter, into very difficult water. Therefore, although I have every sympathy, and agree with the figures which the hon. Member has given, I think 20 per cent of a man's income was the figure he mentioned. I

think it does go in other countries to between 25 and 30, but that is getting high. I do agree with the fact that only a certain proportion of something of that level of a man's wages should be spent on housing—on this rent. We have, of course, tried to meet this to a great extent by offering allowances and in my view, Sir, it is really better that the wages of themselves reflect the need of the cost of housing rather than a subsidy which comes either from the ratepayer or the taxpayer. I think, on the whole, I would rather see the matter met in that way. However, as regards keeping rents down, we try to keep that particular figure, or something very near it, in mind, and I can assure the hon. Member that we will not allow the rents to go up without a very justifiable reason.

Now, Sir, the hon. Member then went on—and I think I must mention he mentioned the employment of Europeans on the African estates of the City Council—who he thinks are not doing much of a job or need not be there, and that again is a specific matter which I will keep in mind when the costs are investigated.

A number of the other points, Sir, will be dealt with no doubt by the Minister for Housing who is responsible for them, but I do want to make this point about the non-racial aspect which was also mentioned by another hon. Member. As far as we are concerned in the Ministry of Town Planning, there are no more European, Asian or African areas. Our areas are high density, medium density and low density, and that, I think, is how it should be; and indeed, there is, of course, an anomaly in the African estates themselves, in that the land for the African estates was given by the Government to the local authority on the understanding, and indeed, on the condition, that it would be used for Africans only. I have made certain representations on this one, and I know that there is a very strong feeling in the African estates that racial discrimination should be maintained. I think it is mostly because the Africans would rather not see any other than Africans trading in the particular areas. Well, that is one of the problems we are up against, and naturally one does not want to force things on to people against their will.

(The Minister for Local Government, Health and Town Planning)

However, the other problem, of course, is that the Housing Ordinance at the moment applies only to Africans and I believe that the idea is to amend that, but no doubt the hon. Minister for Housing will deal with that particular point. Now it does seem to be illogical when on the one hand hon. Members talk of subsidies to bring the rents down, and on the other hand talk about the provisions of garages in these same areas. It does not seem right to tie up, I think it must be recognized, and indeed it is so planned, that what we call the African estates today are planned as high density areas. I hope, very much that the number of Africans living outside those high density areas and medium and low density areas will increase rapidly, and so it should when the economy of the country generally increases the standard of living and the earning powers of the Africans increase, and I can assure the hon. Member that from the point of view of planning a town or city it is very much better to have your high density areas in one place and with the particular services required for that area, and have your medium density areas planned in separate places and so on. It would be very difficult, I think, to replan the African estates on a density basis by having little pockets of high density and little pockets of medium and little pockets of low. As I say, I am talking from the planning-point of view. And so, therefore, it would look to me a natural thing that when Africans raise their standard of living, are able to earn more and wish to live in better houses and have the amenities of garages and so on, that they should then move to the medium density areas where other people of the same standard of living live. And that, Sir, I think, is the natural and proper development. In fact, it seems very curious to me with all this talk about non-racialism and the objection to calling certain areas African and certain European and certain Asian, that we should also, at the same time, have suggested to us that the Africans do not want to move out of those areas anyway. They want to live with their own people and they are not interested in living with others. That, I gathered, was the remark made by the hon. Member for Nairobi

Area and it does not really seem to tie up with the other arguments which he put forward.

Therefore, Sir, on facilities in the African areas, I think again the hon. Minister for Housing will deal with it with regard to this particular estate we are discussing, but I do agree with the hon. Member for Nairobi Area, that the facilities are not sufficient, and one of those facilities which he especially mentioned is library facilities, and I certainly believe that they could be improved, and I will look into it now. As far as this particular estate is concerned, I think the hon. Member will be satisfied with the plans that will be shown. The Minister for Housing will no doubt outline the hon. Member then harped back to the old trouble of the quarrel between—or rather the discussion, the disagreement, misunderstanding, etc., between the City Council of Nairobi and the Government, and said that no houses had been built for two years, which I think was a little exaggerated. However, I would suggest to him that what is before the House today is, although delayed, and wrongly delayed, is the result of the initiative taken those two or three years ago when first it was planned that 5,000 houses should be built. In fact, as has been stated, a number of houses have been built under the contractor-finance scheme which will round off that 5,000-house project. It has taken much longer than it should, but 5,000 houses are a lot to build, and I think it will meet all the immediate need in Nairobi, and I think it is something for which not myself, but the Minister for Housing, should be given credit.

Sir, I beg to support.

MR. RUBIA (Nominated Member): Mr. Chairman, although much of what I was going to say has been said and answered by both the Member for Nairobi Area and my hon. friend the Minister for Local Government, Health and Town Planning, but there are one or two points which I feel would like to speak about which I feel rather strongly about as I live in Nairobi myself and as the responsible Minister myself. I live in one of the first fourteen hundred houses which came out recently.

[Mr. Rubia.]

Now, Sir, I would like to say how much I agree with what the hon. Member for Nairobi Area said in many respects, particularly regarding the facilities such as roads, water services and bus services. I will try to put some of these points across. Well, I think the hon. Minister when moving his Motion did say that there are some 34,000 Africans unhouseed in Nairobi at present. Now, Sir, this is a very high figure, and I am sure that everyone will appreciate the truth. But, Sir, even of those who are housed there are some, in my opinion, are not properly housed. I do not want to go into details, but I have Pumwani and Kariakor in mind. Now Kariakor is one of the places built in the 1910's, and judging by their size and ventilation, Sir, one wonders if these people had any respect for fresh air. Now as regards Pumwani it is, but for the fact, that there is no alternative accommodation remarkable that this estate is still standing, and I am sure the hon. Minister for Housing will bear me out here in this respect. The state of the area itself is in shocking condition. The layout—the dilapidated houses—and, Sir, those things—even leaving aside those needing houses—we have a very urgent problem of rehousing, and it is with that in view, Sir, that I strongly welcome and strongly support this Motion.

Now, Sir, there are one or two points which I would like to raise for any future schemes which may come up. Perhaps the Minister will not mind if I give an example of the houses built recently. Now I live there myself and I therefore know the state of affairs as the situation is today. Now I suggest, Sir, that in any future housing plans the question of roads should receive very serious consideration—at any rate the main roads, for various reasons, but the main one is because of the bus services. It is not possible at present to have bus services inside, and the furthest end of the estate is at least three-quarters of a mile from the nearest bus station. Now that is quite a long distance when it rains—as we have had it recently—and I suggest, Sir, that the question of main roads, at least, should receive serious consideration. I am glad to say that I noticed that in the so-called Jerusalem estate—the

Minister has put in tarmac roads, and that, I think, is a step in the right direction in that respect.

Now the other services, Sir, as in the very recent estate, is the queuing of shopping facilities. Now, as I said, I am a resident of this estate, and for the last four years the residents have had quite a difficult time with temporary facilities. There are, I think, two Ministers concerned here, but if they could get together and at least speed up this question of proper shopping facilities it will be much appreciated. The residents of that area feel very strongly, and I very earnestly appeal to the Ministers concerned to take up that matter.

Now, Sir, as I say, a lot of what I was going to say was said by the hon. Member for Nairobi Area, and I would like to end by saying that the question of good housing should be considered. I agree the higher the standard the higher the rents would be, but I think it is possible to put in some improvements at a very low cost. There again, Sir, I hope the Minister will look into these things when the question of building costs are considered—even at the same cost possibly some improvements could be made. I will not go into details because this is not the right place to do so, but consultations should be made over designs with the African mothers who are likely to be of help, as they use these kitchens and that sort of thing.

Finally, Sir, these houses are, supposed to last at least 40 years, and 40 years is quite a time, and quite frankly I cannot see some of them lasting 40 years, and I think that is another point to be borne in mind by the Minister when the question of standard is considered.

The other one, Sir, is the question of fixing such things as individual water meters. At present we do not have any water in Ofafa after 10 o'clock at night. Now, the reason given is that people have been wasting water, and therefore it has been necessary to cut down the supply, but I think, Sir, that if people had individual meters they would tend to be more careful with water spending, and I think that would remove much of the difficulties today. There are some people who return from their places of

[Mr. Rubia.]

employment at midnight, and it is disappointing when one finds no water in the house to make at least a cup of coffee.

Mr. Chairman, I beg to support.

MR. ALEXANDER: Mr. Chairman, the proposal before us is to build 3,000 houses for £1,500,000. On the floor of this House I must say it was the last place I expected to have first lessons in apartheid from the Member for Nairobi Area when the subject is to spend £1,500,000 on 3,000 houses. It is a pity, Mr. Chairman, that the Member for Nairobi Area did over generalize when he referred to the cost of administering these houses, I do believe that if he had been more specific it would have been possible, on the floor of this House, to answer it. What I can answer, Mr. Chairman, is his plea that this housing, or as I understood his submission, this housing should be placed upon a sub-economic rent basis. Suffice it for me to say briefly that no where in the world—certainly in the British Commonwealth—have they found sub economic housing a financial success, or financial wisdom. The trouble is, Mr. Chairman, that it distorts the whole of the financial approach to housing, and I do know—certainly in the British Commonwealth, and wherever they have sub economic housing—they would do anything to get out of it. The trouble is that it is of such long standing and the figures are so phenomenal that they find it extremely difficult to move away. Where I am in entire agreement with the Member for Nairobi Area—and it was quite obvious he read my speech on Thursday and repeated a great deal of it—is when he referred to the whole question of amenities, and I have asked the Minister for Housing, and I am sure he will—I asked him on Thursday—when he replies to tell us to what extent this £1,500,000 does include general amenities, particularly social halls and plantings and the exterior of the houses.

If I may turn, Mr. Chairman, to the Secretary to the Treasury who was speaking this afternoon, to say—

AN HON. MEMBER: Inaudible.

MR. ALEXANDER: Mr. Chairman, I am the only person who is allowed to be interrupted in this House. The Member

for Nairobi Area does read my speeches and he says he does not.

MR. MBOYA: I cannot understand them.

MR. ALEXANDER: May I say, Mr. Chairman, how much we welcome the very thorough way—so typical of him—that the Secretary to the Treasury presented his figures this afternoon, and to say how much we welcome him permanently in this capacity, as Permanent Secretary to the Treasury, I think it is the first opportunity we have had in this House on this side to welcome him in that way, and we certainly look forward, Mr. Chairman, to the very thorough and very clear statements on the intricacies of finance that he does give—he has given to us in the past—and we look forward to them in the future.

But what I do want to try and dispose of, Mr. Chairman, is the temptation of the inclination of both the Secretary to the Treasury and the Minister for Finance, to try and convince us that this particular operation—this operation of contractor finance for 3,000 houses costing at £1,500,000—to try and convince us that it is a perfectly normal operation. The Minister for Finance, when he spoke on Thursday said, and I quote, "If the tenders are invited in the normal way, they will be examined in the normal way." Then the Secretary to the Treasury this afternoon when he was speaking did make various comparisons—financial comparisons—with the operations in the City of London with the way in which money is borrowed in Britain and is borrowed for Dominion and Colonial territories. The whole theme, and the theme of the Minister's speech last Thursday, was to try and convince us that this is a perfectly normal operation. What we have got to have perfectly clear in our minds, Mr. Chairman, is that it is an entirely abnormal operation. If this contractor finance is entered into—and we have supported it from this side of the House simply because Kenya has been unable to negotiate this sort of a project in the normal way, and when the Secretary to the Treasury tries to convince us that money will be borrowed for this "in the normal way" he is, of course, certainly not convincing us. It is because of the situation in which Kenya finds itself—a

[Mr. Alexander] situation of economic doubts, as the result of political instability—that we have to pay this sort of a price, and it is no use trying to tell us on this side of the House that any contractor who goes into this will be able to finance it in the normal way, and if I may answer the Minister, what is quite abnormal about this is that, of course, the number of tenders that might come forward is strictly limited to those who are able to find the finance in the way laid down by the Government, and it is that, Mr. Chairman, that makes it abnormal, and it is that that restricts and limits the comparison that can be made. I know the Secretary to the Treasury did say he had spoken to one accountant or manager of one of these contractors or interested contractors. I wonder how many there are who are really interested, because unless there are a substantial number, and the tendering is competitive and keen, no amount of talking from the other side of the House will convince us that this sort of an operation is anything but abnormal, and I would not like this particular debate to end without us having it very clear in our minds that it is abnormal. We have heard it over the road contractor finance; we have already had some disquieting figures on that. I do not want to refer to them as there will be an opportunity of doing so at another time. But do not let us try and delude ourselves that there is anything usual or anything normal about this particular type of operation.

Mr. MATE: Mr. Chairman, Sir, I would like to speak on the actual planning of the houses. So far as the Nairobi housing schemes are concerned, Sir, I have often wondered whether any serious thought is given to it. To take an example, why is it that the bathrooms and lavatories are outside causing one to go out of doors at night to these conveniences? It is a question of perhaps economy, but it is not, and I hope that when the Government considers such schemes again they will remember these small points. Why should there be spaces left? As my hon. Nominated friend Mr. Rubia has said, planning is necessary. At the same time it seems to me that the Government are thinking of single houses that the Africans made for themselves in the

reserves with one room and a fireplace and some water somewhere; and they are building similar houses in the estates. I feel that this is a pity.

Sir, it has been argued that Africans could not be in better houses because of the cost. I am very glad to say that we have had good houses built and that the Africans have looked after them very well. I feel that it is now time for the Government to realize that their way of planning on the lines of the traditional Africans' houses should change.

I would not like to repeat the arguments put forward by the other speakers, but there is one little point: I would like to try to answer without entering into the wrangles between the Nairobi Members, but the hon. Member for Nairobi Area talked about not wishing to move from one area to another and the hon. Member for Nairobi West said that this was *apartheid*. If it is then I would submit that my hon. friend the Member for Nairobi West is responsible. He has been a City Councillor, a Lord Mayor of this City, and he has been responsible for the planning of the locations.

MR. ALEXANDER: Just an ordinary Mayor.

MR. MATE: Yes, at the same time it is planning of *apartheid*, whether in Kenya or elsewhere.

Mr. Chairman, we are criticizing a system which has been laid down by somebody. There is the problem of moving from one place to another. There is snob value in moving, or in remaining still. An African moving elsewhere feels that it is not because he is any better than his fellows and should not move to a better house on the same soil. The local authority planned estates. Why has it put all the soil below, say, Delamere Avenue, equally as good as any below that class of the soil above it? If it is the same timber, same stone, same cement, then surely the same materials can put up a good house anywhere.

Why should the Government cry so much about improving such areas in order to have standards of human beings, and not standards of houses? We are not saying that one human being is better than another, I am saying this and I

[Mr. Mate] believe that they are equal. If this is what an African feels then why should I go up and live in Kilimani because the other houses are so bad? We are urging for better standards.

Also, Sir, the Minister for Local Government mentioned that we Africans are practising discrimination. We are asking for the standard to be raised, and it does not matter where it is. If there are good houses for everybody, of whatever race, then I feel that we shall all be happy.

I would like the Minister concerned to explain why there are such great inconveniences in the houses today. He has been trying to show that things are improving generally, but the more we improve things the worse they become. The names of Ofafa Maringo and Ofafa Jerusalem are no compliments whatsoever. They are just ironical words and I should like the Minister especially to explain, himself being an African, why he likes living elsewhere.

Sir, I beg to support.

THE MINISTER FOR HOUSING: Mr. Chairman, Sir, it is a very interesting debate: it touches on housing which is very close to all of us. We like to have a place to sleep and a good place at that. The question before us is the approval by this House of a scheme which is designed to try to reduce our housing problem in Nairobi in particular. As I said in my introduction, this city had over 34,000 people whom we did not know where they were sleeping; let alone those in Kariokor as we are told; let alone those who have got something over their head.

Now, 34,000 people not knowing where to sleep, not having anywhere to sleep, is a serious proposition and Government had to take up action to see that they had at least reduced this figure to something reasonable. But at the same time, Mr. Chairman, Government had to consider the people who would be occupying these houses, how deep are their pockets.

Now, it is very interesting to hear a request made for a very good, high standard of housing, and at the same time saying that these houses must have very cheap rents. But the two do not go together, Mr. Chairman, and that has

been the consideration that has been gone into by the Central Housing Board: to design a house, as it were, cheap and yet best; to design a house that would last for 40 years, design a house that is an improvement on the present situation.

Mr. Chairman, I take no responsibility for building Kariokor or Stuart Moyo or these other estates, in fact on the occasion the City Council was trying to demand an increase in rents I was a member of the City Council and went to oppose that increase in favour of the tenants whose pockets were not very deep, or if they were deep they had many holes in them.

Mr. Chairman we are trying to improve what has been in existence for many years. The Member for Nairobi will remember Nairobi having houses given to tenants on a bed space basis. Now my scheme has gone beyond that. We want to get rid of bed spaces and provide not just ironical rooms, but family homes, I think, Mr. Chairman, that that is an improvement on bed spaces. Therefore, bearing in mind that a house has to be of a nature that the tenant would be able to pay for, we have had to cut out very many luxurious amenities.

Now the houses we are being asked to accept that they are of a poor nature are, in comparison with the rest of the houses in the City in the African estates, very much better. When one is improving on something it is natural that bad parsons arise. One says "Well, this had better be so." But, Mr. Chairman, the cost of these houses is a very strong element in deciding what amenities to provide and what facilities, without going too far beyond the abilities of the tenant to pay.

Therefore, I think we should accept the fact that although we would like to have good homes with perhaps a plot in front and behind for flowers and vegetables, the cost of putting up that house has a very serious effect on the tenant and bearing that in mind we have done what we are trying to do and with the suggestions and improvements that are being suggested, both within this House and outside, we should be able to satisfy some of the demands being made.

The question of having separate locations, Mr. Chairman, comes in. The Central Housing Board operates on an

[The Minister for Housing] Ordinance, Housing Ordinance Number 17 of 1953. That Ordinance provides for funds to provide houses for Africans. That is how the Ordinance is, and I have not been pleased, myself, to be providing houses for Africans only and amendments are in process of this Ordinance to provide for housing in general, so that any racial community, any race or anybody can have the benefit of this Central Housing Board. These are in process, they will be coming into here very soon and I am sure that will clear that one up.

As the Minister for Local Government said, it is very unfair to deal with housing according to race and I understand that very well. We are going in for not a, b, c and d, because that is also discrimination, but on a density basis, so that you have low or medium or high density housing and let anybody fit into any of those categories according to their abilities to pay. That is in progress, Mr. Chairman, and the House will be learning about it very soon.

I have some queries to answer. I am very glad that the Member for Nairobi is present because he would, perhaps, let us know more of the things that are going on in his area so that we may go into them and try and help.

The question of having African women or African ladies sitting on our committee to advise us as to the quality, design and suitability; that, Mr. Chairman, I did the first time I reconstituted the Central Housing Board, and I have two African ladies sitting on that committee. They are both Nairobi born African ladies and they ought to know as much about Nairobi housing as any other ladies. Mr. Chairman, we rely and depend very much on what advice they can give to the Central Housing Board where it comes to design, the suitability and the arrangements of various amenities in the house. That, I think, is not overlooked, we have taken care of that aspect.

As to the queries that were raised yesterday, I was asked about the rent that will be paid for Ofafa Phases 3, whether it will cover loan charges and interest. These are the items that the rent will cover; they will cover loan charges, maintenance fund contributions, improvements fund, water and conservancy—that

includes refuse removal and supply of dustbins—rates—and many people have not been regarding Africans as rate-payers, but they are—insurance, administration charges which the Member for Nairobi complained that the Member for Nairobi charge may not be a fair one, and the Minister for Local Government says he is going into it, and if the consumption of water in this particular estate seems to be a little on the high side, it is natural and I think necessary that meters should be installed, so that individual homes would be able to say, "We did not consume 10,000 gallons, we had only 600"; that sort of thing.

The other question was whether Government will have a say in the agreement that will be entered into between Government and the City Council or the City Council and the contractor. The arrangements are still in the proposal stage. The Government will execute a financial agreement with the Council. The terms of these are still to be decided, but it is proposed that they shall include clauses on the following lines: all plans and technical details will be approved by both parties, that is Government and City Council; the contract will be awarded by the Council after consultation and agreement with the Government. The rent will be fixed by the Council in agreement with the Government—the Government has the last say in this one, Government can say: "No" to a request for increase in rent if it is more than what Government thinks the tenant can afford. The arrangement by which the money will be repaid to the contractor will be settled by the Council with the contractor after consultation and agreement with the Government. Government will also guarantee the repayment to the contractor. These are some of the terms and conditions on which the Council will repay the Government. Those are the lines on which an agreement might be reached.

The contract documents for Phase 3 include a contract entitled "Financial Arrangements", which is part of the form of tender and sets out the terms on which the contractor will be willing to provide the whole of the finance for the completion of this project. On this document the contractor will be required to state the number of years he offers to give a moratorium during which there shall be no repayment. Our minimum

[The Minister for Housing] period is four years, but if he can offer more then it will still be considered. The period of years at which the moratorium will stop and over which he will be willing to receive repayment from us. Our minimum period here is three years. If he can offer more, so much the better. The method by which he wishes to be repaid by the Council, whether in equal instalments, yearly or in what form; those are some of the things which might be found in the agreement, but we cannot go ahead in detail unless we have the approval of this House in principle.

The City Council will execute a mortgage in favour of the contractor whereby the Council mortgages to the contractor the property and revenue of the Council up to the value of the Council's loan commitment to the contractor.

The Member for Nairobi West asked me about the tenders for Phase 2 and he wondered why we said it went to tender when the same contractor who built Phase 1 is the same as the one who was given Phase 2.

It is true, Mr. Chairman, that this went to tender and the contractors who tendered included Stirling Astald who are the contractors who built Phase 1. Theirs was the lowest tender and they had the advantage of having their plant on the site, they had their staff, they had built Phase 1, they knew the thing and they were cheaper in their tender and all the advantages were on their side.

The question of tenders for Phase 3 has been raised, whether they would exploit the position of being in possession of money—having the money they could perhaps dictate or take advantage of that and charge us very high prices. My Ministry has had a lot of dealings with housing all over the Colony and the experience gained, not only in Nairobi, is quite sufficient to indicate to us if a contractor is trying to do us harm, whether to accept or not. We have had quite a lot of experience in this matter and we believe that we have passed the point where we could, perhaps, be cheated.

The Member also—the Member for Nairobi West—asked me what the £1,500,000 was going to cover. Well, the scheme envisages ancillary services, such as roads, water drainage, street lighting,

trunk sewers, water mains; there is also provision for three clinics, a day nursery school, a community centre and even a football and games pitch. These are amenities that are included which I think it is fair that they should be included in this scheme, and also electrical installation.

The question of libraries and that sort of thing does not come into my scheme, those are local government affairs, they will look into that. But, Mr. Chairman, I would like to point out the fact that it is a scheme which is not yet completed. It was a 5,000-house scheme and we divided it into three phases because we were not sure of getting the money to complete the whole scheme at once, and during the time that you are building in stages we cannot provide all the services that we included in the whole scheme of 5,000 houses. I am sure when the whole lot is built, the things that we are explaining about will be seen to be in the plan. There is also a market—with stalls for vegetables and small *duka* keepers.

The quality of houses was raised by the Member for Mombasa. He thought that they were of a poor quality. They are good houses—I am certain, they are given 40 years and if Kariakari is still standing, I am sure these houses are going to stand even longer.

I might warn the Council on one point. Creation of slum conditions does not only arise from the type of building that you put up. It arises from the occupiers. People who live in it can turn even the best house in the world to become a slum and, therefore, it is not a one-sided affair. You can spoil a very good estate in a very short time by allowing either overcrowding or abuse of use of water and various other facilities.

The effect on our 1963/66 development has been dealt with by the Secretary to the Treasury and I think it is now for me to deal with the other Members who have raised other questions in their speeches. Someone—I think it was the Member for Nairobi West—touched on the question of movement into the City as a result of the provision of these houses. I have not consulted my colleagues on this side, but I do not intend to control movement of Africans into Nairobi in order to maintain the high standard or high type of houses we are

[The Minister for Housing] putting up. It will not be any more dangerous or heavy on the houses in Nairobi. Why? It is because we are building everywhere, in every urban town in Kenya we are building. The attraction to the town will not be specifically to Nairobi alone, they are going into all the urban areas and with the provision of houses everywhere, I think that problem can sort itself out. It would be very difficult really to put gates at the entrances to Nairobi, I do not know how one could manage it. On your side alone, the Member for Nairobi West, you would require very many gates to control whoever came into the town. That would, I think greatly increase the expenditure and affect various other things that the country cannot afford to do without. But I am sure that this will sort itself out, because we are not only building in Nairobi, we are building everywhere, including the rural areas.

The other point was about Kariakoo, I could not do or deal with all the problems in housing in the short period that I have been Minister. I went for the most difficult problem and we are trying to solve that one. There is another problem of Kariakoo, there is another one of Pumwani, but I believe in doing things one at a time. I am sure that after this has been approved, the next stage, planning stage, will be embarked upon. Shauri Moyo floors are horrible, I know, but the City Council has got money to deal with them. They have got money to deal with floors at Shauri Moyo, so that floors that are now accommodating rats and snakes and so on—I have seen them myself—can be made into something that is better and reasonable.

About subsidies, Mr. Chairman, there is only one scheme in the whole Colony that is subsidized and that is the Fort Tudor housing. We feel that with such a shortage of housing in the country, any new money that we get should be put into new housing and I hope that the completion of the 5,000 houses will make it possible for pooling Ofasa Maringo Jerusalem and Phase III so that the rent could be reduced. I am very much hoping that the contract will be reasonable because in such a way it will give us a cheaper price that will enable us to pool those rents, having the effect of

reducing the present rents which I am aware are not easy to pay.

The question has been raised in general terms about houses, high class, in various places. Mr. Chairman, when you are dealing with rental housing, you have got to think about the administration, taking care of those estates and the day to day activity of the tenants. When you have a rental scheme where you have to look after those houses, it is always easier for those schemes to be in one area. We tried, I think the Member for Nairobi Area was not here, we tried a scheme whereby—not a location—anybody could buy a house with enough space for a garage, servants quarters and a little garden in front, and a flower garden behind. That scheme did not succeed and I reported to this House that we have had to withdraw it because there was no need; it seems that people in Nairobi do not need that type of housing. It is supported by the fact that when Riruta was introduced very many intending candidates for this high-class housing applied for Riruta and they have already built and are living there. So I felt, perhaps, in Nairobi that need is still to be established, and I hope that in the very near future we shall know whether to couple it with some other purchases schemes. It depends entirely on the demand by the people for the type of housing.

I would like to answer the Member for Southern Area, Mr. Towett. He says that he would not like this Paper to be supported because it is touching on housing for one race, i.e. "African housing". I would like to say that until we have amended that Ordinance we will have to content ourselves with these terms for the time being. But there will be very soon changes made and he will be quite happy to talk about housing in densities and not on a racial basis, I am sure.

The provision of roads in Ofasa Maringo, and roads and services, was one point that was considered, and, in the money that Government gave to the City Council, roads and these other services like playing fields and so on, for that particular phase, were not included. The City Council had the money to do that and we left them to carry on doing that. As I said, Sir, when the scheme is finished, everything that

[The Minister for Housing] people think we have forgotten will be seen to have been included.

I would like to inform the hon. Member for Meru that we do not plan for rooms. The minimum we intend to provide in our houses is two rooms: that is the minimum instead of the bed space as it has been before.

Mr. Chairman, I think I have replied to the remarks which were made.

THE MINISTER FOR FINANCE AND DEVELOPMENT. (Mr. MacKenzie)—Mr. Chairman, I would just like this afternoon one point which was made this afternoon by the Member for Nairobi West, and that was in connection with this method of financing. The other day when I was speaking of the method of dealing with tenders being normal all I really had in mind was that the tenders would be called for and would be examined by the experts of the Ministries concerned; and that, as my hon. friend the Minister for Housing has said, we have had a good deal of experience of this kind of thing, and so has the City Council, and by applying the standards which are known it should be possible to form a pretty good idea as to whether or not tenders are reasonable and should be accepted or not. I would like to say, Sir, that as regards the number of tenderers there are, of course, quite a number of large contractors operating in the Colony and there is no reason for believing that if we have to go in for this kind of business we should be faced by a monopolist. I think there will be some competition for work of this kind and certainly if the interest shown in the road project is anything to go by, and indeed if interest shown by other contractors in this kind of work generally is anything to go by, then we can rely on a reasonable amount of competition.

Having said that, Sir, I would like to agree entirely with what the hon. Member has said and also with what the hon. Member for Kiambu said, that it is not a normal method of financing Government work. The normal method is perfectly well known and the only reason why the Government went in for this method of financing was that this was at the time, and still is now, the only way in which we can get this work done in addition to carrying on with our

normal development programme which, of course, is financed in the normal way by raising loans either on the market or, at the present time, in the slightly less normal way it is now but it is akin to market loans—of borrowing from the Exchequer. These, Sir, are the ways that the Government would wish to be able to finance its business, and I hope that the time will come when we shall be able to go back to the normal way. I would certainly like to see us able to go to the market for all our loans. Until we can do so, Sir, the Exchequer loans are going to be of the very greatest assistance and in the meantime for certain types of work, such as this and the roads contract, it is possible to turn to this method as one way of getting the development of the country pushed ahead. But, Sir, I would agree that it is not regarded by the Government as a normal method of financing.

Sir, I beg to report.

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Lt.-Col. McKenzie): Sir, on a point of order, do we have a quorum?

THE CHAIRMAN (Mr. Conroy): Under Standing Order 15, if my attention is directed to the fact that there is no quorum then it is my duty to take a count.

MR. BLUNDELL: Sir, I beg to move that Council does adjourn.

THE CHAIRMAN (Mr. Conroy): That is not the correct procedure.

The quorum consists of 12 Members, not counting the Chairman.

MR. BLUNDELL: Perhaps, then, Sir, we could terminate business on the grounds that hon. Members are not sufficiently interested in the proceedings of the Council.

THE CHAIRMAN (Mr. Conroy): That would have been possible if the hon. Member had moved that the question be now put because I should then have put the question. However, as he has drawn my attention to the lack of a quorum I have to ask that the divisions bell be rung for three minutes. Members can then come in and I put the question.

MR. BLUNDELL: On a point of order, Sir, would I be in order in moving that the question be now put as soon as the division bell has ceased ringing.

THE CHAIRMAN (Mr. Conroy): The debate has been wound up and it is merely a question of getting a number of hon. Members to vote on it. However, there is nothing to stop you doing what you propose to do.

The question was put and carried.

COMMITTEE OF WAYS AND MEANS

MOTION

KENYA SAVINGS BONDS: EXEMPTION FROM INCOME TAX

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. MacKenzie): Mr. Chairman, Sir, I beg to move:—

THAT this Council approves that all income of a person resident in Kenya or resident outside East Africa, accrued in, derived from, or received in Kenya from Kenya Savings Bonds (1st Issue) issued under the Kenya Savings Bonds (1st Issue) Regulations, 1959, shall be exempt from income tax.

Hon. Members will remember, Sir, that some time ago Regulations were issued in the Gazette for the Kenya Savings Bonds and, of course, at the time of the last Budget the House was told that it was the intention that these bonds should be issued on a tax-free basis. In the Regulations there was, in fact, no reference to any payment of interest, whether annual or otherwise, and the accretion in value of the bonds was stated in fixed instalments of Sh. 10 accruing over various periods after the initial registration. The Government thought at that time that this would itself be quite sufficient to exempt the holder of bonds from liability to income tax on the increase in value, but there has since been discussion with the East Africa High Commission Income Tax Department and it was decided, as a result of that discussion, that it was desirable to put the matter beyond all doubt by making a specific exemption under the East African Income Tax Management Act. I might say, Sir, that in reaching this decision the Income Tax authorities and the Government were guided by United Kingdom practices where the United Kingdom Government made a specific exemption in the 1916 Finance

Act in order to exempt from tax the interest on National Savings Certificates. It is not possible to say whether that precedent was absolutely necessary to follow, but at any rate this Motion, if accepted by the House, will put the matter beyond any further doubt.

There is, Sir, a further point that has arisen, and that explains the somewhat unusual wording of the Motion which exempts income of a person resident in Kenya or resident outside East Africa. The point of that, Sir, is that there is more than one Government in East Africa and it has been suggested that the other Governments might not be prepared, in fact they are not prepared, to grant a similar exemption from their tax to these bonds to that which the Kenya Government proposes to give, and, of course, we might have the rather peculiar situation arising if we exempted residents of another territory from tax, that they would come along and claim back from this Government, tax which was raised in another territory. But, of course, this would not arise in the case of anybody outside East Africa, and so we felt that we could give that further relief. In actual fact, I am afraid that it is not likely to amount to very much because my information is that, at the moment, the total sales for persons believed to be resident outside the Colony are two bonds of £5 each, and there is nothing that has been said in either official regulations or in subsequent correspondence or in publicity to indicate that the holders of those will necessarily be exempt from liability to tax if they reside outside Kenya.

One final point, Sir. As I mentioned the other day, receipts from the issue of these bonds are now over £90,000 and are rapidly approaching the £100,000 mark. I think it has been an experiment that already has shown itself to be very well worth while and I hope that it is going to be the precursor of further attempts to increase capital resources by tapping the relatively small local lender.

Sir, I beg to move.

Question proposed.

MR. BLUNDELL: Mr. Chairman, I wish, if I may, to refer to a point of order which I raised earlier. I would direct your attention to page 78 of the Standing Rules and Orders, section 71. Under

(Mr. Blundell) that section, Mr. Chairman, it seems to me that you should have adjourned the Council when the Minister for Agriculture raised the question of a quorum. If, Mr. Chairman, having observed that, you would cast your mind to section 36 (3) on the same page, it appears to me that if you rule that you are a Member presiding in the absence of the Speaker then you will retain your original vote as a Member and that will therefore be no necessity to disturb hon. Members opposite at their tea.

THE CHAIRMAN (Mr. Conroy): I must point out, Mr. Blundell, that you have not been referring to Standing Orders. You have been referring to the Kenya Constitution Order in Council, 1958. The appropriate provision, under which I have correctly dealt with this matter, is set out at page 6 of the Standing Orders, Standing Order 15.

MR. BOMPAS: Now, Sir, that we have disposed of that matter, I would like to proceed with the Motion.

I would like to congratulate the hon. Minister, Sir, on the fact that this Government has joined the happy throng who are having trouble with the Income Tax Department. However, Sir, the Government is more fortunate, in a way, that when they do bump into difficulty or anomaly they can solve it by moving a Motion in this House.

Members of the public have difficulties on occasions with the Income Tax Department, without so easy a solution open. I do believe that this is an excellent innovation on the part of the Treasury.

I beg to support the Motion.

The question was put and carried.

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. MacKenzie): Mr. Chairman, I beg to move that the Committee do report to Council its consideration of the Motions on the Order Paper and its approval thereof without amendment.

MR. BUTTER seconded.

Question proposed.

The question was put and carried.

The House 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 Motion that this Council approves the contractor-finance proposals for Nairobi African Housing which are contained in Section Paper No. 3 of 1959 and approves the same without amendment.

The question was put and carried.

MR. CONROY: Mr. Speaker, I have to report that the Committee of Ways and Means has considered a Motion that this Council approves that all income of a person resident in Kenya, or resident outside East Africa, accrued in, derived from or received in Kenya from Kenya Savings Bonds (1st Issue) issued under the Kenya Savings Bonds (1st Issue) Regulations, 1959, shall be exempt from income tax, and has approved the same without amendment.

The question was put and carried.

MOTION

UPLANDS BACON FACTORY: EXTENSION OF GUARANTEES

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Lt.-Col. MacKenzie): Mr. Speaker, I beg to move:—

THAT this Council note that Government has extended further assistance to Uplands Bacon Factory by increasing the loan guarantee by £35,000 to £275,000, to provide deep freeze facilities, by increasing the guaranteed overdraft by £62,000 to £92,000 to provide additional working funds and by extending the loan guarantee period by one year to allow a moratorium on repayments for one year.

Mr. Speaker, if I may give a little back-history on this, by resolution on 1st June, 1954, Legislative Council agreed to Government guaranteeing loans to £240,000 and a further overdraft of £30,000 to the Uplands Bacon Factory to enable the new factory at Uplands to be built. In August, 1958, the Pig Industry Board and Uplands Bacon Factory reported that a serious financial situation had arisen. The causes of this deterioration of financial position were two-fold. Firstly, carcasses in transit to London were deteriorating owing to the inadequate deep freeze facilities at the

[The Minister for Agriculture, Animal Husbandry and Water Resources] factory. Secondly, a fall in United Kingdom prices for the produce which was sold from Kenya to the United Kingdom, which was, in fact, because of over production of pig meat in Europe. The change in price from the price which we were getting in the United Kingdom was not quickly enough reduced to the producer locally.

Now, the successful establishment of the factory was of fundamental importance, not only to the pig industry but also to the cereals industry because it provided that a lot of maize which would have been exported at a lower price would, in fact, be absorbed by pigs and go through the factory at Uplands. Also Government already had a large investment in Uplands and felt that it had to grant further assistance. In the middle of November, 1958—19th November, in fact—the Council of Ministers advised that the guaranteed loan be increased by £35,000 to provide for the deep freeze and that the guaranteed overdraft be increased by £62,000 and the previous loan guarantee be extended by one year to enable a moratorium on repayments of one year. To afford additional protection of Government's interests, the interest in the factory was transferred to the Government for a period of three years. This has later been extended to five years with the agreement of the Pig Industry Board.

Now, Sir, the £275,000 loan is, in fact, divided into two—one of a £105,000 and the other of £170,000. The £105,000 section of this—interest is payable quarterly in arrears at 1 per cent over the bank rate of the Bank of England with a minimum of 3 per cent and the principal has to be repaid in not more than five annual instalments commencing on 1st July, 1960. And the £170,000 section of it—interest is payable quarterly in arrears at 5 per cent. The principal in this loan with interest is repayable by 60 equated quarterly instalments commencing three months after the repayment of the £105,000 loan. The overdraft section of it, Mr. Speaker, is required for a period not exceeding five years but as this depends entirely upon the local market and the overseas market and the effect of the pig industry notwithstanding date on the over-

draft has been fixed. The rate of interest for those interested is 1 per cent over the Bank of England rate with a minimum of 3 per cent.

I feel, Mr. Speaker, that I need not add any more to this other than to say I hope Members will support.

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Mackenzie) seconded. Question proposed.

MR. ALEXANDER: Mr. Speaker, Sir, this Motion concerns money and this Motion concerns pigs. I, Mr. Speaker, move amongst pigs. I keep my hat on. But there are three features common to all pigs: they all smell—

MR. BLUNDELL: Question!

MR. ALEXANDER: I am not talking about the hon. Specially Elected Member, Mr. Speaker—

THE SPEAKER (Sir Ferdinand-Cavendish-Bentinck): Even as an obvious jest that is not a parliamentary or very proper remark!

MR. ALEXANDER:—they all have got big ears; and they all at the rear carry a very effective aerial. And therefore when I move amongst this world of pigs, Mr. Speaker, there is much that I hear. And I only wish the Minister when he was speaking might have told us more, because, of course, we here are concerned with large sums of money in which Government is involving itself.

Now, I am sure that nobody from this side will be critical of Government when it comes to the assistance of vital industries—industries on which this country so largely depends. But we are entitled, Mr. Speaker, if there is other information concerning this matter to know it. I do suggest, Mr. Speaker, that the problem of this particular industry and the particular factory in question is a problem largely of marketing. At any rate, the question that is posed before us today, I do suggest, arises very largely as the result of marketing. And I do suggest, Mr. Speaker, that what is required is a modification of the whole of the processing and the marketing methods of this organization. And this, Mr. Speaker, is where I come to the part that I am sure you will hear and I do have it on reliable information from within this industry—that in about October of

[Mr. Alexander] this year, a very renowned expert on the whole of this industry did produce some notes in Kenya for the guidance of this industry. And my understanding is that the particular individual is linked with a firm of very great substance and of great world repute. And I am wondering whether we may be told, Mr. Speaker, whether this information has reached the Minister and if it has reached the Minister what is he doing about it; and whether, in fact, it has also reached the inner-citadels of this particular industry. I understand that this Uplands Bacon Factory—has already gone into the question of marketing in the commercial aspect of their activities and that they do have an arrangement with a London firm. But I do also understand that this arrangement is not fixed and that it would be possible if alternative arrangements were produced that are better for this factory to switch over to them.

Still dealing with information which I believe to be reliable, I would like to ask the Minister also in the context of what he told us when he spoke of what happened, I think, he said two years ago—the deterioration in stocks either in London or on their way to London—whether in fact there has been in recent times any instances of bad pig products at the coast and what has happened to them; and what also would be interesting, Mr. Speaker, if he would tell us whether there has been any dissatisfaction expressed with the grading, the method of grading, at Uplands Bacon Factory and whether, in recent times there has been any alteration in the system.

Lastly, Mr. Speaker, may I refer the Minister and hon. Members opposite to an article in *Field and Farm* of November, 1959, that is headed "Pig Board Reports make Degrading Reading", an article by a Mr. Peter Hill, from which with your permission, Mr. Speaker, I would like to quote one short extract: "At the Royal Show Mr. Colin Brett who judged the pigs said that the Kenya grading did not appear to follow the English pattern and that meat in this country is not so palatable as that on the English market. Is not the answer to follow bacon carcasses right through the factory and compare the end product

rather as a test-taster does with the grading of the pig on arrival?"

Mr. Speaker, I have already said that it is right for Government to come to the aid of vital industries such as this. All I am trying to do, Mr. Speaker, is to suggest that I have information which I believe to be reliable and I believe to give the opportunity in this responsible House to the Minister to reply to the information that I have been able to produce.

I beg to support.

MR. BLUNDELL: Mr. Speaker, I should like to congratulate the hon. Member opposite on moving this Motion which I think I am correct in saying began as a twinkle in my eye in November last year.

I would like to ask him when he replies, Mr. Speaker, to tell us whether indeed the thirty-five thousand is to provide the deep freeze, or whether the deep freeze has not already been provided and that the hon. Member wishes to cover the bank in so far as that provision has already been achieved, and similarly with the working capital because I assume that the industry has already built the deep freeze and has already made the particular advantage of the additional working capital and the object of the Motion is not really to provide it so much as to assure the security to the bank who has advanced it.

I would like to ask the hon. Minister also, Mr. Speaker, when replying if he would indicate to the House whether he has yet had time to consider the relationship of the Board of Uplands to that of the Pig Industry Board. The Uplands Board is at present a Board in which the majority of the members are nominated as a result of the approach the industry made to Government more than a year ago for capital. At the time the Government gave them an undertaking that after three years they would reconsider the matter. One year has already passed. I believe that we need to look carefully at the relationship of the Uplands and the Pig Industry Board so that the industry works as a co-ordinated whole and not, as in the past, before the new Uplands Board was reconstituted, as two separate entities. I would like to know from the hon. Minister whether he has had time to consider that; and whether

[Mr. Blundell] he will bear in mind that only two years has elapsed since there is only two years to elapse before he will have to consider it unless he has made an arrangement with the industry to carry it forward *pari passu* with the change from three years to five years for the holding of the equity by Government, to which he referred.

The second point I would like to refer to, Mr. Speaker, and to ask the hon. Minister to comment on is as follows. This Motion, in effect, commits the people of this country to underwriting a large element of finance in the Uplands Bacon Factory, and *ipso facto* therefore the Members in the Legislature here who are responsible for public finance must take some interest in the operations of the factory. Now I would like to ask the hon. Minister whether he is satisfied that in the development of the industry the Board has made the right decisions in regard to quality. I will give him the actual matter which I have in mind. There is an incentive to producers of a very heavy bonus indeed for the production of long-length carcasses, and that has led to a pressure within the industry to use the Landrace. I would like to know from the hon. Minister whether he is entirely happy that the accelerated use of the Landrace will maintain the quality of eye in the bacon which is essential if we are to hold a good position on the London market. I would suggest to him that he should consider with the industry whether that accelerated target of length should not be spread over a period of five years as is happening in the United Kingdom rather than attempt to switch the industry over in one year, because the pressure on length may well reduce quality in some other part of the animal.

On the question of the working of the factory I would also like the hon. Minister to give us his views on a quota system. It may well be that the industry must accept a quota system if production overseas is not to undermine the financial structure of the industry. The secret of success and the repayment of this money will entirely depend whether the number of bacon pigs going through the factory are sufficient to service the administrative and financial overheads, and that can only be done if producing

pigs is profitable. And therefore some form of quota system may be necessary, but the particular point I wish to ask the hon. Minister to reply to is this. Will he do his utmost to induce the industry if it has to adopt a quota system not to penalize unduly the efficient producer at the expense of the inefficient producer, or shall I say the producer who is not so favourably situated as others. I have in mind the producer who has to buy all his feedstuff will not be able to produce at as low a price as the man who is able for climatic and soil reasons to grow all the feedstuff himself, and I think it is important that the industry should not be under pressure from producers who are unfavourably situated to adopt a quota system which penalizes those men who by reason of the efficiency of their production could enter overseas markets very much more favourably than some other members of the industry. It is not an easy matter for the Minister to put pressure on the industry, but as the Minister is guaranteeing the money with the good offices of the Minister for Finance I would like to have his reply and ask whether he has considered this matter generally?

Lastly, Mr. Speaker, a year ago a new chairman of Uplands was nominated. He has been in office a year, and I think all hon. Members would agree that despite the difficulties of the situation the pig industry today is in a far better condition than it was a year ago. It has been a most difficult job—the members, both of the Pig Board and of Uplands had a great deal of abuse, and I would like, from this side of the House to ask the hon. Minister to convey to the chairman of Uplands our congratulations on the work which he has done, because it has not been at all times a task where he has received many bouquets. We can at least say today that the industry is in a far better shape as a result of his work and the members of the Board than it was a year ago.

I beg to support.

MR. HUNTER: I cannot claim a particular interest in this industry, but as part author of the original financial proposals guaranteed by Government, I would like to say a few words about the original financial arrangements which the Government guarantees. I think it is certainly true to say that the absence of

[Mr. Hunter] the cold storage or deep-freeze arrangements in the factory, which were originally, I think, omitted in an attempt to cut down the costs, has been quite a major factor in the question of the quality of the product that is sent home. The question of marketing them became extremely difficult for that reason, and I rather wonder if the hon. Member for Nairobi West is right in linking the problem of what should be produced with the question of marketing. I doubt if he is. What is produced is certainly something which requires to be considered, and whether we are on the right lines in producing what we are now is possibly a moot point, but, Sir, the type of production at the present is governed by veterinary regulations as much as anything else. There is one point, Sir, raised by the hon. Specially Elected Member, Mr. Blundell, on which I would like to take issue, and that is his suggestion that the two Boards—the Pig Industry Board and Uplands Board—might in some way be amalgamated. I can see point to that, Sir, but (inaudible). The Pig Industry Board.

MR. BLUNDELL: I did not suggest it should be amalgamated. I asked the Minister whether he would consider the relationship between the two Boards—that is important.

MR. HUNTER: I apologize if I was wrong, but I am still glad that the question has been raised as the consideration of the relationship of the two Boards is certainly important because in my view the Pig Industry Board was established to look after the industry as a whole in the country, and Uplands Bacon Factory is just one factory. It is certainly the major one and has a major place in the industry, but there are others, and I think it is necessary that it should be recognized that the Pig Industry Board with its duties to control and look after the interests of the industry as a whole should not be too closely integrated with that particular factory.

Finally, Sir, on the subject of the quota system I must confess that personally such experience as I have in the industry makes me think that you cannot pay out more to a producer than you can get from the marketing of his products, and that really seems to me much the

most intelligent way of controlling what is produced.

Sir, I beg to support.

MAJOR DAY: I would like to rise and welcome this Motion. I would like to ask the Minister, however, if he would be prepared in his reply to give a rather simple and clear-cut encouragement or otherwise to the number of people who may, at the moment, be hovering as to whether or not to go in for pigs. It is, Sir—it has been suggested by various hon. Members that everything is going fairly well—but perhaps he could give some simple factual details on this, so that we know one way or the other. The point that I wish to make has already been made, but I would like to know whether or not there is to be a large increase in the deep freeze, and whether since more money is required whether increased deep-freeze facilities are not considered adequate. I have heard no rumours, Sir, I have had no wireless arials, as was suggested by one speaker waiting his intelligence at me, but I do think on a matter of this importance agriculturally we should have a clear-cut statement or encouragement to proceed in this particular field of investment or not. It may be very difficult for the Minister to give this. I realize that only too well, but if he gives a simple picture so that people up-country can readily understand what is happening, that, I think, would be of great help. You must remember that people are not so long ago had this rather sudden disaster and a good deal of money was lost in pigs.

I beg to support.

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Lt.-Col. McKenzie): Mr. Chairman, it is of great interest to me as Minister that my hon. friend—the hon. Member for Nairobi West—has taken up pig farming. I sincerely hope he has bought land in a good piggy area and is not attempting to break rules and regulations by pig farming in Nairobi West.

Mr. Chairman, the scheme which he referred to was a paper which was given to me by Mr. Collan Brett, who is a director of Walls, and came out here for the Royal Show, to judge the pigs at the Show. After the Show he did a tour

[The Minister for Agriculture, Animal Husbandry and Water Resources] round the country, had discussions with members of the Pig Industry Board and then went over Uplands Factory. When he left, he left what he called "a Pig Scheme for Kenya" with me. This I handed on to the chairman of the Pig Industry Board, and also to the chairman of Uplands Bacon Factory. The chairman of the Pig Industry Board asked me if I would hold it so as to give his Board time to consider it because it was a document that went very deeply into the industry with some far-reaching ideas. I am quite prepared to release this document today, Mr. Chairman, for hon. Members, and for the Press if they are so interested. The document touches on a lot of important points in the industry, and one is glad, which was brought up by two or three hon. Members, and a further major point brought out in this document is that a grader should not be tied to the Pig Industry Board or Uplands, but ought to be along similar lines as the Kenya Meat Commission, and that is that be a Government grader. This is a point which the Pig Industry Board are acting on in the very near future.

I would, with your permission, Mr. Chairman, just like to read out the last two paragraphs of this Pig Scheme which is, in fact, a summary of the documents. "It is believed there is a great opportunity for expanding the Kenya pig industry, but that it may be necessary to modify processing and marketing methods. Carcass grading certainly needs developing. Few, if any, of the resources developed to date would be wasted, and pig development could, and should, continue on lines which would fit in with any foreseeable change in methods of processing and/or distribution."

Now, Sir, I was asked about whether any bacon has been returned, I gather, from Mombasa. I can say that over the last three months a shipment of 15 tons was noted to be smelling at Mombasa, and was returned to the factory. On being re-inspected at the factory it was found that it was not as bad as at first thought, and in fact it was perfectly fit for human consumption, and has since been sold on the local market.

Grading, which is a point raised by the hon. Member for Nairobi West, new

rules did in fact come into effect in June, and with the new rules coming in, one or two people have contacted me, and told me that they maintain that they are being graded unsatisfactorily, and I have only a day or two ago got a case where one person who normally only had two or three pigs in a month down-graded for fat, has, in fact, over these last two or three shipments had up to 20. I am looking into this and have been told by the Pig Industry Board that they are quite prepared to hurry on with the idea of having a Government grader instead of their own grader.

Now, Sir, I also saw the article referred to by the hon. Member for Nairobi West in *Farm and Field*, and I am pleased that he brought it to the notice of the House and I do know that the Pig Industry Board who have got a conference on 3rd December, are in fact going to discuss the very problems which he brought up.

Now, Sir, the hon. Specially Elected Member who spoke on the Moulton. When I took over as Minister from him, he obviously did not brief me fully because all this started last November and should really have been brought before this Council before I took over from him.

MR. BLUNDELL: Will the hon. Member give way?

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Lt.-Col. McKenzie): No, I fully appreciate that he was under pressure when he handed over to me, but what is now before the Council is what was left to me by him.

Now, Sir, the £35,000 has been spent, and the £62,000 has been spent and one of the reasons why we could not bring it in front of the legislature earlier, was because we did not know whether these two amounts were, in fact, going to be correct because with the programme having to move very quickly, we at one stage thought that the freezing plant may be more expensive, but in fact it was not, and the original sums are the correct sums.

Now, Sir, the point on whether the relationship between Uplands and the Pig Industry Board, are as they should be, and whether there are not ways and means of improving it. This is a point

[The Minister for Agriculture, Animal Husbandry and Water Resources] which has been put to the MacGillivray Committee by numerous people over and above that, I think I ought to tell the Council that some ideas have been put up on amalgamation, not only of closer relations between the Pig Industry Board and Uplands, but an amalgamation of the Pig Industry Board and the Kenya Meat Commission, so that will show hon. Members that there is a lot of thought being given to this, and I hope that we will have something concrete from the MacGillivray Committee when they report to me.

Now, Sir, the other point which the hon. Specially Elected Member raised was on whether the Board was right in its decision on quality so far as the length is concerned. This document of Mr. Colin Brett criticizes that aspect very strongly indeed, and I have appointed a senior officer in my Ministry to look into the whole of this aspect of the pig industry, and he, I hope, will be reporting to me early in the new year.

Now, Sir, on the quota system—the Pig Industry Board held a full discussion on the quota system and agreed to go for a contract quota system for a short period, by a small vote in its favour. They decided that this was not good enough and are discussing the matter fully at the Pig Conference on 3rd December. I fully appreciate, as Minister, what a true quota means, but the quota which the Pig Industry Board wanted to put forward is not a quota in the true sense of the word. It is a contract quota which the contract pig will receive a certain price, but they will be prepared to accept pigs outside the contract at a price. So if anybody grows pigs they will be able to sell them which is one of the main points.

Sir, I have been most grateful indeed and very thankful for the kind words which the hon. Specially Elected Member said about the new Chairman of Uplands. I said very much the same thing when opened the Show at Nanyuki, and I appreciate and know the tremendous amount of work which he has put into this new job of his as Chairman, and I think if I may just give a few figures to show what Uplands have done over the last year. They have shown a loss for the year of £47,000, but when the new Board

took over at the end of the first three-month period the loss for that period was standing at £37,000. Not only did they recover part of this loss, but they also devalued stock to the amount of £46,000. On the second six months, running of the financial year, that is the six months after they had been in office for three months, they showed a profit of £35,000. This gives me great confidence, not only in the Chairman, but in the future of the industry.

Now, Sir, the hon. Member for the Aberdares asked if I could give a simple encouragement to pig producers, and whether there was a future in pig-producing or not. What I would like to say is this: There is a future in pig producers, but mainly the pig producers who produce their own food. There is obviously going to be difficulty for those who have to buy food, and whereas the Maize Board have up to now, and will continue to the end of this month, allowed the pig industry to have cheap maize at 25 shillings a bag because of the crops this year, as from 1st December they will not be able to do that. That means that the people who buy food for their pigs are going to pay more for food and they may run into difficulties. But Sir, the ex-Minister I know has increased his sows. The present Minister has increased his sows.

MR. BLUNDELL: On a point of order, the hon. Member must be responsible for the affirmations which he makes in this Council. He has no truth whatsoever in the statement he has made about my pigs.

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Lt.-Col. McKenzie): I apologize, Mr. Speaker. The ex-Minister has increased his sows over the past year.

MR. BLUNDELL: I am sorry, Sir, I must ask the hon. Member to withdraw. The number of sows I have on my farm is exactly the same as I had a year ago.

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Lt.-Col. McKenzie): I think, Mr. Speaker, if the hon. Member thought, he would remember that a year ago his sows were gilt.

Not only have the two of us increased the number of pigs, but the Chairman of Uplands himself has decided to go in

[The Minister for Agriculture, Animal Husbandry and Water Resources] for pigs. I do not think I can give more encouragement than that to the hon. Member.

One last point that he raised was the one about deep freeze. The deep freeze to the capacity of the factory is available now and is working.

The last point I would like to answer, Mr. Speaker, is a point raised by my friend, the hon. Nominated Member who spoke, and he was quite correct in saying that the crux of the whole of this industry is efficient cold storage and efficient deep freeze.

Mr. Speaker, I think I have answered most of the questions and I therefore beg to move.

The question was put and carried.

MOTION

AFRICAN TEA MARKETING BOARD OVERDRAFT

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Lt.-Col. McKenzie): I beg to move:—

THAT this Council notes that Government has guaranteed an overdraft of £10,000 afforded to the Central Province (African-Grown Tea) Marketing Board to finance its operations until the production of tea for the Board's factory has reached an economic level.

Mr. Speaker, the Central Province Marketing Board was established under the Marketing of African Produce Ordinance, 1956, mainly to look after African-grown tea in the Central Province. Since that date it has established tea nurseries, seedlings for sale to African growers; it has built a factory for processing the green leaf—the capital for this factory was provided by loan by Government through ALDEV. The factory came into operation in July, 1957, when the acreage of tea production was a little over 200 acres and as most Members know, it is not economic until you have 500 acres of tea, and one normally does not start on the factory side until you have got 250 acres of tea planted. What this £10,000 is required for, Mr. Speaker, is to arrange to cover the working capital of this factory for the first few years rather than to saddle it with

a further fixed loan. It is anticipated that this overdraft, which will reach its peak in the picking years 1960-1961, will be finally cleared, if not during 1963, then by the end of 1963. I have, Sir, because an hon. Member who is absent today asked me, available the rate of interest which is half per cent over the Bank of England rate with a minimum of 3½ per cent.

Mr. Speaker, I beg to move.

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

Question proposed.

MR. BLUNDELL: Mr. Speaker, I rise to support the Motion and I want the Minister, when he replies, to tell us how and whether when the overdraft is eliminated it will be done out of the general operations of the moneys going through the hands of the Board or whether a cess will be based on the individual tea leaf from individual planters. If the former, that is to say that the overdraft will be reduced by a general transfer of the moneys going through the operations of the Board, will the hon. Minister tell me whether he considers that is fair to the present-day producers against those who may come in later?

Alternatively, if the intention is to reduce the overdraft by a cess on individual producers, would the hon. Minister explain to us the relationship of the producers and the Board? Will the money which has been handed over to reduce the overdraft be held by the Board in some form of shares or will individual shares be issued to the producers? Again, if the individual shares are issued to producers, how will the producers have an interest in the operations of the Board. Alternatively, if the Board holds the shares as a result of the operations, how is the producer going to have, again, an interest in the operations of the Board?

MR. BROWN: Mr. Speaker, Sir, I think possibly I am the best-informed person on this question of tea to reply to the hon. Specially Elected Member.

We have been, over the past several months, examining the whole question of developing tea in African areas, and a Working Party has been sitting on this problem and has made recommendations.

[Mr. Brown] This £10,000 is just to keep the factory going for the time being. The proposal may be that the Rapid factory may be taken over by a type of cash crops development body which will provide funds for the development of African-grown tea and possibly other cash crops. The funds for this authority may be derived from Government sources to some extent, and also from, possibly, the Colonial Development Corporation. None of these arrangements are, however, finalized and we are still considering how best to do this. There will be an arrangement whereby producers will be able to buy an interest in the whole tea industry as it develops, and I think that probably answers the question of the hon. Specially Elected Member.

I beg to support.

MR. TOWETT: Mr. Speaker, Sir, maybe I came in late when the Minister had already clarified his not clearly-put Motion. Does he imply, Sir, that this sum is payable to this Board every year—an annual grant, or does he imply that this sum will last until such time as the Board has reached an economic level? If he implies that this is an annual sum, does he mean that we shall be granting a similar sum for an indefinite period? On the other hand, if he implies that this sum is to last *ad infinitum*, how does he come to the conclusion that within the next ten years the Board's factory will have reached an economic level.

I would like the Minister, when he replies, to elucidate those two points.

I would like to support the Motion.

AIR COMMODORE HOWARD-WILLIAMS: Mr. Speaker, I would like to support this Motion. In effect, it is, in my view, the kind of Motion that should be put forward, and financial arrangements to help forward African enterprise and interest.

I support the Motion, Sir.

MR. BLUNDELL: Mr. Speaker, I wanted to put to the hon. Member opposite, the difficulty which from our point of view on this side of the Council has now arisen. I believe it would have been better if the Minister, when moving this Motion, had indicated to the Council the way in which the £10,000 was uti-

ly mately going to be repaid or the way in which he thought it might have been repaid. In other words, he could have said what the hon. Director for Agriculture said, because in effect, Mr. Speaker, I think hon. Members on our side of the Council would have liked to make some comments on this, and especially on the proposals for the development of a cash crops authority.

I wanted to put that, Mr. Speaker, because I feel that in a way that owing to the paucity of the Minister's introduction of the Motion we are somewhat at a disadvantage.

THE SPEAKER (Sir Ferdinand Cavendish-Bentinck): I do not know whether that was on a point of explanation or on a point of order. However, I am prepared to accept it.

MR. BLUNDELL: I would only ask that before proposals for the development of an authority on cash crops are finalized, that some opportunity for debate should be given.

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Lt.-Col. McKenzie): Mr. Speaker, I wonder whether I can reply to the last one first. The point raised by the hon. Specially Elected Member's point of information, or point of order, I cannot quite make out which, is that we have been having these discussions and are in the middle of having these discussions at this very moment, and our minds, nor the minds that we are negotiating with, are made up as yet. I am quite prepared, once our mind is made up and we know just how this authority is going to work, to give Members of this Council an opportunity to discuss it. In fact, I would be only too pleased to discuss it and to have their views on it.

Now, as to the cess, which was raised by the same hon. Member, we feel that those who already have tea planted and came into the scheme in the early days should not be the only ones penalized. So, what we are doing now is that new participants are going to pay more for new plantings and new seedlings and that will, over the years, produce the £10,000.

Now, Sir, the hon. Member for the Southern Area, if he cares to read my HANSARD tomorrow morning, will find

[The Minister for Agriculture, Animal Husbandry and Water Resources] that his queries are answered by what I said when I originally moved the Motion when he was not here.

I do not think there are any other points which I need to raise, Mr. Speaker, and I beg to move the Motion.

The question was put and carried.

MOTION

AFRICAN LIVESTOCK MARKETING ORGANIZATION OVERDRAFT

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Lt.-Col. McKenzie): I beg to move:—

THAT this Council notes that Government proposed to guarantee an overdraft to the African Livestock Marketing Organization of £65,000 to provide the Organization with additional working capital.

Now, Mr. Speaker, as I appreciate that this is a baby of one or two hon. Members opposite, I will go into it more fully than I had originally wanted to.

The purpose of this overdraft, Mr. Speaker, is to provide additional working capital and to enable repayment of an Exchequer loan of £20,000. The reasons for the need of additional capital are threefold. One, an increase in the Kenya Meat Commission quota for ALMO cattle which has increased over the last 12 months from 1,000 head to 3,000 head a month, and it is interesting to note that the delivery of 3,000 head is the highest delivered for many, many years, was attained in the month of August this year.

The second reason, Mr. Speaker, is an increase in the demand by farmers for immatures.

The third reason is the long holding period necessary in the case of immatures to ensure delivery free of disease to farms and also that they are free of disease if they are turned over quickly and put on into the Kenya Meat Commission. I would like to take this opportunity of saying that Dr. Souby of Cambridge will be out here next month. He has been looking into the difficulties of the disease of measles and will be out here next month in conjunction with our Veterinary Department,

and we hope that he may be of great help to us in getting over this problem.

Now, Mr. Speaker, during the year ended 30th June, 1959, the number of cattle handled had increased by approximately 80 per cent. This was completely unforeseen, and was a very great increase. The number of sheep and goats was a more normal increase, but even they were 15 per cent. The period from the date of purchase to the date of repayment, during which capital is tied up, varies from three months, in the case of cattle sold to the Kenya Meat Commission, to at least nine months in the case of immatures sold to farmers. Further delays in repayment may occur from time to time when quarantines—and we have a number of quarantines at the moment—prevent the movement of cattle.

For the information of hon. Members, Mr. Speaker, ALMO was originally financed by a loan of £75,000 in 1952 to cover trading which has now been repaid in full, and as the overdraft is mainly to provide working capital, no limiting date has been or can be fixed, but the need for an overdraft will be reviewed from time to time with a view to the eventual reduction of government contingent liability.

Interest rates, for those who are interested, Mr. Speaker, are 1 per cent over the Bank of England rate with a minimum of 3½ per cent.

ALMO's capital will now be, if this is agreed by the Council, a trading profit which they have of £96,000, and a further serviced guaranteed overdraft of £65,000, making a total of £161,000. For those who are interested, and I know the hon. Specially Elected Member who has spoken on the other two Motions, Mr. Speaker, is interested, we, in the Ministry are, at the moment, with the Director of Veterinary Services, looking into the whole of the future structure of ALMO. This was started by my predecessor and we have moved quite a bit on it over the past four or five months, and I hope that it will not be very long before I can come to this Council with information on ALMO's future.

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

Question proposed.

Mr. TOWETT: Mr. Speaker, Sir, I rise to oppose the Motion. I did not see why this organization, 'ALMO', should be there—when it has done nothing—absolutely nothing—for the improvement of the Masai cattle. Last time I was there I was told that nothing was being done in Masai for their cattle to get out of Masai District. To come forward with excuses of measles and all that sort of thing does not help the Masai. ALMO should first work in trying to eradicate measles or to improve the situation as far as measles is concerned and not to try and market animals or cattle front specially selected areas. If we in this House have got to approve or accept Motions brought forward by the Government, we have got to see that the whole country is served by the Government, not what I call sectional service to particular areas.

Mr. Speaker, Sir, I think the whole set-up of the Government on the side of agriculture needs an overhaul. We in this country say Kenya is an agricultural country and we say that cattle is part of what is going to be this country's produce and products, and we at the same time are doing nothing at all for some parts of the country. I want to see the Government working in all areas of the country; if they insist on talking of African agriculture, European agriculture and Asian—zero—agriculture, I think the Government should work hard to improve all the districts, not particular areas.

In this connexion I should like to criticize the Minister when he tells us that the percentage of cattle handled has risen to 80 per cent when we do not know what the original figure was. That is just inconceivable. I do not know what the original figure was and when I am told the figure has risen by 80 per cent it might have been one head of cattle to start with and when you have two the percentage figure has risen. So I wish that the Minister and the Government should be clearer when they are in this House. We do not want to be told things and twisted into things and believing things that are not realistic.

I feel that if the Government is not going to look at all the districts and treat all the districts equally, not only in agricultural services but in all other services

of the Government, we shall soon lose confidence in this Government. I am sorry to be a bit heated but I know the Masai and their cattle have been ignored by the Government. Nothing is being done.

AN HON. MEMBER: Question.

Mr. TOWETT: I will answer the question if it is put in its usual order.

Mr. Speaker, I feel that the Minister has got to explain what the Government has done for the improvement of Masai cattle. We have many head of cattle there—very many—and we leave them to die with measles. Send the whole squad of the Agricultural Department to go there for a whole month and see what can be done.

I oppose the Motion.

MAJOR DAVY: Mr. Speaker, Sir, I support this Motion. I would like to ask the Minister one or two questions, however. This additional money which is required to provide the extra capital for the organization—perhaps he would intimate whether it is to be spent on purchasing additional cattle; he has already said that August was a peak month with the purchase of 3,000, but I think since then I am right in saying that purchases have probably gone down owing to the disease factor in the areas from which the purchases were made.

Now as far as the question of measles is concerned, Sir, the news which he has given us regarding the possibility of some antidote—perhaps that is the right word or maybe it is not, but I am using it anyway—for measles is, of course, to be welcomed, but tied up with that surely is the question also as to whether there is a possibility of the market being saturated. I think it might be useful if the Minister gave us any information, if he has it, as to how firm he considers the market for the Kenya Meat Commission is likely to be in the future, not only for a year but for a fairly long term ahead, because he must be aware that there is a good deal more capital and a good deal more stocking up behind put into the ranches, buoyed up by the fact that in recent months the outlook for beef has been extremely promising. If he could give us some information of that nature, I think it would be of most useful. I may be asking him an impossible question; if so, I will leave it.

[Major Day]

"Now, Sir, the last remarks made by the last speaker I am sure he will be able to answer, and I think he should because they may be—and I feel they are—perhaps the result of a lack of knowledge and consequent exaggeration.

I beg to support.

Mr. HASSAN: Sir, the amount needed for helping and assisting ALMO is welcomed because ALMO has done quite a useful work in African areas. I have never been in favour of the African livestock organization undertaking the work of marketing, because their original work was to see that some of the useless cattle were thinned out of the reserves to save good grazing for the good cattle, and also to keep an eye on the disease factor. But most of their time they appeared to be spending on the marketing side, which could have been easily carried out either by the stock breeders or by the Kenya Meat Commission themselves. I have not been able to understand that ever since the African livestock organization have been given this job of marketing, the number of slaughter stock that has been disposed of to the Meat Commission has been reduced to the absolute minimum. If we look at the Meat Commission report we find that the European stock owners owning about 700,000 cattle in this country are having 80,000 cattle a year disposed of to the Meat Commission, and Africans having 10,000,000 cattle are only supplying 20,000 cattle to the Meat Commission. I have not been able to understand, and naturally we shall find cattle increasing in the reserves and creating congestion in the reserves. When the marketing of slaughter stock is not touching anywhere near 10 per cent. the result we would expect should be cattle increase in the reserve.

Sir, I feel sure that when we had the stock traders buying cattle from all the reserves and supplying for consumption all over the country, we had a similar position to what, in comparison to the European and African stock, we find in reserves today. African cattle were then sold every year to a number of about 60,000, 70,000 or 80,000 and European stock not touching 20,000. Today the European stock sold is about 80,000 and African is 20,000. This is causing a great deal of congestion in the reserves.

The African Livestock Marketing Organization must be assisted by the stock traders all over the reserves today. The Livestock Marketing Organization have had certain instructions regarding purchase of African stock; to keep an average of certain cents per pound at the time of purchase, and according to that they pass their purchases to the Meat Commission so that the African Livestock Marketing Organization does not suffer any loss. This method is causing complete deterioration of the good meat in the reserves today. If we only look at the returns of the slaughter-houses in this country we find there is hardly any first class or second class meat from the African sources and that is entirely due to the fact that they are not buying first class animals in the native reserves. The first class animals either they sell there for internal consumption or they are kept in the reserve until they have deteriorated to second and third grade and fourth grade before the Livestock Marketing Organization takes them. This is a process which is utterly wrong and I think some changes are needed and they are very essential to help and encourage Africans to sell first class animals for beef consumption and encourage them to fatten their animals for sale to the consumer.

With these few points, Sir, I support this Motion.

Mr. OTS TUISI: Mr. Speaker, Sir, I rise to make a few comments on the Motion before the House. First of all, Sir, I would very much like to hear an explanation from the Minister when he comes to reply; instead of giving us a comparison in percentage of the increase of livestock from African land units sold on a percentage basis, he should exactly tell us the actual figures. I say that because it does appear that ALMO is not really doing enough as far as the marketing of livestock in the African land units is concerned. It would be very interesting to know the cattle population owned by the Africans and the number sold every year compared with those sold from the settled areas. Then we can make a very fair and reasonable comparison.

Now if I am right, I think ALMO usually purchases its livestock on hoof and then either sells them to the Kenya Meat Commission or disposes of them in the way they like. I am not quite

[Mr. de Tipal] competent on this subject, I dare say, but I would like to know if ALMO is really running at a loss or is making any profit; because I know personally that the African livestock owners are not very keen to sell their livestock to ALMO simply because ALMO go there with predetermined mind that all African livestock is infested with measles, and as such they pay very low prices for the African livestock, whereas if the stock owner sells his bullock or cow direct to the local butcher he gets almost double the amount paid to him by ALMO. As such I think there is something wrong somewhere. The local butcher, of course, has to get his meat inspected by the local health authority before they can be satisfied it is fit for human consumption, but this low price is really very depressing. Also I think at one time there was a big campaign to try and educate the people, especially in the settled areas, on ways and means of preventing the spread of measles, in far as if the human being is the main carrier. I would be very much interested to hear from the Minister what steps, if any, have been taken in any of the African land units to try and check up this disease in the African land units.

On the other hand, I very much join hands with my hon. colleague, the Member for Southern Area, when he complains of the Masai cattle, because I think it is true that even the Administration are not quite happy in the marketing of the Masai cattle. Some chaps about four months ago could not even pay their taxes because the same ALMO was doing practically nothing to try and go to the main marketing centres to buy the cattle offered by the Masai. When there is any outbreak of foot-and-mouth disease the Masai take all the trouble to bring in their cattle right from the border, about 200 miles away, on road to Ngong, if the place is clean, it would save them quite a lot of trouble.

Now the other thing I was going to touch on—if these cattle from the African land units are bought on hoof and are taken to the Kenya Meat Commission at Athi River for slaughter, and then graded, I would like to know if ALMO is really making any profit out of the hides and offal, and if it does, if

the areas or the districts from which these cattle have come from do get at least an annual payment on a percentage basis, based on what each area has sold to ALMO. If it does not, then where does this money—this profit—go? In the case of the European stock they are paid by the Kenya Meat Commission annually on their net profit made by the Kenya Meat Commission in accordance with the number sold by every farmer each year. I would like to be enlightened by the Minister on this point.

Another thing I should very much like to stress to the Minister is this, that our meat potential in the African areas is really great and these should be tapped and I think this ALMO needs a full complete overhaul. We do not want to discourage our people from selling their cattle to the only marketing organization we have, simply because this organization is not prepared to pay the right price or the market value for the livestock they get. If they argue that these cattle are infested with measles, then why not brand the cattle with numbers as they buy them from the ordinary African and then take this cattle to the Kenya Meat Commission factory, slaughter them, grade them, and eventually send that money to the original owners of the cattle. If that particular cow or bullock has been condemned on account of measles go back to the owner who will have nothing to complain of. But he should really be paid the amount which his cow, his sheep or his goat fetches.

With these few remarks, Mr. Speaker, Sir, I beg to support.

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Lt. Col. McKenzie): Mr. Speaker, first of all I would like to make it clear that we are, at this very moment, are relooking at ALMO and I would like to use the word which was used by the hon. Member for Central Rift—we are attempting to "overhaul" ALMO. I am very grateful for all that he put forward and I am glad his suggestion very much about branding on purchasing so that we know just what is happening to the cattle of each individual owner.

Mr. Speaker, referring to the hon. Member for Southern Area, the great

[The Minister for Agriculture, Animal Husbandry and Water Resources]—difficultly about Masai cattle is measles. That is the great difficulty. With the Masai cattle it is nothing to have a mob of cattle condemned to a percentage of 38 or 40 per cent, and this makes it extremely difficult for ALMO to purchase and pay a reasonable price. When they buy the animals on the hoof they do not know what they are buying as far as measles disease is concerned. The hon. Member may have been out when I moved this Motion, but I will repeat that we have Dr. Soulsby coming out from Cambridge next month—December—and he, in conjunction with two officers at Kabete who have been working on measles for some months, is going to attack this problem over a fortnight, because although one has been working in England and the other two out here they think they may have got some way to solving this problem. I am not saying it will be solved within a few months, but it does look as though they are onto something.

Now, Sir, the original figures, again, I gave when I moved this Motion; whereas ALMO were selling approximately 1,000 head a month to the Kenya Meat Commission, they have, during July, August and September, gone up to 3,000 head a month, so that shows you the increase over the last few months.

Now, Sir, the hon. Member for Aberdare also touched on that question and said that he thought the figures were down again at the moment. The figures are down again at the moment for the simple reason that foot-and-mouth has reared its ugly head in a lot of areas and the Kenya Meat Commission are, in fact, shouting for cattle. Whereas they have been going at very nearly 100 per cent capacity, they are now short of cattle and they are difficult to come by.

Now, Sir, he also asked what this extra money was going to be used for. It is not going to be for the actual purchase of cattle, but because of the great length of time we have to hold these animals—as I explained, a three-months period in one instance and up to nine months in another—while these cattle are being held they are money standing and lying idle, and that is why we have got to have this extra amount of money.

Sir, answering a further question by the hon. Member for Aberdare, the Kenya Meat Commission are very, very satisfied with the future of the beef industry. I think Members would like to know that Liebig's, from a few months' time, have agreed that all our canned beef will be sold with the international label—the "Beefex" label, which is so well known to so many of us from the war—and I think that is a very great step forward for Kenya. It means that none of our canned food will go out under our "Kenney" label but under the "Beefex" international label for Liebig's.

Now, Sir, if I could move to the points raised by the hon. Member for East Electoral Area, I appreciate what he said, and I know the very great interest that he has taken over ALMO for many years and I have already said we are re-looking at ALMO, and any hon. Members. Mr. Speaker, who has views on ALMO—I would be very pleased perhaps to meet them some time when we come back later in this session so we could have their ideas and can see just how we can help to improve ALMO or whatever will come out of our meeting.

He full well knows and quoted the figures, Mr. Speaker, of 800,000 European cattle. He has been out of Government for a few years; it has trickled up now to 1,000,000, but he was not far wrong.

There is consumption of beef going on in African areas and I think hon. Members might like to know that in Nyanza the amount of beef eaten per year is estimated at 45 pounds per head, whereas in Central Province it is only estimated at 16, so that we see we have a great potential market in the territory.

Now, Sir, moving to the points raised by the hon. Member for Central Rift, I have dealt with the one point which I found so interesting and which I think can be of value and which we will look at; that is the branding one. Perhaps he was also out when I gave the figures, which I have already now given. I am afraid I cannot off the cuff give him the figures of the numbers of European versus African cattle sold. The Chairman of the Kenya Meat Commission would perhaps give him the figures of the

[The Minister for Agriculture, Animal Husbandry and Water Resources] Kenya Meat Commission but I know that that is not the figure that he wants, and I will attempt to get that figure for him, although it may take a little time but I think it should be available.

Again, he mentioned the problem of the Masai cattle. I appreciate, if we could find an answer to measles—we could perhaps look at the idea brought up by the hon. Member that each chap himself individually gets penalized for his own measles—it may help the problem, but it is the old problem for measles that is the difficult one in Masai areas.

Now ALMO makes no profit out of hides and offal, and I think what the hon. Member was getting at was what is known as the deferred payment. This deferred payment of this last year, of which we have had two, came about in fact because of the increased profit from the Kenya Meat Commission. What we hoped to do next year is to alter the price that we will try to get rid of a great deferred payment. That will mean that ALMO will be able to increase the price to the individual farmer in the African areas. This deferred payment that has been paid to ALMO is being used to help maintain the various stock movement either to railhead or abattoirs, putting in water, improving fencing, improving the holding grounds, &c. I have said, Mr. Speaker, that money will not be available in any quantity in future years and the price structure will so be altered to take up that slack.

I think the hon. Member for Central Rift would also like to know that the Kenya Meat Commission are starting auction sales within various areas where traders and butchers, who are free to go and purchase cattle, they are starting in one or two areas and I hope that if it is a success they may be able to move it into more areas.

Mr. Speaker, I think I have covered most of the questions and I would thank hon. Members for the great interest they have taken in ALMO and I would like to emphasize that we are overhauling ALMO and any Members who feel strongly on it, I would be only too pleased to have discussions with them.

Mr. Speaker, I beg to move.

The question was put and carried.

—NOTION

AFRICAN WILLS LEGISLATION

Resumption of debate adjourned on 20th November, 1959.

THE SPEAKER (Sir Ferdinand Cavendish-Bentinck): This Motion was in the course of being debated when we adjourned on Friday last and Mr. Muiimi was speaking. Mr. Muiimi is not here. Does any other Member wish to speak?

MR. TOWETT: Mr. Speaker, Sir at first I thought I should not have stood up and tackled this problem because I both welcome it and at the same time I oppose it. So I really do not know where I stand at the moment.

But to take what I call the middle course, I think the Government should not introduce legislation in accordance with the Motion put forward. The Government will be very wrong, as it has been on most occasions, if it were going to introduce this Motion, and to start legislating for us on how to make African wills. Of course, I must be racial; we always talk racially, and this is again a racial proposition.

I feel that the only thing to do and I wish the Government could pay very much attention to this, is to try and ask each local authority to introduce certain legislation which will enable Africans in those areas to make wills. I cannot, for one, accept the British sense of justice and the British sense of making wills to be introduced into my people, into the country where I come from, I mean the British law as it is today, as you all know, is based on British common law and I feel that we also have common law in this country.

I am sorry the Minister for Local Government and Town Planning is not here to listen to this, but I hope those behind him will tell him what is being said. I want the Government to empower the Minister for Local Government and Town Planning to urge the local authorities to introduce by-laws which will enable Africans to make wills. When it comes to the wholesale Government—I call the Central Government—the wholesale Government introducing legislation for local areas for the whole Colony, which will of course embrace all the local areas—I do

[Mr. Towett] or not know how they will introduce or will formulate any legislation which will enable the Kipsigis to make wills. When it comes to a cow, unless you sell the animal, it is very difficult to say so-and-so will take over a cow. Our tradition has always been this: if you have one cow your children will wait for that cow until the cow has got so many offspring; it does not matter when you get yours but you all the time wait and go back to the "Pope" and say "Hope springs eternal in the human breast." So when we come to the Kipsigis and the cattle, we say "All right, here is a cow, and we have ten sons here. You all wait until this one cow has produced enough calves for all of you to share." If the first cow dies after she has produced only one calf, all the ten brothers wait for that one to produce, and it goes on for ever. That has been the practice and is our common law.

So I am giving you that example in order to cause you to understand that it is basically important that we should ask all the local authorities in this country and especially the tribal ones with traditional customs to make their own ways of making their own wills. I will be shocked at any time when the Government imagines for once that they can make uniform legislation enabling Africans to make uniform wills. It is impossible, but here in towns where you have detribalised people you can formulate detribalised customary laws to suit the detribalised people. So I hope that the Minister will be empowered to ask local authorities to make laws which will help us in the making of wills in our different tribal and local areas.

With those very few remarks, Mr. Speaker, I hope the Government will listen to that and will follow what has been suggested, and I beg not to oppose but to accept, and at the same time to accept where the proposition is delegated to local authorities.

MR. NOONAN: Mr. Speaker, I rise to support the Motion. This is a problem which has been expected by many advanced Africans for many years and I fail to understand why my hon. friend who has just sat down should say that this is a law which will not be necessary

for the African people. I think it is not necessary for the African people who live in the remote parts of Kenya, but I do think and say that it is a very good law for Africans to be able to make wills, particularly those who are living in the townships, those who are living properly and who are, as he says, educated. A man has a car and he wants to leave it to his wife. I think that native law and custom has nothing to do with that. A man has the right to bequeath his property to anybody he likes during his lifetime and when he dies the document can be accepted in any court of justice. But to suggest, Mr. Speaker, that this law is useless to Africans, I strongly disagree, Mr. Speaker.

Furthermore, I believe that the officers in the Public Trustee Department are in favour of Africans making wills. From time to time, to my own knowledge, an African has died, and the question of native law is put forward because he indicated nothing in connection with his property during his lifetime. Well, the question of native law and custom is taken into consideration just because the man did not write a will when he was alive, and Mr. Speaker, I do not want to go on a long time on this matter, but I am in favour not only from the point of view of public opinion; I am in favour that Africans should be allowed to write wills as well as Europeans; as the latter do when they think that the time has come to specify what is to be done with their property, whether they want to give their property to friends, brothers, or anybody else. It is the proper document for this man's property to be dealt with according to law.

Mr. Speaker, as I have said, I support the Motion strongly.

MR. TOWETT: Mr. Speaker, I do not want to be reported as saying that this legislation was useless. I never said such a thing.

On the second point I did not say I was opposed, and I thought that I had made that very elementarily clear. I did not say that I was opposed to this legislation. I said the legislation should not be done by the Central Government but should be done by the local authorities, and I hope the hon. Member, the Specially Elected Member from Slumberland, has now understood that.

MR. MULIRO: Mr. Speaker, Sir, I support this Motion, and I do not know how my colleague visualizes the future of local governments. I do not know whether he wants the local governments in any given area, because in any given area you do not find just one tribe but you find groups of tribes. However, I think if we have to be optimistic we must bear in mind that the African is no longer the African of the beginning of the twentieth century and therefore the individual who has been able to accrue some wealth for his family and himself should have the right to write a will in favour of his own family. There has been an experience in African areas where an individual dies and leaves the whole property in the hands of his brother. Well, the brother might only be interested in getting rid of that wealth and then leaving the children of the deceased poor and helpless. I heard of a case last Friday in my own constituency from one woman whose husband died and left her Sh. 2,000. Another man came and lived with her and claimed to be a husband to her. When the money was consumed this man was trying to sue the woman as he was trying to sue the man to pay the money which belonged to her husband because she has no money to educate her children. Therefore, on this very ground I feel the Africans must be brought on a par with everyone else in this country if we want to build a common society. On this ground alone, Mr. Speaker, I support this Bill very strongly.

MR. OLD TIPS: Mr. Speaker, Sir, if I may just make my few observations on the Motion, on the whole I think taking all in all that I am rather inclined to support the Motion.

However, I have got my fears, Mr. Speaker. I hope that it will not be compulsory for people to make wills. If I can be rather tribal or racial, Sir, I would like to take up the point so far as the land will is concerned. These days you have got so many boys going to England for education; they go to India, to Bombay, and other countries of that kind. Now, they go, there and get married to a foreign girl. They come here, and I do not say that they become Kenyans, and they may settle perhaps in Masai land. Something may happen so

that the husband may die before the young wife has any children. Naturally, the husband makes a will leaving everything to his wife. If the wife is young she may then decide to get married again to an Englishman; then they will both come and settle on my own land.

MR. TOWETT: It is very dangerous.

MR. OLD TIPS: It is indeed very dangerous and if the Minister for Legal Affairs should assure us that so far as the land inheritance is concerned it would not apply to people of different races then I am 100 per cent with the Motion. But without that assurance I am very much worried about this land because she might go and get married and bring her new husband who might be an Englishman and settle in my place and my other relatives will be very upset. That is my worry, Mr. Speaker.

With these few remarks, I support the Motion.

THE MINISTER FOR AFRICAN AFFAIRS (Mr. Johnston): Mr. Speaker, Sir, I just want to make four points, I think, arising out of this debate. First of all, as my hon. and learned friend, the Minister for Legal Affairs has said, Government accepts this Motion. And may I make it clear for the benefit of some of the hon. Members opposite that if legislation is passed enabling Africans to make their will it is not compulsory for them to do so. That is the first point, Sir, that I would like to make.

Now, Sir, the second point arises from what was said by the hon. gentleman, the Member for Kitui. He said that if Africans were allowed to make wills there was a possibility that members of their family might be left entirely outside that will and would inherit nothing. Now, Sir, there is legislation in the United Kingdom which provides or which sees that in making a will the family are looked after. The particular Act is the Inheritance (Family Provision) Act of 1935 and we will certainly have to look at that Act very carefully and see whether some or all of its provisions should not be incorporated in any legislation which we are considering.

The third point, Sir, is the question of intestacy. Now, the hon. gentleman, the Member for Kitui, did make the point quite clear—and other hon. Members have done so as well—that customs

559 Motion—

[The Minister for African Affairs]

of inheritance to be equally difficult—except, of course, in the one case it looks more glaring. In any case, if this friend of his wanted to marry outside Africa or within Africa, that is his choice and, obviously, before he did that he must have had a certain amount of knowledge and education and experience to be able to know the consequence of his so marrying.

As I said, it is quite possible for one to suggest that the customs and all the rest of it could cater for such problems of inheritance, but I know of a case outside Nairobi, in Kabete here, where the father wishes were not fulfilled, especially with regard to the daughter who contributed a lot to the wealth that was accumulated in time. Eventually, when the father died, the brothers took everything and told their sister, "You can go away wherever you like; we have no place for you", not even the piece of land that was promised by the father. I am not suggesting that this is happening everywhere but the cases are there and especially with the modern day problems.

Then again, the Member went on to raise the question of the elder son. Supposing this same gentleman from Kitui electorate who went away and married a European girl, taking her back to Kitui, and had some issues. The elder son, probably being, shall we say, ten years old, was left with the mother and the mother decides to marry. The question is what will happen in that case if, according to his case here, the fear was that the wife would inherit the land but now she has got an elder son who has got to be looked after—being a minor—and somebody appointed trustee to make sure that the will is in the interest of that young boy—what will be his case? So far as I am concerned, those fears are there but the main thing, the most important thing, is this, that it is not compulsory, it is there for anybody who wants to use it, but happens and is happening among all the other races. It is nothing compulsory. It is only there to enable somebody who wants to make use of the law. But the idea of saying that marriages and all the rest of it will make the law unwelcome is untrue. I understand the implications, I know what the customs are. Further, if it came to the point that a Masai marries a Kikuyu girl, the problems are just as difficult, unless, on the

Sir, I beg to support the Motion.

MR. MUCHURA: Mr. Speaker, Sir, I must thank the Government for accepting the Motion. To sum up, I will try and answer some of the fears of my friends on this side of the House.

As has been explained by the Minister for African Affairs, it is not compulsory. It is there for anyone who wants to use it. And, then, on the other hand, my friend the hon. Member for Kitui had a friend of his or a friend of his friend of his from his own constituency marrying from overseas. He need not have to go overseas for that particular problem. His worry is the same if a friend of his married a girl from Kiambu and took her back to Kitui. The problems of inheritance are as widely different as all that. It so happens that, in one case, the woman is white and the other black. But I know the principles and the problems

of inheritance to be equally difficult—except, of course, in the one case it looks more glaring. In any case, if this friend of his wanted to marry outside Africa or within Africa, that is his choice and, obviously, before he did that he must have had a certain amount of knowledge and education and experience to be able to know the consequence of his so marrying.

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[Mr. Muchura]

death of the husband, the Kikuyu girl decides to marry another Masai from, shall I say, the family, as is common amongst Africans. If that is not so, the problems are just as difficult as if this girl came from India.

I do not think I need go into detail about this one because most of them have been answered by the Minister for African Affairs and I think the points are clear and one thing is that it is not compulsory. It is for anybody who wants to do so and some people want to be able to make a will.

Mr. Speaker, I beg to support.

The question was put and carried.

BUSINESS OF COUNCIL

CHIEF SECRETARY (Mr. Coult): Sir, I thought it would be of some interest for Members to know what is happening about business for the rest of this week. I had originally hoped that after Government business tomorrow we would deal with Private Members' Motions and again on Thursday, probably rising on Thursday evening. But I have now been informed that despite the long list of Private Members' Motions nobody is in fact ready to bring any forward for one reason or another. And indeed, Motion No. 11 which was to have been debated today has been withdrawn from the Order Paper. There will therefore only be tomorrow the Report stage and Third Reading of the Personal and Tax Bill and I therefore suggest that tomorrow should be a quorum meeting only to deal with that Third Reading and that we should not then sit again until December 8th.

THE SPEAKER (Sir Ferdinand Cavenish-Bentick): I would like to reassure hon. Members as has been done by the Leader of the House that we have done our best to get Private Members' Motions dealt with but if they are not ready we cannot deal with them. Therefore tomorrow will be a quorum meeting to take the business which Mr. Coult has just told us he wishes to take and after that has been disposed of tomorrow I shall adjourn until December 8th. Tomorrow we will sit at 2.30 p.m.

THE CHIEF SECRETARY (Mr. Coult): I have just been informed that in fact the Bill cannot be published until later in December, and so there is no need

to take this Bill until December 8th and therefore we need not sit tomorrow.

THE SPEAKER (Sir Ferdinand Cavenish-Bentick): Well, if that is so—

THE CHIEF SECRETARY (Mr. Coult): It is the only piece of business, Sir, and I am now informed that there is no great hurry to get it through and it could wait over until December 8th.

THE SPEAKER (Sir Ferdinand Cavenish-Bentick): In that case, subject to your agreement, I propose to adjourn until December 8th.

ADJOURNMENT

THE SPEAKER (Sir Ferdinand Cavenish-Bentick): That being the case, I adjourn Council until 2.30 p.m. on December 8th.

The House rose at twenty minutes past six o'clock.

Tuesday, 8th December, 1959

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

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

PRAYERS

ADMINISTRATION OF OATH

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

Arthur Theodore Culwick.

William David Gregg.

COMMUNICATIONS FROM THE CHAIR

AMENDMENTS TO STANDING ORDERS

THE SPEAKER (Sir Ferdinand Cavendish-Bentick): I have to inform hon. Members, that I have received from His Excellency the Governor a communication informing me that His Excellency has been pleased to give his approval to

the proposed amendments to Standing Order 9, which you may remember were passed in this Council before we adjourned two weeks ago.

For the information of Members, after consultation with the Leader of the House and others, I do not propose to bring in the new times, that is to say the quarter of an hour earlier sittings, etc., until Tuesday next, that is a week from today, because a number of Members have made arrangements—mostly in connection with business to do with this House—and they would be incommode if we were to bring in the alterations in time, without due notice, so the new times will operate as from Tuesday next.

ASSENT TO BILLS

THE SPEAKER (Sir Ferdinand Cavendish-Bentick): I have received a further communication from His Excellency the Governor, informing me that His Excellency's assent has been given to the following Bills:—

	Passed 3rd Reading	Date of Assent
No. 39—The Entertainment Tax (Amendment) Ordinance, 1959	8-10-59	3-11-59
No. 40—The Evidence (Bankers' Books) (Amendment) Ordinance, 1959	8-10-59	3-11-59
No. 41—The Land and Agricultural Bank (Amendment) Ordinance, 1959	8-10-59	3-11-59
No. 42—The Mtwapa Bridge Ordinance, 1959	8-10-59	3-11-59
No. 43—The Estate Duty (Abolition) Ordinance, 1959	8-10-59	3-11-59
No. 44—The Provisional Collection of Taxes and Duties Ordinance, 1959	8-10-59	3-11-59
No. 45—The Courts (Amendment and Validation) Ordinance, 1959	13-10-59	3-11-59
No. 46—The Wheat Industry (Amendment) Ordinance, 1959	13-10-59	3-11-59
No. 47—The Variation of Trusts Ordinance, 1959	13-10-59	3-11-59
No. 48—The Industrial Training Ordinance, 1959	13-10-59	3-11-59
No. 49—The Evidence (Amendment) Ordinance, 1959	13-10-59	3-11-59
No. 50—The Companies Ordinance, 1959	13-10-59	24-11-59

I also have received information that Her Majesty the Queen has been pleased to assent to the Native Lands Trust (Amendment) Ordinance, 1959, which was passed by the Legislative Council on the 16th June last.

BALLOT FOR PRIVATE MEMBERS' MOTIONS

THE SPEAKER (Sir Ferdinand Cavendish-Bentick): I further wish to inform

last occasion in the normal way, but a ballot was held which resulted in the following Motions being drawn for debate on Friday, 11th December. First, the Shops and African Markets and Trading Centres—Motion by Mr. Ngala and secondly, the African Teachers Service Regulations—Motion by Mr. Muliro. There will be a ballot in the House next Friday after Questions, in which we shall draw for Members' Motions. The Clerk will make the draw

PAPERS LAID

The following Papers were laid on the Table:—

Domestic Income and Product in Kenya.

Price Control (Sugar) (Amendment) (No. 6) Order, 1959.

The Accountant-General (Transfer of Functions) (No. 4) Order, 1959.

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

Grading of Wheat for Local Purchase Rules, 1953.

Hide and Skin Trade (Imposition of Cess) (Amendment) Rules, 1959.

(BY THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Lt.-Col. McKenzie))

Kenya Police Annual Report, 1958.

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

European Hospital Fund Authority Annual Report, 1958.

(BY THE MINISTER FOR LOCAL GOVERNMENT, HEALTH AND TOWN PLANNING (Mr. Havoclock))

Education (Grants-in-Aid of African Education) (Amendment) Rules, 1959.

(BY THE MINISTER FOR EDUCATION, LABOUR AND LANDS (Mr. Mathieson))

Meru Forest Rules.

Aberdare Royal National Park Regulations, 1959.

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

Industrial Development Corporation Report and Accounts for the year 1958/59.

Electric Power Rules Exemption.

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

NOTICE OF MOTION

TRANSFER OF EMERGENCY LOAN ASSISTANCE FUND

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

That the balance at credit in the Emergency Loan Assistance Fund and all assets of the said Fund, including debts due to the Fund in respect of outstanding loans, shall be transferred to, and shall vest in, the Land and Agricultural Bank of Kenya.

ORAL ANSWERS TO QUESTIONS

QUESTION NO. 11

MR. TRAVADI asked the Minister for Education, Labour and Lands:—

- (i) To give sympathetic consideration to the extension of compulsory education provisions to Asian boys and girls throughout Kenya.
- (ii) What would be the number of these school-going children affected (quite apart from the children already at school in Government or aided schools) if the compulsory provisions were to be extended to them.
- (iii) The estimated extra cost (both capital and recurrent) involved.
- (iv) Additional teaching staff (male and female) necessary.
- (v) The time necessary to recruit from outside or to train them locally.

THE MINISTER FOR EDUCATION, LABOUR AND LANDS (Mr. Mathieson): I have considered extending the compulsory education provisions to Asian boys and girls throughout Kenya but find that it is not practicable to do so.

As accurate figures are not available, I cannot reply usefully to the latter four parts of the hon. Member's question. I am, however, conveying information and views on the question of compulsory education to the Advisory Council on Asian Education, of which the hon. gentleman is a member.

MR. TRAVADI: Arising out of that reply, is the Minister aware that the Advisory Council on Asian Education has already recommended the extension of the compulsory provisions to Asian boys and girls in the Colony? Secondly, will the Minister give some reasons why he thinks that these compulsory provisions cannot be extended to Asian boys and girls?

THE MINISTER FOR EDUCATION, LABOUR AND LANDS (Mr. Mathieson): The

[The Minister for Education, Labour and Lands] compass of a reply to a supplementary question. They will be put before the Advisory Council on Asian Education where, I am sure, they will be amply discussed.

MR. TRAVADI: The Director of Education said once, here in this House, that there were hardly 1,000 Asian boys and girls to be catered for. In view of the small numbers involved, would not the Minister consider that these provisions be extended at least in the 1960-1963 Development Programme?

THE MINISTER FOR EDUCATION, LABOUR AND LANDS (Mr. Mathison): I will be happy to consider the hon. Member's speech, Sir.

QUESTION No. 14

AIR COMMODORE HOWARD-WILLIAMS asked the Minister for Agriculture, Animal Husbandry and Water Resources in that part of the Lake Victoria Nyanza is in Kenya, will the Government support a plan that they should negotiate a charge for that part of its waters which reach Egypt, that Kenya may thus create a development fund.

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Lt.-Col. McKenzie): No, Sir.

AIR COMMODORE HOWARD-WILLIAMS: Mr. Speaker, Sir, bearing in mind that Egypt is no particular friend of ours at this time, does the Minister consider that we need not or should not observe her interests and should look after ourselves?

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Lt.-Col. McKenzie): Mr. Speaker, I have been advised that in international law it is quite exceptional for one state to demand payment for water used by another state downstream.

QUESTION No. 19

MR. BLUNDELL asked the Minister for Agriculture, Animal Husbandry and Water Resources:—

(a) the approximate maximum area of the Lambwe Valley Settlement Scheme;

(b) the total number of settlers who have at present been accepted as tenants under the scheme and the tribes from which they come;

(c) the potential maximum number of settlers to whom the scheme could offer individual holdings;

(d) the estimated average size of the holdings.

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Lt.-Col. McKenzie):

(a) Approximately 124 square miles.

(b) 500 settlers as at 31st August, 1959, of which about three-quarters are Luo and one-quarter Suba of South Nyanza District.

(c) 4,000-4,500 families, if the remainder of the area not yet cleared proves, according to expectations, suitable for settlement and if holdings are reduced somewhat below the present average size.

(d) At present about 25 acres, but agricultural advice indicates that it should be possible, in most parts of the area, to reduce this to about 14 acres.

MR. BLUNDELL: Mr. Speaker, arising out of that reply, assuming that settlers wish to go there under subparagraph (c) and that the necessary clearing was made, could the hon. Minister find the finance for additional settlers?

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Lt.-Col. McKenzie): That, Sir, is another question.

QUESTION No. 21

MR. MATE asked the Minister for Tourism and Common Services:—

(a) Is the Minister aware of the great tourist potentialities in the way of scenery, wild game, folk dancing and fishing of the Meru District?

(b) What steps are being taken to encourage tourists to visit this area more, including the building of better and bigger hotels along the eastern side of Mount Kenya?

THE MINISTER FOR TOURISM AND COMMON SERVICES (Mr. Crosskill): I am aware of the tourist potentialities of the

[The Minister for Tourism and Common Services]

Meru District and I welcome the hon. Member's interest in this matter.

2. Meru is not at present easily accessible owing to the exceptionally winding nature of the road from Embu, but work has begun on a realignment which, when completed, should reduce the distance by 15 miles and greatly reduce the time required for the journey. As regards publicity my Ministry is endeavouring to stimulate the interest of tourists in the African lands generally and a tourist booklet entitled "The Tribes of Kenya" is to be published shortly. Further, Meru and Embu should benefit from a film on fishing in Kenya, which will be ready for showing early in 1960, and in which considerable space is devoted to the attraction of the trout streams in that area. Then, of course, there are the Chuka Drummers, who are already well known. I hope that the Meru and Embu District Councils will consider forming a joint publicity committee.

3. In view of the road realignment being carried out, my Ministry has already enquired if the hotels at Meru and Embu are prepared to accept parties of tourists and to expand their accommodation.

MR. MATE: Mr. Speaker, arising out of that reply, is the Minister aware that the two hotels there are too small? What plans has he in trying to interest people to build better hotels?

THE MINISTER FOR TOURISM AND COMMON SERVICES (Mr. Crosskill): Mr. Speaker, in my original reply I pointed out that we have already advised the existing hotels to consider increasing their available accommodation.

QUESTION No. 23

MR. MATE asked the Minister for Agriculture, Animal Husbandry and Water Resources:—

(a) Is Government aware of the general dissatisfaction of the African farmers in the Nithi Division of Meru with the poor quality, efficiency and qualifications of the Divisional and Locational agricultural staff?

(b) What are the academic qualifications of the Divisional Agricultural Officer in that area and

what steps are Government taking to bring a better qualified man with a modern approach?

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Lt.-Col. McKenzie): Mr. Speaker, Sir, I beg to reply:—

(a) The Government is not aware of any general dissatisfaction on the part of African farmers in the Nithi Division of Nyeri;

(b) The Divisional Assistant Agricultural Officer in that area has the qualifications of long experience, conspicuous ability and outstanding loyalty to the Government, which qualities adequately make up for his lack of paper qualifications. The second part of the question, therefore, does not require an answer.

MR. MATE: Arising out of the reply would the Minister state specifically what class he attended in school and how long he has been in this division.

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Lt.-Col. McKenzie): That, I think, Mr. Speaker, is also another question.

MR. MATE: Mr. Speaker, Sir, arising out of the first part of the question, is the Government not prepared to inquire into and find out about this question?

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Lt.-Col. McKenzie): Mr. Speaker, Sir, I have already said that the Government is not aware of any dissatisfaction on the part of the African farmers in that district.

QUESTION No. 24

MR. MATE asked the Minister for Agriculture, Animal Husbandry and Water Resources: what plans are envisaged for the development of better grazing and farming schemes for the Tharaka area of Meru District?

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Lt.-Col. McKenzie): Mr. Speaker, Sir, I beg to reply: Financial provision for the improvement of this area has been earmarked in the 1960-63

[The Minister for Agriculture, Animal Husbandry and Water Resources] Development Plan and proposals for a reconditioning scheme allied to grazing control and the development of water supplies are under consideration.

Trial plantings of Turkish tobacco have been undertaken and, if successful, this should prove a valuable cash crop for the area.

MR. MATE: Mr. Speaker, Sir, arising out of that reply, is the Minister aware that a lot of people are tired of waiting for these schemes?

QUESTION No. 25

MR. MATE asked the Minister for Education, Labour and Lands:—

- (a) How many Meru students are at present attending the Kigari Teacher Training Centre in Embu?
- (b) Considering the proximity of this Centre to Meru compared with Tumutumu or Machakos and the resulting savings in fares for students, what steps are Government taking to step up the numbers of Meru students at Kigari?

THE MINISTER FOR EDUCATION, LABOUR AND LANDS (Mr. Mathieson): Mr. Speaker, Sir, I beg to reply: None. It is not intended to direct Meru students to Kigari, because with the expansion of Meru Training College it is considered that facilities for non-Catholic T.J training within the District are now adequate.

MR. MATE: Mr. Speaker, Sir, is the Minister aware that we are already short of teachers and we have people who should be at teacher training colleges?

THE MINISTER FOR EDUCATION, LABOUR AND LANDS (Mr. Mathieson): I am aware, Sir, that we are short of teachers but we are making provision in appropriate colleges for the admission of all those who wish to be trained.

MR. MATE: Mr. Speaker, Sir, arising out of the first part of the reply, is the Minister aware that Embu and Meru have been working on this kind of scheme before, supporting intermediate and teacher training colleges?

QUESTION No. 26

MR. MATE asked the Minister for Education, Labour and Lands:—

- (a) Can the Minister give a firm date as to when the proposed Secondary School in South Meru is to start?
- (b) What steps have so far been taken with regard to determining the site, the management and ways and means of obtaining the buildings?

THE MINISTER FOR EDUCATION, LABOUR AND LANDS (Mr. Mathieson): No, Sir, not until the Development Plan for 1960/63 has been approved by this Council. Preliminary investigation only has been undertaken into the matter referred to in the second part of the Question.

MR. MATE: Mr. Speaker, Sir, will the Minister give this matter some urgency when it comes to the Development Plan?

THE MINISTER FOR EDUCATION, LABOUR AND LANDS (Mr. Mathieson): It depends, Sir, entirely on the scale of financial provision made by this Council and on the relative priorities to be established within it.

MR. MATE: In view of the need, would he put the Meru case on top priority?

QUESTION No. 27

MR. TRAVADI asked the Minister for Education, Labour and Lands:—

- (a) The number and names of Government Asian and European schools;
- (b) Their respective school population;
- (c) Up to what standard or form taught;
- (d) The total number of teachers (male and female) whether trained or untrained in each school;
- (e) The number of teachers still necessary in each school;
- (f) Their racial background?

Giving the information required as at and up to the beginning of the third term, i.e. September, 1959.

THE MINISTER FOR EDUCATION, LABOUR AND LANDS (Mr. Mathieson): Mr. Speaker, Sir, the information requested

[The Minister for Education, Labour and Lands] cannot readily be obtained for the period mentioned and in any case could not conveniently be presented in an oral reply. I will write to the hon. Member when further investigations are completed.

QUESTION No. 31

MR. MUMI asked the Minister for Education, Labour and Lands:—

- (a) How many Kenya students have obtained Kenya Government bursaries to study in the United Kingdom for the period January, 1957-December, 1959, inclusively?
- (b) What is the breakdown of these students in (a) racially?

THE MINISTER FOR EDUCATION, LABOUR AND LANDS (Mr. Mathieson): Mr. Speaker, Sir, 169, of whom 35 were Africans, 71 Asians, 8 Arabs and 55 Europeans. The information requested in the third part of the question is not available.

MRS. SHAW: Mr. Speaker, Sir, arising out of that question, can the Minister give us any idea of what proportion of those bursary students have come back to Kenya so that Kenya benefits from their training which is got at Government expense?

THE MINISTER FOR EDUCATION, LABOUR AND LANDS (Mr. Mathieson): Not without notice, Sir.

MR. MATE: Arising out of the first part of the reply, would the Minister state how many of those Africans were students from Meru?

THE MINISTER FOR EDUCATION, LABOUR AND LANDS (Mr. Mathieson): I can, Sir, but not without notice.

MR. MUMI: Mr. Speaker, Sir, arising out of the second part of the reply, would the Minister state when the answer to this second part of the question will be available.

THE MINISTER FOR EDUCATION, LABOUR AND LANDS (Mr. Mathieson): I have given the answer to the second part of the question.

MR. OLE TIPIS: Mr. Speaker, Sir, can the Minister please tell us to what he attributes the low number of African students?

THE MINISTER FOR EDUCATION, LABOUR AND LANDS (Mr. Mathieson): The fact, Sir, is that virtually all African students require a full bursary and the average African bursary is valued at £650 a year which is in the region of five times the amount of the average European or Asian bursary.

MR. SLADE: Mr. Speaker, arising out of the reply, is it not a fact that the Bursaries Committee works to a kind of formula in the allocation of bursaries between races and if so would the Minister please tell us what the formula is?

THE MINISTER FOR EDUCATION, LABOUR AND LANDS (Mr. Mathieson): Not without notice, Sir.

SIR CHARLES MARHAM: We will give you notice!

QUESTION No. 36

MR. MUMI asked the Minister for Agriculture, Animal Husbandry and Water Resources what arrangements, if any, is Government making to provide the use of mechanical labour in bush clearing in the Kitui District in order to improve grazing areas for the Kitui Akamba?

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Lt.-Col. McKenzie): Mr. Speaker, Sir, I beg to reply: Between 1949 and 1955 Government through ALDEV spent more than £40,000 on mechanical bush clearing in the Athi-Tiva area, resulting in some 27,000 acres of bush of varying densities being cleared and some 70,000-80,000 acres being opened to grazing. The interest shown by the Kamba graziers in this scheme has so far been disappointing. Mechanical bush clearing is expensive and is normally costed at between Sh. 20 and Sh. 40 an acre. It is only economical when large areas of valuable grazing can be opened up.

A great deal of bush clearing by hand has also been carried out in Kitui District, with Government assistance. This is far more beneficial in fly-free areas than mechanical clearing because it is possible to be more selective in cutting, and to leave the larger trees which are a valuable factor in grazing management. Government, Sir, has no plans at present for more bush clearing by machines in Kitui District.

MR. MUMI: Mr. Speaker, Sir, arising out of the reply, is the Minister aware of the heavy task involved in bush clearing by man labour and, if so, would the Government give serious consideration to this question?

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Lt.-Col. McKenzie): Could the hon. Member repeat the first part—I could not catch it?

MR. MUMI: Is the Minister aware of the heavy task involved in bush clearing by man labour and, if so, will Government give serious consideration to this question?

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Lt.-Col. McKenzie): I am afraid I do not understand the point the hon. gentleman is after, Sir.

BILLS

FIRST READINGS

Traffic (Amendment) Bill

Order for First Reading read—Read the First Time—Ordered to be read the Second Time tomorrow.

Control of Nets (Nyanza Province) (Amendment) Bill

Order for First Reading read—Read the First Time—Ordered to be read the Second Time tomorrow.

Passion Fruit (Repeal) Bill

Order for First Reading read—Read the First Time—Ordered to be read the Second Time tomorrow.

Hospital Treatment Relief (Asian and Arab) Bill

Order for First Reading read—Read the First Time—Ordered to be read the Second Time tomorrow.

REPORT AND THIRD READING

Personal Tax (Amendment) (No. 2) Bill

THE MINISTER FOR AFRICAN AFFAIRS (Mr. Johnston): Mr. Speaker, Sir, a Committee of the whole Council has reported the Personal Tax (Amendment) (No. 2) Bill, 1959, with amendment and I beg to move that Council doth agree with Committee in the said Report.

THE MINISTER FOR AFRICAN AFFAIRS (Mr. Johnston): Mr. Speaker, Sir, I beg to move that the Personal Tax (Amendment) (No. 2) Bill, 1959, be now read a Third Time.

THE CHIEF SECRETARY (Mr. Coult) seconded.

Question proposed.

The question was put and carried.

The Bill was accordingly read the Third Time and passed.

MOTION

A GAME POLICY FOR KENYA: SESSIONAL PAPER NO. 1 OF 1959/60.

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

THAT this Council approves the Statement of Policy set out in Sessional Paper No. 1 of 1959/60 entitled "A Game Policy for Kenya".

Mr. Speaker, first of all I would like to draw the attention of Members to the actual terms of the Motion. The Sessional Paper concerned contains first of all certain definitions for ease of reference; secondly a statement of policy and explanations thereof; and subsequently some points on recommendations on other matters. The Motion, Sir, that I have moved is that this House should approve the statement of policy. Now, Sir, the views that are held in this country and elsewhere on game are many and varied and possibly they range as widely as on any other subject that one can think of. There are those who would like complete elimination of game. There are those at the other end of the scale who would like almost complete protection of game and would like to see the competing claims of humans and so on taking second place. I think it will be agreed that quite clearly the answer to our game problem lies somewhere between those two views.

But I think no one who has given the matter serious consideration will deny that our game in Kenya is not only of high aesthetic value and cultural value but is a major attraction to visitors and is the real foundation of tourism in this country. And if we put it even at its lowest in terms of money, it is the basis for attracting a very large annual sum

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of money to this country and my hon. friend, the Minister for Tourism, will probably speak on this matter later on. But I believe that there is every indication that the amount of money brought in in this way may increase.

The other factor to which we must have regard in any consideration of game matters is that once game is lost in any area there is no hope of getting it back again. I think we must keep that in the back of our minds all the time in consideration of this question. There is no doubt we have a wonderful asset in game and whatever we do we cannot afford to let go of it and let it disappear.

Now, the report of the 1956 Game Policy Committee has been before Members for a very considerable time. It is in my view a most masterly document. The Committee did a tremendous amount of work and they faced squarely up to the difficult problems posed in a very practical manner. They have set out in the report the major issues, which have to be considered quite clearly and which have proposed solutions to them which I believe will generally be accepted. Not only did the Committee consider the major game problems in principle and the problems of particular areas in detail, but they collected a mass of information. They collected the views of a number of acknowledged experts on game matters, and they have set these out in appendices which are of great value to anybody who wishes to make a proper assessment of the problems. This report, I think you will agree, is a very clear document and there is no need for me to talk at great length on it.

But there are certain points which you will expect me at this stage to discuss. I would, however, say—and here I shall be voicing the views of the whole House—I would express the thanks of the Government to the chairman, the members and the secretary of the Game Policy Committee for their very valuable report. There has been criticism over recent months that Government has been very dilatory in considering this report and in bringing it before this Council. The difficulty that has faced us has been that, although there are many of the recommendations in the report which we would like to accept straightaway, money

to implement them all is not available. It could be argued and in fact has been suggested, I think, even in this House that if we have not got the money to carry out the recommendations of the Committee's report, what is the good of considering the recommendations? I believe that that is not the right outlook to take on this question, even if we could not put any of the recommendations into effect. I consider that it is most essential that we should have laid down what is the policy of this country in regard to game so that there can be no mistake about it on the part of either the Department of Government, officers of Government or the public. I think it is essential that everybody should know the direction in which we wish to go and thus be able to direct their individual effort in that direction. Furthermore, I believe it is of the utmost importance if we are going to make use of the considerable interest that there is in our game in countries far beyond our borders and I believe that there may be prospects of getting financial assistance to help us over our difficulties in connexion with game from outside.

I am quite sure that unless we have a policy laid down in black and white which we can say is the policy of Government, nobody is going to think about lending us or giving us any money for game matters.

And now, Sir, if I may turn to the Sessional Paper itself. It will be noted that the statement of policy therein follows very closely the lines of the draft policy statement in the Game Policy Committee's Report. In fact, in most cases it follows it word for word. There are some differences, mainly in detail. The Game Policy Committee in considering finally all their recommendations and the money that was needed to implement them made an estimate that an additional £30,000 a year would be required for addition to the resources of the Game Department and the National Parks. Now, Sir, that estimate was made some little time ago. Since it was made, there have arisen other matters on which I believe expenditure will be necessary. The position in some respects has not improved since they made their report and I believe that the figure of £30,000 which they suggested and which they said was a mini-

[The Minister for Forest Development, Game and Fisheries]—
 mum figure is not now adequate to carry out the recommendations made. However, the prospects of Government being able to find the whole sum needed to carry out all the recommendations in the report that we would like to see for the present at any rate somewhat bleak. And, therefore, the problem that has faced us is to sort out what are the essentials that must be undertaken to preserve our game and what are those recommendations which although we would like to accept them we can afford to postpone until better times without doing any harm to the game of this country. Now, I believe that those two different kinds of requirements sort themselves out fairly easily. I suggest that the first priority in any money which can be made available must be given to measures which are going to ensure the maintenance of our game—to ensure that we do not lose it—because, as I have said already, once lost it has gone for ever. And I believe that the particular measures which we have to give priority to are three: the first is the control of poaching—and I shall dilate on that presently; the second is the need to preserve game in certain important and, I might say unique, areas within the territory which if it is not preserved might disappear and which really involves coming to agreement with the inhabitants of those areas. And those agreements will undoubtedly necessitate some considerable sums of money being given to the inhabitants of the area. And the third thing which I believe is essential if we are to maintain game is to establish adequate control in those areas where the game has, in the past, and is at present, causing considerable damage to the crops of the inhabitants. There is no question, that if we are to maintain the game we shall only do it with the goodwill of the inhabitants of the area where the game lives, and we cannot afford if we are to maintain it, to lose that goodwill.

Now, Sir, I am not proposing to try and give you an exact estimate of what it will cost to carry out those essential measures which I regard as being essential to the maintenance of game in this country. But I do propose carefully to work out what is required, and to sub-

mit my requests to enable that minimum work to be done for consideration with the coming Budget, and I have every hope that I shall get sufficient money for those purposes.

But when all this is said, it might be suggested, "Well, what have you been doing in the past?", and there I would like to point out that this Report of the Game Policy Committee consists of their present Report and also of a most important Interim Report. Now their Interim Report was received some three years ago, and recommended urgent action in certain particular lines—notably in the establishment of anti-poaching teams, in the matter of ivory control at Mombasa; in the question of preservation of Amboseli and alteration to the game laws and in other respects, and in spite of the financial difficulties under which we have suffered all those recommendations which I have mentioned have been carried out.

Now, Sir, I believe that the total number of recommendations in this Committee's Report amounts to over 50, and you will not expect me to try and deal with any very large proportion of them, but I will pick out one or two of what I believe are the more important recommendations; and also the more controversial ones and will try to deal with those.

The first one, Sir, that I would like to refer to is the question of land use. "Proper land use" is a phrase we have heard a great deal about in recent times, and is a somewhat overworked term, but what, in fact, do we mean by it in this Colony? What I think we mean is this: there is a very wide range of land in this country, and it ranges from high rainfall areas of fertile—highly fertile soil in the one extreme to areas of extremely low or little rainfall at the other with much less fertile soil, and even beyond that to complete desert. Now, Sir, we are not concerned in this particular context with the better class of high rainfall land, except in so far as the forests, which are, many of them; on that type of land, do form a very valuable reserve for game of certain types, but I have in mind here the lower and drier—less fertile areas—the best of which are extremely good cattle areas, and the worst of which, as I said, are almost desert. If we consider

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what those areas can produce—the better ones can produce animal products in the form of meat and milk to the value of so many shillings per acre. As the land gets worse so the number of shillings per acre it produces in that way becomes less, and we get to the state where the value that can be produced by cattle, or sheep and goats for that matter, off a given area of land, very soon becomes less than the value that can be produced if that land, is devoted to game, and I suggest that we have to look at our land in that kind of way, and consider whether we are making the best use—whether we are getting the best we can out of it—by keeping poor grade cattle and sheep and goats, and whether we might not get a much better return from that land in one or two directions if it were given to game rather than stock. I think it follows from that, that if such land is in the ownership of individuals or tribes and it is decided that it is better kept under game, and therefore those tribes or individuals do not get direct benefit from the actual profit that is made from that land, compensation in some form or other should be paid to them. They should receive at least a share of the profit. There may also be cases, where, while game should not, perhaps, have the total use of the particular area, it can very profitably be alongside cattle, and I think many of you will call to mind large areas of the Colony where cattle and game can live happily together, provided that the right balance is kept. It does not do to let either the cattle increase and drive out the game or the reverse to happen and the game to increase to such an extent that the cattle starve.

Furthermore, there is the matter of game farming for consideration, and I shall refer to a scheme which we have at present going on, dealing with game farming, latter on. But I would only add that experience in other parts of the world, and particularly in America has shown that areas of land which in the past have produced little or nothing, can be developed as game farms to give large returns in game, both in the form of meat and trophies, and the opportunity to hunt, and I believe that there is a

good case for trying to see if we cannot do something of that kind of game management in certain areas of this country.

The next matter to which I wish to refer—Sir, is the controversial one—of whether national reserves under the trustees of the Royal National Parks should be retained, or whether they should be made game reserves under the care of the Game Department. Now, Sir, the arguments on both sides have been set out extremely fully; set out in the first place in the body of the Report, and they are then attacked by my hon. friend, Mr. Cowie, in his minority report which was printed here, and the reply was given to the points made by him by the Chairman, which is also printed in here, and there appear in other parts of the Report—page 73—extracts from the Nihili Report on the Serengeti National Park on the same subject. Now with all the points made, and I think they all have been made in print here, I do not think there is any need for me to go into them in great detail, save to say this, that the Government has accepted the majority recommendation in this matter, and it believes that the position is not likely to be permanently satisfactory where Government is responsible for some aspects of the management of a particular area and the trustees for the game in such areas. I would then say, Sir, that in accepting this recommendation, and it is made clear Government does, it does not propose that we should take any precipitate action or that all national reserves should become game reserves at once. It is quite clear that could not happen, and there is no reason why it should. Before it can be done there has got to be legislation introduced, and brought before this Council and passed, and there has got to be further money available to carry out certain of the recommendations. Furthermore, I would like to say that I can see no good reason for disturbing anything which at the moment is going well—

SIR CHARLES MARKHAM: Hear, hear.

THE MINISTER FOR FOREST DEVELOPMENT, GAME AND FISHERIES (Mr. Blunt): And I have particularly in mind, as I think possibly the hon. gentleman has, the case of Amboseli.

SIR CHARLES MARKHAM: Hear, hear.

THE MINISTER FOR FOREST DEVELOPMENT, GAME AND FISHERIES (Mr. Blunt): Five years ago I think many people would have agreed that something pretty drastic had to be done about Amboseli because the state of affairs was pretty serious. The state of affairs there for one reason and another, partly from what one can only call an act of God, in that water supplies have improved out of all knowledge, partly, I would like to say because of the very great interest that our late Governor, Sir, Evelyn Baring took in the problem, and the great amount of time he gave to it, and also to the personality of the National Park Warden down there, things are going all right, and I see no reason for them to be disturbed.

And now, Sir, I come on to the next point, which I regard as of the greatest importance, and that is poaching. Ever since any legislation was passed preserving game, poaching has happened, but there is, to my mind, poaching and poaching. I think probably, if the truth were known, there are few of us in this Council who have not been guilty of a little mild poaching in the days of our youth, but poaching in this country until comparatively recent times took on much of that sort of form, which was in the main poaching of animals for meat and fish poaching, and it did not really make much difference to the game population. In fact, we must not forget that you cannot have game continually multiplying in an area without any check whatsoever, otherwise it is bound to burst its banks. However, for a very long time past there has been one commercial aspect of poaching going on in this country, and that is ivory poaching. That goes back for very many years, that ivory poaching together with poaching of rhino and poaching of other animals for their trophies and skins, has within recent years become a commercial money making racket. It has been systematically organized, and we must realize that it is not the actual chap clad in skins who goes out with a poisoned arrow or a snare and tries to get an elephant so that he can get ivory, who is primarily responsible. He is the chap we get at. He is the chap we hope to catch and we hope to prevent him doing it, but at the back of it all there must be

an organization which keeps this thing going, and the prices—the reward—for poaching of that kind are obviously so great that there is a well-organized ring which so far we have not been able to lay by the heels. I think Members are aware that after the Interim Report of the Game Policy Committee—and before it was printed—we had established certain anti-poaching teams. They worked in the main poaching areas, some of them under the control of the National Parks and some under the control of the Game Department, and in the early stages, after they had really got under way, they had very considerable success in stopping poaching in the areas where they worked. I believe that they quite satisfactorily cleared up poaching in several particular areas, and as they left those areas and moved into others, at that time, those areas remained clear for a matter of nine months or a year, or even longer. But within the last few months matters have taken on rather a different aspect. In the first place, the price obtainable for ivory, rhino horn and skins has gone up very considerably. In the second place a lot of these poachers who do the actual poaching on the ground had been caught and convicted and have served terms in prison, and quite a number of them have now come out again, and unfortunately it has not prevented them from going off and doing the same thing over again. And the third point is that the poaching—this commercial poaching, if I may call it that—is becoming better organized. People now go poaching in a motor-car or Land-Rover, and I think you can imagine that in an area like, let us say, the Masai, where an animal may be killed within 25 to 30 miles of the Tanganyika border, the trophy whatever it may be—whether it is ivory or rhino horn or skins, can be put into a Land-Rover and can be popped over the border, and it is extremely difficult to lay those people by the heels.

Furthermore, we have relied in the past on trying to catch up with poachers very largely on information received, and for that information we have had to pay, but whereas we paid in the past for that information and got it, if we are to get it now, we have got to pay about five times as much as we did a year or two ago for it.

[The Minister for Forest Development, Game and Fisheries]:
Now, Sir, as I said, we have already had these poaching teams. We have also taken other steps to try and deal with this difficulty: Members will recall that there is printed in this Report a directive which is issued by His Excellency on game matters, requesting all Members of Government to assist. I would mention also the fact that my hon. friend, the Member for Legal Affairs, addressed the judiciary on the subject of crimes and punishment, and I would also like, Sir, to pay a very sincere tribute of thanks to the police for the assistance that they have given in this matter. But with all those I am afraid that we cannot be said to have the better of poaching. What I believe we now need, and must have, is we are going to bring it under control. I am additional staff so that when an anti-poaching team has been into an area and cleared it up and moved into another area, we can put enough staff, European and African, into that area which has been cleared to hold it against being reinfested by poachers. I believe that it is essential if we are to keep our game, I also believe that the same staff which we suggest should be used in that way will be able, in addition to ensuring that poachers do not reinfest that area, to bring about a reasonably adequate game control in those areas also, that we shall not, in the future, have the same complaints that we have had in the past, many of which were justified, that game is doing serious damage to farmers, particularly African farmers. That is one thing, and the other thing is that we must continue to take all measures we can to turn down the organization gang, if I may so call it.

But I must point out that whereas in the past a lot of the products of this poaching may have gone out through Mombasa, it appears now they are going out from practically the whole of our territorial boundaries. We know these things are going into Ethiopia. We know they are going into Somalia. We know that occasionally they are shipped by dhow from our coastline and taken to Somalia or Zanzibar or other places, and we also know that they are going across the Tanganyika border. We are receiving the full co-operation of the Tanganyika authorities in this matter, but if you come

to think of what that border represents and the difficulty of keeping it closed against game popping across in the dark with a Land-Rover with a couple of tusks and that kind of thing, I think you will agree that it is likely to be extremely difficult to stop these trophies going out.

Now, Sir, I would like to turn to another matter to which reference is made in the Report, and that is the Game Management Scheme. I have spoken more than once about the Wangulua, a small tribe who live in an area north of the Galana River and near the Tsavo Park. Traditionally, they have been hunters. The tribe is a small one. There are probably something of the order of 300 males and a total of about 1,000 people. They have, unfortunately, turned rather from the ordinary hunting of meat to this commercialized hunting and many of them have been caught and convicted and have served sentences. But they are one of these tribes with nothing else to turn to and when they come out from serving a sentence there is nothing much better for them to do except either to be employed in some game management scheme or to go back to the hunting or poaching of game. Now, quite a number of these people are employed, they are employed by the Parks and by the Game Department, and *safari* hunters, but that does not account for them all. Some of them have turned their hands to such things as charcoal-burning but there remains a balance for which no work has been found so far and they must be found some occupation, otherwise they have no alternative but to go back to poaching. Therefore, we have devised this game management scheme, which consists of taking over an area of some 2,000 square miles north of the Galana River under the charge, for the purpose, of a committee, with a District Commissioner as chairman, an agricultural officer, a game officer, and others on the committee, to divide up the area into blocks and organize hunting by limited numbers of these people, in each block under control. The meat and the other trophies, with the exception of the ivory, are marketed and from the proceeds of the marketing of meat and other trophies we hope to be able to set the scheme going and to pay these people a living wage and, in the times when they are not hunting, they will do

[The Minister for Forest Development, Game and Fisheries] road work, build water supplies and patrol and generally develop that area. They will only be permitted to take off that amount of game which we believe the country can afford to have taken off in a given period, and pure preliminary estimates show that probably we can kill a matter of 250 elephants annually in that area without reducing the stock of elephants and still maintain what was originally there, whereas it is estimated that in the same area, at the present moment, one way and another, the losses amount to about 1,000 a year.

Now, Sir, what I have described briefly is what we call Phase I of this project and we hope very soon, early in the new year, to be able to move on to the next phase, which will be, in the main, an enlargement of the scheme on similar lines which will take more of these people into the scheme and which will, of course, need further organization and a certain amount of capital expenditure. So far, we have worked entirely on the basis of the local game warden providing the transport and the rifles and the staff to assist, and the only revenues that there have been, have been from the marketing of meat. But we have been fortunate in being able to obtain a grant over three years of £10,000 from the Nuffield Foundation, and I should like now to express the thanks of Government, and I am sure of this House, to that Fund. They have given us this grant for the purpose of developing this scheme and we propose next year, when it becomes necessary, to undertake a certain amount of capital expenditure such as purchasing the rifles, the schemes, lorries and a Land-Rover, and so on. We shall find the money for this purpose from that grant. It is early days to say how this is going to work and naturally in any scheme of this kind for which I know of no precedent to work on we have had to feel our way, and I think you will agree, in a small way, that it seems to be working out and I believe that it has vast potentialities. If we can get this scheme to work, if we can get the people to enter into it—and they are entering quite happily—then that Government has accepted the responsibility to establish the scheme here and then to be able later to start up similar schemes in other areas. And I believe that these schemes will have a very considerable

effect. They will really prevent poaching because all killing of game in that area is under control and because there will be adequate people patrolling in the area. Such a scheme will provide a livelihood—not a large one, but a livelihood on any rate—for the people for whom it is very difficult to decide how else they can obtain a livelihood and protect the game. The amount of game which is going to be killed is about one-fifth of what has been killed in the past.

Now, Sir, if I may go on from there, I would like to make a short reference to game in the Masai area. Members will recall that about three weeks ago, when I was talking about game matters, I stated that negotiations were going on with the Masai in respect of a certain game area and that I hoped I should be able to tell you that they have come to a satisfactory conclusion. I am afraid that I cannot tell you that. But I would like to take this opportunity of pointing out to the representatives of the Masai Policy Committee's Report in the Interim Report where they talk about Amboseli. Paragraph 9 reads as follows: "When the Native Lands Trust Ordinance was enacted in 1938 the lands reserved to the Masai were designated to the Native Land Unit and their status cannot be altered except under the provisions of that Ordinance. Moreover, unless the treaties are to be deliberately broken any alteration in status must be with the agreement of the Masai themselves." Now, I should like to underline every word of that and make it quite clear that Government has no sinister or ulterior motives in trying to come to some agreement with the Masai over their game. If we did we would never be in a position to take over their land. It is quite clearly stated there, that that could not possibly be done.

Now, Sir, I must say something about the somewhat vexed question of the control of game. I know it is a matter which is sure to be raised later in the debate. In the Policy Statement in the Sessional Paper it is made perfectly clear that Government recognizes a responsibility to assist in the control of scheduled game animals, but it is equally clear that Government does not accept any responsibility for the control of vermin, and, indeed, that is a recommendation of the Game Policy Committee, vermin in this case

[The Minister for Forest Development, Game and Fisheries]

being those animals which are not protected under the Wild Animals Protection Ordinance. I must also make it quite clear that Government accepts no liability to compensate for damage to either life, limb or property from the action of either game or vermin. I think it was quite clear, if you consider it, that liability to compensate for such damage could not be assumed by Government. The claims that might be made would be tremendous. The difficulty in checking them would be almost insuperable without an army of inspectors. But the main point is that the only people who can protect a skamba or whatever it may be from the deprivations of vermin are the people on the spot, the farmers, or the householders in the case of a house, and it is, I think, a matter not only in this but in every country where one has to rely on the peoples themselves to look after damage by vermin. But, Sir, there is a recommendation in the Report which has already been accepted in regard to controlled area permits and fees, and we have applied the controlled area system to practically all the areas of the Colony except private land, and the national parks and so on, and we have stepped up the fees for shooting and photography. In 1958, we collected from these sources something over £4,000, the whole of which has already been paid over to African district councils, or the corresponding body when an African district council does not exist, and, in cases outside African areas, to the county councils, and, in the case of Lake Naivasha, to the Naivasha County Council. Now, the Government will raise no objection whatsoever if African district councils wish to use the funds that they obtain in this way to pay compensation to individuals for damage and providing that my hon. friend the Minister for Local Government approves the scheme.

Now, Sir, I have spoken for a long time and I do not propose, at this stage, to discuss any more of the points arising in the Sessional Paper in detail. I have no doubt that many of them will be raised in the course of the debate and I will endeavour, so far as possible, to give as many explanations as may be needed. I think I have made it quite

clear what the financial position is. If I may retire, Sir, I believe that we must have additional money in the next Budget to provide, for, proper control of poaching and prevention of game damage.

Before I sit down I should like to tell the House of one piece of extremely interesting information that I only received in the past week and which leads me to think that the outlook on game in this country may be changing greatly for the better, it is this; that we have had an application from the Meru African District Council who have said that they have an area in Meru which is fly infested and which is full of game and that they propose to establish there an African District Council National Park with a lodge and "teetops" and things of that kind, and would we help them. I am happy to say that we shall do everything, not only that we shall do everything, and everybody concerned will, I am sure, do everything to help forward this very excellent idea. I should like to congratulate the Meru people on that move.

I beg to move.

MR. WEBB seconded.

Question proposed.

MR. ALEXANDER: Mr. Speaker, I beg to move an amendment as follows: that all the words after the word "Council" be deleted and that there be substituted therefore the following words, "notes with satisfaction that the statement of policy set out in Sessional Paper No. 1 of 1959/60 entitled *A Game Policy for Kenya* records acceptance by Government of certain recommendations contained in the Report of the 1956 Game Policy Committee, and with a view to early implementation of such recommendations, urges Government to reconsider the financial implications mentioned in the Sessional Paper, with the object of (a) providing the necessary finance in the 1960/61, and subsequent estimates, and in the 1961/63 Development Programme, and (b) encouraging others to participate in, or support, suitable schemes."

Mr. Speaker, everybody agrees with and accepts the aesthetic and cultural value of wild life. While he was speaking, the Minister in some of his opening remarks made this abundantly clear. That is why, Mr. Speaker, my amend-

[Mr. Alexander] prominently avoids any mention of this important factor which is of such very great significance. I do not consider, Mr. Speaker, that the Minister in speaking to his Motion has already made the case for my Amendment, because constantly in what he said he repeated the acceptance by Government of most of the recommendations of the Game Policy Committee. I believe the only difference between the Government and the tone of my Amendment is one of urgency and one of speed, and I do believe, and I put it to Government, Mr. Speaker, that it is wholly reasonable that they should accept this amendment today, which in no way detracts from the policy that has been outlined in the Sessional Paper.

Mr. Speaker, it is largely because of this, because of the need for a sense of urgency, that my amendment is confined to the economic and financial implications of a wise and forward looking game policy, because in a poor country such as Kenya it is understandable, although not excusable, that policies are invariably judged and favoured on the measure of their potential in early economic returns. Richer and more advanced countries can afford to subsidize culture. We are not generally in that happy position, and we have to pay for it the hard way. We have to pay for our aesthetics and our cultural benefits in difficult ways, unless fairy godmothers from overseas come to our assistance, which I will refer to later on.

That is why, Mr. Speaker, we have to assess our wild life strictly as a business deal. If we can establish that it is a paying proposition, then we, in all good business sense, are bound to sustain it, improve it, and expand it. We owe it to ourselves and to others to make sure that a profitable asset is never depleted and never abandoned. That, Mr. Speaker, is sound business.

Many of the recommendations of the 1956 Game Policy Committee are rejected, or only partially accepted, in the Sessional Paper, on purely financial considerations. In several places, Mr. Speaker, the Sessional Paper uses the words, and I quote, "limits of finance available". With depressing regularity throughout the Sessional Paper, there is the repetition of these words "limits of finance available". It would seem there

Mr. Speaker, that the Government have made a thorough study of the financial implications in the 1956 Game Policy Committee Report, and found it in many respects failing to measure up to the requirements of a sound business proposition. If that is so, and I am not suggesting it is, then Government is possibly right in dodging several of the recommendations on purely financial grounds. But, Mr. Speaker, is it not? Are we certain that Government have looked at these recommendations on the basis of their economic benefit? We are entitled to be doubly sure of this before we agree to policies which will ultimately mean the disappearance of unique and priceless assets. Because let us have no doubt about it, that, Mr. Speaker, is what will happen, the disappearance of unique and priceless assets.

To substantiate my words, may I, Mr. Speaker, refer to the report of Dr. Fraser Darling this year, where he writes—and I quote: "The Nairobi Royal National Park is the most superb Royal National Park in the world. Its extent is a pocket handkerchief of 49 square miles, depending completely for its unparalleled array on the great area of Masai country to the South. British Administration is now conducting a policy of bringing cattle dips and barbed wire near to and across the lines of movement of the game into the Nairobi Park. . . . Unless the present trend is halted, the days of the Nairobi Royal National Park are numbered."

When he was speaking, Mr. Speaker, the Minister did say that we could postpone certain recommendations of the Game Policy Committee without doing any harm to the game of this country. That, Mr. Speaker, is a difference between us. There are those, and those with considerable authority, who believe that unless urgent action is taken this asset will disappear with cumulative speed. That warning, Mr. Speaker, by Dr. Fraser Darling, is repeated in other parts of his report, in respect of other superb game areas of Kenya. Are we really prepared to witness the sure and insidious erosion of assets that someone thinks are unprofitable or insufficiently profitable, that someone thinks are not a good paying proposition? That is why, Mr. Speaker, this amendment urges Government firstly to have another look at the economic consequences of their

[Mr. Alexander] To have another look at the financial implications in the recommendations which it lightly tosses aside.

Mr. Speaker, in the first paragraph of the Sessional Paper, it is encouraging to read—and I quote: "The Colony's wild life is of considerable economic importance." And again, at the top of page 2, these words are used—and I quote: "The Government recognizes that game is the most important tourist attraction in the country and the tourist industry is of considerable economic importance." It was refreshing and encouraging to hear the Minister reiterate that when he spoke, when he said how vitally important to our economics is our game.

These, Mr. Speaker, are all bold words, and we owe it to ourselves to discover just how important and how considerably beneficial are the economics of our wild life.

Firstly, Mr. Speaker, may we in this search consider the significance of the economic benefits from our tourist trade and the bearing upon it of our game? It is generally agreed that without our game there would be considerably less tourist trade in Kenya. It would, in fact, be reduced quickly to a mere trickle. With the game, it is estimated that the tourist trade may be worth £7,000,000 per annum to East Africa. Of this, nearly £5,000,000 per annum is attributable to Kenya, and of this figure it can reasonably be estimated that £500,000 in taxes and dues of various kinds per annum reaches our Kenya Treasury. Surely, Mr. Speaker, by any business measure of profitability and economic return, it would pay the Government to retain this income to expand it and to develop the asset to even greater profitability. But what do we do in fact find? The Expenditure Estimates of 1959/1960, only £62,800 is provided for National Parks and only some £50,000 directly on game.

What we have not been told, Mr. Speaker, either in the Sessional Paper or in the Minister's speech, is exactly what are the financial implications in this Game Policy Report. We are told by the Minister that he is certain, he is happy, he is reasonably certain that he will be able to find the funds to do what he wants. What those amounts are, Mr.

Speaker, we are not told, but what we are not told—which is far more important—is what are the figures in respect of what is not able to do, and I do beg of him when he replies to tell us exactly what amounts we are talking about. When the Government says that it cannot fulfil a policy because of the financial implications or that within the financial limits available from time to time, I do suggest, Mr. Speaker, that it is proper that we should be told what those figures are, because I do suggest, Mr. Speaker, if we know the size of the problem, we might be able to help the Government to solve it.

Mr. Speaker, it is reasonable to say that if our game is depleted or lost, the Government will lose almost the entire revenue it at present derives from the tourist trade, which I have said is an estimated figure of over £500,000 per annum. Surely, Mr. Speaker, this alone is sufficient reason for another look at the financial implications in the recommendations of the Report of the 1956 Game Policy Committee. Surely, Mr. Speaker, we must, are we not bound in duty to reconsider the consequences to our tourist trade of nearly £5,000,000 worth annually, which is a far greater sum—far greater—than the value of any one of the Colony's major exports with the exception of coffee?

That, Mr. Speaker, concludes my submission on general revenue attributable to game.

Secondly, I wish to turn to the question of land usage in relation to game and, again, to the hard business and economic facts from it. The Sessional Paper clearly acknowledges on page 2, paragraph 2, in the column headed "Explanation of Policy"—and I quote—"The determination of policy in regard to proper land usage in which game preservation is a factor, is a matter of national importance." Surely, then, what matters, what must be paramount in relation to land, is to discover and decide what is its greatest economic use. Here, then, are some figures that I hope will go some way to establishing what is the greatest economic use of our game land. The potential good game land is estimated to cover approximately 50,000 square miles. The revenue derived from the tourist industry—and remember

[Mr. Alexander]

There would be no or little tourist industry without our game—is about three shillings per acre on this figure of 50,000 square miles. This compares favourably with the most optimistic estimates available as referred to in the recent speech of the Acting Director of Agriculture in this House, of the gross exportable surplus production from the better ranching land outside the scheduled areas. It is reliably estimated that the value per acre of the National Parks could, if properly and imaginatively developed, well exceed even the most profitable of our ranching areas. We must ask whether a full study has been made of the economic use of our game land. From the figures I have quoted, it is good business that we should retain, expand and improve our game land, not only for the economic good of the whole of Kenya, but also to the lasting benefit of the human interests most closely concerned. Why, we must ask, is Government only prepared—and I quote the Sessional Paper—"To maintain existing National Parks"? Surely, it must be good business, sound economics, to improve and to expand them and at the same time to remember that there is no Royal National Park in Kenya that can ensure adequately within its own boundaries the welfare of what is called "plains game". If I may add to that remark, Mr. Speaker, from an article published in the booklet of the Kenya Wild Life Society, or rather in its 1928 Annual Report for 1957, at page 49 there is this paragraph: "The only likely method of ensuring the survival of wild animals outside national parks appears to be to recognize them as an important economic asset to be utilized for the benefit of the country as a whole. In fact, they constitute a most valuable potential source of protein and in certain parts of Kenya the farming of wild animals would undoubtedly prove a much sounder proposition, as well as a better form of land usage than the farming of domestic livestock."

Mr. Speaker, the last part of the Amendment refers to suitable schemes. This is meant to have a direct link with that part of the Sessional Paper on the top of page 5, where it states—and I quote—"Where it is the declared policy of Government to preserve game, e.g. in

game reserves, will be to give those Africans whose livelihood is affected, a direct financial interest in the economic aspect of such preservation."—At last, Mr. Speaker, a breath of fresh air against the theory of hypothecation of revenue. A theory so obstinately followed by our Government over the past few years, a theory which might be all right for advanced and prosperous and homogeneous societies, but a theory which by over-practice in Kenya has retarded and distorted our economy in places.

The Sessional Paper agrees with the giving to Africans whose livelihood is immediately affected a direct financial interest. Here, Mr. Speaker; it is of interest if I may again quote Dr. Fraser Darling on this particular aspect—and I quote—"Masai culture has been traditionally tolerant of the presence of game animals, as there is no cultivation there is no antipathy to wild animals for the damage they might cause and the Masai are nutritionally self-sufficient with flocks and herds, they are not hunters. Indeed, they disdain to hunt the wild ruminants, and carnivores are hunted so far as they may cause trouble, but in fact it is unusual for domesticated animals to be attacked in the country where game is numerous. Close herding, the thorn *boma*, strategic dispositions of fire, are in general sufficient to protect the herds and flocks. Lions are hunted from time to time for the masks and mains used in traditional dances."

"This tolerance of the Masai for the game animals has been of great importance to the preservation in Kenya of some of the best remaining game areas, of which the Mara Plains are outstanding. The Plains and their surrounding hills cannot be called 'pristine', but they are as untouched as a game area in anywhere in East Africa. The Masai and the tsetse fly must share the credit between them, old enemies though they may be."

And again, later on, Mr. Speaker, he has this to say, and this is linked with personalities—I do not intend to quote them—who have done such magnificent work in this country in connexion with our game. This is what he says and I quote—"Similar suggestions have come independently to join with the Masai to make the Mara area into a Masai

[Mr. Alexander] rescinding all Governmental rights in the game and making the Masai people the direct beneficiaries of profits accruing from the visitors. These views are revolutionary and it is significant that they have originated in Kenya. I was entirely unprepared in 1958 as an outsider to accept these views. By the end of the survey in September 1959, I was half won over. And now in May, 1959, I am convinced that these *avant garde* views are the right ones and prophetic of a future elsewhere in East Africa."

A similar but not such an outright decision not covering such a large area has been reached in two chief's countries in the Luandya Valley in Northern Rhodesia. Nseefus and Luwumbes are very fine game viewing places administered for the native authorities by the Game Department. The native authorities derive substantial money profits.

Finally, he goes on, "The Mara game and the Masai represent one facet of a movement which may become one of the most significant advances in our relations with the Africans. Here the game are being considered as an assemblage which may be viewed in a Masai National Park, but elsewhere we should also come to handing over more of the management of the game to African authorities to be conserved as national resources and profit as a source of high grade protein in African nutrition. Just as the Masai would expect and need European help in the management of their park, so would other African authorities in game areas need skilled help in managing game as a continuing natural resource."

Mr. Speaker, the Sessional Paper on page 4, paragraph 5, states—and I quote—"The Government will encourage measures designed to educate public opinion on the importance of game preservation." May I, Mr. Speaker, respectfully suggest to Government that the quickest way to convince public opinion is by policies that puts money into the pockets of those directly concerned? Is the Government prepared to move fast to show tangible evidence, money benefits, to the Masai? Public opinion, I can assure them, will soon follow and very enthusiastically.

When it comes to industry, Mr. Speaker, it is possible to move at great speed in the African areas. When it is a matter of negotiation on, for example, minerals or lime to make cement with, it is amazing the speed with which it is possible to move in order to join the local people with the benefits that are derived. What I am suggesting is that if there was a greater sense of urgency in the same way in relation to game, we would achieve in far quicker time what I believe we are all trying to do. We have already had from the Minister the example on this of the Walligulla and the participation in that of the Nuffield Foundation to the extent of £10,000. This is a scheme, Mr. Speaker, that does enable the tribesmen to obtain their income by lawful means, which at other times is derived by unlawful poaching. A figure I have heard is that the value of an elephant today is some £100, and therefore if the Minister's figure is right that it may be possible in this area to take off—to farm off 200 elephants it would mean a gross income in that area of some £20,000 a year.

The Minister did also refer—and it was most encouraging to hear it—to another example in the Meru country. It does seem, Mr. Speaker, that this tribe are becoming today the most progressive in Kenya, because it was only a very few weeks ago that we heard how, on their own initiative they had invited a tea industry on to their land and now, today, we have heard of this other effort. I am sure from all side of the House we can do nothing but commend the Meru people and I am glad their spokesman is here to hear this, for their enthusiasm and their imagination.

There is nothing new, of course, Mr. Speaker, about farming of game. The Minister referred to it in places like Denham, even in small places like Denham, mark it has been done, and I have heard of a recent case of a ranch in Kenya where a farmer was about to be shot off 8,000 tomnies, when he was reminded that they might be valuable, and he recalled 3,000 of these tomnies at a really Sh. 30 each and found it was a really good proposition. He has decided to go good with the farming of Thomson's gazelles instead of the farming of his livestock in that particular area.

[Mr. Alexander] in dealing with poaching it is unfortunate—it is a pity that the Minister did not refer to means whereby this might be completely outlawed. I do suggest to him that if the possession of arrow poison was made illegal, then it would go a long way to dealing with this problem. I know there may be critics that the arrow is a weapon of defence, but I do suggest, Mr. Speaker, that it is entirely a weapon of offence and that there are far better ways of protecting oneself than with a bow and arrow.

Mr. Speaker, still within the last part of the Amendment, I wish to refer to some words in the Sessional Paper on page 6, paragraph 8, dealing with financial aid—“The Government will bear in mind the possibility of obtaining financial aid from sources outside the Colony.” Bear in mind, really! That, Mr. Speaker, is usually a polite Government way of saying “forget it.” If we are prepared to help ourselves with wise and forward looking game policies, there will be and I am sure there are, many cultural and educational institutions overseas that will wish to participate in the noble task of preserving a unique asset. We must, Mr. Speaker, go all out to find them and to show them that we mean business and serious business, now.

I can appreciate, Mr. Speaker, that the Government will be anxious after such long delays following the Report of the Game Policy Committee to—at last—have a policy. I do suggest to the Government that there is nothing in this amendment, and I raised this earlier on, that takes away from their Motion the implementation of the policy which they have so far accepted. In fact, Mr. Speaker, the amendment makes it very clear that this Council notes with satisfaction that the statement of policy set out in the Sessional Paper records acceptance by Government. We are pleased, Mr. Speaker, we want them to go on with the policy at greater speed, and I do suggest that it would be totally unfair for Government to reject this amendment today.

Mr. Speaker, you and I, for most of our lives, have watched Kenya's horizons, its valleys, its hills and its colours and we believe there is no other place

like it in the world. Others with a love of their own homelands think there is no other place like Kenya only when they see our game. That, Mr. Speaker, is our heritage; for ourselves and for others we are bound to uphold it and to improve it.

Mr. Speaker, I beg to move.

MR. USHER seconded.

Question proposed.

MR. COWIE: Mr. Speaker, Sir, as a member of the original 1939 Game Policy Committee and also the only Member of this Council who was also a member of the 1956 Game Policy Committee and having devoted, I think, a good many of my effective years to game preservation I feel I perhaps may take some licence today in speaking for rather longer than I normally do. I admit my record previously has not perhaps exceeded five minutes!

It is not surprising, Sir, that I should have some fairly strong views on this question because the Game Policy Committee—the last one, the 1956 one—as I mentioned on another occasion in this Council took something over two years of very strenuous deliberation. Almost every word of the report that was eventually put forward was very carefully considered and argued and therefore any departure from those recommendations naturally provokes me to express some views.

I believe, Sir, that the best way I can render service to this Council is perhaps to draw comparisons between the recommendations of the Game Policy Committee and the Sessional Paper that is now before us for consideration. The Motion clearly, in the words of the Minister, refers only to the statement of policy and it is some 18 months since the policy drafted by the Game Policy Committee was first presented. It is therefore obvious that a good deal of water has gone under the bridge since then. But in my own opinion, Sir, I cannot see that there has been any great change during those 18 months to affect the policy that was recommended other than to emphasize its urgency. And I must here try and draw attention to a theme which the Game Policy Committee struggled so hard to establish.

[Mr. Cowie] In the old days when Game Reserves were created in this country and eventually National Parks, it quite often happened that it was said and even written that a piece of land was no use for any other purpose and therefore it could be made either into a Game Reserve or a National Park. That is a concept which the Game Policy Committee did strive very hard to change, because it tried to establish that the preservation of wild life is in fact a land use. I make no apology for mentioning that phrase again because it is a phrase that must be understood for its intrinsic meaning. It was therefore a little disappointing to find that the preamble to the statement of policy has not been accepted as recommended by the Game Policy Committee. The preamble, I refer to, Sir, reads as follows: “Being greatly concerned about the increasing and alarming destruction of game in Kenya, and being convinced that unless concerted measures are consistently taken over a long period, game is in danger of extinction; and being further satisfied that this would constitute a grievous loss to the country's economy as well as to the cultural, aesthetic and scientific life not only of the Colony but also of the British Commonwealth and of the world, the Government of Kenya is determined to take all practicable steps to preserve game in the Colony having regard to all legitimate human requirements.” The word “determined”, in the Game Policy Committee's recommendations was printed in italics. The preamble, Sir, to this Statement of Policy which is now before this Council in part reads: “The implementation of the Government's policy must, however, have regard to the legitimate human interests in the various areas where measures for game preservation are required and to the limits of the finance available for this purpose.”

The comparison I wish to draw here is that whereas the Game Policy Committee sought to establish preservation as a human interest, the preamble to the Policy Paper now, in my opinion, reverts to the earlier concept of setting aside land for preservation only when it is not in conflict with any other human interest. I do believe, Sir, that the concept recommended by the Game Policy Committee is a wise one and the more we can move

over to that general appreciation of a wild life resource, the easier it will be to formulate and to fulfil the policy.

I now come, Sir, to the definitions which are at the beginning of the Paper. I would ask if some further explanation could be given as to whether or not these definitions will stand or whether they are merely quoted in relation to this Paper which is admittedly a “Game Policy for Kenya”. For example, the definition of a National Park emphasizes that in such areas the interests of game preservation and management take precedence over other interests. In the National Parks Ordinance, which was based on an international convention of 1933 held in London, the whole conception of a National Park is very different. And because it is so important I would like to ask your permission, Sir, to quote this short article which comes from the London Convention of 1933. It says: “The expression ‘National Park’ shall denote an area (a) placed under public control, the boundaries of which shall not be altered or any portion be capable of alienation except by the competent legislative authority; (b) set aside for the propagation, protection and preservation of wild animal life and wild vegetation and for the preservation of objects of aesthetic, geological, prehistoric, historical, archaeological, or other scientific interest for the benefit, advantage, enjoyment of the general public; (c) in which the hunting, killing or capturing of fauna and the destruction or collection of flora is prohibited except by or under the direction or control of the Park authorities. In accordance with the above provisions, facilities shall, so far as possible, be given to the general public for observing the fauna and flora in National Parks.”

Now, Sir, that Convention was accepted by the British Government on behalf of its dependent territories and, by implication, also accepted by the Kenya Government because in the 1939 Game Policy Committee Report there was reference to this definition of a National Park as being the foundation for the legislation. I wish to lay particular stress on the final sentence where it says almost as an afterthought that in accordance with the provisions which have already been stated, facilities shall

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so far as possible, be given to the general public for observing the fauna and flora". Therefore, Sir, the definition in the White Paper seems to me to lay undue emphasis on the interests of game preservation without any reference to preservation of flora nor to the allied subjects which are also within the aegis of the National Park Trusts.

The next definition is a National Reserve. All I would like to do here is to point to one thing. In this definition it says, "No hunting is permitted."

The next definition is of a Game Reserve. I wish to draw attention to what I think is perhaps a departure from the recommendations or the intention of the Game Policy Committee by emphasizing that hunting and capturing of animals in a Game Reserve, although normally prohibited, will under certain circumstances be allowed by the Chief Game Warden. It seems to me, Sir, that if one is going to have a Game Reserve and as this Paper says instead of a National Reserve, hon. Members should be aware that in a National Reserve hunting is prohibited whereas according to this definition in a Game Reserve it is permitted under certain conditions.

Now, turning to the Policy Statement itself, on page 2 of the Paper, paragraph 1, the words towards the end of this statement, namely "having regard to human interests and financial priorities", have been added. When I say added, I mean added in relation to the recommendations of the Game Policy Committee. That again, Sir, merely underlines my point that I do think it would be wise to get away from this aspect of human interests' only applying to things other than game. I hope we need not be sentimental or sloppy in this debate and if we analyse game preservation in its basic form we accept that we do not try to preserve wild animals for their sake. It is for our's because we obtain the use and enjoyment of it. Therefore, it is a human need.

In the explanation of this policy, Sir, on the right-hand side of the Paper, paragraph 1 (f), there is a reference there, at the end of the paragraph, saying "so as to preserve the conditions under which the tourist industry can expand". The Game Policy Committee sought to put

the cultural and aesthetic value of preservation first and the economic or tourist value of it second. The order has been reversed and I would like to ask the Minister if, in his reply, he could allay my fears because I think that there is undue overemphasis on the development of the tourist facilities.

There is then, Sir, also under the next paragraph on the right-hand side, that is, number 1 (ii), a reference to the attitude which will be taken towards wild life preservation generally and it ends with the words "practical steps to preserve it must therefore be continued". The original recommendation, Sir, was that "practical steps should be taken". To my mind, it has a great deal of difference, because if one is to continue practical steps it perhaps implies practical steps as they are today whereas I have this awful fear that unless we take more strenuous and effective practical steps much of our wild life is on the way out. And I do hope it may be possible for the Minister to give me some kind of hope on whether steps will be continued or, in fact, new steps will be taken.

Turning then, Sir, to page 2 again, the heading "Machinery for Preservation"—Machinery for carrying out Policy for Preservation", paragraph 3 (1) (i)—I just wonder if there is any particular reason why the Chief Game Warden, as recommended in the Game Policy Committee's Report, should now be altered to Senior Officer. Also in the Game Policy Committee's recommendation, the phrase was used that Government "should strengthen the Game Department" whereas now the phrase used is "will seek to strengthen". Why I wish to draw attention to that, Sir, is that I do hope so sincerely that this debate on this Paper will lead on to a considerable strengthening of the Game Department. As far as the Game Department itself is concerned, I hope it may also be possible in the fairly near future for us who are interested to know what is happening about the appointment of a Chief Game Warden. This post has been vacant now for over a year and it is vital at this stage that there should be someone at the helm. By that I do not wish to be derogatory in any way towards the present holder of the office or to the direction from the Ministry. It is just logical that

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if there is a post there is need to fill it in the meantime I think the Game Department has had very great difficulty in trying to fulfill its task. Poaching has undoubtedly increased, and I also think that Africans particularly need much more assistance in preventing damage to crops and livestock. It was a point mentioned by the Minister, and I was very reassured to hear what he had to say, because in travelling round this country I meet quite a number of people whose views are not always represented in this council. I have heard very genuine and justifiable complaints where they are trying to protect their crops or their livestock, and they are not really instructed how to do it, nor are they given the necessary weapons or requirements. What usually happens is that some unfortunate fellow is had up for being in possession of perhaps a dik-dik skin or something small while his crops are being plundered by a herd of elephants, so naturally he is not very keen on game preservation. I do believe that a lot of that could be put right if the Game Department were strong enough to undertake their duties.

I noticed, Sir, that under this paragraph also there is reference to the formation of a research unit, and I do hope that that will grow in strength because it is a difficult case to handle. I know full well that in any growing country you cannot put forward a very strong plea for lots of money for research. The money is not available, but at the same time the preservation of game is becoming a scientific obligation, and unless one has that scientific knowledge the whole question of wild life management goes over to hit and miss or guesswork. It is now too late; we cannot afford to take big decisions any more. In the old days it did not matter very much if someone destroyed a lot of animals in a certain area, because there were other places from which they could be replenished, but today there is so little game left that, unless we approach it wisely I am quite convinced that we may make very serious mistakes, and that is the case for research. I do hope that this research unit mentioned here will grow in strength, and perhaps money can be found from Kenya sources to augment the grant that is expected from the C.D. and W. grant.

I now come, Sir, to a very difficult question, and that is of National Reserves. I hope hon. Members of this Council will appreciate that I found it necessary to submit a minority report. I also recognize that the Government has adopted the majority report, and so I will not endeavour to waste Members' time by arguing which way it should be, but I would just say this. When the difficulty over the administration of National Reserves arose, it was some years ago. There has been very great improvement since then. A lot of the difficulties which we encountered here have been overcome, and Amboseli is a very typical example. The reason why I think that administration has improved is because, for one thing, the Government held a baraza at Amboseli and informed the local Masai exactly what their position is, to the effect that their land would not be taken away from them without their consent. Now, that reassured them tremendously, and with the support also from the Government—for additional water supplies, which originated from the interim report of the Game Policy Committee, again, there has been considerable improvement in the situation and, therefore, today the National Reserve system at Amboseli, I believe, is working well. To change that to a system of triple control, where one, has to have the trustees invited to accept the recreational value, which I have heard described as being "the purveyors of popcorn", the Game Department responsible for control and preservation, and the Administration responsible for the human aspect, I cannot honestly believe, Sir, that any system like that would really work well. If it had its difficulties under a dual control, it will undoubtedly fall under triple control, and I submit it would be more expensive, more difficult and more unworkable. And so, if I may, Sir, I must motion that I cannot, obviously, support the reference to abolishing National Reserves because I have already put in a minority report against it, and I do think one must be consistent and stand by what you believe.

I would ask though, this, Sir, as far as National Reserves are concerned, and I think the Minister said almost what I hoped he would, that there will be no rapid implementation of this patting decision. I honestly believe it would be

[Mr. Cowie] wiser to refer these questions, anyway to the Standing Advisory Game Committee, and to a lot of other people before any final decisions are made, because the situation is changing, and in my view, improving, almost every day. And so before such a provision is made I do ask that serious consideration be given to the virtues of leaving it as it is before fulfilling the recommendation here.

Now, Sir, I come to another rather serious point over which I have had great difficulty. On page 3 of the White Paper it outlines the functions of the trustees of the National Parks and says, "Government will foster, within the limits of finance available, and give financial support to the trustees of the Royal National Parks to enable them to carry out the functions entrusted to them of game preservation and the development of tourist facilities in accordance with the overall policy of Government." Further on, Sir, under paragraph 4 of the same Paper—page 4—it also says somewhat under functions, "Within National Parks the trustees of the Royal National Parks shall be responsible for game preservation, subject to the ultimate responsibility of the Government; and the development of tourist facilities." Well, now, Sir, having quoted the articles of the International Convention where 'opportunities' for the public to enjoy the National Park are noted last, and having made reference to the National Parks Ordinance where the duties of the trustees are shortly defined, I do hope that the Minister may be able to give an assurance that it is not his intention to subordinate the preservation of game to the development of tourist facilities. That is what it says here, Sir, that it is subject to the development of tourist facilities, but I do not really believe that is the intention because clearly the trustees, and I think everyone else who has been connected with the National Parks for years have realized that the first and prime duty is preservation. If tourist facilities and their development are to take precedence one may easily destroy the very asset which we are trying to attract tourists to see. Therefore game preservation must come first.

There is another problem here, Sir, and that is also on page 4 of the White Paper—paragraph 4. In the explanation of policy it states that the Government adheres to its policy that National Parks should be under public control and therefore support a statutory basis for control of National Parks by a body of trustees.

The original wording recommended by the Game Policy Committee was "support the existing statutory basis by an independent body of trustees," I know of no particular reason, Sir, why these words should have been left out, and I do hope that the Minister may be able to assure me that there is no intention to alter the statute, in other words the National Parks Ordinance, or the status of the trustees.

Then, Sir, on page 3, if I may return to it, of the White Paper, paragraph 3 (ii) on the right-hand side—this is a point already mentioned by the hon. Member for Nairobi, West, but I would like to emphasize it for two particular reasons. The statement is: "That Government will maintain existing National Parks." The recommendation of the Game Parks Committee was that: "Government would maintain existing National Parks and endeavour to create new ones." The words: "endeavour to create new ones have been omitted." The two places on which I wish to ask for some information are Lake Nakuru and Donoy Sabuk. Government have already agreed in principle to the establishment of a national park on the greater part of Lake Nakuru and also Donoy Sabuk which was a gift to the nation by the very well respected MacMillan family. If this policy is to be interpreted literally, and that it is not, then National Parks to be created, I just wonder what will happen about Lake Nakuru and Donoy Sabuk, or any other areas which the Government or anyone else may feel are desirable for conversion to a national protection basis.

There is one thing, Sir, in this Paper which I do commend very strongly to all hon. Members, and that is the establishment of a technical game advisory committee. In most technical duties, there must always be good advice, and in the unfortunate game world, the Chief Game Warden, or anyone occupying my position, or even in the

[Mr. Cowie] Ministry has not the benefit of a good standing advisory board. I do think it would be of tremendous advantage to bring this board into operation very soon because a number of the points in this White Paper which may require further consideration could be examined by the standing committee and I believe good advice given.

I now turn, Sir, to page 5 of the White Paper—and I must apologize for all these numbers, but it is very difficult to pick out the references—it is in fact paragraph 5 (ii) on the top of the right-hand side. There is a reference there to giving local inhabitants a far greater share in the revenues which might be derived from game preservation. Simply for the information of hon. Members, for the information that policy I would like and to support that policy I would like to mention that the National Parks Trustees for a number of years now have made a regular donation both to the Masai and to the Samburu. The total amount allocated to the Masai African District Council over the years is £4,632 and the amount paid to the Samburu African District Council is £1,500. I admit, Sir, that these are not large figures, but when they are compared with the amount of revenue which is available to the trustees, I think it is a very reasonable share to have passed on to the people who are most concerned in those areas.

So, Mr. Speaker, I have reached the end of the comments which I feel compelled to make on the Statement of Policy. If the Minister can give those assurances which I have asked for, particularly on the question of tourism overriding game preservation, and if there is a more forceful approach to these problems, and perhaps a better prospect of some money being available, then I see good reason to support the adoption of this policy.

I now turn to the details which follow, but which admittedly are not part of the Motion, and which I understand are put up for comments.

The first one, Sir, is on page 6 of the Paper, and it refers to the local game reserve committee. I would like to resort for the information of hon. Members that Amboseli we have set up, quite unofficially I admit, a local

committee of Elders who take upon themselves the responsibility of giving advice and also of dealing with offenders. It is working extremely well and I think very fairly. One of the results is that it was interesting to note that in a recent report from the whole district it was stated that there were no claims for compensation from the Ol' Tokai area. Now that is very significant because if there are no claims for compensation it simply means that the local committee of Elders are dealing with the matter to the satisfaction of their own people. I therefore strongly commend the appointment of local committees.

The next heading on that page, Sir, is the co-operation with other territories, and I do not really believe that it is a lack of finance that would prevent this being achieved, because the actual cost is surely very small. The need for it, though, is very great. There is today a considerable amount of traffic in trophies going across our borders. There are problems of preservation on both sides of an international line. Now, many of those could be better resolved if we could promote this international or interterritorial co-operation. I do not wish to delve into a touchy subject, but we do sometimes feel that Tanganyika perhaps could take a little more interest in our problems across the line. Equally, I think, Tanganyika feels that we should take more interest in theirs. There is a very good case in point. In between the Mara triangle, which is far west from here, and the proposed new boundary here, and the Serengeti National Park, there is of an extremely awkward little wedge. It is a very narrow tongue between the Mara River and the new Serengeti National Park. According to Dr. Fraser Darling it is a vital portion of that ecological unit. Poaching is going on there to a very great extent, but by interterritorial co-operation, I believe we could achieve a faunal block which would be of far more use. That is only one example of many that could be achieved on the basis of interterritorial co-operation. So I do hope, Sir, that it will be possible to promote this, even if it does cost possibly £50 a year. I have no idea of the cost, but I imagine it would not be much more than that.

The next paragraph, Sir, deals with poaching, and I cannot help saying that

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this paragraph should not really stand as it is. I admit it is not in the Motion we are asked to support today, so perhaps with a little licence, Sir, I would like to say that I think it will stand as an indictment on the people of Kenya in the eyes of the world.

In order to show what has happened about poaching recently, may I have your permission, Mr. Speaker, to read a fairly short summary which I have prepared from recent reports from different areas. The game warden considers that the whole pattern of poaching has changed over the last year or two. Previously the focus was in the south, the receivers were at the east, and the emphasis was on the killing of elephant for ivory. Now, poaching goes on from Elgon to Somalia and down to the south in greater tempo than ever before and considerable numbers of trophies leave the Colony for Somalia, Tanganyika and Zanzibar. The methods of poaching have changed. Previously, when anti-poaching teams cleaned up an area, it remained fairly satisfactory for some time afterwards. Now, as soon as a team leaves a place, poaching starts again. In his opinion the traffic in ivory, rhino horn, leopard-skins, etc., is terrific.

The Game Officer in charge of the Eastern Northern Province District considered that many trophies were going out through frontier posts. He considered that many of the American fashion magazines advertising leopard-skin coats related to skins smuggled into Somalia from Kenya. As a conservative estimate, he believed that in a few months the trophies taken out through the fiscal boundary of Garissa amounted to 180 elephants, 160 leopards, many giraffes and antelopes. He believed the value of trophies which could be recovered would easily cover the cost of increased rewards for information.

The Game Warden for the Coast Area believed that many of the poachers previously convicted have now completed their sentences and were poaching again—with much more cunning. Poachers from Tanganyika were entering in Land-Rovers to get away with their booty before they could be detected. Rhino, elephant, and leopard

was hampered because of having inadequate transport, for instance, without a Land-Rover they could not follow up the poachers, nor could they get their heavy lorries through the sand.

Other game wardens confirmed that the use of poison was widespread, and the Kamba were frequently seen hunting down the Tana with poisoned arrows.

If I may digress for a moment, Sir, and refer to the Interim Report of the 1956 Game Policy Committee, there was a recommendation there that arrow poison should, so far as possible, be progressively prohibited, depending largely on the adoption of that policy by local native authorities. I do commend very strongly to some of my hon. friends opposite that if they can manage to achieve the prohibition of the use of arrow poison by the Kamba they will be rendering a very great service to the preservation of wild life. There is no case, in my opinion, for self-protection. More often than not, the poison takes quite a long time to operate, and it is only useful when someone is trying to destroy a rogue animal which is usually a task that should be performed by experts, and therefore the Game Department.

My report on poaching continues, Sir. The Game Warden for the north has been compelled to maintain his intelligence system by paying money out of his own pocket since the vote for rewards is quite inadequate. Motor transport was now more available to the operators and the traders would offer considerable sums of money for trophies. He estimated that since 1st January, 1959, at least 300 animals of various species were known to have been killed by poachers, and he considered that this would represent only 10 per cent. of the number actually killed. In his view the position was worse than he had ever known it—that is the Northern Frontier area.

Similarly, the Game Warden for Kajjido reported that there is a new development there in that some of the youngsters are resorting to poaching which they have never done before. They kill rhino on the excuse of self-defence, hoping that the trophies can be retained and not be retained in his

[Mr. Cowie] animal would bring in money, and he thought it may not be very long before these activities would be turned against the famous rhinos at Amboseli.

Other game officers confirmed, with examples of poaching activities, that they are now far more widespread. The poachers themselves had resorted to far more subtle means and the illicit traffic in trophies had found new markets.

It is disturbing to learn that in August last a number of bush fences were found in the Voi area, and 128 snares were confiscated. This place was visited again in November and a man was arrested while examining his snares, having been found guilty of a similar offence in 1957 and awarded six months' imprisonment. The remains of the following animals were found in the snare lines in August: one giraffe, one lion, two eland, one oryx, two kongoni, two ostrich. On the second visit in November, the remains of the following animals were found: three giraffe, one buffalo, one kongoni, one bush buck, one impala; two eland, one oryx. Now, Sir, that is not a great number compared with the thousands of animals which live in Kenya, but when one appreciates that that represents the activities of one poacher, and those were the animals which he had destroyed with snare lines in a matter of three months, it might give some idea of the scale on which poaching is being carried out.

Along the Tana River in the Kitui District, in a period of two months, 62 arrests were made and the following skins were recovered: 40 lesser kudu, 10 water buck, 20 bush buck, 15 duiker and 15 dik dik. A large number of platforms were found in nearly all game drinking places, and in a journey from the Embu suspension bridge to the Garissa boundary a warden saw practically no game whatsoever.

Well, Sir, from this it must surely be indispensable that poaching has increased, and that the very survival of wild animals is doubtful. The information that I have reported comes from game officers with knowledge, and I think that this information is therefore reliable. It is very easy to overstate the case of poaching, but that information I main-

The next heading in this White Paper, also on page 6, is the "alternative livelihood for native hunters" which I praise and commend, and I was very glad to hear that the Minister believed that it had some chance of success. It is a bold experiment, and I think as long as one can give it a fair wind it will probably succeed. What I think it probably does need at the moment is some more money which is the usual cry. Unless that money is provided it will be very difficult for the people working it to make it a real success. I also understand that there has been quite an argument about the proceeds from the sales of ivory—whether they should go into the scheme or into general revenue. I do hope that it will be possible to hypothesize that revenue into that scheme itself because without the profits on those products the scheme will not be able to finance itself.

Further down, Sir, on page 6, there is a reference to "nature reserves"; and I would ask if it is possible for the Minister to help me on this point, because he knows my views, and he knows that I believe that if you wish to preserve an area of national importance, it should therefore be a National Park. But in this particular paragraph, it seems to me that it subordinates the creation of nature reserves to the development and management of the Colony's forest estate. If a nature reserve is set up as a barrier against temporary development or changing policies, then it has great virtues, but if it is only a nature reserve that is subordinated to any kind of changes in forest development, I wonder if it really will be of any purpose.

The next paragraph, Sir, refers to financial aid, and I do hope that it will be possible for everyone, not only in this Council, but elsewhere to take every possible opportunity of encouraging assistance from overseas. One of the difficulties I have always found is that if you talk to a rich benefactor, one of the first things he says is: "What are your first things to do about it yourselves? What people do you spend in Kenya on game money do you spend in Kenya on game preservation and why can't you get an answer more locally?" Now, if one can answer those questions, I feel that there is a vast number of people, especially in America, who have this benevolent outlook and who have this money, and they are perfectly willing to come in and help to spend money, but they want some

[Mr. Cowie] ing the country concerned of its own rightful obligations. I think the same also goes for Her Majesty's Government who in the past have always helped us through our difficulties. If in the end, we cannot find sufficient resources locally, then would it not be right to turn to Her Majesty's Government and ask for help. The problem, as I have said before in this Council is from Rhodesia to Abyssinia, and Kenya is not the only British country which is not making a success of its game preservation policy. It is a problem which runs right the length of British Africa, and that seems to me to give a case for asking Her Majesty's Government if they could come in and help both with policy and with finance.

On finance, Sir, I must ask for your indulgence if I may explain some of the National Park problems because this is the only debate which has been held in this Council for many years. On the Estimates for Development and the Estimates for Recurrent Expenditure this particular heading had no place, and that is why I now ask for permission to refer to National Park Finance.

Turning first, to development, Sir, Paper No. 77 of 1956/57 deals with the development allocation to National Parks for 1957/60. One of the paragraphs No. 277 says: "That further development of the parks requires dams to provide water for wild animals during dry seasons; roads to open up the parks and to facilitate both closer supervision and tourist access; new safari lodges and improvements to existing lodges; beacons, boundaries, fences, signposts and housing for staff." Further down, there is the heading Safari Lodge Improvements—the total amount allocated there is £3,300, but by a later cut of 20 per cent, that was reduced to £1,300. That is the reason, Sir, why it has not been possible during the last three or four years to embark on any considerable expansion of tourist facilities, especially accommodation, in these National Parks, because £1,300 does not go very far.

There has been a lot of talk about tourist development in these National Parks, but I think that by a process of discussion with various officers, particularly with the Minister for Tourism, we hope to arrive at a scheme which may

solve some of the needs of visitors. It is not an easy story because there are the complications of ownership, rent, whether it is a profit making concern or something else, and in checking with the hon. Member for Nairobi West, I would just like to point out to him that many of these projects, especially the accommodation in National Parks which have to be closed for over three months in the year, are not in themselves a truly business proposition, but obviously he was judging the value of tourist traffic as a whole compared with the amount which is spent on it as a whole.

Then, Sir, there is a burning question, and that is the fencing of the Nairobi Royal National Park. There have been considerable complaints about this, and I think it is a situation of great danger. Anyone travelling to the airport, even fairly slowly, and people travelling along the Langata Road to a thickly settled residential area, run the risk of colliding with large wild animals. One of these days there may be a very serious accident, and everyone will wonder why something has not been done. The highest priority for the expenditure of any development money which can be allocated, according to the Trustees' assessment, is for the fencing of the Nairobi Royal National Park. As soon as that can be provided, then something can be done about that fence. It is not an ordinary fence. We have tried using barbed fences, electric fences, ditches and all sorts of things, but in the end we have come to the conclusion that the only effective barrier against stampeding herds of game in open country like that, particularly with a lion at their heels, is to have a band, and a fence on the top of the band—that is the kind of barrier that wild creatures cannot easily see through or over, and they are then frightened of stampeding through it. That is the kind of fence which we hope to achieve along the affected boundary of the Nairobi Royal National Park to reduce this very considerable danger to traffic, especially to the airport.

Now, Sir, I do not know whether the hon. Minister for Finance is here, perhaps it is a good thing that he is not, because I know he will be very cross with me when I say that I think that the amount required for this proper and reasonable development of the National

[Mr. Cowie] Parks and their reserves over the next three years is of the order of £250,000. I will not go into details of that at the moment, I will merely quote a total figure which has been built-up on precise estimates and is the kind of figure which will enable the Trustees to provide the accommodation for tourists which is required, build the roads, create the dams for preserving animals in the dry areas, and in other words make it possible to develop the tourist industry.

Now, turning to recurrent finance—I would explain, Sir, that here again, the National Parks are in some trouble because the amount it has been possible to allow them is a pegged figure of £64,000 per annum. This was a bargain made with officers of the Treasury, that if I, as the Executive of the Trustees and responsible for carrying out their policies, would guarantee that I would not come shouting back for any more money for four years, then I would remain pegged for that period. On the strength of that, obviously we adjusted our plans and endeavoured to stick to the bargain. Unfortunately, after hardly more than two years had expired, the amount was cut by £1,200. Now, Sir, I do not want to grizzle over silly little things, but quite frankly £1,200 in a total budget of the Colony of £33,000,000 strikes me as being insignificant. But it is not insignificant when one relates it to what was going on in the National Parks. As a result of this bargain, various officers in the National Parks, I think very loyally, said: "Right, let us turn our own resources to making extra money in any way possible so that we can come out on the bargain."

Some of them turned their attention to fashioning carved ivory which was sold. Others tried to increase the fish catch from a certain dam, and so it went on. It was rather like a church fete. It was therefore bitterly disappointing to them to learn that the amount of money which they hoped to make at the "church fete" was eventually cut off. What this really leads to is this; and I hope I will not be too unpopular when I try to tell them. Members of this Council: what I think is really necessary to put the game preservation agencies on their feet—I do not think it is necessary or wise to quibble about £1,200; but I have tried

to make a very sincere assessment of what I believe is necessary. It is only my own opinion but it is this; that so far as recurrent estimates are concerned I believe the Game Department requires a minimum of £60,000 in addition to what they get now. I also believe that the National Parks require a similar amount for anti-poaching and maintenance of roads and for all the really necessary things that contribute to game preservation. In addition I would mention that I think the East Africa Tourist Travel Association should have additional help. If that figure were available I believe that these agencies responsible for game preservation could really carry out their work successfully. I know that the answer will be that the money is not available but one of these days perhaps I will be able to whisper to the hon. Minister for Finance my formula as to how I think it could be obtained.

Now, Sir, turning to the detailed recommendations on specific areas I must ask your indulgence if I can offer some views. The first one, Sir, refers to page 6 of the Paper, paragraph 3 (f): I am sorry but I am quite unable to understand the meaning of this paragraph.

On page 7 it refers to the Tsavo Royal National Park and the additions which were recommended to it. I do strongly commend, Sir, that those additions are necessary, would improve the whole of the Tsavo National Park and would preserve an area quite near Nairobi—it is only 100 miles away—in which could be of considerable use in certain seasons. To my knowledge there has never been any assessment made of what it would cost to add those areas to the Tsavo National Park, but I see that the Papers say that this would require additional finance which is not likely to be available in the foreseeable future. In the event, after all the arguing, which other words the Government accept that these areas, the idea but that there is no money, I do hope it is possible to make money available for those additions, because if I were asked to give a figure as to what it would cost, I think that hon. Members might be rather surprised to know how little it would be.

[Mr. Cowie]

Then, Sir, so far as the Mount Kenya Royal National Park is concerned, again, the Game Policy Committee recommended the addition of two corridors, and this is a very old story. It originated from the 1939 Game Policy Committee and the whole intention really was to provide access to this high mountain park, in my view, to make it possible for the administrative arrangements to be successful. If the National Parks Ordinance applied to these two corridors which are the means of access, or would be the means of access, then the charging of entry fees and so on would become possible. But while the Mount Kenya Royal National Park lurks up above 11,000 feet it is very difficult to arrange for administration down below. I know the objection of the Forest Department is that it would cut a wedge through their administrative area, but I do not really believe that it would cause any difficulties. If one were to comply with the International Convention of 1933, which I must refer to again, as it has been the whole Bible of this scheme, there it is laid down that a National Park should so far as possible contain representative vegetation and all that kind of thing. These two corridors would make that National Park much more complete, and I do hope that it may be possible to refer this particular item to the Standing Game Advisory Committee.

The next one, Sir, is the Aberdare Royal National Park where also, an addition was recommended. I see that that is to be referred to the Standing Game Advisory Committee so I will make no comment other than to say that I do believe it would be valuable possibly from a tourist aspect if nothing else to have this area as a bongo habitat. I believe that with careful coaxing one could induce bongo to show themselves to people without being so elusive. It does happen. If people could drive to a certain place in the Aberdare and see this famous and somewhat rare but beautiful animal then I think it will be worth a lot.

I now come to Marsabit Royal National Park as recommended by the Game Policy Committee. This was also a very difficult question but in the end

Mountain itself into a National Park and support it with a fringe of either game reserve or national reserve. This Paper now rejects that and I do wonder if that has been done after careful thought. The Game Policy Committee spent over two years thinking this out, conferring with administrative officers and everyone else concerned. I hope, Sir, that this decision will not be taken rapidly because Marsabit itself is a unique area. It is an extraordinary, unique, volcanic feature which is certainly worthy of national protection. If it is not to be a National Park, Sir, I just wonder whether there will be any compensation paid to the Trustees for the cost of the safari lodge which it built there, and the roads which have been developed.

If I may refer to page 8 of the White Paper, in the middle of the long paragraph 4 (i), it says, "Where an existing national reserve is controlled by the Trustees of the Royal National Parks in conjunction with either a National Park or a safari lodge in a national reserve then it is, doubtful whether the Trustees' expenditure would be appreciably reduced if the Government accepted responsibility for managing the game in the area". That does not seem to apply to Marsabit Mountain.

The next one, Sir, is the Usao Nyiro Royal National Park. I would like to stress this that the Game Policy Committee spent a very long time investigating the possible claims for watering on that river and recorded in their Report that in their opinion there was plenty of room for watering Samburu stock on the rest of the 60 miles of river. So I hope that that proposal will not be unduly delayed and that it will become a National Park.

Mount Elgon National Park, Sir, is equally a difficult one because some of the same arguments that apply to Mount Kenya also apply to this. The area selected by the original Game Policy Committee of 1939 is a most beautiful area of a high bluff with what is described as the finest stand of podoc trees in the world. It is therefore an area of superlative beauty and interest. For that reason I feel that it qualifies as an area for national protection. If I may, I would like to read what the local county

[Mr. Cowie] held on 30th October, 1958, and at a Council held on 29th October, 1958. The consideration was given to the following considerations contained in the Report of the Game Policy Committee, 1956: "The Mount Elgon Nature Reserve as gazetted under the Forest Ordinance should be declared as the Mount Elgon Royal National Park; provided that Government in consultation with the trustees of the National Parks retains the right to direct policy in regard to forest conservation and its management." This region is one of high floral and consider- ingly rich fauna and scenic interest. It is in every way suitable for the status of a National Park, and there is much local public support for this proposal. Then both councils passed the following Resolution to show what support they were giving: "That this council strongly supports the recommendation of the Game Policy Committee of 1956 that the Mount Elgon nature reserve as gazetted in the Forest Ordinance be declared the Mount Elgon Royal National Park, and that Government be asked to implement this recommendation at the earliest possible moment." I quote that, Sir, merely to show that the local people are extremely interested in this area, and would very much like to see it made into a National Park.

Finally, Mr. Speaker, I come to the question of the Northern National Reserve and one other national reserve. On page 8 and 9 of this Paper it postulates that the whole of the existing Marsabit National Reserve with the exception of the diminutive 22 square miles proposed on the Usao Nyiro River will become a controlled area. Never in all the disagreements we had in the Game Policy Committee did we contemplate turning the whole of this reserve into a controlled area. It has been one of the two game reserves in Kenya ever since the early part of this century, and the worst the Game Policy Committee recommended was that a good part of it should be converted to game reserves. Well now, the whole thing, including the Mathews Mountains, the Ndotos Mountains and Marsabit Mountain are to be a controlled area.

I would like to quote one short thing

bearing on it. It is on page 38 of the Game Policy Committee Report, and there are only about six lines. "The Committee therefore recommended (i) that early steps be taken to ascertain the boundaries and extent of the forest catchment areas (ii) that the present programme for the piping of water from these areas be accelerated, (iii) that stock be progressively denied access to these areas, and (iv) that when the above recommendations have been achieved, then these forested catchment areas be declared a National Park." That, Sir, refers to the Mathews and Ndotos Mountains, whereas, now we are faced with a situation of a suggestion (which I understand is merely for comment and debate, so I feel entitled to criticize it), that the whole of this Northern Game Reserve—the whole of this Northern Reserve, it is to be down graded to a controlled area, which is an area in which shooting is allowed merely at the will of the Chief Game Warden. I do not honestly believe, Sir, that that is the intention, nor do I believe that would be wise policy, and I implore the Minister do give me an assurance that this decision will not be greater investigation, and at least consultation with the Standing Advisory Committee.

Lastly, I come to the West Chyulu Game Reserve. Now this is the only game reserve which will exist in Kenya. It is a small area on the west slopes of the Chyulu Hills. At present it is a national reserve. It is administered from the Tsavo Royal National Park, assisted by the Warden from Amboseli. They are both quite near. The idea of it was that if the eastern side of the Chyulu Hills is added to the Tsavo National Park, as is recommended, then the western side is must come under similar control. It is one (small) unit, it is one botanical unit, and it is one catchment area, and it is therefore perfectly logical that both the east and west slopes of this beautiful range of hills should be under one control. I therefore can see no possible reason whatever for saying that this national reserve of 145-square miles should now become a game reserve, to be administered by the Game Warden from Kajjido, who is very much further away from the area than the people who now administer it. It would therefore

[Mr. Cowie] not save any expense, but I think it would increase expense, and I do hope that the Minister, Sir, can give an assurance that this decision also will not be implemented until much more careful investigation has been made.

The Shimba Hills, Sir, is not a national reserve, but I think the people of Mombasa would be interested, perhaps in trying to make that beautiful place into a kind of miniature Nairobi National Park. It has not got anything like the quantity of game there, but it has some, and it is a beautiful forested area: a recreational outlet for Mombasa, it is terribly valuable. I therefore wonder, Sir, whether the Forest Department, under whose aegis it will now be (or continue to be), will really set out to make this into a recreational and game area for the people of Mombasa.

In conclusion, Sir, I would say this. I think the main policy in this Paper has many good points. There is much said there that will put game policy on a sound basis, but I do think it is weakened by certain omissions and restrictions as compared with the recommendations of the Game Policy Committee. I had hoped that there would be more mention of the schemes for game preservation in the Masai land unit, which is the most vital part of Kenya as far as game is concerned. I also hoped, Sir, that there could be some forecast, perhaps in stronger terms, at some future date of the amount of money that can be made available for these purposes, and I also hope that there can be far more serious attention to poaching. Unless this policy is supported by what the Game Policy Committee called "determination", I do not believe wild life will survive. If it does not I will ask this question. What will we lose? We would lose firstly our greatest aesthetic, cultural and educational asset—natural asset. Secondly, we would lose our main tourist attraction, and lastly we would deprive people of future generations of any chance of seeing and enjoying what we have enjoyed. But who would lose most? I would say to you, Sir, without any fear of being wrong, what it is the African people of this country who would lose most. It is their heritage more than it is of anyone else, and if this game dwindles and dis-

appears it is the African population who will be the losers. I would therefore ask, Sir, if it is possible, to invite all hon. Members of this Council whatever side they sit on, to approach, this subject of game preservation with a new heart. We have run along for 50 or 60-old years without a game policy, and now we have a Paper—we have a pattern to consider—so let us approach it with goodwill and determination. If that can be done I see very good chance of the agencies responsible for preservation being able to perform their duties successfully, and if they do, then the African heritage and our heritage will be protected. Then we can hand on something to future generations, and then we can go on developing our tourist industry. That is all, Sir.

MR. OLE TIPIS: Mr. Speaker, Sir, first of all I would like to make it very, very clear that we, the representatives of the African people of this country, do value our wild life, and we regard it as unique and a priceless asset as much as anybody else.

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

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

What we do criticize, Mr. Deputy Speaker, is the methods adopted by our Government for the preservation of wild life. We feel, and feel very strongly, too, that they are not far-sighted enough and do no go a long way to preserve the game in the proper way which we would all like to see. We know one day, and I hope it will not be very long, when we take over the reins of the Government of this country, we shall have to preserve the game, and we shall have to attract the tourist industry into this country which will help our national economy more than anything else.

Now, Mr. Deputy Speaker, first of all, if I may touch briefly on the Government's White Paper, which has got quite a number of inconsistencies which, in my way of thinking, is not bold enough. First of all, I think the game situation in this country, in the past, with the determination which it ought to have. Now, if I may touch on the statement of policy on page 2, paragraph 2, which reads:

[Mr. ole Tipis] The final responsibility for defining the policy for the preservation of game in Kenya, and for ensuring that it is effectively carried out, rests with the Government. "Well, we have no quarrel with that. Where the quarrel arises is, what about the people of the country—the people affected most in the areas where this preservation is to be carried out. Of course, I should say, that they are the people who inhabit these areas. They are the people who have contact with the game, not the single game warden who is stationed in a district, and they are responsible. They have preserved the game and they should be encouraged by the Government to do so—not harassed by the Government.

Now, if I may go on, Mr. Deputy Speaker, on page 3—clause 3—sub-paragraph 2—it reads: "The whole or part of existing National Reserves and such other areas as the Government may, from time to time, consider suitable and will be designated game reserves and will be treated as areas in which special measures of game preservation will be undertaken. In such areas the Trustees of the Royal National Parks shall have such specific rights and responsibility as the Government may, from time to time, invite them to undertake." Now, this is quite right, Mr. Deputy Speaker, but I would like Government's clarification of one point. Now, is the Government's game policy uniform as a whole, or does it vary from area to area? What I mean is this. We have private lands in this country. We have African land units, and you find that most of these game-controlled areas are only in the African land units, whereas the private landowners in this country have the law entirely in their own hands. They can go on shooting any wild animal on their private land, and the African in his own reserved tribal land unit has not got that right. I am not, for one moment, suggesting that we should be as bad as they are in destroying wild life in the areas. What I am suggesting is this. If it is the question of preserving the game and controlling our wild life in this country, well, there should be no exception, Mr. Deputy Speaker.

Now, the other thing is I see they go on to state that the areas will be designated as game reserves. Of course, here

I would also like to know whether the designation of these areas as game reserves will automatically imply that the human interest in those areas which are designated as such are going to get second place, or second priority, to the first priority given to the game.

Now, on page 4 of the Government White Paper, paragraph 3, where the Government will set up a Standing Game Advisory Committee, and give statutory recognition thereto, to advise the Minister on the carrying out of the Government policy, I am rather confused over this one. I heard the hon. Nominated Member, Colonel Cowie, speak of a Technical Game Advisory Committee and on the Paper it is given merely as a Standing Game Advisory Committee. Well, I would like to know what are the Government proposals with regard to the composition of this committee, because what always fails us in this country is some people in some quarters think all the time that they are the main contributors, they are the only people who know better than anybody else, whereas I regard it as a sort of teamwork where we could all contribute whatever little we have and possess for the preservation of our wild life. The composition of this committee as such, I would very strongly suggest, should be the Africans should be very strongly represented. Let Government bring in all its technical advisers. We are not opposed to that, but the Africans should be adequately represented, and then the Government is there to advise and offer technical advice, not to bulldoze the people.

Now, the other thing Mr. Deputy Speaker which surprises me most is, although I have no quarrel with the members of the Board of the Trustees of the Royal National Parks, it has been found that there is only one African who is capable of serving on such a very important Board? This is very deplorable.

May I now in all good faith ask our Minister to reconsider this position and at least nominate or have an African elected or two or three elected to this board of trustees because one is not enough. And to make it worse, even all the wild life is in the African land units. And they should at least, the people who are really catering, looking after the game, should at least have a say in the game preservation policy.

(Mr. ole Tipis)

Now, it comes on page 4, paragraph 5, to the question of publicity and propaganda. If the Government policy as given in the White Paper with regard to publicity and propaganda is to hold any water, then I should say that the Government policy should be directed towards removing the fears and worries of the people; that the game is an indispensable asset and it is there for their benefit, not for the benefit of anybody else. But, as I have said before, Mr. Deputy Speaker, the methods employed in implementing this Government policy differ tremendously from area to area from the officer responsible in the Game Department in one district to another district. That is where the difference comes in. I mean, when you say, "Well, the Government will encourage measures designed to educate public opinion on the importance of game preservation, of course, there are only a very few people who need to be educated on that line. We have lived in this country, we have had all the game, and I should say that the game now in this country is on the decline since the days when you people came here—the British Government. So I think our publicity and our propaganda machinery was better than yours! We have lived from time immemorial side by side with the animals in the bush country at Narok. We never destroy them. But then during the night you find some European visitors going on with their small Land-Rovers shooting a buck there, a rhino there, whereas our *manyatta*s are just nearby there, but we do not kill them: except a lion when it attacks our cattle. So now, what surprises me is to see that the people who reside in these areas all along where the game is ample, instead of Government trying to carry out good will and the confidence of the people with an order to enable the Government and these people to preserve the game for the good of all and for the good of this country, goes on imposing new measures, calling in some sort of new game reserves, some national parks, whereas at the same time they do not say, "Well, we create a national park here but by all means let us remove all the scattered game in the other areas and put them altogether." What will happen to all this scattered game all over the country? We did not

have these national parks before. Surely, we have not imported any game into this country. We are very much concerned and I hope nobody will take a bad view of what I am saying because that is what the African is feeling. We are concerned more, I should say, than the Government. But the method is where the quarrel is. After all, if the game as we know it in this part of the country is for the good of all, why can we not adopt a clear-cut policy, remove the fears of the people, remove the confusion, let the Game Department and the Government of this country be responsible for the preservation of the game in a way of only giving technical advice and any other protective measures necessary—where necessary. And let the local African district councils establish their own national parks if they so wish. Let them establish their own game reserves and let them reap the benefits of the game in their own areas. Let them publicize, attract tourists with the help of the Government. Surely these visitors have never met with any hostile attitude in any African land area they have gone into. They have not. They take photographs; they feel at home completely without any trouble—without any trouble. But when the Government comes in, for example, and say, "Well, look here, you are the African district council, we want an area of about ten square miles as a national park. It is for your own good. We shall put a fence round it. No cattle will have the right to graze thereon." On the question of the point of water, of course, water is more essential to the cattle than to the game. Then, what do these people feel? I mean, you inject a poison into their hearts and that is entirely wrong. You should take them with you, tell them, "Look here, let us put a fence round here. Any poacher coming from this national park goes into your African district council's pocket to provide any development projects required." And that is the best way of convincing the people; the best way of preserving the game. But if you make them hostile to the whole Government policy on game preservation, then what? Then you find them with what my hon. friend from Nairobi West described as poisoned arrows penetrating during the night and having a go at them, because, by so doing, they

(Mr. ole Tipis)

knock down a rhino or an elephant and they get an ivory or a rhino's horn—they get a bit of money. You see? But if the African district council knows that whoever does that—the people in the area—whoever does that is depriving that particular African district council of the money, then, of course, they will begin hunting for the poacher and drive him away if necessary. So what we want is a co-ordination of some kind—a co-ordination between the Game Department and the inhabitants of that area. That is what we want and that is what we are asking for—and no more!

Now, on page 5, Mr. Deputy Speaker, clause 6, which really I think I am right in classifying it as *the* terrible clause in the whole White Paper. Now, with your permission, I quote clause 6, subparagraph (b): "The Government cannot accept any responsibility for the activities of game animals and have no liability to pay any compensation for damage which they may cause. The Government will, however, with the limit of the finance available endeavour to control game animals scheduled as such under the Wild Animals Protection Ordinance and as far as is practicable to prevent them causing injury or damage."

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

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

Now, surely this clause is really very badly worded. Now, when the Government on the first page, which is clause 2, states—"The final responsibility for defining their policy on the preservation is on the Government." Then the Government accepts responsibility! Surely, how unconvincing this is! I do not know who drafted this clause really! And then they go on by stating that as far as is "practicable to prevent them from causing injury or damage". How many people in the Narok District have been injured or killed by these lions? I would like the Minister when he comes to reply to indicate what preventative measure the Game Department or the Government has applied to prevent these lions from killing other people in those areas. "Damage to property" what measures have they applied when a lion

runs over a cattle *manyatta*, goes away with a bullock or two? What preventive measures? And now he tries to evade the responsibility which he has imposed on himself!

So, Mr. Speaker, this Paper as far as I can see needs a complete withdrawal or a complete amendment clause by clause because as it stands it is not acceptable to most of us. Now, I am only touching on these points briefly, Mr. Speaker. You see, then in the general recommendations, part I, page 5, sub-clause 5, subparagraph (3), where they say "alternative livelihood for native hunters". Now, these native hunters for a long time. I am not talking about the professional hunter—a man who goes on killing a rhino or an elephant for business. I am talking about the typical native hunter as described in this Paper. I see the Minister for African Affairs is looking attentively at me! But he knows the Wandorobo people who used to live in that old forest of Mau. They did not have any *shambas*; they did not have any cattle; they lived on just going with an arrow to shoot a buck or get some honey from their beehives—people of that type. Those are the people I am talking about. Now, surely, as far as the Wandorobo in the Masai country are concerned, I think it is a bit fortunate because, since the declaration of the Emergency, the Wandorobos have had a very bad time and they moved from the forests to mix with the Masai. The Masai were very generous, Mr. Speaker, in looking after these people so they are no longer hunting very much. They are in the *manyatta* and the Masai do not let them bring the meat from the wild animals. They say they smell, you see! They would not have them in their *manyattas*. So the Government should be very grateful to the Masai for that. But what about the few who remain in the forests? We are not concerned about the man who is only interested in making money but the man who must at least fill his tummy, Mr. Speaker. I do not know what sort of experiment is going on at the Galana River—I have never heard of this word Wallanguu tribe but I would like to know what is happening. Anyway, I think I would like to know what sort of an experiment this is. I must try to get an explanation from the Government. Now, I have—

THE SPEAKER (Sir Ferdinand Cavendish-Bentley): Have you got much more to say? Have you got anything more to say?

MR. OLE TIPIS: Definitely, Mr. Speaker, Sir.

THE SPEAKER (Sir Ferdinand Cavendish-Bentley): Then I think perhaps if I might interrupt the business of the Council—

ADJOURNMENT

THE SPEAKER (Sir Ferdinand Cavendish-Bentley): It is past the time for the interruption of business and I adjourn Council until 2.30 p.m. tomorrow, 9th December.

The House rose at twenty minutes past six o'clock.

Wednesday, 9th December, 1959

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

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

PRAYERS

COMMUNICATION FROM THE CHAIR

DEATH OF

SHEIKH SIR MBARAK ALI HINAWY, K.B.E.

THE SPEAKER (Sir Ferdinand Cavendish-Bentley): As I expect most hon. Members are aware, we have in the course of the last 24 hours suffered a grievous loss in the death of a man whom to many of us was a personal friend, Sheikh Sir Mbarak Ali Hinawy. He has been a Member of this House on several occasions totalling many years and was also a Member of the Council of Ministers in his capacity as adviser on Arab affairs. His was a very distinguished life of public service and I think it would be very fitting were we to stand in silence for a minute as a token of our respect.

ORDER OF PROCEEDINGS

THE SPEAKER (Sir Ferdinand Cavendish-Bentley): Before we commence the business on the Order Paper I would inform hon. Members that I propose to take Order No. 7 before we proceed with Order No. 5. I understand that Members are anxious to deal with the Second Reading of this Bill, and furthermore that the Minister for Legal Affairs, who is taking it, may not be here in two days' time.

BILLS

SECOND READING

The Traffic (Amendment) Bill

Order for Second Reading read.

MR. CONROY: Mr. Speaker, Sir, I beg to move that the Traffic (Amendment) Bill be now read a Second Time.

Sir, this Bill has three objects. The first is to provide for more efficient inspection of heavy vehicles in the interest of public safety; the second is to transfer from the Kenya Police to a civil organization the

[Mr. Conroy] responsibility for driving tests, and the third is to introduce a simplified procedure in the courts for the trial of minor traffic offences in accordance with the Working Party's Report, which was published some time ago and circulated to hon. Members.

Sir, the first two objects of this Bill arise from the recommendations of the Organization and Methods Unit of the Treasury. They undertook a year ago an investigation into traffic licensing and they discovered that the responsibility for that subject was shared between no less than three different Ministries. They therefore came to the conclusion that this led to "duplication of effort, inefficiency, and inconvenience to the public" and they accordingly recommended, and the Government accepted their recommendation, that we should set up a Road Traffic Branch which would deal with the whole of traffic licensing and this proposal was approved by this Council in the Budget. Hon. Members will remember that in opening the debate on his Vote the Minister for African Affairs under whom this new Road Traffic Branch comes, dealt with this matter in some detail, and specific provision was made in the Ministry of African Affairs for this purpose.

Sir, it is a solemn and sobering thought that the number of fatal traffic accidents per thousand vehicles in Kenya is four and a half times as great as the similar statistic in England—four and a half times. I accept, Sir, that possibly the standard of our roads, possibly the standard of our driving may have something to do with this, but also, Sir, I think it is partly due to the conditions of many of the goods vehicles and public service vehicles on our roads. And it is accordingly proposed to set up a more efficient organization for inspection of those vehicles. Hitherto the matter has been in the hands of some 200 garages and individuals who have been appointed by the Commissioner of Police to undertake these inspections. The inspections carried out by some of those garages and individuals have been absolutely first class. It is not possible to say the same, Sir, of all. In order to achieve uniformly and in order to have some supervision over the standard of inspection of those vehicles it is proposed that the Road

Transport Branch shall have a permanent inspectorate and again in the Ministry of African Affairs' Vote last Budget we made provision for the appointment of those officers. This inspectorate will have permanent centres at Nairobi, Mombasa, Nakuru, Kisumu and Nyeri and will also have other subcentres in some 20 towns throughout the Colony. At these subcentres the inspectors will attend on certain days during each month to be available for the purpose of inspection. It is proposed that this provision shall be available to all public service vehicles and all goods vehicles of carrying capacity of 30 cwt. and over. That is not very dissimilar to the present provision with regard to the necessity for inspection.

Turning now to the question of driving tests, I think most hon. Members will agree with the Organization and Methods Unit who said it was a waste of a trained police officer to put him on driving tests and it is much better to have a qualified civil servant doing it and thus to release trained police officers to do their proper task of looking after the safety of the public and the public's goods; and it is proposed to do that in this Bill.

Sir, the third, and possibly the most interesting, object of this Bill deals with the procedure for minor traffic offences. In 1957 we discovered that these offences had become so many that they were virtually clogging subordinate courts and we accordingly set up a Working Party to go into the matter. Sir, a copy of the Working Party's Report was circulated to all hon. Members last year and possibly since hon. Members may have forgotten what was in it I may simplify it in moving the Second Reading of this Bill by referring to some matters set out in their Report because they have set it out in happier language than my own.

The Working Party consisted of Sir Kenneth O'Connor, the then Chief Justice of Kenya, well known to many Members of this Council, Alderman Somen and Councillor Grieve, whom it is unnecessary to introduce to hon. Members, a senior Crown Counsel with extensive criminal experience, a Resident Magistrate who had in charge of the Nairobi Traffic Court, Mr. Hoyle, who was the Assistant Commissioner of

[Mr. Conroy]

Police in charge of the Traffic Branch in Kenya Police, and Mr. Akker, the then Senior Superintendent of Police. Their terms of reference were: "To consider the existing procedure for the prosecution of minor traffic offences with a view to simplifying such procedure, expediting prosecutions and facilitating the collection of fines in the interests of the public, the courts, and the police." In other words, Sir, it was their task to make the extraction of fines from members of the public less painful.

Sir, the Working Party, having had several meetings, published its Report which was circulated to hon. Members on 8th June last year, and then we had it published as widely as we could through the Press in order to get, if we could, informed criticism from members of the public to see whether there were any rooted objections to the procedure proposed. We also sent copies of the Working Party's Report to the Law Society of Kenya, the Associated Chambers of Commerce, the East African Automobile Association, the Indian Chamber of Commerce, and the Road Safety Society of Kenya. Two of those bodies, Sir, did have constructive criticisms to make of the proposed procedure and I shall deal with those when I come to them.

The Working Party then considered what were the dimensions of the problem and the evils which they were trying to remedy and they discovered this. They said that during the month of December, 1957, the number of traffic cases filed in the courts was 1,484, but with the increase in population and motor-cars this number would go up. Sir, that has in fact proved to be the case. During July, 1959, there were as many as 2,451 traffic cases in Nairobi alone. During the whole of 1958 throughout the Colony the figure was 30,500. In the first 11 months of the year 1959, there were 10,000 minor traffic cases in Nairobi alone.

Now, Sir, if we go on with the present full-scale procedure, the somewhat cumbersome procedure, for dealing with those cases we shall certainly want an increase in magistrates; we shall certainly have additional capital expenditure for additional courts; we shall want an in-

crease in policemen; and the public will want an increase in its patience. Therefore, Sir, the Working Party went through the problem to see how they could remedy this increasing difficulty. They came to the conclusion that the main trouble they must get rid of was congestion in the courts; that they must get rid of the waste of time by the public through unnecessary attendance in court and waiting for their cases to come on; and that they must get rid of the inefficient system of collection of fines, because under the existing law a man can plead guilty by post but cannot send the fine with the plea. Having received his plea and the court having convicted him and settled how much fine to pay, the court then writes to the man and you can be surprised to hear Sir, that there are certain persons in Kenya who are no longer at the address which they gave. You must then start a wide hunt for this person through Nairobi and possibly through the whole Colony and then eventually you find that it costs you much more than the fine to collect it, if you do collect it. Twenty-one shillings to collect a twenty-shilling fine—result misery, as Mr. Macawber says. Therefore the Working Party considered whether they should not have on the spot system of fining as had been tried and as is still in force in some other parts of the world. They came to the conclusion that that would not be a very good thing for Kenya. At page 4 of their Report they say that they considered whether it would be advisable to recommend a system in force in some other countries whereby the police would be empowered to collect fines on the spot for minor traffic offences. The advantage of this would be that it would still further reduce the paper work and the work of the courts. The majority of the Committee was, however, against any system under which fines could be collected on the spot by the police. Such a system would be open to abuse and would be unlikely to command public confidence. Therefore, the Working Party recommended against it. They did, Sir, recommend a system which is contained in this Bill and which I have attempted to explain in the Memorandum of Objects and Reason. If I might quickly run through the practical example to show how it works it might be of assistance to hon. Members.

[Mr. Conroy]

Sir, the proposal is that the Governor in Council should make regulations setting out a list of minor traffic offences and we thought possibly 20, which are set out in the Objects and Reason. Sir, originally it was proposed that that should be done by the Governor or a Minister; but the East African Automobile Association pointed out that it would be too easy, therefore, to change it if the Minister or a Governor were to do it and accordingly we agreed with that recommendation of the East African Automobile Association and the power under the Bill is vested in the Governor in Council. Then, Sir, supposing the Governor in Council having made this list, I commit an offence—one of the specified minor traffic offences. Suppose I parked my car contrary to the directions of some traffic sign. Now, Sir, under the existing law, having had to go to court or having pleaded guilty by post and possibly given a wrong address, the police having pursued me, I am ultimately be fined Sh. 1,000 and/or three months' imprisonment for that offence. But it is proposed that under the list prescribed by the Governor in Council that a lower fine should be fixed which we call a statutory maximum penalty. And in this particular case, it would be fixed at Sh. 50. Now, Sir, I come back to my car and I find the guardian of the law standing there with an ominous look on his face, he would hand me a ticket which would specify the offence with which I am about to be charged and would give me the choice, the opportunity, to decide whether I should go to court and fight the case or whether I should plead guilty by post, sending my Sh. 50 by post to the court with the plea of guilty. It would also allow me, Sir, to send with plea of guilty and with my Sh. 50 a plea of mitigation saying that I had been driving for so many years, had been licensed, that I was not a wealthy farmer, I was a poor civil servant, that I had all kinds of commitments, Sir, which, made a heavy fine of Sh. 50 very serious for me and then, Sir, when the magistrate came into court he would look at my letter, my plea, my Sh. 50, and he could say, "I convict me more than Sh. 50" and if he is moved by my plea in mitigation he could send me

back the balance—the difference between what he fines me and my Sh. 50.

Sir, the Law Society was a little worried about this provision and they said that we should not in specific provision to say that a magistrate would not have power to endorse a licence under such circumstances. But I argued it out with them, Sir, and I hope I convinced them—I know I convinced myself—that the proposed provisions of the law will prevent the magistrate from endorsing a licence in such circumstances because the proposed provisions of the new section say that the maximum penalty he can impose is the statutory maximum—what is Sh. 50 in my case—and if he proposed an additional endorsement to that it would be more than the maximum penalty.

Now, Sir, supposing I am a very idle person and I take neither the action of pleading guilty by post nor the action of going along to fight the case in court and pleading not guilty, then I commit another offence for which I can be summoned and for which I can pay a fine of Sh. 200.

Sir, the proposed law also provides that if I do not come back to my vehicle the police officer can affix to my vehicle the ticket. And if, Sir, I come back to my vehicle and find the ticket on it that has been served on me, if I come back and find that someone has torn it off, there will be something left on, because it is proposed to have a sticker at the top to fix it on. The sticker will notify you that the ticket has been attached to it and if one just finds the sticker it will tell you to go to the police station within 48 hours so that you can find out what you have been summoned for.

Sir, somewhat similar provisions are in force in the United Kingdom, Northern Rhodesia and Singapore. Each of those, I think, has disadvantages which I hope our proposed system will not suffer from and I hope, Sir, that this system will commend itself to hon. Members as being quicker, cheaper and less inconvenient to the public.

Sir, finally, I should like to say this. My experience in legislative councils has been that we all think because we drive motor-cars that we are experts on the law relating to road traffic. And, indeed, Sir, I think, to a certain extent, we are. We are practical experts. And I

[Mr. Conroy].
am quite sure that many hon. Members have constructive ideas as to how the law relating to road traffic could be amended in this Colony. Sir, Government is also of the opinion that the Road Traffic Ordinance could be improved and is at present undertaking an exercise to see how that can be done. If any hon. Members think that they have any good ideas with regard to the improvement of the Road Traffic law, the Government would be delighted to receive them, Sir, but not in this debate. I would ask, Sir, that hon. Members would let us have their ideas but in this debate would restrict their ideas to the three objects in this Bill.

Sir, I accordingly beg to move that this Bill be now read a Second Time.

Mr. WEBB seconded.

Question proposed.

SIR CHARLES MARKHAM: Mr. Speaker, I have two very brief points to raise with the Minister in charge of this Bill. The first, Sir, concerns clause 10 which you might call "the ticket clause" regarding subparagraph 3 when the police affixes the vehicle with the ticket. The difficulty, Sir, from experience in the past has been to my certain knowledge the position of hired vehicles. If you catch the individual it is very easy to get his name and address by asking him to produce his licence, but if that is a hired vehicle somewhat naturally it would be difficult later on, when you get the provisions when no action has been taken, for that firm to be prosecuted. Let me give an example, Sir, in case I have not made myself clear. Mr. Jones or Mr. Brown hires a vehicle. He then commits an offence and a ticket is put on the windscreen or somewhere on that vehicle. He tears that ticket up and jangles it. Some considerable time later when the machinery of the identification of that vehicle has been completed, the firm concerned may receive a summons which seems to me rather unfair and I would be glad of some explanation on protection for people who are in the business of hiring cars, etc.

My second remark, Sir, is a very brief one again and concerns the idea appearing in the memorandum of Objects and Reasons of the minor offences and the

suggested statutory maximum penalty. Sir, I believe one of the reasons why the traffic courts are so congested is that the vast majority of offences are offences for parking regulations and nowhere do we see listed here the fact that somebody has parked longer than the allowance can plead guilty. In other words, I would suggest that when the Governor in Council of Ministers does prescribe a schedule of minor traffic offences, the fact of parking over the time or illegally parking should be included in that list. Otherwise your courts will be equally congested.

Another fear, Sir, on the schedule again, concerns the suggested statutory maximum penalties because some of them, Sir, I would have thought are totally inadequate. For example—and this is perhaps where the Minister can help me—using a vehicle without the prescribed lights, the suggested maximum penalty is Sh. 100. Well, quite frankly, Sir, that is very cheap, I would have thought, and I would suggest that on such occasions the driver of the vehicle should not be allowed the option of pleading guilty and paying the maximum statutory fine but should be brought before the court where a heavier sentence can be imposed and nowhere in this suggested Bill can I see a provision which prevents the driver from pleading guilty which prevents him being brought before the court provided he carries out the detail of the ticket system which is laid down in the clauses.

I would suggest, Sir, that when the Governor in Council of Ministers discusses the schedule and the statutory maximum penalties they should bear some resemblance to possible danger to the public. For example, looking at some of the particular details of the schedule, failure to stop at a Stop sign has a penalty of Sh. 60 which I would have thought might be extremely dangerous and might even sometimes result in a near accident. I agree the police can always take another charge of dangerous driving, but the ticket system will be used with perhaps constables or other traffic policemen who might remember the regulation, just dish out a ticket. Secondly, Sir, I think a learner failing to carry two L-plates—Sh. 40—is a rather perhaps less serious offence than perhaps the idea of using a vehicle without a driving mirror, all of which, I believe

[Sir Charles Markham]
shows that the suggested statutory maximum penalties should vary considerably from a small one for a very minor offence to a very severe one for a serious offence, and I would ask, Sir, the Minister for Legal Affairs to look at this subject again and when he does publish the schedule perhaps consider this aspect.

That is all I have got to raise on this particular Bill. Sir, other than that I support the idea of the Working Party's recommendation that people should be allowed to plead guilty. There is only one fear I have on this particular aspect. Regardless of what time the court proposes to sit, if you do not plead guilty you are either told or you are summoned to appear at the court at a fixed time. I think I am right in saying, at 9.30 a.m. and there you do literally sit quite often for day after day until the case is taken and if the Minister wants a practical example of this, a person I know who was only a witness in one of these unfortunate minor offences spent three days waiting and wasting her time whilst the magistrate got through the detail. And I do believe, Sir, that the court or the police constable should not tell everybody to appear in court at a fixed time of 9.30 a.m. on a certain day knowing perfectly well that it is quite impossible for all those offences of cases to be taken at that time. And the result is that a lot of people would prefer to plead guilty even if they are not guilty rather than spend hours of time in very uncomfortable surroundings waiting for their case to be heard. Now, I know the difficulties, Sir, and I did raise this in this Council under the Minister for Legal Affairs Vote some years ago. And I do think it unfair, particularly as there is a danger of your licence being endorsed that you are asked to plead guilty because it will save you time. I know, Sir, the other attitude can be taken that there is no necessity to do so, but quite frankly somebody who is busy cannot spend such a long time waiting for their case to be heard which might particularly where up-country people are involved, involve a lot of expense and travelling.

With those reservations, Sir, I beg to support.

MAJOR ROBERTS: Mr. Speaker, Sir the hon. Member will recollect in a pre-

vious debate I did raise certain points concerning this legislation, none of which seem to have been covered in this Bill. It is possible, Sir, that my hon. friend did cover them before I came into this Chamber. If so, I would ask him to forgive me.

The first point, Sir, was the question of inspection. Sir, I do feel that there is need to tighten up the method by which inspectors are authorized, particularly to ensure as far as possible that they are firms or persons of integrity who will not lay themselves open to bribes in this rather important matter of examining vehicles for the Transport Licensing Board licence. I would call his attention, Sir, to the necessity of ensuring that there are sufficient examiners in an area to ensure that vehicles do not have to be sent a round trip of some hundred miles in order to be examined, which does happen in some cases at the moment.

The other thing, Sir, is the question of the class of vehicles which should be inspected. At the moment, I think I am right in saying, a vehicle of less than 30 cwt. carrying capacity does not have to be examined. Now, Sir, there are vehicles of 4 ton or 4 ton carrying goods which are an absolute danger on the road and I think that those vehicles should be brought into the class of vehicles to be inspected.

Sir, we then have the question of trailers. When you have a three-ton trailer which is drawn by a tractor, the trailer has to be examined but the towing vehicle does not have to be examined. You might find a case of a trailer being towed by a Land-Rover. The Land-Rover does not have to be examined and it is the towing vehicle which is the major danger on the road. And I do feel, Sir, that with the trailer, so must go the towing vehicle.

Sir, with those few words, I wish to support.

AIR COMMODORE HOWARD WILLIAMS: Mr. Speaker, Sir, I hope to be able to prove that the Mover of the Motion by his example stands to gain absolutely nothing, because if he takes the case which is sickly just now of someone who has this sticky label showed on his car he in any event has to write or report pleading guilty to the magistrate who has

[Air Commodore Howard-Williams] to send him notification of his fine and then has to send part of the fine back. Well, under this procedure recommended by the Mover of the Motion, it stands that he is told what the fine is—the maximum fine—and sends the maximum fine with his plea. The basis of all Government being honourable, when that plea is considered presumably the magistrate will refund him 10 bob, 15 bob, something of that sort, because there will always be some mitigating circumstances. When he sends that back the chap who receives the money will have to send him a receipt so exactly the same amount of correspondence has taken place as takes place now.

With those few words, Mr. Speaker, I support.

MR. HASSAN: We welcome this Bill of traffic amendment, Sir; evidently every attempt has been made to simplify the matter and make it easier for people to have their vehicles inspected for registration and for the Transport Licensing Board. I would like to draw the attention of the Minister to the fact that units appointed for this purpose of inspection in different places will be according to the density of the traffic in those areas, that the number of individuals available to help the inspecting staff should be of a number to prevent any unnecessary delay which has been happening in the past.

There have been cases brought to my notice that people went to the police station to get their vehicles inspected and the forms to be sent to the Transport Licensing Board office—to get their Transport Licensing Board licence for the year—and the officers always whenever they went to get these forms, said that they were too busy and that they were to come in the afternoon. And they kept those people hanging on for three days. On the fourth day they gave the necessary signature and gave the forms to the people who posted the forms to the Transport Licensing Board office. The Transport Licensing Board office then wrote to them and that they were a day too late, and that their Transport Licensing Board licence had been cancelled and that they should apply again. Well, this sort of thing has been happening in the past and I

hope arrangements will be made that enough staff is given to the police inspector to prevent delay of this nature.

The second matter which the Minister spoke about sticking a label to a car the owner of which has committed some irregularity—it has happened and it is feared that it will happen again—that someone who does not like his colleague or friend, he may remove that label which will eventually end in a warrant for the arrest of that man and creating considerable difficulties for him. And I would suggest, Sir, that consideration should be given to this matter, that a person or an officer who is there and finds a vehicle has been found unlawfully parked and so on, that he should stick a label there but he should have one of his assistants in that locality watching these vehicles on which the tickets have been stuck so that he should see that the owner comes and finds that label. Or another way of doing the thing is that the inspector should be in that locality to collect the necessary penalty imposed on the person who has wrongly parked the vehicle there and collect it himself along with the guilty plea. I think if we are arranging these things with a view to prevent difficulties and inconvenience and delay to the public, there is no earthly reason why the police inspectors appointed for this work should not stay near the vehicle to collect those fines themselves.

The third point, Sir, is the question of these statutory maximum penalties. There are some penalties that do not need any reduction but others appear to be unusually high, like falling to carry identification plates or defective or false identification plates, failure to display a vehicle licence, and so on—these things are such that the penalty should not be more than Sh. 20. And this will be more than enough because it will create no unnecessary expense to the authorities or the police or anybody and when all their unnecessary expenses are cut out of the court and the proceedings, the penalty for such minor offences should not be more than Sh. 20.

With these few points, Sir, I support this Bill.

MR. TOWETT: Mr. Speaker, Sir, I only want to speak on one item and that is clause 5 which says that "the owner

[Mr. Towett]

of a vehicle which is required under the provision of this Part to be inspected shall before any such inspection is carried out, pay to a licensing officer the fee prescribed therefor. Sir, I think these things bad, if the Government wants us to obey the law and if the Government wants the people to do what the Government wants, the Government must sacrifice at times to do some things without fining the people in the country. I feel, Sir, that it is not fair for the Government to impose upon the people another form of fine when they require you to go and have your vehicle inspected. It is the Government which wants the vehicle inspected. It is not my wish. It is the wish of the Government and the Government must be prepared, Sir, to do it free. If the Government is not prepared to do it free, I should go to a private garage and have my vehicle inspected there and I will talk to the garage man and try to fix the fee which will suit him and myself. I feel, Sir, that this law is going to be a bad law if that particular section is going to be incorporated in the law.

Why should the Government, why should a police officer ask me to pay a fee for him to inspect my motor vehicle, if he does not want it, it is up to him. If the Government does not want the motor vehicle to be inspected, why should they come and fine us? I feel, Sir, that in addition to what other hon. Members have said here this particular section of this Bill is atrociously bad and I hope the public will work hard to see that this one is not carried out. It is bad how many have got to have their own licences. We have got insurances, and we have what have you. Also when you want your motor vehicle inspected you have to pay a fee which has to be fixed. Government has got to do it. My Government would do it free. If this Government is not prepared to do it free let this Government resign, and we will have another Government. Let the police officers do the work free.

With those few remarks, Mr. Speaker, I do not want to support this Bill if that clause is included.

MR. NGALA: Mr. Speaker, Sir, I would like to endorse the feelings of the Member who has just sat down on section 5. I think that vehicle owners

should be given the freedom to choose the alternative of having cheaper places where their vehicles can be inspected effectively if they want. I think the question of fixing the fees and charging before the vehicles are inspected is quite unfair.

The other point, Sir, I would like to touch on is the Memorandum of Objects. On the items listed under the statutory maximum penalty, in last part where you have failure to carry efficient silencers. This, I think, is quite unnecessary because, Sir, I think the object of the Mover of this Motion was to try and help in things that contribute to vehicles. Now this will be many of the vehicles, including some Members of Legislative Council. It is very difficult to determine this question of an efficient silencer, and in any case it does not contribute to any accident, and therefore I feel that it should not be in the list here, and I cannot see how African buses, for example, running to towns, coming out from the Coast Rural into Mombasa, from Fort Hall into Nairobi, if there is any rattling in the silencer that these buses will be stopped and they will be charged and fined this minimum penalty, or if he is not fined he will be taken to court and faced with a charge which is quite unnecessary and does not contribute to any accident. Therefore, I feel this item, Sir, should be removed from this place.

The other thing is unnecessary use of warning instruments when stationary. Now that again is another difficult thing to assess and it does not contribute to the number of accidents that have been mentioned by the hon. Mover. These two things may contribute to what you might call public nuisance, perhaps, but I feel that they are not so vital as far as the accidents—motor accidents—in Kenya are concerned. Therefore, I think they should be removed from this and put under the ordinary law of public nuisance for vehicles and so on.

My last point, Sir, is the other item in the middle of the page where you have failure to obey the direction of a uniformed police officer. I think that should be qualified more. I think that should be failure to obey a reasonable direction of a uniformed police officer, because, in my experience, there are some directions that are completely unreasonable, and the motorists should be

[Mr. Ngala] given a chance to be able to resist any unreasonable direction even given by a uniformed police officer.

With these few remarks, Sir, I think in view of the many fatal accidents taking place in Kenya, I support this Paper very heartily.

MR. NAZARETH: Mr. Speaker, Sir, the Report of the Working Party made two main recommendations. One was in regard to the introduction of a ticket system, and the other was for the amendment of section 70 of the Traffic Ordinance, which makes it obligatory to report traffic accidents to the police, and the Working Party has recommended that reports should be obligatory only in a limited number of cases where injury was caused to a human being or to an animal. I hope I did not fail to hear anything that the hon. Member said in moving the Second Reading, but I did not hear any reference to an amendment of section 70. That, of course, was a very important recommendation made by the Working Committee, and I hope that the Mover, when he comes to reply, will state what the attitude of Government is, whether it is the intention of Government to amend section 70 in accordance with the recommendations made by the Working Party. I have an idea that that is intended. I see the hon. Mover nodding in affirmative, and I take it that when he comes to reply either he, or some other Member of the Government, will state the intention of Government in regard to the amendment of section 70.

MR. SLADE: Mr. Speaker, Sir, I support this Motion, and have only two points to raise on clause 10 of the Bill.

The first is with reference to subsection 8 of the proposed new section. That subsection provides that, if any person has been served with one of these tickets and fails either to attend the court or to send in a written plea of guilty, he can be summoned, and "unless he shows good cause to the contrary" shall be guilty of an offence. I think, Sir, that is intended to provide for the cases some other hon. Members have mentioned, where through no fault of the person in charge of the car he never actually sees the ticket, and does not know that he has been summoned.

The only point I want to make there, Sir, is really a drafting point. It is rather curious reading as it stands. You find these words, "Unless he shows good cause to the contrary." The contrary of what? There follows immediately after it, "Shall be guilty of an offence." I would suggest, Sir, to the hon. Member that it should be more like "unless he shows good cause for such failure", referring to his failure to attend the court or send in a plea, because good cause to the contrary, I suppose, could only mean to the contrary of being guilty, and there is no definition of what is the contrary of being guilty.

Sir, the other more important point arises with regard to the second and subsequent offences. Now if hon. Members will refer again to the list of proposed scheduled offences which we find in the Memorandum of Objects and Reasons, they will see that the statutory maximum penalty proposed by this procedure is in all cases a good deal less than the maximum penalty provided by the law in the ordinary way, and in some cases the maximum penalty provided by the law is quite considerable.

There are several items there where the ordinary maximum penalty can be imprisonment for three months, whereas the statutory maximum penalty proposed is only Sh. 50, Sh. 20 or Sh. 40. Now I am in full agreement with that for the first offence, but what about the hardened, persistent offender? The difficulty arises that the police officer who finds an offence committed and uses the ticket system will not know, at that time, whether the person concerned is, or is not, a second offender, but I suggest there may be some opportunity, at some stage of the police or the magistrate waking up to the fact that this man is a hardened offender, and that the case is therefore too serious for the small penalty provided by the schedule, and he should after all be brought before the court to consider whether or not he should not have something more like the maximum penalty prescribed by the ordinary law. That could, I suggest, Mr. Speaker, be covered possibly by a little further provision in this proposed new section, to the effect that in spite of the ticket having been sent and the person concerned having used in a plea of guilty and the money to cover the maximum

[Mr. Slade] statutory penalty of the police or the magistrate, as the hon. Member thinks best, may yet revoke the ticket, procedure and say, "It is now discovered that this is not the first offence, and therefore the offender will have to come before the court to be dealt with in the ordinary way", and the notification is merely regarded as a summons to the court, and the written plea of guilty and payment of the maximum penalty need not, in those circumstances, be accepted.

Subject to those two points, Sir, I beg to support.

MR. USHER: Mr. Speaker, Sir, I have one small point to raise in regard to the procedure on service of a ticket. I hope—I say I hope—that the position of the first offender in this way in regard to his plea is but as it would be if he were present personally in court. In other words, although the magistrate of the court on receipt of a plea of guilty may proceed to conviction, may I be assured that the plea of guilty must be unequivocal, because it is very likely that in such cases the court will receive the letter to say "I plead guilty" and that will be followed by a statement in mitigation which may raise some doubt as to whether that plea is equivocal or not equivocal, and the court, having all that money in its possession, might be tempted not to examine the plea in mitigation to see whether it was in fact, an unequivocal plea of guilty. It is on that I should require some assurance.

MR. CONROY: Mr. Speaker, I should like to deal with the points raised by the hon. Members opposite. First of all, the hon. Member for Ukamba raised a question under the proposed section 11A (3). The point he made was that the ticket system would work satisfactorily for hired vehicles, and the answer is we have tried to meet it in so far as we can in subsection (6). That is to say, that if a summons is served on the registered owner of the vehicle, it is up to him to satisfy the police that he was not the person in charge of the vehicle at the relevant time. I fear it may well be possible, that the hirer of the vehicle will escape, because by this time he is outside the jurisdiction and we could not think of a way of catching him, Sir. If the hon. Member can think of a way I shall be very glad if he will tell me. It is no good

hiring a car and staying in Nairobi. We could catch him.

Sir, he then went on to say that in the list of minor offences set out in the Memorandum of Objects and Reasons, parking offences were not included. Sir, they are, but somewhat obscurely—in the middle, if the hon. Member would look—it is at page 963 of the Bill—"Failure to conform to indication on a traffic sign (including a parking sign)". Sir, a parking sign includes a yellow line, as I can inform the hon. Member from bitter experience.

Then he went on to deal with the question of lights. With the point he made there, Sir, I agree, and the proposal is that this minor offence procedure should only be made use of in minor cases. Where there is a bad and flagrant case, say of a man driving along the Thika Road without any lights, he would indeed be stopped and dealt with under the provisions of the ordinary law.

Then, Sir, he dealt with the stop sign, and before I could make a full note of what I should say in reply the hon. Member gave the answer when he said that the person who fails to stop at a stop sign in a flagrant case could, of course, be dealt with as dangerous or careless driving. But, Sir, I will give the hon. Member and all Members of the House this assurance, that the Government will take into consideration the points that have been made on the Second Reading in considering the offences which shall be included in the prescribed list and in considering the amount of penalties which should be attached to them. That was one of the reasons that we again drew the attention of hon. Members to the list by including it in the Memorandum of the Objects and Reasons, so that we could draw on the wisdom of hon. Members opposite.

Then, Sir, the hon. Member dealt with his fear that the courts would continue to impose on people the inconvenience of having to attend at 9.30 in the morning. Sir, having for the last 25 years attended courts at 9.30 or 10.30 in the morning and waited all day and gone away about three o'clock in the afternoon and come back the next day, I can sympathize with the hon. Member. I hope that by removing this tremendous clogging number of minor offences from the list, that we will only have serious

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in cases or cases where people do not take the advantage of this procedure, before the magistrate, which will make it much easier for him to arrange his list and possibly to give fines, but it is a very difficult problem, and one which does not only arise here. If you could see the frustrated litigants hanging around the law courts in London, then, Sir, the position is exactly the same there—and the frustrated barristers, too, Sir.

The hon. Member for the Rift Valley raised two points, which I have, in fact, already covered in my opening speech, and he will no doubt be able to read the answers in HANSARD.

He dealt with the question of why we should not examine vehicles of under 30 cwt. I hope that we will ultimately be able to progress to other types of vehicles, but 30 cwt. and upwards we thought was a reasonable figure at which to start, Sir, I think, a trade is included in the definition of a vehicle, and will be caught presumably by the regulations prescribing vehicles of a carrying capacity of 30 cwt. or upwards. I am grateful for him to drawing our attention to the point, and I hope it will be taken care of.

Then, the hon. Member for Nairobi North, Sir, produced some logic to say that we were really increasing work rather than diminishing it. Sir, I followed him as best I could, and I assure him that it is not so, Sir.

Then, Sir, the hon. Member for the East Electoral Area said that inspectors should be provided according to the density of vehicles. That is proposed. We propose to have five in Nairobi, two in Mombasa; two in Kisumu, and two in Malindi. I do not think they will be fully occupied during the year, but we are able to give assistance to the police in respect of inspection of other vehicles for court cases, and so on.

Then, Sir, he went on to say that he was afraid that someone would pull the ticket off the vehicle. Well, Sir, we were afraid of that, too, and so we made it an offence under the proposed new section. I hope that technically it will be very difficult to do so, but that is a matter on which I am incompetent to speak. I am a lawyer and not a printer, Sir.

Then, he went on to say, could not the constable stay beside the car? Well,

we would like him to, Sir, but in many offences the vehicle is left there for so long that we simply cannot afford the constable to stand beside these vehicles. Where it is a question of a short time certainly we will endeavour to have the constable handing the ticket to the person.

Next he suggested that the fine should be handed to the police "to collect for themselves". Sir, that is just what we were afraid of. That is why it is not proposed that we should allow that. Sir. That is why we propose there should be a cashier in the court to whom you could hand it, Sir, and I did deal with that in my opening speech and the Working Party went into it in some detail in their report Sir, and I refer the hon. Member to the paragraph.

Then the hon. Member for Southern Area said, Sir, that section 7 was "atrociously bad to bring in a fee". It does not, Sir. It proposes to continue an existing fee. Then he said that the Government should be prepared to do it free. Now, Sir, I really protest against his assumption that the Government is some kind of fiscal miteh cow on whom anyone can draw for sustenance. It is not, Sir. The Government is you and me and all-hon. Members paying our taxes, and who should the owner of a commercial vehicle have his vehicle tested at your expense and my expense, because that is what the hon. Member is proposing, and Sir, I protest vigorously against it. I see no reason why the owner of a commercial vehicle should not pay Sh. 30 to have his vehicle tested. The hon. Member said, "let him go away and strike a private bargain with a private garage. Well, Sir, that is one of the things we are trying to stop because we have discovered the higher the fee the more lenient the inspection in respect of some of the garages, and we do not want that to continue any longer. I am sorry I am wasting all my indignation, the hon. Member having asked the questions has not had the courtesy to stay to listen to the answers.

Then, Sir, he went on to talk about inefficient silencers, Sir, and to say that that is a subjective offence. I think that is what he meant, and he talked about the unnecessary use of warning instruments. Sir. Then he went on to talk about

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silencers on Members of Legislative Council, Sir, sometimes when I sit here I have thought what an attractive proposition that could be, but unfortunately, as I listened further to him, I learned it was only in respect of their vehicles and not in respect of themselves.

Sir, I must tell the hon. Members that one offence on which I was once charged in Spain was "failing to sound accidentally on a curve with visibility reduced". That is not an offence in Kenya. It is an offence to use your horn too much, Sir; but it is not an offence not to use your horn enough, as is provided in some other places. But, Sir, I must point out this, This Bill, in its list of scheduled offences, is not creating any new offences, it is merely altering the procedure by which they are dealt with, and the hon. Member was going back to the principal Ordinance and saying that the offence which says you must not use your horn too much is a bad offence. Well that is a matter for argument, Sir, but argument on another day, not on a Second Reading of this Bill.

Then, Sir, the hon. and learned Member for the Western Electoral Area raised the question of section 70, and the answer is, I hope to move an amendment to add the necessary provision to this Bill in the Committee Stage. As I shall then explain the reason why it is not in the Bill it would possibly be of use for me to explain it today, but it is the Government's intention to implement both the recommendations of the O'Connor Working Party.

Then, Sir, the hon. and learned and Specially Elected Member, Mr. Slade, came to the proposed new section, section 113A and, Sir, he castigated, in the kind way he has, the draftsman, and Sir, I was reminded of what Sir Carlton Allan once said when referring to some syntactical infelicity such as the one to which our attention has been drawn today. Sir Carlton Allan said this, he said that, "Statute law is, probably the most repellent form of within expression known to man". I fear, Sir, we may have been guilty of the same thing, and I shall look at the matter to see if we can alter it right in Committee, or possibly when we have our definitive Bill later on.

Then, Sir, he raised the matter which also was raised, and that is he said that the proposed ticket system would work all right for the first offender but what about the persistent offender. I think the answer to that is in two parts. First of all, Sir, if you look at the list of offences, they are not offences which one is likely to commit consistently. For example, failure to carry identification plates, driving without a valid driving licence, driving on the pavement, going without reflectors. I hope people do not do those days in and day out. The one exception, of course, is the persistent parker, Sir, think that in that case we come to the second answer and that is that the constable on the beat would get to know him and would be so fed up with having this man fined fifty shillings every time he parks improperly that he would report him for a proper summons and could be fined either Sh. 1,000 and/or imprisoned for three months. That also is a matter which is not wholly satisfactory in the proposals, we have given thought to it and it is difficult to amend to cover it and at the same time to maintain the simplicity of the proposals contained in this Bill. If we amend then we start to make the thing complicated and we build up a rather complicated procedure again.

Sir, finally, the hon. Member for Mombasa said would the magistrate satisfy himself that the plea would be unequivocal. The answer is, I think, contained in the form of ticket which says, "You are charged with offence so and so set out, committed at Government Road, Nairobi on 9th December, 1959, at 3 p.m. If you do not admit the charge you can go to court within the period which is given, if you do admit the charge you should complete an acknowledgment on the reverse and say: 'I admit the written charge name, block letters, address, telephone number, driving licence, etc.' I think, Sir, if there is not an unequivocal plea to parking or one of these minor offences in that context, it is difficult to understand how one could be sure that the plea was unequivocal.

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

A GAME POLICY FOR KENYA: SESSIONAL PAPER NO. 1 OF 1959/60

Resumption of debate from 5th December, 1959.

THE SPEAKER (Sir Ferdinand Cavendish-Bentick): I did rule yesterday that the Amendment which is now before the House would be taken under Standing Order 62, so anybody who speaks to the amendment speaks at the same time to the original Motion.

MR. OLE TIPIS: Mr. Speaker, Sir when the Council adjourned yesterday evening, I had just completed touching on a few points in the Government's White Paper which necessitate our rejection of the Sessional Paper as outlined by the Government. Hon. Members will remember that I did make a reference to some items on page 6 in reference to the Wallenguru tribe. Well, I am now better informed than yesterday and I think that the Wallenguru tribesmen will fall exactly in the same category as what I described yesterday as the Wandorob Masai. These people have no livestock, do not cultivate, they are what we call typical native hunters who kill game for their own food.

As far as clause 5 on page 6 is concerned, I would like to be enlightened on what sort of experiment the Government is carrying out as far as the Wallenguru tribesmen are concerned. Is it an experiment to find out whether the way of getting their own meat from the wild animals is successful or not, because as I know, the Wandorobos have lived on game meat for quite a long time and I do not know what sort of experiment it is.

Now also I know that somebody might suggest that permits should be issued to these people to give them a quota of how many wild pigs or buck or Kongonies they can kill in these areas. But, surely, such permits are absolutely useless because there no other permits which are issued so far as the foodstuffs of any tribe in this country are concerned. I should say that the Government should be more lenient to these people, allow them, give them the latitude of at least getting some meat for themselves and their families, because without doing that then you place them in a very

difficult position. You encourage them to become illegal poachers and all the trouble which goes with that."

Now also, Mr. Speaker, if I may go to the general recommendations again, I think there is something wrong in the Government policy, as far as the game preservation is concerned. And where I say there is something wrong or somebody is trying to evade the real issues involved, it is this, that since the Government states clearly in its White Paper that it cannot accept any responsibility for the activities of game animals which is contrary to the Government's acceptance of responsibility for preservation and protection of game animals, it is therefore, only fair that Africans should be given the right to defend themselves, protect their crops and livestock against wild animals. I think, Mr. Speaker, I am right in saying that the private land owner in this country—I have seen it myself with my own eyes—can control and reduce the number of game on his farms at his entire discretion without any interference by the Game Department or by the Government. Why should this interference only come when the African is the sufferer? I have seen quite a number of farmers take up their rifles and have a go at a herd of zebras which have been devastating their pastures, their grazing, and water supply, and then when the poor African farmer or the African in his own area, when the game invades his *shamba*, destroys his crops and he kills one or two, the following morning he finds the Game Department Scouts arrest him, take him to court and at times he is put into prison or fined heavily. Why should the farmers not be dealt with likewise? This sort of discrimination is doing us a lot of harm in this country.

Now, if I may turn on page 7, Mr. Speaker, subparagraph 2, Taavo National Park. With your permission, I quote "The Committee recommended that about 400 square miles of the Eastern Chyulu Range and the present Masai-Machakos controlled area of some 113 square miles be added to this National Park. The Government considers that these proposals are desirable. Their implementation would, however, require additional finance which is not likely to be available in the foreseeable future."

[Mr. Ole Tipis]

Now, my comment on this, Mr. Speaker, is clear. As I said yesterday, during the course of my speech, what is worrying the Africans in this country as far as the game preservation measures are concerned, is whether we are out to allow when the game interest and the interest of the human inhabitants of those areas are in conflict, whether we or whether the Government is always prepared to give first priority to the game interest and second to the human interest. If I remember rightly we have heard the Government say on many occasions as far as these boundaries between the Masai and the Machakos Kamba is concerned, they say the area is overstocked, they introduce destocking measures and measures to improve the pasture and improve the grazing generally. If this is the case, how better would it have sounded if, for instance, instead of these additional big areas of land to the existing National Park was made available to Africans, to relieve the overstocking in the neighbouring or in the adjoining African land units adjoining to the present National Park? If this area was given to the tribes concerned to relieve the overstocking, it would have been a very better way of destocking, rather than other measures which we are told from time to time.

AN HON. MEMBER: (Inaudible).

MR. OLE TIPIS: I am coming to that when I come to deal with some of the other National Parks.

Now, the other thing also, Mr. Speaker, applies to clause 6 (Uaso Nyiro Royal National Park) where "The Committee recommended that, about 22 square miles in the vicinity of the existing National Park's *safari* lodge be declared a new National Park. The Government accepts this recommendation in principle provided that further detailed investigations show that satisfactory alternative arrangements can be made for the Samburu stock which at times uses that area." What is the implication in this paragraph? The alternatives to the Samburu stock to give room to game and at the same time we hear that the Samburus' cattle are overstocked and instead of relieving that cattle overstocking in areas which the Samburu use in some parts of the year you squeeze them on to increase the overstocking—in the

already overstocked areas which is quite illogical and unreasonable in my way of thinking. Mr. Speaker: And to note it worse still, the Samburu country as we all know is quite rough and dry, and it would have been very nice of our Government if the only river, there could have at least been left as it is today. Let the cattle and game share the water from that river rather than try to say that alternative arrangements for human beings will be looked into. I entirely fail to understand completely, what is behind Government's attitude.

If I may be as brief as possible in order to give other Members a chance to debate over this important issue, Mr. Speaker, I would like to know from the Minister as to the percentage of the financial benefits paid to the various African district councils from funds which come into our country from visitors from abroad. That, I think will be quite a good help and information for all of us.

Now, if I may turn briefly on what the Member for Nairobi West, Mr. Alexander, said yesterday, I think he did, with his usual good knowledge of figures and economic facts, compare the output of our game land and the output of our better ranching land. Well, that comparison, as far as I am concerned, is not very convincing. Why? I say it is not very convincing, with all due respect to the hon. Member, is because I would like to know, if he would like to lead us to his belief as to what led to the depletion of game in the now so-called settled areas? They had plenty of game in those areas before and if the farming of game is a good proposition, surely he should have used his influence to preserve the game in those areas—in the areas occupied by the community to which he represents in this House.

If I may now turn on the subject of consultation between the Government and the African leaders in the areas affected by the preservation of the game, I remember a few weeks ago, during a debate in this House, that the hon. Minister assured us in a very clear way and agreement that negotiations are always carried out in the most friendly and amicable way. But out in a very clear way and agreement that negotiations are always carried out in the most friendly and amicable way. But out in a very clear way and agreement that negotiations are always carried out in the most friendly and amicable way. But out in a very clear way and agreement that negotiations are always carried out in the most friendly and amicable way. But out in a very clear way and agreement that negotiations are always carried out in the most friendly and amicable way.

[Mr. ole Tipis] where the local inhabitants could put their case before the Government as far as the introduction of controlled areas in the African land units is concerned; and that will remove quite a lot of uneasiness and quite a lot of fears and worries which lead most of the Africans to oppose the Government policy as far as Game Preservation is concerned. I remember some time back there was a lot of talk and consultation, negotiation with the Masai as far as the Amboseli National Park is concerned and I think it took quite a number of months, if not years, to arrive at an agreement over this National Park. What I know is this, that although the Government has now provided water supplies to the Masai cattle who used to graze, to drink water from Ol Tukai and around Amboseli. I would like to know as to what has happened because, previously, the Masai cattle had access to the salt licks which were in this National Park. The Masai do appreciate the provision of water, but what has the Government done as far as the salt licks are concerned, because if you deprive them of the right to the salt licks, surely you should provide them with a suitable alternative so that their cattle should not suffer on account of lack of salt. The same thing also applies—and this is where I turn to the question which was raised when I started speaking this afternoon by the hon. Nominated Member Colonel Cowie, that the main hindrance has been the tsetse fly. Now, if I remember, we have places like the Mara, and surely the Government now has, of late, started some bush clearing in those areas to control the tsetse fly and, in the way we look at things, such measures should have been started sometime back before the establishment of a National Park or a controlled game area was thought of.

Now, as far as the question of land usage is concerned, this question is also another very thorny one because we all know that in most areas where we have plenty of game the people living in those areas depend also in some parts of the year on rain-water for their livestock and for their own human consumption. Now, if it so happens that we hear quite a lot about overgrazing, we want to produce destocking measures, relieve the pressure on land, but surely when you

go into some of those places, you see big, big herds of game. They are affecting the grazing and the water as well, the rain-water, which is only temporary. I think it would be a very good proposition if some water provision could at least be made in those areas and if the destocking of game is not to be affected, then surely some measures to improve the pasture in those areas should be gone into by the Government.

Now, the question of hunters; I think we have illegal hunters who are merely concerned with obtaining trophies. We have some who are merely out to get some meat and we have professional hunters. As far as the illegal hunters are concerned, I think when we talk of poachers we might as well examine the position of those people who have no licences at all to shoot or kill the game; the people who run in their cars to the controlled areas, shoot a buck, put it at the back of the car and drive off. Surely, those should also be brought into the net. The professional hunters; I think it's all very well to talk of game preservation, but I should say that the Government should at least be very, very strict in controlling the licences to shoot in the controlled areas, because although we were given some figures of how many animals were caught by snares and how many animals were killed by tortures in various places, we were not given the figures of game killed by these professional hunters who are allowed by the Government to shoot and kill game. It is alright talking about stopping the Wakamba, for instance, from using their poisoned arrows to kill the game, but surely the modern firearms are more dangerous than the poisoned arrows. These people must be stopped as well.

Now, Mr. Speaker, if I may now try to sum up, I think our opposition to the Government White Paper is motivated by the fact that the Government policy, as far as game preservation is concerned, does not go far enough. We are worried, we are afraid, because we think that if this policy is implemented or is accepted, in a few years' time we shall have no game and that would be a great loss to the Africans of this country. We shall be deprived of our great national heritage which we want to preserve for our future generations, an asset which will help us to add some more money when we take

[Mr. ole Tipis] over the Government for the benefit of this country, because as long as the Government policy is to try and introduce some measures which, without the consent, without the goodwill, without the co-operation of the local inhabitants which, in other words, goes to a way of making those inhabitants of those areas hostile to the whole game policy, which is very, very, very bad, I should say this to the Government, that if Government is really concerned and interested in the preservation of game, I would like to know what is there, what is all behind these policies of, for instance, not allowing the African district councils in their own areas to establish their own African district council National Parks, their game-controlled areas and, with the help of the Government, to provide any technical advice, to provide any protective measures required, which will help these people to at least realize that the game is entirely there for their own benefit. I entirely endorse and strongly support what the hon. Member for Nairobi West said yesterday when he said that the quickest way to convince public opinion is by policies which put money into the pockets of those directly concerned. Then he went on asking whether the Government was prepared to move fast to show tangible evidence—money benefits to the Masai, not only to the Masai but to other tribes.

I know that we are going to raise arguments. There will be some accusations from some Members of this House that the African is not concerned in the least with game preservation measures. I should say to such allegations that they are quite unfounded. I think we are more concerned than they are. All the game is in the African areas and those who claim to be more concerned have no game in their areas.

So with these few remarks, Mr. Speaker, I beg to oppose the Motion and the Amendment.

Mrs. HUGHES: Mr. Speaker, Sir, I would like to congratulate the hon. Nominated Member COL. Cowie on the really magnificent speech he made yesterday in the House. It was not only lucid but it was realistic, and furthermore it held a challenge, a challenge to all of Kenya but also a very dire warning to us all. I think there is very little to add

to the debate that has taken on the game policy except, perhaps, it might be as well to elaborate on a few points that have arisen.

Sir, I was suggested to me yesterday that possibly I might contribute the woman's point of view towards this subject, and when I thought about it, I wondered how a woman's point of view could differ from a man's except possibly to the extent that we were considered fair game!

Speaking as a woman and one who dearly loves Kenya, I think one should really consider the value of the National Parks and game to our young people, not here. There are many school children, I think, of all races who visit the National Parks and they derive, not only very great enjoyment from it, but education in natural history, and if our wild life disappears, the youth of Kenya will lose a very great part of their inheritance and their background, because I believe that the flora and fauna of Kenya are the only tradition that our young Kenyans have. It seems to me most extraordinary that the Government should have appointed an expert committee, including many officers of Government to put forward recommendations after several years of investigation and deliberation, only to reject most of these recommendations, either with some futile excuse or as a last excuse because there is no money.

Since there has been no Chief Game Warden available in the past years as I understand it, one wonders whose advice was taken to alter or reject many of the Chief Game Warden's recommendations. What has happened in this period? And to talk again of finance, it is quite obvious from what has been said that both the Game Department and the National Parks have not been granted sufficient money to perform their duties successfully. We have heard repeated warnings of people who know that unless there is a change of heart towards game preservation, in the very near future it will be too late. It is therefore not a question of money, but of priority of expenditure in all we do out here. If the Government of Kenya accepts—as it purports to do in the White Paper—that preservation of wild life must be successfully achieved—then, logically, it must

(Mrs. Hughes) grant a high enough priority for this money to be available for the extension of this policy. If Government says, as it has done in very many places in this Paper, that no money is available, it is merely saying that it does not believe that the preservation of wild life is sufficiently important to this country. Therefore, I think it is really quite a simple solution. Firstly, we must consider whether it is worthwhile really preserving our wild life. Secondly, to assess what money is necessary to do this and, lastly, to allocate the funds necessary for this purpose, even if this means slight reductions in the expenditure of other services in this country, because unless Government will undertake to put the preservation of wild life on a workable basis, then the policy which we are asked to adopt has no meaning whatsoever.

Mr. Speaker, I feel that so often we get cluttered up with really superficial details on these various problems and we forget what is the underlying spirit of Kenya. After all, our flora and fauna cannot be built up after they are lost. These are things that cannot be imported. They are fundamentally part of our country. So I would ask that we make certain that we do preserve them while there is still a little time available.

MAJOR ROBERTS: Mr. Speaker, I do not wish to deal with the details of this Sessional Paper; they have been adequately covered by other hon. Members in this debate. I would, Sir, like to take the opportunity of joining with my hon. friend the Member for Uasin Gishu in her congratulations of my hon. friend the Nominated Member Col. Cowie.

Sir, my hon. friend did give a most constructive and informative speech on this problem and it was, Sir, critical, so critical was it that it makes me wonder if the Government have taken the opportunity to consult my hon. friend. For, Sir, he is one of the greatest living experts on this particular problem and if they consult him it seems that they could not have taken his advice! Sir, I think it must be 18 months since the Report of the Committee was published. During that time it has given Government simple opportunity to go into all the pros and cons of the problems facing them in this most important problem,

and yet, Sir, they produce here a Sessional Paper which, if I may say so, is incomplete. One might almost say—if I may be forgiven for the non-parliamentary expression—half-baked. It rather reminds me of a husband and wife who were talking together and said would it not be nice to build a new house. And they say what sort of a house they would like. The wife then leaves it to the husband to produce a plan, the husband, like Government in this particular case, after having thought about what the Committee had said, just quietly forgets about it until the wife—like hon. Members in this House—start to nag him to do something about it. And then, like Government, gets a piece of paper and sketches out his house and decides what sort of rooms he would like, shows it to his wife like a Sessional Paper. His wife says "Very nice", he says "Yes, I have not got any money to build it". That, Sir, is exactly what is happening in this case. The Government, like the husband, has not gone to an expert, an architect, to advise him on how this house should be built, nor have they gone to a building society in order to see if the money can be raised to carry out this task. Sir, that is exactly what is happening and I feel that this Sessional Paper is nothing more or less than an insult to this House.

Sir, dealing with poachers. It is quite obvious that that poaching, is on the increase. Now that must mean, Sir, that the deterrent is not sufficient and I would like to have seen some recommendation in this Sessional Paper for the penalties for poaching to be greatly increased so as to make it not worthwhile carrying out that practice.

It is quite obvious from what I have said that I cannot view Government's policy as outlined in this Sessional Paper with satisfaction. Therefore I cannot support the Amendment and, Sir, I have already said that I consider that this Paper is an insult to this House. I therefore cannot support the original Motion.

Mr. Speaker, I beg to oppose.

MR. MATE: Mr. Speaker, the hon. Member for Nairobi West said many complimentary words about the Meru efforts towards game preservation, as mentioned by the Minister for Forest Development, Game and Fisheries. At

(Mr. Mate) the same time—I wish and would like to remind the hon. Member and the House that it has not just been the Meru people themselves only but it has also come about as a result of the efforts of Sir, as we shall mention a few, imaginative and hard-working Government officers: I would mention a few, like Mr. John Cumber, Mr. C. M. Johnston, and Mr. H. E. Lambert. It is because of their joint efforts that the Meru people have been able to start this project. We thank these people.

On the question of game preservation, Mr. Speaker, I am glad to hear the Minister knows about the Meru African District Council project and proposals

(Mr. Speaker (Sir Ferdinand Cavendish-Benlück) left the Chair)

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

I hope that the idea will meet with his backing and assistance but at the same time it has been thought in certain quarters that Meru is a track of land with nothing in it and nothing doing there at all about that particular piece of land. I would like to correct things like that and say that it is not the case. The thing that has prompted the Meru people towards a game park is not what the Minister called an area 'with tsetse fly, but it is because we have noticed that our animals, all kinds of animals, are dying or, at least you get people hunting sometimes, you get poachers and the African District Council felt that it was time to do something about it. Therefore the African District Council decided that an area of land around what we know as the Kina area should be set aside. Also, Sir, the animals themselves have become a pest; they disturb the farmers too much; they must be herded somewhere together where they can be looked after. Also, Sir, we have felt that future generations of children will want to see these animals. Some of them will want to buy licences to kill any product they can get from these animals and they must therefore be preserved. We also wish to preserve our game as a tourist attraction for the District. It is not because there is so much land or because the area is fly infested that we have done this. The

African District Council are prepared to put up a lot of money to make it a success and employ qualified people, and I would like it to be understood by everybody, because there is not so much land there. But at the same time, Sir, as we shall mention or later be involved with the Game Department over the question of land, I should like to stress here that we have fears with regard to this matter and I would like to bring this matter to the notice of the Minister concerned.

It is the habit of Government when they are asked to help with a project to assume complete control. We are going to set aside a piece of land; when the Government gives help they want to have their rule applied and a certain measure of control in the area in this matter. I would like the Minister for Forest Development (Game and Fisheries) to know that our experience in the forests has been that we passed them over to the Government to look after. It is now not so pleasant, especially when it comes to farming and expanding farming. For example, at one place in Meru a piece of land was given to the Forest Department to look after. Today the population has increased. We cannot get it back from them. In the same way I would like to make it very clear and I would like to underline this, that in setting aside this piece of land, whatever advice we want to give our African District Council, they must consider the farming and grazing rights of the people in the area. That is the feeling of the Meru people; that if we want portions of this land in the future we should be able to get it back. For example, with new crops like tea, we would like a bit of the fringe of the forest along Mount Kenya, but the Minister will not agree. It will not affect the rainfall there but the Minister seems to think that this land is forest and that it will remain forest—until what time I do not know. Therefore the African District Council, that where human interests clash with game interests shall be paramount. However, as it stands, the Meru people have asked the Government to look after this area of land for them. However, where there is an area of land which really matters, we are not prepared to walk and see our people suffer for lack

[Mr. Maile] of this piece of land. What we are looking for on this matter of these projects is goodwill on the side of the Government. As it is, Sir, we would like Government to have a sense of responsibility about this thing. We are willing to co-operate and we dislike too much Central Government control; and when the Minister comes to answering this I would like to know his feelings about this question because we do not want it to be entirely a Government effort but rather a local effort aided by the Central Government.

Now, Sir, so far as the question of the game policy is concerned, there have been so many cries about animals becoming a pest, attacking people's crops and animals, and that nobody should be allowed to shoot animals. The Government has taken no responsibility. I would like the Government to consider this matter again. What right has the Government to say that—these animals are under our care? As opposed to that, Sir, why should these animals, if they cannot be controlled, be allowed to endanger people's lives and crops? I would like the Minister to supply more game scouts, especially in Meru districts, so that they can control these animals and not become a nuisance to farmers. I remember that in Meru some time ago two elephants were troubling the villages. Nobody was allowed to shoot them. They knocked down banana trees. Until help was sent everybody was panicky about them. Perhaps the Minister thinks the people are killing animals without good reason. I would like him to give this matter a second thought because I believe that human interests, when it comes to such things as game, should be paramount, especially where people themselves are just concerned to defend themselves. People do kill animals which have become a pest, such as a wild pig. Sometimes they do go into the Crown forest area. And should hunters enter the forest to finish off an animal with a poisoned arrow if they are ruthlessly prosecuted. This is against traditional rules of hunting. I feel that the Government should recognize traditions and customs because they do not change overnight and where such changes are made the Government should think of realizing that these

people have a different point of view. I believe there is no general wish to kill all the animals available but rather only when they become a nuisance do people kill them.

My last point is this, Sir. I would like to see more African people trained to look after animals. The Africans know a lot about animals. I think there should be some sort of education available to enable these people to become experts so that they can take a real interest in these animals as they do, for instance, in agriculture and forestry. Serious thought should be given to this matter, because I think it would be one of many good ways of maintaining a wide kind of interest in these animals if we had better educated and trained Africans to look after the animals.

MR. HUNTER: Mr. Deputy Speaker, Sir, after all that the Minister has already said, and after the very able and constructive speech made by my hon. friend the Nominated Member, Colonel Cowie, I do not wish to keep the House long, but I would like to try and touch a little on the financial aspect. I believe that what worries people most is that in the Statement of Policy and the explanation of policy contained in the Sessional Paper—and I would say that fundamentally it is clear and as such is extremely welcome—there are qualifications, over three and a half pages, by the use of the phrase "within the limits of finance available" on four separate occasions. The Minister himself said that money was not available to implement many of the recommendations and that the prospect was somewhat bleak, though he did feel that the Statement of Policy was the basis for attracting a large annual sum of money; and he hoped for sufficient means to achieve his three priorities in game preservation.

I think it was during the course of the last budget speech, the then Minister for Finance stressed his and the Government's view that priority should be given for available finance to agriculture development. I do not think many people have any quarrel with that, but I would like to try and take this opportunity, Sir, of developing the theme which Col. Cowie made yesterday that the preservation of wild life is a land

[Mr. Hunter] and that its preservation was necessary not for the animals' sake but for ours and therefore of posterity.

I would therefore very much like to represent to my hon. friend, the Minister for Finance, that if we take the Government's own stress on the need for, and responsibility for, game preservation, it must follow that a statement of policy to implement that responsibility can only have real meaning if finance is available to put that policy wholeheartedly into effect. Stress has been made time and time again by those best qualified to judge that this is the last chance to achieve game preservation. And bearing in mind all that everybody has said and believes in on that, I would like to stress that point. It does not need me to re-emphasize the importance of this whole subject, but what I want to try and convey to my hon. friend the Minister for Finance is that if we recognize that this wonderful and unique heritage can play a national and economic part in the everyday life of this country and everyone in it, then I strongly believe that to make money available on the scale outlined by my hon. friend, Col. Cowie, would be justified because it would enable more effectively than otherwise the implementation of the policy of giving priority to the development of agriculture.

In conclusion, Sir, I would state that I support the Motion because it seems to me that at this vital stage we must accept a policy or reject it and if, as I think most of us are, we are convinced that it is the last chance, then to reject it merely puts us back where we were without any policy whatsoever. Therefore, Sir, I would like to support the Motion.

MAJOR DAY: Mr. Deputy Speaker, Sir, it seems to me that everybody is agreed in this House that the preservation of game is a thing which we all wish and we will work for. But underlying it, as I see it, is a far more important point, perhaps a more practical point, which confronts us in this country today, that is, the revenue-producing potential which the existence, the continued existence, of these game will undoubtedly attract providing—and always providing—that the money is made available to help the tourist indus-

try, based as it is primarily upon people who come here to view the game, something larger and becoming progressively even larger as time goes on, but quickly and not at the slow tempo which is exercised today.

Now, Sir, it so happened I was recently in America and I had the opportunity of meeting a certain gentleman who is, I believe, the agent of the tourist industry in so far as American tourists are attracted to this country is concerned. He told me that there would be no difficulty in getting at least three times the number of tourists from America alone providing facilities existed in this country for them to be adequately accommodated. Now, Sir, money is always short. Everybody in this Council is always hawking for money on one pretext or another for their particular pet ideas. But surely when you come to decide how finance is to be allocated, if it is short, you decide how it is to be allocated so that it will produce the maximum possible revenue for this country. And it seems to me that this is possibly one of our main pillars of possible revenue, the tourist industry. Therefore, Sir, I consider it to be short-sighted, to say the least, to boggle at spending a sum of money to attract what may be a potential source of revenue to this country and to do so at once as even to delay it I think is short-sighted because you will have to start spending now, Sir, in order to get your potential up to scratch in three years' time.

Of course, we know that money is short and money is required for accommodation. We know that money is also required for advertisement but I would like to make this particular point—money is an advertisement in America in my opinion will amply repay itself and it should be spent now, Sir, if we are going to profit by it, to get the accumulated profit of it in two or three years' time.

These figures may not be accurate but they may be of use to the House. I think they are approximately accurate.

I was also told in America that about 60,000 persons a year visit India and 5,000 approximately visit Kenya, of those 5,000 the average stay in this country was about a week; whereas

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although there were far more people visiting South Africa, their average stay was about four or five weeks. Now if you work all this, out you see it is immeasurably obvious that we are missing a potential source of revenue.

Now, finally, Sir, although I agree with the last speaker that a bone is better than nothing, I do think that Government should come out in a definite way at this juncture with money for this particular question. It seems to me that perhaps on reflection they may do so.

The last point I would like to make, Mr. Deputy Speaker, is this, that certain of our friends, the hon. African Elected Members, have made the point that human rights should over-ride the rights of dumb animals. Well, that is intrinsically unarguable against but I would like to say this, Sir, that it may be perhaps a constructive thought if I suggest that in a country like this with the control and poaching so prevalent as we are told it is, a restriction of some of our game parks with infinitely better control is something worth considering; and that if certain of the land is available for this constant demand which is reiterated day in day out in this country to relieve the pressure of over-population in certain of the African Reserves, this may be a possible venue. I merely put this for this reason, that it is better to have smaller Game Reserves, better controlled with less poaching which will cost perhaps as much to supervise, as it is to have very large areas which are not perhaps at the moment adequately supervised through lack of funds.

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. MacKenzie): Mr. Deputy Speaker, Sir, the hon. Member who has just spoken was in fact speaking to the converted when he spoke of the importance of preserving game from the purely economic point of view; that is, the Government has that point of view and in this statement of policy the Government is attempting to express it. And so far as my hon. Nominated friend who spoke immediately before him on this side of the House is concerned, I think I can also say that the Government intends to do its best to provide the finance that is necessary to preserve game and to tackle the really vital issues

Now, Sir, reference has been made to the three points, I think it was, three places in the statement of policy where there is the qualification regarding financial priorities or limitations of finance available. I think, Sir, that the House should recognize that those references are purely factual. The first one, for example, "the Government's policy is to preserve game in Kenya to the greatest extent possible having regard to human interests and financial priorities"; well, Sir, that is simply a fact. The Government must pay regard to financial priorities and it will have to do so. But that does not detract from the point that the Government's policy is to preserve game in Kenya to the greatest extent possible, so long as we can pay for what we are doing. Then, Sir, later it says, "Within the limits available from time to time the Government will seek to maintain the Game Department," etc. There again, Sir, there obviously must be some limit in view of all the other pressures that are brought to bear. But certainly the Government intends to maintain an efficient and effective Game Department and we will do all that is possible to do that.

Again, Sir, the Government "will foster and within the limits of finance available give financial support to the trustees of the Royal National Parks". That again, Sir, is the Government's policy but there must once more be some limits because I think hon. Members will agree there is in fact very little limit to the amount that we could possibly spend on developing the parks and it is largely a question of what can we do and of doing as much as we can, again having regard to everything else that comes up.

And finally there is the fourth reference in paragraph 6 (f) of the statement that the Government will "within the limits of finance available endeavour to control game animals". There again, there must be some limit because quite obviously in order to keep them completely under control and see that they never get out into cultivated lands one would need an absolute army. But the Government will do its best.

Now, Sir, I have said that the Treasury, certainly, has always had an interest in the economic development of the country. The Government as a whole

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has always put the economic development of the country first forward and that is so. That naturally is the Treasury view provided, of course, that we have to look after the taxpayers' interests in these matters. The Treasury's chief duty certainly, I believe, is to look after the interests of the taxpayer and at the same time to provide the money that is necessary for keeping the wheels of the Government turning. But we must look after the taxpayers' interest; and I certainly think that this game preservation is one of the points in which the taxpayers' interest and economic development go together. I said a few weeks ago when we were debating the address that the Government was making steady financial and economic progress. I think, Sir, that is still so, and I think that provided we deal with our affairs economically we shall be able to meet the cost of our essential services in the coming year, 1960/61, plus the essential extras that we cannot avoid, such as, for example, taking over the remaining Emergency expenditure, which is going to be with us, and which has been met by a United Kingdom grant up to and including the present year. There are, however, Sir, many demands for quite important new services. In many cases we are told that though they are important services they will not cost a great deal, and of course many of them will not cost a great deal taken individually. But if they were all accepted, at once and *in toto* there is little doubt that it would be necessary to find some new sources of tax and to impose them. Personally, I think that we should do our best to maintain the existing level of taxation, and therefore it all comes down to the question of priority.

Now, Sir, given that background, which is the background which the Government has had to design its policy, I have already said that we regard this question of game preservation as being most important from an economic point of view. The forecast of carrying out all the recommendations of the Game Policy Committee—we have been told—would probably be something like £120,000 a year. That was the figure that my hon. Nominated friend, Colonel Cowie, mentioned. I do not know whether it has

been worked out in full detail, but that is the figure he thought would make it possible to do pretty well all the things that people would like to see done. That possibly does not seem an awful lot of money in the light of our total Budget, but when you consider that there are so many things that people from all sides of the House equally consider to be of the utmost importance, it would be quite impossible, at this stage, to give an assurance that £120,000 or anything of that order would necessarily be forthcoming next year. We could not, in fact, give a blank cheque. The Game Department Provision will, in the words of the amendment, be reconsidered—it will be considered and it will be reconsidered—at the time of the Estimates. These things always are at the time of the Budget, and it will be considered throughout the year. There again, these matters always are being considered. But as I say, at the present time it would be quite impossible to say that everything that is required would be available.

However, Sir, I think the record is that whenever it has been represented to the Government that certain expenditure is highly necessary for this particular purpose, somehow or other we have been able to look round and we have been able to find that money, and I think, Sir, that that attitude will continue. I think that wherever there are vital needs the Government will somehow or other do its best to lay hands on the money and to make it available. But generally, Sir, the matter is, as I said, one of priorities of expenditure and that, of course, is a matter for the whole Government. As I said, we are merely carrying out what are the policy wishes of the Government as a whole. To the extent that these particular proposals of the Game Policy Committee—when established as top priority, they will get the finance that is available, and, of course, something else will have to be left out. But, as I say, Sir, I think it would be wrong to give the impression that it is going to be possible to find everything at once to do all the things that the Game Policy Committee would like the Government to do, and for that reason, Sir, the Government would find it rather difficult to accept the hon. Member for Nairobi West's amendment, because it might give the impression that the Government was

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going to be able to do more than it actually can. But I will give the complete assurance that where there are necessary jobs to be done we shall do our best to find that money. I might say, Sir, that there is another reason why the Government could not accept the amendment, and that is the wording of its opening, "Notes with satisfaction". The fact is that if we accepted the amendment it would leave us without a policy, and before we can—

AN HON. MEMBER: (Inaudible.)

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. MacKenzie): Yes, Sir. And before we can note with satisfaction that the statement sets out—"Records the acceptance by the Government of certain recommendations etc." it does not leave us with a policy in the way that the Paper leaves us with a policy and until we have a firm policy accepted, as laid down here, of course, it is not possible even to begin to work out our financial priorities.

MR. ALEXANDER: Mr. Deputy Speaker, I am grateful to the Minister for having given way. Would he explain exactly how the wording of the amendment rejects the policy?

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. MacKenzie): It neither accepts nor rejects it, whereas the wording of the substantive Motion is quite clear in that it says that, "This Council approves the policy" and gives a firm and clear cut approval in far clearer terms than this. Whereas the amendment notes with satisfaction that certain things have been accepted, but it does not give a clear cut approval of the policy in the same way as the substantive Motion which was moved by my hon. friend when he opened the debate.

Now, Sir, there is one small point on financial limitations which I would like to make, and that is that I am not quite sure—how the qualification regarding liaison with our next-door neighbours in Tanganyika got in, but I can give an assurance that I do not think, in fact, finance is going to prevent that particular type of liaison.

To go on now, Sir, to deal with two other points which were raised during

the debate. The first I would like to mention is that of hypothecation of revenue. I would say, Sir, that as I expect the hon. Member for Nairobi West is not altogether surprised to hear, the Government has not abandoned its dislike of hypothecation as a general principle. No Government could possibly accept the general principle of hypothecation, because to do so would restrict its freedom of manoeuvre to far too great an extent. But, Sir, as all hon. Members know, the Government has, over a period of years, introduced a policy of appropriations-in-aid whereby certain fees and licence money and money obtained from sales of Government property, etc., have been appropriated in aid of expenditure of the department responsible for collecting that revenue. As a matter of fact, I have given consideration on several occasions to the possibility of doing that with the ivory revenue and with game trophies generally. I have given consideration to that but, unfortunately, it was not possible to continue with it and I can tell the Council why: The reason why is that this sort of revenue, particularly the game trophy revenue, fluctuates to quite a great extent from year to year. For instance, at the beginning of the poaching campaign, it went up very considerably, then it fell again. It is a sort of revenue which is not particularly stable. For that reason, it is not a particularly good type of revenue to appropriate in aid of a department's expenditure because, if we did it, we should fix it at a certain level one year, then the actual revenue collected might be only half that and it would mean that Government would have to come back to ask for more money for expenditure, and at the same time, in view of the optimistic views about that particular revenue, other departments might have been allowed to go just that little bit further on the services which are financed from the general free revenue. That is the reason why we have not appropriated the ivory revenue and the game trophy revenue in aid of the Ministry of Forests.

As regards, Sir, the particular idea of appropriating the trophy revenue in aid of a scheme, such as the Galana River Scheme, I think there are three difficulties there. The first is the one which I have just mentioned—the general one, that it would fluctuate. The second one

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is that if it were directed to a scheme of that kind it would, in effect, form a sort of "goat bag" and the normal controls would not be exercised. And thirdly, I think there would always be the danger that if the revenue from that source was running short, people might rather be inclined to take the line that just in order to make it up, another little elephant would not do any harm and, in fact, it might then be that the idea would defeat its own end. But, Sir, so far as the Galana Scheme is concerned, I can say this—that if, as we believe, the first phase is a success, then the money will be found for phase two to go on and for the scheme to continue.

I believe that the question of whether the trophies go directly to the scheme or not is largely irrelevant in this particular issue, but I would like to make it very clear that that will not affect the Government's decision on whether to find the money for continuing the scheme.

There is another point that I would like to mention and that is that my hon. friend the Member for Central Rift, when he spoke, had one or two interesting ideas, as had one or two other hon. African Members who have spoken, about associating the African district councils with game preservation, and I am quite sure that the Government will welcome an interest of this kind, and will welcome the co-operation of all African district councils in this matter. Whether, however, it would be feasible to go further and have little national parks in every African district council area, I very much doubt, and, indeed, that leads me to the point which was made by my hon. friend the Member for Aberdare, who suggested that perhaps smaller parks, better maintained would be a good thing. I understand that there is considerable difficulty over that suggestion in that many of the game animals need fairly large migration areas and that if you have a large number of small parks you would have to have an even larger number of larger migration areas.

MAJOR DAY: I think the Minister for giving way, but I did not mean a larger number of smaller parks, I meant a smaller number of larger parks—not so many large parks in other words.

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. MacKenzie): I thank the hon. Member for his explanation, but I do think that this question of migration areas is an important one, and it certainly is one, Sir, that the Government has very much in mind.

Another point that was made from the other side of the Council, was that a certain amount of latitude should be allowed regarding shooting the game, and I think that the hon. Member who made the suggestion was, thinking of small game that was being killed for food purposes. But of course the real danger in this matter is not the small game but that it is the large animals which are being poached and it is of the utmost importance that we should do everything we can to preserve those, and that is what the Government intends to do and it hopes that it will have the co-operation of all the peoples in the Colony in doing so because we all stand to benefit from the economic value of this game and we shall all be the losers if we do not preserve it.

There is one point which my hon. Nominated friend, Col. Cowie made, and that was regarding the proper order for preservation and tourism. I think, Sir, that if hon. Members refer to section 3 (b) of the Statement of Policy they will note that the order there is right. It refers to the finances given to the trustees "to enable them to carry out the functions entrusted to them of game preservation and the development of tourist facilities". Quite obviously, of course, Sir, this question of preservation must come first, because if you do not preserve the game quite clearly there will not be any game for the tourist to come to look at, so when preservation and tourism are mixed together quite obviously preservation must come first in order. If you have that, then there is something for the tourists to come and see, and we all agree that our game presents our greatest tourist attraction.

I go on from there, Sir, and say, of course, that in addition I regard the national parks and tourism as being quite intimately bound up with one another. Obviously whilst the primary object of setting up the parks has been to preserve game, there again, the reason for preserving the game is so that people will be able to come and look at it. In fact, one

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could argue this in circles for ever—it is rather like the chicken and the egg. What I would say, Sir, is that in all these matters, one hopes that the Minister of the national parks, and the Ministry of Forests and the Ministry of Tourism and indeed all concerned will continue as they always have done to work together in this matter, and to secure the greatest degree of efficiency and to provide the greatest possible attraction that we can to what we hope will be a greatly growing tourist industry.

To sum up, Sir, I think the Council should approve the Motion that was brought forward by my hon. friend and which sets out the policy which the Government intends to follow. I have said that so far as we possibly can we shall provide the funds for what we believe to be essential. But I have had to qualify that, and I must again by saying that it would be quite unreal to suggest that we could necessarily provide everything at once, or that we could give a blank cheque. I have, however, no doubt that just as in the past we have done our best to provide everything that is necessary, we shall continue to do so in the future. But in the circumstances, Sir, I would commend the substantive Motion to the Council, and I would like to suggest to my hon. friend the Member for Nairobi West that in view of the difficulties which I have mentioned, and in view of the assurances that I have given that he may wish to consider withdrawing the amendment.

Sir, I beg to support the substantive Motion.

SIR ALFRED VINCENT: Mr. Speaker, Sir, I was heartened by the speech of the Member who has just sat down, although with his Treasury training he had to qualify everything so as to make it almost negligible. But, Sir, I must be objective in talking to this. I am interested, and I declare my interest as a member of the National Parks Trustees, and have been so since the outset, but I am bitterly disappointed in this Paper—bitterly disappointed because I consider that it is dangerous to have such a Paper as this as a record of a so-called policy. Now, I think this started out by being a good Paper, Sir; I think it was probably written on the lines of the

Game Policy Committee Report, but I am sad to say that I then believe the rats got at it and—I can see a whittling down and the taking out of a word here and the taking out of a word there, and I am also afraid that the Minister for Finance's arithmetic is wrong, because while he was speaking, I marked off six references to finance, and I am told that there are really 13 in all—nearly 13 anyway. I would suggest, in order to save a lot of labour in the Treasury in future, Sir, that when you have to qualify a Paper like this, that you have a rubber stamp and put "provided finance is available at the time" at the end of each paragraph. This will save somebody an awful lot of night-work and an awful lot of nonsense.

We realize the difficulty of the Treasury, and I have no wish to attack the Treasury, but I am afraid that if I was a member of the expert committee that spent some two years in producing a very intelligent document based on expert knowledge, then to have it emasculated in the way it has been done, I should not take it very well; but then some people are more patient than I am.

This is a rotten Paper, Sir, and I am sorry to use that word, because there are so many loopholes and so many ifs and buts and there is no determination behind it in any way whatsoever. Now, on the question of finance, and I am not being cynical about this, there is no doubt in my mind that both the Game Department and the National Parks have been, shall I say very unlucky in the past. I believe that the wrong view has been taken of the great value of the work which is carried out by both these agencies—the department in the one case and the body of trustees in the other. We have applied, for finance with a very detailed programme, and we have had to face the most incredible frustration. We have had to face worse than that with some of the officers of the Crown in the lands concerned—who I am pleased to say have all been removed as far as I know—and still the Trustees are not dismayed, they realize that even governments may make mistakes in policy and they can really rattle away their assets because the only thing which matters to Government as far as I can see is arithmetic. Having set your priorities and having made agreements

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with people, you suddenly say because they did it in England on one occasion, all departments are cut 10 per cent, or a like amount. And if that is what happened in the case of the National Parks, if it did, we have to go to every other department then, the National Parks were indeed unlucky.

Now, Sir, we have in this Council, for a number of years paid lip service to the expenditure of the smallest amount of money possible for that which is going to bring us the speediest return, and as far as the National Parks are concerned, it has never been done. Never. For instance, I am certain the Council will not have remembered the figures which the Director of the National Parks, the hon. Colonel Cowie gave yesterday—we applied for the period 1957-60 for £99,000 for capital works. All we got was £33,000 and then ultimately, that was by this little arithmetic cut, cut to £26,800. The trouble is that although it is a good crying over spilt milk—we have lost the bus and we have missed a very great opportunity, because—I am not going to keep on saying the Government as nobody can tell me who it is—but the authorities of this country have been short-sighted and have lacked vision, and have not dealt in realities. Now, I can understand that, because—and I do not mean this in any personal way—you see the Development Committee members are all interested parties in their own departments, and I am certain that at times they must feel it embarrassing to be unbiased, and it is they who decide what the National Parks are going to get—I am not going to talk about other Government departments. Now, if our programme had been agreed and we had got the money, then we should be very far advanced with our programme—very far advanced. But, we tackled poaching—we had to leave other things alone as we had to take men from other very important work and put them on to this, and they did a very good job, but as the Director, speaking yesterday told us, once you "let up," it comes upon you in a far more insidious form.

Now, let me take the last speaker in a friendly way to ask: Are we going to wait, Mr. Minister—if I may address

the Minister, Mr. Speaker—until somebody is killed on the Mombasa Road before you will let us have the necessary money to build that fence, because, as far as I can see, we have spent £4,000, illicitly—which was not in our estimates which was sent to the Government, Sir, to import the fencing. We have applied for £25,000 and have applied for it as a priority, but we do not seem to be at all likely to get it until next July. But if anybody is killed on the Mombasa Road, I bet we would get that money tomorrow. Now, Sir, that is the pattern of things, merely because you have machinery, and that machinery must go at a certain pace and tick over in that way. But I do beseech the Minister and the Government Members to consider this thing an incredible priority because, as was explained yesterday, where you have open plains, a fence is no good; by itself. You have to have an enormous ditch with a bund, and then the fence on top, because an animal will see a bund and will not go through it as in the case of any fence. But that is the position of that particular problem today, Sir, and as when I went down to a meeting at the Airport less than six months ago, the up two zebra which ran in front of his car—in full daylight—they were grazing peacefully, but suddenly turned and ran across the road, and I have also had a tremendous number of complaints, there is a real danger and I am warning Government of that danger, and I think I am warning them in a very quiet and nice way.

Now, Sir, there seems to be some confusion amongst the members of this Council about the duties of the Trustees of the National Parks, and with your permission, Sir, I would just like to state part of the duties relevant to this debate. "The Trustees may, within the National Parks construct such roads, bridges, aerodromes, buildings and fences, provide water supplies and carry out such other work as they may consider necessary for the purposes of such National Park; Take such steps as will ensure the security of the animal and vegetable life in the National Park; and the preservation of such National Park and the animal and vegetable life and the animal and vegetable life therein in a natural state. Reserve or

[Sir Alfred Vincent] set aside any portion of the National Park as breeding places for animals and as nurseries for vegetation. With the consent of the Governor in Council let sites for the erection of hotels or other buildings for the accommodation of visitors, shops or other undertakings, provided that arrangements shall be made for the proper control of all such undertakings by the Trustees."

Now, I would like to point out to Members, that in that paragraph there is no mention of Butlins Holiday Camps, swings and round-a-bouts, and I say that because there seems to be an idea amongst some members of the public that we should make it an ordinary playground with all the attractions which come about as a result of that type of thing, and indeed it has been done elsewhere. But we are advised that there must be a limit to the size of our lodges because it does interfere with the breeding of the game and the herds, and I must inform Members that if you are going to have a great deal of extension of hotel facilities, they must be on the boundaries of the National Parks.

I think the Member, in introducing this Paper, said that we must wait for the provision of finance to come along—we must wait. Well, as the mover very well knows, nature does not wait. We have lost three years in my opinion, and we have lost a very great measure of our assets in certain directions.

Now, Sir, I am not going to keep the Council for long, but I did want to say that our Government is not alone in all this—it may be for different reasons, I do not know. But we sent one of our staff to a conference in Southern Africa recently on the question of game, and I thought it would interest Members for me to read about eight lines, if I may, Sir, of his final paragraph: "I return to Kenya feeling rather depressed, having spoken to other delegates and got their views on the future. The outlook was not very bright. I felt that we were not making any real headway with African Governments, and I wondered if it would not be wise to try to get some high-powered international body to take a real interest in the wild life of Africa."

Now, Sir, I commend that idea, not only to the Wild Life Society and the

National Parks; but I commend that idea to Government. I believe, as has been pointed out during this debate, that those who are approached will say to this Government—"Well what are you doing about it yourselves?"—and having been satisfied that this Government has been doing all that can be reasonably expected under the circumstances, I believe that with Government backing any appeals to any scientific body will stand a very great chance of success.

Now, Sir, in closing, I would like to say this—as a person and as a member of the Trustees. We have had, and still have the very greatest trust in the Minister who introduced this Paper. We believe, as Trustees, that he has put our case for finance in an admirable and perhaps too gentlemanly manner to the Development Committee, but I have in the end come to the conclusion that never have so many golden words of wisdom fallen on so many dumb ears.

Sir, I cannot support the Paper because I feel that it is inadequate, that it does not serve any useful purpose, but nevertheless, we shall go on doing our job, and I hope that the next time the Minister for Finance speaks we shall have the glad tidings that he can say what he said today without any qualifications whatever.

MR. MUMBU: Mr. Speaker, Sir, I must congratulate the last speaker for the very gallant way he put his case.

Mr. Speaker, reading the Paper as a whole, and listening to what has been said by various Members opposite, it would appear that all the Government is interested in is getting money in a very easy way, without having regard to the very essence of what they call preservation of wild game.

Mr. Speaker, before I touch on the points I wish to make in the course of my speech, I would like to draw the Government's attention to the last three lines of the introductory paragraph of the Paper, and with your permission, Mr. Speaker, I will quote the three lines I have mentioned: "The implementation of the Government's policy must however have regard to the legitimate human interests in the various areas where measures for game preservation are required."

[Mr. Mumbi]

I would just like to confine my argument to those—three lines, Mr. Speaker, and the reason for my confining myself to those three lines is the great fear that the Government has placed in us as they state in paragraph 6 on page 5 of the Paper which says: "The Government cannot accept any responsibility for the activities of game animals and have no liability to pay any compensation for damage which they may cause." On the opposite side of that same page—6 (a)—Government says this: "The Government does recognize a responsibility arising from its declared game preservation policy to assist in the control of scheduled game animals as far as it is practicable to do so."

Mr. Speaker, the reason why I feel the Government on the one hand would like the money on the one hand yet on the other hand it refuses to take the necessary responsibility to protect the interests of the human beings as they state in the introductory paragraph is this. I have no doubt, Mr. Speaker, that the people who will be most seriously subjected to this attitude of Government by refusing to apply sufficient protective measures against human beings and against human property, are the Africans, and I am for the African, Mr. Speaker, that I would like to speak.

In the first place, Sir, as laid down by the Game Ordinance, an African is not even allowed to protect his own crops against certain animals. It is very evident, Mr. Speaker, that certain animals, such as the elephant, the rhino, the hippo, the buffalo, cause great damage to African crops. All that the Africans can do, with elephant or rhino or any other animals I have mentioned when they enter his garden or *shamba* is to frighten it away. If he in any way shoots it with an arrow or with a spear he is not allowed to follow it beyond the garden. If he does this, Sir, he is in trouble. What protection, therefore, could an African have for his crops if he cannot destroy the animals which destroys his crops? Again, Sir, there are certain other animals, such as the lion or leopard, who enter into African herds of cattle or goats or sheep, and so on, and they help themselves to the animals. All that an African can do if a lion enters into a

herd of animals is to go to a game scout and he must leave the lion or the leopard with the animals which are his own. What protection could the African have in this regard because the law makes it impossible for him to protect himself, Mr. Speaker, I must say this. What the African wants—and I believe my colleagues will support me when I say this—is complete protection of human life and crops. Unless the Minister and the Government are prepared to give us that assurance, then I am afraid, Mr. Speaker, as my hon. friend the last speaker said, this White Paper is not worth its salt at all. Government should take second thoughts before they introduce the Paper.

I come next to the question of poaching, which has been spoken of so much. What is poaching? What is a poacher? He is somebody who steals a bird or animals from another man's land. That is a definition of a poacher or poaching. The African does not understand that language, when you call him a poacher, because before the European came to this country the African was hunting the elephant. He was hunting every other animal as food. To tell him that he is stealing the animal in somebody else's land is a language that the African will not understand today and he will not understand it tomorrow. Whose land is this? Is it not African land? It is. Therefore, the law must provide some provision for the Africans to hunt like any other people. I have no doubt that a licence will be required. But when you call an African a poacher who only shoots an animal sometimes to protect himself or to protect his property, it is not understood. It should be made possible for him to hunt like any other person and I think that the hunting licences should be such as to enable the African to hunt like any other person. I think that the hunting licences should be such as to enable the African to hunt like any other person. I repeat, as one of my hon. friends said, Sir, shooting with the gun is not the only effective weapon. I believe that the African has even more effective weapons than the gun sometimes. Therefore, Sir, if we are to discourage poaching and if we are to reduce poachers, then I submit that Government should make provision in the law for the Africans to hunt, not only in what is called the game reserves

[Mr. Mumi] but also in the controlled areas. The reason is this. Reading through the Ordinance the biggest colonizer in this country is the Game Department. It has all the land; it has the whole Colony from the Northern Frontier to the coastal plain strip. Therefore, Sir, where does the African go? He has no more land. Farmers other than Africans are better off. They are better off in private lands they have into their private lands they have the right to shoot them without having to look for a Government Game Department scout to do it. But, as is laid down in the Ordinance, and with your permission, Mr. Speaker, I would like to quote the Wild Animals Protection Ordinance on page 109. "The definition of private land means any land held under conveyance, lease or licence, but does not include any land in the native lands other than lands therein, the title to which is registered under the Native Lands Registration Ordinance, 1959." In other words, Sir, until all the Africans' lands are brought within the Native Lands Registration Ordinance, which only came into force this year, no African in the African areas has any right to protect himself from any wild game because the land does not belong to him.

I now come to my last point, and in this regard I am referring to the speech by the hon. Member, Major Roberts when he said that poaching regulations should be made even more severe in order—and these are my own words—to punish the Africans as a whole. That is a shameful situation, and I have in mind in saying this some evidence which took place very recently. I read it in the newspapers. An Akamba was shot dead by a game scout on the borders of Kenya and Tanganyika. I think it was in the Kenya Tsavo National Park. As my hon. friend the Corporate Member, Sir Alfred Vincent said, how long have we to wait? How many people must be killed before something is done? For instance, does an animal pay tax. An African dies! If an African dies then that tax is lost.

I consider that this is a very serious situation which Government must consider seriously. After all, an animal is not worth one penny to an African. A human being is a human being and should not be subjected to death in order

to save an animal or for killing an animal. If he commits such an offence as killing an animal I think the normal way is to arrest him and then bring him to court. I say this, Mr. Speaker, with very much concern because the person who was killed happens to be my tribesman and I would not like to hear of many more cases of murder by game scouts of my people for poaching. Government must do something to protect the lives of the people in addition to applying sufficient measures to protect them from wild game.

Finally, the reason for this great discrepancy is that the Game Department have tried to take off more than they can bite. If it is a question of preserving wild game for the sake of attracting tourists, then I believe they should choose a certain portion of this country, put proper fences round the area, construct ditches such as would not be crossed by the animals, and confine the animals within that area. If it has been found possible to construct ditches to keep away *Mau Mau* then should it not be even more possible to do it in order to keep wild animals away? We do not want people to be killed in their *shambus* or in their homes or at their work or in all walks of life by wild game because of the failure of the Game Department to protect the animals or the people. The animals must be kept away, otherwise if any wild game enters my garden and destroys my crop I see no reason why I should not bring in the person responsible for that animal to a court of law, because that is the customary law. If my cattle enters somebody's garden then I am entirely responsible and if found guilty by a court, I shall be liable to pay compensation.

I know of one outstanding case. Somebody was peacefully going to his garden and immediately an elephant turned up and killed him. Now, the descendants of this man have asked me to ask Government to pay compensation because if he had killed the animal, which killed the man, he would have been in trouble and, therefore, I feel before I sit down, that I must ask Government to shoulder this responsibility, first of all for failing to protect the animals. Nobody, I believe, would like to see the entire extinction of the wild life of this country but we are not

[Mr. Mumi] prepared to support the policies which will only give the Government the opportunity of collecting more and more money at the expense and disadvantage of the inhabitants of this country, more especially the Africans.

I beg to oppose.

Mrs. SHAW: Mr. Speaker, I did not intend to intervene in this debate, but after listening to the Minister for Finance, I would like to make two points.

Firstly, the Minister for Finance said that the Government could not accept the amendment because it would leave us without a game policy. I would like to ask, what is the use of having a policy if we are not going to make the money available to implement that policy?

Secondly, the other point I wish to stress is that listening to the Minister's speech I could not help but feel that he had missed the main point entirely, which is that our wild life is not only a national heritage but a very great potential revenue producer, and I believe that that potential is unlimited and that it has hardly been tapped. This national asset is wasting while we are arguing about finance!

I should like to support most strongly the very excellent speech made with great feeling by the hon. and gallant Member, Col. Cowie.

Mr. Speaker, I beg to support.

Mr. CONROY: During the course of his speech, the hon. Member for Kitui made three statements which were wholly untrue. Therefore I thought it would be desirable to correct them at the earliest possible opportunity.

First of all, Sir, he said that if an elephant gets into an African's crops the only thing he can do is to frighten it away, that he could not protect his crop. Then he went on to say that if an African got a lion into his herd he cannot do anything about it but protect his herd. All he can do is to go and report the matter to the Government. Sir, section 11 of the Wild Animals Protection Ordinance, 1951, lays down quite clearly that "any owner of land or his servant or any owner of crops or stock or his servant may if necessary for the protection of his land, crop or

stock hunt and kill any game animal which is causing material damage or loss to his land or to any crops or stock thereon." Sir, it is quite positive that this applies to lion and to elephant because the section goes on to deal with the fact that if game animals are killed in these circumstances they do not belong to the owner of the land. The trophies belong to the Government or the trustees of the National Park as the case may be. It then goes on to deal with animals killed which are "set out in the Fourth Schedule to this Ordinance" and that Schedule includes lion and elephant and requires the person killing such animal to make a report of the facts at the earliest possible moment in accordance with the provisions of the Ordinance. So those are two statements made by the hon. Member, Sir, which are not correct.

He goes on to make a third statement when he tells us that the African has any right to protect himself from game. Sir, section 10 of the Ordinance is quite clear on this. It says: "Notwithstanding anything to the contrary to this Ordinance, a person may kill any animal in defence of himself or in defence of any other person if immediately and absolutely necessary provided that nothing in this section shall be deemed to exonerate this person who is already committing an offence under the Ordinance." What you cannot do is you cannot go and poach an animal and when you turn round to attack you cannot say, "I am killing it in self-defence." But if you kill it in genuine self-defence, then, Sir, you are entitled to kill it.

Now, Sir, I see the hon. Member is amused. He does not know whether other hon. Members are, because having made these statements which are contrary to the Ordinance, he then goes on to tell us that he has read the Ordinance. Well, now, Sir, one of those statements must be wrong. Either he has not read the Ordinance and he is in error; or, Sir, he has read the Ordinance and surely he is misleading us, Sir.

Mr. MUMI: Mr. Speaker, Sir, on a point of explanation, I think I said this, that all that the African is allowed to do if a wild animal enters his garden is to shoot it but he may not—

Mr. CONROY: No, Sir, the hon. Member—I took his words down quite

[Mr. Conroy] clearly—he said that if an elephant is in an African's plot he can only frighten it away. He cannot protect his crop. And then he went on to say that if a lion is in his herd he cannot protect his herd, he can only report to the Government. And then the third mis-statement he made was that no African has any right to protect himself from game. I took the words down—I was so astonished as I listened to the hon. Member that I took them down very carefully. And what made me more astonished, as I was just saying, was that he then went on to tell us that he had read the Ordinance and, Sir, this is not the first time I have made this speech to hon. African Members. Of course, this is a *canard* that they raise from time to time and I from time to time get up and reply to it.

Then, Sir, he went on to talk something about land which I could not understand because it did not seem to me that land was defined in the Ordinance in any way and these two sections in fact do not apply to private land, they apply to all land. Therefore, Sir, I feel that I am sorry that I have had to intervene in this debate—I haven't known that as a simple lawyer I do not know very much about game—but I did think that I ought to prevent misapprehensions arising in the minds of hon. Members as a result of what the Member for Kitui said.

Sir, I beg to support.

THE MINISTER FOR TOURISM AND COMMON SERVICES (Mr. Crosskill): I do not think that anyone on the other side of the House can state that Government produces dull White Papers which provoke no criticism. I think this is no exception. But what strikes me about this debate is that few people have connected the speech of my hon. friend who moved this Motion with the White Paper. If they had done so, they could not fail really to appreciate that Government in this White Paper together with the general recommendations Nos. 1 to 3 virtually accepts all the recommendations of the Game Policy Committee. That, I think, will be accepted, but the criticism has been that there is inadequate finance to implement them all.

Now then, the reservations made by Government are with regard to methods

of implementation which, of course, must vary with the changing conditions through the years and Government has stated and everybody knows that this Report was made some time ago. The other reservation is with regard to timing and I just want to give the reason for the reservation with regard to timing.

It is quite wrong, however, to say that Government would be unable to implement all the recommendations of the Game Policy Committee. That has not been attempted but it is certainly not impossible. But it is not desirable because there are other problems which have arisen since the writing of the Game Policy Committee Report, other problems which have arisen which are of major priority. That was fully explained by my hon. friend, but it does not seem to have been adequately appreciated.

He stated that there are major priorities which must be accepted at the present time which do not all come within the scope of the recommendations of the Game Policy Committee. The first one of those is with regard to poaching. Now, to a very great extent that is a problem the cost of which it is impossible to assess with any accuracy at the present time, but it is a task which Government must undertake with determination and with all strenuous means. If those words were not put in the White Paper will you please blame the Government Printer and I take full ministerial responsibility for that omission. But from the words spoken by my hon. friend in moving this Motion it is quite clear that he is determined to take the necessary strenuous steps to suppress poaching. But as I say, that is a problem the cost of which it is impossible to assess with accuracy and, therefore, he must make provision for whatever may be necessary.

The second task of priority which he mentioned is one with regard to financial agreements which it may be possible to make in areas which are deemed to be ecologically more suitable for game than domestic stock. That is one of the recommendations of the Game Policy Committee and a very important one. It is the "revolutionary step" to which reference has been made by one hon. Member speaking on the other side of Council and, my hon. friend, I think, indicates this

[The Minister for Tourism and Common Services]

Motion said that he was giving attention to this and Government must make financial provision on a considerable scale for effecting such agreements if it is possible to do so, always bearing in mind that you can "take a horse to water but you cannot make it drink". Nevertheless, that is one of the important recommendations which Government has in hand and must make financial provision for.

The third priority which my hon. friend gave is with regard to the protection of crops to which the last speaker has made reference. Those are three priority commitments which make it advisable for Government only to implement the recommendations of the Game Policy Committee which are of urgency and if you analyse the White Paper and analyse what my hon. friend said you will appreciate that the only recommendations which are not to be implemented at the present time are in spheres where no damage is being done to the game population in the country such as—and he instanced—the National Reserve at Amboseli. Since the recommendation was made, he pointed out conditions have changed and all is well in the National Reserve at Amboseli. That is the reason why that has been given low priority. Therefore I do reiterate that if you analyse what has been said and what has been written, Government is virtually accepting all the recommendations of the Game Policy Committee—the major ones—and is implementing them as and when necessary for the preservation of game in this country.

My hon. friend, when he was speaking, stated that he was confident that sufficient money would be available for these urgent matters, and that has been reinforced by a statement by my hon. friend, the Minister for Finance. It is not that Government could not implement all those recommendations, but it is undesirable and wrong policy in the interest of game preservation as a whole, that it should do so because of these other urgent matters which have higher priority. A great deal has been said of Government's inadequate provision over the preservation of game, but this has not been substantiated. Mr. Crosskill's remarks indicate

what Government has done in hard facts.

If Members will look at the staff of the Game Department in 1950 as compared with today they will see that it is now 50 per cent greater. All the speeches of hon. Members opposite have indicated that Government has lessened its efforts to preserve game, but, in fact, that is not so, and if hon. Members will look in their Estimates they will see that the increase is about 50 per cent of both African and European staff in the Game Department.

I now turn to the speech made by my hon. friend, the Member for Nairobi West. He talked about the aesthetic and cultural heritage. Now those are words from the White Paper, but I always use them with some diffidence because I think they tend to lead us, or get us bogged-down in a sea of emotion. I prefer to look upon the game as a natural heritage of economic value and of scientific interest. I was amused when my hon. friend was talking about the aesthetic heritage. His next words were that a farmer to whom he referred was killing "Tommy" in order to make a business of it. Well you do not do that with an aesthetic heritage. You do it with an economic asset, and I prefer to look on game as an economic asset and one of considerable scientific interest, which we must protect. When I say that I will be second to none in my interest and determination to protect game, I have for some quarter of a century been an honorary game warden in Tanganyika, and they do not make you that just for shooting the stuff, but for taking an interest in it, and so when I say I look upon game as an economic asset and of scientific interest and not so much of aesthetic interest, please do not think that I take any less interest in its preservation.

The hon. Member for Nairobi West, on whose speech I am commenting, got down to earth and got down to business and pointed out the tremendous potential economic value of game to the tourist industry. Now that is very true. It is of tremendous potential value to the country. The hon. Member for Aberdare has also pointed this out, and said that he had recently been discussing the question of game in the United States

[The Minister for Tourism and Common Services] and wondered why we were not getting more United States visitors to see our game, but the plain position is that we cannot accommodate them, and unfortunately, at the present time, more and more people who come to East Africa to see game are going to Uganda and Tanganyika because there they have better lodges and more accommodation in their National Parks than we have in Kenya. It is no good staving, at great expense, a wonderful show if we cannot have a sufficiently big auditorium for the people to see the show. That just stands to reason. But I must here and now tell you the unhappy story of the lodges in the National Parks. I must do so because I have mentioned this problem and how I have been hoping to solve it over the last 15 months, and I therefore will tell this House exactly what the position is at the present time.

About 15 months ago I went to the Trustees of the National Parks and ascertained from them that they felt frustrated. They were eager to get going with more accommodation in the National Parks, but they felt that they had been starved of money by Government. There was justification for that statement, because owing to financial stringency the Vote had to be cut very considerably. The Trustees, the Director of the National Parks and Professor Fraser-Datling all said that they admitted the complete inadequacy of accommodation in the national parks—not just on the perimeter—as the hon. Corporate Member who spoke a few minutes ago has said. The hon. Nominated Member, Mr. Cowie, said in the Press, "Government has not enabled the national parks to increase their tourist facilities as they wished to do". That, as I said, had great justification at that time. I wrote to the Chairman of the Board of Trustees and he confirmed that they were anxious to increase the accommodation, and on 22nd November they published a plan which showed that without damage to the game, without any interference with the breeding habits, or in any other way, the number of beds in the national parks could be increased from 94 to 218. So I then plunged in with enthusiasm and after consultation both in Government and

without, I told the Trustees that I would somehow find them £100,000 for the development on the scale which they had proposed. However, in January that proposal was rejected. That was rejected because the Trustees felt that they could not take the risk of operating lodges on loan money. I heard then of another scheme, and I went to Uganda to see how they operated their lodges there. There they had two very large ones each with about 60 beds and extra accommodation under canvas. I went to see the lodges and I discussed the question with the Chairman of the Board of Trustees of the National Parks, and with the Chairman of the hotel company which was operating them. There they have a scheme whereby Uganda Hotels Ltd. have formed a subsidiary company in conjunction with the Trustees of the National Parks in which the Uganda Hotels Ltd. has 51 per cent. of the shares and the Trustees have 49 per cent. Now one would think that such a scheme as this, if it were financed by Government, would appeal to the Trustees because they have said that they did not wish to accept the risk themselves of trading with loan money.

Furthermore, as the hon. Corporate Member, who unfortunately is not here now, has just said a few minutes ago, in the Ordinance governing the national parks they are empowered to lease, and that it is exactly we such a company as that formed in Uganda requires in order to build and operate these lodges. I wrote to the Chairman of the Trustees and asked if he would consider the establishment of such an organization in Kenya. He asked me if I would discuss this with the Chairman of the Executive Committee, and I said "I would be delighted to do so and did so. He asked me if I would attend the next Executive Committee and discuss this, and I said that I would be delighted to do so, but he held on 4th May. I got a letter saying to that there were an inadequate number of Trustees here to constitute a quorum and the meeting was unlikely to take place. The meeting did take place four days later. I was not invited, and the plan was rejected. However, undaunted by this, I explained, as some hon. Members will remember, the proposal in this Council chamber. However, the Trustees

[The Minister for Tourism and Common Services] rejected this on the ground that they must own the lodges and could not have a company operating and owning the lodges within their parks. I then looked around for other methods of achieving what we wanted. I put the proposal to the Development Committee that we should form and finance an Operating Company. The Trustees would own the lodges in their parks, and this company would take the trading risks and would operate the lodges and not own them. A Working Party was set up by the Development Committee, and that Working Party consisted of two Trustees of the National Parks and the Director. They approved the plan and put the proposal up to the Trustees, but I have only heard two days ago that the Trustees cannot accept this although Government has indicated that it has done so and will in principle provide the finance, amounting to £75,000. All the Trustees have agreed to do at the present time is set up another Working Party. Now I may be a bit conservative, but it seems to me rather fruitless setting up another Working Party under a Working Party consisting of the Trustees and the Director of the National Parks has put up a proposal to them.

The Trustees have put up no alternative proposal, and I must with regret say that I have found that their attitude has been negative, has been unconstructive and has been uncompromising. I have felt, at times that Government may be being held to ransom. However, I discarded that as an unworthy idea and thought, because if Government was being held to ransom it would mean that the country was being held to ransom by the Trustees, because here we are being frustrated. We have the opportunity of increasing the revenue of this country tremendously, as hon. Members opposite have said, but we cannot do so if we have not got these lodges. The hon. Nominated Member, Mr. Cowie, said in his speech yesterday that he hoped that we would soon reach agreement, but I fear that I have run out of ideas. I have not quite run out of patience, but I have almost run out of hope.

The hon. Corporate Member who spoke not long ago has just said that he felt that when applications were being

made for finance to the Development Committee, they fell on "dumb ears". Well, I feel that all my golden words have fallen on deaf mouths as far as the Trustees are concerned.

With regard to tourism, another aspect was raised regarding to a proposal in the White Paper that the Trustees of the National Parks should be responsible for the development of tourist facilities as well as for the preservation of game.

The hon. Nominated Member, Mr. Cowie, quite rightly wished to know whether there was any precedence attached to that—whether the provision of tourist facilities must take precedence over the preservation of game. The answer to that is "no", of course. Many of us shoulder two responsibilities, many of us shoulder more. It is a question of the two being carried on together. The schoolboy is told to wash both his neck and his ears, and it does not matter which he does first so long as he does both.

Finally, Mr. Speaker, I do welcome most wholeheartedly the proposal put forward by the hon. Member, Mr. Mate, and by the African district council of the Meru area, and I hope possibly that my hon. friend will be able to examine this proposal and that there, at least, we may be able to have some lodges.

Mr. Speaker, I beg to support.

MR. COWIE: Mr. Speaker, may I rise on a point of order? May I ask if the hon. Minister finds that many of the statements he has made are based on misinformation, he will take an early opportunity of informing the Members of this Council.

THE MINISTER FOR TOURISM AND COMMON SERVICES (Mr. Crosskill): Yes, Sir.

THE SPEAKER (Sir Ferdinand Cavendish-Bentinck): It is now almost the time for suspending business, so I shall not call on any other speaker in this debate. I will call on a Minister to move the Adjournment of the House.

THE EUROPEAN MINISTER WITHOUT PORTFOLIO (Mr. Harris): Mr. Speaker, Sir, I beg to move that the House be now adjourned.

MR. WEBB seconded.

ADJOURNMENT MOTION

PYRETHRUM POLICY

MR. BLUNDELL: Mr. Speaker, I rise to support the Motion and I wish to put before the House the present state of the pyrethrum industry. Before I go further, Mr. Speaker, I must declare an interest in that I am a pyrethrum grower.

I wanted to record, Mr. Speaker, in the sanctity of this House, the great public concern which is felt over the continuing dispute in the pyrethrum industry. When I say the public concern I do not necessarily refer to the growers or to the business interests in question. I refer to the ordinary people of this country. There has been over recent weeks a deterioration in the situation. We have further litigation now proposed before the courts and rumours are that this may well be served on individual members of the industry. Now, Mr. Speaker, I want to declare most forcibly that none of this is in the best interests of this Colony. In the public mind I would like both the Pyrethrum Board and the East African Extract Corporation—a subsidiary of Mitchell Cotts—to realize that in the public mind the whole of this incapacity to reach agreement is damaging to the true interests of this Colony. It is damaging because it is a most unhappy situation, here, by statutory board set up by legislation, by the Government, with responsible members nominated by the Minister is constantly in the process of defending itself in the courts.

Secondly, it is more than unhappy when a great commercial firm, such as Mitchell Cotts, who have made a great contribution, Mr. Speaker, to this country, are steadily losing the goodwill of the people with whom they have co-operated for years—the agricultural industry.

Those are two aspects of the matter to which I wish to draw the attention of the parties concerned and the Members of this House. And that being so I welcome the statement in last week's Press by my hon. friend opposite, the Minister for Agriculture, that he intended to institute on behalf of Government an enquiry into this matter.

I wanted to ask him tonight whether he would be good enough to lay before us the terms of the enquiry which he wishes to initiate, and whether as he has now decided to have this enquiry, he intends not to debate the White Paper upon which he has a Motion before the House. If the Minister intends to initiate an enquiry I have two questions I would like to ask on it.

The first, I think it is essential that the chairman of the enquiry should be a Judge of the Supreme Court or a not be possible for us to get a suitable Judge, but we should be able to find a person of equivalent standing. It may not be possible for us to get a suitable person of the required capacity, and secondly, Mr. Speaker, I wanted an assurance from the hon. Minister for Legal Affairs that in setting up this enquiry it will be possible for the chairman, if he deems it necessary, to call for all relevant papers and for evidence from members of the public or alternatively from members of the public service, subject to public security. Unless that is clear and unless the terms of reference make that possible I feel that the enquiry may not achieve the full results which we all may well hope from it.

Now, Mr. Speaker, as other Members will want also to speak on this subject, I will be brief, but I want to return to the damage which this dispute is, in my view, giving to this country. Here we have a great industry. It is possible, with modern developments now in the pyrethrum industry, for it to take a place superior to that of the tea industry of this country, and second only to the coffee industry. Whatever may, or may not be the rights of this dispute, I am certain that the present position is damaging not only to the expansion of the industry, but to the general economic wealth of this country. Mr. Speaker, it is damaging because first of all it may well influence the ideas of capital investment in this country, by commerce and industry in association with the agricultural industry. It is essential for the agricultural industry to be able to call with harmony and goodwill upon the capital resources and technical expertise of commerce and industry.

[Mr. Blundell]

Secondly, it is damaging because the whole relationship of the agricultural industry to commerce is being distorted, and I wanted to emphasize, Mr. Speaker, something that I think needs saying. The agricultural industry of this country can no more proceed alone without commerce and industry than commerce and industry can expand and develop without the agricultural industry of this country. And it is the most foolish situation where a conflict between two parties is damaging, what I consider an essential and fundamental fact for the development of the country.

Let me record, Mr. Speaker, as a farmer, and as a man who has business interests, that agriculture needs commerce and industry and commerce and industry needs agriculture. There are in fact no agriculture processing industries for which agriculture needs commerce and industry. We have only got to look at the dairy industry and ice-cream. The dairy industry and the manufacture of baby foods. The meat industry and the manufacture and association with a company like Libbys of tinned products. That alone will show hon. Members how stupid it is for this dispute to continue because the truth of the matter is that commerce and industry and agriculture are each to the other handmaidens.

Now, Mr. Speaker, I wish to record tonight how strongly not only I, but Members on this side of the House, and I am sure hon. Members opposite, feel in order that the weight of public opinion shall bear upon the parties concerned, and I wanted to record that as soon as they resolve their difficulties with, or without the help of the enquiry, the better the true interests of this country will be served.

MR. SLADE: Mr. Speaker, Sir, I fully support everything the hon. Member has just said. It is a fact that there is acute and widespread anxiety over this present dispute, growing with the passage of time. Anxiety over the loss of the effort and money that it involves, anxiety over the inevitable discouragement of potential purchasers of our produce of pyrethrum, and the inevitable discouragement of further capital that might come in on the commercial side, to help us in

such matters in future, as the hon. Member has just described.

Mr. Speaker, I also support the action which Government now proposes, in setting up a commission of enquiry. Clearly, in a matter of such major importance to the whole country, in default of agreement between the parties, Government must take the responsibility of deciding the issue, and for that purpose must have the best possible impartial advice before finally making its decision. A point I do want to emphasize, Mr. Speaker, is the tremendous importance still, at the eleventh hour, of trying to create some kind of goodwill between the parties concerned, because whatever the outcome and whatever the decision of Government, these two parties have still got to work together. They are going to be in continuing relations and they must, on their side, do their best to live together in a spirit of goodwill. A solution imposed from above without their co-operation and without any kind of sympathy from them is half doomed to failure, just like an imposed constitution for this country without sufficient backing all round is half doomed to failure. Sir, I do hope the parties concerned, and the Commissioner of Inquiry, and, indeed, Government will realize this; that if the parties have a solution imposed upon them which both of them resent, they are going to spend their time thereafter seeking ways of escaping the implications of that solution, and the quarrel will go on to the detriment of all concerned.

For that reason, Mr. Speaker, I propose that the Commission should start in the first place by acting more as negotiators than arbiters, and the parties themselves should approach the Commission of Inquiry, in the first place, anyhow, not as a contentious matter to be fought out as in a case at a court of law, but as a matter of which which the Commission of Inquiry needs their help to arrive at a mutually acceptable solution. The only other point I would like to make is in regard to the conduct of the Inquiry itself. I will refer back for a moment to a debate we had on 19th April, 1956, here, concerning the procedure of Commissions of Inquiry in general. That was arose out of a particular Inquiry we had in regard to the City Council of Nairobi. We do not want, Mr. Speaker,

(Mr. Slade)
a repetition of that kind of Inquiry, where responsible citizens were pilloried without warning and without mercy by unsubstantiated expressions of opinion. Now, Sir, there is danger of the same sort of thing happening here where there has been such bitterness already aroused, and it cannot do any good. We asked for the law to be amended by the introduction of rules of procedure which would make it more difficult for Commissions of Inquiry to ascertain evidence of that kind. The law has not yet been amended, but I believe that the Minister for Legal Affairs will give us an assurance that the Commission of Inquiry in this case, pending amendment of the law, will be directed in these matters, as Government has power to direct them. The particular matters I have in mind are all concerned with evidence which may affect the conduct or character of an individual, and they fall under three heads. First, that if there is to be any such evidence the individual concerned must be given due warning of it before it is led, so that the may be able to be prepared to meet it in cross-examination and answer it. Secondly, that no hearsay evidence by that kind of matter, anyhow, may be entertained. Thirdly, that there shall be no expression of opinion by any witness concerning the motives or thoughts of persons concerned, as opposed to factual evidence of what they have done or said. Those three things, Sir, are most important in any Inquiry, but particularly in this Inquiry where we do want to give a chance from first to last of the parties ending up in reasonable accord. I hope that the Minister will assure us that that kind of direction will be given in this Commission of Inquiry.

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Lt.-Col. McKenzie): Mr. Speaker, Sir, I would like to thank both the hon. Specially Elected Members for what they have said and the interest they have taken in this pyrethrum dispute. Sir, it is quite correct that Government does not intend debating the White Paper, while there is an Inquiry and it is also correct that we do hope to build this pyrethrum industry in the next four to five years into a £4,000,000 industry.

Mr. Speaker, if I could just turn to one or two reasons as to why we have decided

to go ahead with an enquiry. After publication of the White Paper, we had hoped that, both sides in this dispute might have been able to get together but, unfortunately, through circumstances beyond Government's control, the position, after at one stage looking hopeful, did deteriorate. Also Government's impartiality and good name was being called into question, and that made us in Government think it was unwise for Government to proceed to arbitrary legislation in the circumstances. With your permission, Mr. Speaker, I would like to read out the terms of reference for the Commission.

First of all, Sir, "accepting the basis of the Government's established policy" on four points, which are as follows: (a) to foster the expansion of the pyrethrum industry in Kenya; (b) to give primary consideration to the interests of growers; (c) to ensure that the production and marketing of pyrethrum flowers shall be organized under the law by a statutory board on which growers are adequately represented; and (d) to give reasonable protection to the commercial interests of existing processors of pyrethrum extracts, the Commissioner will be invited to enquire into and make recommendations as to the degree and nature of protection which should fairly and reasonably be accorded by legislation to the interests of the East African Extract Corporation, Ltd.

Now, Sir, I think that hon. Members on both sides may be interested in the timetable of this. Government is fully alive to the urgency of this, mainly because of the expiry date of the existing commercial agreement, being 30th June, 1961. We are told by both sides that they are selling extract up to 12 months ahead, which means that this must be settled by May or June of this coming year. Every effort will be made to begin this enquiry in January and we hope that the enquiry will be completed in six or seven weeks. Government has given an undertaking that it will publish legislation as soon as possible after the completion of the enquiry. Also, we on the Government side maintain that we cannot give any undertaking that we shall necessarily accept the Commission's findings.

If at any time before the completion of the enquiry agreement is reached by

(The Minister for Agriculture, Animal Husbandry and Water Resources)
the two parties then Government are quite prepared to cancel the Commission and legislate the agreement, and also at any time during the sittings of the Commission Government is quite prepared, if the two parties get together, to cancel the Commission.

Before I sit down—and as time is getting on I must leave some time for my hon. colleague—I would like to take this opportunity of thanking the backbenchers agricultural committee for the support they have given me during this dispute.

THE MINISTER FOR LEGAL AFFAIRS (Mr. Griffith-Jones): Mr. Speaker, I have one or two points to answer raised by the two hon. gentlemen who have spoken from the opposite side.

The first point which was raised related to the Chairman of the proposed Commission, Wall, Sir; it rather depends on the talent—and the specialized talent—required for this Commission which may be available, whether or not the Commission is a single man Commission or consists of more than one person. In either case it is certainly the intention of the Government that the Chairman should be of legally qualified and of the highest possible standing. Again, if it is a single man Commission it will be necessary of course that he should also have some background or experience in agriculture and in commerce. Whether it will be possible to find the aggregation of these talents and qualities and experience in one person on this earth I am not sure, but we will do our best to find such a paragon. If it is not possible to combine in one person all the qualities of talent and experience necessary to discharge this Commission thoroughly, then we may have to have more than one member on the Commission and in that case it would certainly be the Government's intention that the chairman should be a person of high legal standing and long experience.

The next point which was raised was whether the Minister would be able to call for evidence from members of the public and of the public service, subject to the inhibitions of security. The Commission, under the Commissions of Enquiry Ordinance, Mr. Speaker, has the

same powers as the Supreme Court to summon witnesses and compel the production of documents. It will of course be primarily the function of the parties concerned in this dispute to present their cases to the Commission and, subject always to the question of relevancy, I have no doubt that they will be entitled to go as deeply as they wish, and indeed, if they so wish, as far back as the beginnings of the dispute, and as the beginning of the dispute, if they should be able to demonstrate that such material would be of direct relevancy to the issues arising before the Commission. There will be no inhibition therefore on the calling of evidence, whether it be from members of the public or members of the public service or on the production of documents, subject always of course, as the hon. gentleman who raised the point realized, to the necessary inhibitions required by security.

Coming to the point made by my hon. friend the Specially Elected Member, Mr. Slade, regarding the conduct of the enquiry, he is aware that following the debate to which he referred and realizing not only the anxiety of the House as disclosed in that debate but also the substance and force of the points which were raised in that debate, I have with my advisers given the subject very careful conduct of these enquiries and detailed and continued assistance and advice of Her Majesty's Government, on the subject, based on experience of similar tribunals and enquiries in the United Kingdom. As the House may be aware, there has been during the last 18 months or two years or so, before that and running on into this year, a great deal of discussion and indeed anxiety in the United Kingdom on the manner in which these enquiries should be conducted. The United Kingdom Government did appoint a Committee on Administrative Tribunals and Enquiries, the Frank Committee, which in due course reported, and there has been considerable discussion on this subject in both Houses of Parliament. I think it is generally accepted that this form of enquiry is in many respects an unsatisfactory form of proceeding, but so far it has not been possible to devise an appropriate alternative which could achieve the same

[The Minister for Legal Affairs] object of enquiring into facts and disputes and ascertaining the truth.

Now, Sir, in so far as the question of regulating procedure is concerned, by hard and fast rule, I think it must be realized—and this is in sum the wisdom on which we have been able to draw from United Kingdom—it must be realized that commissions of enquiry vary so widely in their terms of reference that a set form of rules for procedure would be likely to do more harm than good and might unduly hinder and restrict the commission in the performance of its duty of probing fully into the facts, which it has been appointed to enquire into. Although the proceedings of a commissioner of enquiry should seek to follow the same high standard of openness, fairness and impartiality as those practiced in courts of law, if in any particular instance strict adherence by a commission of enquiry to the strict laws of evidence and rules of procedure pertaining in courts of law would prevent it from performing its prime function, which is, of course, enquiry and adjudication, it is reasonable and proper and indeed necessary that those rules should be relaxed to such a degree as not to be a hindrance.

Now the Franks Report to which I have already referred did not deal precisely with the exact form of enquiry which we have in mind but the views which it expressed in this context are not irrelevant. It expressed the view that it is impossible to lay down any general guidance on the treatment of evidence appearing before a tribunal; that in the majority of tribunals it would be a mistake to introduce the strict rules of evidence of the courts; and that the presence of a legally qualified chairman should enable the tribunal to attach the proper weight to such matters as hearsay and written evidence, etc. Of course, in regard to attacks on character, I may say that I entirely agree that commissioners should ensure that due warning of the general nature of the allegations against a person should whenever possible be given to him, and that in cases where no such warning is possible the person who is the object of those allegations should be made aware of the allegations against him as soon as possible and

be given as early as possible an opportunity to reply to those allegations.

In this enquiry which is projected directions will be included in the commission in the exercise of the powers which are contained in the Ordinance for the appointment of such a commission, directions not of a mandatory but of a directory nature, drawing the attention of the commissioner or commissioners to the matters which my hon. friend has enumerated, to the injustices that can flow from lack of constant vigilance to protect the interests of individuals. While those directions will not be binding in a mandatory sense they will require the commissioner, if ever they feel it imperative in the interests of ascertaining the truth of the matters into which they are required to enquire into, to relax the rules or the directions regarding, for instance, hearsay evidence, opinion evidence, and the giving of due warning and opportunity to persons whose characters are impugned to refute the allegations against them, then they will be required to give their reasons for any such departure.

I hope, therefore, Mr. Speaker, that I have been able to allay the anxieties which I know are very sincerely entertained by my friends opposite that the conduct of this enquiry will in fact result in the type of injustices which they fear.

ADJOURNMENT

THE SPEAKER (Sir Ferdinand Cavendish-Bentinck): I think it is sufficiently near the time to obviate my having to put the question. I therefore propose to adjourn Council until 7.30 p.m., tomorrow, Thursday, 10th December.

The House rose at forty-three minutes past Six o'clock.

Thursday, 10th December, 1959

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 Member—

Sheikh Salim Mohamed Mubashany.

COMMUNICATION FROM THE CHAIR

COUNCIL OF STATE PRELIMINARY STATEMENT

THE SPEAKER (Sir Ferdinand Cavendish-Bentinck): Hon. Members, in accordance with the requirements of Standing Order 95A (2) I have to communicate to you that yesterday I received from the Chairman of the Council of State a preliminary statement on the Hospital Treatment Relief (Asian and Arab) Bill. This was duly circulated to Members yesterday evening.

NOTICES OF MOTIONS

REVIEW OF DEATH PENALTY

MR. NYAGAH: Mr. Speaker, Sir, I beg to give notice of the following Motion:

THAT this Council urges the Government to make an early review of the death penalty as capital punishment with a view to instituting another form of deterrent more humane and Christian.

AFRICAN DISTRICT COUNCILLORS' REVISION OF ALLOWANCES

MR. TOWETT: Mr. Speaker, Sir, I beg to give notice of the following two Motions:

THAT this Council urges the Government to ask the Minister for Local Government, Health and Town Planning to look into the allowances payable to the African district councillors with a view to raising the same in places where such allowances are inadequate.

CONSTITUENCY-ELECTED MEMBERS AS DEPUTY SPEAKER

MR. TIPWET: The next one is:—

THAT this Council urges the Government to accept a system whereby a Constituency Elected Member is made a Deputy Speaker of this Council.

ORAL ANSWERS TO QUESTIONS

QUESTION No. 7

MR. PANDYA asked the Minister for Legal Affairs if and when the Government propose to introduce new Legislation for Hindu Succession on the lines of the Hindu Succession Act, 1956, of India?

THE MINISTER FOR LEGAL AFFAIRS (Mr. Griffith-Jones): As indicated in a recent debate in this Council, the Government is embarking on a comprehensive review of the law of succession in the Colony. This review will of course include the law of Hindu succession within its scope, and the Indian Act of 1956 will be considered in the course of the review.

QUESTION No. 23

MR. MUMBI asked the Minister for Internal Security and Defence:—

(a) Whether he is aware of public concern over the numerous murder cases reported in the Kitui District recently and how many such cases are outstanding?

(b) Whether Government is prepared to investigate the causes for these murders?

THE MINISTER FOR INTERNAL SECURITY AND DEFENCE (Mr. Swain): (a) Yes, Sir. Twenty cases of murder have been reported in the Kitui District this year. Prosecutions have been completed in four cases, 15 are pending before court, and one is still under investigation.

(b) It is 10 of the 20 cases the accused were drunk when the offence was committed and in a further nine there is evidence that the accused had been drinking. In nine of the cases there was a background of domestic or other quarrels. It would appear that excessive drinking in the Kitui District has been a contributory factor to these acts of violence, coupled with the unusually long period of dry weather during the past 12 months, which has resulted in frayed temper.

QUESTION No. 40

AIR COMMODORE HOWARD-WILLIAMS asked the Minister for Legal Affairs when does the Government envisage removing the racial discrimination as to the definition of a "minor"? For the African it is at present under 16, for an Asian it is under 18, and for a European it is under 21.

THE MINISTER FOR LEGAL AFFAIRS (Mr. Griffith-Jones): The inference in the question that differences in regard to the age of majority are unfairly discriminatory is incorrect.

The age of majority differs for different purposes. For the purposes of the Industrial Training Ordinance, 1959, the ages are as stated in the question. For the purposes of the Marriage Ordinance, the age is 21 for all persons, of whatever race. For the purposes of the Age of Majority Ordinance (which does not apply to Africans), the age of majority is 21 for Europeans and 18 for Asians.

In general, and subject to express statutory provisions for particular purposes, the age of majority is derived from the personal law and custom of each community or tribe. The stage of uniformity for all purposes in the concept of majority has not yet been reached.

AIR COMMODORE HOWARD-WILLIAMS: Mr. Speaker, I accept the answer from the Minister for Legal Affairs because in any event I have got to, but I would like to ask him if he is satisfied from the point of view of the Judiciary and the effects upon minors when they are brought up on murder charges: Is he satisfied with the arrangement?

THE MINISTER FOR LEGAL AFFAIRS (Mr. Griffith-Jones): In so far as capital charges or liability to capital punishment is concerned, the age is 18 for all persons irrespective of race. I think it is anomalous in some respects that there should be a disparity in the ages of majority but it is very largely, as I say, a matter of personal law and custom and a matter, perhaps of evolution towards uniformity in due course.

SIR IRIKI MACKAWI: Mr. Speaker, Sir, arising out of the hon. Minister's reply, will the Minister state also the age of the minor of the Arabs, because I did not hear him mention the Arab age.

THE MINISTER FOR LEGAL AFFAIRS (Mr. Griffith-Jones): Not being an expert on that, Sir, I would like to ask the hon. Member the same question.

QUESTION No. 41

AIR COMMODORE HOWARD-WILLIAMS asked the Minister for African Affairs do Kenya commercial motor vehicles conform as to length and load to any international standards, or to any East African standards, so that the standard vehicle built in Europe or America may legally operate all over East Africa?

THE MINISTER FOR AFRICAN AFFAIRS (Mr. Johnston): Both Kenya and Uganda have identical maxima for the overall lengths of various types of vehicles (for example, vehicles with two or with three axles, articulated vehicles, etc.) and also for the weight of a vehicle on its most heavily loaded axle or tandem axle group and these all conform with the Geneva Convention on Road and Motor Transport of 1949 which sets a "permissible" maximum. Uganda, however, differs from Kenya in prescribing much lower maxima for vehicles using its second class roads, whereas there is no differentiation in Kenya between first and second class roads. Tanganyika differs from Kenya and Uganda by prescribing maximum lengths of vehicles considerably less than the permissible maximum in the Convention. It differs also in prescribing only one maximum axle weight at 11 tons without differentiating between ordinary vehicles and tandem-axled vehicles, with the result that in the former the permitted weight is greater than ours and in the latter case less. All three territories prescribe a maximum weight for the most heavily loaded wheel of 7,000 lb. in Kenya and Tanganyika and 7,500 lb. in Uganda.

The hon. Member refers in his Question to the load of a vehicle and I have understood him to be referring in the context of his Question to the maximum weight of a vehicle. Section 53 of the Traffic Ordinance provides that no vehicle shall be used on a road with a load greater than the load specified by the manufacturer of the chassis of the vehicle or the load capacity determined by a vehicle inspector under the provisions of the Ordinance. In all

[The Minister for African Affairs] ordinary circumstances the manufacturer's specifications are followed. Where the vehicle has a locally constructed body the load capacity is determined by deducting the measured tare-weight of the vehicle from the manufacturer's specified gross vehicle weight. The load capacity depends, therefore, on the individual vehicle. I understand that Uganda and Tanganyika adopt the same procedure.

The hon. Member also refers to "the standard vehicle built in Europe or America". I am not altogether clear as to what is meant by "standard" but a vehicle may only be used in East African territories provided that it complies with the law of the territory concerned, regarding not only length and weight but, also as regards width, height, overhang, wheels, tyres, brakes, lights, etc. A very heavy or lengthy or wide or high vehicle constructed in the U.K. or U.S.A. might not be permitted on East African roads.

AIR COMMODORE HOWARD-WILLIAMS: Mr. Speaker, I would like to thank the Minister for his speech. However, I would like to ask him why these matters come under the Minister for African Affairs.

What happens to a lorry which proceeds from Kenya to Tanganyika and Uganda? Does it offload? They are not at all consistent.

Thirdly, I would like to ask if the Minister will apologize to the House if I am able to show that his facts are wrong.

THE MINISTER FOR AFRICAN AFFAIRS (Mr. Johnston): Mr. Speaker, I hoped I had provided the hon. Member with all the information he required. Quite clearly I have not.

As regards the first part of his question, when he asked why was the Minister for African Affairs responsible, the fact is that the Ministry has taken over the new Roads Department quite recently and this was reflected in the Budget Estimates.

The last part of his question was, would I apologize if I have given the wrong information. Sir, so far as I know I have given the correct information, but if the hon. Member would like to come and talk to me about it later and point

out where I have been wrong I should be happy to apologize.

THE SPEAKER (Sir Ferdinand Cavendish-Bentinck): I would take this opportunity of pointing out to Ministers that if they have very lengthy replies they can always give a written reply.

STATEMENT

ORDER OF PROCEEDINGS

THE CHIEF SECRETARY (Mr. Coutts): Mr. Speaker, a number of Members on the other side, I think, have asked if we could take the Game Policy Motion and conclude it. If we take it out of order, Sir, I would like to inform Members of the House that I would like to apply the closure to this Motion not later than 3.30 p.m.

MOTION

A GAME POLICY FOR KENYA: SESSIONAL PAPER No. 1 OF 1959/60

Resumption of debate on amendment introduced on 9th December, 1959.

AIR COMMODORE HOWARD-WILLIAMS: Mr. Speaker, I rise to oppose the Motion and the amendment and to beg with all the purpose I can muster that this Sessional Paper should not be forced through this House in its present form. What use is a policy which cannot be implemented? It is like giving a patient a lethal dose for his own good when he knows that it is likely to kill him, as evidenced not only in the sincere speeches from this side of the House but also in a letter to the *East African Standard* yesterday from Mr. Downey, which called upon all big game lovers to protest, including members of the Kenya Wild Life Society. Not only is the dose a killer, Sir, but it is far from painless; and our hon. African friends have shown a praiseworthy sense of responsibility in this regard. I should have thought that this would have been enough to spur the Government to take a wider view of this problem and its issues than they have in the past.

This brings me naturally enough to the speech by the hon. Minister for Finance, a thoroughly irresponsible speech, if I may so say, which simply begged the whole issue and had not a single argument to its credit. Shall we

[Air Commodore Howard-Williams] faces the truth? The hon. Nominated Member, Col. Cowie, stated that out of some odd £5,000,000 we already receive from tourism. The Treasury receives some £500,000 direct and in due time the whole of the balance. Yet they cannot find a paltry £120,000 for the National Parks which almost alone admittedly create this considerable revenue. If ever there was a case, Sir, of killing the goose that lays the golden egg, this is it. What is more they twist its tail to make sure the pill works.

The tourist revenue could by now have been £10,000,000 a year had the Treasury shown the slightest imagination a few years back and could be anything up to £20,000,000 a decade hence. A few figures may interest Members. Three years ago close upon £500,000,000 (half a billion pounds) was spent by the citizens of the United States of America—a figure that will soon rise to £1,000,000,000 (a billion pounds). My authority is the Attorney-General of the United States of America. Of this huge sum Kenya gets 0.2 per cent yet we have everything to offer those whose palate for something new out of Africa—*ex Africa semper a liquid novum*—is insatiable. "The present lot of game, valued at £5,000,000 a year could be trebled," says the Minister for Tourism. But we have not the hotels. "Because we have not the money," says the Minister for Finance. Damme, is not the issue obvious! Millions of pounds a year await the expenditure of a few hundred thousand pounds.

The hon. Minister for Finance should patently hear what my American friends say of his predecessor and about the public relations of this Colony which is pressing. Our big game is largely a matter of public relations and is potentially the biggest economic bet we have. Has Government a public relations department? If so, whose is it to be found? What does it do? and who does it publicly relate? I have the healthiest possible regard for the head of their Press Department which does not necessarily mean those he serves. But why are its duties confined to selling what Government is supposed to be doing—publicizing their *Kikuyu* into golden crested cranes? That was surely never designed as its sole purpose. Or was it?

Kenya needs selling to the world, not only to induce others to come here and see what a mess the Government makes of running the Colony but what a marvellous place we could have under different management. What we have here is a financial arbitrium that is half-way between a planetorium and a moratorium. Instead, our Press Department is so busy selling the Government's crazy schemes it is left with no time to sell the Colony, which should surely be its main job. These are real issues and obvious, Sir.

On the subject of the absence of money, how can the Minister for Finance complain? Only yesterday, I had a Question down which would have given us some money. The Minister for Agriculture answered, "No," to my request for Kenya to consider a tax on water being sent to Egypt from Lake Victoria, and replied by saying that seldom had states raised funds that way. The precedent having been created, why should we not follow? We need money. I have shown how to get some of the hundreds of millions of pounds that we paid to Egypt during the war to save her from Nazi aggression.

THE EUROPEAN MINISTER WITHOUT PORTFOLIO (Mr. Harris): Mr. Speaker, Sir, on a point of order, the Chief Secretary has indicated, Sir, that he wishes to apply a closure to this debate fairly early. Is what the hon. Member is saying relevant to our game policy?

THE SPEAKER (Sir Ferdinand Cavendish-Bentinck): The hon. Member is making his points and I think he is entitled to do so. If I may say so, I would also add that a Motion for a closure can be suggested but it is for me to judge as to whether such a Motion is likely to interfere with the rights of Members or not.

AIR COMMODORE HOWARD-WILLIAMS: Think you, Sir, the hon. Minister for Tourism made a determined assault upon the chastity of the Wild Life Society. He wants hotels near the game parks; on his terms, I know of at least two robust and successful catering organizations—and by the way, Sir, I shall only be about another five or ten minutes at the very most—which will gladly accept his offer of £100,000 as a loan and who will give their hotels as security until

[Air Commodore Howard-Williams] the loan is paid off, as long as they are allowed to build their hotels and run their businesses upon business lines. They naturally want freedom of action, which they cannot have when they are required to bend the knee every second to Government interference. These firms, by the way, put quality first which no Government in its business activities have ever done. Private enterprise invariably succeeds where the dead hand of Government ever fails and every Member present knows that to be true.

The hon. Minister for Tourism claims he has no success with his hotel plan over the past 18 months, in which he is like the hon. Member for Commerce and Industry over the new hotel for Nairobi over the last eight years. And for the same reason, Sir. They have both tied themselves into the same kind of knots which they cannot now unravel. They have done so, Sir, because they are terrified that someone might make some money. That in doing so, they might make millions for Kenya has never even entered their nuts. In the interests of economy I would like to suggest that these two charming Ministers should in truth ally themselves with the Ministry of Finance, and the Ministry of Forest Development and Game, and a single Minister who should be called the Minister of Nonsense.

In truth in East Africa million or more head of game have been trapped in pits or with wire or have been shot with poisoned arrows since I first took up this question in the Press. Sir, some people put the figures at around 100,000 or more per year. Whose is the fault, Sir? Who runs the outfit? Who should therefore be impeached for these cruel crimes? The answer to those three questions can but be the Colonial Office. Every animal lover in the whole world will therefore say with me the answer cried by Cromwell in his statement to the Long Parliament, "You have sat too long here for any good you have been doing. Depart I say, and let us be done with you. In the name of good, Godem do!" answer to this big game problem is not longer lie with Government in action with their petty and paltry excuses but by taking the fast vanishing game out of their control and onto the higher plane of the United Nations as was sug-

gested by the hon. Corporate Member, Sir Alfred Vincent. I happen to have interested myself, Sir, some time recently in these regards and have the support and caustic remarks of a number of international figures whose names and promises I am handing to the hon. Nominated Member, Col. Cowie, to see if anything can be done by way of international action through these sources to raise £1,000,000 to provide the organization necessary to stop poaching which is recently become a very serious menace indeed in Kenya, Tanganyika and Uganda; and to take our big game out of the hands of the Colonial Office who has proved to be notoriously unable to take care of it.

I hear that receivers of rhino horn now mix it with bone and hair and with dung to make one horn worth about £250, allegedly to do what I am assured a hypnotist can do far better and for much less.

Words cannot settle these issues, Sir, only deeds which should include deportation and, say, some five-year prison sentence for all receivers and all those people engaged in this nefarious traffic plus the application of the *kikoko* every year for the whole of the five years. The Germans would have stopped poaching. Why cannot we? I put the illicit slaughter of game, Sir, as a crime between manslaughter and murder. Six months imprisonment for causing the torture and death of some score of game—a big game, as we heard in this House recently—is a slight reflection upon our governance in this Colony.

The Sessional Paper, Sir, should be noted for I warn the Colonial Office that their reputation will become even lower than it now is in the minds of all animal lovers in that they will make even more enemies in the world than they now enjoy.

I beg, Mr. Speaker, thus to do everything in my power to those even out this Sessional Paper as being an insult to our intelligence. I hope it will be amended that I oppose the Motion.

SIR CHARLES MARKHAM: Mr. Speaker, I feel rather as though I was second on a variety bill, having listened to the only speech of my hon. friend in this afternoon's reason I am talking in this afternoon is because of certain remarks made by the

(Sir Charles Markham) Minister for Tourism yesterday afternoon, and having read the HANSARD I feel, Sir, on behalf of the Trustees of the National Parks, I must reply to some of his unfortunate and untrue allegations, and I will prove, Sir, to the Minister—I am glad he is back in the House—how untrue some of his remarks are.

First of all, Sir, I would like to apologize to the Minister on behalf of the hon. and Corporate Member, Sir Alfred Vincent for his absence, but he has another very pressing engagement.

Sir, the Minister, in his speech—the Minister for Tourism that is—referred to the story of the lodges in the National Parks, and I would like, on behalf of the Trustees, to tell the House very briefly what these schemes were.

The first proposal was that the Trustees should accept £100,000 of loan money for the development of tourist accommodation, and I was not a member of the Board of Trustees at that particular time, but in the short time that I have been a member I have learned that many of the members have considerable business experience. Now, Sir, the Trustees quite rightly considered they could not accept loan money for that purpose since they could see no prospect of meeting the loan charges and also the increased cost of maintaining the accommodation. For the information of the House, the total loan charges including amortization would have cost the Trustees some £9,000 a year, which, I think, Sir, the House will accept would have been an intolerable burden at that time.

Sir, the Minister for Tourism spoke with some enthusiasm, and I quote from his own remarks, in HANSARD he said, "so then I plunged in with enthusiasm." Sir, I agree he did, with enthusiasm but little skill.

He then talked about considering the scheme which operates in Uganda, and what the Minister for Tourism has apparently failed to appreciate is that, firstly, the Uganda scheme was arranged on the basis, in the main, of a free grant, since the interest charges are very low and only apply to a certain portion of the capital and, secondly, that the company formed to operate the lodges

was a subsidiary of Uganda Hotels Ltd.—a group of people, Sir, who are very experienced in this kind of undertaking—and what is even more important—the basis was to be a 50/50 control of the operations. But, Sir, even we in Kenya, who only have nine months of every year in which to operate the Parks because they have to be closed for the other three, view with some concern the financial success of those lodges in Uganda, and the reports of the Uganda Hotels confirms that fact, but, nevertheless, the Minister proposed to ignore that.

Sir, the Minister for Tourism, according to the HANSARD which I have in front of me, stated that he put this scheme to the Trustees, but apparently he could not see the Trustees' justification for wishing to retain ownership of the lodges, and for an equal control in the policy in running those lodges. In fact, Sir, one of the Trustees said at the meeting on Monday, "we would be limited to selling popcorn to the company to be formed by the Minister would have the complete say in policy."

Then, Sir, the Minister said he put another proposal which we understand went before the Development Committee, which was to form and finance an operating company. The Development Committee, as we understand, appointed a working party to examine this scheme, and according to what the Minister said yesterday, in this House, the Working Party consisted of the Director of the National Parks, and two Trustees. Now, in case there is some misunderstanding, Mr. Speaker, I think I should tell the House the two Trustees in question were, in fact, the Acting Chief Game Warden, namely the Permanent Secretary in the Ministry of Forest Development, Game and Fisheries and the Permanent Secretary in the Ministry of Tourism and Common Services.

THE MINISTER FOR TOURISM AND COMMON SERVICES (Mr. Crosskill): They were all Trustees.

SIR CHARLES MARKHAM: I am not denying that they were all Trustees, Sir, but from what the Minister said yesterday it has resulted in a definite misunderstanding on what people thought in this House. Where the Minister has misled

(Sir Charles Markham)

in my view, this Council, is that the original Working Party, was instructed to report directly to the Development Committee, and the Trustees were never given an opportunity of considering the scheme which was designed until it was brought to them in a letter dated 30th November, 1959.

Then, Sir, the Minister goes on with some sarcasm in his speech, and I must quote this, when he says—and I quote—"Now I may be a bit conservative, but it seems to be rather fruitless setting up another Working Party after a Working Party consisting of the Trustees and Director of the National Parks has put up a proposal to them." Well, Sir, I would suggest, if the Minister feels that way he should look into his own Ministry, because the suggestion for another Working Party came from his own Ministry. Do you want me to give way?

THE MINISTER FOR TOURISM AND COMMON SERVICES (Mr. Crosskill): I am grateful to the hon. Member for giving way. There are three points of explanation. First of all, Mr. Speaker, the hon. Member has made the first quotation from my speech out of context. When I said I "plunged in with enthusiasm" that was for proposal number one in order to obtain money on loan. I accepted that the Trustees did not wish to accept loan money on account of the risk and put forward proposal number two. With regard to the last point that the hon. Member has just made, if he will quote from the letter it starts: "If this third proposal is agreed in principle, we should appoint a Working Party." I said it was fruitless, Mr. Speaker, in my opinion, to have another Working Party on top of the first one unless it was agreed in principle.

SIR CHARLES MARKHAM: Mr. Speaker, having allowed the Minister for Tourism to make yet another speech, I will return to mine, and I will answer that entirely, and I am surprised that his own Permanent Secretary has not briefed him properly in this debate, because what did happen at that meeting on Monday of this week was that the Trustees agreed in principle to investigate this scheme. They had certain fears regarding the control of the company, and we asked that our director should look into the matter and form the Working Party. But

I am going to quote this bit now, Sir, before the Minister gets up once again. "Now I may be a bit conservative, but it seems to be rather fruitless setting up another Working Party after a Working Party consisting of the Trustees and Director of the National Parks has put a proposal to them." What happened at the meeting on Monday of this week, Sir, was that the Trustees agreed—agreed, in principle—with the idea, subject to certain fears which they felt were justified concerning the control of the lodges. And the suggestion of a Working Party came from a letter from the Minister's office, signed by his Permanent Secretary, Sir, that, to me, shows that when I saw his remarks, which I see in HANSARD yesterday, gives a completely different picture to what the House was told yesterday. When he is sarcastic about another Working Party, I can prove by the papers, Sir, originated from his own Ministry.

THE MINISTER FOR TOURISM AND COMMON SERVICES (Mr. Crosskill): Will the hon. Member give way, Mr. Speaker, would the hon. Corporate Member, who is chairman of the Board of Trustees, confirm or refute that he said to me that he could not accept the principle which we had put forward in proposal number three.

THE SPEAKER (Sir Ferdinand Cavenish-Bentick): That is raising another issue. The hon. Minister has had his say and the opportunity of three interventions. It is now the present speaker's opportunity of expressing his views.

SIR CHARLES MARKHAM: I would only suggest again to the Minister, who seems to be getting awfully worried—

THE MINISTER FOR TOURISM AND COMMON SERVICES (Mr. Crosskill): Not in the least.

SIR CHARLES MARKHAM: Well you should be, anyhow—that he should have asked his Permanent Secretary what was said after he left. Having got—

THE MINISTER FOR TOURISM AND COMMON SERVICES (Mr. Crosskill): (Inaudible).

SIR CHARLES MARKHAM: Well, a representative of his Ministry.

THE SPEAKER (Sir Ferdinand Cavenish-Bentick): Order, order, please.

THE HON. MEMBER: A representative of the Ministry was there. There was a meeting of the Ministry and the Government was of the opinion that the Ministry was of the opinion that...

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(Sir Charles Markham) would have been if the Minister had tried to see the viewpoint of the Trustees—seen the business difficulties—seen the examples where people have spent a lot of money on ventures which have gone wrong—and realized that the income of the trustees is so small anyhow that they cannot afford to speculate on any future proposition. If he accepts that, Sir, if he is prepared to take that action, how much better it would be for everybody concerned, but no, Sir, unfortunately he is not, and because I am limited to parliamentary expressions, Sir, I cannot say what I would like to say about him. I hope, therefore, Sir, that the misunderstanding which has been caused can be cleared up and our relations, which quite frankly, after his speech and after my speech now, are not exactly cordial, will be cleared up and the misunderstanding forgotten because we must solve the problem. I beg to support the amendment.

Mr Towerr: Mr. Speaker, Sir, this is my third day of being on my feet, but I blame my friends because I always happen to be in the penumbra. At the moment people stand up in front of me and the more I become shaded.

Seeing that this side of the House is totally opposed to this Game Policy, there is nothing more sensible than the Government withdrawing it *in toto*. If, Sir, the Government cannot accept us being here and all being opposed to this policy, I say that; we on this side of the House, should leave the Government to go ahead with what it wants to do. I will be very happy, Sir, when I see that we have no more civil servants forming our Government.

Mr. Speaker, Sir, I did not want to say much on this, but there is one thing which is paining my heart, and that is clause-number 6, "abusection" (1). Many people have spoken on it. I do not want to be very redundant, and I only want to say that the Government has got to be asked in court if any animal, which is supposed to be in the Government's parks goes astray and kills anybody in the African areas. I do not see why the Government should have animals kept around our places, and they allow the same animals to move and kill or damage people and their property. The Government has got to assume responsi-

bility for looking after the animals, and the Government has got to assume the responsibility of paying the compensation whenever any animals leave the parks and go astray and kill people. The Government cannot avoid that responsibility. No sensible Government can, but a Government which is not sensible, perhaps might be capable of trying to avoid such responsibility.

Now, Sir, many people have spoken in favour of the Game Policy from the Government side, saying that it attracts tourists. The main policy has been attraction of tourists. Now, if the Game Policy is maintained, or is accepted because of tourism why does not this Game Policy belong to the Tourist Department? If the only reason anybody can advance for we maintain the game, around the areas in the Colony, is because of tourism, well it is only sensible that the whole thing should go to tourism, and I would suggest my friend who told me how to sell water to Egypt. The only thing to do is to split up or break up this queer Ministry for Forest Development, Game and Fisheries. I think it has got to be broken up. One part should go to tourism, another part to go to agriculture and I do not know, Sir, where we would put fisheries. I think we would give that to a special department.

I was rather taken aback, Sir, on Tuesday, when the hon. Member for Central Rift was delivering his speech, that the Minister for Forest Development, Game and Fisheries left the House, Sir, and after a few minutes the Director, Colonel Cowie, also left the House, Sir, and the hon. friend who was speaking then was addressing the Minister, or the Minister of Tourism, without the Minister being present or his Director. I thought that was not quite a decent thing to do, Sir, and I do not know, but I think, in fact, if such things happen again we should only be justified, Sir, in moving a vote of no confidence in Ministers and their assistants who leave the House when we get up to speak.

My last point, Sir, is more or less to show the great unco-ordinated nature between the Government employees and the Government Ministers. Colonel Cowie, Sir, told us about his minority report. The Minister, Sir, told us about

SIR CHARLES MARKHAM: A representative of his Ministry was there, Sir. There are so many civil servants in this country I cannot keep touch of who is who, but a representative of his Ministry was at that meeting.

Now, Sir, I can say quite categorically if the Minister wishes to dispute this, the letter was discussed at considerable length by the trustees at the meeting on Monday, and they accepted the suggestion put forward by the Ministry of Tourism, referring to a joint Working Party, and we endeavoured at that meeting to comply with the wishes of the Ministry of Tourism, but we have genuine fears, as anybody in a business capacity must have, on a proposal which could cost us a great deal of money. I would have thought that was common sense.

Again, Sir, it does seem to me rather strange that the Minister should say it was fruitless, when he has suggested it himself, and I would again, Sir, think, that it is unfortunate that the Minister should have perhaps misunderstood the business fears expressed by both the chairman and other trustees, but I can assure him that all of us are anxious to get these lodges built, but they must not sacrifice the finances of the National Parks for the sake of a scheme suggested without due consideration. I cannot see that, because we do not immediately accept a scheme, we can be criticized, and a vicious attack launched upon, the chairman of the trustees and accused, virtually by the Minister for Tourism, for having blocked, if I may use my own words again—blocked the tourist traffic into the National Parks. If, Sir, he quibbles, as he did in his speech, with the fact that a meeting had been called and that he was not asked, really, Sir, I fail to see how a grown man could take such an attitude on a subject so important as this. He was asked to attend on Monday, and he did so, Sir, but in view of the fact that he seemed to be incapable of understanding our fears, then, perhaps, no wonder we doubt sometimes whether it would be valuable to have him there at all. I am sorry to be outspoken on this, but quite frankly if this speech had not been made by the Minister for Tourism yesterday then, Sir, I would not have said what I am going to say today.

I hoped, Sir, that this debate would have been an opportunity for constructive exchanges of views in order to preserve game, and perhaps Sir's tourism, which to my way of thinking, is a very minor part of the preservation of game, has perhaps come into this debate and has misled certain Members. But, as it was raised by the Minister for Tourism, then I am entitled to answer some of his remarks.

THE MINISTER FOR TOURISM AND COMMON SERVICES (Mr. Crosskill): From the other side.

SIR CHARLES MARKHAM: I am not interested, Sir, in—

THE SPEAKER (Sir Ferdinand Cavendish-Bentinck): Order! Order! On a point of order I must ask Mr. Crosskill to kindly not interrupt!

SIR CHARLES MARKHAM: During yesterday's debate, Mr. Speaker, the hon. Nominated Member, Colonel Cowie, on a point of order got up and asked the Minister whether he would withdraw some of his remarks if they were based on misinformation. I have been accused on numerous occasions of perhaps worsening relations by bitter personal attacks, but I hope, Sir, that even though the hon. Member does not seem to think that he has misinformed this Council, that he will withdraw the statement he made yesterday, particularly on the question of another working party. As I can quote from a letter which is marked "confidential" from his own Ministry, which is asking us to set up that working party, and I hope, therefore, as the Minister cannot talk again in this debate—or he can't, Sir—I suppose the amendment is put—that he will withdraw that statement. If the Minister is not willing to do so, then we can only assume that his views are shared by his colleagues under ministerial responsibility, and I must ask the Chief Secretary to state whether my assumption is correct. If he is not willing to do it, then we must accept the view and the statement made by the Minister for Tourism, even though I hope to prove that it was incorrect, to represent the views of the Government, and as far as I, personally, am concerned, Sir, speaking in a personal capacity only, as a very new boy as a Trustee of the National Parks, I would have thought how much better it

[Sir Charles Markham] would have been if the Minister had tried to see the viewpoint of the Trustees—the business difficulties—seen the examples where people have spent a lot of money on ventures which have gone wrong—and realized that the income of the trustees is so small anyhow that they cannot afford to speculate on any future proposition. If he accepts that, Sir, if he is prepared to take that action, how much better it would be for everybody concerned, but no, Sir, unfortunately he is not, and because I am limited to parliamentary expressions, Sir, I cannot say what I would like to say about him. I hope, therefore, Sir, that the misunderstanding which has been caused can be cleared up and our relations, which quite frankly, after his speech and after my speech now, are not exactly cordial, will be cleared up and the misunderstanding forgotten because we must solve the problem. I beg to support the amendment.

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Mr. Speaker, Sir, I did not want to say much on this, but there is one thing which is paining my heart, and that is clause number 6, subsection (1). Many people have spoken on it, and I do not want to be very redundant, and I only want to say that the Government has got to be sued in court if any animal, which is supposed to be in the Government's parks goes astray and kills anybody in the African areas. I do not see why the Government should have animals kept around our places, and they allow the same animals to move and kill or damage people and their property. The Government has got to assume responsi-

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My last point, Sir, is more or less to show the great co-ordinated nature between the Government employees and the Government's Ministers. Colonel Cowie, Sir, told us about his minority report. The Minister, Sir, told us about

[Mr. Towett] what the Government was going to do. Now I wondered whether Colonel Cowie was working for the Ministry of Forest Development, Game and Fisheries, or whether he was working for another Ministry, Sir. It seemed to me, Sir, as if Colonel Cowie was complaining to the effect that his point of view had not been accepted by the Minister, and the Government. Sir, I always believe that Permanent Secretaries—

MR. COWIE: I thank the hon. Member for giving way, Sir. As a matter of explanation, may I tell him that I am not a member of the Ministry for Forest Development, Game and Fisheries. I hold the appointment of Director and Chief Executive of the Trustees of the Royal National Parks of Kenya, which is a statutory body, under the Ordinance of the Royal National Parks.

MR. TOWETT: Thank you very much, Mr. Speaker, for the explanation from Colonel Cowie. I was under a complete misconception.

Now that point has been cleared I think I should not challenge the unco-ordinated nature which seemed to exist between the Ministry and Colonel Cowie's department. I withdraw that misunderstanding, and I hope, Sir, that the Government will withdraw this Game Policy as this side of the House, or the majority of the Members who have spoken, are opposed to it.

With those very few remarks, I oppose this Game Policy.

COL. JACKMAN: Mr. Speaker, Sir, when this debate started on Tuesday, I listened with great interest to the speech made by my hon. friend, the Member for Nairobi West, when he moved an amendment to the main Motion. I think, Sir, he made them an excellent speech, and there was very little, if anything, in it that I could complain about. Unfortunately, Sir, I think the wording of that amendment was not quite right, because, in fact, it was rather indefinite about the issue which is before the House. That issue is the proposal that we should accept or approve the statement of policy contained in the Sessional Paper No. 1. Now this, Sir, is a most important matter, and I do believe it is the duty of all Members of this House to be quite

definite about their views on this matter. We can either accept this, and of course, we can oppose it, but do not let us try and cloud the issue by some rather indeterminate statement. For that reason, Sir, I feel that I would be unable to support the amendment.

For a long time now, Sir, many people, myself included, have been pressing Government to produce a policy statement on game, and at last we have had one. I think, Sir, on a matter of this magnitude where there are many people with many different points of view about what should be done and what should not be done, it would be really very remarkable if any policy statement satisfied everyone completely. But, Sir, I think this particular statement, if we look at it carefully, does, in fact, contain a lot of the meat out of the Game Policy Committee's recommendations on policy matters. Certainly, Sir, I think to describe it as "rotten" and as "an insult to this Council" is going rather beyond the bounds of fair criticism. I do believe, Sir, that having asked for a policy statement the only real sensible approach to this matter is to accept the statement, at least, as a base from which to operate. If people feel that there are things in it which they do not like, then, I think, there are plenty of opportunities given for them to express these views and try to get the necessary alterations made. Just to reject it out of hand, Sir, seems to me to be a very negative approach to this problem, because it leaves us exactly where we were before with no policy at all, and I am therefore, Sir, somewhat surprised that the hon. Corporate Member, Sir Alfred Vincent, who is also the Chairman of the Board of Trustees of the National Parks, should have advocated this line of action.

Throughout this Sessional Paper, Sir, I think there has been a somewhat unfortunate emphasis on financial limitations, and the general lack of money to do what is required. I say "unfortunate" Sir, because I believe that emphasis has, in fact, given rise to very grave doubts in the minds of some people as to the real intentions of Government in this matter. On the other hand, Sir, having heard the hon. Mover and the hon. Minister for Finance, I believe that what they said should, to some extent at least, remove most of these doubts. I would

[Col. Jackman] however, ask both those Ministers to treat this matter as one of urgency, and to do whatever they can, either to speed up the machinery or even to short-circuit it, so that matters which require immediate attention can receive such attention without any further undue delay.

There is one other suggestion, Sir, I should like to make to the hon. Mover. With the best will in the world, and however kind the Treasury may prove to be, I think it is extremely likely that we will find that we will not get all the money we want to do everything which was recommended by the Game Policy Committee at once. There are some recommendations, Sir, in the second part of the Sessional Paper, which have been accepted by the Government, but they say that there will probably not be the money to do these in the immediate future. I would suggest to the Minister, therefore, that those particular items might be costed and the figures made known, because, Sir, now we have a policy I think it might be possible to go outside this country for financial help and if we have definite figures for definite things which require to be done I think it will help those people who go looking for support, and it will give them a definite target to aim at.

Sir, we have had a very full debate on this Motion, and there is nothing I think I can really add to it. I would, however, like very much to congratulate my hon. and gallant friend, the Nominated Member, Col. Cowie, for what I consider to be a very thoughtful, constructive and sincere speech.

I should also like to congratulate the hon. African Elected Member for—I think—the Central Province, North, on what I thought was a very balanced approach to this problem.

Sir, I, too, was very surprised at the sharp attack which was made yesterday on the Board of Trustees by the Minister for Tourism. It is quite obvious to all of us who heard this, that differences have arisen between himself and that body. I would only say this, Sir, that where such differences do exist, I very much doubt if the proper place to try and resolve them is on the Floor of this House.

And finally, Sir, I would like to say this. On this matter of the preservation of wild life both this Government and the people of this country have a very real and vital obligation, which extends not only to the future generations of people out here, but to those of the world at large. If this heritage, Sir, with its very great economic, cultural and scientific interests is ever allowed to waste away through lack of finance, energy and foresight, I think all those concerned would bear a very heavy load of responsibility, and as far as I, personally, am concerned, Sir, I would be very unwilling to share such responsibility. However, Sir, having heard both the hon. Mover and the hon. Minister for Finance I believe that the possibility of anything like that happening is now receding, and I beg to support the original Motion.

MR. NGALA: Mr. Speaker, Sir, I stand to oppose the original Motion. Now, Mr. Speaker, Sir, many Members have already expressed their views. What I would like to do now is to try to give some exposition of the hardships that are being experienced by many Africans in the parts that have these wild animals.

Now, Mr. Speaker, Sir, I cannot accept the policy because the policy is definitely asking us to preserve wild game and brush aside human interests. This, I feel, Sir, is very serious. The Government, in the first paragraph, has said that they will bear in mind human interests, or they would have regard to human interests. Now that is not the sort of wording we will give us any appreciation of the Government's attitude towards the human interest. We would like the human interest to be given the first priority as far as this policy is concerned, and since this policy has failed to do that we feel that we must reject the policy.

Sir, in my own area, particularly in the Waiiangulu area and the Pokomo area last September I went to one village where 13 African *shambas* had been cleared clean by elephants. Now, these Africans are put into a very hard situation. They have nowhere to go. One of the Members on the Government side has said that they can protect their crops. This is quite unrealistic because what they are allowed to do is to drive away the animals and beat some empty *debes*

[Mr. Ngala] so as to scare away the elephants. The Africans are deprived of proper protection like poisoned arrows, and they are not allowed to use these effective means, and the operative words, Sir, are "effective protection". We want effective protection.

The other day, Sir, when I was driving to Mombasa I reached Mackinnon Road and saw a group of African farmers that were driving away elephants or trying to drive them with beating *lebes*. The Minister is fully aware that there is no effectiveness in only giving the Africans such facilities of protection for their *shumbas*. This is what we want.

When I moved this Motion last July I pressed that effective means of protection should be considered by the Minister; one of them was the poisoned arrow. Now, I come from a hunting area, Sir, and many Africans have no intention of poaching in the illegal way that has been stated. Most of my people have the intention of protecting their crops within the native land units, but the native land units should be outside the boundary of this wild game, and any wild life that approaches the native land units should be freely killed by the owners of these *shumbas*.

From reading page 2, Sir, it is quite clear that Government has failed effectively to control the animals. They say that from time to time when they have money they will try to arrange for some effective means of controlling the animals, but before they get the money to effect the effective means of control what is the African to do? Is he to watch his crops being smashed and destroyed completely by the wild animals and just smile? This is something which is impossible for any thinking Government to accept for its own citizens. We feel, Sir, that we must reject this and on very genuine grounds.

I was talking to the Minister concerned privately and to me he acknowledged the hardship that the Africans are having in different areas. Just yesterday I discussed this with the Minister for Defence, although it is not in his portfolio, but having been a district officer and a district commissioner in different areas he also acknowledged the sincere hardship that is being experienced by

the Africans. Now, if this genuine hardship is just being brushed aside by the Government—then we feel that the Government is not being very co-operative and not being awake to the real problems affecting the human beings in these areas.

I would not like people to misunderstand us as not being interested in wild life but we cannot be asked and we should not be asked to have number one priority as wild life and ignore human interests, which is being done by this Paper. It is on this basis, Sir, that we very much reject the policy.

The other point I would like to touch on is just yesterday before I flew to Nairobi one man came to me. He had had four acres of his green beans cleared clean in Salama Location of Pokoma. This man had expected to pay his fees for the school children out of these four acres. Now, Sir, he comes to me and says, "What can I do?" He goes to the district commissioner there who says, "There is no legislation now. We are waiting for the Legislative Council to do something about it." Now, Sir, the Legislative Council is expected to do something to appreciate the human difficulties. There is nothing there now, it is completely empty and bare and it is something that can never be sold to anybody among the Africans. Now, this hardship must be incorporated in a Bill of this type before we can be asked to accept or consider accepting it.

The other question is the question of the Wangungu. I am pleased to note that some provision is being considered for them; they live on hunting and they hunt for food. I feel that this will not only be in one area of the Galana River but since they extend up to the Pokoma area and other places the Government should be considering extending this experiment to several areas so that Africans who live on hunting can live in that way. The hardship that has been there up until now is the lack of provision of such facilities and Africans who live on hunting meat have been going hungry and in many places there has been a serious hardship among the women and children who have had to go without their food.

The other point, Sir, is the question of the boundary. I am glad to see that

[Mr. Ngala] some adjustments are going to be made to the Tsavo boundary. I hope that the Minister will bear the Taita District in mind so that some of this area can be incorporated into the Native Land Unit of Taita where they really need it for cultivation and pasturage in their places. I am only disappointed to see that the Government has not considered the long overdue demand by the Africans who live round about there for an area out of the National Park to be incorporated into their native land area. This request has also been put by the Africans in Taveta so that they might extend their area for their cattle grazing.

Another point I would like to raise is the question of the committees which are controlling these areas. I think they should work in co-operation with the local people. There is quite a lot of misunderstanding going on now because Government has not sought ways and means of co-operating and taking into account the views of the local people so that they can help in preserving the wild game. It is quite useless to talk of preserving animals up here in the Legislative Council if we do not get the co-operation of the people who are in day to day contact with the wild game. We must get their co-operation so that our legislation here can be effective and successful. I think, Sir, that you should bear in mind this very strong expression of rejection for genuine reasons and that the House should also bear in mind this demand and put first the human interests and secondly the preservation of the wild game. Normally, this wild game was formerly used as food given to us by God, and we feel that it is a gross injustice for Government to brush aside the interests of the human beings living in these areas.

With these few words, Sir, I would like seriously to reject the Sessional Paper.

THE CHIEF SECRETARY (Mr. Coultis): Mr. Speaker, I beg to move that the Motion be now called upon to reply.

THE SPEAKER (Sir Ferdinand Cavendish-Bentinck): I think we have had a very long discussion on this particular Motion.

Although I was not willing to agree earlier, I think the stage has now been

reached when it would not be an infringement of either the rights of Members or of the Council if I call on the Mover to reply. I therefore call on the Mover to reply.

THE MINISTER FOR FOREST DEVELOPMENT, GAME AND FISHERIES (Mr. Bunt): Mr. Speaker, Sir, this has already been said a very lengthy debate, but it does indicate that a great deal of interest has been stimulated in the game question by this game policy paper which has been put before the House.

Now, Sir, I have tried in my mind to analyse what the general expression of opinion on this Paper has been and I think it is quite clear that practically everyone who has spoken has made, first and foremost, the point—two points—a game must, under all circumstances, be preserved, and that the funds so far provided are inadequate to do so. They have also stressed the great value of game, many of them from the aesthetic, cultural point of view, and everyone from the point of view of its value in sustaining tourism. Those points which I think everybody has expressed, were the main points that I tried to make when I introduced this Paper and, therefore, I can only feel that in spite of a number of attacks on particular points in the Paper and suggestions by some Members that it be turned down completely, there is a very large measure of agreement in the House with the game policy which has been submitted.

Now, Sir, not only have almost all Members supported the general idea that game must be preserved and that money must be provided, but I endeavoured to suggest in what particular directions we must direct our expenditure to preserve it and my hon. friend the Minister for Finance has given us an assurance that money will be found for the essential needs of keeping our game.

Now, Sir, what is it that the opponents of this policy are really asking for? I can well understand that people should not agree with everything that we have said in this policy statement. That is only natural. But I think it is correct to say that there is only one or, possibly, two Members who have spoken who have really tried to suggest that the policy statement should be altered or is not correct in certain respects. But there have been several Members who have

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right to their land. However, the Council decided not to accept, they said that they believed it would lead to Government eventually taking over the land and they handed the cheque back and that is where we are at the moment.

I suggest to the hon. Member that it is not for want of trying that we have not got to the kind of agreement which we desire with the Maasi. I have every hope that we shall get this agreement in time. We shall not get it soon.

The last point I think that I should refer to made by the hon. Member was the question of making arpoison poison illegal. Now, Sir, it may be recalled that about 15 months ago, I think it was, I introduced an amending Bill to the Wild Animals Protection Ordinance which not only made the use of poison illegal, but was already in the Ordinance, but which made the possession of poison in circumstances which raise the presumption that it is about to be used for the purpose of committing an offence against the Ordinance, also illegal. So that it is illegal not only to use poison but to have it with the intention of using it. I said, however, when that amendment to the Ordinance was introduced that we should not and did not intend to bring it into force in every area at once. In fact, it is being progressively applied throughout all areas now.

Another point raised by the hon. Member and raised by a number of other Members was the question of obtaining money, suggested by the Sessional Paper indicated that the Government is not interested in doing so. Now, Sir, I would like to assure the House that that is very far from being the case. We have, as I have already said, obtained outside financial aid in two directions, to help the Wallangulu scheme and also, as I said the other day, for the establishment of an investigation team. Really what I think Members do not like is the way we have put it in the White Paper, but I suggest that Government in putting forward a policy paper of this kind should not take the opportunity at the same time of handing round the begging bowl. There is not the slightest suggestion that we do not want to get any money that we can from outside. In

fact, when I made that point in my opening address I said that I believed that without a game policy set out in so many words, there was very little hope of attracting money from outside and I still believe that.

I may pass on to some of the matters raised by my hon. friend Col. Cowie. There were a large number of points which he raised arising out of the Paper itself, and I very much appreciate those criticisms. I would not like to say that the Paper was perfect in the first place and I think when I spoke originally I invited people to make suggestions on it. Col Cowie did so in a number of cases and I think him. I would like to try now to answer some of his difficulties.

First of all, he did not like the kind of preamble that we put and preferred the preamble that was put into the Game Policy Committee's Report. I think it is very largely a matter of preference for the way in which things are set out. The preamble in the draft White Paper in the Game Policy Report would appear to me to be taken from a United Nations declaration and somehow or other the United Nations declarations are not always as effective as it was hoped. But I think the real point that he wanted to bring to notice was the last sentence of the first paragraph of the Sessional Paper and it has been raised by at least two other Members—it reads—"The implementation of the Government's policy must, however, have regard to the legitimate human interest in the various areas where measures for game preservation are required and in the limits of the finance available for this purpose." Now, Sir, the views expressed on that sentence are exactly in line with what I suggested in my opening sentence that the views expressed would vary from extremes on one end to extremes on the other. The hon. Member, I think, wished to make clear that in his view game interests were to be put first in their widest sense. He did not exclude legitimate human interest, I think, but he felt that in certain areas—many areas—there was a possibility of game providing a much better return—in fact I have suggested the same thing myself—that the human activities which were now taking place, such as the farming of cattle. Certain African Members, however, found that phrase objectionable because they felt that

the method which was proposed was not the best possible method.

He spoke about the need to have public opinion, and in answer to the hon. Member asked that the Government should be prepared to meet the Maasi way to get money from the pockets of those concerned. That is exactly what we are doing.

He also suggested that in the case of industry or commercial areas, we should be putting across quickly to the African population what was the Government's intention to do. I suggested that if we attacked the question in the same sort of way we could achieve the same results.

Now, Sir, I have mentioned several times the question of obtaining an agreement with the Maasi regarding their game areas. I do not think it is fully appreciated what has been happening and while the negotiations are taking place I think it was just as well that they should not have been discussed in public. But I would like now to raise the House of the position. There is an area of land in the North District which is unique in its game area and some time ago the Maasi of that area approached and they were asked if they would agree to let us take that area for game purposes. It was obvious that they would not be expected to agree to this unless they were given some reasonable sum of money for doing so. In the negotiations, however, on the 11th or 12th months with the people of that area regarding to them that they should not take this area for game purposes. The Government would pay them £10,000 a year.

Now, Sir, those discussions were a head only to break when the Maasi charge of the Maasi went down and they said they were prepared to take a cheque for £10,000 a year. The African District Council asked us whether they would be prepared to accept that to agree not to take any more of that area for the next 10 years. It was clearly pointed out to them that there was nothing to prevent the Government from stepping in and that the Council would be responsible for the area.

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[The Minister for Forest Development, Game and Fisheries] said, "Throw it out altogether." Now, if we throw it out altogether what is the position? And I suggest that that has been put very fairly by my hon. friend Col. Jackman. If we throw out this statement altogether we are left in exactly the same position as we were before we started, with no set policy for game matters for the future, and I venture to state, Sir, that if that is going to happen we should, in the next twelve months, have a demand for the appointment of a new game policy committee and we should have the whole business going on again inside two years.

Now, Sir, I am afraid that in the course of my reply I shall have to repeat a good deal of what I said and what my hon. friend the Minister for Finance has already said on the subject. But so many hon. Members who have spoken here, apparently, either not understood what I was trying to suggest, or had forgotten what I said and I shall, unfortunately, have to repeat to some extent.

Sir, in the first place, let me deal with the matters raised by my hon. friend the Member for Nairobi West. He proposed an amendment. I quite understand and appreciate the reasons which prompted him to put that amendment forward. His desire was quite obviously to get the necessary money to do what we must do and to get it quickly and to get on with the job. But I believe that on his amendment, as has already been said by my hon. friend the Minister for Finance, is not the best method of achieving that object. A very great deal of the hon. Member's speech was really, in effect, supporting and reinforcing what I had, in fact, said previously. But he made one or two suggestions with which I cannot agree. He suggested that we were advocating a policy of policies which would ultimately mean the disappearance of unique and priceless assets of this country. Now, Sir, I cannot agree with that suggestion. I tried to make clear—I think I did make it clear—that I realized that we must, under any circumstances, ensure the maintenance of our unique game assets, and I tried to distinguish between the two different types of recommendation put forward by the Game Policy Committee to show which were the ones which were essential if we were going to preserve our game and

the others which can be postponed without irreparably damaging our game assets.

He spoke about the need to educate public opinion, and he suggested that money speaks and that the best way to get public opinion interested in game matters was to put money into the pockets of those concerned. There I agree entirely with him.

He also suggested that in the case of industry or minerals there was no difficulty in putting across quickly to the African population what was needed and quickly persuading them to come in and take a share in the development. He suggested that if we attacked the game question in the same sort of way we could achieve the same results.

Now, Sir, I have mentioned here several times the question of coming to an agreement with the Masai over certain game areas. I do not think it is fully appreciated what has been happening and while the negotiations were taking place I think it was just as well that they should not have been discussed in public. But I would like now to tell the House of the position. There is an area of land in the Narok District which is unique in its game interest, and some time ago the Masai of that district were approached and they were asked if they would agree to set aside that area for game purposes. It was obvious that they should not be expected to agree to set aside an area of land, because it is, although a game area, a good grazing area, unless they were given some reasonable sum of money for doing so. And the discussions have gone on for the last 12 or 18 months with the people of that area, suggesting to them that they should set aside this 800 square miles and that the Government would pay them, if they were prepared to do so, £10,000 a year.

Now, Sir, those discussions came to a head only last week when the officer in charge of the Masai went down and saw them and there was produced on the table a cheque for £10,000 and the African District Council asked whether they would not be prepared in exchange for that to agree not to do anything with that area for the next 12 months. It was clearly pointed out to them that there was nothing behind this. There was no trap in it and that the Government would not assume, if they accepted, any

[The Minister for Forest Development, Game and Fisheries] rights to their land. However, the Council decided not to accept, they said that they believed it would lead to Government eventually taking over the land and they handed the cheque back and that is where we are at the moment.

I suggest to the hon. Member that it is not for want of trying that we have not got the kind of agreement which we desire with the Masai. I have every hope that we shall get this agreement in time. We shall not get it soon.

The last point I think that I should refer to made by the hon. Member was the question of making arrow poison illegal. Now, Sir, it may be recalled that about 15 months ago, I think it was, I introduced an amending Bill to the Wild Animals Protection Ordinance which not only made the use of poison illegal, that was already in the Ordinance, but which made the possession of poison in circumstances which raise the presumption that it is about to be used for the purpose of committing an offence against the Ordinance, also illegal. So that it is illegal not only to use poison but to have it with the intention of using it, I said, however, when that amendment to the Ordinance was introduced that we should not and did not intend to bring it into force in every area at once. In fact, it is being progressively applied throughout all areas now.

Another point raised by the hon. Member and raised by a number of other Members was the question of obtaining money, possibly from outside sources, and it was suggested that the Sessional Paper indicated that the Government is not interested in doing so. Now, Sir, I would like to assure the House that that is very far from being the case. We have, as I have already said, obtained outside financial aid in two directions, to help the Waiyungu scheme and also, as I said the other day, for the establishment of an investigation team. Really what I think Members do not like is the way we have put it in the White Paper, but

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First of all, he did not like the kind of preamble that we put and preferred the preamble that was put into the Game Policy Committee's Report. I think it is very largely a matter of preference for the way in which things are set out. The preamble in the draft White Paper in the Game Policy Report would appear to me to be taken from a United Nations declaration and somehow or other the United Nations declarations are not always as effective as it was hoped. But I think the real point that he wanted to bring to notice was the last sentence of the first paragraph of the Sessional Paper and it has been raised by at least two other Members—it reads—"The implementation of the Government's policy must, however, have regard to the legitimate human interest in the various areas where measures for game preservation are required and in the limits of the finance available for this purpose." Now, Sir, the views expressed on that sentence are exactly in line with what I suggested in my opening sentence that the views expressed would vary from extremes on one end to extremes on the other. The hon. Member, I think, wished to make clear that in his view game interests were to be put first in their widest sense. He did not exclude legitimate human interest, I think, but he felt that in certain areas—many areas—there was a possibility of game providing a much better return—in fact I have suggested the same thing myself than the human activities which were now taking place, such as the farming or the cattle-raising. Certain Members, however, found that phrase objectionable because they felt that

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human interests were not being given first place and game was.

The intention, I think, should be clear from what I have said previously. We realize that in certain areas there are certain rights that the individual has and those rights have got to be respected, in cases where there are no individual rights and in the best game areas, they are probably already dedicated to game in the form of national parks or at least national reserves. It is the intermediate areas where we have some human interests and some game interests and there it is suggested in the Game Policy Report and it is accepted by Government that the best way to overcome those difficulties and balance up the conflicting claims is for one organization to be responsible for all matters in such an area, that organization being the Government.

The hon. Member then went on to criticize the definitions put down there and I would only say this about those. When we had prepared this Paper it seemed to me that a lot of people who would read it would not be frightfully clear as to what was the difference between a national reserve, a national park, a game reserve and a controlled area, and therefore to give them a sort of handy guide before they read the paper we put these definitions in. Now these definitions are short precise more or less of the actual legal definitions of these different types of area. If I had had code the definition in legal terms, it appears in the Laws of Kenya covering a page and a half, I am sure nobody would have read it and if they had done so they would not have been very much the wiser! I tried to give a series of short definitions but those in no way supercede the existing legislation which is perfectly clear and definite on such matters.

Now, Sir, I think the next matter that the hon. Member raised was in the explanation of policy under Head 1, Number 2, in which he did not like the use of the word "continuous", which is the last word in that explanation and he wished the word "taken", which appears in the Game Policy substituted. Sir, I must say there I think that he is wrong.

However much people may suggest that we are not doing what we ought to be doing, we have done a great deal in the way of preservation of game. Practical steps to preserve it must therefore be continued. I think it is the right word. If we were to say practical steps must be taken the indication to my mind is that they have not been taken before and that we must start now, which is nonsense. It is a question of terminology.

He then raised the question of the use of the word "senior officer" in Paragraph 3 (f) and asked if there was any suggestion that the Chief Game Warden was being down-graded. I would like to assure him that there was no such suggestion at all and that the Chief Game Warden, if and when we can get one, will have no less standing than the previous one.

The next matter that arises is the matter, which is covered in the minority report and here, I am afraid, we must differ, I indicated, before that Colonel Cowie has set out his objections to the finding of the Game Policy Committee but Government has decided to accept the advice of the majority and not of the hon. Member in this particular case.

He then went on, following up that proposal, to suggest that he hoped that there would be no rapid decisions taken and rapid changes over national reserves to game reserves. I can certainly reassure him on that point. I did in fact say in my opening address that we did not propose to rush such matters; in the slightest and that I was happy that when things were going well to let them go well.

He then referred to Number 4, the statement and explanation of policy, and suggested that we were proposing some difference in the powers and duties of the Trustees. I would only say, there again, that those powers and duties are laid down in the Ordinance and nothing which we can say here will alter them. If any alteration were to be required, it has got to come to this House in the form of legislation before any alteration can be made.

On the other side of that same section he raised the question on the second part of that sentence in Paragraph 4, subject to the ultimate responsibility of Government and the development of

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tourist facilities". Now, Sir, I am not going to get myself involved in his argument about tourism, all I will say is this, that however much we should like to, no Government, and certainly not this Government can afford to keep game parks and such things going purely for their aesthetic and cultural value without having some regard to their economic value and in some way exploiting that economic value—I feel that we, in particular, in this country have not got too much money and we have got to exploit the value of our game, but—and here I think is the point on which there may be some difference of opinion—we have to ensure that the exploitation of that game from the economic aspect is not such that we exploit the game out of existence or that we prevent proper breeding and maintenance of our game.

He then went on to say that there were no references here to the establishment of new parks and he asked if that could be taken to rule out the proposed new national park on Lake Nakuru and the national park on Donyo Sabuk. The answer to that is, "Certainly not." The creation of a national park on Lake Nakuru is, I think, agreed as being desirable by everybody but there is in existence a licence to an industrial organization to extract soda. That concession was given some years ago. I think probably they will be prepared to give up that concession, at any rate we are in negotiation with them, and when that question is cleared we shall carry on and bring before this Council legislation creating Lake Nakuru as a national park. Similarly in the case of Donyo Sabuk which, as was said, was offered as a national park by the representatives of Lady Macmillan, that was very gratefully accepted by the Government, but it is a thing which has not come our way previously and a good deal of investigation by our legal friends is needed before it can be decided exactly how it has to be put into effect. But certainly it will be put into effect.

The hon. Member then went on to welcome the acceptance of the proposal to have an advisory committee and hoped it would be appointed soon. I can assure him that I would like to have this advisory committee as soon as possible

and there are already a number of matters arising out of this statement of policy and the Sessional Paper as a whole which I have suggested might well be referred to and which I propose to refer to as soon as we have it.

His next point, I think, was on sub-paragraph 9, in which he says that there was in existence a committee at Amboise of the local people—local Masai and the Parks Organization and the Administration and so on—which was working extremely well. I am well aware that that is so and I believe that similar committees in other areas are very desirable. All that we say is that we do not necessarily think that we should appoint a committee in every case. Where we think the committee is desirable, we shall certainly try and get one appointed.

The next point, I think, was on arrow poison, a matter I have already referred to in another context.

He then went on to paragraph 35, the question of nature reserves. He asked if a nature reserve was to be subordinated to the requirements of the forest estate. Now, Sir, a nature reserve is an area set aside under the Forest Ordinance by which the Minister declares a certain area as a nature reserve for the purpose of preserving natural amenities, both flora and fauna, and in regard to the flora no cutting or grazing or removal of or disturbance of any of the flora is permitted except with the sanction of the Chief Conservator of Forests. With regard to the fauna no hunting, fishing or disturbance of the fauna is permitted except with the agreement of the Chief Game Warden and the Chief Conservator of Forests.

I suggest, Sir, that that is a satisfactory tie-up of those areas, and that they are under that Forest Ordinance satisfactorily reserved for the preservation of both flora and fauna. I would like to point out here, Sir, that whereas in the old days the Forest Department and the Game Department were two separate departments without any particular connexion and might not always have worked in very close co-operation, that position does not exist now. They are two departments in one Ministry and the policy of the two departments is directed by the Ministry and quite naturally we expect both departments to carry

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out whatever is the policy either on forestry or game. Here I would say, Sir, that the many forestry officers are extremely effective and efficient honorary game wardens—and they have done a great deal in the past towards the maintenance and control of game.

Now I think the other two items raised by the hon. Member were first of all the question of fencing the Aerodrome Road, that point was also raised by the hon. Corporate Member. The position there is that the Trustees decided to put forward a request for finance to put a fence as suggested by the hon. Member along the Aerodrome Road from the Athi River to the Embagathi River. The cost was estimated at £25,000. It was put to the Development Committee some months ago—I do not quite remember when—but the Development Committee, having no further Development Funds in the present period, said in effect that if the Parks will give this their highest priority that such will be provided at the beginning of the next development period. That is how the matter stands, I have assured the Development Committee that they do give it the best priority, so it does remain for the first priority for any development funds in the next period. The difficulty that has arisen here is, that my hon. friend has somewhat jumped the gun and purchased already some of the materials necessary and Government has not so far been persuaded or agreed that they will give an advance against the next period. But I can assure the hon. Member that money will be forthcoming.

The other matter that he raised was the question of the cut of £1,200 on the £64,000 which is paid over to the Parks each year for maintenance by Government. Now, Sir, I accept full responsibility for that cut of £1,200. The position was this—As I think all Members know, all the Ministries were requested to cut expenditure, it was not actually in the form of percentage cut but that was how it was suggested at first. In the final event it turned out that each Ministry was cut a considerable amount, I was faced with having to make a cut on the various sections in my Ministry, forests, game, and fish, and National Parks. Now there was no question of

my getting out of making that cut on the Ministry Vote as a whole and in that Vote as a whole was included the £64,000 for Parks. I was faced with the decision of whether I should cut the Parks proportion from Forests, and "No" and everyone would agree with me. Then should I cut it from my own Game Department which has already been pared almost to the bone? I said "No, I cannot do that, Parks will have to come in with the rest of us and suffer a cut" and that was the position, I am not repentant.

Now, Sir, going on to part 2, there are one or two points that the hon. Member made. He suggested that he did not understand what the meaning of paragraph 3 (b) at the bottom of page 6 was. Well, Sir, I think if he will refer back to the original report of the Game Policy Committee, and look at page 28, he will see what we are getting at, it says under the heading Nairobi National Park "to remain as it is". Tavvo National Park "to remain as it is". These are the recommendations of the Game Policy Committee, the first words in each. The next one also is to remain as it is, Mount Kenya National Park, the Aberdare Royal National Park to remain as it is. That is what we have said there, that they should remain unchanged, it is taken straight from the Game Policy Committee Report.

The other point he raised was in regard to the Eastern Chyulus and he suggested there that they should be handed over to the National Parks at once. He then went on very shortly afterwards to say that the Western Chyulus should not be handed over to a game reserve. Well, both those two recommendations were made to the Game Policy Committee and accepted by Government, and it seems to me that the hon. Member is trying to suggest that he wants the best of both worlds, "Where something is to go to the National Parks it should go at once but when something is to go to the Game Department it should not go for some time.

The other points he raised were the question of two corridors on Mount Kenya. There has been a lot of argument about them. I would only say that they are forest areas at the moment and we have given the Parks certain rights of

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access through them. It is now suggested that they should be handed over to the Parks with certain rights of access for the Forest Department. Well, I have the opinion that they are very well as we are and they should stay under the control of Forests and that the Parks should be given, as they have at the moment, every necessary right of access through them.

Then he went on to talk about the Marsabit Royal National Park and suggested that Government has rejected the proposal entirely. I submit that if he reads the paragraph again they have not. They have neither rejected it finally, nor accepted finally. It is one of those things that cannot be put into effect immediately and I think we have got to think about it a good deal more.

I think the last was the matter of the Elgon Royal National Park and there again there has been a good deal of discussion about whether that should become a National Park or whether it should remain a nature reserve under the Forests Ordinance. The Committee themselves decided in one direction by a majority—not by any means unanimously—and I have had some discussion with the people up there. But the real point about it is, I think, the practical difficulty at the moment. It is an area which mainly is above the forest line but we have foresters in the forest below it and working up onto this area on Mount Elgon who are in fact now looking after the nature reserve. Now, if we were to make the change as is suggested and hand it over as a National Park, my hon. friend would presumably have to find somebody who would presumably go out there and look after it and I do not know whether he could do that.

However, if the forest people who are there can look after it it seems to me far the best plan and the most economical plan at this stage that they should do so.

Now, Sir, there was one slight quarrel I should like to pick with the hon. Member and that is where he speaks of "downgrading" when he is talking about the national reserve becoming a game reserve. The word "downgrading" suggests I think, certainly suggests to me and probably to many other people, that the new set-up, that is to say, the game

reserve, is something of a lower status or less important or less effective in preserving game than a national reserve. Well, Sir, I can only suggest that the hon. Member should look at the definition of a national reserve and what are the powers and duties of the National Parks Organization. That he knows quite well. But he should also look up what is the definition of a game reserve and the powers and duties of the Game Department therein. I do not see that there is any difference really between them except—that quite naturally—the hon. Member thinks he can run the area better and I am inclined to think that my Department can run the area better. But I would say finally as far as that area is concerned, that there are various interests, Sir, there are the forest interests in that we must get back the forests on certain of these hill tops in the area. There are the interests of the Samburu which we have to consider and which we must have regard to and we must try and come to some satisfactory arrangement to satisfy them. Then there is the game interest. And if we look at what the Game Policy Committee actually said about it, they recommended that: (1) Early steps should be taken to ascertain the boundaries and extent of the forest on the Mathews and Ndoti Mountains; (2) The present programme of piping water from these areas be accelerated; (3) That stock be progressively denied access to these areas; (4) When the above recommendations have been achieved, these forests and catchment area be declared a National Park.

Now, I am afraid, Sir, that those three preliminary steps which have to be taken are not the kind of steps which can be taken in six or twelve months. They are to take us a very long time to get satisfactorily settled and when they have been, then the question of what we are going to do with this area can be determined.

Now, Sir, I come to some of the points raised by my hon. friend, the Member for the Central Rift. He complained about the first paragraph of the Policy and I think that he said that human rights were put below the right of game and I think I have dealt with that point. He then suggested he asked rather whether it was to be a technical advisory

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committee or a standing advisory committee which should be appointed and suggested that Africans should be adequately represented. Sir, it is proposed to be a standing advisory committee and I hope to get represented on it the people in the country best qualified to advise on game matters, whether they be Europeans or Asians or Africans or Arabs. He suggested, and in fact other Members also suggested, that the co-operation between the Game Department and the people was not all that was needed. Now, I quite understand his feelings about that and it is a thing which I have endeavoured and shall continue to endeavour to improve. It is unfortunately one of these things that creeps up in the relationship between those in authority in this country and the public at large. It is the same complaint that we hear voiced frequently in connexion with the police and we are trying just as the police are to get better understanding and a better feeling of co-operation between our Game Scouts and the African population.

He then went on to talk about the alternative livelihood scheme and he said he had never heard of the Waliangulu or of the scheme. Well, I can only think that it makes it quite clear that he has not read the Game Policy Committee's Report because there is quite a considerable section about it in that. There is also reference to it in the Sessional Paper we are discussing. However, the next day when he continued his speech, he said that he was better informed and now knew what the Waliangulu scheme was and who they were but that he wanted information about the experiment being carried on. Well, Sir, I gave a lengthy explanation on the experiment being carried on and I am afraid I can only refer him to what I said in my introductory speech which he will find in HANSARD.

He then went on with the same point that has been raised by a number of the African Members. He suggested that the African had not a right to protest himself from game damage. Now, Sir, that point has been made many times in this House and as my hon. friend, the Solicitor-General, said yesterday he himself has explained more than once by

quotation from the legislation on the subject why the position is. Any person is entitled to protect himself, his crops, his possessions from any damage by any wild animal.

And then, Sir, he raised what I think is probably one of the most important issues raised in the course of the debate. He said, what happens to the money that comes from visitors abroad and how much of it goes to Africans? Now, I think that that is a very fair question. As I see it, the way it works is this. We have tourists coming from abroad. They spend a fair proportion of their money on travelling to the country. When they get here, they spend a further proportion on travelling either by air or by road or in other ways. They spend their money on accommodation in hotels or in the parks and elsewhere. They buy their food and their drink and they also spend money directly on such things as curio, wood carvings and what not. They pay licences for fees for shooting if they go shooting or for photography if they are professional photographers. And those fees go directly to the African through the African district councils. It has been suggested by, I think, the hon. Member for Nairobi West that £500,000 was the amount that might come to Government out of this total of £5,000,000. I do not know if he has any basis for those figures. It appears to me an almost impossible figure to fix. But I think the point is this, that of the total money that is spent by tourists some proportion comes back to Government in the form of taxes but it is not a very large proportion. Practically all the rest of it goes into what I should, I suppose, call commerce and industry and probably the largest part of that money which goes into travelling, into hotels and to the food and drink business and so on, probably the greater part of it eventually is expended on labour in one form or another. And thus it comes back to the African. The hon. Member then referred to the fact that Government ought to take measures for the improvement of water and grazing because game use the water and grazing. Well, Sir, I cannot give him figures but I should say that a very large proportion of the Swynnerton Plan money and of the agriculture that is spent on African areas, and all of it that is spent in the ranching area has

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been spent on these very things—the provisions of water supplies and the improvement of grazing—so that I do not think he can accuse Government of not looking after that particular aspect.

He then suggested that we should try and catch people who were shooting without a licence. I am all with him there. We are always trying to catch them and we sometimes do and when we do the law deals with them.

Now, Sir, if I may turn to the remarks which were made by the hon. Member for the Rift Valley. I am sorry he is not here. He suggested two things as I understood his speech. First of all, that my hon. friend Col. Cowie was not consulted on this game policy question. In fact, Col. Cowie was a member of the Game Policy Committee and although he disagreed with a certain recommendation he is a significant part of the rest of it. He quite obviously had a very considerable hand in forming the recommendations of that Committee so that to say that he had not been consulted and his undoubted knowledge had not been made use of, is, to my mind, quite incorrect.

The hon. Member then went on to say that poaching is on the increase and there ought to have been a recommendation for an increase in the penalties for poaching. Well, Sir, I think the hon. Member has forgotten that not very long ago I brought an amending Bill, before this House and it was passed, wherein we increased the penalties for poaching to a very considerable extent. Well, Sir, the hon. Member having got those two things wrong then went on to suggest that the policy statement was an insult to the House in his view. Well, I have no doubt, Sir, he achieved his object of hitting the headlines but if he has got no better reasons than the ones that he gave in his speech for that statement, I think it would be reasonable to ask him to withdraw it.

Now, Sir, to the remarks of the hon. Member for the Central Province North, and he talked, as I have talked, about the area which is proposed to be made into an African district council Game Park. He suggested that Government would take over complete control and push the African district council out

Now, Sir, we have not got down to any discussion of detail of this, because, as I said, I only heard about it during the past week, but we shall try and work out a reasonable method of making the scheme a success, and we do not want, in any way to butt in and seize power to control the African district council, but I do think that he will find that it is necessary to reinforce the African district council by laws from existing game legislation to ensure that the thing works properly, and I do ask him to consider the other point that he made very carefully. He gave the example of the forest. The Meru people have handed over some forest and now they wish to get it back and cultivate it, and that if they started a Game Park that they might well wish, in the near future, to have some of it back again. Forestry is certainly a long-term business, and it is no good thinking you can start establishing forests and spend money on them and then turn round in the year's time and think better of it and start cultivating in them, and although possibly, a Game Park is not quite such a long-term project, I believe that unless you can look forward to security over a number of years you had better keep your money in your pocket rather than spend it on that and then break it up again in a few years' time.

He then made the plea—that others have made—that we should have more game scouts, and I will deal with that in a minute, and that he wanted Africans to be trained as game experts. Now, Sir, I would welcome it if Africans were trained as game experts, but the training of a game expert is a long and very costly business. It involves, at the very least, a university course of three or four years, and probably a couple of years after that of research experience.

I think in the course of my remarks already I have dealt with most of the points that were raised by the hon. Corporate Member. I am sorry that he took the line that he did, and would not support the policy statement, and I hope that he will think better of that in due course and will be prepared to support it. He referred to the possibility—and it was referred to also by other hon. Members—of getting assistance on a large scale for game not only in this country but throughout East and Central Africa. I cannot say what the possibilities

[The Minister for Forest Development, Game and Fisheries] said that of such a system are, but I will say that I would do anything I possibly could to try and forward any such approaches—any approaches to any sort of body that could come in that way. I think that, probably, we should aim at an organization that could preserve game over an area considerably wider even than the East African territories.

Then, Sir, I come to the Member for Kitui, who started by making a point which was made by other hon. Members, about the responsibility for vermin control. That point was also raised by the hon. Member for Coast Rural, and I think by the Member for Southern Area. Sir, I said in my opening remarks that we could accept responsibility for control of vermin, and that, I am afraid, must be the final word of Government, and I explained why it was. That Government without vast expenditure and vast staff could not carry out the control and they would not be able to do it successfully even with a big staff, but that the people who can control vermin are the people on the spot. They are the owners of the *shambas*, the owners of the food stores and so on.

He then raised the old hare which my hon. friend the Solicitor-General, I hope, Sir, killed dead at last, about the African not being able to protect himself, and then he went on to develop the argument that every African should be allowed to hunt game to his heart's content without any permits, licences or anything else. He rather spoiled that argument by later in his speech saying that the animal was not worth a penny to an African. I do not know quite what he was getting at there.

Further, I am quite sure of this, that if the African, or the European for that matter, or anybody else, were given *curie blanche* permission to kill game without having to have a permit or licence, to his heart's content, we should have no game in three years' time.

Sir, the hon. Member for Nairobi North had some things to say on the matter, one of which I was very interested to hear. He said that £500,000 came directly to the Government from tourism, and in due time the whole of the balance of £6,000,000. Now, I wish that was so. If we had that to start on pre-

serving game we should be well off, but I do not know quite how it is that he suggests it. I think most of his other remarks were connected with the tourism question, which I do not propose to enter into now.

The hon. Member for Southern Area made one or two suggestions. He reiterated the demands for compensation for any damage committed by any animal and I think I have dealt fully with that aspect. Sir, he suggested that the Government must assume responsibility. Well, Sir, the Government is expected, it seems, to assume responsibility for almost all the ills that can happen to any body, and I suggest that if it were to try and do so the only thing it could do would be to be able to provide a nurse-maid to almost every member of the population. He called me to order for having said in the Council when his friend was speaking, I am not aware that I did so; in fact, I would say that I did not. If I did so, I apologize.

Then I come, Sir, to the speech by my hon. friend Col. Jackman who, as we all know, has taken a great interest in this game question for a very long period, and he has not failed to prod me continually on the subject of game policy. He, I think, has adopted an attitude which I welcome very much, that we should accept a policy, and if we do not like this in any particular detail, then we should try to amend those details. He then asked me and my hon. friend the Minister for Finance to take this game question as one of urgency. He pointed out that it is urgent, and I entirely agree there with what he said, and I think I have indicated—or I have tried to indicate anyway—that I regard the matter just as urgently as he does. He suggested that I should not get enough money to carry out all the recommendations in his report and that is quite correct—I do not expect that I shall. He suggested that I should cost out those which we cannot, so that we have a figure which can be given to anybody outside who might be prepared to help us financially.

Well, Sir, I am quite prepared to do that, but first of all, we have to cost our essential operations which we have to carry out and get the money for those and then, if I think we can go on to the second part of the exercise

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Then I come to the hon. Member for the Coast Rural, and I think I have dealt with most of the points that he raised except the very important one from his point of view of this question of game damage. He pointed out that it was unrealistic to say that the African can protect their crops, and he then went on to say that the only effective means of protection was the poisoned arrow. Now, Sir, with that I do not agree. To protect the crops from damage, you have got to get the animal, or whatever it is, out of the *shamba* quickly. A poisoned arrow is going to have the effect of killing that animal in great pain, some distance away, and after some time, and that is not going to help the *shamba*. The fact remains that the animal has got to be either frightened out or attacked in the *shamba* if it is going to be prevented from doing damage, and I am taking steps to assist the people about whom he is particularly worried by providing thunderflashes to help to drive animals away from the *shambas*. But the real answer, of course, is the answer that I suggested originally and that is that if we have enough money to strengthen the Game Department to the extent that it can bring powder under proper control and keep it under control then we shall also have sufficient to ensure proper control measures as regards game, and the damage would then not take place except to a very small extent.

I would, however, plead with the hon. Member in connexion with this continual complaint that we have from the Africans up and down the Tana river. I have enquired into the position and I had a report no long ago from the District Commissioner of the Lamu District, and I would like to quote a few lines from that: "In the Lamu District, relations with the local agriculturalists is good and there is hardly one who is not himself taking full measures to protect his crops. Regret cannot say the same of the Tana River District." Well, Sir, I think that indicates that a great deal more could be done in the Tana River District by the people themselves to protect their crops. If the people in the Lamu District can do it, so can those in the Tana. I also hear that although there was agreement some while ago that gaps would be left

in cultivation so that game could get down to the river to drink without causing damage, those gaps have been very largely filled up by cultivation, and it is quite obvious, Sir, that if that is happening and if people are not prepared to leave tracks for the game to get to water, they can only expect the game to damage their crops. I hope, Sir, that the hon. Member will try to put it across to his people that while we are proposing to do everything we can to improve the protection we can give them, they must also do their share to help themselves.

Sir, with that rather long dissertation, I beg to move the Motion.

THE SPEAKER (Sir Ferdinand Cavendish-Bentinck): I will put the amendment first, and I will put it in the normal way. The amendment is that all the words after the word "Council" be deleted, and that there be substituted therefor the words which appear on the Order Paper. I therefore put the first question which is that the words it is proposed to delete be deleted.

Question put and negatived.

THE SPEAKER (Sir Ferdinand Cavendish-Bentinck): I will now put the original Motion.

DIVISION

The question was put and the Council divided.

The question was put and carried 41 votes to 11.

AYES: Messrs. Adajja, Amalamba, Bechgard, Blunt, Butler, Conroy, Coats, Coote, Crossin, Mrs. Geaga, Messrs. Gbord, Griffith-Jones, Gregg, Homley, H. H. Harrison, Hassan, Have-lock, Hope-Jones, Hunter, Ismail, Jackman, Johnston, King, Luseno, Mackenzie, Madan, Mathieson, McKenzie, Mohindra, Mubhanyami, Nurmohamed, Sir Eboe Piribhai, Messrs. Rogers, Sago, Salim, Smith, Swann, Walker, Webb.

NOES: Messrs. Khamisi, Kiato, Mate, Moli, Muliro, Ngala, Nyagah, Odingo, Roberts, Tipis, Towell.

COMMITTEE OF THE WHOLE COUNCIL.

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

IN THE COMMITTEE

[K. Bechgaard Esq., Q.C., in the Chair]

Traffic (Amendment) Bill

Clauses 2, 3, 4, 5, 6, 7, 8 and 9 agreed to.

Clause 10

MR. NYAGAH: Sir, I am not very happy about the word "any" police officer may serve a summons by affixing the card I think the word "any" is a very dangerous qualification. You should not have any police officer doing the job as you may get a police officer coming out of a bar or anywhere to do it and I would therefore suggest to Government that they should qualify that by specifying the right type of man for the job and he should be the only one authorized to do this.

MR. CONROY: Sir, I hope to allay the anxieties of the hon. Member by pointing out that any police officer serving a summons under any ordinance and therefore this restrictive power of serving a summons in respect of a minor offence for a very limited form of penalty for very small crimes is in fact a reduction of existing powers rather than an increase to existing powers. And, Sir, with the excellence with which the Kenya Police does the job, I am sure that they will produce the right man to do the job, administratively. We must vest in all police officers this power for serving a summons under this particular section of the Ordinance.

MR. NYAGAH: Does a police officer here mean somebody commissioned or could any constable come under the qualification of a police officer, because if so, there is always the danger that somebody could come out from a bar or anywhere else and serve this summons.

MR. CONROY: Sir, this means any police officer, and you cannot have someone deciding, if he is in a bar for instance, that he will go out and serve a summons because he must first of all have the particular type of summons for the offence which he will get from the appropriate type of authority before he goes on duty and is detailed to this kind of job.

MR. OLE TIPS: Sir, this clause 10 states "Any owner or person in charge of a

vehicle who shall find affixed thereto a police notification of a traffic offence which appears to have been torn or defaced so that it is not fully legible shall within two days report, either in writing or personally to the police station of the area in which the notification was found, and if he shall fail to report, he shall be guilty of an offence and liable to a fine not exceeding one hundred shillings." Now, what I disagree with here, Mr. Chairman is the time of two days allowed to report. In some cases you may find a businessman in transit through Nairobi on his way to Kisumu or may be Kampala for that matter, and he might stop in the centre of town and may find one of these summonses which may be defaced, and it may be this is during his lunch time and he cannot possibly rush to the police station to report, and in order to avoid any delay, he might decide to continue on his journey.

Now, we know what sort of postal services we have in this country and things such as telephones or telegrams are not specified in this particular clause. I think it would save the man concerned a lot of difficulties if you could at least extend the time to seven days, then the offender would have no grounds for complaint. I would therefore ask your Minister for Legal Affairs to try to remove a lot of hardship to travellers who are in transit. I would submit, Mr. Chairman, that a period of seven days would be more appropriate.

MR. KHAMIS: I agree, Mr. Chairman, that the limit should be raised to seven days, but I would also suggest that it should be made possible for the person who has found such a chit to go and report to any police station, and not particularly to the police station in the place where he found the chit. If I was travelling to Mombasa in a hurry and I found a chit and had no time to waste to go round to the police station, it should be all right for me to take that chit to my police station in Mombasa in order to avoid a lot of difficulties.

Another point I would like to make is what assurance can we be given that the man receives such a notification because it is quite possible that a police officer has placed that chit on the car and in the meantime it has rained, or a very strong wind has blown it away. How can we say that he has definitely received the chit?

[Mr. Khamis]

It is very difficult. I might be charged afterwards and found guilty and have to pay a fine of one hundred shillings through no fault of my own because I did not find the chit.

If I was in a hurry, I could drive off without seeing the chit and it might get lost like that—so what assurance can be given that I will not be penalized for a mistake which is not mine.

MR. CONROY: The two purposes which this amendment seeks to achieve are firstly to lessen the inconvenience to the public, and secondly to save a waste of public officer's time—which is in effect the taxpayers' money—by reducing correspondence and paper work.

Now, Sir, in respect of the easing of the burden on the members of the public, they for their part must accept possible small inconveniences in exchange. They are getting the better of the bargain under the proposed procedure.

Sir, if the hon. Members suggest, as the hon. Member for Mombasa did, that we should be able to report to any police station anywhere, then of course you are going to proliferate the paper work and have correspondence going from one police station to another. You are going to delay proceedings and make it more difficult to collect fines, and you are going to create greater inconvenience to the public. For those reasons, Sir, I am unable to accept the views put forward by the hon. Member.

Then, Sir, the hon. Member for Central Rift said that the time was too short to give a man time in which either to write to the local police station or to pop into the local police station and give the necessary particulars, a matter of a few minutes. I cannot accept that. I cannot accept that people are so busy that they cannot write a letter which will take them five minutes and post it, or call round to the local police station and give the particulars to an officer on duty there, Sir, in those circumstances I am afraid that I cannot accept the recommendation made by the hon. Member that the period of two days should be increased to seven days. You see, seven days is the minimum time between the service of the summons and the case coming on in court. If you are going to increase the two days to seven days, then

you have to change the seven days to three weeks and then we are back again on the old cycle of long drawn-out proceedings with people having to attend court and trying to cause people for fines. Sir, that is just what we are trying to avoid in this Bill.

CAPT. HAMILY: Sir, I would point out to these hon. Members who have these apprehensions; they need not experience these inconveniences if they do not commit traffic offences.

Clause 10 agreed to.

New Clause

MR. CONROY: Sir, I beg to move that a new clause be read the Second Time. Notice of this new clause, which is a little lengthy, has been given to all hon. Members. It was included as a Notice in today's Order Paper.

One of the hon. and learned Members opposite yesterday asked why this particular provision was not in the Bill. The principal object of this Bill is to carry out the recommendations of the Working Party, under the chairmanship of Sir Kenneth O'Connor, in order to save inconvenience and waste of time to the members of the public, the police and the courts, particularly the public and the police, and the Working Party made two recommendations. One was in respect of minor offences which is contained in clause 10 of the Bill, the other is that set out in the new clause which I am now seeking to add to the Bill.

At present, section 70 of the Ordinance provides that if you have an accident with a motor vehicle in which any damage or any physical injury to a person, to cattle, or to a dog, is done, you have to report that accident to a police station. In, for example, 1957, there were well over 8,000 of such cases reported to police stations. Nearly 6,000 of those reports were a complete waste of time for the individual and for the police because no criminal proceedings followed, no question of personal injury or criminal proceedings arose. The Working Party therefore recommended that section 70 should be amended to follow the practice in England, which is to make it obligatory to report traffic accidents to the police only in one of two circumstances. The first is if any personal injury were occasioned to an

(Mr. Conroy) individual or to cattle or to a dog; the second is where an accident has occurred and the driver of the vehicle has not given his name and address to any person who has a reasonable cause to demand his name and address. The proposal is that we should adopt the recommendation of the Working Party: It will reduce inconvenience to members of the public and I am sure my hon. friend the Member for Mombasa will agree with me that it will relieve any hon. Members who happen to have a slight accident of the probability of having to report to the police station. It will also, of course, relieve the time of the policeman in the police station.

For those reasons I beg to move that this clause be read the Second Time.

MR. MAXWELL: I have one small point, Sir, and that is that before the word "dog" should be added the word "licensed", making the phrase "licensed dog".

As you know, Sir, there are hundreds of dogs which are not licensed, particularly in the African reserves, and they will be extremely difficult to identify.

MR. CONROY: I see some practical difficulties which I would like to point out to the Committee. Sir, the hon. Member is driving along the road; he happens to hit a dog which then disappears into the bushes. Now, it is his duty to report that accident, in case the dog has been injured and it is a valuable dog, so that the owner of the dog can sue for the value of the dog if the dog is killed or injured owing to the fault of the hon. Member. But, Sir, if the dog has disappeared, as dogs frequently do after they have been hit by a vehicle, then it is rather difficult to know whether it has been licensed or not. You see, you cannot give your name and address to the dog so you have to report to the police station in any event; and I really do feel that there are practical difficulties in the way of the suggestion put forward by the hon. Member, and I therefore have to say, with regret, that the Government cannot accept it.

The question that the new clause be read the Second Time was put and carried.

New clause read the Second Time.

The question that the new clause be added to the Bill was put and carried.

Title agreed to.

Clause 1 agreed to.

THE CHIEF SECRETARY (MR. COULTY): Mr. Chairman, I beg to move that the Committee rise and that we report to Council that the Traffic (Amendment) Bill has been considered and approved with amendments.

Question proposed.

The question was put and carried.

Bill to be reported, with amendments.

The House resumed.

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

REPORT

The Traffic (Amendment) Bill

MR. BEELIGAARD: Mr. Speaker, I beg to move that the Committee of the whole House has been through the Traffic (Amendment) Bill, and has approved it with amendments.

Report ordered to be considered tomorrow.

BILLS:

SECOND READINGS

The Passion Fruit (Repeal) Bill

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (L. COL. McKenzie): Mr. Speaker, Sir, I beg to move that the Passion Fruit (Repeal) Bill be read a Second Time.

Mr. Speaker, I am afraid that the title of this Bill is effectively dramatic in title, but I have very little to say other than what is before the House. This Board, which was set up to look after the passion fruit industry, has outlived its time. All that is left of the Board is 400 empty barrels unsold.

I beg to move.

MR. WEBB seconded.

Question proposed.

The question was put and carried.

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

The Control of Nets (Nyanza Province) (Amendment) Bill

THE MINISTER FOR FOREST DEVELOPMENT, GAME AND FISHERIES (MR. BLUNT): Mr. Speaker, I beg to move that the Control of Nets (Nyanza Province) (Amendment) Bill be now read a Second Time.

Members may recall that just over a year ago, last November in fact, I introduced a Bill controlling certain types of nets the use of which was already prohibited on the waters of Lake Victoria. That Bill provided that the possession of these nets should also be an offence. Now, Sir, a prohibited net in that Bill was defined as "prohibited net means any net constructed in such manner and having a mesh of such size as the Minister may by notice in the Gazette declare to be a prohibited net for the purpose of this Ordinance". When that Bill had been passed steps were taken under that section to gazette a definition of the nets that were prohibited from being used. In due course people were found using such prohibited nets and some 12 were caught and a case was brought against the first one to the courts. This case failed in the magistrate's court because it was said that the definition of the net was unsatisfactory. The case went to appeal but again it was thrown out in the Appeal Court on the same grounds. Following further discussion it was suggested that no satisfactory definition of a net can be made under the existing definition of a prohibited net. We have therefore considered how best we can meet this difficulty and in the present Bill there is a new definition of net. It is, as it were, a double definition in that it appears first of all in section 2: "Net means anything described by order under section 2 (a)." It is then dealt with under section 2 (b) where it says that a prohibited net may be designated by the Minister, and the net may be described in various ways by reference to the type of construction and the size of the mesh and the use to which such net may be put.

It will be seen that the effect of this present amending Bill in this respect is only to carry out the intentions of the previous Bill and I trust that there will not be any substantial argument on that point.

The opportunity has also been taken to expand the definition of the expression "subordinate officer": to include officers of the Ministry of Forest Development, Game and Fisheries below the rank of fisheries officer as people who are allowed to demand to see permits: The opportunity has also been taken to delete in due course the officers who are appointed under the Lake Victoria Fisheries Act of the East Africa High Commission from the schedule of officers who are given certain authority under the Ordinance: The reason for that is that in due course the High Commission Act—the Lake Victoria Fisheries Act—will be repealed and those officers will cease to exist as such under both section 4) and (6) those officers are deleted.

There is, however, one important amendment in section (5) of the Bill which increases the penalties for contravention of the Ordinance. It is proposed to increase the maximum penalties from what they are at present, a fine of up to Sh. 3,000 or three months' imprisonment or both, to a fine of Sh. 10,000 or one year's imprisonment or both. The reason that this increase is proposed is that it is found that the present penalties are not sufficient to prevent breaches of the Ordinance for the reason that the profits that can be made by contravention of the Ordinance are very large and I would emphasize that those large profits which can be made by contravention of the Ordinance are made by people who are breaking the law at the expense of the fishery in general, that is to say, at the expense of the public of this country and also at the expense of the law-abiding fishermen whose fishery is depleted by such offences.

Now, I suggest that the only amendment of any substance here is that which I described last, the amendment to penalties, but I believe that unless penalties are amended upwards in this way that we shall not be able to stop this illegal fishing in the lake and that if we cannot stop it our fishery is going to deteriorate sadly.

Sir, I beg to move.

MR. WEBB seconded.

Question proposed.

MR. ODMOJA: Mr. Speaker, Sir, I rise to express some of the alarming points in this Bill. As you know very well, Mr.

[Mr. Odinga]

Speaker, the control of nets in the lake, especially in the part which is in Kenya, is one of those problems which are worrying the fishermen in Kenya a great deal, and I know that the object of introducing this Bill had found it right probably to correct something which has been an enigma to the fishermen. That has been that in all shops wherever they go they get nets which are marked 5 in. and when they take these nets into the lake or into the water to fish, then later on the fisheries officers do catch them and charge them that those nets are not of the right type. And that has, I think, worried both the officers and the fishermen themselves and I do not see how even with the present Bill or with the present amendment how that would be avoided. For example, there are some kinds of nets which, when in the water would contract and probably look to be a little bit smaller than their usual sizes than when they are outside in the shops and when measured when wet would probably instead of being 5 in. would measure something like 4½ in. or even less than 4½ in. And, I think, that has been the problem. I think I have listened very, very hard to hear how the Minister is going to avoid that by this amendment and I am sorry I am afraid that I have not actually got him saying it or explaining it quite clearly to me.

The other point, Mr. Speaker, which is very important in this Bill is the increase of the penalty from Sh. 3,000 and/or three months imprisonment to one year's imprisonment and/or Sh. 10,000 fine and the reason advanced for the fact of this increase is that these people are making an alarming profit when they are using those nets. Well, it is very simple to prove that the reason given is futile and does not quite hold water because we have got fishermen in Uganda, in Tanganyika, who are using the very nets which are stopped in Kenya and I do not think that those fishermen are the richest men in this country. I have never seen a fisherman who would build double-storey or even multi-storey buildings which is built out of fishing profits and I think that this reason probably will only go to the confusion of the Africans well-known story throughout that at one time there was a fisheries officer who went and lived

with the fishermen for about a week where they were and was also trying to fish with them. Later on he also got a few fish, he went to sell them. When he was lucky on one of the days, and got a good number of fish, he went and sold his and got about Sh. 100 profit. Then later on he went on alarmingly, spreading the false report that these Africans could get Sh. 100 profit a day and that was a wonderful profit. He was saying that and that story is known all over everywhere by all fishermen, that they are being victimized or they are being restricted unnecessarily simply because there was somebody who told the wrong story that they are getting the profits which they do not get.

And I will also prove (I am not a fisherman and I have no interest and I have never even been to the sea-fishing) but I also know the problems of the fishermen round the lake. I do not know of any fishermen who are as rich as those people who embark on another trade. I do not know of any in that part of the country where I am or any of them—for example, at the present moment we consider those people who have built permanent buildings in permanent materials, we take them to be really the rich people in the country—but I know no fishermen who have actually even attempted voluntarily to do that. That should show that they are not as rich as some people would say.

But I know why these people would go on infringing the law. They go on because many of these fishermen have no other means of livelihood. The people around Lake Victoria have got only one season which is the long rainy season only when they get the rain usually around the lake; is very irregular. I also happen to live in that part of the area. You can hardly depend even on your crops. Last year I planted myself about eight acres with maize, and you know because of rain, it all failed; and I did not get any crop. I lost a lot of money on it and that does discourage people who actually embark on other work like farming and so on. You find the ordinary men live double lives; sometimes on the lake, sometimes outside. When they find that they cannot get the crops outside, they will go to try their hand on the lake and that is to fish and get their living out of fishing. Well, those people

[Mr. Odinga]

who want to get a little bit more to pay for their expenses, because the expenses at the present moment are considerably increased, find it very difficult with the present restriction of a 5 in. net. They say that with a 5 in. net you can only get what you need to eat as your food, and very little above that (to maintain yourself, to pay for your school children, to pay for all the things that you are required to pay for. You can find that these people do not actually infringe the law because they want to make extremely large profits but it is only because the circumstances force them to do that. That is why they do it.

At the same time, you will find that it is very difficult for these people to believe reasons advanced by Government, because Uganda on the other side of the lake and in Tanganyika they are fishing freely. Those people are using all kinds of nets freely and when our people go to the other side to fish they are arrested and punished severely. They are therefore tempted to get these nets using them just a few yards on the other side. And they are told that there is a boundary between Uganda and Kenya. They do not see that boundary in the water.

There is another thing which also could be taken into consideration. Now, Mr. Speaker, I do appeal and I do know that it is not correct that when you have whipped your child when the child has done something wrong that later on if he continues to do the same mistakes and instead of trying to find out the real reasons behind it, you just go and take a club and destroy him completely. That would not be the way to do it. You must actually go right into this and find out why he is continuing doing it. I do not think that we should be much more interested in preserving the wild life as people have been saying in here. We must first of all be interested in seeing to the life of the human beings who are much nearer to us, before we start going to the wild life. And to do that, I think, by increasing the fine, increasing the penalties of these people, will not really help.

Another third point which I would also advance is that you can understand

in the area which I come from when these people go to the lake to fish the lake is controlled and they are fined very heavily. When they come to try their hands in the produce field, then they are confronted with Nyanza Marketing Organization which controls and confiscates everything and punishes them very heavily. When they go to try their hand in the illegal Nubian Gin brewing, there the Government administration jumps on them and they fine them very heavily. So in nearly all the things where they try their hand they are tied up and they do not know where to go to try to make ends meet and as a result the people are completely frustrated. Many of the people have now migrated. I do not know whether it is the intention of the Government that they should migrate to Uganda or Tanganyika. Many of them are now leading miserable lives in Tanganyika and Uganda—simply because they cannot afford to live and make ends meet in their own homeland under these severe and unnecessary restrictions. I do not see how the Government of Kenya is going to treat its subjects and is going to look after their welfare—whether the Government prefers to look after the wild life of the country and leave the people who are discontented and dissatisfied throughout the country, I do not understand. Now, Mr. Speaker, with those few remarks I oppose this amendment.

MR. TOWETT: Mr. Speaker/Sir, after listening to our friend from the Lake area, I feel that I should just point out certain points which probably the Government has forgotten. The Government must know, Mr. Speaker, that the Luo people are known ethnographically as lacustrine and that alone shows us very clearly that these people were living by the lake before any form of Government came to their assistance—before the British Government came to this country. All the time they were living around the lake, and I think, Sir, that whenever we come to power and whenever we have the Government in our hands—in the hands of the people of Kenya—the Luo should all the time be consulted as to what is to be done about the fish around that area. We have heard about the difficulty of having certain boundary lines inside the water to separate Kenya fish from Tanganyika and Uganda fish.

[Mr. Towett] Sir, the Government must now remember that unless it asks the Luo to give what they think should be done about the fish, the Government is going the wrong way. Why does this Government all the time try to impose things without asking the people in the area concerned. I suppose they are interested in saving and keeping the fish alive in the water for the interest of the Luo as well as for the interest of the whole country. Now if the Government is all the time adamant in trying to impose its own regulations and rules I think this very same Government is trying to create unnecessary antagonism from the people of this country. When we pay tax we must be consulted. I have been to certain of the areas around Lake Victoria and they do not have any other form of existence, and so the people want to go and get fish for food. They do not have money. They do not work in industries. The land around the area is very dry at times and they do not get enough from animal products. They depend on the fish, most of them. I know there are all the men, all the women and children who go about without clothes on most of the time, but they have got something to eat, and they depend on the fish.

Now the Government should consider this problem very seriously, Sir.

Now when it comes to this Bill, the Control of Nets (Nyanza Province) (Amendment) Bill, 1959, and when it comes to section 2—clause 2—we have here the definition of who is supposed to be a subordinate officer. They say, "and includes any officer of the Ministry of Forest Development, Game and Fisheries" below the rank of Fisheries Officer—anybody below that rank will include an officer so we go right down to fish scouts if there is any such designation. That would be an officer. The word "officer" I always complain is a very loose definition, and I hope the Ministry of Legal Affairs will be more definite when it comes to defining words like "officer". Everybody employed in the Government is supposed to be an officer, and here officer is in small letters and means subordinate officer. When you have things like that how do you expect us to say "Now that is more definite to understand it". We must have

a more definite definition of the word "officer". Here it means anybody employed below the rank of fisheries officer, and that goes right down to Mr. Odinga's shamba boy who happens one day to be employed as a fish scout.

Clause number 3, Sir—2 (a)—where you have this idea of—"The Minister may by order publish in the Gazette and prohibit, subject to the provisions of sections 3 and 4 of this Ordinance, the possession of natural seine nets by description". Now, Sir, what do we have there? We have power given to the Minister to define any time and to publish any time in the Gazette that such and such a net is prohibited. Mr. Speaker, with all humility, I do not think we should allow our Ministers—those of them who happen to be civil servants—to be exercising powers in that way. To define any words in the Gazette without consultation with the people—that I cannot accept—I am sorry to say, Mr. Speaker. When you come to these extremely, terribly excessive fines, when a man goes to the lake to try and get about two or three fish, and you find him using a net which the Minister has defined, or has published as a prohibited he is going to be fined if he is guilty of a terrible offence from the point of view of this definition, and he is going to be fined or imprisoned for a term anything up to one year, and the fine, Mr. Speaker, is not to exceed Sh. 10,000. Now this is terrible. It is extremely terrible. For three fish which you get for using a prohibited net, you go to gaol for nine months to one year or you are fined up to Sh. 10,000. Is there anything more nonsensical which this Government can do more than that? Three fish, which you have, and which one Minister has defined to be prohibited, and you get a fine of anything up to Sh. 10,000. It is terrible. I do not know what the Government is thinking. If a man happens to have a net anywhere in the Colony, inside a shop or inside a house and it is found, he should be fined for the net, irrespective of whether he was intending to use it or not.

I will not be a long time as I see the time is approaching, but I think what we should do is that I hope the Acting Attorney-General will look into this and try to reduce these terribly excessive penalties. He can reduce it to a term

[Mr. Towett] which will be acceptable to us and to a fine which will be acceptable to us in the form of money, but to have it as it reflects very badly on the Government, and I am sure I am speaking to a Government which is doing things which are not really good for the general public. We have been talking about animals in national parks and so on and trying to preserve them or to deprive them of their existence, and here again we come to this fish story, and I feel that if the Government could be wiser to consult us before drafting such wonderful Bills, and if the Government would care to ask the people concerned—directly, concerned—before doing these things, this Government would be tolerated, but apart from that, Mr. Speaker, I do not have much, and I really am at a loss. I was going to support it, but because the people there will suffer—they want something for their existence, I oppose this Bill.

The SPEAKER (Sir Ferdinand Cavendish-Bentick): It is now time for the suspension of business. Before adjourning, however, I understand that Mr. Coutts wishes to make an announcement.

BUSINESS OF COUNCIL

The CHIEF SECRETARY (Mr. Coutts): It may be of interest to Members if I inform them that by agreement with Members on the opposite side, the two Private Members' Motions which were to have been debated will be given Government time next week, and we will take Lord Portsmouth's Motion on unemployment tomorrow morning, for which there will be a limitation of three hours, provided hon. Members agree to a Motion, of which I give notice now, and which I will move tomorrow morning. The terms of the Motion which I propose to move tomorrow morning is—

LIMITATION OF DEBATE

That the limit of time for all Motions of National Importance should be three hours.

That the Mover be allowed a half-hour to move his Motion.

That one Government spokesman be allowed a half-hour in which to reply.

That all other speakers be allowed 15 minutes, and that 20 minutes

before the time of expiry the Mover be called upon to reply.

The SPEAKER (Sir Ferdinand Cavendish-Bentick): In the event of Lord Portsmouth's Motion not taking the whole morning do we proceed with Private Members' Motions or Government business?

The CHIEF SECRETARY (Mr. Coutts): Well, subject to your ruling, Sir, I would have said as we are taking tomorrow for Government time, we might go on with Government business if the Motion does not take three hours and give Government time for Private Members next week.

ADJOURNMENT

The SPEAKER (Sir Ferdinand Cavendish-Bentick): That brings us to the end of the business for today, and I adjourn Council until 9.30 a.m. tomorrow, Friday, 11th December.

The House rose at eighteen minutes past six o'clock.

Friday, 11th December, 1959

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

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

PRAYERS

NOTICES OF MOTIONS

VOU OF NO CONFIDENCE IN THE MINISTER FOR FOREST DEVELOPMENT HEALTH AND TOWN PLANNING

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

THAT in view of the lack of sympathy and failure by the Minister for Forest, Game and Fisheries to implement measures to save the African from the losses caused by the wild game, this Council demands his immediate resignation.

VOU OF NO CONFIDENCE IN THE MINISTER FOR LOCAL GOVERNMENT, HEALTH AND TOWN PLANNING

MR. MULIRO: Mr. Speaker, Sir, I beg to give notice of the following Group Motion by the African Elected Members:—

THAT in view of the unsatisfactory and undemocratic nature of Local Government administration in African and urban areas regarding matters affecting African inhabitants in such areas, this Council has no confidence in the Minister for Local Government, Health and Town Planning and consequently demands his immediate resignation.

THE SPEAKER (Sir Ferdinand Cavendish-Bentley): Mr. Crosskill, I believe, wishes to make a personal statement.

MINISTERIAL STATEMENT

GAME POLICY FOR KENYA

THE MINISTER FOR TOURISM AND COMMON SERVICES (Mr. Crosskill): I ask your leave, Sir, and the leave of the House, to make a personal statement. When I was speaking on the Game Policy debate on Wednesday evening I criticized the Trustees of the National Parks. I understand, however, that they agree with the general lines of the last

proposal that I have made and mean to examine it in detail. I wish therefore, Sir, to withdraw the epithets negative, uncompromising and unconstructive.

COMMUNICATION FROM THE CHAIR

BALLOT FOR PRIVATE MEMBERS' MOTIONS

THE SPEAKER (Sir Ferdinand Cavendish-Bentley): Hon. Members, we shall now draw for Private Members' Motions more or less in accordance with the House of Commons practice and in accord with certain changes which have been recommended by the Sessional Committee. In future the ballot will be for a Member's name, as it is in the House of Commons, not for a Motion and if successful one of his Motions, if the Member has put down more than one, will be put on the Order Paper on the following Private Members' Day. If a Member's name is drawn and he has more than one Motion on the list we would expect him to inform the House as to which of his Motions he proposes to take.

Motions will be grouped for balloting, the first Group consisting of those Motions of which Notice was given during the period 10th November to 13th November inclusive and that, for the information of hon. Members, is practically all the Motions except those notice of which has been given within the last few days.

If a Member has given notice of more than one Motion and is successful in the ballot, I repeat, he should rise and state which of his Motions he intends to bring. He will then be debarré from participating in further ballots until such time as all names in that group have been drawn.

The Ballot will be for two or more Motions to ensure that at least three Motions are available for the following Private Members' Day. Any Motion thus drawn remains on the Order Paper for Private Members' Day until it is taken.

The following names will be included in today's ballot: Mr. Blundell, Sir Charles Markham, Mrs. Shaw, Mr. Slade, Mr. Bompas, Mr. Khanjari, Mr. arap Moi, Mr. Mate and Mr. Towett.

The ballot was then taken.

BALLOT FOR PRIVATE MEMBERS' MOTIONS

THE SPEAKER (Sir Ferdinand Cavendish-Bentley): The three who have been drawn are Mrs. Shaw, Mr. arap Moi and Mr. Bompas. I think they each have only one Motion down: Mrs. Shaw, Married Women Officers' Salaries; Mr. arap Moi—Abolition of Common Entrance Examinations; Mr. Bompas—Control of Opticians and auxiliaries.

MOTION

LIMITATION ON DEBATES

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

(a) THAT debate on Motions of National Importance be limited to three hours, and

(b) THAT the Mover be allowed half an hour to introduce his Motion; THAT one Government Member be allowed half an hour in which to reply;

THAT all other speakers be allowed 15 minutes;

THAT 20 minutes before the time of expiry the Mover be called upon to reply.

I thought, Sir, that I might perhaps take this opportunity to explain to the House the thinking of the Sessional Committee over quite a number of meetings which we have had concerning the large number of Motions proposed as business for the House.

The Sessional Committee feel very strongly that it should be possible for any Mover of what is now termed a Private Member's Motion to be able to explain that Motion and have it fully aired before the House in a period of two hours. But they feel also that there should be no restriction on time of speaking during these Motions but that they should be concluded in the period of two hours. They felt also that in Motions which are now called erroneously for otherwise "Motions of National Importance" that they should be restricted to three hours but that there should be limitations both on the Mover and on the person who replies for the Government side and also on individual speeches; and that is the reason for this

Motion which I am putting before the House.

Generally, Members of the Sessional Committee have felt that if we are going to deal with the large number of Motions which are now before the House there is no other way of dealing with them except by the method of ballot which has been demonstrated before Members today and by fairly severe restrictions on time.

The other point which I would like to make is that virtually the Sessional Committee have discarded the old term of "Group Motion". I wish to mention this particularly this morning because I notice that two Members used this expression when giving notice of their Motions. What the Sessional Committee have now suggested is that a subcommittee of the Sessional Committee should decide which of these Motions should be given Government time—that is, that they should be given Government time outside the normal days for Private Members' Motions. That subcommittee will decide whether Motions as given or notices of such Motions, as given, will merit Government time. From time to time I will be able to tell the House which Motions are being given Government time. Otherwise, Sir, we will proceed from now by the method which has been demonstrated to the House this morning by ballot and taking each Motion for a period of two hours.

Sir, I beg to move:—

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

Question proposed.

SIR CHARLES MARKHAM: Mr. Speaker, I have just one very small point which perhaps the Chief Secretary might accept. The Motion as it stands includes all Motions of National Importance. In other words, Sir, the Game debate we have just had yesterday would have been included, and the debate on the Speech from the Throne would have also been included. The words "Private Members" should be inserted, otherwise you are going to tie Government's hands on debates of general policy which they might initiate from their side. I do not know whether the Chief Secretary would accept an amendment that after the

[Sir Charles Markham] words "National Importance" the words "Private Members" should be inserted. That does give the Government some scope to have a debate ranging over two or three days.

THE CHIEF SECRETARY (Mr. Coutts): Could I suggest the words "from Non-Government Members"?

SIR CHARLES MARKHAM: That makes it better, Sir.

I therefore move an amendment that after the words "of National Importance" be inserted the words "from Non-Government Members".

Sir, I beg to move.

MR. SLADE seconded.

Question proposed.

Question that the words to be inserted, be inserted, put and carried.

MOTION

UNEMPLOYMENT IN KENYA

LORD PORTSMOUTH: Mr. Speaker, before I actually proceed with the Motion I would like to give my thanks to Government for having put the Motion forward this morning and also to my hon. friends the Member for Nyanza-North and the Member for Coast Rural for agreeing to put off their own Motions. I am most grateful to them for that.

I move this Motion in its amended form because since I originally put my Motion in, Sir, various Government announcements have made the first part of that Motion obsolete, and therefore, Sir, it is the last part of the Motion which has really got the meat in it of what I would like to talk about.

In order to save time I am not going to repeat arguments nearly two years after I put them up in this House on this particular subject, but that does not mean, Sir, that I have retracted those arguments and do not hold them still as strongly as ever.

Sir, going back to my childhood I remember an old Latin tag which I am going to alter slightly, *montes laborum macerum commissarius*, and translated into the local political vernacular of East Africa that means that the end of a calving period of a elephant a Commis-

sioner is to be produced to look into a suspected surplus of work-seekers.

Sir, I am not going to labour that point but there have been delays and I do think that it is high time that we treated the matter with some sense of urgency. I do welcome the fact that a problem which has been created both by lack of foresight and lack of money has now come to the fore and that the Government do seem at last to be really concerned with this problem and its urgency.

Now, the House knows, Mr. Speaker, my deep feeling on the human tragedies which arise from unemployment. Sir, I will not speak at length on that again. What I do want to turn to are ways and means of trying to avert both these human tragedies and the calamitous upheavals which might accompany them. Sir, I do not think that we can afford to wait to deal until well on in the new year for the Commissioner's Report and then only make plans afterwards to deal with unemployment. In other words, it would be in this case the gestation period of a human being before we could see any active implementation of the plans.

Incidentally, Sir, when I last raised this question my hon. friend the Minister for African Affairs told us that he had hoped to have a Commissioner appointed late in this year, November or December. He now says "early in the new year." I do most earnestly hope that "early in the new year" does not mean some time after Easter and does mean early in January.

Sir, while making plans to deal with unemployment before the Commissioner's Report, a lot will have to wait to be finalized when the Report has been considered, but I feel fairly certain that the Commissioner will find the problem—and I think that the Government will feel fairly certain, too—from Kisumu and Mount Elgon to the Coast is as widespread as we all think it is.

Now, Sir, I do think it is possible to make flexible skeleton plans for many districts and to co-ordinate these so that they can become an economic whole, planning the economic future of Kenya on a long-term basis. Indeed, there are several schemes like feeder roads where production is increasing in the land; these could go into operation very soon and before we have to wait for his Report.

[Lord Portsmouth] These cannot but be wealth-producing in many areas, both in Central Province and Nyanza. I think that the work is badly needed and that the roads are badly needed, too.

Sir, we are also helped in planning by knowing that certain big developments are already taking place. Nairobi will be helped by the new contractor-finance housing scheme which I welcome, despite the fact that I very much question the financial wisdom of contractor-finance for housing. Thanks, too, to Sir Evelyn Baring and Sir Ernest Vasey, and my hon. friend opposite, the Minister for Commerce and Industry, we have an oil refinery which is likely to become a reality very shortly. Thanks to the wisdom of the War Office we have got the Kahawa Barracks and other military improvements which are giving work in areas which badly need it. This, Sir, makes planning easier because we know what labour is and will be absorbed and the approximate period of the work.

Nonetheless, Sir, these schemes are alleviations. They are not a general cure. I had hoped that we would not have them quoted as the general cure in the debate.

A moment ago, Sir, I used the phrase "economic future of Kenya on a long-term basis". No one knows better than myself that creating for work is a task no answer to this problem. We must plan work so that not only will it create enduring employment but produce more wealth that will in itself create new employment. Now, with these means, Sir, the first and most obvious of these are agriculture and silviculture. The second is the creation and expansion of new secondary industries. The third is the expansion of the tourist industry. Fourthly, linking all these together is the improvement in communications. The fifth, Sir, is that East Africa as a whole is a better economic unit than any separate one of the three territories. Therefore, Sir, I think we should welcome the prosperity of each territory and work jointly for it. Wherever plans are not of necessity purely local we should try to work, I believe, on a general overall economic plan for the concurrent advancement of East Africa. I think it is high time that businessmen, tech-

nicians and economists of all races and from all territories meet frequently to try-and-pursue common economic and human objectives. It is far too large a subject to go into at present but I do put it to Her Majesty's Government that there is an opening here for more work than the excellent work which the East Africa High Commission is already doing.

Now, Sir, returning to means. What chances have we got of paying for the necessary expansion to absorb those who genuinely need work. It is obvious that our own Government resources are badly strained and perhaps hardly an odd £100,000 could be found. But there is a considerable source of local savings that might be found if the right inducements were there; and these savings, if invested in development, would not bear the burden of repayment of interest and capital overseas. In other words, local savings locally invested can build up the East African economy £ for £ faster than foreign investment; because as that is at this time, overseas investment in Kenya is more likely to come when investors see us making our own efforts vigorously to overcome the dangers inherent in too many people chasing too few jobs.

Now, Sir, I submit that apart from tax-free savings bonds which I welcome, there are other methods which could use the savings available in this country in larger quantities. Some of these means I have outlined before the House last June, and time is too short to restate them.

Sir, I now would like to return to agriculture. No one can claim that any land is fully developed, and there are only a few thousand square miles in the European areas capable of intensive farming. Much of it already carries fairly high development. Any money for further development here will have to come largely from private sources. Development can be encouraged by Government by long-term tax remissions on such matters as balancing charges and tax remissions in future for organized private forestry.

While we want more to go on here, and it is desirable, I do not think that as a whole, however handled by any race, it can really become a major fac-

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or in reducing unemployment. But I believe that it can become a much bigger factor in employing more intelligent and educated Africans than it is today. In fact, I think it is time that we started the schools for capable young neoparas and junior managers who could serve the development, not only in the European areas but in the African and Asian farms as well.

Sir, this brings me to African agriculture in the African land units. Here in the existing high potential areas there is a great deal more scope. With land consolidation it is the biggest single source of employment. I personally believe, if credit-worthy farmers in the consolidated areas can get loans for development, I think this is a crying need. They could increase their labour force very much and very quickly. I feel very strongly that apart from internal savings it might be possible to get capital from overseas governmental and international sources to finance this form of African development. Intelligent African farmers with substantial holdings, I am certain, if money is available for development will be able to employ many more of their own people with profit and, Sir, this is a snowball, this process. Over the years as consolidation spreads it will snowball. It is my good fortune to be friends with many successful African farmers, sometimes in surprising places. I feel that these men are the vanguard of an army of such farmers in the future as tribal as well as other land barriers begin to disappear. Then the areas which are under-populated and under-farmed will come into their own. Many are capable of irrigation in various degrees. Farmers with new ambitions will find new outlets and will, I believe, have a wish to pioneer in new places once they see the opportunities available. The present generation are naturally reluctant to seek for fresh pastures for the idea of the new work that is going on and the scope of it is still little known. The next generation over the years will see things differently as African agriculture proceeds with its tremendous strides and this, Sir, is why I say work can come from loans now which will produce more work and more wealth in the future.

Sir, just one aside to show the sort of thing that could happen. The Perkera

Irrigation Scheme is working at nothing like its full potential and is only one example of many by which work could grow in this country. The whole question here is linked to feeder roads and water supplies where they are needed. The best use of expansion in the existing areas will be developed progressively to develop suitable areas outside the present main density of population so as to grow on for future needs. This applies, Sir, to the "D" areas and country where irrigation shows prospects and ranching where a greater cattle population can be carried on as techniques are improved.

Now, Sir, most people in this House know my views on forestry as a means of conserving the climate and employing labour. But I submit that we have some claim here to help from the United Kingdom. In two world wars, Sir, Kenya's indigenous forests were cut far faster than nature warranted. Our exotic plantations at the moment cater only for our own expansion, and a very moderate export trade in future. Sir, we have therefore no strategic reserve of timber if local expansion takes place as we foresee. A strategic reserve of timber, now that we have a large military station in this country of some very considerable strategic importance, is, I feel something that ought to be thought of.

Sir, timber, I think, in dealing with military needs in times of emergency timber will be needed just as much as food or clothes and it must be on the spot and not by a haul of many miles from overseas. I should submit that we might ask for home Government help for that purpose. Even if we do not increase our timber at least there is a very strong case today to have roads for fire fighting and fire breaks cut where they are not cut today. We have been extremely lucky in the last few years in the forests in having high rainfall. Sir, if with exotic conifers you have got one bad season you could lose millions of pounds worth of timber and, Sir, I do submit that that is worth, as it were, an insurance policy to keep that reserve standing in the ground and growing.

Now, Sir, I know from the very few figures at my disposal that among the small group of saw millers which are pretty representative of the country that over 20 per cent. of people are out of

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work who were at work in those saw mills, European, Asian and African, as compared with 1957 and that shows how necessary it is to get work today in the forests themselves.

Now, another point is, Sir, that a great deal of this country is most inadequately surveyed and here again, in a country where we have a military base and military forces, it demands a proper survey of mostly unsurveyed areas—an aerial one. This makes plans, Sir, for roads, dams, pipelines, far easier since by modern aerial photography you can fix contours within eighteen inches on the ground and you can also type trees in order to be able to get the potential of the country without ever necessarily going there yourself—and the possibilities of water supplies underground.

Now, Sir, turning to secondary industries from pulp manufacture, to sugar refineries, I will leave this subject to others in this House with more knowledge than myself and better acquainted with the inducements necessary to bring these industries to Kenya.

In regard to the tourist trade, there are signs, Sir, that package tours and cheaper air fares in future are going to revolutionize tourism here. The expensive big game safari, for trophies or intensive photography, will, I think, shortly take second place. Wild scenic beauties, widespread simple amenities will be needed more than anything else and the sort of thing that people go away for a holiday for and can have the great joy of animals to look at as well as the ordinary simple things people have on holiday in Europe in good weather.

Now, Sir, here again a good many things can help unemployment and help tourism—roads, simple rest-houses, dams for sailing on, all of which would be wealth-producing for other purposes. Coming last to communications, the scenic roads in the forest, I believe, could be plan linked with fire-fighting roads, with security for the police, with rest-houses and sport. Many of the feeder roads for carrying produce could not fall into this category but many would. Also, Sir, when it comes to secondary industries, feeder roads might well attract a greater extension of secondary industries outside the urban areas by the pos-

sibility of taking labour to and from the scene of work much more easily than today.

Sir, given a long-term planning basis for agriculture and industry, I feel that the outside world which was not long ago jibbing at investment in East Africa may now seek investment in these areas. In fact, many countries have bulging coffers which they need to use to avoid stagnation at home. I think we could be a great field for the use of new investment, not for charity but for hard-headed, survival if politicians in future can moderate their statements to give some hope of stability.

Sir, to sum up, we need greater use of internal savings, some assistance from the United Kingdom Government, on matters concerning their own interests; we need outside help for African farmers to develop and a joint determination by all races to deal with unemployment as a social aim to which we can all subscribe.

Sir, through these remarks I have tried to be more constructive than critical. But here I should like to say that I am not crying out only to Government without myself trying to describe to the House a small personal effort to help unemployment in my own part. I think that a lot may be done by personal example and friendship and I believe that opening up the Highlands to other races is a move towards greater prosperity and investment from overseas. But above all, Sir, it should be a move towards closer friendship, co-operation and understanding between us all. And to prove, Sir, that these are not idle words or pious hopes, I would like to tell this House of a personal plan. It is one thing to urge Government to make us or to use plans to make economic work, creating work, but sometimes the individual may be lucky enough to have the chance, in a very small way, to do these things himself. Sir, when "the principles" of the Sessional Paper No. 10 are translated into law I hope to be able to fulfil a private dream which I have cherished for some years. There is a portion of my land on Mount Elgon which is difficult for the farmer to go to from the forest centres and, for that matter, to keep proper and constant supervision on it. It is about 250 acres of good land, some of it suited to plantation crops such as tea and pyrethrum. Also it grows good

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cropped for other purposes. Sir, I intend, when the law permits, to try and find an intelligent young African farmer from one of the neighbouring tribes to go into partnership with me there in order to use this land more intensively than before and to employ more labour. This, I hope, if it proves a success, will mean more lasting employment on this land and also an outlet for the talents of a promising young man who might otherwise have to wait years to acquire the capital to take land on a lease. I hope, too, Sir, that it will be profitable for us not only in terms of cash but in terms of friendship. It is not only the making of useful work that is necessary. If there is to be harmony in this country we must have outlets for the creative, emergent African, outlets, Sir, other than politics.

Sir, throughout what I have tried to say I have not mentioned European or Asian employment. Sir, that is not a deliberate negation of these problems. It is, Sir, because I think that, in the main, by solving the problem of African unemployment the other two will be greatly eased as well by the same means. Sir, for all these reasons that I have given and above all I do hope the Government will accept this Motion on the urgency of immediate and constructive planning so as to lose no time in halting a trend that can only lead to calamity and human misery, but instead build a fuller and richer Kenya.

Sir, I beg to move.

MR. NYAGAH: Mr. Speaker, Sir, I rise to second this Motion. I shall not detain the House, for very long because the hon. Member, the hon. and noble Lord, has made a most comprehensive put the case as it deserves. The problem of unemployment is a problem of Kenya as a whole, so I hope this Motion will meet with approval from both sides of the House.

The hon. Member has put forward constructive proposals which will form the basis of the Government investigation. The case is urgent, the problem requires urgent solution. It is to be welcomed that the Government has agreed to find time and a person to look into the problem of unemployment throughout the country. Before its findings become available, I would like to appeal to the Ministers,

particularly the ones that can help meanwhile—the Minister for Education and Labour, the Minister for Works and the Minister for Agriculture—to try and do something before the Report is available. We know there is a Kahawa project; there are roads being constructed and the two Ministries can do a lot of good in trying to find work to spread throughout the districts, to try and get into the districts and find out the hard cases so that they could be offered employment in those projects.

The Minister for Education and Land can do very well in advising the commissioner or the members of the commission that may be set up by Government to enquire into the unemployment problem by probing into the question of school leavers, school leavers at the level of Standard IV, at the level of Standard VIII, and very soon at the level of the secondary school. Sometimes it is very easy to think of unemployment, particularly in Central Province; in terms of people who have come out of the detention camps or people who lost their employment because of the sweeps that were made in Nairobi, or perhaps the loyalists, the discharged prisoners or the discharged wardens and members of the police force, and forget that thousands of school leavers, both men and women, who leave school every year and they stay idle at home. It is very easy to be deceived by the fact that land consolidation is going to solve the problem. Most of the people that own land, who could be called landowners after consolidation are very poor and they cannot employ very many and some of them can hardly employ anybody. So it is for the Government to do its best to see how these new landowners could be helped to develop their lands in the hope that they, in turn, will try and solve the problem of unemployment.

As I said before, Mr. Speaker, the case for unemployment has been very ably put by the Mover, and all that I would like to ask the Government to do is to try and treat this problem as an urgent matter and for all the Ministers to try and see how they can help meanwhile before the Report is out.

With these few words, Mr. Speaker, I beg to support the Motion.

Question proposed.

MR. TRAVADI: Mr. Speaker, Sir, I beg to support the Motion moved by the hon. and noble Lord. I fully associate myself with the views expressed by him and the Secondor and I would say that the suggestions are so constructive and he has surveyed the situation so thoroughly well that there is nothing for me to add to it. I feel that the Secondor has touched upon the school leavers, which is a subject on which I would like to speak more.

After the children have completed the compulsory age of education and are forced to leave school after having been educated in the modern classes only for a year or so, and also those who were over age and superannuated, after this whole lot—only a few, hardly one per cent, go for higher education, with the exception of these—the rest, who are always wandering about here in the town doing nothing and become a prey to the vicious people who engage them in stealing things and get them dragged to the court. I hope a study will be made of even these school leavers and what happens to them. I also feel—and I recently have had personal experience of this—that a firm at Ruaraka wanted some skilled mechanics who could do weaving, spinning and knitting of wool and things. Unfortunately, the five or six people supplied or sent by the Unemployment Bureau were not sufficiently efficient to do the job. This shows there are many skilled and unskilled persons doing nothing. And there are so many other mechanics without any work whatsoever. I also find that the mason community, who have practically built this Kenya, are also without work, not by tens but by hundreds, and recently we also find, even at Mombasa and in Nairobi, that there are about seven or eight thousand people—Asians, I should say—without any job whatsoever. There are suggestions that are very constructive ones put by the hon. and noble Lord and I hope, without any waste of time, the Government would take this matter up very immediately. I should say, and do the necessary survey and go on with the work to alleviate the situation.

I beg to support the Motion.

MR. CULWICK: Mr. Speaker, Sir, in rising to support this Motion I should like to point out that whatever Govern-

ment schemes are introduced for combating unemployment they must, so far as local finance is concerned, rest on funds which we have been told recently are not there.

Now, the acute shortage of public money was vividly underlined in the recent debate on game policy, and we were told by the hon. Minister for Finance that he was not a little perturbed at the suggestion that the relatively small sum of about £60,000 a year should be spent on preserving and developing a material asset which is capable of producing revenue out of all proportion to the expenditure involved.

Now, Mr. Speaker, in view of the lack of public funds, then it seems to me that the best way of handling this problem is by the encouragement of natural development in this country, financed from private sources. If I may say so, this is desired development which is today being frustrated by a lack of security which so many feel, more particularly which the European farmer feels, and this in turn affects commerce and it affects trade; and it is likely to do so more and more in the days to come unless immediate action is taken.

Now, Sir, this lack of confidence, which is due to what I contend to be mistaken policies has virtually brought about the cessation of rural development in the Scheduled Areas, and this, of course, in turn is seriously affecting both rural and urban employment.

Now, Sir, if every farm in this country could on the average employ shall we say, ten more men, this would mean jobs for another ten to 35,000 men and if we include their families, it would mean the support of the maintenance and welfare of over 100,000 people, men, women and children. And so, you would get an increase in the real wages of this Colony of the order of £1,250,000 per annum which would be a very welcome infusion into the trade of the Colony.

Furthermore, Sir, were such development taking place the demand for materials and machinery would increase instead of diminishing. I think it is frightening that in the two years 1956-58 the imports of agricultural producers' capital goods shrank by 45 per cent. It is a truly alarming figure, Sir, when you consider that agriculture is the key to all

[Mr. Culwick] our prosperity. During the same period the importation of capital goods for commerce and industry declined from £10,000,000 to £7,250,000, i.e. a decrease of 36 per cent. It is another alarming figure. And the figures for the first six months of this year show no improvement.

Now, it is significant, Sir, that the retained imports of consumer goods show no such decline. In other words, people will spend for today, but having taken thought for tomorrow, they are unwilling to invest in it. I maintain, Sir, that all this goes to show conclusively what little faith the producing public places in the policies of Government.

Now, Mr. Speaker, in the past people who dared to talk about lack of confidence courted unpopularity and worse. They have been treated as traitors to the economic cause and so there has been a bold pretence that in this country we have nothing to fear and that all is bound to be well. But the true facts of this case cannot be hidden any longer. The lack of confidence in the future is a topic of conversation throughout the length and breadth of this country. In every club and in every bar; and as certain hon. Members know only too well it is a question which is exercising the minds of certain persons outside this country who would invest in Kenya if only the situation were more satisfactory. Things are far too serious, Sir, for any further pretence. We have got to face the unpleasant facts and we have got to tackle them in a rational manner, and only if we do so can the economy of this country be rendered healthy once again and the growing problem of unemployment solved.

Mr. Speaker, the first duty of any Government is the maintenance of law and order. Its second, as I conceive it in the Kenya of today, is the promotion of that confidence without which the economy cannot be maintained at the present level, let alone expanded to provide more opportunities for all. But if that confidence in Kenya and in our future could be restored, then things would be very different indeed, and we would not be required to debate a Motion such as this in this House, because the truth of the situation is not that there are not enough jobs to go

round but that the population of this country is inadequate for its proper development.

Now, Mr. Speaker, as a start the average farmer in Kenya could profitably spend another 21,000 a year on machinery and materials. The farms certainly need it, and I am sure the hon. Minister for Agriculture would bear me out on that. Furthermore, the farmer would do it if he had the necessary confidence and if he could be sure that what he builds up today would be enjoyed by his children in years to come. Now this, Sir, would mean increased spending of about £3,500,000 a year through commerce and that, I maintain, would materially lighten the burden of unemployment in the urban areas as well as in the countryside. It is not unreasonable to assume that 10 per cent of this sum would be paid out in wages and if this were so, then this increase in trade would provide employment at current wage rates for a minimum of 5,000 men, representing with their families another 20,000 persons. I say, Sir, that this is a minimum figure. In point of fact that figure would be greater, but how much greater would depend on the rate of turnover of the money involved.

Now, Sir, in many cases I know, the money is there. The plans have been laid, but the farmer is holding off: And who can blame him? No honest man can advise further investment in European agriculture until present uncertainties are satisfactorily resolved; and so I sincerely trust that this matter will occupy a very prominent place in the deliberations of which hon. Members from both sides of this House will soon be having with the Secretary of State, and I also hope that the stark spectre of unemployment will cause those who will be attending the forthcoming round table conference to keep this question in the forefront of their minds; and that they will never forget that politics and economics are inextricably interwoven in the running of the State.

Mr. Speaker, I contend that I have shown that the present lack of confidence amongst the farming community is putting out of work some 40,000 men, and it is therefore causing avoidable distress to some 150,000 people, men, women and children, most of them who are

[Mr. Culwick] Africans who are quite unable to appreciate the economic forces at work. And so I trust that the hon. Members in this House, who represent them, will enlighten them regarding what is happening, and that they will join us, who care very much indeed for the African and his welfare, in restoring that confidence necessary to remedy the present unhappy situation.

Now, Sir, were confidence restored and were these 40,000 men to be absorbed it would mean an increase in employment of 74 per cent of the total of 535,000 Africans who according to the quarterly *Economic* and *Statistical Bulletin* of September of this year, were employed in all spheres of work in Kenya in 1958. Mr. Speaker, no Government scheme within the very narrow limits of possible finance—and we have been told that they are very narrow limits indeed—could reach this figure. Nor could any Government scheme produce such a quick return in the form of increased production, increased spending power safely based on that production, and consequently increased buoyancy of the revenue. It is obvious therefore that the first essential step in tackling the growing unemployment problem and halting it before it reaches catastrophic proportions must be the restoration of confidence in the basic industry of this Colony. Mr. Speaker, Sir, the matter is as simple as that! Give the farmer the security, restore his confidence in the future of Kenya, and he will solve the unemployment problem for you.

Mr. Speaker, Sir, I beg to support.

DR. KIANDU: Mr. Speaker, first I would like to say how thankful we all are to the noble Lord for bringing to the House this very urgent problem and giving us some solutions. I think, Sir, that he has gone beyond what most of us have been able to do in this House before by even making his own personal sacrifice—and I call it a personal sacrifice—as a token of his desire to see the problem of unemployment solved. I think, Sir, that he has challenged a lot of people whom we hope will follow in his footsteps and provide the type of opportunity that he has said he will provide to enable a young African farmer to get on.

Now, Sir, it is said—particularly by the last speaker, that the European farmer has lost confidence or is losing confidence in the future of Kenya and that because he is losing confidence in the future of Kenya he has money which he refuses to invest and as a result the importation of agricultural implements is so on is going down. Nothing is fixed because the farmer has lost confidence in the future of Kenya.

Now, Sir, I can only say two things in this respect, that in the first place there is confidence among the African farmers in the future of Kenya and I have seen many African farmers invest, expanding their farms and looking forward to more and more expansion in the commercial agriculture of this country; and secondly, Sir, I think that it is not a loss of confidence that has taken place. It is really a changing system so that the confidence which the European farmer had and which has been based on somewhat old and decayed principles is being shaken because Kenya has decided to be progressive and Kenya has decided to try a new principle and if people have lost confidence in the Kenya of yesterday it is for them and for the Government to catch up with the Kenya of today and the Kenya of tomorrow.

Therefore, Sir, I say that the people whom the last speaker represents should re-examine their views as to the kind of Kenya they want, as to what kind of principles they would like to exist in this country and to govern this country and I feel that many of them will find basis for a new form of confidence which will enable them to make a contribution to the solving of this problem of unemployment instead of making a confession such as, "We have run out of money; the money is there but we are not going to spend it because we do not know about tomorrow." I feel personally that that is a very defeatist attitude for a person speaking for a community to say, "The community has the money but it is not going to help in the solving of the problem because of lack of confidence in the country."

Now, Sir, unemployment is not the only problem that you find particularly in the African areas. You find also a great extend under-employment—a lot of people who have a small amount of work to do, maybe once a week or one hour a day, but they are not fully

[Dr. Kioko] occupied and this is not even a recent problem, it has been one of the greatest wastes of human resources in Kenya that a majority of our population is under-employed. We are worried about under-employment today, perhaps thinking that the unemployed are in worse difficulties than the under-employed. But I hope that when Government is giving thought to this question that Government will also consider the problem of under-employment, particularly, in the rural areas where people work for about a third or a fourth of their time every year for lack of adequate land and a lack of adequate work.

Now, Sir, the urgency of this problem is to be seen in the fact that in some provinces like the Central Province you have had people who have been in detention camps for years, three or four years and so on. During those three or four years, of course, they have not been earning anything and when they have come back they have found their families completely destitute. It is not only that the person may have a little bit to live on but there are some actual cases of serious destitution and lack of anything to eat in some areas in the province.

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

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

Now, these people cannot wait for the Report of the Commissioner to be able to meet the demands of their children. One has only perhaps to go to the "land of misery" as I call it, the area known as where people are actually on the starvation level—a very large number of people. These people will not wait for the Commissioner's Report or recommendations. These are the people whose problem must be faced and be faced now because I believe one of the greatest dangers to security and law and order is not the mischief of man but the emptiness of the stomach. I believe that when our Government is always talking about the need for security and the maintenance of law and order should see to it that money is not only to be spent on more in the police force or a better police force but also in a way to reduce the

number of hungry people and dissatisfied people. And if you can reduce the number of hungry people you will have done much better, I believe, than employing two or three more policemen in that area.

Now, Sir, I then want to turn to the Minister for Education. I know he is also the Minister for Lands; he is also the Minister for Labour. So we have one man for all the arrows we have to shoot. I believe that in the solution of this problem, particularly on the long range basis, he has to look again into the form of education that we have in Kenya. Do we really have an education in Kenya which fits our young men as soon as they leave school to make contributions to the economy of the country? Or do we have an education, which, after the students have left school, means that they have to spend another two or three years being trained by the employers before they can make any contribution? The case has been mainly that we train them and then they have to be trained again by the employers before they can be making any contributions. It is about time our education system comes from a high school is not only good at English literature and reciting Milton but also at being a book-keeper or has been to a class to learn book-keeping or has been given a chance to have vocational training in addition to their academic training. We cannot fill the country with purely academically trained young men and then look to the companies and the industries again to turn them into vocationally trained people when you have institutions and you are spending money to educate them. I think we are giving the country too much education on the one side instead of trying to make of round citizens. I am very much for academic education, but I believe that academic education and vocational education can go ahead under the same head and it should be given to the same head. As a matter of fact, the difficulty has been that this business of separating technical schools from academic schools have given the technical schools a bad name among some students who have the belief that only the academically trained and brainy young men are the ones who go for technical studies which is entirely

[Dr. Kioko] false premise. And therefore I believe that the Minister in his capacity of Minister for Education will try to solve the problem in his capacity as Minister for Labour by looking at the educational system and by trying to put a little more vocational training—technical, mechanical, business, commercial—as well as academic in the same schools, so that some students can have a choice.

Now, Sir, I go now to the question of loans. We heard from the previous Minister for Finance whose presence has graced this House today again that some money—he has become a backbencher these days—times do change—I we heard that a loan was being discussed in the World Bank with reference to the possibilities of raising about £1,000,000 for loaning to African farmers and I would like to say that I, as a representative of a largely farming community, consider this a good contribution. But I would like also to say that as we look for credit opportunities and facilities for farmers we should not put at a secondary position the problem of the traders because if we can extend the facilities of traders we can also extend the opportunities of employment and I think that our rising African traders need as much attention in this question of being helped to stimulate their trade to expand as we are showing in the case of the farmers. This again will be a long range way of increasing employment. And may I say that when the noble Lord mentioned the possibility of a person going and working with him, he opened the door and he showed an example of how the Kenya Government should think in terms of taking those under-employed as well as the unemployed people in the African areas and making a start in what we have called several times the possibility of settling Africans in some of the unutilized land in this country. I think the time has come again of meeting this problem by some settlement schemes of African farmers in the unused parts of the country.

And lastly—I see that the lack of the House reminds me that I have talked too much—lastly, I may say that our trade, which I consider an opportunity again for increased employment, our trade should be made a little bit freer.

We have complained again and again that perhaps we restrict a bit too much in this country and as such I'll initiative in the country. I believe particularly in the trader of foodstuffs, crops and so on, maize and others, we have been too restrictive, and I think some of these restrictions should be removed as soon as possible in order to stimulate trade. In this connexion may I say that I was talking to some people from the Northern Frontier District and they said that one thing they would like to see would be to see the Northern Frontier District no longer called a closed district and made free for the people in that area to move freely into Nairobi and the people in Nairobi to go freely into that area. They tell me that when they are coming to Nairobi they talk of going to Kenya because they feel that they live in a separate land and they feel that they too want to participate fully in the development of Kenya and that their area therefore should also be part of Kenya and that there should be no question of being a closed area.

With these words I fully support the Motion.

THE MINISTER FOR EDUCATION, LABOUR AND LANDS (Mr. Mathison): Mr. Deputy Speaker, Sir, I would first like to congratulate the hon. Member who at present is representing the Mount Kenya constituency on his maiden speech in which he very ably presented a point of view. As the hon. Member is not in his place I hope he will pardon me if I do not follow him in that argument since my purpose in intervening in the debate at this stage, Sir, is to indicate the attitude of this Government to this Motion and to comment on it from the particular point of view of my responsibility as Minister for Labour. I happened to be glancing the other day at a book called "The Complete Guide to Heraldry" published in 1909 and my eye was caught by an observation that the supporters of the Earl of Portsmouth are two goats. It went on to say that these were *chamois*, or wild goats, no doubt because of their *wool-less* capacity to bound from point to point and I would like to assure the noble Lord that I am a firm supporter of his flock today. The Government accepts this Motion, and agrees with many of the arguments

(The Minister for Education, Labour and Lands) that the hon. Member and Seconder used in introducing it.

When we are discussing the subject of unemployment I have in the past given hon. Members some of the available information in its most up-to-date form and I would like to do that today. We have recently received the provisional results from the East African Statistical Department of the employment survey which was carried out on the basis of the returns submitted in June of this year. This shows that at that time in employment were 543,000 Africans, 36,700 Asians, 22,800 Europeans. These figures do not take account of self-employed persons or non-salaried directors and partners or members of Her Majesty's Forces; nor do they include the very large numbers of Africans, both male and female, engaged in agricultural and associated occupations in the African land units. But these figures show that in the 12 months ending in June, 1959, the total numbers reported in employment showed increases in round figures of 8,000 Africans, 900 Asians and 200 Europeans as compared with 1958 and the main increases in African employment were in respect of agriculture—some 3,000—and in private industry and commerce—a further 3,000. These figures, Sir, show that the employment opportunities are expanding and it is interesting to contrast them with figures of the reported unemployment at the same time. By reported unemployment, of course, I can only refer to those who have applied to employment officers for jobs and who have not been found jobs at the time in question. Now, these numbers at that time were: Africans, 4,525; Asians, 395; Europeans, 109. It one takes that as a percentage of the numbers in employment we will see that less than 1 per cent. of those Africans in employment were in fact actively engaged in seeking work through employment offices at that time and in the case of Asians it was just over 1 per cent. I was surprised to hear from the hon. Member for Central Electoral Area that there were 7,000 or 8,000 Asians seeking employment. At that time in June, 1959, there were just under 400 who were registered with employment officers throughout the country for whom jobs

had not been found at that time. Admittedly, the figure has risen somewhat in recent months, but it still is well under 1,000. In fact, in October, 1959, the comparable figure was 673 so I feel that the hon. Member must be exaggerating the position and I am afraid that that is a tendency in many cases which this survey which we are launching is designed to correct.

I admit immediately, Mr. Deputy Speaker, that these figures give an inadequate picture of the true unemployment position and it is against that background that we have determined to try to get a surer indication of the actual unemployment and under-employment position.

I very much agree with the hon. Member for the Central Province South that under-employment is as serious a problem as unemployment in the strict sense of the word. The hon. Member remarked that any further delay in approaching this problem should be reduced to the minimum. I can now assure him that we have already issued instructions to labour officers in the field to begin the accumulation of information on the ground in relation to unemployment and under-employment. The object of the appointment of a special officer to go into this matter further is to collate and classify the information which thus becomes available. Hon. Members may be interested in the terms of reference which we have proposed. These are to investigate and report on the extent of unemployment and under-employment in Kenya, where it occurs, why it occurs and what factors are likely to influence its incidence in the future. I should like to make it clear that the object of this enquiry is to get a better diagnosis of the position. It is not to make recommendations as to what should be done to alleviate unemployment or under-employment, since that, the Government admits, is frankly a task for the Government as a whole, in the light of more precise information than we have at present.

My hon. friend, the Minister for Finance, will, at a later stage in this debate, Mr. Deputy Speaker, if he catches your eye, comment more directly than I can on the second part of the

(The Minister for Education, Labour and Lands) Motion, and on the various recommendations which the noble Lord has made for increasing employment opportunities, so I shall only say now that the Government is not waiting on the results of the statistical investigation before it takes steps to tackle this problem.

One remark which the hon. Member made was that there was inadequate survey available for planning of the type he advocated. I am not quite certain in what directions he feels that the survey which we have is inadequate, but I would very much welcome the prospect if he would visit our field headquarters of the Survey Department, since when I was there recently I was much impressed by the scale of coverage of areas of economic potential and the amount of information which is readily available there from the air photograph techniques which the hon. Member described to assist any enquirers. That is a service which the Survey Department can offer to proprietors of land or people interested in the economic development of any areas since, in most cases, the areas of real development potential have already been covered by air photographs on the appropriate scale.

The hon. Member for the Central Province South drew attention to the need for education and training; and other hon. Members have drawn attention to the problem of the school leavers and the need to find them employment. I agree with the hon. Member for Central Province South that we must look at the nature and structure of our educational system against the background of the need to promote employment opportunities, but I think I would join issue with him to some extent on one of his points, that academic education and training must be allied at all stages in the school system. It is a fact of experience, for example in trade and technical education, and in higher technical education, that without a sound grounding in the basic academic subjects such as English and arithmetic, and a trained mind in the use of these tools of words and figures, it is no good offering technical training beyond the most rudimentary, because that basic capacity to absorb it is less. So I think we must be certain that the basic education is there

before we start directing or offering training schemes for further education in the more technical or practical subjects.

With these remarks, Sir, I beg to support.

COMMANDER GOORD: Mr. Deputy Speaker, I would first like to add my congratulations to my hon. friend who is representing Mount Kenya on an extremely polished speech, and to join issue with him on two particular points. I cannot agree with him that responsibility for loss of confidence among the farming community lies with the policy of Government. It lies, in my opinion, fairly and squarely with the statements and activities of certain politicians, not only my friends who sit immediately opposite but also my friends of the United Party.

The other point that he made was that the population was at present inadequate to meet the development requirements of this country; and that, Sir, in the light of the under-employment which exists, I think is extremely hard to substantiate. And the point I particularly want to make, Sir, in this debate, if you will allow me a little latitude, is that the best laid schemes will come to nothing unless we can tackle the root causes of unemployment.

I think, perhaps, we may define unemployment, simply as too many people chasing too few jobs, and what is happening in the world today, and in Kenya, is that we are trying to create jobs—and I do support the noble Member's Motion so strongly on this—but we are trying to do it in the face of a constantly rising human population. The major problem of the world today, Sir, in my opinion, is that in many countries of the world any increase in wealth, instead of raising the standards of life, is almost entirely absorbed, or more than absorbed, by the increase in population. In many parts of Asia, Sir, this problem has become almost insoluble. Here in Kenya, there is a very real indication in my opinion, that it may become so.

Some weeks ago, Sir, I asked a question in this House which caused some mystification, I think, on the opposite benches. It was in regard to the population trends in this country in relation to

[Commander Goord] other countries of the world; and Government replied—as I must say, I expected them to do—that they did not know the answer. They did not know, authentically, what the population trends in Kenya were. Sir, this matter has been raised in this House, I know, many times, but it is quite a time now since it was raised, and since then we have had the report of the Royal Commission. In my opinion, Sir, the Royal Commission were unduly complacent on this problem of population increase, but it must be conceded that they had no reliable data whatsoever to go upon. The situation, Sir, in the world today is that it is anticipated that the population of the world will double within a hundred years, and as far as we can see in Kenya there is every prospect of it doubling within the next fifty years. This problem, Sir, is with us now, and our first step in tackling it must be to assess its magnitude, and that entails regular census counts suitably broken down.

Mr. Deputy Speaker, current advances in living standards in recent years have, in my view, been due almost entirely to the imports of capital from overseas, and I do feel here, Sir, that the hon. Member for Central Province South is being very unrealistic in this matter. Already there are indications that this flow of capital from overseas is slowing down, and there is a prospect that one day—even if it is not today—it will slow down, and when that time comes it will no longer be possible to continue with the increase in standards of living which we have so far enjoyed. The alternative will then be to increase the death rate or decrease the birth rate, and I do not think it will take a sociologist to decide which is the better of those two alternatives.

Now, Sir, I am afraid I have ranged rather far and wide—rather far from the terms of the Motion, but it is very much related to the present time. We may estimate in the next ten years in Kenya that a million people may be added to our population. Now I think we must relate this figure in turn to the figures which the hon. Minister has just given of something in the order of half a million people at present in employment, and that will give us some picture of the problem, before us—namely an annual

increase of perhaps fifty thousand people requiring employment.

Now I would like to urge upon the House that only action in the next decade can prevent what may become an insoluble problem for future generations, and I do urge Government, when thinking over this particular problem to think not only of the present, but also of the future.

I beg to support, Sir.

MR. MATE: Mr. Deputy Speaker, Sir, I support this Motion very strongly. At the same time there are a few things I wish to point out especially in connexion with agriculture as one of our basic industries, and that is—(Inaudible.)

Mr. Deputy Speaker, I have been talking about this employment so many times I wonder whether Government really cares even to tackle the problem. As my main interest is local trade—in the Central Province we have a number of Boards who are supposed to look after the interests of the farmer who, in turn, employs some people in the way of making sure they get the markets, but when one looks at the many farmers who complain they cannot sell their produce, then one wonders why the Government should insist on restriction on movement of produce, whether maize, peas, beans, or any other produce, whereby a farmer could get money to employ more labour and also to improve his farming, also to help the local trader.

I think, Sir, that the Government is much more interested in the statistics than in the actual problem of the human beings and they should apply themselves more to this problem. The Maize Control Board cannot take all the maize but they insist on people not being able to move their produce. Then they complain that in some areas the people are hungry and in some areas the people are unemployed. I think that this responsibility falls squarely on the Government. I would therefore like to urge the Government to investigate this particular problem of over-production on the one hand and very little markets on the other hand. These restrictions are part of the trouble of the so-called unemployment, because if a farmer can sell all his produce then he will be able to employ a few people. The trader will also be able to sell more goods and employ

[Mr. Mate] a few people. The trader will also be able to sell more goods and employ more people. If the Maize Control say that they can buy these foodstuffs then they should buy it all and at fair prices. Perhaps the Government fears that no maize will be taken through the Maize Control. Why are they afraid of competition? It seems as though the Government is afraid of the small trader. I feel that we should devise a proper trade formula where there is freedom. For instance, the coffee produced in the African areas finds its market through the various societies and unions. The farmer would like more of that. What about maize, beans and beet? Why should the Government always organize the markets? It is time that the Government gave this problem serious thought rather than say and hope that things will be all right. I can assure you, Sir, that today the farmer in the Central Province is beginning to lose confidence in Government and the Maize Control Board and the Provincial Marketing Board. We feel that the name has been changed but that the same arrangements stand. Government should give more thought to this problem and have meetings with farmers in these areas and find out whether the Maize Control should take all the produce. And, if not, what is the best way of dealing with it so as to obviate black marketing. As I have said before in this House, Sir, people are starving today. It is this matter of freedom which is required.

Mr. Deputy Speaker, my second point is on what my friend the Minister said about vocational bias on education. I know of schools and training colleges where vocational guidance is given, where boys are encouraged to think and feel that farming can be a useful vocation, that the white collar jobs are not necessarily the only jobs.

Of course, the Minister for Education stressed the importance of mastering the rudiments of English and so on. I appreciate that. But the number of boys and girls who leave at the age of 11 and 17 are many and only few go on to the secondary schools. There is no opportunity for vocational training, and as things stand they feel that they must use their education in a more orthodox way. I feel that we must take a definite

step, that the Minister must take definite steps to emphasize this particular point. I think that the Minister should appreciate that it is time for this vocational bias to be given to education.

THE MINISTER FOR COMMERCE AND INDUSTRY—(Mr. Hope-Jones): Mr. Deputy Speaker, I must say that, looking round the House, not only on the other side of the House but on my own side, I feel a little lonely. I feel that this is one of the most important Motions that has been before this House for a very long time, infinitely more important than many of the Motions when the benches are crowded by my African and European friends; and by the Government. I find it a commentary upon the seriousness of the intentions of many of my hon. colleagues on both sides of the House as to their intentions in regard to the welfare of the people in this country.

Mr. Deputy Speaker, I think that the noble Lord who moved this Motion today did a very great service and if I may say so in line with the distinction of his contributions which are, I think, for most of us, something we look forward to hearing and contributions which are, if I may say so without offence, too infrequent. The distinction of what he said was matched, if I may say so, by his sincerity.

Now, Sir, he made one very important point with which I was in complete agreement, a point which goes to the root of the economic problem of unemployment and under-employment, and it is this, he made the point that while work-making schemes as such may be valuable as temporary relief measures they are not the fundamental cure for either employment or under-employment. There is only one cure in the long term for unemployment and under-employment, and that is the investment of capital both in regard to agriculture and industry and in regard to human skill. It is only by that kind of development that unemployment can be dealt with upon a long term basis. I was glad that my noble friend remarked that these work-making schemes, necessary though they may be, Sir, as emergency measures, must be worked into a larger economic plan. I need not emphasize that point because I believe that every Member in this House who

[The Minister for Commerce and Industry]

has given thought to this problem, and those who are interested in it will appreciate what I mean.

I would like to congratulate the hon. Member who is acting for the hon. and gallant Member for Mount Kenya. I would like to congratulate him for the clarity of his expression. I would like to congratulate him on the thought that he has obviously put into the question. His speech was, if I may say so, a distinguished contribution from a new Member to this House. But, Sir, I found myself in fundamental disagreement on one point, and one point only. But I would venture to suggest that that point is of cardinal importance, and it is this, the hon. Member referred to confidence. He is, of course, absolutely right when he says that confidence is essential if there is to be investment, a point raised by my hon. Nonmember friend on this side of the House who has just gone out. But, Sir, in saying that confidence is necessary, I think that he overstates his case by quoting evidence which, in my view, was probably quite correct but which was selected in regard to one aspect of our industry. Now, Sir, what are the facts? He is correct, I believe, in saying that there has been some decline in investment owing to a certain lack of confidence, in mixed farming recently. But, Sir, he is completely wrong and the facts will refute him, and I will give them in a moment when he says that in agriculture in general there is little new investment. If the hon. Member would go to Kericho or if the hon. Member could have attended a meeting of the Tea Board, which I did yesterday, he would know that the rate of investment in the tea industry today in Kenya is running at something like £2,500,000, new money, per annum. Now, Sir, that is a lot of money in one industry. There is also new investment in other plantation industries and in other aspects of agriculture, but I do not refute the point he made very carefully and, if I may say so, very moderately, in regard to certain sections of mixed farming.

Now, Sir, what is the position in regard to capital investment in industry? In the last ten years the national income of Kenya has increased approximately three and a half times. During that period the contribution of manufactur-

ing industry has increased nearly 600 per cent. How has that been done? That has been done by investment only. There is another way in which industry can develop except through investment. In 1948 there were in the whole of Kenya, about 100 factories. Today there are thousands of factories as defined under the Ordinance. I am not referring to workshops. Some of the largest-scale investment that any Colony has ever experienced is being made in Kenya at the present time. Can anybody suggest seriously that there is no confidence in the part of those who make investment decisions when a refinery costing between £15,000,000 and £20,000,000 is going to be built in Mombasa, and that refinery is there not for the next five years or the next ten years but indefinitely; an investment which cannot be taken away, an investment which is made without the backing of oil resources in this country, that is being put in Mombasa to refine crude oil brought from the outside? Why? Simply because they believe that this is a good place to put an investment. Why do they put it here? Because they like us in Kenya or because they believe that the security here is greater than in many other countries that I could mention, or that the hon. Member could mention. I was amazed, Mr. Deputy Speaker, that an hon. Nominated Member could get up and talk about a general decline in investment when the facts refute him. I fail to see what service any Member of this House is doing unless they recognize the facts when they wish to draw conclusions. Of course, it is perfectly correct to say that in certain directions investment has declined or that it should be more. I have no quarrel with that. But why is it that, having said that, unjustifiable conclusions are drawn which can only result in the diminution of confidence and the diminution of the investment that we all want to see.

I might as well say some more unpopular things, and I propose to do so. My hon. African friends also have a responsibility in this matter. Just as I have suggested that certain other Members should look at the whole of the facts so some of my African friends should consider, if they are interested in providing employment through investment for their own people, the results of some of their more ill-considered remarks. Now, Sir, I am not

[The Minister for Commerce and Industry]

being political. I am not suggesting that everybody is not entitled to express their political aspirations, of course they are. But, Sir, I do suggest that some of the remarks they have made referring to immigrant enterprise in this country can have nothing but disastrous effects on confidence. I am not suggesting that they should not make their suggestions with regard to constitutional advance, of course they should, and in itself that does not in any way destroy confidence. But let us realize that this country, for the next 50 years and more, is dependent, not only on what we can save, on what we can produce ourselves, but on skill and capital from overseas. That skill and capital, whether it is in the form of monetary investment or human investment, does mean minimum guarantees for security which must be given willingly.

Sir, I believe, as I said in opening, that the noble Lord did a public service in moving this Motion. I feel that he put his finger right on the point as to how we can solve this problem in the long term. I, naturally, support the amendment, and I am glad that the matter is to be surveyed and I am glad that there is to be an assessment of, if you like it, work-making schemes in the districts, but do not let us, Mr. Deputy Speaker, lose sight of the only solution for our economic problems, the only solution for unemployment and underemployment, which is economic development and that is dependent, in its turn, upon the development of our indigenous resources, both human and material, and the importation of those capital and human skills that we cannot produce in this country. Let us not lose sight of that, Mr. Deputy Speaker, and let us be careful not only in our thoughts but in what we say.

I beg to support.

MAJOR DAY: Mr. Deputy Speaker, Sir, I would like to support this Motion wholeheartedly. I was not, I regret to say, aware that there had been an amendment. I am supporting the Motion, as such.

Sir, unemployment only leads to increasing political bitterness, and in a developing country such as Kenya you can divide, I think or suggest, your

potential producing human element into your manual labour, your technically skilled labour, your literate or semi-literate workers, and your main employers of labour, whether they are ordinary average-scale income group personnel or the large companies. Everybody has said that more capital needs to be introduced into this country. That is so obvious that I will not emphasize it. But there is one point I would like to bring out, and that is that in a developing country such as Kenya we have a great parrot cry today for more and more education. This is quite right. Everybody wishes, if they have not themselves received an adequate education, at least that their children should do so. Nevertheless, I think, Sir, that it is even more vitally important when you cry for education and when it is agreed by a Government that that Government should occupy itself with resolving as to how it can adequately employ the final product of that education. This, I think, is historically correct in recent years. If you look at India and other countries where education was emphasized, and when that education produced its finished or even not entirely finished products, they had no jobs to go to. I will always remember, too, that somebody who has recently been educated is generally left to go back and take up anything that may smack of manual work. I consider, Sir, that we are living, to a great extent, in a fool's paradise today in Kenya. Constantly in this House it is reiterated by one person or another the demand for money for this or for that, all perfectly reasonable schemes no doubt, but I find myself in full sympathy with the Government on this score because it is virtually impossible for them with the revenue that is produced in this small country today to attempt even to fulfil half the demands, the increasing demands, which are made on them. I would assess that they would need £100,000,000 of revenue per year to satisfy 85 per cent of what they are asked to do. This is not because I have any love of Government that I say this. I merely say it because it is so obvious and, in some ways, the reiterated demands can become pathetic in my opinion.

It has been said in these last few days, and I will only touch upon it briefly, that there should be a priority of

[Major Day] Government spending. But is this, in fact, ever seriously considered? What are the terms of that priority? Is it a priority designed to be revenue producing, or is it not rather based or calculated on the terms of the economic return calculated rather as a sop to political clamour. I would say, Sir, that in this particular context of the subject matter we are debating today, namely unemployment, it is the very people of this country themselves whose interest are often denied by the demagogues who profess to serve them; and not only are their interests denied in the way of employment, but in the raising of the standard of living.

To create employment we must attract money for development. I did suggest when I was very brash in the speech I made in the Budget debate in this House that a sum of £50,000,000 could possibly achieve something in the way of that development on very low interest rates. I am wondering whether that was, in fact, enough to meet the situation which confronts us in Kenya today. Money, other than the world welfare money, if I may use such an expression to indicate the various loans or grants which are from time to time available, is advanced only when there is financial confidence in a country. It is rather like an ordinary individual. You are not going to lend money to a friend of yours no matter how much you may like him. I am not going to suggest, Sir, that this country is not financially stable. I am, however, going to suggest, Sir, that every extortionate demand on the political plane, no matter from whom it may emanate, raises even further doubts in the minds of those hard-hearted financiers and merchant bankers who we would normally look to for loans to develop and to provide for employment by that development in this country. After all, they are responsible to their shareholders; they are not going to risk money if they do not think there is a fair chance of making something on that loan and a fair chance for the security of their capital. World welfare money may not necessarily be tied by these considerations but it is clear, when all is said and done, that this money is, after all, contributed by the actual productivity of the people of these countries. The lesson would appear to be this; that we should

concentrate in this country on demanding and creating, in so far as we are able and irrespective of our differences of opinion; a future which is not bedevilled by this constant political bickering and friction, where each community can be sure of reaping the rewards of its industry, and live as they would wish to live without these constant reiterated pinpricks and threats. The main consideration is to provide employment for an increasing population and also to raise the standards of living which, as everybody knows, is in some cases low. I contend that this can only be done if we, by our sense of responsibility here, show the world that we are a fit receptacle for additional capital. I consider that unless this happens very soon there will be little hope of achieving any true cure for unemployment or ever raising the standard of living. Platitudinous expressions condemning unemployment and reiterated demands for more employment achieve absolutely nothing. I have endeavoured to show that we must have a completely realistic approach.

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

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

I would like to quote a small instance. Sir, of what I consider to be detrimental to confidence in this country. I must declare a certain interest, Sir, in that I am a rancher. I have heard it said repeatedly that there are thousands and thousands of acres in this country owned by one man or one company. It has even been suggested that this is in some way wrong and that it should be split up so that more people could settle upon that land. People who think like this, Sir, should look at other countries where democracy has stamped far further than it has in this country today. If they do that they will see that the acreages of our ranches—and ranching is a very considerable industry in our country today—are, in fact, smaller on the whole than they are in most of the countries where ranching prospers in the world today.

I think it would be a lasting contribution if people who make these remarks, Sir, would reflect before they make them. I think that even if, reluctantly, they should change their minds and base their

[Major Day] statements on what is fact and not on something which they may wish to put across perhaps purely from political motives.

I also think, Sir, and I say this with a certain amount of regret—but I think it has got to be answered because of a remark which was made by the last Nominated Member who sat down, I think—that if we are going to be realistic that something must be done that will attract these hard-headed businessmen who may be prepared to put capital into this country. I think we should be realistic politically also and I do not think that just to hope piously that everything is going to turn out for the best would appeal to an entrepreneur. It must be realized that the only thing which will appeal to these hard-headed gentlemen is a determined indication that we are going to have a reasonable and determined and strong Government here for many years to come.

I beg to support.

MR. OLI TIPIS: Mr. Speaker, Sir, I rise to support the Motion very, very strongly. First of all, it is quite true that in order to provide many more employment facilities we must create capital in this country. There is no doubt about that. I think the question of unemployment which now exists in this country should be tackled on the one hand with a general economic planning and the development planning as a whole, because we must really find schemes and distribute them widely in the remotest parts of the country in the African land units and have more secondary industries in those areas which are more congested and which are pressed most hard with unemployment problems than the other areas. I do not see why we cannot, for instance, have processing industries in the agricultural areas in the African land units as well as proper marketing organizations to export our surplus foodstuffs and thus get more money put into our country, instead of getting a lot of foodstuffs like potatoes, thousands of bags, going to waste every year, because they could bring us a lot of money. Sir, into the pockets of our farmers. That money would enable them to develop their farms and at least employ one or two labourers on their smallholdings. I think we ought at least to try to tap our

natural resources in this country. I do not know to what extent the Government has gone into the problem of finding out the mineral deposits in this country and other minerals. For instance, I remember at one time, I think it was in 1926, there was an American company which was interested in investing at least some money to mine diatomite. I know, if my recollection is right, that we have diatomite deposits somewhere near Ndeiya on the Kikuyu/Masai boundary this should not be tapped. I do not know why. That has been left untapped, I do not know why.

The other thing is, as most other speakers have said, that surely we must create capital in order to relieve the unemployment position. That is quite true. Some Members have talked about encouraging outside investment into this country. We have no quarrel with that. We quite welcome that. But let nobody try to impale that; we, the African Elected Members, are the main cause of these discouragements. On the contrary, Sir, we welcome it. In fact if we were in power today we would all go out to encourage the flow of outside investment into this country because we know it is for our country's good and for our people's good. The harm is that some people in this country with their half-hearted measures and half-hearted minds are, as such, doing great harm to this country. They talk of insecurity, lack of confidence: I do not really understand it. Where is all this lack of confidence coming in from? Where is this insecurity? There are people who have one leg here and one leg abroad. They tell us every day that they are Kenyans, and yet when they go out of this Chamber you hear them say, "I am going on home leave." They are people with homes. They want to tap the resources of this country and take them back abroad. Those are the people who we feel are exploiting the resources of this country unnecessarily. Then they talk of lack of confidence in the country. Nobody can understand that, Mr. Speaker. There is no possible insecurity for anybody provided of course that he is prepared to share and reap the benefits of this beautiful land with everybody else equally without expecting to be allowed to do whatever he likes as a privileged person. That is where the quarrel is, Mr. Speaker.

[Mr. ole Tiplis]

Now, the other thing, if I may go on, is the people who have made financial gains in this country. I would like to know from our Government one of these days as to what amount of our national income is taken out of Kenya to other countries. I should say that if these people are really sincere they should at least invest more and more money in the development projects of this country which they call their own, instead of sending this money abroad. The Government should encourage this. We must also encourage whatever money we have in this country to remain here.

Now, Sir, let us encourage our small traders. It will help them out. I did at one time ask the Minister for Commerce and Industry whether the Government was thinking at least of appointing one officer with the specific job of helping the African traders in every province. I do not know whether that appeal fell on deaf ears, because I strongly feel that such appointments will bring very, very big dividends indeed to Kenya's economic standing.

The same thing applies to our farmers, farmers of all races, both European and African. Let the people do a job there. It is hard work to raise capital and such people should be helped financially until they can stand financially on their own feet, and having raised the money in the country and having raised the standard of living of our people and having removed unemployment, then we can always get rid of a lot of evils: if we do that we will not hear any more of these needs for preserving law and order and many of such heavy expenditures on our Colony's Budget.

Now, another thing which surprises me also, Mr. Speaker, is this question of importing into Kenya some unskilled labourers. We know for certain that a few men are allowed to immigrate into this country; they have no skill whatsoever and they come to be supervisors or foremen of gangs of labourers who are spreading mirram on roads, and they are people who come to be sort of headmen on a farm or assistant managers, whereas we have sufficient manpower here. On the other hand, Sir, we have some of our own Makerere graduates: we have some

school certificate chaps. They are roaming all over the country looking for jobs; there are many of them and they cannot find jobs. Why bring a man into the country to become a foreman just to supervise a gang of labourers on our roads? These are unskilled jobs, whereas the people we have in the country are already unemployed and are suffering.

Now, I see that the time is running short; but I should say that we must really be constructive, not destructive. We must stop trying to blame one another and say that the African politicians are frightening capital away. We say that some of these people do not want to invest; they want to get as much as they can from the land and take it away abroad and invest it in what they call "going on home leave".

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

THE SPEAKER (Sir Ferdinand Cavendish-Bentick): I would like to draw the attention of hon. Members to the fact that I will call on Lord Portsmouth to reply in half an hour, and that there are a number of hon. Members who still wish to speak.

MR. ROGERS: Mr. Speaker, I would like to apologize to the hon. Member for not having been able to be here to listen to his speech, unfortunately I had another appointment, but as a member of the Wages Advisory Board and as an employer this is a matter which of course concerns me very deeply.

I would like to say at once, Sir, that unemployment is one of the worst curses that any country in the world can have and of course the time to investigate and take action is, before the situation becomes really serious; and of course I support the Motion.

I feel, however, that we must take a realistic view and a responsible view of this matter for opinions are advanced in some quarters regarding the cause of unemployment and I feel these should be answered. I feel we should be very clear in our minds what will and what will not cause employment when considering the general economy of Kenya and the well-being of our country. The argument, for instance, is advanced that any increase in the Adult Minimum Wage causes unemployment. As hon. Members will be aware, we on the

[Mr. Rogers]

Wages Advisory Board are charged with advising the Minister in regard to the advance of the Adult Minimum Wage in each of the main towns of Kenya on the figure of 1.67 times the Youth Minimum Wage, that is, under 21. This, Sir, is to be done over a five-year period depending of course on economic and other considerations. As a matter of fact, Sir, the youth minimum for Nairobi is Sh. 73 a month, giving a final adult minimum wage of Sh. 121/9/1. The argument is advanced that because employers have to pay their people more, pay them higher wages, if there is any advance on the 1.67 principle they will have to employ less. I feel myself that this argument is very similar to that used sometimes with regard to automation and mechanization and that the error in it I think is well illustrated by the story of the busybody who was watching a mechanical digger excavating a trench. After watching for a bit he said to the foreman, "Employing that mechanical digger you are only using ten men; if you used shovels you would employ 1,000." The foreman replied that that was indeed so but he said, "If we used teaspoons we could employ 10,000." I find myself unable to accept such a policy. I feel it is essential to build up a proper, efficient, stable labour force in this country. The labour force of any country in the world is one of its greatest national assets and must be properly and productively employed. This is progress. The other way I feel leads to stagnation and there is no future in Kenya in such a policy. I feel we should never consider that we must pay low wages simply to employ a large wage force. The higher wages will of course tend to force, and rightly so, employers to prune their labour force, to employ less people but more productively. But the very fact, apart from other considerations, that the ones who remain get higher wages will generate the demand for additional goods; and that will in turn generate additional employment to provide those goods. I feel it will be very interesting to find out the views of the Commissioner when he reports to us. I was very heartened to hear the Minister say the other day that he agreed with me that the advance of the adult minimum wages does not in fact cause unemployment.

Regarding the second part of the Motion; I feel that a note warning should perhaps be sounded. Naturally every advance of the adult minimum wage is always doing its best to create employment. I feel that our Government is undoubtedly not without savour in this respect, witness, as has been mentioned by our Minister, the recent acquisition of the refinery at Mombasa; and I would here like to say how much we in the business world appreciated the excellent way in which this was done.

I feel, however, that we want to be very careful not to call for detailed investigation and at the same time perhaps take hasty action before we know the facts. For instance, in the field of agriculture, supposing we find that unemployment is very serious indeed in area "X", we therefore speed up planned land consolidation which of course provides employment. It would be very unfortunate if, when we get the report, we find that we have speeded up planned land consolidation in area "Y" where, when we know the facts, we find that unemployment is virtually unknown. That would be working without the facts, which would be the last thing we should do.

Another thing is to persuade labour to move from one area to another. However, here again, this must be properly done. We must know the facts before we move into operation. We must know where unemployment lies. Otherwise, Sir, I feel our labour, and of course I am talking about all races; may well say to our Minister, "Sir, you are treating us like cows. We do not know whether we are being led into prosperous grazing grounds or to the butcher."

The provision of industrial employment is highly complicated and highly technical and, I would emphasize, can be highly expensive. It can; however, be done, as has been proved in Northern Ireland where in the space of the last few years no less than 140 new firms have been erected into that area.

I would like to support the Minister for Commerce and Industry in his confidence in Kenya. Speaking as a business man I would like to say that we have unbounded confidence in Kenya and speaking as one industrialist, I have two factories in Kenya, and as soon as hon.

[Mr. Rogers] Members opposite can persuade their constituents to consume more of my products I will be delighted to build ten more.

I would agree with the hon. Minister that greater care should be taken in making public statements because the position of confidence in Kenya, particularly for the overseas investor, could in fact be shaken.

Now, I cannot agree with the hon. Member for Central Rift—unfortunately he is not here—for I do not think we can expect people who have money to invest to go and live in the country in which that money is invested, in every country. Apart from anything else, Sir, it would be physically impossible. I would also like to remind the hon. Member, Sir, that the world is desperately short of capital. There is the fiercest, most intense, competition for capital and I feel that we ought to beware of tying any strings whatsoever to it.

I beg to support the Motion.

Mrs. SIAW: Mr. Speaker, Sir, unemployment always brings about, as the hon. Mover said in his most impressive speech, not only human tragedy and misery but, I think, constitutes one of the greatest threats to the security of this Colony; for unemployment brings in its wake hunger and misery and produces an ideal seed-bed for sedition and civil disobedience. Industrial disputes not only brings production to a standstill—on which the economic life of the country is based—but it also usually means an increase in unemployment, because during strikes it is usually found—it has been so in Britain, certainly in the General Strike of 1926—that the economy of the country can be carried on with a lesser labour force.

Development of mechanization is often brought about through the fear of industrial strikes. Only last night I was watching a very interesting and excellent film made by the tea industry about its growing production in this Colony, and I saw for the first time shown on a film the mechanical plucker. Now that is a machine which so far has not been successful and is not really a commercial proposition—but it is being developed, and I believe, coming from the tea industry—from the tea-growing area—that it is the fear of industrial strikes

and the possibility of large companies being faced with the general down tools that industry has been forced to think of these machines such as mechanical pluckers, the introduction of which would throw hundreds of thousands of people out of work all over the world.

This country has up to date—as the last speaker said—been based to a large extent on a low wage economy. I think a low wage economy is the most un-economic form of labour you could possibly have, and I believe that with education the standard of living must go up and as the desire for higher standards of living is created throughout our peoples, so much the output goes up. That also, as the last speaker said, will be another factor, in an increase of unemployment, because you will undoubtedly be able to employ a labour force with a higher standard of working output which will mean less bodies. But if we are to compete in world markets—and that, Mr. Speaker, must be our aim and object—and if our country is to progress in every way, our people will become educated and demand, rightly, a higher standard of living, then we must learn that that higher standard of living has to be paid for with harder work.

With all these factors which will come about in the foreseeable future—land consolidation, which may provide temporarily a small increase in employment, but I believe will eventually bring about a higher output of production in the African land units, but also will mean that certain members of the family are bound to be dispossessed, and will have to go out and earn their living in another field, in industry. With all these factors of mechanization and higher standards of output coming into being in the foreseeable future, I believe that the Government must tackle this very urgent problem at the soonest possible moment. I should therefore like to support this Motion in its entirety and everything that the hon. Mover—and indeed the hon. Second—said in their extremely able and sincere speeches.

I beg to support.

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. MacKenzie): Mr. Speaker, Sir, I am very glad to be able to support this Motion. I think that the debate which we have had this morning has been a most useful and constructive

[The Minister for Finance and Development]

and starting from the extremely able one, and I may say so, imaginative speech that the hon. Mover started it with, and I think that we can say that the approach throughout was been kept up to that standard. I was very pleased, Sir, when the hon. Mover said that this was not merely a matter for the Government. Of course, it is not, and it never can be. This is a matter for all the people of the country to deal with. The Government's position is in part to create a certain amount of employment directly, which we do by means of the development plan, but it is much more, I think, to create conditions in which a greater and spreading employment can be brought about. To a certain extent our problem, I think, Sir, is rather different from that of more developed countries where there have been states of full employment and then there has been a falling away from that, and there has been considerable unemployment. Here, it is much more a question of building up our industry and our agriculture. Our agriculture is, of course, and will long remain, our main industry, and all our other resources, so that we can provide employment for all the people in the country who want to have employment. That is one way in which we really shall increase our wealth and, at the same time, see to it that we do not have the scourge that other countries have known.

In order to do that there will have, I am sure, to be a certain amount of dislocation from time to time. For instance, we are told that there has been a certain amount of dislocation owing to our pushing ahead with the land consolidation programme, but I am quite sure, as the hon. lady who spoke last said, that the land consolidation programme will, as time goes on, not only create employment, but also will increase our wealth and our production, and thereby will of itself create more and more employment of a different type. That, Sir, is what we must aim at, and that is what the Government is trying to do.

So far as the Development Plan itself is concerned, Sir, there has been a good deal of stress laid on the fact that our resources are not unlimited. They are not, Sir. They are, in fact, only too

limited in view of our requirements, and we must see to it that the resources that we have are put to the very best use that they can. What we must do is to concentrate on those projects which will increase our wealth as rapidly as possible, and which also will create conditions in which further wealth can be created, and in which in doing so we shall, naturally, bring more and more people into employment.

There were quite a number of points mentioned which will be covered in the development programme for the next three years when it is brought before the House. I do not wish, Sir, to anticipate what will be in the Sessional Paper when it is brought forward, in fact it would be very wrong of me to do so, but I do not think that I should be giving away any confidences that I should not if I said that one of the main things that we shall have in mind, and that the Development Committee has had in mind, is the importance of finding money for loans for farmers of all races, and the Government has, of course, had particularly in mind the question of providing loans for the African farmers in the newly consolidated lands. The Government realizes that if we are to get the very best benefits from consolidation and from farm planning it is essential that farmers should have an adequate source of capital, and that, Sir, is one of the things for which we hope to get reasonable substantial sums of money.

Feeder roads were mentioned, and there too the Government hopes to be able to get a substantial sum of money for this purpose. Negotiations are still under way, and one does know what the final outcome will be, but at the present moment one hopes that things should go well, and in any case I would agree that whether money can be obtained from outside or from within the Colony, some provision must be made for these two very important points because it is no good consolidating the land if it cannot be subsequently developed, and it is no good developing the land if we cannot get the produce out. Those are, therefore, Sir, two points which we have very much in mind.

As regards forestry, considerable provision will again be made for that. The House is aware of the progress which

[The Minister for Finance and Development] has been made in forestry during the past years—a considerable amount of money which Her Majesty's Government made available for rehabilitation purposes has been diverted, or at least has been put into forestry, since that was one of the ways in which not only could the natural resources of the Colony be increased, but it was also one which absorbed a considerable number of people in employment. That programme will be pushed forward.

And finally, Sir, there are the various proposals for irrigation. Those, too, will be carefully gone into, although, Sir, as you and the House are aware, there are sometimes difficulties in the way of irrigation, in that one has to be quite sure that having produced the irrigation scheme it is going to be produced in a place where one can persuade settlers to go. That is one of the important things to bear in mind on matters of this kind, and to make sure that the very large sums which can be spent on this purpose, having been spent, that somebody is going to derive actual benefit from them by being prepared to go to the places where the schemes are.

The hon. Member, Sir, mentioned local savings, and in that regard I mentioned during a recent debate that the local development bonds, which were, I think first mentioned in the last debate we had on this subject, were going reasonably well. I am glad to be able to say that the total receipts are now over £100,000, and that so far the flow is continuing very well. I hope it may long continue to do so because I think that is one of the ways in which we can bring in more and more local savings in relatively small amounts, and to that extent we shall help the development programme of the Colony, and we shall also make ourselves that little bit more able to deal with this problem which we have been discussing this morning. It will also ensure that the money involved stays in the Colony, and that we have not to pay interest abroad, nor have we eventually to pay the principal back abroad.

As regards local loans, Sir, I also mentioned in a recent speech that, during the last year nearly half our total development receipts—over £2,500,000

were raised on the local market, and of that the East African Currency Board contributed £1,500,000 and the rest of the market rather less than £2,250,000. I have one or two more figures here which I think will be of interest to all hon. Members. Since 1st January, 1954, and this includes the savings bonds—since 1st January, 1954, the total amount raised in local loans has been £14,500,000. In that sum £4,000,000 has been subscribed by the East African Currency Board, and the rest has come from other sources—that is a sum of over £10,000,000. I might say that, although the Currency Board has subscribed £4,000,000 their actual holdings are rather less than that now because they have been from time to time off-loading their holdings on to the market, and that, of course, is very much to our advantage because they will have that much more to help us with when we need further short- or long-term money from that particular source. I think those figures show, Sir, that there have been very considerable efforts to borrow on the local market, and that is, particularly so when it is considered that during the same period we have only been able to borrow £4,200,000 from London. We have borrowed over £10,000,000 more locally than we have been able to borrow in London. I think that, Sir, shows that we have been taking this matter seriously.

There is one final point I would like to make—one point of detail—and that refers to the figures which were given by the hon. Member for Mount Kenya. I would like to congratulate him on his very clear maiden speech. It was a very thoughtful speech, but there was one point on which he quoted certain figures which rather differed from the ones that I have, and that was in relationship to the imports of producers' capital goods. The information that I have, Sir, is that these rose by some 47 per cent between the first and second quarters in 1959. They fell by 11 per cent between the same periods of last year, and I think what has been happening is that last year particularly in the early months of last year we were in a recession, and the figures that we have available at the moment suggest that we are now coming out of that position that we have been in throughout this year. For example, I think one thing that may have given the

[The Minister for Finance and Development] impression that we have not been doing so well this year is that during the early months of last year there were considerable importations of railway rolling stock and commercial vehicles. Between them nearly £2,000,000, whereas this year there has not been quite the same imports of those things, and if we exclude railway rolling stock and commercial vehicles, and if, that is, we take the industrial and agricultural machinery on their own we find that the net imports in the first half of this year were 30 per cent higher than for the same period last year. That, I think, Sir, shows, and it bears out what my hon. friend the Minister for Labour said in his speech, that there has been a recovery during the current year. The Government certainly will do all that it can to see that that recovery is maintained, but I must say once more that really this all depends, not only on the Government but on all of us, and I hope that we shall have the same sort of co-operative effort in bringing about this improvement in the economy as we have in what I would like once more to say has been a most constructive debate this morning.

Sir, I beg to support.

LORD PORTSMOUTH: Mr. Speaker, Sir, I would first of all very much like to thank all sides of the House for the support they have given to this Motion and, of course, not least the Government Benches for accepting the Motion and for the things that they have said.

Sir, I too would like to add my words of congratulation to the hon. deputy Member for Mount Kenya for the vigour and eloquence which he produced for us and as it is, I think, a general rule not to go into controversial argument over a maiden speech I will leave that as it stands.

Sir, I am particularly grateful to the Minister for Labour and Lands for accepting the Motion and indicating to us the quite considerable moves that he has in hand and also the fact that there is in his mind quite clearly and on the Government side a sense of urgency in this problem.

Sir, it is useless, of course, as I think he pointed out to go into the employment

figures about the increase in known unemployment because they are both very difficult things to assess. But I would like to suggest that as I think the hon. Nominated Member, Commander Gool, suggested, it is really the birth rate more than anything else which is going to govern our possibilities of employment and re-employment. Sir, if we had the figures—and I have not been able to discover them myself—if we had the figures of people leaving, say at 15 to enter into the labour market as against the figures of increase in unemployment, we would have a much better idea of the picture in general and also, Sir, it seems to me—I did not say this, this morning, because I did not want to take up too much time—leaving aside the question of credit squeezes and that the world recession in trade is recovering we have got, apart from the birth rate and apart from the decrease in the death rate four other causes which must swell unemployment. Intensive land consolidation at the moment without the extra credit, for people happen to be unable to use the land more intensively, the success of rehabilitation—which is something that we can all congratulate ourselves on, but it has thrown on 75,000 extra people onto the market—and all the running down of the Emergency, are all things which have very seriously increased our problem, apart from the total birth rate.

Sir, I was very glad indeed to have the Minister for Commerce and Industry say what he said about confidence and give a review of what is going on to the Benefits of this country in investments today. There is no easier way of getting rid of confidence than by talking no confidence and I think that it was a really good tonic to hear him say what he did say on this question.

Sir, the hon. Nominated Member for Moshi—if I may so call him—gave us a most interesting speech, I thought on both wages and mechanization. Now, I think the only remark I have to make on his wage policy is that for years and years in England ever since I started to farm I tried to increase and in the end successfully the country agricultural wage. But there came a moment when the increase was so large that it led to about 30 per cent of the people leaving the land. Now, that is not serious in England, but the

[Lord Pothmouth] moment except that it has lost the way of life of the people but it did mean that if there had been general unemployment around it would have served seriously to increase it. So I think there is in my view a gradual movement that should be made for a rising wage to let in with our means to pay and our means to deal with the situation and to export more.

Also on machinery, again I accept his general view of mechanization, but supposing if I have 60 acres of land that could produce good crops, do I wait for a loan to buy a bulldozer or do I hand stump it with my own resources and oxen. Now, that, Sir, I think applies to quite a good many things, to things like feeder roads. We have got to import the big machinery. We do not have to import the hands.

Sir, I was also very glad that my hon. friend, the Minister for Finance, told how much local capital had been used for developing in the last few years but I would again urge him to reconsider with the tax concessions involved in it my idea of a Development Bank which could take the surplus of income on a tax free basis for a fixed period. I outlined it last year and I outlined it last June and I am not going to pursue it any further.

Sir, it was necessary that he had to be vague in outlines for 1960 but there again I welcome the hopeful side of his remarks. Sir, it is a big problem. This House has not treated this in a mean way from any side and I think if we carry as the Minister for Finance suggested that some spirit into working it out in the field, we will make it no mean country.

The question was put and carried.

BILLS

REPORT AND THIRD READING

The Traffic (Amendment) Bill

THE CHIEF SECRETARY (Mr. Coutts): Mr. Speaker, Sir, a Committee of the whole Council has considered the Traffic (Amendment) Bill, 1959, and has reported the same to this Council with amendment. I therefore beg to move that Council doth agree with the Committee in the said Report.

MR. CONROY: I beg to move that the Traffic (Amendment) 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 the Third Time and passed.

SECOND READING

Control of Nets (Nyanza Province) (Amendment) Bill

Resumption of debate interrupted on 10th December, 1959.

THE MINISTER FOR FOREST, DEVELOPMENT, GAME AND FISHERIES (Mr. Blunt): Mr. Speaker, Sir, I think Members who have sat in this House for any length of time must be as tired of hearing me explain the reasons for controlling the use of nets on Lake Nyanza as I am of use of nets on Lake Nyanza on behalf of hearing continued pleas on behalf of the law-breaking element in the community. Nevertheless I am afraid I shall have shortly again to explain the reasons why we control the fishing.

The fact is that if you have nets the size of 3½-in. and 5-in. meshes used in the fishery they take a large proportion of the fish that are going to be the breeders to produce subsequent generations of tilapia and they take those fish before they have bred. And if that breeding stock is reduced in that way the fishery in time is bound to become depleted. Now, Sir, there are approximately 4,000 registered fishermen in Nyanza. I do not know what the proportion of those who are law-breakers are but if we put it at 10 per cent that means that 400 fishermen are fishing illegally and they are taking far more than their share of the fish and of the breeding fish and they are therefore depleting the value of the fishery for the 3,600 others who are prepared to fish by legal methods. And if that is the position I should like to hear much more support for those 3,600 legal fishermen from hon. Members talking about the subject from Nyanza than their continual plea for lenience to the odd few who will not obey the law and therefore tend towards ruining the fishery for others.

[The Minister for Forest Development Game and Fisheries]

I would only like to say further on this point that since the regulations have been lifted in the regulations have been found that the fishery there has gone downhill even more rapidly than was expected to do when those regulations were lifted.

Dealing with one or two particular points that were raised, first of all by the hon. Member for Central Nyanza, he said that it was very difficult if nets were marked as 5-in. nets and were on sale in the shops and people could go and buy them and then found that in fact they were not 5-in. nets but they were illegal nets. That, Sir, is exactly what we are trying to deal with in this amendment to the Ordinance. We hope that we shall prevent that sort of thing happening in the future. He then went on to point out the difficulties over the measurement of nets and there I entirely agree with him. There is a difference between the measurement of a mesh measured wet and the same mesh measured dry and it is exactly in order to try and get to a standard formula that we are asking for these further powers to schedule what nets may be used and how the measurements of the meshes of those nets shall be taken.

He then went on to talk about people being victimized and the fact that they do not make large profits in the Lake and there I believe, Sir, my previous remarks apply. The people who do not make large profits in the Lake possibly are the people who fish legally because the few others who fish illegally get by far the larger share.

And then, Sir, turning to the remarks of the Member for Southern Area, he also made a plea for saving the fish and pointed out that fish are required for food. Well, Sir, it is exactly for that purpose that this amendment is being brought forward and regulations under it will be imposed. It is to maintain the fishery so that it can give a continuous yield for the benefit of the fishermen who live by fishing on it and the country at large and particularly Nyanza who are large consumers of fish.

He further said that the Ministers, and particularly civil servant Ministers, and I would point out that I am not one of

those—should not have powers to make rules in a case such as this. Well, I would only say to him, Sir, that those rules as others when they are made will be laid before this House and if he does not like them he will have an opportunity of objecting to them.

Sir, with those few remarks I beg to move the Second Reading.

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 Caven-dish-Bentinck): Well, that, I think, brings us to the title for the adjournment of Council. I therefore adjourn next Council until 2.15 p.m. on Tuesday next, December 15th.

The House rose at thirty-two minutes past Twelve o'clock.

Tuesday, 15th December, 1959

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

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

PRAYERS

COMMUNICATION FROM THE CHAIR

HOSPITAL TREATMENT RELIEF (ASIAN AND ARAB)

THE SPEAKER (Sir Ferdinand Cavendish-Bentick): Hon. Members will remember that on Friday, 11th December I informed you that I had received from the Council of State the Preliminary Statement in regard to the Hospital Treatment Relief (Asian and Arab) Bill. I have now received, just before the sitting, a further communication from the Chairman of the Council of State, which in accordance with the requirements of Standing Order 95 (A), subsection (2) I convey to the House. It is as follows:—

I have the honour to inform you that at its meeting in public today the Council of State resolved to lay before the Legislative Council, under the provisions of subparagraph (a) of paragraph (2) of section 56 of the Kenya (Constitution) Order in Council, 1958, a report on the Hospital Treatment Relief (Asian and Arab) Bill, 1959, which was published in the *Kenya Gazette Supplement No. 74* (Bills No. 20) of 27th October, 1959. The report, of which two copies are enclosed, sets out with reasons the Council of State's objections to what are in its opinion the differentiating nature and effect of certain provisions of the Bill.

I have the honour to be, Sir,

Your obedient servant,

D. C. MacGILLIVRAY,

Chairman.

The report, if it has not already been circulated, is now in the process of being circulated to hon. Members.

PAPERS LAID

The following Papers were laid on the Table:—

The Lake Victoria Fisheries Service Annual Report, 1958/59.

(By THE MINISTER FOR LEGAL AFFAIRS (Mr. Griffith-Jones) on behalf of the Chief Secretary (Mr. Coutts).)

The Forest (Closing of Forest Roads) Rules, 1959.

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

ORAL ANSWERS TO QUESTIONS

QUESTION No. 12

AIR COMMODORE HOWARD-WILLIAMS asked the Minister for Agriculture, Animal Husbandry and Water Resources how many staff by races are employed by the Ministry of Agriculture at Headquarters and in the field:—

- (a) European;
(b) Asian or Arab;
(c) African; and

How many are housed at the expense of the Ministry in houses that cost more than £5,000 to build?

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Lt.-Col. McKenzie): The answer to the first part of the question is:—

Europeans	884
Asians and Arabs	84
Africans	7,334
Total	8,302

As regards the second part of the Question, Sir, my Ministry does not have any central record of the actual cost of each house built by it over the years but, for practical purposes, Class III houses may be regarded as having cost more than £5,000, and Class IV houses as having cost less. On this basis the answer is that there are at present nine officers, or ten including myself, who are housed in Class III houses, of which five were built by my Ministry and the remainder by the Ministry of Works.

MR. TRAVADI: Mr. Speaker, Sir, arising out of the question, could the Minister explain the reasons why there are so very few Asians in the Ministry?

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Lt.-Col. McKenzie): Mr. Speaker, Sir, if the hon. gentleman would care to put that down in the form of another question I will gather the information and will be only too pleased to answer it in this House.

MR. ARAP MOI: Mr. Speaker, Sir, arising out of the Minister's reply, how many Africans hold higher posts in this Ministry?

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Lt.-Col. McKenzie): Mr. Speaker, if I gathered this question properly it was what are the houses which Africans in my Ministry live in and what is that correct.

MR. ARAP MOI: No. What is the highest post held by an African in this Ministry?

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Lt.-Col. McKenzie): Mr. Speaker, does he mean the highest post or the highest house?

MR. ARAP MOI: The highest post.

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Lt.-Col. McKenzie): Mr. Speaker, I fear that is another question. It has nothing to do with houses whatsoever.

QUESTION No. 33

MR. MUMI asked the Minister for Local Government, Health and Town Planning:—

- (a) Whether he is aware of the urgent demand for an X-ray installation at the Kitui Civil Hospital in view of the long distance from which seriously ill patients have to travel to Nairobi for X-ray examinations and also in view of the vast area from which patients have to be brought to the Kitui Hospital?
- (b) What steps, if any, is Government taking to resolve the situation?

THE MINISTER FOR LOCAL GOVERNMENT, HEALTH AND TOWN PLANNING (Mr. Havlock): The Government is aware of the desirability of installing X-ray facilities at Kitui Hospital. Provision of such apparatus is dependent upon the availability of funds and the training of suitable assistant radiographers. The Government is having difficulty in recruiting candidates for training as radiographers and the Member's assistance in this direction would be appreciated.

The three hospitals most urgently in need of X-ray facilities are Bungoma, Wajir and Kitui and the order in which they will be furnished depends upon the availability of finance, apparatus and personnel balanced against the needs of the area.

MR. NYAGAH: Mr. Speaker, arising out of the Minister's reply, Sir, is the Minister aware that it takes a patient three to four days and travelling more than 400 miles to get to Nairobi from Kitui?

THE MINISTER FOR LOCAL GOVERNMENT, HEALTH AND TOWN PLANNING (Mr. Havlock): Yes, Sir, we are certainly aware of the distances as we are aware of all the factors involved and directly finance is available we will try to meet that need in the order of priority set out. However, I would still emphasize one part of my answer and that is that radiographers and persons available for training as radiographers are scarce and we would greatly appreciate the help of the hon. Members opposite in getting them.

SIR CHARLES MARKHAM: Mr. Speaker, would the Minister consider the extension of the mobile unit at present operating in parts of the Colony?

THE MINISTER FOR LOCAL GOVERNMENT, HEALTH AND TOWN PLANNING (Mr. Havlock): The mobile unit, at the moment, is operating in the Colony but, I am afraid, a very large area to cover. I do not think it is practical to extend it to Kitui but if we get another mobile unit we would of course recognize the needs of the area.

MR. NGALA: Mr. Speaker, in view of the special hardship on the Kitui Hospital, would the Minister give us an assurance that it will be based on first priority?

THE MINISTER FOR LOCAL GOVERNMENT, HEALTH AND TOWN PLANNING (Mr. Havlock): I have given the priority and I can now give us assurance concerning the area between Bungoma, Wajir and Kitui.

MR. MUCHURA: Mr. Speaker, in view of the Minister's reply, is he implying or trying to suggest to us that there are no people who wish to take up this training?

THE MINISTER FOR LOCAL GOVERNMENT, HEALTH AND TOWN PLANNING (Mr. Havelock): There are insufficient candidates being appointed for training as radiographers.

MR. MUMI:—I would like to know from the Minister whether there are any students being trained for this work.

THE MINISTER FOR LOCAL GOVERNMENT, HEALTH AND TOWN PLANNING (Mr. Havelock): My information, Sir, is that there are not any. It might be of interest to hon. Members if I state that one of the reasons we understand why candidates will not come forward for training as radiographers is that there is a rumour going around that radiographic work has a certain adverse effect on the procreative powers.

MR. MATE: What has the Minister himself done about improving the recruiting facilities?

QUESTION NO. 32

MR. MUMI asked the Minister for Local Government, Health and Town Planning whether he is aware of the inadequate lighting facilities in the Kitui Civil Hospital and what steps is Government taking to resolve the situation?

THE MINISTER FOR LOCAL GOVERNMENT, HEALTH AND TOWN PLANNING (Mr. Havelock): In the absence of a public electricity supply at Kitui, the hospital is lit by other means which are as satisfactory as can be devised in the circumstances. The theatre is equipped with electric fluorescent lighting supplied from a battery.

At certain other stations in a similar position to Kitui, it is sometimes possible to run a wire from an existing private electricity supply, in order that the theatre and casualty reception rooms can be lighted by electricity. If and when such a supply is available in Kitui, the matter will be further considered.

MR. MUMI: Mr. Speaker, Sir, arising out of the Minister's reply, what facilities are available in an emergency?

THE MINISTER FOR LOCAL GOVERNMENT, HEALTH AND TOWN PLANNING (Mr. Havelock): The best means available which, I understand, are kerosene lamps.

MR. MATE: Is the Minister aware that in another place, Meru District Hospital, the maternity ward has an electric generator, but no line has gone to the theatre and therefore the theatre has no electric lights but the maternity ward has.

THE MINISTER FOR LOCAL GOVERNMENT, HEALTH AND TOWN PLANNING (Mr. Havelock): The hon. Member, Sir, is misinformed. The theatre has fluorescent lighting.

QUESTION NO. 42

MR. ALEXANDER asked the Minister for Works if it is a fact that the Ministry of Works is making furniture for others than the Kenya Government and, in particular, for the War Department?

If so, will the Minister please give details and also state the circumstances under which such contracts were entered into.

Further, he is satisfied that it is in the best interests of the Colony that Government should continue activities which are rightly that of private enterprise?

THE MINISTER FOR WORKS (Mr. Nathoo): Mr. Speaker Sir, I regret my reply will be rather lengthy.

Normally the Ministry of Works workshops only supply furniture to Kenya Government institutions and houses, but occasionally orders are accepted against public funds for other official bodies such as the Royal Technical College. Early this year certain military orders were accepted at the particular request of the military authorities who had not been satisfied with the price and standard of furniture bought locally. My Ministry is, of course, the general works agency to the Army (except for the Kabawa Cantonment) and maintenance of this furniture would be part of its responsibilities. There was no process of tendering against private enterprise, but the Army agreed to meet a debit of the workshops' cost plus a fee for overheads.

Recently the military authorities, who appear to have been satisfied with the cost and the quality of the furniture supplies, wished to place an order to a considerable value and for their total

[The Minister for Works]

the requirements over the next two years. As orders on this scale would amount to serious competition with private enterprise, I considered it necessary to inform the military authorities that Government could not enter into substantial competition with private enterprise in this field, and with the exception of certain urgent requirements for buildings at Gilgil for which my Ministry is responsible, the furniture orders have not been accepted. Before accepting the urgent order at Gilgil I was satisfied that in doing so my Ministry was not depriving the local trade of the order in so far as the military authorities would not have been in a position to place the Gilgil order locally and would otherwise have ordered the furniture from outside the Colony.

The military authorities have, however, informed Government that if the Ministry of Works is unwilling to supply their standing furniture needs they do not feel confidence in local purchase and are likely to import their requirements from the United Kingdom. Government intends to use its offices with the military authorities to try to get their orders placed locally and to offer certain assistance to this end.

I can therefore assure the hon. Member that it is not Government's intention that the Ministry of Works should compete in the legitimate field of private enterprise and that orders from administrations other than the Kenya Government will, in normal circumstances, not be more than a minor part of the workshops' output. I cannot undertake never to meet requests from Administrations other than the Kenya Government, particularly in an emergency of a situation where the Government should properly assist the other Administration if it can.

MR. ALEXANDER: Mr. Speaker, Sir, the Minister having stated that certain institutions had their needs against public funds and he referred to the Royal Technical College, does he mean that, in fact, the Government is doing work without repayment for the Royal Technical College?

THE MINISTER FOR WORKS (Mr. Nathoo): No, Sir, when the Government does such work, apart from the workshop charge a surcharge for the overheads is added for such institutions.

MR. ALEXANDER: Mr. Speaker, Sir, the Minister having in his first reply factors to costs, would he explain what factors are included in cost. Do they include, for instance, pensions and passage elements and what prices are the items charged to the War Department and do those prices include any Government profit?

THE MINISTER FOR WORKS (Mr. Nathoo): Mr. Speaker, Sir, I shall be delighted to provide the hon. Member with a list of all charges and to all people who are interested in this matter. The hon. gentleman is well aware that the matter has been discussed at length with interested parties.

MR. ALEXANDER: Mr. Speaker, Sir, do I understand that the Minister does not know whether, in fact, there is a profit made out of these items?

THE MINISTER FOR WORKS (Mr. Nathoo): Mr. Speaker, Sir, I said that I did not have the figures with me but all possible overhead charges including pensions, passages and all direct and indirect charges. This is worked out by the Minister for Works accountant, but no profit is being made.

MR. ALEXANDER: Mr. Speaker, Sir, is the Minister aware that I am not asking for figures but I am merely asking whether a profit factor enters into the prices charged to the War Department.

THE MINISTER FOR WORKS (Mr. Nathoo): No, Sir, the Government does not intend to make profits from other Government departments.

MR. ALEXANDER: Mr. Speaker, Sir, would the Minister answer the last part of the question?

THE MINISTER FOR WORKS (Mr. Nathoo): I am sorry, Sir, I thought the hon. Member asked whether we charged a profit.

MR. ALEXANDER: The last part of the Question on the Order Paper, Sir, I do not think the Minister has yet answered it.

THE MINISTER FOR WORKS (Mr. Nathoo): Sir, I have already answered that. It is not Government's intention that the Ministry of Works should compete in the legitimate field of private enterprise.

SIR CHARLES MARKHAM: Question 1.

THE MINISTER FOR WORKS (Mr. Naihoo): Pardon? Yes, Sir, I have answered, Sir, that Government does not intend to compete with private enterprise or in such activities.

QUESTION NO. 29

MR. MUMBI asked the Chief Secretary:—

- (a) How many civil servants, including Chiefs, Livalis and Murdhis, of all grades in all Government departments have attained the age of 55 years or more in the Civil Service or have served for 30 or more years but have not retired compulsorily and under what categories do they fall department by department, up to and including 31st December, 1958?
- (b) What is the breakdown of these persons racially?
- (c) How many retired civil servants, if any, of all grades in all Government departments have been re-employed in Government Service on contract agreements and to what limitations are such agreements?
- (d) What is the breakdown of the persons in (c) racially?

THE CHIEF SECRETARY (Mr. Coutts): Mr. Speaker, Sir, to deal with portions (a) and (b) of the question together, 41 European, 15 Asian, 4 Arab and 323 African officers had attained the age of 55 years as at 31st December, 1958. Seven European, 45 Asian, one Arab and 47 African officers had completed 30 years' service at that date. In addition, nine European, 11 Asian, three Arab and 55 African officers had both attained the age of 55 years and completed 30 years' service at the end of 1958. It is not practicable in an oral reply to give the breakdown of these figures by departments and salary scales. These details have been supplied in writing to the hon. Member.

It should be explained here that the reference in the question to compulsory retirement is misleading. Fifty-five years is the normal age of retirement, but if it is in the public interest that age with his consent. It should also be made clear that a large proportion of the

officers mentioned were either already on leave pending retirement or about to proceed on such leave.

As regards parts (c) and (d) of the question, 13 European and one Asian retired civil servants were re-employed on contract terms as at 31st December, 1958. Once again, the breakdown has been supplied in writing to the hon. Member. Such officers receive an abated salary which is fixed at 4/5ths of the salary normally payable for the post and does not earn increments, and the contracts do not carry with them the gratuity applicable to normal contracts.

MR. MUMBI: Mr. Speaker, Sir, in reply to the section (c) of the question, would the Chief Secretary inform us whether re-employment occurs of old retired officers because no young people could be obtained.

THE CHIEF SECRETARY (Mr. Coutts): Normally speaking, Sir, we do not allow anybody to be taken on if they are retired civil servants unless they are required specially for the particular job which they are doing.

MR. OLE TIPIS: Mr. Speaker, Sir, can the Minister please tell us the normal duration of these contracts for re-instated officers.

THE CHIEF SECRETARY (Mr. Coutts): Usually three years, Sir.

THE SPEAKER (Sir Ferdinand Cavendish-Bentley): Before we pass on to the next Order I would once again ask hon. Members to remember that under Standing Order 22, a question shall not be made a pretext for debate as some of these questions very nearly do and secondly a question should not raise a question of policy too large or too lengthy. I may add, to be dealt with within the limits of an answer to a question. I am afraid that if I continue to receive these very long replies, I shall have to ask Ministers if they will be good enough to reply in writing. It is unreasonable to have questions asked which entail voluminous replies.

BILLS

FIRST READINGS

The Outlying Districts (Amendment) Bill

Order for First Reading read—Read the First Time—Ordered to be read the Second Time tomorrow.

The Vagrancy Bill

Order for First Reading read—Read the First Time—Ordered to be read the Second Time tomorrow.

The Stamp Duty (Amendment) Bill

Order for First Reading read—Read the First Time—Ordered to be read the Second Time tomorrow.

BILLS

COMMITTEE OF THE WHOLE COUNCIL

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

IN THE COMMITTEE

[K. Bechgaard, Esq., in the Chair]

The Passion Fruit (Repeal) Bill

Clauses 2 and 3 agreed to.

Title agreed to.

Clause 1, agreed to.

The Control of Nets (Nyanza Province) (Amendment) Bill

Clause 2 agreed to.

Clause 3

MR. OLE TIPIS: Mr. Chairman, Sir, clause 3 (2) (a) where it states that the Minister by order published in the Gazette prohibits subject to the provisions of sections 3 and 4 of this Ordinance the possession of nets of any specified description. What is worrying me, Mr. Chairman, Sir, is the description or definition of possession. Does possessing the net described or specified imply that the selling of such nets will be prohibited by law or what does it imply? You might find various traders making these nets or importing such prohibited nets into this country and at the same time selling them to the fishermen who will be caught by law if they are found being in possession of these nets. I would like to have clarification from the Minister.

THE MINISTER FOR FOREST DEVELOPMENT, GAME AND FISHERIES (Mr. Blunt): Mr. Deputy Chairman, the position will be that nobody, no trader, will be allowed to have these nets. It will be an offence for him to have them. Therefore

he will not be able to sell them to the fishermen.

MR. ZEPHUR DEEN: Mr. Chairman, I would like to inform the Minister that the present Ordinance provides for permission to possess nets to keep in store nets in which they had been trading in the past. So that they could continue their trade outside Kenya where nets are allowed to be used with a different form of mesh, and I would like to know from the Minister if he now proposes to stop the traders altogether to start the nets for sale outside Kenya.

THE MINISTER FOR FOREST DEVELOPMENT, GAME AND FISHERIES (Mr. Blunt): Mr. Chairman, a certain amount of latitude was allowed when the Bill was introduced a little over a year ago, to allow traders who had illegal nets to get rid of them. I understand that practically all traders in Kisumu have done so, but I also understand that there are one or two who have not done so, and who are still selling these nets at black market prices. The price of these nets has now gone up from Sh. 110 as it was to Sh. 180 or Sh. 190 on the black market from people who rely on not to give the game away.

Clauses 2 and 3 agreed to.

Clause 4 agreed to.

Clause 5

MR. ODONGA: Mr. Chairman, I would move that section 5 of this Bill be deleted and that subsection 1 of section 10 of the principal Ordinance be retained. Mr. Chairman, I have really strong reasons behind this because the reasons advanced by the Minister when introducing this section to increase the penalty from three months to one year and also the fines from Sh. 3,000 to Sh. 10,000 were most unsatisfactory. The reasons are most unsatisfactory in that in Uganda and Tanganyika the people are using the same nets, and it has not been proved beyond doubt that those people are the richest in this country, and therefore to say that simply because these people are getting a lot of money from these nets trading that should justify the alarming increase of fines, I think that is most unsatisfactory and therefore I would only say that the fines and the penalty which was provided for before was even much heavier, and I do think

[Mr. Odinga.]

if it is increased it will still only add to the great confusion and hardship among the fishermen in the lake.

MR. OLE TIPS: Mr. Chairman, Sir I very, very much support the views expressed by the hon. Member for Central Nyanza. Clause 5 (1), Mr. Chairman, Sir, is rather in my mind rather too hard for a simple man who goes to Lake Victoria to catch a fish or two for his own consumption, and I think it should be entirely deleted because when you talk of fining or imprisonment for a term not exceeding one year, or to a fine not exceeding Sh. 10,000 or such imprisonment and fine, I think we should at least have sympathy and be a bit more lenient to these people, who have been fishing in this lake even before the present Government came into this country, and if my information is right I do not see why only those on the Kenya shores of the lake should be so heavily punished and not those on the shores of our neighbouring territories. I mean this is really too much for any Government to impose such a heavy fine of Sh. 10,000. How many of those gentlemen or ladies are in a position of paying a fine of Sh. 10,000. I very strongly suggest the hon. Minister should delete this clause altogether. We do not want to create more hardships, and I think in all honesty this clause should be deleted, or at least waive these excessive fines. Punish them leniently without creating more hardships, Mr. Chairman.

AN HON. MEMBER:—(Inaudible).

THE DEPUTY CHAIRMAN (Mr. Bechgaard): Notice must be given in writing, first. I have treated these as formal amendments so far.

MR. ODINGA: I have got one here, Mr. Chairman.

AN HON. MEMBER: Too late.

THE DEPUTY CHAIRMAN (Mr. Bechgaard): I think the hon. Member can achieve the desired result by voting against clause 5 of the Bill if the occasion arises.

MR. HASSAN: I think what my friend the Member for Central Nyanza has said against this clause 5 I stand to support for the simple reason that the fishermen of Lake Nyanza have suffered very serious losses because they were living on fishing on the lake from time im-

memorial and their other brethren were living on the land. I think if the question of land ownership and consolidation and all these things are taken into consideration and they would all be considered to be owners of the areas they were occupying for agriculture, and the fishermen whose only livelihood was to catch fish and live on it and sell it—I do not think they were ever given any permission to hold part of the lake and fishing areas. Therefore, now that this law has been brought in for the benefit of those people, I take it, and not only for the benefit of those who have engaged in trade on the lake and sell it all over Kenya, but I take it it is also for the benefit of those who have been fishing for centuries, and I, personally, feel that such a heavy penalty imposed on them, which we know very well they will never be able to pay and will have to go to gaol—it is very, very hard, and I think the adviser of the Minister on this subject to increase it from Sh. 3,000 to Sh. 10,000 is really such a penalty which cannot really be justified for a small minor offence, which after all they are committing against their own interests according to the statement of the Minister. I support the Member for the Central Area.

MR. MBOYA: Mr. Chairman, the problem has been with us practically so long and it is becoming so fishy that some of us may be confused. I remember when this problem was debated some time ago and my hon. friend the Member for Central Nyanza raised the point he has raised today, that is, the question of uniformity in so far as legislation is concerned with Kenya, Tanganyika and Uganda. I think that this problem has to be looked at in the light of the fact that we are dealing here with a situation not necessarily in which people are involved in fishing merely as a sort of commercial business enterprise—but also for people who rely on fishing and the fishing industry as their entire means of livelihood.

It is true that the restriction will be, in effect, the control of some types of fishing nets and so on, but, Sir, we know, I think, and I think the Minister is well aware that restrictions or no restrictions, these people are fishing every day because they have nothing else to do but continue fishing, and in so far as they have to make the best catch possible

[Mr. Mboya]

they will continue to fish, whether we have legislation or whether we do not have it. I am not suggesting, Sir, that they should be encouraged to break the law. The question I am really raising is whether we should not consider the law in terms of what should be fair rather than merely in terms of control on these people on the lake shore.

There are two points which struck me when looking at this amendment and also the Memorandum of Objects and Reasons. The first one is how far we are assisted by the Ministry that the present inspectorate services, the present application of the present legislation, are carried out effectively and efficiently to the extent that we now have proof that unless we have new legislative provisions we cannot meet the situation. Now, I cannot see anything in the Memorandum of Objects and Reasons to justify the introduction of new legislation. I cannot see any arguments advanced to prove to us—or explanations advanced to prove to us—that the present legislation is completely unworkable, however efficiently it may be applied. I think it is necessary, Sir, that this position particularly should be made positively clear and that we should be certain in our own minds that the present legislation is totally inadequate however effectively and efficiently it may be applied. I suggest, Mr. Chairman, that, in fact, what we are faced with here is a situation in which the present legislation has not been applied effectively and efficiently; and probably the Government, or the Ministry, in this case, feels that there might be a little bit more money available out of the unfortunate few who might be arrested from time to time.

Now, Sir, how does the Minister justify the increase of the penalty from Sh. 3,000 to Sh. 10,000. If it is not enough, Mr. Chairman, to suggest that these people are rich, that the profits coming from this industry are such that they can meet this fine. So far, there is no statistical information to show us that any survey has been carried out in these areas showing the incomes of these people. We may here be dealing with a situation where, in fact, the people who may be arrested with these sort of nets are not those who are engaging in the fishing industry for profit but who may

be fishing merely as a means of subsistence and livelihood and who may not be making any profits at all. How do we justify the increasing of the penalty by Sh. 7,000? How do we assess this penalty and on what basis? Somebody says that it is a high profit but that somebody does not tell us how he arrives at this figure and I strongly suggest, Mr. Chairman, that we may end up not getting the fines that the Minister may be thinking he may get from these people, or the revenue, but may end up filling the jails instead. This, to my mind, means more expenditure on the part of the Government instead of more revenue coming in, and the question is, is it worth it?

The other point I wanted to raise is how far the present position in terms of the future of the fishing industry justifies the introduction of such drastic measures in relation to the original inspection.

May I end on this note, Sir, that we may find ourselves here creating a situation in which, instead of having a situation where we are getting more funds for the Government, we may, in fact, end up with a situation in which we are increasing the rates of bribes in this industry to inspectors and other people. I am not suggesting at all that all of them are taking bribes, but I am strongly suggesting that it is well known that some of them do. Instead of getting Sh. 10,000 in fines from the courts we may find ourselves in a situation in which people are becoming bankrupt because they are finding it so hard to meet the fines.

Now, Sir, I suggest that, in view of these facts, the amendment which is moved by the Member for Central Nyanza deleting this amendment to the original legislation should be accepted, and further I suggest that the Minister should, in accord with the overwhelming expression of this House some again during the debates last year, once again look at this whole question of the fishing industry in terms of East Africa and not in terms of Kenya alone. This is an East African service—and it is not only for the African service—it is a High Commission service and it is the Kenya people in so far as this is concerned, should get the same treatment as is given to the people in Tanganyika and in Uganda who are in the same water.

[Mr. Mboya]

It will be the easiest thing, Sir, for a person from Uganda with a canoe to come fishing in Kenya waters, and all he will have to do to escape this legislation is to go back to the other side of the border: if he takes his nets away from Kenya waters then he is quite free. If another man from Kenya fishing in the same waters comes back on this side of the border then he is charged and fined Sh. 10,000. Now, if the Minister suggests that something is not wrong with that then I do not know what the High Commission is for, or what the common services are for, if they are not looking into the whole question of fairness to all of the people who comprise the fishermen on Lake Victoria.

I support the Motion.

MR. ZAFRUD DEEN: I would like to know from the Minister more details concerning the fears expressed by him, because I think they are either imaginary or are cases which have come to light where people, trading and fishing, have slipped out of the Government net.

I would think that the penalties which are proposed in the Bill are really drastic and I would request the Minister to give further consideration to this point.

MR. BOMPAS: Mr. Speaker, Sir, the hon. Member for Nairobi Area, if I heard him correctly, accused Government servants of accepting bribes and also accused Government of increasing the fines merely as a revenue-earning process. The Government has been so docile. There has been no response to this allegation. I wonder what this House is to think, Sir.

THE MINISTER FOR FOREST DEVELOPMENT, GAME AND FISHERIES (MR. BIUMI): Mr. Speaker, Sir, I gather from many of the hon. African Members that the fisherman is a very poor man and cannot possibly pay his fines. Now, Sir, we are aware that there is no vast profit in fishing, but are also perfectly well aware that there are big profits to be made by illegal fishing because if you fish with illegal nets you catch very much more fish, so I cannot see that the argument really applies as a good reason for not imposing high penalties for offences against this Ordinance. After all, Sir, it is illegal at the present moment to fish with certain types of nets and the reason for that is in order

to try and preserve the fishing industry, for first of all the fishermen in Nyanza, secondly for the country as a whole, and something has to be done to make the law be observed.

Two hon. Members said how can these people possibly pay, they may all have to go to jail. Well, Sir, that has not been the case in the past. In the past when we have caught people using illegal nets they have been taken to court, they have been fined and they have paid up with great ease, and we know that by going out again fishing illegally, in two or three days they can make enough money to reimburse them for the fine they have had to pay.

Another hon. Member talked about the question of whose were the fish in the lake and that the lake had never been given an owner as the land had; in fact, from time immemorial, people have fished in the lake and they fished originally mainly to obtain food for themselves, then as fishing increased they sold it locally in Nyanza and it is Nyanza Province which lives in the main off the fish in the Lake. In more recent years there has been export of fish from the Kavirondo Gulf in Nyanza to Nairobi and other towns. That has the effect of bringing money back into the pockets of these people.

Now, Sir, the hon. Member for Nairobi Area, I think, was not here when I spoke on this matter before. He asked if we had any knowledge of the effect on the lake—as I understood it—of this illegal fishing. Sir, I said the other day that we had some proof now that that what we thought a year or two ago was correct, in that I am told by the Fishery Research Organization that since the regulations have been relaxed in Uganda, the amount of fish caught has been reduced. I take it that is a reasonable proof that if one fishes with any kind of net which takes the breeding stock before it has had time to breed, it will not have any good effect on the fishery but very much the reverse.

The hon. Member then went on to talk about an increase in the rates of bribes. Well, Sir, that seems to defeat his argument entirely, because if these people are so poor that they cannot possibly pay the fines imposed and only make a very little out of their fishing, it seems to me they cannot pay these

[The Minister for Forest Development, Game and Fisheries]

big bribes. But he seems to suggest that they do, I have no evidence myself that bribery goes on, but the hon. Member seems to suggest that it does and I shall certainly look into it.

Now, the hon. Member asked how far existing legislation is carried out. Well, the legislation up to the present in connexion with nets has made the use of these illegal nets illegal and it has been extremely difficult to catch people using them because, as one can well imagine, they go out in a boat and fish with a net; if they see anybody coming, any of the fishery staff coming along, naturally they drag up their nets and promptly substitute a legal net and by the time the fishery officer gets there he has no case at all. It is in order that we shall be able to prevent this use of illegal nets that we now propose to make possession and not only the use of them illegal.

Finally, I must say again, as I have said so many times before, that there is no doubt in my mind, and there is no doubt in the minds of the Fishery Research Organization, or any of the Fishery staff, that if we go on fishing with illegal nets, we shall destroy our fishery. Now, Sir, that is the one thing that I am perfectly certain that we cannot afford to do. For one thing, it will put out of business the 40,000 fishermen in Nyanza, for another thing it will reduce the amount of foodstuff which we obtain from the Lake, and thirdly, it will destroy the export of fish from the lake to the country in general.

Therefore, Sir, unless anybody can prove to me that it is not going to do any harm to allow illegal nets, I propose that we shall continue to disallow them, with the intention of maintaining the productivity of the fishery for all time. I cannot, Sir, accept the amendment.

MR. MBOYA: Mr. Chairman, the Minister spoke on one point which he raised—(inaudible). He referred to the fact that in Uganda they had shown after lifting certain regulations, the effect of lifting the nets was that there is less fish in Uganda.

Now, Sir, if in fact the research in Uganda has shown adverse effects in the fishing industry after the lifting of regu-

lations there, then I ask: does that not really strengthen the point we are making that this is not a question to be dealt with merely by Kenya legislation but is an interterritorial government issue. Why is there no uniform legislation, why is there no uniform treatment? We were told the other day that the Kavirondo Gulf is the breeding place for fish. Now, Sir, is this not rather asking us to be over-generous, that we should do all the breeding and all the restricting as well in order that Uganda and Tanganyika may fish freely?

It does appear to me, Sir, that since we do the breeding they might be even restricted a little bit more so that there is at least some balance. That will give us some advantage of having the breeding in our territory. In this case, give to Uganda and Tanganyika, and they can fish as they like but we must be restricted in our fishing.

Mr. Chairman, I suggest that if there is a case, if the Minister can make a strong case, I see no reason why he cannot make that case to the Uganda and Tanganyika fishing industry so that there is some uniform connexion between the three territories. This might bring about a situation in which restriction could be lowered or fall to meet at a point that would be consistent if the departments of the Ministries desire to maintain a level of fish throughout the year in the lake. I am not taking just the Kenya side. I remember last year the Member for Nyanza Central gave us an incident of that fish which was marked, I think, in Kisumu and it was later on caught in Mwanza. Now, Sir, the fish do not respect the boundaries. They are travelling from this end to the other end. They do not just care where the boundaries are and we are being told that if you fish on this side of the imaginary boundary you will be arrested, subject to a sentence of Sh. 10,000 or one year's imprisonment when the man in Uganda is the same fish that we are going to save here—he goes to Tanganyika or Uganda and there is no restriction. The restriction should be applied in such a way that it also takes care of the movement of fish as well as the desire for arguing.

MR. MAXWELL: I am not in favour of the amendment. Mr. Chairman, and I do indeed support this Amendment. The hon. Member for Nairobi Area

[Mr. Maxwell] and certain of the other hon. African Members are, I feel, taking a very parochial view. The hon. Member for Nairobi Area has, I think, again evaded the issue by over-emphasizing the penalties attached to illicit fishing or the illicit use of nets. However, in my opinion there is no justification for the increase in these fines because in my opinion that would not prevent illicit fishing.

The hon. Member for Nairobi Area stated that one could not control the movement of fish in the lake. I am in agreement with that statement. He also mentions the question of uniform legislation and surely as men of great intelligence they indeed should use their influence to bear on Uganda and Tanganyika to introduce legislation similar to this legislation. They know full well, too, that the use of seine nets in the Kavirondo Gulf has done a great deal to set the fishing industry there. I personally have been to the municipal market at Kisumu where you see small tilapia probably four or five ounces in weight being sold for ten or fifteen cents each. Given another year to eighteen months, those fish would bring from 80 cents to Sh. 1 each, so purely from an economic angle I would imagine they should support this Bill fully. It is rather like slaughtering baby calves at three months old and getting about Sh. 25 each for them, whereas if they allowed that stock to mature it would be worth probably Sh. 400 per animal and the same applies to the fishing industry. I do ask them to study this matter not from a parochial viewpoint nor from the attitude that Government are endeavouring to restrict their activities, but from an economic aspect in so far as their province is concerned.

MR. KHAMISI: Mr. Chairman, Sir, I did not want to intervene in this debate but one of the hon. Members has just suggested that we on this side of the House should use our influence to get similar legislation passed by Uganda and Tanganyika to restrict the nets. Now, Sir, the question of these nets was discussed in the Central Assembly about three years ago and both the Tanganyika and the Uganda Government opposed it very, very strongly and as a result the legislation for the control of fishing nets only

remained in Kenya because the Kenya Government supported it and this legislature also had recommended that it should be introduced in Kenya. I feel that it is shameful and, I think, unreasonable to suggest that any restrictive measures applied by the Kenya Government would have any effect on the growth or multiplicity of fishes because in Tanganyika up to now and in Uganda they do not want this restriction because they feel it is unreasonable and it does not do any good to anybody and for that reason I think it is upon this legislature here to say that since we are in a minority and Uganda and Tanganyika, who with us share the Lake Victoria, do not agree with any restriction on the nets, we should also say that this restriction will not do us any good. I do not believe that any great effect will be derived by trying to restrict the nets and trying to restrict fishing in one part of the lake and leaving quite open on the other two sides, because the fishermen from these areas could always move into—in fact, I went into Tanganyika the other day and found we were losing so many Kenya fishermen who had drifted from Kenya into those areas because they could fish freely and are able to catch more fish for the market. All that we are doing at present is that we are penalizing the Kenya fishermen to the advantage of his partner on the other side of the lake. I feel also that the Minister has not made up any very strong case to give me to say that the fishermen make so much money that they can afford to pay three times the fine that they used to pay when they are caught with illegal nets and in fact I do not see the reason why the possession of a net which is not a dangerous weapon in one's house should make a man liable to be fined Sh. 10,000. I feel that if I have a net of that size and I do not want to fish and I do not like to destroy my net, I want to keep it in my house, the mere possession does not make me catch the fish which are in the lake. So for that reason I think it is extremely unreasonable to legislate under those pretexts.

Now, in the Memorandum of Objects and Reasons the Minister says that it has become apparent that in view of the large illicit profits to be made in dealing with prohibited nets—"It has become apparent", but he has become able to

[Mr. Khamisi] prove to us how he has come to that conclusion. He has not shown to us that mere possession of these big nets, this size of nets, do indeed make a man any wealthier than he was if he had possessed the smaller nets and for this reason I feel the piece of legislation as it is should be withdrawn and I feel there is no real useful purpose in going on with this type of legislation which is discriminatory. It should have at least gone to the Council of State. We are told that the Council of State deals with discriminatory legislation. This is one of them. Why do not they go and think about it?

With these few remarks I feel that this legislation is of no use to anybody and it should be withdrawn.

CAPT. HAMLEY: Mr. Chairman, Sir, we have had this argument about fish in this House many, many times before and it always amazes me that people just cannot see the simple truth in front of their faces. It is a fact of nature that the fish breed in the Kavirondo Gulf and trying to put it into plain words as I can, there are more *toto* fish in the Kavirondo Gulf than there are in other parts of the lake. Then the *matous* in the Kavirondo Gulf grow up and supply the mature fish which will be caught in other parts. And therefore you must protect the nursery.

The Member for Trauz, Nzola had it all right just now except that he did not go far enough. He said he had seen small tilapia in the market, selling for whatever he said and he said if they had been kept a year later they would have sold for whatever he said then. But the point he did not make was that if they had lived a year longer they would have produced a lot more *matous* and that is the very reason we have to protect the fish in their breeding place. I keep on saying—I have said it in the House before and nobody will take any notice of this point—this is a measure designed to protect the fish in the nursery and therefore we have to have different size nets in the nursery to what we have to have in the big open world. And if we do not protect the fish in their nursery we shall have no fish in the big open world, either in Kenya or Uganda or in Tanganyika.

The hon. Member from my part of the world over there said it was a dis-

criminatory measure. I do not know who is going to speak up for the fish of Tanganyika or the fish of Uganda and—it would be a very interesting meeting. I would like to see it—but the point is, and I cannot get it across, that it is not a question of Kenya and Tanganyika and Uganda, it is the question of a fish nursery and the open sea and in my opinion the territories have got nothing to do with it whatsoever. I just cannot see why other people cannot see what seems a simple fact to me.

And I must oppose the amendment, Mr. Chairman.

MR. ODONGA: Mr. Chairman, we shall not have such reasons being advanced here because I do not think that the hon. Member who has just spoken knows that people of Uganda and Tanganyika do not recognize that our lake—our part of the lake—is the nursery. If they thought so when they would not stop our people going to fish on their side of the lake, when they know that it is we who produce all those fish. After all, we are the owners of the fish in the lake. Mr. Chairman, this is a very serious matter. We should look into it very seriously. It is not something to be joked about, some people stay very far away and do not really know what these fishermen feel. They really feel the weight of the Government from this end. And to impose heavy fines on such a simple fisherman who probably has lived throughout his life from time immemorial on fishing is most unfair. That is the only source by which he can earn his own living and also run his own home, such a man is not the same as other fishermen. There are two kinds of fishermen in the lake. Some of them are the people who besides fishing own other businesses. They carry on fishing as their second revenue. Their main revenue is from their own livelihood. But there are some kinds of people who live completely on fishing and nothing more and these are the people who now find it very, very difficult with the present restrictions to make ends meet. They are probably the people who actually infringe the law and who become the victims of such severe punishment and when they are punished the Minister has just advanced here that when they are punished that many of them easily pay the fine and then carry on. Well, I know so many people

(Mr. Odings) who have been ruined just as a result of fining. They go on to sell their cattle, they sell everything they have, in order to pay the fine. When he has paid it, then he has no other duty to do because what he knows is only to go on fishing. You know that even in the lake itself there are crocodiles and other things which are very dangerous. But if it is the only way of earning a living you just go there and defy the crocodiles. As you know, the same applies to this Bill which is a very dangerous thing and as a result we are asking, Mr. Chairman, that if we pass this particular Bill we should be failing in our responsibility to the members of the public. I do not think that we should pass a legislation simply because the Minister has brought it. We should pass it because we are convinced that it is correct. If the Minister advances the reason that it is for the benefit of the people—then the thing is not only to impose a heavy fine, it is to explain to them so that they understand it, that it is for their benefit, and when they understand that it is for their benefit I am sure that they are also human beings and they will have to comply with it. At the present moment they are not convinced because they see their counterpart in Uganda, their counterpart in Tanganyika, fishing freely and I do not think that those fishermen there are the richest nor the people who are using these illegal nets in Kenya.

MR. NAZARETH: Mr. Chairman, the point we are debating is the increase in the penalties and the reason that is given in the Memorandum of Objects and Reasons is that the profits made from dealing with prohibited nets are very large—the illicit profits. The definition of a net has been now amended and enlarged with the result that apparently legislation which was ineffective in the past in obtaining successful prosecutions will now become effective. The real reason why the legislation in the past was ineffective was apparently, not the inadequacy of the penalties but the inadequacy of the definition. And apparently now the person who will be caught by these penalties will not only be the dealers but the fishermen and you will thereby get in the same net, as it were, large fish and small fish. I would

suggest that this increase in the penalty from Sh. 3,000—and three months to Sh. 10,000 and 12 months is an excessive increase having regard to the very large number of persons of all kinds that it catches, both the smaller fishermen as well as the big dealer and if there is to be this large increase in the penalty, then surely there ought to be a distinction drawn between the dealers and the fishermen. Surely not all these fishermen are engaged in fishing on a very large scale that a penalty of this very large nature would then be able to be inflicted on something like a uniform basis, should be now introduced so suddenly particularly when the legislation is being amended by the amendment to the definition of the net.

Sir, I would suggest that since the point that is being debated now is the amendment to the penalties, no case has really been made out of the increasing of them so suddenly with the amended definition in such a wide way, and I would accordingly support the amendment and oppose the original clause of the Bill.

THE MINISTER FOR FOREST DEVELOPMENT, GAME AND FISHERIES (Mr. Blunt): Mr. Deputy Speaker, the hon. Member for Nairobi Area made the point that there should be uniform treatment and legislation over this matter in the three territories. That, Sir, has been the position since 1947 or 1948. I think it was Under the Lake Victoria Fisheries Act control of nets took place in the areas of all three territories in the whole of the lake. It is only the fact that Tanganyika and Uganda decided a year or 18 months ago that they did not wish to continue with the Lake Victoria Fisheries Act—and they did not wish to continue with the restrictions that had been in force—that left Kenya in the position of having to take action on its own. So it is no good talking, I think, about going back to these other countries and trying to persuade them to come into line with us. In spite of our endeavours to keep them in line with us, they have decided that they wish to do otherwise.

The hon. Member for Mombasa Area in fact says that he pointed out that this legislation of the Central Legislative Assembly was coming to an end. He also made the point that it was

(The Minister for Forest Development Game and Fisheries) penalizing Kenya to the advantage of Uganda and Tanganyika. It is only penalizing Kenya to the advantage of Tanganyika and Uganda to the extent that fish bred in the Gulf of Kavirondo go to other areas. Well, so far as we know they do not move very much. It is true some of them do go out of the Kavirondo Gulf and get into the main lake, and have been found at a considerable distance, but the information we have from these fish is that generally speaking the majority of fish that have been bred in our own waters of the Kavirondo Gulf remain there. Our legislation may help the other countries slightly, but is devised to help us—not the other countries.

Now the hon. Member then went on to say why should he not keep an illegal net in his house. Well, in fact, if he keeps an illegal net in his house, if he wishes to do so—I do not know for what purpose—but if he does keep it in his house he would probably never be caught so he does not run much risk of having to pay Sh. 10,000. It is only when he goes out to fish with it that he runs the risk of being caught. And he said that I had not proved that possession of illegal nets makes people wealthier. I certainly have not. But the use of illegal nets enables large catches of immature fish to be made, and we are putting a penalty on the possession of those nets in order to prevent this.

I think my hon. friend behind me here put as clearly as it was possible to put, what the position was in regard to fish breeding on the lake, and I will not cover those points again.

The hon. Member for Nyanza Central again returned to the charge when he pointed out that there were two kinds of fishermen—some have an outside business and some are only in a very small way. That is perfectly true. The people in a small way, I think, are not the people who do much of the illegal fishing, but I must point out to all the Members who are talking about a Sh. 10,000 fine, that Sh. 10,000 is a maximum. It does not mean, by any means, that the court will in all cases impose a fine of that amount. The court normally

takes into consideration the position of the man who has been proved guilty, and is to be subjected to a fine, and they make the penalty such that it will not cripple the offender.

The hon. Member for the Western Electoral Area again made the same point that the penalty is too large for the small and poor fisherman. I think he knows very well that the small, poor fisherman is not likely to be subjected to it by the courts to any such fine.

There is one other point, Sir, which I should have referred to before, which was raised by my hon. friend, Mr. Zafrud Deen. He asked me if I had any proof that nets were being kept and were being sold on the black market. If I had I should have taken action, but nevertheless, although I have not proof in these cases I have information which I believe is reliable to that effect.

Sir, I think I need say no more. I have already said I cannot accept the amendment proposed.

THE DEPUTY CHAIRMAN (Mr. Bechgard): I think everybody has had a fair go at this section. You have spoken twice Mr. Odings.

MR. ODINGA: I have only one point, Mr. Chairman.

THE DEPUTY CHAIRMAN (Mr. Bechgard): You have spoken twice.

SIR CHARLES MARKHAM: On a point of order, there is no limit to the number of times we speak in committee.

MR. SLADE: Mr. Chairman, I think it is in order for me to move under Standing Order 64, coupled with 104, the Mover of this amendment be called upon to reply.

THE DEPUTY CHAIRMAN (Mr. Bechgard): The amendment was not accepted. There is no amendment before the House. This is just a debate on whether clause 5 stands part of the Bill.

MR. ODINGA: (Inaudible.)—the amendment.

THE DEPUTY CHAIRMAN (Mr. Bechgard): Yes, but that amendment was not accepted. Mr. Odings, so far, the question it has not been accepted. The question is—does clause 5 have the same purpose—is whether clause 5 will ultimately be part of the Bill or not.

MR. ODINGA: Yes, but if you would allow me to make one point on what the Minister said I will be most grateful.

THE DEPUTY CHAIRMAN (Mr. Bechgaard): Yes, make your point, Mr. Odinga.

MR. ODINGA: What the Minister says about the Sh. 10,000 fine being the maximum, I should like to suggest to him that, in that case, he should then accept the old fine of Sh. 3,000 which, all the same, is very heavy and, in most cases, has ruined the fishermen.

THE MINISTER FOR FOREST DEVELOPMENT, GAME AND FISHERIES (Mr. Blunt): Mr. Chairman, I did not accept that it should stay where it was for this reason, that there are cases, and will be cases undoubtedly, where people who are comparatively wealthy and who have outside resources, as the hon. Member has informed me already, will be guilty of using illegal nets, and will make large profits out of them; and those people, Sir, if they are to be prevented, will have to be heavily punished.

THE DEPUTY CHAIRMAN (Mr. Bechgaard): Well, I think we will then proceed. I did omit to put clause 4 first, so before we enmesh ourselves in clause 5 I will formally put clause number 4.

Clause 4 agreed to.

THE DEPUTY CHAIRMAN (Mr. Bechgaard): Then, I will put clause 5, which is the one on which this debate has taken place.

Clause 5 agreed to.

Clause 6 agreed to.

Title agreed to.

Clause 1 agreed to.

THE CHIEF SECRETARY (Mr. Coutts): Mr. Chairman, I beg to move that it be reported to Council that a Committee of the whole Council has considered the Passion Fruit (Repeat) Bill and the Control of Nets (Nyanza Province) (Amendment) Bill and has approved both bills without amendment.

The question was put and carried.

Council resumed.

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

REPORTS

THIRD READINGS

The Passion Fruit (Repeat) Bill

THE DEPUTY CHAIRMAN (Mr. Bechgaard): Mr. Speaker, Sir, I beg to report that a Committee of the whole Council has gone through the Passion Fruit (Repeat) Bill, 1959, and directed me to report the same without amendment.

Question proposed.

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Lt.-Col. McKenzie): Mr. Speaker, I beg to move that the Passion Fruit (Repeat) Bill (Bill No. 7) be now read a Third Time.

THE CHIEF SECRETARY (Mr. Coutts) seconded.

Question proposed.

MR. USHER: On a point of order, Sir. We seem to have skipped one stage—the Report Stage.

THE SPEAKER (Sir Ferdinand Cavendish-Bentinck): I am aware, but as it was merely one clause repealing a Bill, I did not put the question, but you are of course quite right.

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Lt.-Col. McKenzie): Mr. Speaker, I beg to move that the Passion Fruit (Repeat) Bill (Bill No. 7) 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 and passed.

The Control of Nets (Nyanza Province) (Amendment) Bill

MR. BECHGAARD: Mr. Speaker, I beg to report that a Committee of the whole Council has gone through the Control of Nets (Nyanza Province) (Amendment) Bill and directed me to report the same without amendment.

Question proposed.

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

(The Minister for Forest Development Game and Fisheries) Control of Nets (Nyanza Province) (Amendment) Bill (Bill No. 6) be now read a Third Time.

THE EUROPEAN MINISTER WITHOUT PORTFOLIO (Mr. Harris) seconded.

Question proposed.

The question was put and carried.

The Bill was accordingly read a Third Time and passed.

BILLS

SECOND READINGS

The Hospital Treatment Relief (Asian and Arab) Bill

Order for Second Reading read.

THE MINISTER FOR LOCAL GOVERNMENT, HEALTH AND TOWN PLANNING (Mr. Havelock): Mr. Speaker, I beg to move that the Hospital Treatment Relief (Asian and Arab) Bill, 1959, be read a Second Time.

Sir, this particular Bill has raised a considerable amount of public interest, and indeed, it arises from very long and detailed examination of the problems of the Asian community in regard to hospitalization. There is no doubt at all in my mind that this Bill is really generally welcomed by the community, although there have been expressions of doubt and dissatisfaction and opposition to it on the general basis of racial discrimination, as I understand it. There have also been doubts raised, Sir, with regard to the accommodation for Asian patients in hospitals throughout the Colony, which may become rather more difficult if, and when, this particular Bill is introduced, and there is, what is, in effect, an Asian and Arab compulsory insurance scheme. It may indeed be that more Asians and Arabs will wish to use hospitals, and therefore the pressure on beds will become more strong.

Well, Sir, the Government has considered this aspect, and it will keep it very much in mind when planning for hospital beds both for those provided by the Government, although we do not as a Government provide hospital beds for Asians, but provide amenity beds in places where there is not a sufficiently strong community effort, and; usually this is due to lack of population. And also Government will consider the efforts

that will, I am sure, be made by different sections, societies and associations interested in this particular problem in providing more beds in private institutions.

As is known, Sir, the Government has contributed on a capital basis a very large sum of money in the last few years towards the provision of beds of a higher amenity standard than those supplied by the medical service, and indeed for hospitals which are more generally used by the Asian community, and I want to stress that fact, more generally used, because they are used by other races, and the Government has contributed something in the region of £20,000 in the last, say, seven or eight years. This shows, I think, that the Government is very aware of the need for such a type of amenity hospital beds or nursing-home beds, and will continue to be so aware.

Well, Sir, turning to the Bill itself I have little doubt about the long title of the Bill. The Bill as presented to the House, Sir, has been drafted taking the European Hospital Relief Bill, or the actual long title of the European one, is "The Ordinance to make better provision for the relief against the cost of hospital treatment of European patients and matters connected therewith." That particular Ordinance has been taken as the pattern, or basis, of this Bill before the House, but the opportunity has been taken also to tidy up a number of provisions which we have found in the working of the Ordinance—the European Ordinance—were not absolutely perfect, and therefore the Government considers the Bill before the House is a better one than the Ordinance which has been in force for some time. However, I do think, Sir, that the actual title itself needs a certain amount of amendment, and therefore I will put forward an amendment at the Committee Stage to that effect, because it does rather lead people to believe that the Fund can only make payments for time spent in hospital. It of course will depend on the money available to the Fund on what, or what benefits can be paid out of it, and I know that in the first instance, it is the intention that only benefits for time spent in hospital shall be paid, but certainly there was no intention that the authority itself would not be eventually

[The Minister for Local Government, Health and Town Planning]—be allowed to pay benefits for time spent by sick people in their own homes, provided they were being nursed in those homes, just as such benefits are being paid under the European Ordinance. Also, Sir, with regard to maternity benefits I hope that the Fund, when set up, will find itself able to afford such benefits in line with the other Ordinance. It may well be, thought, and I think the warning has got to be made now, that in the early stages those benefits will not be able to be afforded by the Fund and it will be wiser to wait and see how the Fund develops before committing such benefits. I would at this juncture say, Sir, that I have great hopes that this particular scheme will develop similarly to that of the European Ordinance. With the European Ordinance the contributions were much higher than they are today and the benefits paid out were very much smaller; indeed, they were of the measure of about Sh. 20 per day. Now the payments are being made from that Fund at the rate of Sh. 55 per day for hospital treatment and Sh. 50 for other-treatment. So in the not very long period since the other Ordinance was brought in—that was in June, 1951—a considerable improvement has been made and I hope the same will apply to the Bill now before the House.

Now, Sir, the first clause of the Bill gives certain definitions which are extremely important and indeed I shall be clarifying an amendment in due course to clarify what we mean by "hospital treatment". I do not think there is any need to go into the details at this stage. I have no doubt that the Committee will be able to cover the detail and should do so rather than at this Second Reading.

Clause 3 of course is important indeed because that is how the Authority which is to administer the Fund is to be set up. I would ask hon. Asian Elected Members who have the majority of members of this Authority to consider seriously now whom they wish to appoint to the Authority because time is getting short. It is the intention and the hope that if this Bill is passed it will come into effect as from 1st January, next year. It is essential that it should come into effect at that time or other-

wise it will not be possible to make collections together with the income tax and personal tax collections by the different authorities responsible for such collections, even if there are a few days between the 1st January and the time when the Bill comes into force. A number of people quite rightly, and we like to encourage it, pay their personal tax on the dot on the first day of the year, and it would be very difficult indeed for the Authority to go back to them afterwards and collect further contributions in line with the suggestions in this Bill. It is essential therefore, Sir, that the Bill should be brought into effect from 1st January and I would go so far as to say that if it is not possible to bring it into effect on 1st January it will probably mean a delay of another year. In that case, Sir, it is also essential that the preliminaries to the actual operation of this Bill should be very seriously considered by the Asian Elected Members—that is, as I have said, setting up the Authority itself, the discussions as to where their offices might be, discussion as to what staff is required, to be taken on and so forth; quite a number of difficult matters which should be given attention immediately. Of course, the experience of the European Hospital Authority will be completely at the service of the hon. Asian Members in this regard as indeed is the advice and experience of my Ministry. The pattern is set and it is merely a matter of getting on with the job. I do not think there is any need for me to point this out but possibly it is a good thing to emphasize that the Authority shall consist of (a) a person appointed by myself, and here I will say that that person will be the same one as is appointed on the European Association so that his experience can be drawn upon by this new Authority. The second one is the person appointed by the Minister for Finance and Development and he, too, will probably be the same man as serves on the other Authority. Then there are four persons appointed by a majority of the Asian and Arab Members of the Legislative Council (other than *Ex officio* Members, Nominated Members and Temporary Members) present and voting at a meeting convened for such purpose. Here, too, I will remind hon. Asian and Arab Members that such a meeting will have to be

[The Minister for Local Government, Health and Town Planning]—convened very speedily after Assent has been given to this Bill.

So far as clause 4 is concerned, Sir, there is a slight difference from the Ordinance which is now in force in that it is an improvement, I think, in that it sets out more clearly the provisions regarding the tenure of office of un-official Members. I can say, Sir, that a slight difference is found under sub-clause (c) whereby any member who absents himself from three consecutive meetings of the Authority without the permission of the Authority shall cease to be a member thereof. In the European Ordinance the equivalent number of meetings is four consecutive meetings and the reason for this difference, Sir, is that we have found by experience that the Authority meets about once a quarter and it is thought that three consecutive meetings are more appropriate than four.

I do not think, Sir, that there is any need to comment in detail at this stage on clause 5 or clause 6 or even clause 7. They are similar provisions to those contained in the present Ordinance and are really rather procedural matters, but in clause 8 there is a slight variation again from the present European Ordinance which we found is not working at all well in that the minutes of each meeting were transmitted to the Minister as soon as possible after they have been recorded and not as in the case of the European Authority where they have got to wait until they have been confirmed. It is merely a matter of bringing the information to the Minister rather earlier than is now being done.

Clause 10, Sir, of course is the meat and indeed the heart of the Bill in that it lays down the type of money which can be paid into the Fund. Hon. Members will see that the Fund will consist, briefly, of tax levied and collected, sums voted by the legislature, which of course will include the contributions which have been voted by this House, income received by way of investment of the proceeds of any loans, voluntary subscriptions—I hope there will be some—and such money as the Minister may direct to be paid into the Fund. That presumably will be gratuitous moneys

considered suitable for payment into such a Fund.

Now, Sir, when talking about and discussing this matter of money being paid into the Fund I want to make it quite clear that this Bill is in no way connected at all moment with the European Hospital Authority Bill and that the moneys which have been saved up in the European Hospital Fund Authority have nothing to do with this one. I am making this statement, Sir, because in this curious country of ours rumour upon rumour seems to start with no real basis and I understand some people feel that the introduction of this Bill might mean the reduction of the surpluses accumulated in the European Hospital Fund. That, of course, is not the intention at all. There is no such intention but, of course, as I have stated before in this House, there is an intention, and my Ministry is working on it, to bring in, as soon as may be, a non-racial Hospital Relief Fund provision. It is not a simple one. I have spent many hours when I was in London with the Ministry of Health there and with the Ministry of Pensions trying to work out how such a scheme could be brought in. We have seen a little light but it is too early yet even to give any broad description of how it might be done and I would say straight away, Sir, in answer to those hon. Members who may wish to oppose or criticize this particular Ordinance or Bill on the grounds of discrimination and who may suggest that the Bill should be postponed until a non-racial overall scheme can be brought in, I would say to them straight away that it will take time. It must take time. This is a matter of economics. Actuarial figures have got to be gone into. It will take a long time to study and work it all out but I think it would be the greatest possible mistake, it would be the greatest possible mistake, on account of a political theory of that sort, to do this because it would certainly lead to suffering, especially in respect of the poorer sections of the Asian community. I would re-emphasize that it is the intention to bring in a non-racial scheme when we can work out the economics of it. There again, I will say also that if this were brought in it would certainly not be the intention for that non-racial scheme to take over and absorb the savings of either the European scheme or this particular scheme if it has been in being for a year or two. Those

[The Minister for Local Government, Health and Town Planning] says or surpluses or reserves will be there and their disposition will have to be very carefully gone into and I have certainly no intention of raiding them for other purposes.—

Sir, clause 11 sets out the application of the moneys in the Fund and again, in short, they are the payment of allowances to contributors, the repayment of any loans which may have been authorized to meet the expenses of the Authority, and the creation of reserve funds. Now, Sir—it should be noted that the expenses of the Authority for the proper administration of the Fund, other than those incidental to audit and actuarial revenue, require the Minister's approval as also does the creation of the reserve funds. This is applied because both of these items are subject to any directions the Minister may wish to make. We have found that to be a necessary provision and I think hon. Members will see the wisdom of it.

Clause 12 sets out the way in which contributions by the public by way of taxation shall be made. Now, this, Sir, is rather complicated because, having discussed and considered and examined this matter for some time, we have found that it was not possible only to rely on contributions from income tax payers in the Asian and Arab communities. We had, therefore, to bring in contributions from personal tax payers as well. It does make it a little more complicated but not too complicated. One of the complications, of course, is that we had to deal with two different authorities in collecting this revenue: one, the Personal Tax Authority, which collects the personal tax, and the second the authority which collects the income tax. But in spite of that, we have come to, I think, a very satisfactory agreement with the authorities concerned with regard to the expense of collection, and this matter has been discussed with hon. Asian Elected Members and I think they will agree that, on the whole, the collection fees or expenses are very reasonable.

Just before I go into the detail of the payments to be made, I would like to mention one point which I forgot to mention when discussing the payments into the Fund. One of the payments into the Fund from the Government will be

a special grant of £5,000 a year for five years to help to put the Fund on its feet, especially because it was recognized that with the inclusion of the Arab community it might be more difficult to make the Fund economic than if we had excluded them and only dealt with the Asian community. It is recognized, indeed, that there are more poorer people amongst the Arab community on average than amongst the Asian community and, therefore, the revenue which could be expected from them in comparison with the benefits paid to them might indeed lead to considerable financial difficulties within the Fund, so the Government, recognizing that, has agreed to pay a special grant of £5,000 a year for five years to start the Fund off. There we can review it and see how it has gone.

Sir, referring to the actual details of contributions chargeable on the tax that may be paid, it is set out in subclauses (a), (b) and (c) of clause 12. The amounts of contributions payable with the personal tax in the income groups referred to are as follows: where chargeable income does not exceed £120 per annum the contribution will be Sh. 10; where the chargeable income exceeds £120 per annum but does not exceed £200 the contribution will be Sh. 20; where the chargeable income exceeds £200 per annum the contribution will be Sh. 30. I want to make that quite clear, Sir, that that is the one contribution based on personal tax. Then in clause 13 you come to contributions paid on income tax, and in calculating the contribution payable under income tax there are two factors to take into consideration. Everyone within this category pays a flat rate of Sh. 10. Anybody who has an income which is in the income tax bracket—which in fact exceeds £750—pays a flat contribution of Sh. 10, and the contributions on the total income that is contributions based on the total income, is 10 cents in the £1 of such total income under £2,000. In the case of total income exceeding £2,000 the rate will be 20 cents in respect of every £1 of such total income. Then, Sir, marginal relief will be worked out and indeed has been worked out, so that the person who just reaches £2,000 does not suddenly have to face this rather large increase but will be in a bracket just over £2,000 where the marginal relief will operate. The same will apply with

[The Minister for Local Government, Health and Town Planning] regard to the income of £750. It will not start as a flat rate of 10 cents at £750 but in fact it will creep up until £760 will be where the full payment comes in. This is because we have found it rather unfair that at a definite figure we should suddenly bring in a provision of this sort, so I think that hon. Members will be able to study these figures more at their leisure, and of course if they feel that further amendments are necessary there again—that can be discussed—and done in the light of experience.

I think, Sir, that one should make quite clear that there is no penalty for late payment. It is not really a tax levied by the Government for Government usage but it is a tax being levied by the Government on behalf of a group of people who wish to levy such a tax, and whereas with the arrears of personal tax it is a civil debt due to the Government the provisions under this clause provide that such civil debt in respect of hospital contribution is to the Authority and not the Government and the Authority will have to take action.

Sir, clause 14 provides for two contributions by the Government which I have already dealt with under a previous clause, and I include the £5,000 special grant which I have mentioned, but again, for the record, an amount equal to one-fourth of the total contributions paid under the Ordinance will be paid by the Government. This is the same as under the European Ordinance. The estimated contributions for the first year, we have not got any detailed figures yet, are of the order in total of £140,000, which makes the Government contribution £35,000.

Clause 15, Sir, provides for the payment of such allowances as may be prescribed by the Authority towards the cost of hospital treatment and I wish to make it again clear that the clause reads really as follows: "The Authority shall pay out of the funds a daily allowance of such amount and in respect of such a period as may be prescribed." So what that means, Sir, is that once the Authority decides or has made up its mind what the contribution is going to be and prescribes it, it is then under an obligation to pay that contribution. That is also an improvement on the

Ordinance for the European community where the wording was, I think, vague. After consideration we feel that it was rather unfair that after the Authority has prescribed the amount, that they should not be under an obligation to pay and not be able to turn round to Mr. Smith, Mr. Jones or Mr. Patel and say "No, we will not pay because we do not like the look of your face". That indeed might be the legal position under the other Ordinance.

Subclause 2.(a) is very important. It provides that the contributor, Asian or Arab, whose contribution has been remitted or exempted from contributing and also the wife or child of the contributor obtains the benefits. In other words to some extent the community—those who are earning money in the community—will take on the burden of those who have no money to pay. Although they may like to pay, they cannot pay and are either exempted or their contributions have been remitted by the Authority, and they will still get the benefits so, the poorer sections of the community will be helped out by the wealthier ones. This, I may say, Sir, has been a very important point in the other Ordinance in that I am afraid the advance of civilization and the development of this country it looks as if more and more distressed people need the help of the Government and of their community.

Another point that has been brought up, Sir, with regard to a child, who is defined as under the age of 18 years. I want to point out here that this includes a child adopted under the Adoption of Children Ordinance, or the Adoption Ordinance of 1958. Any child adopted outside the Colony or adopted under section 21 of the Adoption Ordinance qualifies. This is also an improvement on the other Ordinance where this is not mentioned and I would like to give notice to the House that as soon as it is possible to amend the other Ordinance, I wish to bring this amendment in so that both are on the same lines.

Now, Sir, clause 16, sets out the general powers of the Authority and, again, they are very similar to those of the other Ordinance. However, again we have found that there is a matter here that might be amended, that is to give

[The Minister for Local Government, Health and Town Planning] powers to the Authority to hold, acquire or otherwise purchase, sell, exchange or surrender holdings and to lease any land or building necessary to the Authority and to accept the surrender of any such lease. It was a deliberate omission that we considered that the Authority would not need those particular powers but on reconsideration the Government felt it would be better to clarify and put those powers in.

Otherwise, as I see it, there is no real difference except one quite significant difference with regard to investments. Clause 16 (b) says: "It shall be lawful for the authority to invest and deal with any moneys of the Authority not immediately required by the Authority, in and upon such investments and securities as are allowed by law for the investment of trust funds, or such other investment and securities as may be approved by the Treasury for the purpose," it is a quite significant passage that the other Ordinance provides that the Authority's funds can only be invested in trust funds. Here if it is found better to invest those moneys in other than trust funds, which might mean any particular type of investment, it can be so done with the approval of the Treasury. This is also an amendment that might be considered with regard to the other Ordinance.

In clause 18—it is mostly procedural—but there is one matter worthy of mention where it is required to furnish once in every five years an actuarial review of the funds. It has been found that we are not really very up to date with the financial position of the European Fund from time to time and an actuarial review would have been of great benefit to know and plan ahead as to what alterations in taxation might be needed or for possible extension of benefits in the future. Without some actuarial review we really cannot plan in that manner, so this provision has been included.

I think, Sir, that all the following clauses are simply set out and are quite apparent in meaning. They are, again, mostly matters of procedure and I do not think we need at this stage to go into their detail.

Now, Sir, I think it will be of interest to the House if I describe what I have been informed of the procedure with regard to the Report from the Council of State which has been received by you, Sir.

The report has been circulated to Members. I do not know if they have had time to read it, but I think it is in their boxes by now and I am not going to deal with the Report at this stage because there will be another opportunity to do so. It is intended, with your leave, Sir, that before the Committee Stage of the Bill, I should move that Mr. Speakey do now leave the Chair, which will give an opportunity for hon. Members to debate the Report of the Council of State. There are certain objections brought forward in the Report of the Council of State which they themselves have admitted they will withdraw if certain action is taken in the Committee Stage amending the Bill. I have given assurances that such action will be taken.

There is one other recommendation which is an amendment which cannot be dealt with in this Bill anyway and which I will discuss on the Motion before going into Committee and give reasons for rejection.

Then I hope, Sir, we will be able to move into Committee after debating the Report and take the Committee Stage as usual with the Third Reading being taken at the end of this week.

I think hon. Members must realize that if all the recommendations of the Council are not met, the Council of State still has the power to recommend to His Excellency that he withhold his consent to this Bill. I can assure hon. Members that, appreciating the urgency of this matter, I would refer them to my previous remarks with regard to the Bill taking effect as from the 1st January, that I hope very much that the Council of State will not take that action. Indeed, I believe that having met their objections to a very great extent, I hope they will not. However, that is in the hands of the Council of State.

That is, as I understand it, how we will deal with this matter and meanwhile at this Second Reading, it is merely a matter of discussing the principles of the Bill as set out in the Bill and as I have tried to explain it to hon. Members.

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

Now, Sir, before conclusion, I want to make only one more comment, that is that as far as discrimination is concerned, the European community have an Ordinance of this kind in force, this we hope will be passed into law for the Asian and Arab community as such is, of course, served by the general medical service of the Colony which is at the disposal of any community but which is mostly used by the African community. I hope very much that we will be able to provide some form of scheme whereby all communities can, on payment of some form of taxation or contribution, be able to insure themselves so that they can have and be able to experience a higher level of amenity than the Government can provide as its general state service. But even if, as I have said, other races wish to use the general State service hospitals, because of pressure on our beds, it would be very difficult to make provision for them. Therefore the Government has stated its principle for some years now that it does welcome and will help any section of the community which provides beds for itself. That applies to any section of any community and I am very glad to hear that a certain organization or, one might say, society, is going ahead with plans to build a higher amenity hospital in an area where the African population is in the majority for the use of Africans who wish to obtain a higher and greater amenity service than can be provided by the general medical department. I am very pleased indeed to hear that and I have already given an assurance that such a scheme will qualify for pound to pound aid from the Government.

So, Sir, I hope that hon. Members will look upon this Bill as another step in the direction towards providing social security of different sorts, hospitalization as far as this is concerned, to more and more people and will not look upon it as just a discriminatory measure because it is not. It is another step towards giving full cover to all races.

Sir, I beg to move.

THE ASIAN MINISTER WITHOUT PORTFOLIO SECONDED

Question proposed.

MR. TRAVADI: Mr. Speaker, Sir, I beg to support the Bill but I have some very useful suggestions and I hope they will be embodied when the Committee Stage is reached. But before I do so I would like to bring to the notice of this House what happened last May when the hon. Minister asked for a green signal to go ahead with the drafting of this Bill and in reply to that, I said the following which I will read from the Council debates of 26th May, 1959, page 1229: "Mr. Speaker, if this legislation is going to be on a long-term basis—the one the Minister proposed for the Asian and Arab hospital relief—then it is personally against my conscience and I cannot support it. But, as I said before, in local government systems there are—what might be called compromises—and I have got one to offer the Minister. If I can be assured by the Government that this will be a purely temporary measure, say for three or four years only, and that thereafter he will amalgamate it into one non-racial scheme, then I would in the present circumstances give my consent to it, reluctantly; and I underline the word reluctantly." In reply to this, the Minister said this, page 1562(6): "The hon. Member went on to say that he could not support the Asian hospital relief scheme unless I gave an undertaking that it was only a temporary measure. If the hon. Member will study my words in moving this Head, where I stated it might well be possible to introduce a non-racial scheme at a later date. He might be satisfied. I think it has been definitely shown by remarks by other hon. Members in this Council that the hon. Member for Central Area is in a minority in this regard, and that his theories should not be allowed to hold up the scheme which is so urgently needed in order to help the sick of his own community."

Now, my theory, whether I am right or wrong, but the Council of State have come to my help and proved to him that my theory was not at all wrong.

Mr. Speaker, the Minister has just said that he has also given an assurance to the Council of State that in time to come he is going to introduce a health insurance scheme especially for all the races, meaning European, Asian, Arab and also Africans. If this is so, and if there is going to be an actuarial investigation,

(Mr. Travadi)

why not write it into this Bill; then I think in clause 1, where it says this Bill comes into operation from 1st January, 1960, it should likewise include that this Bill will expire, say after two or three years, during which period he will be able to go into the insurance side of it and eventually bring it into operation as a health insurance scheme, so that people may know that he is really serious. It is better to have something like this in the Bill as it may be, he may not be here in 1963. But if this were actually incorporated in the Bill—that it comes to an end after two or three years—naturally, the Minister then in charge will take care that the insurance scheme comes into being.

I would therefore request the Minister that when he brings the other amendments, as he now proposes to do, also the recommendations made by the Council of State, he will also take note and put two or three years as the limit of age of this Bill.

Mr. Speaker, I am not going to deal with the details of this Bill as an hon. doctor, I know, proposes to do so and I am not going to comment, but one thing that he strikes me very much when people are discussing the advantages or disadvantages of this Bill. I think that this Bill specifically embraces 160-70,000 Asians; 37-40,000 Arabs plus some odd 10,000 more, which is 240,000 persons, and it will bring an estimated contribution of about £140,000 plus £35,000 Government contribution. It comes to this, that 240,000 persons in all contributing £140,000, which means Sh. 12 per person per year. Now, if you take a family, an Indian family, which is alleged to be breeding more, as he calls it, four children; a wife and a man, that is six, so it is 240,000 divided by six, is about 40,000 persons who are contributing. Now, taking only one case, if a man marries, say, this year and contributions start from the next year, during his wife, will have four children, she will stay in hospital eight days and the man will be getting Sh. 15 a day allowance towards it, which is Sh. 120 and for four children, as a contribution to the maternity home charges, he will, in all, get Sh. 480, and during those ten years he will get, according to the state-

ment which has been issued by the Asian Members: to the majority it will only cost Sh. 30 for the year. So if the majority only pay Sh. 30 a year, then in this ten years they will pay only Sh. 300 and will be pocketing as contribution towards the maternity home Sh. 480. So in this way, working it out, I would ask the hon. Minister: where is this Sh. 180 loss to come from? Probably from those persons who contribute towards the income tax of this country, but the needy persons will be very much in benefit thereby, as at present seen in this Bill.

While I am myself very much against any racial legislation whatsoever, but seeing that in years to come we will all be non-racial, so far as things go now I will be satisfied with what has been offered here.

Mr. Speaker, I have one more suggestion to make and that is about the constitution of the authority. In clause 3 (1) (c), four persons are mentioned. I would ask the Minister to increase this to six. After all, this is an Arab and Asian Authority and I know that others have a part to play in discussing this Bill, but I would just ask this question again, could the number be increased from four to six, that would meet the objection of the hon. Member from Mombasa.

Mr. Speaker, I am looking forward to seeing it and I beg to support the Bill.

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

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

MR. OLE TIPSIS: Mr. Speaker, Sir, I rise to oppose the Motion before the House. My main reasons, Mr. Speaker for opposing this Motion are simple and understandable.

Firstly, we in this country, want to know precisely as to which way we are leading, whether it is the policy of the Government to encourage and foster racial segregation or not. As far as I am concerned, I think the health of every citizen in any country is the responsibility and duty of the Government. I think this Bill should, therefore, provide for Government hospitals which give free medical treatment for the needy and poor.

(Mr. Ole Tipsis)

As far as the Africans are concerned, they are just getting fed up with the present state of affairs. We, the Africans, have always been given third place in our own mother country. I am sorry, we cannot have it any more.

We have been told by the Minister that he proposes to introduce a Bill of this nature very, very shortly—a non-racial hospital relief fund. What he did not tell us is what all this hurry is about, why introduce this Bill in its present form if he intends or proposes to introduce a non-racial hospital relief fund very shortly. After all, we have the European Hospital Relief Fund in this country and now, instead of getting rid of that European Hospital Relief Fund, he introduces one for Asians and Arabs. And then, of course, he intended to come before this House and tell us, as usual, that a non-racial relief scheme will be introduced very, very shortly, which, in other words, will affect at least some of the Africans.

Now, this is asking too much and I think, in all honesty, the Minister should consider very, very seriously withdrawing this Bill before the House, because it does not make sense at all to me, especially for a Minister of the Government, one who we hear so often, both inside and outside this Council, saying that the only survival and well-being of this country is to approach matters on a non-racial basis. And then he comes here with a Bill entitled, "The Hospital Treatment Relief (Asian and Arab) Bill, 1959!" What is that if it is not racial?

On the other hand, personally I should have thought that the more poverty-stricken members of any of our society should be the first to be catered for. Let them have free medical treatment. We know how much they are suffering in the countryside and instead of helping them out, the Government is contented at least to push ahead those communities who are always better off and whose financial position can always enable them to get the best medical treatment possible, on account of their being financially better off.

I do not want to take much time of the House but it should be prominently noted that we very, very much oppose the Bill and I think the Minister ought

to withdraw it right away instead of trying to say that he proposes to bring in amending clauses during the Committee stage and try at the same time to justify his case for introducing this Bill which has in a way been commented upon by the Council of State although I have not seen the circular from the Council of State which has I understand branded the Bill as having some discriminatory clauses, and no doubt it has.

Now, I should say this, that if we are to talk in this country, Mr. Deputy Speaker, it is no good talking with two tongues—one pending that we are facing issues facing our country on a non-racial basis and on the other hand, trying to introduce legislation or measures—which are racial as such and which are discriminatory. I do not see the sense of this at all, and to make it worse, if the Minister proposes, as I said earlier, to introduce a non-racial Hospital Relief Fund to everybody, well, why not do it now? Why introduce this half-measure? Why not have a uniform thing for every citizen.

With these few remarks, Mr. Deputy Speaker, I beg to oppose the Bill.

DR. ADALIA: I beg to support, and in doing this I must express my disappointment at the fact that some members of the Asian community have thought fit to oppose this Bill and also at the opposition that has been expressed by my hon. friend the African Member who has just sat down.

Mr. Deputy Speaker, Sir, I believe that opposition of the Asian community is based more on sentiment than on sense. It is based more on ignorance than on understanding. Let us examine the points that these friends have raised. The first point they make is that the Bill is a racial one. Now, Mr. Deputy Speaker, I make bold to say that I do not give any weight whatsoever to that argument. As a matter of fact I do regard that argument as worth the paper on which it has been written. Let us examine this. Under the circumstances that exist at present, as it can be seen, non-racial as it can possibly be, and this I say, because I have in my mind that the European community have their own scheme whereby hospitalization of the members of the community is assisted out of a

[Dr. Adalja] fund. So far as the African community is concerned, I believe they are also to a very great extent catered for. They have got Government hospitals where they can go, and where they pay only a nominal sum of Sh. 15 on admission irrespective of the length of their stay in the hospital. Now, Sir, I would like to challenge anyone in this House and outside to produce a scheme where medical treatment—not only the hospitalization—but the full medical treatment can be cheaper than this. If any scheme of this type cheaper than this is found, I, for one, would say: "By all means go ahead for all the communities."

Now, Sir, the African community receives treatment at the expense I have just mentioned in hospitals, which, in my opinion, Sir, are efficient. I make bold to say, Sir, that the Government hospitals provide a medical attention that is second to none. As a matter of fact in many cases it is much better than what can be obtained elsewhere, and here, Sir, I have in mind the new developments that are taking place at principal hospitals like King George VI. I believe a cardiac centre is in the course of being developed. May I know whether there exists any hospital in the Colony, Government or private, which can provide such a facility; so I am sure, Sir, that the African community is well catered for all present. Now, if we agree that the Europeans and Africans are provided for, which communities remain? Asian and Arab. And the very fact that this Bill covers both the communities goes in the favour of making that Bill as non-racial as possible. So, Sir, I do emphasize again that under the present circumstances this Bill should be regarded as non-racial, and the argument that it is a racial one should be dropped. When I hear the argument over this Bill a question arises in my mind; supposing that any ultra-non-racialists were to fall ill, or any member of his family were to fall ill and a blood transfusion was required, I would like to see them refuse the blood transfusion on the ground that the blood comes from the racial bank. I wonder if this will be so. I am sure other Members will also wonder. An interesting experience comes to my mind.

This experience was related to me by my father when I was a small child. In the Nawanagar State in India, under British rule there happened to be a very orthodox officer. He used to criticize my father in season and out of season for seeing that the serpents—the poisonous serpents, if they appeared anywhere were killed. He did not respect them or worship them and so he saw that they were killed, so that they would not kill anyone else. Now, this orthodox officer always used to tease my father, saying that he was doing a crime, he was taking life and would go to hell and so on. One day it happened that a serpent—a large serpent—appeared in the house of the officer, and a servant who used to kill them when they appeared in our premises happened to pass by. The orthodox officer called him and said: "You get me out of this situation." He said: "Here is a poisonous serpent—I am afraid of it." He said: "Sir, I can help you, but I can only help by killing." He said: "Do not say anything about it—do whatever you like—but please dispose of it." I am sure that if any blood was required by these ultra-natalists, if it were mentioned to them that the blood came from these banks, they would say: "Do not tell me about it—go on with the blood transfusion."

Now, Sir, the second point that has been raised by those Asian Members in the opposition group is that the Bill only provides for a part of the treatment. That the Bill does not cover the whole of the medical treatment. That is quite true, but the Bill is not meant to cover all aspects of medical treatment. Even in the European Ordinance the scheme does not provide for all aspects of medical treatment. It certainly leaves out expensive items like the cost of investigations, the cost of drugs, the cost of doctor's or surgeon's fee, but if all these items were to be included in the Bill, then the contributions would soar sky high, and then, certainly, it would cause hardship. I think under this system with a limited objective like this it is not possible to have in the Bill provisions for providing for other items of medical expenses.

The third point is that the beds are not enough. Now according to these friends of mine there should be ten beds per 1,000 people and the hospitals should be

[Dr. Adalja] within a 20-mile radius of the patient's house. May I say, Sir, that these friends are asking for *Utopia*. In the conditions of Kenya—in the economic position of Kenya—provision of ten beds per 1,000—provision of a hospital within 20 miles of a patient is asking for the moon. So long as Kenya is not fully industrialized. So long as Kenya has not an income that is not only adequate for the present needs, but much more than that, such *Utopia* cannot be had. But, let us see what bed facilities are there. There are, as far as I am aware, Sir, 600 beds available to the Asian community. That works out to about three beds per thousand. There is a hospital within a reasonable distance of any developed place, and the experience, Sir, shows that out of the existing number of beds nearly 30 per cent remain unoccupied. Now, this shows that if as a result of this Bill there is a greater demand than the existing facilities can meet, unoccupied 30 per cent can fulfill it. But supposing that the pressure is further increased, there are already plans on hand for providing for additional beds. I believe, Sir, H.H. the Aga Khan's Hospital has not been built to its full strength. I believe its full strength is in the neighbourhood of 210. It already has got 110 beds, and they have plans to provide another 100 beds if the need is there. Similarly, Sir, Parklands Nursing Home has plans for another 40 beds. In Mombasa, Pandya Clinic has also plans, and so also has the Visa Oswald Community Hospital. As far as I am aware, Sir, is planning to build a new hospital with a greater number of beds. And, Sir, in spite of this, there is further pressure. I am sure this could be catered for by provision of more beds. But, Sir, let me say this. What is the present trend of things. As far as I am aware, Sir, the present trend in the development of medical facilities is not to lay too much emphasis on prevention, but emphasis on prevention. And, Sir, it is thought that even in developed countries a provision of three beds per thousand is what is thought to be adequate, as the emphasis on the treatment side, to staff the prevention side. Certainly the hospitals will always be needed. Prevention will not

eradicate their place in the scheme of things. Hospitals will have to be provided for, but, then, Sir, then it will be for very serious cases—cases which are prolonged and require expert attention. For ordinary things what will have to be done is to put more and more emphasis on prevention and domestic attention. So, Sir, I do not at all accept the argument that the hospital beds are not enough, and that therefore this Bill is an objectional one.

The fourth argument is that the Asian community is not hospital minded. Here again, Sir, this argument is based on ignorance on the part of those who advance it. It is true that the Asian community is not as hospital minded as the European, but it is certainly getting more and more hospital minded. From my experience of 33 years in private practice I can say that it is easier—much easier—to persuade an Asian to go to hospital today than it was 10 or 15 years ago. As a matter of fact it does come across cases where hospitalization is being demanded. Hospitalization is now being accepted by the Asian community in general.

Now, Sir, several years ago—I believe around 1925—it was Dr. Karve who put up one of the first nursing homes in Nairobi, and he found it did not work, and it could not be carried on because the Asians would not go to it. Now, we find in the last ten years that nursing homes are provided by private venture. People have put them up—not with a view to losing—but with a view to making money. Now if private ventures have come in it shows definitely the trend that the Asian community is becoming more hospital-minded. But, forgetting whether the Asian community is hospital-minded or not, let us take the requirements of the present-day science of medicine. It is like the science it is not into consideration. Sir, now it is possible to treat quite a number of types of patients in the patient's house. I used to treat even things like the application of forceps or manual removal of placenta or the completion of incomplete abortions, or even blood transfusions in a patient's house. But today I would not dare do so because it is not safe in the first place, and secondly, because I would be always in danger of being held up to the court for negligence. Sir, today

[Dr. Adajia]

the medical science requires many investigations, very acute observations, and all that can only be provided in the hospitals, and therefore, Sir, I do say that this argument also has no leg to stand on.

Now the last argument that has been advanced is that the required contributions in the Bill will cause hardship. My calculation, Sir, is that about 70 per cent of the Asian community will be only Sh. 30 a year. Quite a number will be paying Sh. 10, but the majority will be paying about Sh. 30 a year. Now Sh. 30 works out to Sh. 2/50 a month, which works out to 8 cents a day. I wonder whether 8 cents a day is a hardship, or even 9 cents? If a member of a family just forgoes one picture every second month he will be able to meet this bill. I am sure, Sir, the contribution cannot cause any hardship whatsoever.

Now, Sir, the opposition seem to be laying a great store by the number of signatures they have secured for the petition they have submitted. Now, Sir, I have been in this country for 33 years, and believe me, ever since I came to this country I have taken part in public life, and I know that it is not impossible to get signatures. A little trick here and there can secure it. Signatures do not mean anything when it does not cause any expense, here my recent experience is relevant. At a function I asked a very intelligent and educated friend of mine what he thought of this Bill, and he said, "Adajia, would you believe it, I have not read it. I am not in a position to give you a studied reply." Sir, if this educated, intelligent man, who is taking part in public life and who is a member of some of the important bodies in Kenya—if he has not studied the Bill—if he is not in a position to give a considered reply, do we suggest that the 7,000 signatories held have done so? I am sure, Sir, all of them have not read it, and therefore the signatures have a very limited use in my opinion.

Now, Sir, before I sit down, let me say why I am supporting this Bill. I am supporting this Bill, Sir, because I believe it is a measure which will help the poor and the needy and the lower and middle-class section of the Asian and Arab communities. I believe, Sir, this Bill will make the running of the

hospitals and the nursing homes much more easy, and will make them more efficient. I have some experience, Sir, in this direction. I am closely connected with more than one institution, and I can assure you, Mr. Deputy Speaker, that it is an uphill task to collect funds, to run even a limited almoner's fund. It is not easy. We have to go night after night, beseech, beg and do all sorts of things before we can get the funds that are required. So this Bill will certainly help. But, I also believe, Sir, that this Bill can be a precursor of a more comprehensive scheme, and in that hope, also, I am supporting it.

I may say here, Sir, my personal view. I believe that medical science has so much advanced that I have come to feel that to get all the benefit of this advancement to a man on the street or a sort of State medical service is required. I am one of the very, very few who believe in State medical services. In 1953 I happened to be in the United Kingdom and I saw various hospitals and I came back enamoured of them. I know that it has disadvantages and it has weak points like the position of a General Practitioner—he is losing ground in the United Kingdom. But, here, also, a General Practitioner, particularly an Asian Practitioner, is losing ground, and on that point I will not say any more because it is outside the field.

I also know, Sir, that Kenya is economically in a position to support a State medical service, and therefore I believe that some other scheme will have to be brought in in order to provide the needs of all the races, and I was greatly encouraged by the information that has been given that the Government is engaged actively on trying to find out whether such a scheme can be brought in. I say in the light of this declaration, I am not able to understand the opposition which has been mentioned by my African friends. I would say that if the African community were brought into this Bill, it would be a disservice to them because they would have to pay not less than Sh. 10, and all they would be getting back would be part of Sh. 15 which they would pay because the Sh. 15 includes charges for medical attention, charges for drugs, charges for investigations. So if they were to get only a part of the Sh. 15

[Dr. Adajia]

I wonder whether their inclusion will be a help or a hardship.

In a larger, more comprehensive scheme which I hope and pray will be soon coming, they will certainly be, or should be, included, and I do wish that such a scheme would be a non-racial one.

Sir, with these few remarks, I beg to sit up.

MR. NEALAS: Mr. Deputy Speaker, Sir, I stand to oppose this Bill, and I oppose it because I had expected some kind of integration of the hospital system from the Ministry, but I am very much disappointed that what has been introduced is very much to the contrary. Here we are faced with a situation where a Minister who is very well known for his principles of non-racialism is introducing a Bill which, in my view, is very racial.

Mr. Deputy Speaker, Sir, I would like to do away with one point which has been touched on by the hon. Nominated Member who has just sat down, and who so very shamelessly said that the Africans are adequately served. This is a very sad reflection on his part of his knowledge of the hospital treatment and the conditions that the Africans are facing. I would like to take one example of a district which I know, very well, and where Africans have to walk over 20 miles from Mackinnon Road to Kwale Hospital for treatment. Some have to walk 50 miles from Mackinnon Road to Voi Hospital for treatment. Is this adequate service which has been referred to by the hon. Member who has just sat down? Very much to the contrary, he has mentioned the services which are being given to people in King George VI Hospital. I must say that the services are very good there, but this is just one small place—very small place—in Kenya, and as such, the Member, I think, had no grounds at all for saying that the African is being served adequately as far as hospital services are concerned.

The same Member, Sir, I think was contradicted himself when he said in another sentence that we cannot expect any good treatment on Kenya because Kenya is still a poor country, and he says that would be living in an Utopia.

I wonder whether the Africans, according to him, are already living in an Utopia? This seems to be a very funny contradiction in the course of his talk. I think the country Members who are very ignorant on this point, and their speeches made here, particularly as far as the African hospital facilities are concerned.

I invite the Member, Sir, to accompany me on a tour of my constituency, and I think that one constituency alone will satisfy him that he is misled or has read the situation wrongly.

Mr. Deputy Speaker, Sir, I did not expect the Minister to introduce this because, on a tour of my constituency, he would welcome this introduction because of the shortage of beds throughout the country. Now, he also said that in one community a hospital which would probably qualify for this scheme is going on and he added that there is a very thick African population around that hospital. Now, in my experience, Sir, private hospitals, or Government-aided hospitals have proved to be too expensive for the ordinary African. They have proved to be too expensive to the extent that I think they should be strongly discouraged by the Ministry.

The Nominated Member who has just sat down thinks that the scheme would help the poor Arabs and the poor Asians. Now, what stops the poor Asians today, what stops them to the General Hospital, the Coast General Hospital—for example—or the King George VI Hospital in Nairobi. Why cannot they go to these hospitals where they can get treatment together with other people. Perhaps the Ministry or the hon. Member who has just sat down has an explanation. In my view, probably, it is a sense of colour bar that prevents them from going to these hospitals, and this should not be encouraged by the Ministry.

Another point, Sir, I find it very difficult to encourage public expenditure on private aided hospitals, particularly when that expenditure is going to make it even more difficult for the poorer class of person to get hospital treatment. The Aga Khan Pandya Clinic and the Aga Khan Hospitals—all these—even if they are situated in an area with a very large African population, or a large poor African population, experience has shown

[Mr. Ngala]

is that very few people, particularly the Africans—make use of these so-called Pandya clinics because they are very expensive, and the ordinary person cannot afford it, and when you see the Ministry directing money to such very expensive institutions, I begin to doubt the wisdom of such Ministry.

Mr. Deputy Speaker, Sir, this Bill must be opposed strongly on racial grounds. I have not seen the report by the Council of State, but I think the Bill perpetuates the racial basis, or the racial system of hospitals in this country, and as such it must be opposed. We feel that with the money that we have in Kenya for hospital services, more attention should be directed into integrating the hospital system so that people can have one common treatment as people of Kenya together instead of giving extra good services to small communities that are wealthy. By small communities, I do not only mean Asians or Arabs, but even the Africans that are wealthy—if there are any—those people should not be given extra services and the poor people left alone to find it difficult to get any treatment. I think sufficient fear has been shown by Mr. ole Tipis in his speech that if the Ministry is thinking of introducing a scheme which will cover all the races, that perhaps would be welcome, but this Bill which is racial in its form, I think we find it very, very difficult to encourage it and we would beg of the Minister to withdraw it at once.

Mr. Deputy Speaker, Sir, the needy people in the country—bringing this legislation here affecting the Arabs who have to walk 800 yards in many cases to get to a hospital, or at the farthest about three miles to get to a hospital—do not make extra provisions for such people and forget the bulk of the African population in the country is to me a very wrong attitude to take as far as the provision of hospital facilities is concerned.

I do not wish to be very racial in this, but I think the Ministry will realize, and will take the wisdom and the advice which it has received from the Council of State.

With these few words, Sir, I beg to oppose the Bill.

MR. NAZARETH: Mr. Deputy Speaker, Sir, I rise to support the Bill. As the

Minister said, when he proposed the Motion, this Bill had been given detailed consideration and excited a lot of interest, and in fact it has brought about a certain amount of difference of opinion within the Indian community. But I think there can be no doubt that the Minister was quite right in the conclusion which he drew that this Bill has the support of the great majority of the Asian community.

As there has been a certain amount of difference of opinion in regard to the main principle of the Bill, I think I ought to deal with that question, namely whether this is a racially discriminatory Bill. Now, we have derived, one might say, surprisingly, considerable support from the fact that this Bill has been considered by the Council of State, and the Council of State has found that it is discriminatory—or unfairly differentiating—in certain minor respects. But, it has supported the main principle of the Bill.

[The Deputy Speaker (Mr. Beelgaurd) left the Chair]

[The Speaker (Sir Ferdinand Cavendish-Buttleck) resumed the Chair]

Now, the Council of State contains both African and Asian members, and none of the Asian and none of the African members has considered it right or necessary to attack the main principle of the Bill. It has in effect supported the main principle of the Bill. So that is one important body that has given support to the main principle of this Bill, and has not found it differentiating on the grounds of race. The minor aspects on which it has found the Bill to be differentiating will be dealt with by the Minister, he has said, when he comes to deal with the Committee Stage of the Bill and an intermediate stage he has promised to take up.

The second unexpected quarter from which we have surprisingly found support is the hon. African Elected Members themselves. I hope they will consider it unfair on my part to mention in this Council that several months ago, then, the Government's intention to bring forward this Bill was mentioned, and the Government was then exploring whether the Bill would receive support

[Mr. Nazareth]

in the Asian community, and we thought it desirable to consult the hon. African Elected Members and others in the Constituency Elected Members' Organization. At that time, that organization consisted of all the 14 Elected African Members, and the Asian Elected Members and Mr. Cooke, and they said that they had no opposition to the Bill. I am therefore very glad indeed to be able to say that this Bill had the support of the hon. African Elected Members, and I am indeed very sorry that today they have changed their minds. I would like to commend to them the advice which the hon. Mr. ole Tipis gave: a little while ago, that we must not talk with two tongues, and I would like to suggest that they keep to the opinion that they expressed some time ago when they were consulted on this matter.

Now, they have attacked the principle of racialism and suggested that there should be non-racialism. That, of course, is a policy with which we all entirely agree, and seek to implement and carry out as quickly as possible. They have also attacked the hon. Minister on the ground that he has now carried out a policy of racialism. Possibly, the hon. Minister might have felt a little disappointed by a certain reaction which he experienced when he consulted the community of Kisumu when he was trying to introduce the Common Roll, and the only community which supported the Common Roll on that occasion was the Indian community. I am sorry to remind the hon. African Elected Members that the African community there opposed the Common Roll on that occasion. I do not know why they changed their minds so rapidly. These are facts which ought to be brought to the attention of the Council because these measures have been very, very carefully considered by the Asian community for a very long period of time, and it was because it had a certain racial aspect, that the Asian community itself was greatly concerned about this matter, and that is why they thought it right to consult the hon. African Elected Members.

There are certain other aspects, in a sense, touching on the racial aspect which I should like to deal with. The Kenya Indian Congress has considered this measure, and has accepted as an

interim measure, and the Minister has. I am glad to say, reassured us by saying that they have under active consideration proposals to bring in a non-racial measure. That, as he has pointed out, will take a little time as it is a difficult matter. But it is precisely because it will take a little time that it is necessary now to implement this measure which has been under consideration for many, many years.

As a practical point, perhaps I might mention that in the 1956 Kenya Report there were also figures in the 1958 Report, but they do not substantially differ from the 1956 figures—the Asian beds were given as 315, and the African beds are given as 5,600. Now, although, as the Minister has said, these may be open to all communities, apparently these hospital beds are practically of service to the African community. The position really is that if an Asian goes to hospital and he is faced with very considerable expenses, there is no reason why—considering this measure has been under consideration for many, many years, that it should not now be implemented.

The hon. Nominated Member, Dr. Adjuja, has referred to the large number of signatures which have been appended to petitions which have been forwarded to Government authorities. The opposition has, to a large extent, come from Mombasa. We realize, of course, that signatures can quite easily be obtained for petitions of this kind, but it was after signatures of this kind had been coming forward that the Asian Members of this Council met and they decided to support this Bill in principle as an interim measure. I was not present at that particular meeting, but I am in agreement with the grounds on which they supported this measure—as an interim measure and looking forward to a non-racial scheme to be brought in as quickly as was practicable, but recognizing that the grounds on which this Bill was brought forward—the general policy that was adopted in it was one that was in the interests of the Asian community and was not wrong in principle in all the circumstances.

As I said a little earlier, this matter has been under consideration for many years, not necessarily by the Ministry, but the Asian community has been giving

[Mr. Nazareth] from time to time, thought to this matter. The hon. Member for the Eastern Area, Dr. Hassan, referred quite some time ago to a meeting held as early as 21st October, 1952, when it was then suggested that it was the Asian Elected Members who had proposed the measure and he was concerned, at that particular meeting which was held within the last year or two referring to this meeting of October, 1952, to say that it was not the Asian Elected Members who had initiated the measure, but no doubt, they had had it under consideration. The East African National Congress, as it was then called, also discussed this matter several years ago, and although no express resolution was passed in support, the Elected Members who were present were given to understand that they could support a measure on the lines of the present Bill. It was this support given by the East African National Congress years ago that enabled and permitted the Indian Elected Members to continue to give this measure of support whenever it came up for discussion with them, and it was because of the support given by the Indian community through this organization—this representative organization of the community—that subsequent detailed discussion took place with the Minister at quite a number of meetings, and finally, the Kenya Indian Congress, at a meeting held on 16th May this year, gave express approval to a measure on these lines, basing its approval on the grounds that they looked upon it as an interim measure which would lead to a non-racial measure very early.

It is desirable to point out as opposed to the signatures that have been forwarded, there have been various responsible organizations which have given support to this Bill. A communication was put out by the Asian Members of the House who met quite recently that among the bodies that had supported this Bill were the Social Service League, the Mombasa Political Union, the Kenya Indian Congress, of course, another body at Mombasa, and they also mentioned meetings at Nakuru, Eldoret and Kisumu held some time ago which had given support to the measure; the doctors and dentists have also given support to the

measure, and in fact responsible opinion in the Asian community had supported the measure. It was therefore quite wrong—quite a mistaken course—of such a late stage suddenly to change of opinion, and the opinion of responsible bodies in deference, as it were, to certain opposition that had started from Mombasa, and has been organized from there, although we do not blame them for organizing it and getting it fully expressed, but we do not feel that it alters the very strong support that has been given for a very considerable period of time to this Bill, and which continues still at this moment to be given. A copy of the grounds on which a vigilance committee which has opposed this Bill—I do not know how long ago it was formed—was sent to me some time ago and I replied to it in detail. I will not, of course, trouble the Council with the reply which I gave at that time but I would ask leave just to read one or two paragraphs from it. I think it desirable to put these matters on record since there has been this feeling of dissatisfaction or difference that has been aroused. I said this, "Your committee is probably aware that the matter of Asian Hospital Relief has been under discussion for several years. The East African Indian National Congress as it has then called has been consulted by the Elected Members and has given its approval to the imposition of a tax for Asian hospital relief. No resolution in fact, was passed but then Elected Members were in the light of the discussion that then took place encouraged or permitted to support a tax for Asian hospital relief." I do not think I will go further on that. I then dealt with the various grounds on which the measure was attacked and they have been dealt with partly by Dr. Adaja, partly by the Minister. I will not trouble the Council with the other points that I dealt with in that letter.

It should be emphasized that this Bill is essentially a social measure. It is not strictly an insurance measure in which everybody pays alike and get alike. It is a measure in which the poorer members of the community are helped, by the richer members of the community and the richer members of the community pay a great deal more than the poorer members of the community. That is an aspect of

[Mr. Nazareth] the matter which ought to receive great support from all sections of the House and particularly from the hon. African Elected Members, because the time will no doubt come when if a non-racial measure is brought in, possibly it will proceed on the same lines and if it does proceed on the same lines the community that will stand to benefit most will be the African community.

I am indeed sorry that the support that we had intended when this matter was initially discussed with the elected representatives of the African community has today suddenly and without notice and I feel unfairly been withdrawn. We are not, of course, completely satisfied with the measure. It has a certain racial aspect about it and we recognize that which is just the reason why the Minister has said he wants to proceed as rapidly as possible to a non-racial measure. If I might sum up, the measure does not give us an ideal solution. It is like the situation in the song: "I'm looking for an angel, but until one comes along, I'll string along with you." And that is our attitude to this measure.

I support the Bill.

MR. MATH: Mr. Speaker, Sir, I would not judge any sick person hospital treatment whether he were a European, an Asian or an African or of any other race. I believe that people should get treatment when they are sick. Also at the same time I would not quarrel with my friend, the Member for Western Electoral Area, on the question of having a social service. I think that is quite fair, but the Member I would quarrel with is the Minister for Health and Local Government. Here he brings in the Hon. A. Bill very well entitled the Hospital Treatment Relief (Asian and Arab) Bill, 1959. So my quarrel with the Minister is this, he is very aware of the general lack of hospital services or any assistance in Kenya as a whole. Only this morning we were discussing the problems of Kitui District and the difficulties of getting X-ray treatment or X-ray services. Is the Minister satisfied that these measures are comprehensively for the good of Kenya or only for part of Kenya? How has he come to that part of Kenya—on geographical lines or racial lines? I am sure, Mr. Speaker, the

Minister would say it is racial. We would like to believe it is not, but I say it is at this late hour because the Minister himself has talked about the new Kenya. He has so many times talked about changes in Kenya. This is a kind of the new Kenya we have round the corner where we are going to have Bills in this country brought into the House with the title of the Hospital Treatment Relief (Arab and Asian) Bill. For that matter, is it going to be African tomorrow? But why the delay, I thought, if the Minister sincerely believes in what he calls a non-racial approach, he would give this matter a second thought. But to my mind I am afraid the Minister himself is quite different from me in this approach. I would not have the brackets, I would simply say "The Hospital Relief Bill" and finish there.

Mr. Speaker, the Minister also at the end of this same Bill informs us that there is a similar authority for the European community. And then in his speech he says that there may come another one for the African community. Is he thinking of separate development? Is he thinking of separating the communities in Kenya or non-racialism or what? At the same time, why should the new scheme also involve a public expenditure of this total figure of £5,000 and later on £35,000 every year for one community in Kenya? I feel the Minister may take this very lightly. I say it is a matter for debate, a matter for whomsoever can win the debate should have it.

Mr. Speaker, I feel quite differently and in the same way would I answer my friend from the Western Electoral Area, Mr. Nazareth, when he talks of the African Members having supported this particular Bill at a certain stage in a certain organization and now they have changed their minds. I believe in change myself. I would not have been here at all but for changing Kenya. And if my friend who has taught everybody in Kenya how to sit on the fence and not how to become a shock absorber, not how to become a way to go, is worried knowing which way to go, is worried about his own teaching, then I do not know what he expected. I do not agree with any way that there was such an agreement in the particular Bill because we meet in this Bill. I do not think it did not go to all these meetings, but if it is true I am only copying him.

[Mr. Mate]

Mr. Speaker, I feel that at this particular stage there is no defence at all in a Bill like this, that it is not racial. We can see it quite clearly. But the argument is really what does the Minister propose to do with the 6,000,000 other people whom he has not provided for at all in this particular kind of thing. Yes, because the Europeans now enjoy Government services, the Asians do, the Arabs do, so do the Africans. Why does he create separate compartments or arrangements? For the present in matters of personal treatment we would go to the best eye expert, I believe, and all we go to when it comes to specialized treatment, I have seen it in my own district. There is nobody practically going to the hospitals there. But in that case there is a shyness about things and my submission is—and here I am a racialist and I do not apologize at all for being an African myself—when is the Minister going to bring this kind of thing again and have in brackets "African" and also considering the needs of the African population and the so-called non-racial approach I feel it would be very wrong for me at all to support this Bill whereas because I was afraid of being accused of being a racialist or having changed my mind because the matter is very obvious. And I would like the Minister when he comes to explain, to answer me just one thing. Is this the kind of new Kenya he has round the corner for us? The Europeans have this kind of authority. The Asians now are going to have it and the Arabs. I oppose it in principle and in application, although I do not grudge them medical services as such, but the African community has no hope at all or expectation. I suppose you are thinking that there are so many that you cannot have enough money to give us these services. We are too many, I do not believe, Sir, that it would be fair to pass this Motion without having some sort of assurance as to what the Minister hopes he can do, whether he is going to double the public services for the Africans who require hospital treatment, and he should let us know because I feel very strongly myself the temperature and progress in Kenya today shows that the movement is towards some closer kind of integration. In a Bill like this I do not feel it

is good at all and I would like the Minister just to answer me this last question as to what he has got for Kenya in the coming years.

Mr. Speaker to oppose the Motion, Mr. Speaker.

MR. MULIRO: Mr. Speaker, Sir, I rise to oppose this racial Bill from the highly racially minded Minister with all my might. I oppose this because it is too late for ideas of this nature to be any more perpetuated in this country. If we want one democratic and integrated nation, the question of separate amenities for separate communities cannot be welcomed by us. Any person in this country, who thinks that we want to create one society or want one people and yet at the same time says, "I will do this for the Europeans; I will do this for the Africans; I will do this for the Asians and the Arabs", that person is not sincere in his doings. I regard hospitalization and hospital services as completely the responsibility of the Government. If that is the responsibility of the Government, to see to the welfare of the citizens, how on earth can the same Government again say, "I will do this now for this citizen and not for that citizen because he happens to be black." As far as I am concerned, Mr. Speaker, and all Africans, we cannot welcome this Bill because it perpetuates racial behaviour and outlook in this country which we are dedicated to eradicating. And so anyone supporting a move like this and arguing that the African Members with the Asian Members behind closed doors somewhere agreed that a thing of that nature was acceptable, that would not be true, because as far as the history of this Bill is concerned, Mr. Speaker, which dates as far back as 1951, or these very African Members whom some people argue that they agreed with them behind the closed doors, were never here in 1951. And again, anyone like the Minister for Local Government, Health and Town Planning, arguing so that we were not co-operating with the Government. I think the best place for him to be a Minister would have been South Africa because that is the place where Ministers of Parliament go to Parliament and they argue very glibly, "We want parallel development, the natives there on his own, the Europeans there, and the coloureds and the Indians in their own

[Mr. Muliro]

And we find the same person here who says, "We want to create a new Kenya", coming here with the same parallel development of South Africa.

Another argument also which is very hollow and empty, Mr. Speaker, is that the Africans could not be included in this because they cannot afford to pay for these services. Now, is the logic of this Government, that once you are able to provide for these separate amenities, then the Government gives more money? Is that not a clear case that these people who are able to provide for themselves should provide for themselves and the Government should not give them any more money? Is the duty any Government which is democratic to look to the poorer classes, to try to cater for these poorer ones, to try to see that each can afford to take care of himself. If the Europeans and Asians in this country are prepared to think racially completely and the Kenya Government perpetuates that I do not think the Kenya Government is doing a service to this country. If we want to create a society of equals, Mr. Speaker, I ask the Minister for Local Government to withdraw this racially discriminatory Bill.

I beg to oppose.

MR. SAOOO (Nominated Member): Mr. Speaker, Sir, it is all very well for a person like myself to be able to afford the luxury of such a disease as gout and pay for it. But, Sir, what about the average man in the street, for example, an industrial worker, who is not employed on a monthly wage, nor on a weekly wage—not even a daily wage—but, shall I say, on an hourly wage. And that, Sir, is common practice in many industries. What happens, Sir, when such a person goes down with sickness? Not only does he lose the pay for every hour he keeps away from work, but he also has to foot the doctor's bill and the hospital's fee if he has any money at all to do so. He has no contributory health scheme which he could join, nor has he got any other form of health insurance. The result, Sir, is that he gets into the habit of neglecting his health and that of his family with serious consequences. And if it happens to be a maternity case he simply leaves it to

what we in the vernacular call a *Dai* which is equivalent to, shall I say, leaving it to Mother Nature herself. I therefore, Sir, feel convinced in my own mind that for a very nominal annual contribution this Bill provides a form of insurance to such people who are employed by private enterprise and who have been in the past deprived of adequate medical services.

Sir, I am inclined to agree—for a change—with the hon. Member for the Western Area in looking upon this Bill as an interim measure. It may be in force until such time as a much wider scheme can be formulated which will embrace all races. As regards the length of that interim period, Sir, your guess is as good as mine.

MR. SPEAKER, Sir, I beg to support.

MR. HASSAN: Sir, I would like to mention here, Sir, that the attack on the Minister by my friends, the African Members, has been unequalled, for undesirable and it was not at all in order to do so. I would like to prove to them that it was no fault of the Minister to bring this Bill on the Table today. It was long before I came or entered into this Council that the Asian community demanded that they needed some sort of health or hospitalization for their community. They had no hospitals to speak of at Mombasa, practically none in Nairobi and none in any part of Kenya, for that matter, and the Government thought that the finances for the social services did not permit comprehensive hospitals treatment for every community in this country and whatever amount was available it was used for putting up a few hospitals here and there and therefore Government could not possibly agree at that time to provide hospitals or any scheme for Asian members. It was in 1952 when I came into the Council and then the Member for Health was here—not our present Minister. The Member for Health was approached and again this question was raised and I would like to bring to the notice of my African friends that there was nobody, except Mr. Mathai in the Legislative Council at that time. There was no demand from the Africans and it was the Asians who were demanding at that time. Nobody ever objected to any racial matter at that time; in 1953 we had a committee and we decided

[Mr. Hassan]

to find out if the Asians wanted hospitalization. And I would like to bring to the notice of my friends here and also to you, Mr. Speaker, Sir, that it was not a matter which was something like a piece of bread or biscuit that anybody could put into his pocket. It was something on which a tremendous amount of sacrifice was expected of the members of the community who wanted the hospitalization scheme. And the Government did say very definitely that whatever the funds for social services, out of the general revenue it had been earmarked, they should be used for the help of all the people of Kenya and any community who liked to have a part of their choosing and their liking and of a better standard than what the Government can provide, will have to pay for it and naturally this matter was put to the Asians and Arabs to find out if the communities would come forward and pay for it. The matter was discussed in a committee almost all over the country where they received a sort of varied reception but the majority of them gave their blessing to the scheme. Government actually placed this matter in the hands of the statisticians and other experts to find out how best it could possibly be arranged so that it should fit the circumstances of the Asian and Arab communities. And at the same time the *Mau Mau* started. I do not think we would have been justified in pressing the Government immediately to bring this hospitalization Bill and Government had to be given time to attend to the most important and urgent matters to keep law and order in this country. Right up until 1956 Government did not give any attention to this Bill because they had more important matters to deal with. Later on this Bill was brought in the form of a draft after the advisory team and the statisticians and the other experts had drafted it. When this draft was brought to the notice of C.E.M.O., we had about eight Africans and eight Asians and Arabs and a European Member—some of the Members probably today have a short memory. I do not remember it, but it is a fact—I took that draft to the Members and I said, "Gentlemen, this was a Bill which was demanded by us from the Government in 1951 and due to circumstances beyond

anybody's control it has been completed and brought to our notice today. If your gentlemen have any objection to it I shall tell the Minister that we do not want it. If you want to join us I shall tell the Minister that we want the measure to include Africans with us." This was the matter which was put to the Africans, and some Members said that they could not afford it. That is an absolute fact. I conveyed this information to the Minister. I said, "The Africans cannot afford it, but the Asian and Arab communities have no objections whatsoever; if the Africans will welcome them to join in this scheme we will welcome them." I said this to the Minister. It was a Bill which was brought in by the Minister at our request, Sir, to meet the requirements of our community and demanded by us long before there were any African Elected Members in this Council; there was only one Nominated Member, Mr. Mathu, in those days.

I took the first opportunity of bringing this to the notice of the Constituency Elected Members and had they at that time told me that they should come in a body and oppose this Bill I would have been the last person to suggest and advise the Minister to bring this Bill in this House. I am very sorry that it is called a racial Bill. Now, no doubt to some extent it is, but, my friends, we are paying for it. It is a social service which we have undertaken to pay for. If you want to pay similarly you can come in within 24 hours with us. We do not object. Would you put up to the Government that you want to pay for it? The Asians and the Arabs will welcome you. It is a social service. We have asked the Government to help us; they said, "You pay for it and you shall get your share of the social services" which you are entitled to from the general revenue of the country." That is one-fourth of what is collected by us—25 per cent. I would tell my friends the African that although we are heading towards one nation here in this country we are trying to forget everything and see that we do almost everything in which we shall all be comrades and friends. But I would like to tell them, in the town of Mombasa, for instance, they had an African put up to the Municipal Council that every one of about 70,000 Africans should pay Sh. 2/50 per annum and that they

[Mr. Hassan]

bring their children to have school education for eight years. They are demanding of the Government that we are paying for the luxury of education for our children for eight years, and the Government should help us. Do you say that that is racial? They are paying for it and we welcome it, and not only that, but we have a grant-in-aid school system in this country. Anybody can put up a school £1 for £1, a hospital £1 for £1 and the Government is giving grants in aid. Is this not going on all over the country in every district. Did you ever hear from us saying that it was racial? It was for the benefit of the country. It is a social service that communities are paying for. I wanted to tell my hon. African friends that you can support or oppose this Bill if you so desire but do not blame the Minister because the Minister is only doing what we asked him to do. You can blame us, not the Minister.

Now, Sir, so far as my Asian friends are concerned, it is a well-known fact that if ever you ask a rich man to pay he is reluctant. It is very hard to get something out of him. We have had certain opposition from our community entirely based on ignorance. All the intelligent section of the well with the exception of a few well-to-do persons. Therefore, Sir, some of them, not all, do not like to spend money which they know will be made use of by others. But on the floor of this House I would like to give credit to one major community, the Ismaili community, who have got hospitals, nursing homes, maternity homes and who are now forming an insurance scheme to which they are all paying, although this hospitalization scheme will not give them any substantial benefit. I have not heard any single objection from any single individual all over Kenya.

Some of my African friends are saying, "Why does this Bill not include them?" I challenge them if they say that they want to join the scheme. I would be the first person to tell the Minister to hold this scheme and make arrangements so that the African brothers can join. But all of them, and I have spoken to many—to whom I have spoken have said that they cannot afford it; and say

why should the Government not do everything for them? They say that they do not want to pay. If we are all going to have such a scheme, Sir, then we must all pay for it.

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

Dr. WALKER: Mr. Speaker, I was very surprised to hear the opposition from the African Elected Members to this Bill, firstly because it is a racial measure and secondly because apparently the enactment of this Bill may in some way work to the disadvantage of the African.

Now, Sir, dealing with the racial side, in the first instance I would like to speak as a medical administrator who has got to see that the Ordinance works if it is passed. I look upon this scheme as being a community measure and with the community we are dealing with, at the moment I find it a convenient income group upon which a scheme could be designed and which has the possibility and the certainty of being workable. I see therefore no reason to say that, it being a racial scheme, we must deprive a particular community of the opportunity of making some effort to help themselves.

Now, Sir, to put this matter in its true perspective, we are talking about a scheme in which a certain section of the community in Kenya can contribute to a fund which will allow them to afford hospital treatment in some 600 amenity beds in the Colony. These 600 amenity beds are divided almost equally between the private hospitals and the amenity beds attached to Government hospitals; and I may say here now that there is no bar as far as I know to any race going and enjoying the treatment in any of those amenity beds. The only bar is possibly a lack of finance, in finding the money to pay for the daily charge. That is what we are wanting to do, to have a scheme that will help certain members of the community to be assisted in paying for that daily charge.

Compared with and against those 600 amenity beds we have some 9,000 other beds in the Colony, both Government and non-Government, and local authority, 9,000 other beds which are also open to all races. To gain admission to these beds a small fee has to be charged. So naturally

[Dr. Walker] the admission charge is Sh. 15 for any length of stay and outside Nairobi the fee is Sh. 10.

How can this Bill, when enacted, have any disadvantageous effects on the African in general who is enjoying what is given to him, in the way of treatment that is afforded in these 9,000 other beds. I would like to say that when this Bill is enacted there will be no difference whatever in the established Government medical services. We will go ahead as we always have done. The Government medical services will not forget that its prime duty is to aid the poverty-stricken. As the hon. Member for the Coast Rural seems to have forgotten, it is the duty of the Government medical services to help them.

It has been said in the debate by some African Elected Members that in some way the Bill will prevent development and expansion of the established services. I should like to say, taking Mombasa as an example, you have a new hospital recently built there and opened, and it is of the most modern standard. At this moment the Port Reitz Chest Hospital is being rebuilt and those amenities are essentially for the benefit of the African community. The X-ray services, surgical services and medical services are expanding both in quantity and in quality, and it is our endeavour that they will continue to do so. To my mind, the African is better served, with regard to hospital and medical services, than certain parts of the Asian and Arab community. So what have you got to complain about? All these services are there for you to enjoy. A small fee has to be charged, and if we go on like this I will say that you are not too badly done by; and, least of all, the Government, as yet, is not asking you to make a compulsory contribution to an insurance scheme.

Sir, I beg to support.

MR. ISMAIL: Mr. Speaker, I also rise to support this Bill and I feel that it will fill an important gap in the health services of this country. I said "important gap" because, the Europeans have been enjoying the benefits of such a measure for the last ten years and the Africans have been enjoying practically a National Health Service.

I am aware of the opposition from a certain section of the Asian community itself over this Bill but I believe that this opposition is completely misguided and those people who have put their signatures to their protest that has been sent, have done so without adequately understanding the provisions of the Bill. I think it is entirely on theoretical grounds that the Bill has been termed as being racial. If one can make any complaint at all to Government about the introduction of this Bill it is this, that although the Committee which was formed by the Government in 1953 came to the unanimous decision that this scheme should be set up, it has taken the Government almost six years to bring the Bill before this House. If it had been done earlier the Asian community would have been in the same position as the European community which has enjoyed this Bill for the last ten years.

I welcome the announcement made by the Minister that this Bill is on the way to a comprehensive health insurance service which he is contemplating bringing before this Council. I think that, on a national basis, is most important, and it has been demanded specially by the Indian Medical and Dental Association of Nairobi for the last several years.

It is true, Sir, that in the past the Asians have not been very fond of going into hospitals but we must look at the reasons why and one of the reasons was that in the past the sort of hospitals that were meant for Asians were of a very inferior type as far as accommodation and nursing were concerned, and you could not possibly blame the Asians for being so reluctant to go into hospital at that time. But now the position is quite different and I can assure this House that sometimes even when it is not necessary for a patient to go to a hospital he demands that he should be transferred. That is the position. The argument that Asians are not hospital minded is, to my mind, quite irrelevant.

There is one point which the Committee to which I have referred did bring out in the Report and it is my view also that it is possible when this Bill comes into force, that quite a lot of phoney hospitals and nursing homes might spring up all over the country. This is what the Committee had to say about it in Article

[Dr. Ismail] 14. "We are of the opinion that there is a danger that the introduction of the Fund might lead to the opening of small hospitals which would not provide adequate standards of nursing. We therefore recommend that payment from the Fund should only be made to patients who are treated in hospitals approved by the Board. We recommend therefore that the Board should be empowered to inspect all hospitals and to withhold payment from them at their discretion."

I notice that this type of safeguard against the springing up of inferior types of hospitals and nursing homes has not been included and I hope that the Minister will take note of this.

I note that the Government contribution is to be £5,000 for the first five years. Again I wish to draw the attention of the Government to the recommendation of the Committee which was that instead of granting £1 in £4 the Government contribution should have been more generous and should be £1 for £3. After all, this Fund will have to carry a lot more poor people than in the case of the European Fund, and I hope that the Government could still contribute £1 in £3 besides the £5,000 per annum that they are going to contribute.

I note that the Minister is contemplating bringing in an amendment about including the benefits to qualified nursing at home and also the domiciliary midwifery. I can assure the Minister that, in many cases this is only on the grounds of convenience and very often on medical grounds also that the patient should be treated at home and I would urge the Minister to include these two types of benefits also.

So far as the question of dependents is concerned, it is well known that in an average Asian family in addition to children under the age of 18 there are other dependents like an old mother, an old aunt, and even a mother-in-law. They are part and parcel of the family. They do not earn anything and they are dependents in the real sense of the word. In normal circumstances, these dependents are not called upon to pay any personal tax and I think that these should automatically be exempted from paying any hospital tax at all and still be elig-

ible with regard to the benefits of the of the hospital.

Mr. Speaker, Sir, with these few remarks I will support the Bill but just feel that one remark which was made by the hon. Member for Coast Rural who said that it was because of the colour-bar that Asians were suffering from, that they did not like to go to general wards of the Government hospitals. I would like to draw his attention to the fact that the 600 beds that are termed as Asian are open to all Africans any time that they are willing to go there. There are already Asian hospitals of the best type open to all Africans, and there is not the slightest objection to the Africans going into these hospitals.

Mr. Speaker, Sir, I beg to support. MR. ZUFAUD DEEN: After the eloquent speech of the hon. Nominated Member, Dr. Adija I thought there was hardly any need to speak at length. But it is really painful to see that outside this Council opposition has come from quarters which it was least expected, and also some Members on this side of the House who, it seems have been misled and are unable to see the point.

Sir, I would like to endorse the remarks made by the hon. Member for the East Electoral Area. We all know that the hon. Minister is the least racial minded person on the other side of the House and such uncalled-for remarks, I believe, should not be made and are certainly not in good taste.

We know that certain veiled interests have shown great interest in trying to muster opposition from the Asian community; we also have knowledge of the opposition which has appeared in the Press in the form of memoranda, as has been pointed out to us. I think the African Members on this side of the House should know that although I entirely agree that the medical facilities for the African community are inadequate, the facilities for the poorer Asian communities are simply shocking and this Bill, I am sure, will bring some measure of relief to the poorer sections of the Asian community. Sir, I think it is an example of self-help on the part of the Asian community, and it is going to be assisted in a very small way by the Government. We know that the

[Mr. Zafud Desc]

Government is going to make a grant of £5,000 a year. That money is going to be given to defray the expenses of Inland Revenue and Income Tax Departments for collection of contributions.

Sir, there is another point which I would like the Minister to explain, that is that the Government took nearly eight years to decide to bring this Hospital Relief Bill before the Council. My view is that the reason this was not introduced earlier, was because of the reluctance of the Government itself and had the Government been on giving Asians this relief, this Bill would have been brought before this House long, long ago.

I understand there was also some disagreement between the members of the Asian community themselves, and this was partly the cause of this delay.

In his speech the hon. Minister said that the maternity benefits would not be included for some time. I understood from the beginning that maternity benefit was going to be offered, and I told my constituents, particularly the civil servants, who protested very strongly, that they would receive free services which they were not getting before. I would like the Minister to give more information on this point.

Sir, I maintain once again that if the African Members feel like joining in this scheme they are most welcome. I maintain there is nothing racial in this scheme, in fact I am supporting this Bill because it is going to help the poorer section of the Asian community, and the richer section of the Asian community who also have objected to this Bill are the people who are going to contribute and help them, to give them free hospital treatment.

My African friends unfortunately have brought the racial aspect in this debate and as I have said before that it was mainly from Members of the Asian community. They were led to believe that this Bill was discriminatory. I want to dispel this idea. I myself would never have supported this Bill if it had racial colour, and I therefore would very humbly request my African friends that they should consider very seriously to support this Bill.

I would try to impress upon the Minister that there is hardly any objection to this scheme by the Asian community.

It has the support of almost everybody because they feel that the poorer section of the Asian community is going to benefit from this.

Mr. Speaker, I beg to support.

Mr. KHAMISI: Mr. Speaker, Sir, I rise to oppose very strongly, and I must oppose it, Sir, because it is segregationist and discriminatory. Mr. Speaker, Sir, I am not the only one who opposes this. The Asian community themselves are opposing this. I will prove to you that the Asian community are dead against this Bill. I would, with your permission, quote a memorandum that was issued last week by the Citizens' Committee of Mombasa. This was sent to the Council of State with some 5,000-odd signatures. Despite this, we are told by the Asian Elected Members that they support this Bill. Who do these gentlemen represent in their constituencies? They represent themselves. Sir, we have, on many occasions, stated in this House and out-of-side this House that we would not favour and never support any measures which will perpetuate discrimination in this country any more. As the country is growing nearer nationhood it is only right that the people of this country, of all races, should realize that only measures which are for the benefit of all people should be established on common grounds. We would not support a Bill of that nature if it was only directed to the African people. We say, "These things should be directed to all people," and if this Bill is withdrawn and the Minister substitutes another one in its place which will cover all races, then we shall be the first people to support it.

Now, Sir, our friend, the last speaker, has just misdirected or misguided this House by telling them that it is only £5,000 which the Government will pay from public funds. Now, in the memorandum of aims and objects I thought it was clearly stated "it is estimated that the additional expenditure of public money amounted to £35,000 per annum, exclusive of the grant-in-aid of £5,000 in the first five years." Now, he has just said it is only the paltry sum of £5,000. Is this correct? However, where will this money come from? Is it not from the

[Mr. Khamisi]

of the taxpayers? Not from my pocket. Why should I pay for the services which will go exclusively to one community? Sir, in this country we have had forced upon us the very expensive Council of State, which is supposed to look after matters of this nature, and although we, as African Elected Members, do not support or recognize the Council of State, if such a Council of State goes on its way, and says this is a differentiating measure, I suppose it would be only politic and proper for this Council to take cognizance of what the Council of State says. The Council of State has come to the only right conclusion and that it should not be forced upon this country.

Now, Sir, I would—

THE MINISTER FOR LOCAL GOVERNMENT, HEALTH AND TOWN PLANNING (Mr. Hawlock): Mr. Speaker, Sir, I must correct that. Sir, The Council of State has not come to the conclusion that he has stated, as he will see, Sir, if he reads the report.

Mr. KHAMISI: On page 5 it says, "The Council remains unanimous in its feeling that these differences differentiate unfairly against the Asian and Arab communities." In another part it says, "The Council, feeling itself bound to consider the effect of the Bill when published by a majority of six votes to four concluded that in the respects indicated the Bill constituted a differentiating measure in so far as Asian civil servants are concerned."

THE SPEAKER (Sir Ferdinand Cavendish-Bentley): Mr. Khamisi, have you any more to say?

Mr. KHAMISI: Yes, Sir.

ADJOURNMENT

THE SPEAKER (Sir Ferdinand Cavendish-Bentley): That brings us to the time for the interruption of business. I now adjourn Council until 2.15 p.m. tomorrow, Wednesday, 16th December.

The House rose at thirty minutes past Six o'clock.

Wednesday, 16th December, 1959

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

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

PRAYERS

ADMINISTRATION OF OATH

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

Samuel Onyango Ayodo.

PAPERS LAID

The following Papers were laid on the Table:—

Sessional Paper No. 2 of 1959/60—The Interim Report of the Committee appointed to examine the Transport Licensing Ordinance.

(BY THE MINISTER FOR AFFAIRS (Mr. Johnston))

Central Housing Board Annual Report, 1958.

Report of the Controller and Auditor-General on the accounts of the Housing Fund for the year ended 31st December, 1958.

(BY THE MINISTER FOR HOUSING (Mr. Amalemba))

NOTICE OF MOTION

KENYA FISHERMEN ON LAKE VICTORIA

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

THAT in view of the great hardships and economic disaster caused to Kenya fishermen in Lake Victoria and the reasons behind the present controls on the Kenya portion of the lake, this Council urges the Government to abolish at once these unnecessary restrictions.

BILLS

SECOND READINGS

The Hospital Treatment Relief (Asian and Arab) Bill, 1959.
Debate resumed from 15th December, 1959.

Mr. KHAMISI: Mr. Speaker, I had just the House adjourned last night I had just

[Mr. Khamisi] concluded making very brief remarks and replying to matters that had been raised by the last speaker. Sir, I told the Council that I did not support this Bill because even the majority of the Asians in this country do not support the Bill. It is quite clear from the signatures that were sent to the Council of State from Mombasa that the general opinion among the Asian people, even among the doctors, was not in favour, generally, of the introduction of a racial measure of this nature. One of the greatest dangers such a measure would create in the minds of the people in this country is that it is going to perpetuate racial compartments in the treatment of disease. We already have European hospitals, African hospitals, and now we come to embarking on the Asian and Arab hospitals. Although the Minister has told this House that in a few years' time he is going to introduce non-racial measures, he has not told us that those measures which he intends to introduce are going to replace this one which he is anxious and eager to introduce at this stage. Even so, Sir, we do not see the reasons why, if he has in mind the intention of introducing non-racial measures, he should at this stage hurry up to introduce this Bill while the time is still on our side. For many years the Asians have been in our hospitals and, at present, the Government hospitals are called general hospitals, which is again a non-racial name, which could cover the people of all races, the Asians and Arabs, and we want to go to hospitals which are particularly designated as African hospitals. It is not true to say that the Asians have had very little support from Government for their hospitals because it is quite clear that the Asians are running a hospital in Mombasa alone. There is the Fandy Clinic there, and even here, in Nairobi, there is a very good Aga Khan Hospital, and besides those there are very many private nursing homes and hospitals which are run and maintained by the Asians with the assistance from the Government. There is no reason, Sir, since the hospitals which are Government hospitals have accommodation for Asians, why is the Minister pressing that this racial Bill should be introduced at this stage. If we have been able to go on very well in Kenya for the last, I do not know how many years, without any

difficulties we surely can go on until a non-racial scheme has been placed before this House.

Now, Sir, the hon. Member for the Eastern Electoral Area told this House yesterday in a very emotional and bombastic speech that the Africans accepted this Bill through the Constituency Elected Members' Organization. Now, Sir, the Chairman of that Organization is in this House today and I am quite sure he will stand up to refute such an allegation. I, personally, was approached outside by a certain person, an Asian Member, and I told him that I would not support this Bill and, in any case, that it was premature. Yesterday, we were told by the hon. Director of Medical Services that this measure will be able to provide 600 amenity beds in Government and private hospitals, and he told us that those beds will be open to members of all races.

DR. WALKER (Director of Medical Services): On a point of explanation, Sir, those 600 beds are existing now and are open and in use.

MR. KHAMISI: Now, Sir, I believe therefore if that is the case that this measure is going to produce or help to build separate hospitals for Asians and Arabs. Now, if that is the case it makes our case much stronger for us to be against such a measure at this juncture. If, however, the Asians and the Arabs in this country believe that they are true Kenyans and that they belong to this country, and I am quite sure they have been helping us when we were discussing several matters, for example education and so on, when we demanded that such schemes should be non-racial, they would also I am quite sure very strongly press that this Bill should be withdrawn and that a non-racial Bill should then be brought before this House.

One of the greatest dangers in the introduction of a Bill of this nature, which will involve undoubtedly expenditure of large sums of money from the public, is that it will prevent that money from being used to provide more hospitals in rural areas. We are at present not satisfied with the existing medical services in this country. There are very many places where medical services are required about which, when we make representations to this House, we are

[Mr. Khamisi] told that the Government has no money. But if the Government has no money to do this for the poorer people of this country, the Africans, with hospitals so close that they can be treated when they are sick then how is it possible that they can find money to help such a luxurious scheme of this nature? I believe, Sir, that medical services for the Asians and the Arabs at this moment is purely a matter of luxury. Most of the private doctors in the towns are Asians. We have got very few African private doctors and most of the Asians have got their family doctors to look after them. It is the Africans who are in need of medical treatment. Sir, they are taxpayers and they are entitled to get free medical attention. In any case, even if it is a matter of paying for it, we still do need extended medical services throughout the reserves.

Sir, the argument which was advanced by the hon. Nominated Member, Dr. Ismail, on the other side that because the Europeans have got hospitals and because the Africans have got hospitals which are open to Asians and Arabs therefore the Asians must have their own hospitals, is no argument at all. What was good in 1952 when this idea was mooted cannot be good today because the conditions in 1952 were so different from conditions today. In those days people used to think on racial lines. Today we are thinking on a national level. Therefore, the arguments of the Members opposite are quite groundless.

Sir, having said this, I would like once more to refute the argument that Africans ever accepted any measure of this nature and therefore ought not to oppose such a measure in the future.

With those few words, Sir, I beg to oppose the Motion.

THE ASIAN MINISTER WITHOUT PORTFOLIO (Mr. Madan): Mr. Speaker, Sir, we have often been told by the African Elected Members in this House that they are the best judge of what is good for the African community. On this occasion I ask my hon. African friends to accept that the Asian Elected Members are the best judge of what is good for the Asian community.

Sir, it comes down to the old, old saying: What I am trying to say to my African friends is that if there is a sauce

for them there is a sauce for the Asian Members too. Now, Sir, there are only two reasons that I can think of as the result of which this Bill might be described as a racial measure. The first is that it is being imposed by the Government against the will of the community. We have been told by the Asian Elected Members quite clearly and categorically that this is not so, that the Bill is being introduced as the result of a request made to the Government by the Asian community and its representatives as far back as 1952. Secondly, Sir, it could be described as a racial measure if the Asian community insisted upon the facilities that will be provided as the result of the enactment of this legislation to make it their exclusive preserve. If they insisted that the members of no other race would be allowed to enter the hospitals which might come into being as a result of this Bill becoming law. But we heard yesterday clearly the hon. Member for the East Area tell the hon. African Elected Members that they would be welcome to join the scheme if they wanted to. He went so far as to say that if the African Elected Members indicated that they were willing to participate in this measure, the Asian Elected Members would request the Minister to hold a Bill hand and not to proceed with the Bill in order to enable the Africans to become a party.

Now, Sir, I think the only thing that is racial about this measure are the words "Asian and Arab" which appear in brackets in the title of the Bill. If it had been referred to as a scheme or thing given some other designation, the sting given some other designation, the sting of racialism would have been taken out of this measure. I should like to tell my African Elected friends the attitude of the Asian Elected Members in this matter. There are, Sir, in Nairobi three institutions that I know of—one is the hospital provided by His Highness the Aga Khan and, if I may, Sir, I would like to quote here some figures for the month of September in respect of that hospital. And these figures relate to African patients only. Mr. Speaker, during the month of September 14 patient days African in-patients were 14 patient days. In the dispensary and casualty ward there were 150 new cases and there were 105 subsequent attendances. In a total of 225. In the consultant clinics there were 495

[The Asian Minister without Portfolio] cases. Now, Sir, I admit that these numbers are small but what I am trying to prove is that in a hospital which is predominantly Asian in its conduct and in its nature, no African is refused admission. Anyone who can afford to go there and who can afford to pay for the services that are provided is welcomed irrespective of race. I repeat, Sir, that the point I am trying to make is that we Asians are not asking for this Bill to be enacted into law in order to create an exclusive racial preserve for our community. That is not the case here.

In addition to the Aga Khan Hospital, Sir, there is the Parklands Nursing Home as well as the Social Service League. The services in the Parklands Nursing Home are open to people of all races. In the Social Service League, I know from personal knowledge a fairly large number of Africans take advantage of the medical services that are provided there. I suggest, Sir, that it is no more racial—the provisions of this Bill are no more racial—than when an African Elected Member stands up to say that the Highlands, when they are thrown open, shall be reserved only for the black Africans. We do not quarrel with the African Elected Members when they make such statements. All we ask them to do is to reconsider their attitude and recognize that such services and such opportunities that can be made available in this country are there to be shared by all citizens. It is on that basis, Sir, that we offer the facilities that will come into being as a result of this Bill to the African community.

Sir, a great deal has been made of the debate in the Council of State. It has been stated that the Council of State has held this Bill to be a differentiating measure. But for the sake of the record, and with your permission, Sir, I would like to read out paragraph 5 of the Report of the Council of State: "The Council emphasizes that it fully appreciates that the purpose of the Bill is to introduce a compulsory scheme of insurance which it is intended should benefit the Asian and Arab communities, particularly in the lower income groups, and welcomes statements by the Minister at both meetings of the Council that there was a possibility of the Government introducing, in due course, a com-

prehensive insurance scheme to provide hospitals and other benefits for persons of all communities. Such a scheme, if feasible, appears eminently desirable but, presumably, must necessarily be regarded as a long-term project. The introduction now of the relief scheme for both Asians and Arabs proposed by the Bill would not—I repeat, Sir—"would not appear to militate against the introduction at a later stage of a more comprehensive scheme."

It has already been stated, Sir, in this debate that this scheme is a forerunner to a general health insurance scheme and I think I am right in saying the Minister for Health has indicated that. He also seems to have given a similar indication to the Council of State. I think, Sir, that I would suggest to my hon. friend opposite that we would do well to accept the Minister's assurance and regard this scheme as really the precursor or the forerunner of a general scheme.

Sir, my hon. friend, Mr. ole Tipis, when he was speaking yesterday, said that if we are together in this country let us not speak with two tongues. I entirely agree with him. Let us not speak with a forked tongue, not only in regard to this Bill, but in respect of other matters, such as land, such as franchise, some of the demands for which would virtually exclude members of races other than the Africans.

Sir, it has been suggested by the hon. Member for Mombasa Area that the Asian Elected Members have no support from their community in respect of this Bill. He went so far as to make the fantastic statement that the Asian Elected Members did not represent anyone. He has got only to take into consideration that even my hon. friend the Member for Central Area, Mr. Travadis, is supporting this Bill to recognize that they must have some support in this measure. But is it not surprising, Sir, that this opposition is confined to Mombasa only, to people who call themselves the Vigilance Committee? I suspect, Sir, that some members of that Vigilance Committee are preparing themselves for the general election next year. I am quite confident, Sir, that the Asian Elected Members have the support of the Asian community generally in this matter. I am equally confident, Sir, that they have given most careful thought to this matter.

[The Asian Minister without Portfolio] and they have not made their decision to support this Bill lightly.

There is just one other matter to which I would like to refer, Sir. My hon. friend, Mr. Ngala, when speaking yesterday, said the hon. Nominated Member, Dr. Adajia, had stated shamelessly—that was the words he used, Sir—that the African community was adequately provided with medical services. I thought, Sir, that the hon. Member was being unfair to the Nominated Member. In this country of deficiencies and contrasts I think the hon. Nominated Member was speaking in comparative terms only, and when he said the African community was provided adequately with medical facilities, he only meant I am sure, that the African community had been afforded as many facilities as it was possible to do in the conditions of Kenya as they exist today. I am the first one to recognize, Sir, that, as in the case of the Asian community, also perhaps in the case of the African community, the facilities that are provided are not entirely adequate and that the situation can be improved.

He also went on to say, Sir, that what is there to prevent the Minister from attending the Coast General Hospital or the King George VI Hospital in Nairobi. I want to place it on record that not only is there nothing to prevent the Asians from taking advantage of the facilities provided in these two institutions, but that, in fact the Asians do so. I would like to tell him that my own son was operated on in King George VI Hospital—the old hospital which was known as the K.A.R. Hospital, which did not have any of the present facilities which are available to Africans in King George VI Hospital today. I mention that, Sir, to emphasize that we are neither ashamed nor reluctant to share medical facilities, or any other facilities with the African population here.

Finally, Sir, I would like to say that the hon. Member for the Mombasa Area who said, "Why should we pay for services in this matter?" was entirely wrong. I think it should be pointed out to him that it is the Asian community itself who are going to pay the tax in order to meet the expenses of running the scheme, and I have no doubt, Sir, that the Asian com-

munity is willing to be taxed in this respect so that the present facilities, which are as good as can be made in the circumstances and as they are limited by the funds which are available to the Government, can be expanded. I have no doubt, Sir, that the Asian community is satisfied as to the wisdom of introducing this sort of scheme, and I am confident—I would like to say this to my African friends—that we have the support of the community. I would like to assure them that I hope they will also like to join us in this scheme as and when they are ready to do so.

MAJOR DAY: Mr. Speaker, Sir, I am a little diffident about saying anything in a debate of this nature which does concern primarily the Asian community. However, when the Minister was speaking yesterday—and I have endeavoured to get what he said exactly from HANSARD—he mentioned that he was considering the bringing in of a new racial Hospital Relief Fund, but he did not give us very much detail of this, Sir. I thought it was a Relief Fund you were talking of.

THE MINISTER FOR LOCAL GOVERNMENT, HEALTH AND TOWN PLANNING (Mr. Havelock): Non-racial, not racial.

MAJOR DAY: I am not quite clear, Mr. Speaker, to say that I have actually copied from HANSARD, but I may be wrong—and I regret it, if I am. There is, however, as you know, Sir, mention has been made frequently in this debate of a "new look" so far as the hospitals are concerned, and all I wished to say was to ask the Minister to give us a few more details, because I think that none of us really, entirely visualize exactly how it is to develop.

Finally, Sir, I should just like to end by saying—I said it with diffidence—but in the course of this debate I must say that I have nothing but admiration for the way in which the Asian Elected Members and on the other side have put their point of view, which is a right and reasonable one, in my opinion.

MR. TOWERT: Mr. Speaker, Sir, I did not want to say anything on this Bill, but after hearing the Member for Mombasa Area speaking I decided I should say a word.

[Mr. Towett]

The Minister without Portfolio, Sir, has not told us anything convincing, except that he confirmed that there would be a general election next year, and that there are some people at Mombasa who are probably trying to get ready for the general election next year. So I believe, Sir, from the Minister without Portfolio, we can tell the public that there will be a general election next year and they will all get ready.

Leaving that point aside for a while, Sir, I want to say one thing. Anybody in this country who wants to be treated as an Arab or an Asian or a European should start packing up their things and leave this country tomorrow. We shall take them as far as Mombasa and say "good-bye" to them, and send them to Embakasi Airport and say "good-bye" to them and those who do not want to be referred to as Arab, Asian or European might as well stay here and receive treatment which other people in this country receive. I am entirely opposed, Sir, and I am earnest in what I am saying, to all these nomenclatures which define your communities. What would happen if I were to insist that we, the Kalenjin people should set up our own police force, set up our own hospitals and then break it down and say, the Kipsigis in Kericho District are to set up whatever they want of their own, and I would go further and say the Masai should set up their own government because they had a government before.

Sir, I do not know what you are going to do in Kenya. Everybody is out to perpetuate racial antagonism by describing some people as Asians, some as Arabs, Africans and Europeans. All this is what I call going the wrong way, and if people want to go the wrong way in this House I will not be long, Sir, in the House, and I will just tell them "good-bye" and let them go their own way. It is awful, Sir, and I hope some of these people here will start thinking along better lines. It is awful here to come and suggest things that smell racialism.

With those very few remarks, Sir, I hope people will think better.

I oppose the principle underlying this Bill.

Mr. MATHINGA: Mr. Speaker, I seem to be in a very great predicament because

if I want to call myself a Kenyan I am about the figures I have given and they will find that there is nothing extraordinary in what the Asian community has been asking for for a very long time.

The Asian, unfortunately, has come under the spell of the white man's magic, and the Sh. 2 per head of the population that the Government is going to spend on making that white man's magic available to the Asian community is very little compared to Sh. 7 per head of the population that is being spent on the African community to whom the witch doctor's magic is still supreme.

With these words, Sir, I beg to support.

Mr. ODINGA: Mr. Speaker, Sir, I think that I will be very brief while speaking on this Bill because I think there are only some misunderstandings which should be made clear, thoroughly clear.

In opposing this Bill the African Elected Members are not in any way opposing anything which goes to the Asian community. We are not completely concerned with the Asian community in this particular respect, but we only oppose the principles underlying this particular Bill. We are not greatly concerned.

Let me give some concrete examples. What about Mr. Patel in his business? Mr. Patel has got about 50 Africans working with him. Is he more concerned about those Africans' health or is he more concerned about a Johannesburg in Mombasa? I think that that African who is working with him is helping him to make that money and he should be more concerned with the health of the African who works with him and who is more closely in touch with him. As a result of that, you can see the problem of this particular question which worries us most.

I should have thought that if there was a place where we could have first got rid of racial feeling and antipathy, then it was on the question of medical services. For instance, Mr. Patel has got malaria. Malaria is the same throughout: the reaction of the African is exactly the same as the reaction of the Asian. The treatment is more or less the same. So we do not see why the Asian Members should be more concerned about the poorer sections of the Asian community than the poorer classes of the Africans in this country.

One could go on talking about this thing ad nauseam. It appears that so far as the African Elected Members are concerned whatever their point of view is, is right, and whatever the point of view of the other communities is, is wrong. Now, it just cannot be that way. We have got to take things in their proper perspective and I would like the African Elected Members just to try to think

[Mr. Mohindra]

about the figures I have given and they will find that there is nothing extraordinary in what the Asian community has been asking for for a very long time.

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AN HON. MEMBER: We are!

Mr. ODINGA: Well, if you are, then a scheme should be introduced on a country-wide basis and not considering only one community. Because, for example, take it now, I know that the Asians will not have any objection in going to the African hospitals particularly destined for Africans. We think that there should be no segregation. I always go there and I always meet my Asian friends who are also standing in the queue where I stand. I also go where all the Africans go and we go along together with them. We march along and then we get all our treatment together. If that is the case, then why does the Government think that the medical facilities in this country are inadequate, the only thing they can do is to increase the hospital facilities for the people regardless of race. If they want the people to indulge in this self-help, how many times have the Africans indulged in self-help in this country? The Africans are building new schools, numerous schools. They have built them by themselves and they could understand if they were asked to contribute towards their health. I am sure you will find a very good response and without creating unnecessary racial feelings which, in the end, may cost us much more money to heal.

Now, what a good example. You talk of the people being of different categories. I do not think that you will get it limited to a particular society or community. Even in the Asian community all Asians are not above all the African categories, and, so far as the Europeans, they are not all above everyone else. People are not all above everyone from the poorer classes from all communities can all go together. The poorer Asians can also content themselves with what the poorer Africans have. A good example is found in the trains. We have got first class trains, second class trains and third class trains and we have different people travel in all of them. It is not only Africans, who go in the third class.

So why discriminate? Why put it differently? We are only pleading with the Government that such a Bill is most unnecessary and should not have been introduced. If another form of assisting

[Mr. Odiga] in these medical facilities had been proposed it would have been better. As the Director of Medical Services said, there were some beds available in the hospital—he calls them amenity beds—he said that there are no restrictions except a money bar. I am very pleased that it is only money which could stop an ordinary member of our society from going there. I would be the happiest man to say that let only money be the bar but not the race be the bar. Avoid saying that they belong to the Europeans or Asians and even in wards, do not identify the wards with particular races, do not say, "those belong to African, those belong to Asian and those belong to Europeans". We plan to get rid of these racial tendencies and we do not want to encourage any move in that direction. Mr. Speaker, I would again appeal to my Asian friends to see that the African Elected Members are not against our Asian friends or the Asian community. We will oppose even the European Hospital Scheme when it comes up and they must realize that we shall lose no time to jump on it when we get the opportunity to do so.

Thank you, Mr. Speaker, I oppose the Bill.

MR. SLADE: Mr. Speaker, Sir, when the hon. Minister moved this Second Reading I was under the impression that we were dealing with a Bill that only concerned the Asian and Arab community. It is apparent, Sir, that certain hon. Members take an entirely different view and the reasons they have given for justifying interference in this Bill are such as to raise very big principles. For that reason, I, also, would like to speak a few words.

Sir, I understand that this Bill is opposed because it is a matter dealing only with one community. It is therefore called a racial measure. Now, Sir, I think we must, in this case, as in many other cases, get our ideas quite clear on this, when we are talking about racial and non-racial, and what is objectionable and what is not objectionable.

Of course, Sir, a measure of this kind, like the European Hospital Ordinance, is a racial measure, because it deals only with the affairs of one race. But it is not necessarily objectionable on that account. However much we are working

towards an increasing non-racial outlook in this country, and advocating a non-racial approach, we must recognize at the same time that it is not every racial activity that is necessarily objectionable or conflicting with a non-racial outlook, particularly when it comes to self-help in social welfare on a racial basis.

Now, Sir, this is very important, because it is going to arise on many other occasions. We have said often enough in this Council and elsewhere that Kenya cannot afford a welfare state, even if we wished for a welfare state. That being so, in matters of social welfare we have all, to a very great extent, got to help ourselves. When it comes to self-help in any country, it is extremely difficult to organize on a country-wide basis. Almost inevitably you are driven to looking to a particular community or to a particular section of the community for organization of their own self-help, whether it be a particular religious section of the community, or a particular district or, as on this occasion, a particular race.

Now, Sir, I speak from personal experience on this. Mr. Speaker, in our efforts to organize the work of child welfare in this country, we are interested in children of all races, and try to help children of all races. But when it comes to needing money from the public for institutions of that kind, you cannot at present get it except from a communal basis of self-help. You can get people of one race, one section, or one religion to establish something for the children of that race, section or religion; but you cannot get any further than that, because we are in a stage, Mr. Speaker—and it is not a stage peculiar to Kenya—and we cannot at present get a number of communities helping very different lives, and we have got to face that if we want to get any self-help at all.

This Bill, Sir, is simply designed to encourage, enable and organize self-help in the Arab and Asian communities, nothing more; and in that respect I suggest that it is entirely good. It is no more objectionable than if we were to approve of the Jewish community helping themselves, or, as an hon. Member suggested, the Kipsigis helping themselves, or a particular district, through an African district council or otherwise, helping itself. That is all this involves, and I do

[Mr. Slade] maintain most strongly, Mr. Speaker, that we should not allow political mischief to get in the way of organized, healthy, self-help for the good of all in a particular community.

I beg to support.

MR. PANDYA: Mr. Speaker, Sir, I think most of the points on the detail of this Bill have been covered by various speakers but I would like to answer some of the points which have been made in this debate by several African Elected Members.

The hon. Member for Mombasa Area did allege that Asian Elected Members have represented nobody but themselves. I would like to remind him of the meeting that was held in Mombasa about three months ago where I was present, and the hon. gentleman was not allowed to speak for two hours. I wondered then, Sir, who he was representing, and I know since that there has been a vote of no confidence in him. If there has been a small section of Asians opposing this Bill in certain areas, for him to suggest that the Members do not represent the people of their community is an allegation, Sir, that I would not like to pass unchallenged.

Some of my colleagues have emphasized in this debate that the Asian Members have consulted our African colleagues and it was on the understanding that they would not oppose this Bill and were not interested to be included in a scheme of this sort that we gave the green light to the Minister to go ahead with this Bill.

There has also been an allegation by the hon. Member for Mombasa Area about being five Kenyas. I wonder, Sir, whether the alteration of a statement of policy without consultation is the spirit of a true Kenya or whether to speak in this House that the Asian will not be allowed to own land is another aspect of a true Kenya or having signed a statement of policy emphasizing the democratic principle that we should follow in this country.

Mr. Speaker, Sir, I think in all this controversy we have forgotten the main principle of this Bill, and I would just like to re-emphasize that, and this Bill surely, Sir, is to assist those unfortunate

people who need medical aid but are unable to avail themselves of it due to financial inability. It enables those people of the lower income group to obtain help from those who are able to do so, from those who are able to contribute more than them, that this scheme is intended. It is to alleviate the suffering of those poorer people, Sir, and to reduce the hardship that would be caused to them by having to meet large bills from their own pockets. Surely they do not want to go there, Sir, for the pleasure of it, but it is necessary for them to do so and it is only here, Sir, that this Bill is playing a very useful part in reducing the financial hardships which would exist if this Bill was not enacted. It is only, Sir, the consideration of helping those who require expert attention that this scheme will be beneficial.

Now, Sir, I know this scheme has many shortcomings but when I examine the advantages of this Bill, I must say that they have to be taken into consideration. The Bill is, as a whole, beneficial for the community for which it is intended. Now, Sir, I only envisage this Bill as an interim measure—a transitional measure—and I am very glad, Sir, that the Minister has indicated and indeed has assured us that the Government is, at the moment examining a non-racial hospital insurance scheme and until such time as we are able to introduce a scheme of this sort, this scheme should serve as an experiment as to how to build up a future comprehensive scheme of this nature.

My colleagues, Sir, have said that this scheme has the support of the Kenya Indian Congress but at the same time, Sir, for the purposes of the record, I would like to express the strong feelings of the Indian Association of Mombasa on this measure which has two points of emphasis, that the Bill is racial and that it is differentiating. I think the Council of State, Sir, did not like up the question that it was a racial measure but on the question whether it was a differentiating measure. The Council of State did hold that it was a differentiating measure as it stood but I am glad, Sir, that the Minister has indicated that in the Committee Stage he proposes to overcome most of the points that have been raised by the Council of State and

[Mr. Pandya] on these grounds—that it is a differentiating measure—I think, Sir, the points of the Indian Association of Mombasa have been met.

On the point that it is a racial Bill, as it is envisaged, as I said earlier, to propose a non-racial scheme, it will be only accepted as an interim measure and I feel, Sir, that in view of the fact that most of the major points will be met I personally feel that there should be no objection to this Bill in its present form. We have to recognize the fact that it is going to be of advantage to a large section of the community for which it is intended at the moment and definitely we are hoping that it will be extended to all the other sections of this community of ours which we are very proud to call ourselves as Kenyans.

With those words, Mr. Speaker, Sir, I resume my seat.

Mr. MBOYA: Mr. Speaker, Sir, I will be very brief because I think that a lot of debate has been going on and a lot of points have been coming up again and again. I do not see that the opponents of this Bill have in fact opposed it in the context of the structure of the service that there is no need for such a service. I think most of the criticisms in the debate are of what appears to be a racial aspect or tendency and what from the words of some of my colleagues appears to be a measure that might perpetuate further the grave problem that we already have of racial services—social services—for the communities in this country. I do not need to repeat here that from time to time we have tried to impress on both the Government and our other friends the need to begin to think in terms of health, education, road services, etc., as services needed by the community rather than the education of Asians, Africans, Europeans, health for Asians, Africans, Europeans and so on.

Now, I agree that this is not a typical example of medical services merely for one community because to some extent it is an enabling measure in the context that it is intended to help those who wish to introduce self-help programmes in the country, particularly for the benefit of their community. Nobody would like to quarrel with any scheme of self-

help as we are ourselves, inside the African community, constantly pressing for the Government to make hospitals for us; to introduce schemes of such a kind especially in education and such other services. But, Sir, it is also true that in this particular case there is a Government expenditure also involved and to that extent we are interested. If this were a question, for example, where the entire expenditure was going to be from private sources in the Asian community alone, maybe the question would not be as interesting. I understand that we are going to spend something in the tune of £34,000.

THE MINISTER FOR LOCAL GOVERNMENT, HEALTH AND TOWN PLANNING (Mr. Havelock): £40,000.

Mr. MBOYA: The Minister says the correct figure is £40,000. Now, Sir, we are going to spend £40,000 of public money from everybody in this country. Consequently we have a right to interest ourselves in how that money is going to be spent and for what particular purpose.

The hon. Specially Elected Member, Mr. Slade, I thought, made quite a useful contribution in this debate and I would like to agree with him on quite a number of the points that he has raised. But, Sir, if the intention in this particular case is merely to introduce legislation that might help with the sort of measures or schemes of this nature, not necessarily for the Asian community but for everybody, then might it not have been wise for the Government to have considered—after the request of the Asians and Arabs—might they not have considered some legislation on general lines that might have been used in the future without giving this sort of racial taint to the legislation of the scheme. Is it not possible to cover the points made by Mr. Slade, for example, by some legislation that does not particularly appear to be introduced merely for Asians or for the Arabs? The point has been made by the Asian Members that there are some categories—certain people—in their community who will need this sort of service because they suffer, and they have no money. They have no income to pay for their medical services but, Sir, is it not true that that class of people are to be found among the Africans even to a larger degree than among the Asians?

[Mr. Mboya] Now, it would appear to me that if the intention was merely to cover a certain class or category of people that legislation should have been designed to cover that class or category of people or to cover some such scheme for whatever people it may be introduced in the future.

The position that we seem to lose sight of is this—and I regret that Mr. Slade referred to this aspect of it as political mischief—I do not think it is political mischief when people say that the whole theory that some of us preach so often from roof-tops about non-racialism, multiracialism and Kenyans and partnership and so on should be implemented in practice by the attitude to, and by the approach on social services, in this country. I think that the time is overdue for even the Asian Members to accept this position. I think the time is overdue for the Government to consider seriously now and in the future that when they are introducing any legislation or any scheme that they should take into account the particular relevance of it to the schemes, the legislation, and any other thing that they do. This is not political mischief at all. If we are spending most of the time in this country each year talking about race, talking about the various groups that are trying to fight racialism—Mr. Speaker, maybe I do not qualify to speak on this particular question in this particular sense because a lot of people here regard me as an extremist and a racialist, but I am appealing now to my non-racialist friends to give a racialist like myself a better example. If they—the non-racialists—come here and begin to introduce measures that encourage the racialist like ourselves, then, of course, they should not blame us too much because at least we are honest. We say what we think.

Mr. Speaker, a lot of controversy has arisen in the course of this debate and I have not attempted to discuss the pros and cons of this scheme myself. I do not intend to do so. But if I thought it was necessary that we should point out the relevance of the attitude taken by the African Members to this particular question, not so much in terms of the scheme itself and the need for such a scheme in the country, but more in terms of our desire positively to begin avoiding any

measures any legislation, any statements, that will perpetuate racialism.

As a result of this attitude, Mr. Speaker, I would request the Government to accept the following amendment that I wish now to move. Under Standing Order No. 86 I wish to move the word "now" in the Motion be deleted and that the words "upon this day six months" be added. In other words, that this Bill be read the Second Time six months hence.

Mr. Speaker, I beg to move.

MR. ARAP MOI: Mr. Speaker, Sir, many hon. Members have spoken on this Bill and some criticisms have been advanced trying to convince us of certain views already expressed, Mr. Speaker, Sir. A Member for the Eastern Area suggested that because the Asian community requested it some years ago it should go through but I should think, Mr. Speaker, that ten years ago is a long time and that in my opinion we should not live in the past, we should change with the times.

Now, Sir, my colleagues have already said that this sort of Government policy is trying to perpetuate racialism in this country and that that is not acceptable. The Africans do not object to the Asian community in that context but they object to the policy which in this Bill is being supported. And therefore it is rather ridiculous for the Government to say that we should move towards non-racialism while it is perpetuating racialism. I understand, from the hon. Director of Medical Services that this scheme is being implemented by the Government and consequently it will be implementing another scheme for the African community.

MR. WALKER: No.

MR. ARAP MOI: In years to come, but I should like to see something done for the welfare of the State, not for certain racial communities as such. Africans have already contributed a lot in trying to meet their own medical facilities. They are building health centres and run them on a £ for £ basis. They contribute money towards buying drugs for their treatment and therefore I should like to see things which cut out racialism. And if one becomes racialist, I think that such a man is sincere in doing so when he himself and the need for such a scheme in the country, but more in terms of our desire positively to begin avoiding any

[Mr. arap Moi]

Mr. Speaker, Sir, since many Members have spoken on it, I need not speak longer and therefore second the amendment.

Question proposed.

MR. ALEXANDER: Mr. Speaker, Sir, the measure that we are debating today is one of self-help for a section of the community. I only want to say this, in order to show the inconsistency of the arguments of my African colleagues on this side and to oppose the amendment. And the inconsistency is this, that about a year ago, Mr. Speaker, we debated in this House a Paper dealing with the financial relationships of the Central Government with African district councils. One of the proposals in that Paper was a measure that enabled African district councils to levy or to collect rates from the Africans for their primary and intermediate education. That, Mr. Speaker, was welcomed in this House and welcomed very considerably by my African friends here who today are trying to prevent our Asian colleagues from doing the same thing for themselves in respect of health.

MR. ARAP MOI: Mr. Speaker—

MR. ALEXANDER: You can answer in a minute when I have finished. Mr. Speaker, the figure that is attributable to that particular self-help of the Africans—and we all welcomed it—is a figure of three-quarters of a million pounds per year that the Africans are enabled to take out of their own pockets for their own education. And it would be entirely consistent of them and entirely sincere of them to support the Asian community when they wish to do the same sort of thing for another type of social service.

Mr. Speaker, I beg to oppose the amendment.

DR. KIANDU: Mr. Speaker, Sir, I would like to support the amendment. The hon. Member for Nairobi West, who has just sat down, has recalled that a year ago my colleagues supported a measure which helped Africans in their attempt to improve their education facilities, but, Sir, I think I should get the record straight. The fact is that we have been in this House and outside been calling for the breakdown of the present racial system in education, and therefore although we

might have encouraged our African district councils to follow this step, nevertheless, if this Government would agree with us to change the present system of education and make all schools non-racial, we would be the first to support such a measure.

Now, Sir, I think that the time has come in Kenya for the members of minority communities—and the Asians in this particular measure—to take a lead in building those institutions and to make them part and parcel of the body-politic of this country, and have them fully integrated into the majority of the population of Kenya. And it is to their advantage more than to any other persons, that they should cease to support a measure like this, which would only perpetuate the sense of their being different from the rest of the population. We speak on this measure, Mr. Speaker, not because it does us any particular damage—we, the African Elected Members and the people who represent—but mainly from the point of view to help our own colleagues, particularly those of the minority communities, to eliminate or work against the existing feeling of racial difference between the people, and our contention is that this measure is going to perpetuate that feeling of difference, that feeling of separateness instead of integrating them into the African nation which is bound to come. And on this basis, Mr. Speaker, I fully support the Member for Nairobi Area for trying to put this measure into cold storage in the fridge as it were—and keeping it there so that we may not have any more institutions that are going to perpetuate a feeling of difference.

I support the amendment.

THE SPEAKER (Sir Ferdinand Cavendish-Bentley): We are now debating the amendment.

MR. TOWETT: Mr. Speaker, Sir, I am speaking on the amendment, Sir.

The hon. Member for Nairobi West has told us that at something a year ago we supported a racial Motion; or provision for some financial assistance from our African district councils for their schools, Sir, with all that a man can say, we have opposed from the beginning when we came in here all these arrangements by the Government of ordinances

[Mr. Towett] We have said we do not want this African District Councils Ordinance. Let it go. We want a uniform form of ordinance for all local authorities. We have said that and when the Government because of its wonderful majority pushed us into racial compartments and the same Government brings money in through one racial compartment, how else can we say we do not approve this since we have been pushed into that racial compartment of being called African district councils.

THE SPEAKER (Sir Ferdinand Cavendish-Bentley): Please not a second speech, Mr. Towett, on the original Motion; we are now discussing the amendment.

MR. TOWETT: I was trying to reply to the hon. Member for Nairobi West, Sir, when he said we supported a Motion which was for the Africans in the African district council areas. I say we do not want the African district councils. Let the Asians and Europeans have one county council and one rural district council and one urban district council. We do not believe in racial things. So, Sir, I believe that the hon. Member for Nairobi West, with his usually constructive ideas, has rather said some things which are not quite constructive this afternoon; and I oppose what he said and I support the amendment, Sir.

THE MINISTER FOR LOCAL GOVERNMENT, HEALTH AND TOWN PLANNING (Mr. Havelock): Mr. Speaker, this has become indeed a completely political debate. I am extremely disappointed, Sir, and I am only speaking to the amendment. I hope that I will be given the opportunity to reply in due course to the main debate. I would merely say at this stage that if hon. Members opposite try on the one hand to say that they are so non-racial and then on the other to say that they are so racial, who can believe them; and when the hon. Member who has just sat down, although he may not have been speaking properly to the Motion, did make a statement though which I think I will have to refute. He said he wanted all the local authorities to be the same. How many times in this House have I asked hon. African Elected Members whether they

would accept African district councils on the same basis as county councils, including the townships and trading centres, and therefore, including non-African members, and how many times have I had "no" from the African Members? Sir, I am afraid the Government cannot possibly accept this amendment which would really, of course, mean a complete negative to the whole Motion, and I will deal with the other points when I reply.

MR. MAIT: Mr. Speaker, Sir, I support the amendment by the Member for Nairobi Area. I believe it would give the Government a chance of giving this Motion a second thought, because as the Minister who has just sat down has said, it is true we are racialist, and I think nobody in Kenya could not claim to be a racialist. I think for anybody to pretend he is not a racialist is sheer hypocrisy, but the tendency is to get away from these groups and look ahead to a better Kenya, and that is where our argument is. We are not denying that we are Africans or the hon. Minister is a European, but let us get away from there and reach this happier stage when we can look upon the needs of our people as such.

Mr. Speaker, I feel that the amendment as moved would give the Government and the country a chance to look at the matter again, because we feel that other communities are capable of doing such things to help themselves, and it would give the African people a chance to offer and suggest and to help themselves, and thereby remove the necessity for this racial approach to a medical measure.

Mr. Speaker, I feel that the Government should accept this amendment of the Motion because we are not moving it just because we feel it is not a good thing, but because we want to get away from the so-called racial point of view to a better point of view, and our people are very ready, in our view, to give what self-help they can with regard to other things, including hospitals, schools, and everything in order to move ahead.

I beg to support the amendment.

THE CHIEF SECRETARY (Mr. Coulton): Mr. Speaker, I beg to move the question on the amendment be now put.

THE SPEAKER (Sir Ferdinand Cavendish-Bentinck): I was going to put the question of the amendment in any event.

Question that the word to be deleted, be deleted, put and negatived.

THE CHIEF SECRETARY (Mr. Counts): Mr. Speaker, I now beg to move that the Mover be now called upon to reply.

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

THE SPEAKER (Sir Ferdinand Cavendish-Bentinck): In my opinion it would not now be in any way wrong from the point of view of the Council or the rights of Members to put the question, and I therefore am putting this Motion that the Mover be now called upon to reply.

Question proposed.
 The question was put and carried.

THE MINISTER FOR LOCAL GOVERNMENT, HEALTH AND TOWN PLANNING (Mr. Havelock): Mr. Speaker, I am afraid this debate has become an opportunity for political expressions, and I will have to deal with some of the political points, but I really want to reply mostly on the rather few constructive points and suggestions and questions that were asked.

Sir, the hon. Member for Central Area was really rather justifying his support for this Bill. I think, in referring back to previous HANSARDS and so on, and I am very glad that he has found it in his conscience that he can. He is absolutely right to the effect that I have said previously in this House, and indeed when I was moving this Motion, that it is the Government's intention to bring in a non-racial scheme. Now this was mentioned by a number of hon. Members, and I think I ought to give a little more detail, or a little more information, on what is in our minds.

Sir, first of all, let me make it quite clear, that I do hope that hon. Members, especially the African hon. Elected Members, will realize that the basis of this scheme is an economic one. The point is that a community, a section, a group, of people have asked the Government to help them devise an insurance scheme. When the facts and figures had been gone into it has been found that such a scheme would not be economic unless it were compulsory. If it were completely voluntary, then, of course, the

actual actuarial result of investigation shows that there would be very little likelihood of the thing being economic, and it is completely and entirely a matter of fact. Hence, it had to be compulsory, therefore, to make it economic, the Government have been requested to bring to this Council a Bill to become an Ordinance so that the authority itself has the power to insist that it collect the necessary income and revenue from the contributors. It is, therefore an extension of a voluntary insurance scheme, which after all hon. Members here would, I am sure, support in every respect. It is merely an extension of that on to a compulsory basis for a community which is fairly easily designated and as I say, at the request of the community concerned.

Now, Sir, the hon. Member for Central Area asked me whether I would agree to inserting a clause into the Bill to ensure that the Bill or the Ordinance as it would become, would expire in say, 1963. Well, Sir, it is certainly a suggestion that was worth considering, but I do not believe that we need to bring this particular stage. It may take a little bit shorter than that period to work out the non-racial scheme which I have in mind. It may not. But I do not think that a scheme of this sort should have a life necessarily of that period put upon it. It does indeed, I think, give a certain amount of, shall we say, a lack of assurance, for the fund; and the authority working the fund, and I do not think that it would be in the best interest of the fund or the authority. But I would still say—may I add to that? If we cannot find that the non-racial scheme is practicable, then it may have to go on longer than the date the hon. Member has suggested. I recognize, of course, that it could then come back to this Council for revision, and a further extension. However, with the debate of today and yesterday in view, I think it would be a very bad thing for this scheme, or any similar scheme to come back to this Council at all, otherwise we will never get on with our business, which is all awaiting our attention.

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

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

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

Therefore, Sir, I do not think that such a clause would be a good thing and now, may I turn to the actual practical difficulties of a non-racial scheme.

If the Africans were brought in to this particular scheme at the moment, what would it mean? It might mean that something like, what a million taxpayers, would be contributing say Sh. 10 each—possibly. I do not know the facts of hand exactly how many African taxpayers there are! But if that were the case, then you consider the number of people who would benefit from such a scheme, which would include all families as well as the taxpayers—something in the region of six million—which is the total African population, or thereabouts. Each at Sh. 15 a day for each day they spent in hospital, and the number of days or bed days or patient days as they are called in hospitals, would be 9,000 beds which are being used by Africans throughout the Colony by 365, by Sh. 15 and then try and work that out and see what the economics of a non-racial scheme including the Africans on the present basis would work out. I see there are no hon. Members sufficiently interested to take a pencil and paper and work out the sum. In fact only two African Elected Members have enough interest to come in and hear the reply to the points they have raised.

However, I think that I have indicated the difficulties that might arise from the application of a non-racial scheme exactly on this basis, but that does not say that a non-racial scheme is completely out. It may be that with adjustments of payouts and adjustments of payouts that we might be able to work something out which would supply and provide for those who would benefit from the scheme, say three classes of benefits according to three classes of contribution. But there again, as hon. Members will recognize, we are not very well off for statistics in this country, and it needs a considerable amount of research to find out what the total amounts of income and total amounts of benefit payment would be, in different blocks for different grades. But that is the idea—the sort of basic idea that we are working on in my Ministry—and I hope that

that will satisfy the hon. Member for Aberdeen, who asked me for a few more details on our idea, and I do want to emphasize that what I put forward just now is not a racial scheme, it is just the opposite. It is a non-racial scheme.

Now, Sir, the hon. Member for Central Electoral Area gave his support to the scheme; for which I thank him, and also pointed out and I would like to re-emphasize that the Council of State has not considered this a discriminatory scheme or Bill, except in two places. Two very small details. I did not want to go into all those details when moving this Motion, because, as I said when moving, there is going to be another opportunity to discuss the Report of the Council of State, but shortly the two details are a clarification of the power of the authority to pay out benefits other than hospital benefits—a mere clarification; that is all. And also, a clarification of hospital treatment, which ties up with what I have just been saying, and another clarification of their powers of owning land or leasing buildings. Well, can any hon. Member say that those two matters are serious matters of discrimination? They are not. And, as hon. Members have said themselves they are going to be met in any case.

The only other point, as I say, will be dealt with, but that again does not affect the Bill—the other point raised by the Council of State—and it does not affect any particular community but a section of a community, and that, again, we will go into when we discuss it in another debate. Therefore, the Council of State—this body who have taken a considerable amount of time of their own, and a considerable amount of my time, as well—have thoroughly thrashed through this Bill, and they have come to the conclusion that except for those two points it is not discriminatory. So how hon. Members can get up and say that the Council of State backs our view and it is discriminatory I just do not know. It merely means that they have not done their homework and do not know what they are talking about.

Now, Sir, I was very interested of course in the secret history as it came out in the course of this debate of certain negotiations and discussions behind

[The Minister for Local Government, Health and Town Planning] the scenes between certain Elected Members opposite. However, I have no comments to make except that it was very interesting.

The hon. Member for the East Electoral Area was the man who mentioned these matters and the main point I really was interested in, and I am not trying to make any political point on this, was that in such discussions the African Elected Members were asked whether they wished to join the scheme. I never knew that before. There was no need for me to do because the African Elected Members refused anyway, but it did interest me, and if the hon. African Elected Members after their long speeches here today on the political matters and non-racialism and so on are still interested in joining this scheme I am not by any means against investigating how it could be done. But, Sir, speaking from experience, I would be surprised if I were ever approached on this subject again.

The hon. Member for the East Electoral Area also brought up a point which I had made just now, but I want again to emphasize that this scheme is to be paid for mostly by the community, and that it is in fact self-help for a group of people. Great plans were made by hon. African Elected Members mostly to the effect, and indeed by the hon. Member for the Nairobi Area, that a lot of money was going to be spent by the Government on this scheme and that therefore the African Elected Members had every right to criticize it and throw it out. Of course they had, because the taxpayers' money is used. I would like to say this, that even with the total of £35,000 plus £5,000 which the Government will be paying to the scheme, even with that total, if the Government had to run hospitals or had to maintain the hospital beds which are at the moment being maintained by voluntary Asian associations and societies it would cost the Government a very lot more than £40,000 a year.

Of course it is only natural that the Government first of all wishes to initiate and help self-help schemes because self-help is, after all, the basis of development of a country and a nation. To help entirely on the anonymous body of

Government to do everything for you is a negation of a flourishing young country which we are trying to build. Therefore, in principle it is right for the Government to help self-help schemes and in fact as it happens it is also cheaper for the Government to do so.

I believe, therefore, that the hon. African Elected Members are completely off the track on this one. They have not thought this matter out and, indeed, they are only trying to make political capital out of it.

Now, Sir, the hon. Dr. Ismail brought up one or two points which I wish to comment on, namely, the slowness of bringing this Bill before the Legislative Council. That was dealt with by other hon. Asian Members and it is true that the Emergency had something to do with it, but it is also true, as the hon. Dr. Ismail said himself, that it took some time to get agreement amongst the representatives of the community on the detail, which it was so necessary to get, and I mean the details of the contributions, benefits, etc. I am sorry, it did take some time.

He then went on to say that he hoped this insurance scheme would not include buildings. Here again, I want to say that this scheme is not for building hospitals. That seems to have been brought out every time, that this scheme was for the building of hospitals. It is not for building hospitals. It is an insurance scheme. In any case, this might attract private enterprise to build nursing homes and hospitals because the people will at least have Sh. 15 to pay for a day's accommodation from this scheme to the person who supplies or runs the hospital. That was Dr. Ismail's point. We must make quite sure that the private enterprise concerned would run these nursing homes properly. He asked that there should be proper control to see that this was done. I will give the hon. Member a complete assurance that the powers vested in the Director of Medical Services in this regard will be used to the full to see that such nursing homes are of the right and proper standard.

The hon. Member then appealed to me and asked if Government would please make the contribution to the Fund £1 in £3 instead of £1 in £4, which was the recommendation of the Committee. All I can say is that, at this moment, I

[The Minister for Local Government, Health and Town Planning] cannot possibly give any such assurance, and, after all, we are in a hot debate on discrimination. I feel, in principle, it would be quite wrong to depart from the principle established for other schemes.

I want to make one other matter plain and clear, Sir. I think that some hon. Elected Members are under the impression that the amendment that I mean to move at the Committee stage will result in benefits being paid for home nursing and maternally. What I want to make quite clear, Sir, is that I want the Authority in the Bill to be enabled to make those payments. That will be done. But I cannot speak for the Authority. The Authority is an Authority and it is up to that body to suggest and to state what payments and what benefits they will make under their enabling powers. Of course, they will never consider what money they have in the Fund which will pay such benefits before they prescribe them. I will myself, of course, be in a position of having the last check, of approval, but the initiative on these matters will be taken by the Authority and nobody else. However, they will be able to do so, but whether they do or not depends on what is in the kitty.

The hon. Dr. Ismail made a point about dependants who should get benefits and not necessarily pay contributions. I think the hon. Member will find that there is a clause in the Bill where this is covered by exemption on payments by the Authority or even by myself if necessary. It is stated quite clearly that those who have been exempted by either the Authority or myself from making payments still may benefit from the benefits paid out from the Fund. I think that this point is completely covered.

I would like to thank the hon. Member for the West Electoral Area for his kind remarks about myself. I take it as a very great compliment that he said that he thought I was one of the most non-racial Members on the Government Benches. Sir, I wondered who was going to say "Question?" first. I wondered whether it was going to be the hon. Member from the United Party, or the other side.

I do not think there were many other points of that sort of detail with which I have been dealing. I think, when we

moved on to all the different racial and non-racial and political points, especially made by the hon. African Elected Members; that I must again bring one or two facts to the attention of this House. I cannot remember the name of the hon. Member who calculated the amount being spent on Asian patients and that spent on African patients. He gave some staggering figure to the effect that we spent Sh. 7 per head of the African population and Sh. 2 per head of the Asian population. Those figures are very near the mark. In fact, a nearer figure for the hon. African Members of this House to calculate upon is that this Government, i.e. the taxpayer, is spending £1,750,000 per year on African medical and hospital facilities. I say African, but, as I have said before when moving this Bill, it is not stipulated that it should be African but because of the majority of the population, because of the geographical factors involved, that is what is happening. Africans are benefitting to that extent: £1,750,000 per year. We know that, it may not be enough. We would like to have more and more hospitals, but with the limited amount of money which the Government has to use, that is quite a lot of money to spend on African health and medical services. Let me say again that whatever this Bill may do to help the Asian population to have hospital facilities it does nothing towards medical facilities and it does nothing towards drugs; it does nothing towards surgical fees, X-ray fees, and so on. The African community, at the level at which we can do it, obtains all these things without charge. They may pay Sh. 15 in Nairobi to enter hospital with everything else free and they can stay there for six months if they need to without any further payment. They pay a small fee for out-patient treatment, but all these ancillaries for which the Asian community pay for itself are provided free to the African community. I feel, Sir, that it is rather dog in the manger of the hon. African Elected Members to take the attitude which they have taken today. I believe that they are very well looked after by the Government and very generously so and the hon. Member from any other community has ever objected to the amount of money being spent in this manner on the African community.

(The Minister for Local Government, Health and Town Planning)
(Mr. Deputy Speaker (Mr. Bechgaard) left the Chair)

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

In fact, any remarks which have ever been made from the Opposition Benches have always been in support of further services being supplied by the Government in this regard and yet when one community wishes to try to help itself to save the taxpayer money—I stress that, to help itself—through a compulsory insurance scheme there is nothing but attack on a flimsy political excuse.

I think, Sir, that it would be a waste of the time of this House for me to go through all the speeches made by all the hon. African Elected Members. Most of the points were just the same in different words, but there were some things that were said which I, on this side of the House, will not accept. It was said that King George VI Hospital was very small. It is one of the biggest hospitals in Africa. Hon. African Elected Members do not seem to realize how well they have been done by. We have the best medical centre in Nairobi, surrounding King George VI Hospital between Cairo and Johannesburg, and that includes the West Coast, and everywhere else.

Then another hon. African Member, the hon. Member for the Coast Rural, said that if we toured his Constituency we would have seen how dreadfully the people there were looked after. "We have no medical hospital benefits in the Coast Province", he said. That is an entirely unfair remark. He may have been saying so in the heat of the moment but this is a serious phase. The words of hon. Members are recorded for ever in HANSARD and those words, if they are completely wrong, must be corrected by someone like myself. I will give this challenge. I would like any hon. Member to go round the Coast Province with me to see the medical and hospital benefits that are provided for the community down there, and I do not think that any single one would be able to complain.

Sir, if I look through my notes I see more and more of these sort of points. Lack of services for other areas was mentioned. Let me repeat this again,

because I am afraid that these things have to be repeated. Another African Elected Member tried to state that because of this £40,000 being paid from the general revenue to this scheme, the non-racial African services would suffer. I repeat that if the Asian community turned down this scheme and said to the Government, "We are not accepting this responsibility, you have got to accept it," what could the Government do but accept it. It would cost us more. The same goes for the European community, too. As I say, Sir, I can go through these speeches and at the same time I noticed that some other Members, and quite rightly because they are politicians, have answered these political points, non-racial on the one hand and a very racial attitude on the other, especially with regard to land.

What amused me was one great speech made by an African Elected Member. He said, "The Council of State has said that this is a differentiating measure. Therefore we must throw it out. But of course we do not recognize the Council of State." Well, I suppose that all politicians want to have things all ways, not only in two ways but in every way, but it does not help in this sort of debate, which is not a political debate but a debate on a Bill which is here to help a section of the community, not necessarily because it is racial, to help them to help themselves to provide services at least cost to the taxpayer in order that the Government can provide better services for others who will not help themselves.

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 Local Government (County Council) (Amendment) Bill

Order for Second Reading read.

THE MINISTER FOR LOCAL GOVERNMENT, HEALTH AND TOWN PLANNING (Mr. Havelock): Mr. Speaker, I beg to move that the Local Government (County Councils) (Amendment) Bill be now read a Second Time.

I am afraid that this Bill is similar to a number of other Bills that I have had to bring before this House; they are rather ambiguous Bills in that they amend main Ordinances.

(The Minister for Local Government, Health and Town Planning)

I have said this before, Sir, and I will repeat it now, that I think it is about aspects that the Local Government Ordinances, especially, were thoroughly reviewed and indeed completely re-drafted; but unfortunately we cannot carry on local government efficiently without some of these sorts of amendments and it is an enormous task to re-draft Bills of this sort, and it will take some time to do so.

I also have to apologize to the House for a large number of amendments which I will be moving at the Committee stage. Those amendments were circulated to hon. Members, Sir, some days ago, and I have tried to give as much notice as possible so that hon. Members will be able to read them. They do arise mostly from representations which have been made by local government bodies once they have seen the amending Bill in print.

Sir, if I may now turn to the Bill in front of us, clause 2 amends section 2 of the principal Ordinance, really defining the expression introduced later in the Bill. It will be seen here, Sir, that "African company" is mentioned but, Sir, in the amendments which have been circulated that has been withdrawn. The reason for that is, of course, because, as this House has so often expressed, we must move towards a completely non-racial approach where no racial tag should be brought into any of our administration.

Sir, the word "voluntary" has been omitted in reference to "scheme of education" as that will be omitted, we hope, by further amendment, as it is thought, Sir, that the powers which will stem from this amending Bill in the County Council Ordinance might require to be used to finance education other than voluntary schemes. It will be seen that that particular amendment with regard to a scheme of education—a scheme of social welfare that those amendments, Sir, are very much in line with the ones that this House passed recently with regard to the Municipalities Ordinance.

The definition, Sir, of "functions" will be necessary, which again is mentioned in the amending list, and I propose to

deal with them more in committee than now.

Clause 3 of the Bill provides for amendment to section 4 of the Ordinance to delete reference to townships as administered areas set up by a scheme of county administration since such areas, Sir, when they are set up by such a scheme, will have ceased to be townships on inclusion in the county scheme and the Townships Ordinance will therefore cease to apply.

The effective amendment, clause 3, deals with the constitution of the county council and alters the present provision which makes it necessary to specify county councillors appointed by county district councils and, secondly, elected European councillors and, thirdly, councillors appointed by the Minister, to allow a county council to consist of as many councillors as may be considered necessary, that is councillors appointed by the county district council. This is merely discretionary, of course, it does not mean that all the county councils will have to be brought in that way, but I was requested by the Nalvasha County Council that their constitution should be altered to the effect that members should be elected to county districts, then the county districts would nominate or elect to the county council. In fact the county districts would be using themselves as an electoral college, as this most honourable House does on occasion. I have no objection to the principle of an electoral college if certain areas wish to adopt them, as I have said before that does not mean that they will be adopted everywhere.

The third amendment here, Sir, is a clause that makes provision for the divisional forest officer or his deputy to become a member of a county council. The reason for that is, I think, pretty obvious, whilst certain areas of the forest are under the administration of county councils, I think it is only right that the Forest Department should have a representative to put their view on the many matters which affect the forest, which include water supplies, forest roads, health measures, dispensaries, etc., and, of course, such measures as the control of stock.

The clause also, Sir, has another significant amendment in it and that is it puts at rest, we hope, certain legal doubts that an agreement to the inclusion of

[The Minister for Local Government, Health and Town Planning] a municipality in a scheme of county administration would not be effectual either to alter the Municipalities Ordinance or the County Council Ordinance. It merely means that what has happened in the case of Eldoret and Kitale municipalities being brought under the County Council Ordinance, that they still will be able to function under the Municipalities Ordinance or the County Council Ordinance, whichever is the best with regard to the particular functions concerned.

Clause 5, Sir—in fact clauses 5 and 16 are tied together. These clauses are new sections 5 (a) and 67 (a) of the principal Ordinance and provide that a scheme of county administration may vary its powers conferred by the Ordinance as between county councils and county district councils. In other words, if in one area it would seem better that the county district council would have more power than other county district councils, there is no reason why it should not within one county district area. I hope that is clear to hon. Members. I think from the puzzled expressions that it may not be.

Within each county council area there may be four or five county district councils. Now the circumstances within those county district council areas may vary considerably. One may be more sparsely populated than the other and so on. It may therefore be convenient for one county district council to have more powers delegated to it by the county council than another county district council within the same county district area. This is to provide for that variation within the system.

It may also make it even more elastic that one county district council may carry out more of the functions of the county council in the same county than is carried out by other county district councils. I hope that is clear too.

Now, Sir, the sixth clause amends section 6 of the principal Ordinance in the first place by deleting the limitation of a wholly elected county district to not more than three European elected councillors. In other words there need not be or there could be a county district

council with less than three elected European councillors on it. This ties up with what I have described before. Sir, the system that Naivasha wishes to adopt, in fact nominated members by the districts to the county council.

The amendment (b) of this clause, which will be seen by hon. Members, paragraph (a) subsection (2) thereof, etc., etc., is intended to provide that after the first county district councils were created by appointment, county councils would thereafter appoint councillors upon vacancies arising through the normal retirement of councillors and also due to variation of county schemes and county administration, and therefore after the original scheme it is left to the county council concerned, and this particular amendment makes that quite clear.

It will also be noted in this particular amendment that the racial qualification has been omitted.

However, the clause concerned, Sir, I am now informed by representations from the county councils that it may not be quite clear enough and so an amendment will be moved to allow in due course that the initiative of county councils for elections of non-Europeans to urban district councils—I want to be quite straightforward here. Sir, we will do this in the County Council Ordinance. I think it is only fair that there should be enabling provision for non-Europeans in an urban district council. Think, for instance, which will now allow them to be elected. If, for instance, non-Europeans in Kitale can be elected it would be very unfair to stop those in Thika from being elected and merely because Kitale is a municipal board and Thika is an urban district council, it would be unfair to differentiate. So this amendment will allow or recognize the fact that they can be so elected. But I am afraid there still will have to be a certain amount of work done on the matter of drawing up rolls and another amendment in due course will be necessary to this Ordinance to provide for it.

Clause 6 (d), Sir, is merely again, a matter of the forest officer and that provides that he may be represented or he may be a member of the county district council as well as a county council.

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

Clause 7 introduces an amendment to section 9 to continue in force all the district council orders which have been made under section 22 of the Ordinance, after the coming into force of a scheme of county administration. It is just a matter of tidying up and those orders which were made by district councils before the county council came in must be allowed to go on.

Clause 8, amendment to section 11 of the principal Ordinance, I have deleted reference to a township and added in respect of which a scheme of county administration may be changed at the instance of a county council—it merely clarifies a form of uncertainty.

Clause 9. This clause adds a new section 11 (a) to the principal Ordinance. No provision had previously existed for a scheme of approved county scheme administration which *inter alia* defines the boundaries of the county council and of the county district councils contained therein, other than upon the recommendations of the councils concerned and this allows the Minister to take the initiative in certain cases when necessary.

Now this, I think, has arisen twice where there has been discussion and disagreement between two adjoining county councils. They have not been able to come to an agreement but there has been very great dissatisfaction between the areas concerned about adjustment of boundaries for administrative convenience and other matters. Under the present Ordinance unless both county councils agree nothing can be done.

Now some hon. Members may think that that has had something to do with my altering the boundaries of some county councils with regard to forest areas. This is not the case, it has nothing to do with it at all. It is only on this particular matter of boundaries of two county councils. Now, of course, according to law the boundaries of forest area could be so affected. However, upon representations from the county councils, I have agreed to move an amendment to make it even more difficult for the Minister to do, and that there shall be an enquiry first and the Minister will only come in right at the end of the proceedings. I think that should cover

any of the fears which have been expressed.

The details of that can be discussed in committee with the amendments. In fact I have just noticed in my notes that they have even gone to the extent of saying that the Governor in Council shall make the final decision.

Clauses 10 and 11 deal with sections 29 and 30 of the principal Ordinance. The provision for the witnessing of a candidate's proposer and seconder's signatures by a magistrate or J.P. or a notary public has been dispensed with together with the necessity for the returning officer's attendance between certain times on nomination day to receive nominations. This has been done at the request of county council representatives to simplify the whole procedure and I personally agree that this does not seem to be necessary to put candidates to quite a considerable amount of inconvenience, especially those living in outlying areas. After all, candidates themselves and their supporters can easily be checked by the voter's roll if they are the people they purport to be and also if the signature of a candidate is genuine it can very easily be checked.

Amendments to this also have been tabled and will be moved so that the whole of the election can be repeated, not only the poll, and to introduce a full and not only a limited postal ballot. Then the whole election can be done by post, as it might sometimes be convenient to do—to poll a rural area by post.

Clause 13 of the Bill, Sir, has an amendment to section 42 (a) of the principal Ordinance, an amendment which is made on the representation made by the Association of County Councils, to enable the district commissioner appointed to membership of a county district council to send a district officer to attend meetings held in his unavoidable absence. I am sure hon. Members will see the practicability of that.

Clauses 13 (b) (i), 30, 31 and 32 I will take together. Notice has been given for amendment to this and it is all a matter of the terms of "social service officer" being introduced instead of "African Affairs officer"; the term "health inspector" has been introduced instead of the term "sanitary inspector". Where

(The Minister for Local Government, Health and Town Planning)
such officers have been given a grant in aid towards their salaries by the Government but who are not, in fact, given the status of chief officer. In view of the grant, the Minister will retain the right to approve the appointment or dismissal of these officers.

Also the amendment makes provision for requiring county councils to recover from county districts the salaries and county divisions if there are any county administrative expenses of the county, this is desirable in order that the estimates of the county district council may give the true picture of administrative expenses. Indeed, we think this essential because we may run into some trouble in that some county district councils may become so uneconomic we may have to amalgamate them with others. We have not got the true picture about this.

Clause 15 makes some amendments governing the powers of councils under section 66 of the principal Ordinance, replacing the existing section with a new section which allows for normal tendering procedure or a system of selective tendering based on the similar process which this Legislative Council approved with regard to municipalities earlier on this year. Notice of another amendment has been given which I will not deal with at the moment, but when we come into Committee I will.

Clause 17, section 69 of the principal Ordinance, to enable the county council Public Roads and Road of Access Ordinance to county districts.

19. This amends clause 77, the amendment enables a county council to be appointed by the Minister as a preparatory authority under the Town Planning Ordinance, although one may already be appointed and to supersede that authority. What this means is that if, for instance, a municipality is within a county council area, that board or council has already become the planning authority for its area, it might be expedient for the county council to become the planning authority for the whole area, including the municipality, and this amendment enables one to do it.

Clause 20 amends section 58 of the Ordinance increasing the powers of

councils in respect of educational matters within or without the administrative county and extending local authorities' activities to the provision and management and maintenance of boarding blocks, and school hostels. This is to put right what is already going on, as hon. Members will know, county councils are, indeed, managing boarding blocks and school hostels in Thika, Molo, Machakos and elsewhere. I hope that county councils will give very serious consideration to hostels where they are required, and finance is available, for children other than European children.

21. I quite realize that a non-European Elected Member is here, but that does not mean that I should not make that point.

Clause 21, section 78 (a) is to enable the county council, with the Minister's authority, to levy on all or any specified block of persons the whole rate for a scheme of social welfare or scheme of education, on the lines permitted by this Ordinance, and also in respect of expenditure on the establishment and maintenance of any hospital. That, of course, ties in and has to be brought in to maintain the present procedure in Uasin Gishu and Trans Nzola.

An amendment will be introduced to enable exemptions, especially for married women, to be brought in on that, but I will speak to that in another debate.

Clauses 22 and 25, they add additional subsections 81 and 102 of the principal Ordinance, in the first place they empower the council to establish centres for the care and welfare of children and apprentices' hostels, and secondly gives a legal guarantee to International Co-operation Administration loans, those loans are loans to traders. The latter power is also granted to county district councils.

"As hon. Members will see, the word "African" has been mentioned here as "African" companies and that will be deleted in the Committee stage, the Council of State have said that they would like it deleted although they have not sent an official notice.

Clause 23 adds a new paragraph to section 82, it empowers county councils to make by-laws about the provision of housing, sanitation and water for labour at quarries. I do not think that any

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hon. Member who lives in the Nairobi County Council area will avail that.

24. This adds a new subsection to enable the county council to carry out road works by agreement within another county district. That, I think, is also very important. The case that occurred where a rural district council wished to spend money on roads within an urban district council area which serves the rural area and they have not been able to do so.

Clause 26 amends section 106 of the principal Ordinance. County district councils relinquishing any of their legislative functions will relinquish them on the succeeding 1st January.

27 and 28. These provide that by-laws made by a council shall be submitted to the Minister—at present the Minister for Local Government—for his approval, to become effective on the date of publication.

Clause 29, section 129 provides that a rate imposed can become effective at any time in the year not being related to the 1st day of March. That day, of course, will be imposed by the Council.

30, 31 and 32. The grant in respect of engineer and social services officer. I think there is a misprint in the Memorandum of Objects and Reasons, for which I apologize, the grant is one third in respect of the clerk, the treasurer, the engineer and the social services officer and one half in respect of the medical officer of health and qualified health inspector. I would like hon. Members to please note that, as I say it, is a misprint in the Objects and Reasons.

Sir, as I said at the beginning, this is a very detailed Bill, I am afraid, and one which is rather difficult to grasp, there are so many small amendments. I think I have covered most of the important points and I beg to move.

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

(MAJOR ROBERTS: Mr. Speaker, Sir, I would like to congratulate the Minister on having adopted the rather unusual procedure of bringing these amendments before us at the Second Reading stage. I know that I shall be speaking on behalf of my three colleagues and myself

when I say that, because I feel sure it will save a lot of argument and a lot of debate in the Council. Judging by the absence of my friends on the left, I think there is a chance that this Bill will go through very quickly.

Sir, the hon. Minister has consulted with representatives of the county councils and he has accepted many of their recommendations. I do thank him for having done so.

There is one small matter which I would like to point out to him, which could be a misprint. In clause 15, 6 (ii), on page 932, it says this: Sir, "In every such case council shall submit to the council at its next succeeding ordinary meeting a report." Extraordinary things do happen in Kenya, but I am not quite sure how a council submits a report to itself, no doubt my hon. friend will be able to explain it to me when he replies.

Mr. Speaker, I would like to take the opportunity of this debate of bringing to the notice of the Minister a matter which I think does undermine a council's authority regarding their staff. It is accepted practice, Sir, that senior members of a council do enjoy a measure of protection in that they can only be appointed or discharged with the approval of the Minister. In the case of senior members, highly qualified members, that is understood and it is accepted. But, Sir, in the case of certain junior employees it is not quite accepted. I refer, Sir, to those people who were a few days ago called "sanitary inspectors", they have now been elevated to "health inspectors". All these people do enjoy that privilege of protection, although in many cases their qualifications are extremely low and, Sir, there does not appear to be any recognized standard of qualification which would entitle them through that qualification to that measure of protection. I feel that the council's authority is somewhat undermined if they are not in a position to be able to deal with these junior employees. In the case of a senior health inspector who undoubtedly would have a high qualification, then he should enjoy that protection. I would like the Minister, if he could, in his reply, give some indication as to why that protection is necessary to these members of the staff. I would like to support, Mr. Speaker, Sir, I beg to support,

THE MINISTER FOR LOCAL GOVERNMENT, HEALTH AND TOWN PLANNING (Mr. Haselock): Mr. Speaker, I thank hon. Members for the great interest they have shown in this debate. I also thank the hon. Member for Rift Valley for his remarks. I think this Bill has been the result of very close consultation with every interested party, and not only consultation, but agreement. I think the hon. Member will find on page 4 of the amendments to this Ordinance, which has been tabled an amendment which will clear up his doubts about the word "council" in clause 15 (62).

With regard to health staff, Sir, this point has been raised with me before. Actually rather lately when the amendments had all been tabled, or rather the first reading had been given to this Bill. It may lead to a certain amount of extra work for county councils to have to forward to me and get the approval of the Minister for any matters affecting health staff which may, indeed, be junior health staff, but I think without amendment to the Bill I could make an undertaking that we will not be too difficult on this in my Ministry, and in fact I have not yet had time to discuss with the Director of Medical Services the qualifications he would like covered under this sort of section, but when I have done so, I will try to meet the points made by the hon. Member by circular to county councils.

Sir, I think that was all that was raised and I beg to move.

The question was put and carried.

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

The Outlying Districts (Amendment) Bill

THE MINISTER FOR AFRICAN AFFAIRS (Mr. Johnston): Mr. Speaker, I beg to move that the Outlying Districts (Amendment) Bill, 1952, be now read a Second Time.

Sir, the amendments proposed in this Bill are designed to assist the smoother working of the main Ordinance, and I am satisfied that in certain areas of the Colony, despite the improvement in communications, there are still a certain number of hazards which justify the Government in retaining powers to

declare a district a closed district under the Ordinance. If I may quote examples, Sir, many of the roads in the Masai and in the Northern Frontier Province, and indeed, in parts of the West Suk and Bariago, can be described as mere tracks. There are often long distances between permanent water. There are few petrol points and food supplies are often difficult to come by, while the warlike nature of some of the inhabitants must also be taken into account.

Sir, turning to the amendments which are proposed here, there are really only two principal ones—namely in clauses 3 and 5 of this Bill. The other amendments merely tidy up one or two points in the main Ordinance. The reasons for the amendment to section 7 of the principal Ordinance is very fully set out, Sir, in the memorandum of objects and reasons.

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

(Mr. Deputy Speaker (Mr. Bechgaurl) took the Chair)

Clause 5, Sir, introduces a new section to enable a person who unlawfully is in a closed district to be removed therefrom without the necessity of prosecution, since it is desirable, in some cases, that such persons should be removed and that no charges should be brought against them.

The remaining clause, Sir, I think, are self-explanatory, and I beg to move that the Bill be now read a Second Time.

THE CHIEF SECRETARY (Mr. Coult) seconded.

Question proposed.

MR. KHAMISI: Mr. Deputy Speaker, I would like to rise to oppose the Bill before the House for the following reasons:

This Bill, whereas it amends the original Ordinance and does not provide for any compensation to be paid to a person who has so been removed, it seeks to justify an action by Government in removing a person who has planted crops and who has built a house and seeks to give powers to Government for such a person to be removed completely from that area and his house to be demolished without any compensation. I feel that is quite wrong. In the

(Mr. Khamisi) Sir, his own Bill, which is a closed district without a licence for so many years, whose fault is it that that man is there? Why did Government not detect the man before he had established himself, planted a garden and built a house? If Government is so blind as to allow a person to remain in a wrong place for so many years and to establish himself firmly, then it is, I submit, the duty of Government, if it wants to remove such a person to see that he is adequately compensated so that he can go and start a new house elsewhere in his reserves or in another place. For that reason, Sir, I oppose.

The second reason why I would like to oppose this Bill is because it gives powers to a police officer to arrest a person without a warrant, merely if the police officer suspects that that particular person has no business to be in that closed district.

Now, Sir, I feel that is giving too much power to the police. It empowers a police officer to arrest any person whom he suspects, or whom he may have grudges against, and gives him power to put him in a cell and to retain him there until he can prove that he has some right to go or to remain in a closed district. That is also wrong. It ought to be corrected.

The third reason why I would like to oppose this Bill is because I do not agree that sufficient reasons have been advanced by the Minister concerned as to why some of these districts are closed at all. The reasons he has given just now are that the communications are bad, there is no food supplies, and the residents of the area are warlike. It may be quite true that they may be warlike, but it does not mean that if a person is there and the residents have not waged any war against him or he has not died of hunger, and he is able to obtain his normal food, why should the district be considered a closed district to him? In view of the modern improvements in communications, I feel, Sir, that the whole of this Ordinance—Outlying Districts Ordinance—should now be reviewed and revised, and perhaps be abolished. I do not see the reason why, for instance, any parts of the Masai, or any parts of the Central Province, like Kiambu, should be a closed district or

even Tana River. Why should these districts be called closed districts? Is it the intention of Government to declare these districts as closed simply because they want to keep these Africans backward for ever, so that people like us, or other enlightened people cannot go and enlighten the people there? Or is there something else behind it? We do not agree; Sir, that, for instance, people in the Tana River are warlike. We do not agree that the communications in the district are bad, or that food is short. But, nevertheless these districts continue to be declared as closed districts. I think the whole question of the closed districts should be reviewed, and in fact, I think the time has come that there should be no closed districts in Kenya. All the districts should be open, and anybody who goes into those districts should do at his own risk. It is not the duty of Government to go and protect anyone—if I wanted to go to the Northern Frontier—Lodwar or Loklong or anywhere else—I go there at my own risk and expense. Why should Government declare that such a district is a closed district? Now so much for areas which are so far away from central civilizations, but still I do not see the reason why parts of Masai, which are quite close to civilization should also be declared as closed districts. I feel, Sir, that the whole of this amendment should be withdrawn and that the whole question of the Outlying Districts Ordinance should be reviewed afresh, because I think the Ordinance is out of date and it may be that at the time it was necessary, but today there is little reason for retaining such legislation. In fact we want to see such discriminatory legislation removed from the Statute Book. Therefore, Sir, I very strongly oppose the Bill before the House.

MR. TOWATT: Mr. Deputy Speaker, Sir, I always say the Government is not thinking correctly. Now, a few days ago, Sir, the Government intended introducing legislation opening up African areas and all the other areas. Today, Sir, what are we faced with? Another legislation defining certain areas as outlying districts. I really do not know. There is no logic in that, Sir, and I wish the Government had seen that. Now, from my point of view, I think these closed districts or outlying districts are actually prison camps. I think they are prison camps.

[Mr. Towell]

and the Government does not want those who are not prisoners to go and mix with the prisoners in those areas. That is what is implied here. If, for example, the Masai district, or districts are considered to be a closed district, or an outlying district, and then you say other citizens from outside those districts can be removed from there when they go there. That shows that the Masai District is a camp for prisoners. We want people to move. We want people to have the liberty to move from Nairobi to Kajjajo, to Lokitong, except of course, where you have prisoners in small camps, where you say citizens, or non prisoners are not allowed in, but to close the whole district to be a prison camp is atrociously wrong. I do not know when this Government will begin thinking rightly. Then down here in clause 3—section 7—it says: "That crops belonging to, or which are planted by such persons as buildings belonging to, or occupied or used by any such person, may be seized by any administrative officer and may be destroyed or disposed of in such manner as the district commissioner may think fit." With a provision below, which I shall not read, Sir, I do not know, I think it is high time we members of the public decided not to listen to this Government with its clauses and all the rest of it. That is the only thing. It is the only thing. It is the only cure to all these wonderfully phrased clauses from the Government and by-laws and all the rest of it. We want to be free. I have said it. We want to say you can go everywhere when you are free men, provided you do not go to prison camp, or a police enclosed area, or into a detention camp—those are the only provisions. But to say some certain districts occupied by some certain people, who are free to move and free to accept their visitors to their places—to say that you want those places to be considered as closed districts, is just to try and cause disaffection in the people in those places, and in the people outside those areas.

I feel, Sir, that we should start having nothing to do with the Government because the Government is not doing the things we want the Government to do. The Government should ask us—should consult us—and say, "If we should do this?" "If we did this, would it be

right?" "If we did this, how would they receive it?" and ask the people in all the areas—in all the districts—to define what they want.

I see, Sir, there is what I call "an open-air conspiracy" and I will soon be attacked on what I am saying, so I shall ask the Government to think very seriously about this, and before it enacts or induces its majority to have this enacted into law, should actually consult all the people concerned, and those from outside, and let those in closed districts say they have no relatives; they have no friends; they have nobody else outside who should visit their area. Let them decide—and also to enclose them there—not to come out. I do not see the reason why, if I want to go to the Narok District, I am brought back because that district is closed. I do not see the reason why, when a Masai comes out, because he lives in a closed district, he should be taken back and made to stay here. If we close a district, then those in the district should be allowed to go out, and those outside should not be allowed into that district. That is the only sensible thing to do. But you say that you close the district to the outsiders only, and you open all the other places for the people who are in a closed district. That is what I call losing the ground, Sir.

I feel that this Government, if it wants our co-operation, and I hope it wants our co-operation, should consider what to do for the good of the country, and not to cause or create disaffection. Sir, I very strongly oppose this amendment. Bill.

MAJOR DAY: Mr. Deputy Speaker, Sir, I would just like to comment upon one or two points, very shortly—one point I feel I must comment upon is the remark made by the last but one hon. Elected Member who spoke. I think I am right in saying that he spoke about policemen arresting certain people in these areas on grudge alone. I think, Sir, that a remark like that must be taken back because it is a grave reflection on what we all know, generally speaking anyway, to be a very impartial and efficient service.

The other point I would like to make is this—who knows what is going on in these closed areas; and perhaps when the Government reply, they will give brief details of reasons, which I think we all know, Sir, and will not bore the Council

[Major Day] as to why these areas are closed. I think it would be very useful to consider whether the people who inhabit these areas, on the whole, would themselves be in favour of not of their remaining closed to certain individuals who might conceivably not be conducive to the normal, reasonable life of the inhabitants of those districts themselves.

Sir, I think it is rather dangerous for some of these remarks which have been made—so much so that, at one time, I wondered whether they were an attempt at humour on the part of some of the hon. Members. I would merely say that I hope that Government will give—and I am sure they will—the hon. Minister concerned will give most detailed explanations as to why these are closed areas.

I beg to support.

THE CHIEF SECRETARY (Mr. Coult): Mr. Deputy Speaker, Sir, in answer to the hon. Member for Mombasa Area and the hon. Member for Southern Area who have so far spoken in this debate, I feel I would like to give the Council the benefit of my own experience; having served in a closed area—the closed area to which I refer was that of the Northern Frontier District, now known as the Northern Frontier Province.

Both hon. Members appear to consider that these regulations were brought in purely and simply to keep them from going in to the area. I would like to remind hon. Members that the Northern Frontier District of Kenya boundaries on the Sudan, on Ethiopia and on Somalia, and I wonder whether the hon. Members have considered whether these laws are perhaps not brought in by the Government in order to regulate a flow across our frontiers, and that is nothing to do really with regulating a flow of hon. Members of Legislative Council from Kenya into the Northern Frontier District of Kenya.

The hon. Member for Mombasa Area made three points: He said that we should pay compensation to persons who are to be removed; and apparently it was the Government's fault; for having found out this person, if by any chance he had broken the law. As far as I can see, his argument was that you cannot remove somebody who has been firmly established. I do not think, Sir, that it follows necessarily that because you have

got a house and crops that you are firmly established. A crop can grow in four months and a house, according to African customs, should be completed in 24 hours. Therefore I do not really myself accept the fact that a person would necessarily be firmly established. But in any case, if you pay them compensation, it seems to me that you are condoning a breach of an offence, and therefore, Sir, I myself very strongly support this particular section of the amendment of the Ordinance.

Secondly, he complained bitterly about arrests without warrants. When I was District Commissioner, Mombait, I used to travel about a complete desert—a wilderness of lava—for about 30,000 or 40,000 square miles, and I very often came across some Gelubba raiders. I suppose, the hon. Member expected me, as the administrative officer at the time, to greet the Gelubba raiders, who are usually armed and pillied, and say, "Hello, but I have got to go back to Mombait—140 miles—in order to swear before a magistrate so that I can get a warrant to arrest you." This, to me, Sir, seems profound nonsense, and I do feel that hon. Members, when they start criticizing sections of a Bill, should first of all get to know the conditions of the particular area to which they are referring before they bring these criticisms.

The third point, which was made by the hon. Member for Southern Area was that the areas concerned are prison camps. I think if hon. Members are going to make statements of this nature they should be prepared to substantiate them. They are not prison camps; at all—in fact in the area to which I am referring, the people are allowed to move around as freely as they like, and as they probably know, or do not know, because of climatic conditions, they usually move where there is water and grazing. And that is another reason for having rules under this Ordinance because the water and grazing are on the whole limited. This, I may say—and I assure hon. Members is not due to anything that the Government have done—but it is in fact due to the climatic conditions which the good Lord has put there, and being limited it is necessary to make quite certain that the available resources can be divided out between

[The Chief Secretary] these people who require them. And that is another reason for bringing in these regulations. Furthermore, just to complete what I have to say about the presence of prison camps—anyone who wishes to come out of the Northern Frontier District only has to apply to his nearest District Commissioner to do so.

Sir, I beg to support.

MR. TOWETT: Mr. Deputy Speaker, on a point of explanation, I did not say they were prison camps. I said why should you make them into things like prison camps. I did not say they were—I said that if you close these areas, they will be like prison camps.

THE CHIEF SECRETARY (Mr. COULTER): I thank the hon. Member for his explanation. Sir, they are not prison camps, and we are not making them into prison camps.

MR. NGALA: Mr. Deputy Speaker, Sir, I think the Chief Secretary has forgotten one thing about these closed districts. He has mentioned that the chief purpose is to disallow people wishing to enter these districts from outside Kenya, but I think that he is not quite correct. It is one side of the story. Up to last month, Sir, it was necessary for me when I wished to visit Lamu or Kilipini Districts, which is a part of my constituency, to get a permit to visit this closed area. Now, if, as the Chief Secretary has said, this is not something to confine the Members, then I should like to know why the Lamu and Kilipini Districts are closed to me and to any other African who wishes to enter those districts, and I should like an explanation as to why this is still being done to many Africans who wish to go from any parts within Kenya into the Kilipini or Lamu Districts, unless they are tribesmen of these districts. We take this to be a very unfair situation, Sir.

The other point which the Chief Secretary explained was the question of establishment. Now, I do not know in which parts of Africa they are able to complete houses within 24 hours—it is not anywhere in Kenya. In my experience, it takes a great deal longer to complete African houses or huts than 24 hours, and I think it is wrong to think that just because an African has built a house in

short time so that it is not an establishment, I must very strongly refute that.

THE CHIEF SECRETARY (Mr. COULTER): I thank the hon. Member for giving way. What I said was that if you follow your proper customs it can be completed within 24 hours.

MR. NGALA: Mr. Deputy Speaker, Sir, as far as I know, the proper custom to which the Chief Secretary has referred cannot complete a house in 24 hours—not even a hut can be completed in 24 hours. But here I am on the question of establishment. African crops may be food crops which can mature in four months, but they may be permanent crops. For instance, round, about, Witu in the Lamu District there are permanent crops, and it would create a real hardship if a man was forced to leave the place without any compensation or without any due regard for his permanent property. This should be looked into properly, Sir, so that the whole thing can be done on good understanding and co-operation.

This Ordinance, Sir, interferes very strongly with the African way of life, and it is for this reason that I object to this Bill. Before the coming of the present Government to this country, we could go any part of the country and live with our brother Africans. We could go to Masai and live there—(Cries of 24 hours)—We could go to any part of Africa and live there very happily. Now, the position which is being created by the present Government is very unacceptable to us as Africans. We would like to feel quite free instead of being chained by Bills of this nature. We would like to feel free to go anywhere and live anywhere.

I have an experience, Sir, in the Lamu District where about 15 Luo fishermen were removed. "I think" under this Ordinance. Now, they had not done anything wrong. They were only fishing for their own subsistence, and maintaining their own living, but under these regulations they had to be moved away. It seems very unfair to me that you can move an African from one part of his own country to another part of the country, particularly where you are removing him from a place where he is making his living to a place where he will probably not be able to make a

[Mr. Ngala] living and will suffer from hunger. This is quite unnecessary and undesirable in my opinion.

Mr. Speaker, Sir, I support the other African Members who have spoken, and the Member for Mombasa Area, in particular, that this Ordinance has outlived its usefulness and should be swept away from the law books of this country.

With these few words, Sir, I would like to support those people who have opposed this Bill.

DR. KASSI: Mr. Deputy Speaker, Sir, about three weeks ago I met with leaders of the Somalia Association, and one of the points they raised with me was this question of the Northern Frontier District being a closed district. They told me, very convincingly, I must say, that although it appears very simple to the Chief Secretary for a man to go to an officer to get a permit to enter or to leave the district, in practice this has caused considerable difficulties, and it is not always quite so easy to obtain these permits. In fact, one of them told me that, at times, it has been so difficult that when they are coming to Nairobi they say they are going to Kenya, they really feel that they are outside Kenya.

Another point they made, and I would like to present their views here, was that because of these restrictions to their movements, it has not been very easy for them to carry on trade as freely and as effectively as they should be able to, with the result that other people, rather than the actual residents of the area, may be benefiting from these restrictions.

A third point which, again, I think, was a valid point and which I should like to bring to the attention of this Council, was that they felt that perhaps, if there was a freer movement in those districts allowing for more contact between the residents of those areas—the Turkana and others—and allowing for the free mingling with other people in Kenya, this might have the effect of accelerating the development, both commercial and social, of these people. But so long as they are kept aside with permits which does not allow them to mix freely with the rest of the population of Kenya, they will have a negative effect on the rate of development of the areas concerned and that it might be to their

advantage not to remain within such a closed district but rather to be considered part and parcel of the Kenya administration.

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

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

Furthermore, Sir, there is always something, Sir, in principle which makes one aware of restrictions of movement of citizens within the territory of which they are residents. It is a part of international development today that even movement between one country and another is being eased as time goes on, yet here we have in this territory a system whereby citizens who were born in this country are required to obtain a permit to enter or to leave the very territory in which they were born.

I believe, Sir, that the view expressed by one of the Somalis was that when Somaliland becomes independent he would like to have the Northern Frontier included in Somaliland because it seemed to him that they were not wanted in Kenya. Now, surely that is not the attitude which prevails in this country, and we must do what we can to integrate these people into the rest of the country.

Therefore, Sir, I support the words of the hon. Member for Coast Rural who feels that these kind of Ordinances which might have had some kind of restrictive functions at some time, are now out of date, and what we want in this country is as soon as the so-called Emergency is over is complete freedom of movement for every person in this country so that he can move freely throughout every part of Kenya without any necessity for obtaining permits.

With those words, I oppose the Bill. Sir.

MR. GLETTIS: Mr. Speaker, Sir, I had not intended to intervene in this debate, but I feel rather compelled to say a word or two before I make up my mind whether to oppose or support the Bill.

Personally, I do not like the idea of having an area closed for no good reason because the whole of the so-called closed

[Mr. ole Tips] advanced today—I do not know whether the Government closed them as well to various development projects as such—but in these districts the people are less advanced than those in the open districts. I would strongly say that as far as the closure of a district is concerned it is only closed to those entering the district and not to those who wish to leave the district and I understand this to be the case, unless I am informed to the contrary.

Now, I know that there are some strong feelings against the closure of a district, and I know that there are also in some quarters there are strong feelings in favour of keeping these districts closed, but I personally feel, Mr. Speaker, that I would not ask that such districts should be closed to all persons. What I would like to suggest is that the powers of closing a certain district should be entirely left to the tribe or the district concerned. Let them pass their own by-laws for prohibiting anybody who is not to their liking from entering their district, and let them welcome anybody they wish to enter. Let them also have the power to evict or expel anybody who is becoming a nuisance to them such as a person who is not prepared to obey the customary laws or the tribal laws of the district in which he is residing.

As far as that goes, Mr. Speaker, I consider that the question of opening up these districts (for residential purposes) should be left entirely to the African district council concerned without any Government interference. Let them decide whether their district should remain closed or not. I should say that they are probably the best judges since they know the advantages or disadvantages of having their district closed or not.

I should also like to touch on a few of the clauses of the proposed amendment to the principal Bill—in section 3, subparagraph (ii) it says that "all crops belonging to or planted by any such person, and all buildings belonging to or occupied or used by any such person may be seized by any administrative officer and may be destroyed or disposed of in such manner as the District Commissioner may think fit."

Mr. Towett: Terrible, terrible, terrible.

Of TIPS: Surely, this is a very terrible clause to have here because after all, we on this side of the Council, Mr. Speaker, have been complaining that we have too many district officers in various divisions or localities of the African land units. The Government has always resisted our arguments stating that this is due to closer administration. Now, if this closer administration is working smoothly, and if there is to be proper control, then I should have thought that the administration should have been able to prevent any unauthorized person from entering the district. But where I fail to understand is why there is all this lapse of time until the man has permanently established himself and planted his crops and has done various developments in the area in which he is not according to the proposed amendment allowed to reside and then the Government comes forward and says, "Well, we will give the district commissioner the powers to seize all the property and dispose of all the property in any way the district commissioner may think fit: That to my way of thinking, Mr. Speaker, implies that the district officer or the district administrator is not doing his job efficiently and why should this man be penalized at all? And then it goes on to give powers to any administrative officer. I do not know whether the district clerk in the district is also empowered or given such powers, or any tribal policeman—I do not know the proper definition of "administrative officer."

Now, the other thing Mr. Speaker, Sir, is in clause 5; it goes on to state that "any police officer or any administrative officer of or above the rank of assistant inspector may remove or cause to be removed from a closed district any person who is unlawfully therein in contravention of the provisions of this Ordinance". And then it goes on, "such person may be removed to any place elsewhere in the Colony which is at or near his normal place of residence or from which his normal place of residence is reasonably accessible; and for the purpose of affecting such removals any such officer may detain or cause to be detained such person in custody during such removal for such periods as may be necessary to make arrangements

[Mr. ole Tips] Now, surely if the argument put forward by the Government is that this man has contravened the law as it exists, I do not see why he should be detained or put into custody for such time without specifying the period which such a person should be detained for. After all, I do not see why he should be detained. Why not remove him and not try to make him suffer more? I think there was another place where it states that the property of such a person who is to be removed of such a person I have referred to that clearly, I should have thought that the best thing to do if this man is to be evicted at all is to give him time, give him a period of time, in which he is required to remove himself and his moveable property—not to confiscate his property or seize his property and sell by public auction. He might dispose of his property in a more reasonable manner than in the manner in which the Government can dispose of such property. I mean it goes on to the extent of stating that such property or such crops can be seized or caused to be destroyed. Surely, such a person could have at least disposed of or sold his property to whomsoever is willing to buy from him. And then the Government will have no complaints whatsoever from such persons.

Now, I think Mr. Speaker, in all sincerity, to make a long story short, I should say this, I know that whenever hon. Members speak in this House about the closed districts, about the landless Africans in various areas, that the question of the Masai always comes up. I do not know whether this is simply because these people were once famous or were once famous, but now something has gone wrong somewhere; that they cannot at least voice what they feel about certain matters. As far as that goes, Mr. Speaker, I would say this to all those who want to poke their noses in and say something every time about the Masai and what I am going to say, I do not want to be regarded in any way of being tribal, minded or in any way of being in favour of the Masai District remaining closed as such unless the Masai people themselves wish it to remain so. The danger as far as the opening of that district is concerned—I think the Minister for African Affairs knows it pretty well or knows it better

than I do—and that is that these people live in an area which, although people say it is a very large area, when you compare the arable and arid land in the Masai, there is very, very little arable land indeed, I think you will find that most of their land is waterless and dry. As I understand it now, after many livestock decreases these people's livestock has decreased tremendously and many of them are coming forward and they are also learning from a few persons on men who have entered the district methods of modern agriculture and are beginning to cultivate. The danger as far as I am concerned is this: these small pieces of arable land once the place is opened will be occupied or resided upon by whomsoever wishes and then since these people have no livestock and they have not learned as yet to till the land, then it is a true way of trying to wipe the whole tribe out. That is the only reason why I say I do not know whether I support this Bill or support. But if the Masai themselves want their district to remain closed, then why not give them the powers to enable them to pass by-laws in their own African district councils. Let them let anybody come in, if they so wish, without the Government interfering. Let anybody at least who comes to enlighten them on the methods of proper cultivation, business or trade—provided if they so wish such a person is not to reside there in a district—let them have that liberty of choosing.

So, Mr. Speaker, with these few words I bet to sit down!

THE SPEAKER (Sir Ferdinando Cavendish-Bentley): Before you speak, Mr. Muliro, I would like to draw the attention of hon. Members to Statute Order 71: "Mr. Speaker" after having called attention to the conduct of a Member who persists in irrelevance or tedious repetition, either of his own arguments or the arguments used by other Members in debate, may, after having first warned him, direct him to discontinue his speech. I am afraid our debates are getting very repetitive, so please try and avoid unnecessary repetition if you can.

Mr. Muliro: Mr. Speaker, Sir, I rise to oppose this amendment of the Outlying Districts Ordinance because it is a move in the wrong direction. I think

[Mr. Muliro] If Africans in these closed areas are backward, these people need more intermingling with other Africans and/or other people in this country so as to advance in their own social lives, rather than keep them closed because when one looks at these closed areas such as the Northern Frontier District one finds that the Africans in those areas, Mr. Speaker, are far much more backward than those open areas where the people have been allowed to mix freely. And as long as we still reserve these areas closed as they are, we are not at all trying to solve the problems of this country because these people will always be a barrier. They will always pull down the development of Kenya as a whole. I do not believe in top-sided development in this country. As long as one or two districts are kept backward, the whole country is kept backward. If people in this country, Mr. Speaker, talk of lifting the barriers in the Highlands and all this, the Minister for African Affairs should also have moved a Motion in this House for lifting barriers in these closed areas. I would very much respect the sentiments of my colleagues who have got fears on this but they have also made it very clear that we should let Africans in those closed areas have the right to say whether or not the area should remain closed. But the Central Government coming to enchain them in this backwardness and ignorance cannot be allowed in this House.

With these few words, I beg to oppose.

MR. NYADAH (Member for Nyeri and Embu): Mr. Speaker, Sir, in a very few words I would like to find out from the Government why there have been objections to clause 2. Does it mean that the existing law which perhaps does not provide for the destruction and disposal in such manner as the district commissioner sees fit has not been effective. If so, this particular new clause introduces a very controversial point and may cause trouble for the district commissioners and the administrative officers. I would suggest that the Government drops completely this new addition to the Bill.

Clause 5 and 7, Sir, seem to give more power to the police. I do not want to appear every time to have no confidence in the police, but I think the court

should be given the opportunity and the police should only carry out the orders from the court. If clauses 5 and 7 were to be amended in such a way that the powers are not given right from the start to administrative officers or the police, and if clause 2 was repealed, I would feel happy about the Bill in question. It is difficult for me, when these are there, to support the Bill as it stands, Mr. Speaker.

THE MINISTER FOR LEGAL AFFAIRS (Mr. Griffith-Jones): Mr. Speaker, Sir, I think the last speaker was in error in referring to clause 2. Yes, Sir, my hon. friend meant clause 3. Yes, Sir, my hon. friend the Minister has no doubt in opening referred to this clause and will deal no doubt in his closing with the objections which have been raised to it. But the point which so many of my friends opposite who have spoken on this clause seem to have overlooked is that by the proviso to this new subsection it is required that when it is necessary under that section to seize or dispose of buildings or crops, the proceeds of disposal, the proceeds of the sale, are paid to the people who own those crops or buildings, so that it is not expropriation, in fact, it is seizure and disposal on behalf of the owner. The fact that the owner is not entitled to be in the closed area and is removed from it leaving his property behind raises this proposed power in the district commissioner to dispose of the crops or the buildings which he has left behind and to pay over to him the money which is realized on that disposal.

In regard to clause 7, which the hon. Member also referred to, my hon. friend the Chief Secretary has already pointed out that really it is quite impossible to administer the Ordinances in the sort of areas to which this Ordinance applies without summary powers of arrest and these summary powers of arrest are only put there for the purpose taking a person to the court. But when you are dealing with hundreds of thousands of square miles of very little other than desert, it is really quite fatuous to expect that police officers should go blundering off to the nearest police station which may be two or three hundreds of miles away in order to get a warrant. It would completely defeat the purpose of the Ordinance.

[The Minister for Legal Affairs] The And as far as clause 5 is concerned, may I point out to hon. Members opposite that this in fact is an alternative to prosecution. It may very well be that in some circumstances it is much more expeditious that a person unlawfully entering or remaining in a closed area should be removed from it. He can be prosecuted for it. I take it that hon. Members opposite would prefer probably in most cases that he should not be prosecuted for it because if he is prosecuted for it he will be removed anyhow. May I suggest to them therefore that this in fact — this new clause — a measure of leniency which does not exist in the existing Ordinance.

I beg to support.

MR. NYIMAMA (Nominated Member): Mr. Speaker, Sir, I just want to raise a few comments about this Bill and I do not wait in any way to be called of trial by the hon. gentleman who spoke of that; but I feel that in this particular respect that there are many closed districts in this country. I think that in the district which I particularly know, Government has still got a moral obligation at least to try to help these people develop slowly in their way of life.

For example, take the Masai; these people—I know them and many people know them—are ultra-conservative in many ways and they have got their hard and fast customs. It has been very difficult to change them into the present thing called "civilization"; and some of them really do not think they can get any benefits out of it. And if you really went by surplus and got everybody rushing in and out of the district you would, of course, have them completely disturbed and although I do not oppose progress in any way I would not like to have progress that can go the wrong way round. I would like it developed in a way sincere towards civilization and something really concrete because we are friends with the Kikuyu, we are friends with the Ukamba — well except for a few clashes here and there—but in any case we still have here in Kenya—if I can speak quite honestly — we still feel a bit tribal even if we claim in this House that we are not tribal. We, of course, try to eradicate it if we can; but there is still a bit of tribalism. I think you would agree, Mr. Speaker. And as

such we need actually to move very slowly in integrating the African community in this country because if we do rush it we will have something that will not be very good to any one tribe and as such, Mr. Speaker, I think that we should sympathize with hon. Members opposite, especially the Member for the Southern Area. This thing should come slowly and not be rushed, especially when the people of this country themselves decide not to have anybody in their own territory.

For example, I know the Minister for African Affairs has had a lot of letters about people from Southern Area, who cross the border, which I will not mention in this House and they come from the Masai themselves. Of course, I am only talking of this particular district which I know. I have been a councillor once and I know that we did make a great protest because when this came, we said, "Look here, chaps, you have to adopt your own customs, not necessarily pull out your hats and coats, but we have really to try and follow the customs of the country," and they would not listen to us. They went and sort of changed the customs of that section of the people so rapidly that the younger chaps who came out would not just respect the elders as elders of the Masai really wanted them to. That is why, you see, I say that this thing must move fairly slowly. We cannot just have a quick rush if we plan to get something out of it.

Mr. Speaker, I beg to support.

MR. TOWITT: Mr. Speaker, on a point of explanation, I did not say—as from the speech of the hon. Member who has just sat down—I did not say we should open the areas. I said we should let the people in each area, in each district, make their own decision. I do not want to be misunderstood to the effect that I said we should open the areas. Let the people decide in those areas and we should not legislate here about those things.

MR. ARAI: Mr. Speaker, Sir, although I am late in expressing my own views I am one of those who represent areas which are closed. I represent about seven districts under the Outlying Districts Ordinance and therefore I have a lot of experience, as far as these districts are concerned. In most cases, Mr.

[Mr. arap Moi] Mr. Speaker, usually I have to write letters to those district commissioners—so as to let them know that I am visiting those districts. At the same time there are police barrier posts which if I did not have any letter from the district commissioner or if I did not have any licence I would not be allowed to pass through. And therefore I should like the Minister concerned to facilitate—not to impose these sort of legislation upon those districts. I would rather like to see the Minister ask the local African district councils to decide whether they would like to continue the Ordinance or not because the Minister, Mr. Speaker, suggested that there are three things that necessitated this legislation, i.e. communications, food and a hostile attitude among these people. But what remedy has the Government taken to remove this hostile attitude? Am I right in suggesting that by closing these people inside these districts they will continue to be hostile for ever? Therefore I feel that the Government should do more than it has done as far as communications are concerned as this hostility is concerned—Governments should frequently allow people to move freely in these areas and I would urge the Minister to ask those districts which I represent to allow me to go into those areas without even letting the district commissioners concerned know that I am visiting such areas except as a matter of courtesy to let them know that I am visiting their districts. Furthermore, Sir, I think there are two other factors which I think are contributing towards this legislation. In the Elgeyo/Marakwet District there is a lot of wild game and any hunters, going into that district must report to the district commissioner concerned to get a licence to hunt such animals. I would suggest to the Minister that any money or any proceeds which are coming out of this sort of trade should be given to the African district council concerned. Also the local people should be allowed to trade on this trade. Mr. Speaker, I should rather like to ask the Minister and to request him that those districts which are closed, should have their views expressed so that in the very near future this legislation can be amended.

Mr. MUMBI: Mr. Speaker, Sir, I would just like to get some clarification on one point in regard to section 5 of the Ordinance. I would like to know from the Minister the persons he considers as persons being unlawfully in the closed districts. The reason I ask this, Sir, is that, for example, there are certain Akamba who have moved into the Masai District for some time now. Some of them have had grandchildren in the Masai District and they are in these districts with the mutual consent of the Masai people. I do not know whether they fall within the definition of people being unlawfully in a closed district.

THE MINISTER FOR AFRICAN AFFAIRS (Mr. Johnston): Mr. Speaker, I am naturally gratified by the interest which the African Elected Members have taken in this particular amending Bill but might I point out to them that in fact this amending Bill is not directed at all against the Africans. It is a Bill which concerns all races who have happened to have come into the closed districts. They seem to have taken it very personally that this particular amending Bill is directed against them. Let me assure them that that is not so.

Now, Sir, I was asked in the course of the debate as to the warlike nature of some of the inhabitants. I think that was probably being asked to justify in these enlightened days the fact that some of the inhabitants in Kenya have warlike tendencies. May I, Sir, just take an example that has occurred within the last three weeks in the Northern Frontier Province and in the Rift Valley where there has been a fracas between the two tribes, the Boran and the Samburu, with the result that four Moran have been killed and a large number of cattle stolen. The fight took place, actually several fights in fact, over the main road leading up to Marsabit. Not only that, Sir, but a very senior Government official, in fact the Provincial Commissioner of the Northern Province, on his way back from Mogadishu, was stopped by a band of armed Samburu Moran. My first point is that in these outlying areas, in these districts, where communications are bad, where there are vast distances to cover, where water is scarce, where patrol is difficult to obtain it will be necessary for the Government

[The Minister for African Affairs] to require persons who enter those districts to obtain passes, largely, Sir, for their own protection.

My hon. friend the Leader of the House and my hon. and learned friend the Minister for Legal Affairs have dealt with the points raised by the hon. Member for Mombasa and the hon. Member for the Southern Area. But I would just like to mention one particular point in reply to the hon. gentleman, the Member for Southern Area. I was surprised that he, as a representative of the Kipsigis and the Masai tribes did not represent perhaps as fully as I should have wished the views of the Masai because their views have on many occasions been made quite clear to me and that is that they wish Naitana Kajiado to remain a closed district.

Let us in the debate, Sir, the hon. Member for Coast Rural. I think it was, complained that he was unable to visit Lamu and the Tana River because he required a permit. I do not quite know why he should require a permit to visit Lamu because in fact that particular district is not a closed district. I quite understand that he may require a permit for the Tana River District and no doubt, as he said, he could obtain one from the district commissioner. He also went on, Sir, with a most interesting account of East African history in which he said that before the British Government he, or any other African, if alive, would have been able to go and stay with friends all over the Colony. I hope that possibly before my retirement I may be able to present the hon. gentleman in question with a shorter history of East Africa which he can read perhaps in his spare time and bring himself up to date with the conditions which existed then.

Now, Sir, the hon. gentleman, the Member for Central Province South apparently had a meeting with the Somali Association. They complained that it was difficult to obtain permits to leave the Northern Frontier Province. It may point out to him quite gently that it is nothing to do with this particular Ordinance. This Ordinance is concerned entirely with the entering and living in the closed districts and not with their leaving such closed districts.

He also went on to say that the Somali Association in question found it so difficult to get out of the Northern Frontier that they had always said, or tended to say to me perhaps, that they were going to Kenya, implying that Kenya was a foreign country. If the hon. gentleman had the experience of the Northern Frontier that my hon. friend the Leader of the House has he would have known that 26 years ago it was always the common practice for the Somalis to say, "We are going to Kenya," if they were going out of the Northern Province. They do regard Kenya as an alien country.

The hon. Member for Central Rift, I think, found himself on the horns of a dilemma. He was very anxious to support the general direction of attack upon this amending Bill that the other hon. Elected Members had made but, as a Masai himself, he found it extremely difficult really in his own heart to support his hon. friends. Even when he sat down he quite firmly said that he was sitting down and nothing more. I believe the reason for this to be that, in fact, he was convinced of the necessity for the Masai districts to remain closed areas. He was also, I think, convinced that development in the Masai was taking place. There has been considerable development in the Masai and it is quite untrue to say that the Masai are backward because they are in a closed district. The reverse, I believe, is the case. The Masai are backward, as I have said before in this Council, because they do not wish to progress. They like their conservative way of life and perhaps some of us do not blame them for that.

I believe that the hon. Member for Rift Valley North also found himself in a similar dilemma because I have often heard him in full spate against the Government Bill or Motion which he did not find to his liking, but if detected in his attack upon this Bill a very moderate, if I may put it like that, squeak against the Government's amending Bill. I believe that he himself, too, realises the value of having parts of his constituency in a closed district. I believe that he, himself, realises that were this district or some of the districts thrown open, then it would be difficult for his people to make the contribution that they can and should make to the general economy of this Colony.

[The Minister for African Affairs:]

Sir, if I may go back for a moment to the remarks made by the hon. gentleman for the Central Rift, I see I have omitted to answer his point about the designation of "administrative officer" under clause 5. Now, the term "administrative officer" would include district officers and district commissioners. It would not include officers of a lower rank.

Finally, Sir, the hon. Member for Kitui posed me a question about Akamba grandchildren who are residing in the Masai and would they be considered as illegal immigrants into the Masai. I imagine that he took the Masai just as an example. Well, of course, Sir, the Akamba are well known for the peaceful way in which they penetrate into other districts. I, myself, know a great many Akamba who have settled in the Meru District and who live perfectly happily with the Meru people. Why is this? I maintain that the Akamba settled peacefully in other districts because they are perfectly willing to become what I believe the Kikuyu call *Aciarua*. It really means that an immigrant is reborn into the tribe into which he settles. That is not so, perhaps, with some of the other tribes of Kenya but it is certainly so with the Akamba and I imagine, Mr. Speaker, that those grandchildren of Akamba parents who are living in Masai have not only adopted Masai customs and have been reborn according to the customs of the Masai themselves but have also, or probably their parents or grandparents, when they first came to Masai took the precaution, as so many of the Akamba people do, of obtaining a licence to enter the closed district and are, therefore, there legally.

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 Vagrancy Bill

Order for Second Reading read.

THE MINISTER FOR INTERNAL SECURITY AND DEFENCE (MR. SWAIN): Mr. Speaker, I beg to move that the Vagrancy Bill, 1959, be read a Second Time.

I feel, Sir, that in cricketer parlance I am now a nightwatchman, who is a player of rather mediocre capability who usually bats number 10 or 11, and who, when there is only a short time available for play, is told to "bat" in order that more valuable wickets may be saved for the next day's play.

In this Bill, Sir, we are faced with two problems. The first is that the Government does not wish to oppress or hinder the genuine work-seeker who, outside his own area, is seeking for work. At the same time, the Government is fully aware in these days that there is, in many areas, a danger to security, if there are large numbers of unemployed persons, who in many cases are not seeking employment, but are living on their wits at the expense of the law-abiding citizen, both in the urban and in the rural areas.

Now, this Bill is, I would submit entirely non-racial and has removed the racial distinctions which were there in the old Bill.

I would say again, Sir, that this Bill is not aimed at the genuine work-seeker who is looking for work outside his own area. In conjunction with my hon. friend the Minister for Education, Labour and Lands, we are endeavouring to find a brightly coloured card which can be given at all-labour exchange and which will be valid for a specified period and which can be presented to the police when they are checking for vagrants. We hope, Sir, that this will be a protection to the genuine work-seeker both in the urban and in the rural areas.

Again, I would like to emphasize that vagrancy, for the first time, is not a criminal offence. All that happens is that the vagrant is returned to his own home and relations where he can be supported, instead of living in destitution in areas far from his home. Now, whereas under the old Ordinance a vagrant was repatriated to his home for life, under the new Ordinance the period will be by section 4 (1) for three years only. I would like to point out to hon. Members that during that period, if the repatriated vagrant can obtain work or cash so that he is able to obtain employment outside his area, then he can receive a permit from a district officer in writing authorizing him to leave the district despite the fact that he has been repatriated. Again, if hon.

[The Minister for Internal Security and Defence:]

Members will look at section 9, even if the vagrant has been committed to a place of detention the superintendent of such place shall endeavour to obtain suitable employment for vagrants detained therein, and if that employment is obtained under section 10 the Minister will have powers to order the discharge of that person at any time in order that he may undertake employment.

What the Bill is aimed against, Sir, is that I might term the perpetual vagrant, that is, not the genuine work-seeker but a person who in many cases is living on his wits, is repatriated constantly to his home district of origin, but who continues to return either to urban or rural areas where he may become a menace to the law-abiding citizens. I would like to point out to hon. Members that reading as I do the daily Colony Crime Report it is very evident that all races, both in urban areas and in rural areas, do suffer from the activities of a large number of these vagrants. Whereas serious crime is usually carried out by the habitual criminals the vast amount of petty crime I am convinced is carried out by people without employment, without the proper means of livelihood and without a proper residence; because when they are many miles from their own homes, if they are not in work, in all too many cases they can only live by preying upon the law-abiding citizens. There is also the question of the menace to health by overcrowding, in that you are apt to get large numbers of people, who are not in employment and therefore cannot have housing provided for them by their employers; you do get conditions in many areas which do lead to serious overcrowding and which can be a menace to health. I think the hon. African Elected Members will agree that in many cases their fellows who are in employment, particularly in the urban areas, are often incomed by the fact that large numbers of visitors from their home districts do lodge upon them and do cause in many cases severe financial embarrassment. If they are repatriated to their home areas where they have friends and relations I do submit that it does mean a great alleviation to the very pressing social problem.

For the information of hon. Members, the average cost of the repatriation of

vagrants is £7/10. Now, Sir, speaking as a taxpayer I do resent the fact that we should in many cases have to repatriate people something like six times in seven months at a cost of £7/10, because it is a question of the habitual vagrant which is worrying us so severely at the moment.

The chief difficulty in the identification of the habitual vagrant and it is for that reason, Sir, that we now wish to take powers in order to take fingerprints in order that you can prove that a man has been repatriated on several occasions and that he continues to come back without employment, or without in many cases even going through the motions of looking for work.

I would like to give notice that at the Committee stage my hon. and learned friend the Acting Solicitor-General will be introducing two amendments. One will be the deletion of clause 8 which provides for work to be provided in the place of detention, which we feel is unnecessary, and the second will give in clause 4 an avenue of appeal to vagrants as is the custom in all criminal cases.

I do not intend at the end of a long and tiring day to trespass unduly upon the time of the House. However, I would submit in conclusion that, in general terms, I can guarantee to hon. Members opposite that we shall do everything in our power, in the working and administration of the Ordinance to ensure that the genuine work-seeker is not interfered with and that it will only be used against those who have no intention in many cases of obtaining employment and who, as I have said, prey upon the law-abiding citizens of all races in this Colony.

Mr. Speaker, Sir, I beg to move.

Question proposed.

MINISTER FOR AFRICAN AFFAIRS (Mr. Johnston) seconded.

MR. TOWETT: Mr. Speaker, Sir, I was going to support this Vagrancy Bill, but I wish to give my views on it because the Minister said that there are some people who cause financial embarrassment to their friends in the urban areas. That may be partly correct, Sir, but it is in present-day way of life. If we leave it as it is then—if we say that we do not want them to cause financial embarrassment to the people in the urban areas who are getting salaries—they go home

[Mr. Towell] and their parents there have nothing—they have no revenue, and the people in the towns are better from that point of view than the parents of these people. So it is a problem of where can I get food? Not, where my father or mother is. If the Minister could have explained to us what these people will do at home when we send them back to their parents or guardians—if he had explained to us what they are supposed to do at home, I would have agreed with him.

Now, Sir, to go into the sections in the Bill—I must criticize certain definitions which appear here, Sir. It is said that "any person having no reputable employment"—that is not definite. I wish the Minister, when he replies, would define what he means by the word "reputable". I do not know. Reputable employment—reputable means of livelihood. These people do not care a hoot whether the employment they do is reputable or not, or whether they have reputable means of livelihood. They want to eat. You give them whatever you eat—do not ignore it—but they want to eat.

On clause (2) and (e) under that clause, it says, and I quote: "Any person living or lodging in any place or area which the Minister for the time being responsible for health has declared by notice in the Gazette to be unfit for living in." Well, we do not care where we live in provided the following morning we can go and get some employment. We do not care whether it is reputable employment or not, and then you come to the same shelter and you continue to exist. Some people suffer. Nobody likes to live in bad places. Nobody likes to take up unrespectable employment, but they have no alternative. What will they do? Where will they live if you evict them from the places you define as unfit for living in? Where will they go? Take them home where their parents are and the parents may not even be living in places fit for living in, and they may not be having reputable employment, so they also will be considered to be vagrants. You bring the sons and daughters to the parents and you bring the parents and take all of them to a detention place. I do not want to appear, as usual, very negative. On the other hand, I do not want to leave the Government uncriticized, and, Sir,

there is under section 4—or what I call clause 4—something I really do not like. You take somebody from Nairobi, from Nakuru, from Eldoret, and send him to where the parents are, and you say here that person should not be allowed, or should not leave the district, for a period of three years thereafter. Well, if a man, say, has been learning some trade privately, and in a year or six months he knows he can get work, or if a friend of his writes to him and says there is work, come. You say the man should not leave the district for a period of three years thereafter unless he has been issued with a permit under subsection (2) of this section. What is the need for this permit? If a man can prove later that he can go and work, let him go and work. Leave out the idea of issuing a permit to him. Let him come and say, "I have got employment, I want to go" and let him go. If he is arrested again, well, he will be sent back, but to say he should have a permit, I do not accept that. This is another permit or pass in another form. I do not like that.

Coming to subsection 4, here we say: "A court may order a person brought before it as being apparently a vagrant to be detained in a place of detention for such period not exceeding ten days, as it may consider necessary, to enable enquiries to be made into his circumstances as provided by section (1) of this section." I do not like that subsection, Sir, when it comes to some of our African courts. You see here we define a court to include African courts. When it comes to African courts, Sir, I am not saying they do not know how to judge, or they do not know how to estimate, but when it comes to African courts, I should not like that period of ten days to be contained in this Bill. Two days in an African court might be enough, or if that is not possible, let the man be sent to another court, but not an African court. You see there may be some elders who are against me and if my child is found as a vagrant in Nairobi and is sent to an African court, Sir, with all due respect to African courts, other people there may say—(Inaudible)—let us hear the other story. So I do not like that those powers should be given to the present African courts as they now are, because some of them are not quite literate to our standards. I have a lot to say, Mr. Speaker.

ADJOURNMENT

THE SPEAKER (Sir Ferdinand Cavendish-Bentinck): That brings us to the termination of the business for today. I therefore adjourn Council until 2.15 p.m. tomorrow, Thursday, 17th December.

The House rose at thirty minutes past Six o'clock.

Thursday, 17th December, 1959

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

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

PRAYERS

ORAL ANSWERS TO QUESTIONS

QUESTION NO. 45

MR. ALEXANDER asked the European Minister Without Portfolio in view of the increased activities of overseas football pools in Kenya with the consequent regular flow of money from Kenya and the possibilities of abuse, will Government consider introducing legislation to control such activities and to divert some of the net proceeds for the benefit of amateur sport in Kenya?

THE EUROPEAN MINISTER WITHOUT PORTFOLIO (Mr. Harris): Yes, Sir. Government is aware of the situation and is at present giving immediate consideration to introducing legislation, the effect of which may well divert money for the benefit of amateur sport in Kenya.

MR. ALEXANDER: Mr. Speaker, arising out of that reply, is the Minister in a position to state an estimate of the total amount of money leaving either East Africa or Kenya on these particular activities? And secondly, can he say whether it is intended to bring all overseas lotteries into this type of legislation.

THE EUROPEAN MINISTER WITHOUT PORTFOLIO (Mr. Harris): Mr. Speaker, the first part of the supplementary is that it is very difficult, of course, to estimate, but we believe that something during the football season in Britain to the tune of several hundreds of thousands of pounds per year is leaving the country. With regard to the second part of the supplementary, Sir, the hon. Member has brought lotteries into this as opposed to football pools, but I would only say that it is not proposed at the present stage to introduce new legislation with regard to lotteries, but that the Kenya Welfare Trust is working on ideas which may prevent certain moneys leaving the country, perhaps again for the benefit of local sport.

QUESTION NO. 58

MR. ALEXANDER asked the Minister for Education, Labour and Lands:—

- (1) How many applicants were there for the post of Headmaster, Duke of York School, when it was advertised recently in the United Kingdom?
- (2) Has an appointment been made from those applicants?
- (3) If the answer to (2) is in the negative, is the Government satisfied that the emoluments offered are sufficient to attract to this important post persons of the required calibre from the United Kingdom or from other of the Commonwealth countries overseas?
- (4) Is the Government aware that there is grave concern amongst the parents of the Duke of York School and amongst the House-masters of that School over the present position in relation to the post?
- (5) Will Government give an undertaking not to proceed with an appointment to this post until the question of the emoluments has been fully considered at the highest level?

THE MINISTER FOR EDUCATION, LABOUR AND LANDS (Mr. Mathieson): Mr. Speaker, Sir, I beg to reply; When the headmasterships of both the Duke of York and Prince of Wales were jointly advertised in the United Kingdom recently there were about 12 applicants of whom three were considered to be of the calibre required. One was appointed to the Prince of Wales but the other two have unfortunately withdrawn for private reasons not connected with the emoluments of the post.

From this experience and from the results of further advertising, extended to Commonwealth countries, I am satisfied that good candidates are attracted on the present level of emoluments.

I am fully aware of the anxieties of those connected with the Duke of York School and I am hopeful that an appointment will be made soon.

MR. ALEXANDER: Mr. Speaker, Sir, arising out of that reply, in respect of

the re-advertisement of the post, were there any applicants from overseas?

THE MINISTER FOR EDUCATION, LABOUR AND LANDS (Mr. Mathieson): Yes, Sir.

QUESTION NO. 59

MR. BOMPAS asked the Minister for Finance and Development what are the terms of the Exchequer loan of £1,500,000 recently granted?

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Mackenzie): Mr. Speaker, Sir, I beg to reply. The loan will be for a period of 25 years and, during its life, will bear interest at the rate of 5½ per cent per annum. Repayment of principal and payment of interest will be by combined equated annual instalments of £111,824 0s. 6d., commencing on 4th November, 1960, and ending with the payment on 4th November, 1984.

MR. BOMPAS: Well, Mr. Speaker, I wonder, Sir, if the Minister would be prepared to tell us how those charges would compare with those for a similar loan raised in the open market.

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Mackenzie): Mr. Speaker, Sir, the annual charges on an exchequer loan of £1,000,000—it is easier to deal with it in £1,000,000—would be £74,549 7s. 0d., whereas a loan of £1,000,000 raised in the open market would involve annual interest charges of 6½ per cent plus 1 per cent for sinking fund, or £72,500 per annum. From this, Sir, it will be seen, that the annual cost of an exchequer loan of £1,000,000 is approximately £2,000 more than the annual charge of a public issue. On the other hand, an exchequer loan would have been fully repaid at the end of 25 years, whereas the sinking fund of a public issue would amount to only £487,422 at the end of this period, leaving a shortfall of £512,578 to be met by further borrowing. These figures show, Sir, that for 25 years the annual account of an exchequer loan is only very little more than the annual cost of a normal public issue, and that the final cost to the country is less on exchequer loan terms than on market terms.

COMMITTEE OF THE WHOLE-COUNCIL

Order for the Committee read.

MOTION

[THAT MR. SPEAKER DO NOW LEAVE THE CHAIR.]

The Hospital Treatment Relief (Asian and Arab) Bill

THE MINISTER FOR LOCAL GOVERNMENT, HEALTH AND TOWN PLANNING (Mr. Havelock): Mr. Speaker, I beg to move that Mr. Speaker do now leave the Chair. The reason for moving this Motion is to provide an opportunity for hon. Members to debate the Report by the Council of State to the Legislative Council pursuant to section 52 (a) (f) of the Kenya Constitution Order in Council, 1958, on the Hospital Treatment Relief (Asian and Arab) Bill. This Report, Sir, has been circulated to all hon. Members and I think they have now had time to examine it.

I would like to draw hon. Members' attention to the fact that the Council of State has examined the whole Bill and, indeed, has reported on—only three factors. It will be noted in the Report that in the first paragraph it states that the Bill has been examined by the Council of State in order to determine whether on account of certain of its provisions the Bill is in the Council's opinion a differentiating measure. They then go on to describe what is a differentiating measure with regard to the Order in Council and then they say that they believe that the Bill, as amended, might be so it has been tabled in this House. The "certain respects" are two in regard to the Bill itself and before I go on to that I would think that for the record it would be useful for me to quote paragraph 5 of this Report from the Council of State, which reads as follows: "The Council emphasizes that it fully appreciates that the purpose of the Bill is to introduce a compulsory scheme of insurance which it is intended to benefit the Asian and Arab communities, particularly in the lower income groups, and welcomes statements by the Minister at both meetings of the Council that there was a possibility of the Government introducing, in due course, a comprehensive insurance scheme to provide hospital and other benefits to persons of all communities. Such a scheme, if feasible, appears eminently desirable but, presumably, must necessarily be regarded as a long-term project.

The introduction now of the relief scheme for Asians and Arabs proposed by the Bill would not appear to militate against the introduction at a later stage of a more comprehensive scheme." That is the end of the quotation of paragraph 5, Sir.

The Council of State then goes on to state that they consider that certain parts of the Bill, especially those with regard to allowances, may be looked upon as differentiating. They make it clear that they understood from me, when I appeared before them, that it certainly was not the Government's intention that there should be any difference between this Bill and the Hospital Relief (European) Ordinance, but they felt that as the actual types of allowance benefits were not detailed in the Bill before the House there might be some doubt as to whether the Asian Hospital Authority would be able to pay such allowances, and those allowances were those which were mentioned at the Second Reading, that is, a daily allowance of such amount for such period, towards such expenses actually incurred by contributors as may be prescribed during a disability suffered by him in cases where hospital facilities were not utilized. Provisions are clear in the Bill that allowances shall be paid where hospital facilities are used.

Also, another specific power which is mentioned in the European Hospital Relief Ordinance and got in the Bill before us is, "such sum as may be prescribed in respect of expenses specifically incurred in connection of the confinement, for maternity purposes, of a woman."

Well, Sir, in view of the Council of State's recommendation, I am very happy to accept it and will move an amendment in the Committee stage to cover this particular point in two ways. The first way, Sir, is by suggesting that the long title should be altered so that it does describe the Bill as one making provision for home nursing and maternity benefits as well as hospital treatment. The long title would, therefore, reflect the intention of the Government throughout the Bill and, secondly, to amend the definition of hospital and hospital treatment which at the moment reads as follows: "the treatment and nursing care afforded to patients in a hospital that includes such other treatment and facilities as the

[The Minister for Local Government, Health and Town Planning] authorities may by notice in the *Gazette* prescribe." I intend to move a small amendment inserting the words after the words "such other treatment" "Whether in hospital or not," which will make quite clear, I think, the intention of the Government and will meet the suggestions and complaints of the Council of State.

The Council of State then goes on, Sir, and states that they consider that one other part of the Bill may be looked upon as discriminatory, in that in the European Hospital Relief Ordinance there are specific powers bestowed on the Authority with regard to the holding and leasing of land, etc., I have, Sir, already tabled a suggested amendment to this Bill before us which will incorporate the provisions which are in the European Ordinance into this Bill and thus do away with any idea that there is any discrimination.

There is one further point, Sir, which the Council of State brings up and it is seen in paragraph 17 of their Report. The first reference is in paragraphs 15, 16 and then the Council of State make their decisions regarding this paragraph 17. It is the matter of the position of Asian and Arab civil servants. The Council have stated in the paragraph I have quoted that they have noted that it is the intention of Government to treat the Asian and Arab civil servants exactly the same as the European civil servants were treated when the European Bill was brought in and indeed although in paragraph 17 the Council of State does not say that they would withdraw their objection, they do say that they consider that this may constitute a differentiating measure.

The last part of paragraph 18, after discussing in their Report the fact that it is Government's intention to refund to the Asian and Arab civil servants now in the service a part of the contribution payable by them on the same basis as the refund made to the European civil servants when the European scheme was introduced.

The Council of State then goes on to say that in the Council's view such relief would do much to obviate the adverse effect of the Bill to which attention is drawn.

Sir, it is the Government's intention to do this and it may be of interest to the House and hon. Members if I read out the reimbursement of the contribution that Government will make to Asian and Arab civil servants. "The salary of the officer is up to £450 per annum, the excess of his contribution over Sh. 20 and up to a maximum of Sh. 100 will be reimbursed by the Government." In other words, the man on that salary will only have to pay Sh. 20. "If the salary is from £451 to £726 per annum, the excess over Sh. 24 up to a maximum of Sh. 96." So in most cases he will only have to pay Sh. 24. From £727 to £1,968 the Government will pay the excess over Sh. 32 up to a maximum of Sh. 88. The civil servant may have to pay a bit more than Sh. 32 in that bracket but not much. In other words, the Government is giving his Sh. 56 as reimbursement and the £1,069 man or more, the excess over Sh. 40 up to a maximum of Sh. 68. In other words, Government will be giving him a reimbursement of Sh. 40.

Sir, I think that that shows that the Government has recognized the position of the Asian and Arab civil servants and have gone as far as they can to meet them and indeed are treating them exactly the same as other civil servants which were placed in a similar position a few years ago.

Now, Sir, I would also, to end, like to go back to one other part of this Report and this again deal with the general principle of whether or not this Bill is a differentiating measure. Paragraph 6 of the Report is as follows: "The Council compared the Bill with the Hospital Treatment Relief (European) Ordinance, 1951 (referred to in this report as 'the Ordinance') and noted that the Bill prescribes rates of contributions to the Asian and Arab Fund which differ from those prescribed by the Ordinance for payment into the European Fund. It has been represented to the Council that this difference constitutes racial discrimination. It is the very essence of such insurance schemes that rates of contributions (and indeed the scale of benefits) should be based on actuarial calculations, which take into account the number of contributors, the average size of their families and the range of their incomes. These circumstances differ from community to community, and it follows

[The Minister for Local Government, Health and Town Planning] that the rates of contributions and the actual scale of benefits are likely to differ from one scheme to another. The fact that rates of contributions based on actuarial calculations are not identical in the two schemes now under comparison does not, therefore, appear to the Council to be a ground for regarding the proposed legislation as placing one community at an advantage or disadvantage in comparison with another, and the Council, therefore, does not consider that the Bill should on that account be objected to as a differentiating measure."

It is fully recognized, therefore, Sir, by the Council of State that this particular scheme is indeed a compulsory insurance scheme and the whole of its provisions depend on actuarial figures and are completely based on economic grounds and not on racial grounds. I feel, Sir, therefore that the Council of State in submitting this report although it points out two small details of what may be differentiating parts of the Bill, has indeed supported the main contentions which I have made in this House yesterday and the day before that this Bill is not differentiating and it is not racial.

Sir, I beg to move.

MR. MADAN: Seconded.

Question proposed.

MR. SLADE: Mr. Speaker, Sir, in view of the fact that the Minister proposes to accept the recommendations of the Council of State I do not want to waste any time in discussing their merits or otherwise; but Sir, I think there is a question of principle here, which has run through all the debate on the Second Reading, and I would like to bring it again in this Report, as to whether this kind of legislation can be a differentiating measure at all. With great respect to the Council of State I do want to suggest that in fact none of the measures of this Bill can be regarded as differentiating measures within the meaning of the Order in Council of the Council of State.

Sir, I think the arguments in support of what I have said is really given by the Council of State themselves in that passage which the Minister read out: Just now from paragraph 6 only the Council

of State limited what they said there to rates of contribution and scales of benefits, whereas what they said about rates of contribution and scales of benefits, as being peculiar to the community concerned also applies, surely, to the application of the Fund according to the particular needs of the community. Just as the pocket of every community varies, and consequently the amounts payable to every community vary, so will the needs of the community vary, with consequent variation of demands on the Fund. And I do suggest, Sir, that perhaps, if it is in order, the Council of State might be asked, as a matter of principle, to consider again whether their argument in paragraph 6 of their report does not really apply to all the differentiating measures they have found in the Bill.

THE MINISTER FOR LOCAL GOVERNMENT, HEALTH AND TOWN PLANNING (Mr. Havelock): Sir, I thank the hon. Member for the remarks he has made. I think there is quite a considerable amount of justice in what he has said and I will certainly ask the advice of my hon. friend the Minister for Legal Affairs in this matter to go into it.

There is one more point, Sir, I want to make if I may, and that is that it has been proposed—I have proposed—in moving this Motion really that we should accept two of the objections of the Council of State and that we reject one, the one concerned with Arab and Asian civil servants. I think it is only fair, Sir, to say that I hope that the Council will express by its vote on this Motion their agreement with myself and the Government in the rejection of one paragraph and one recommendation and the acceptance of two.

I beg to move.

The question was put and carried.

THE SPEAKER (Sir Ferdinand Cayendish-Bentley): Before, however, leaving the Chair, I would point out that this is the first time we have had occasion to stand this particular procedure and under Standing Order 95a (2) "when a report on a Bill has been laid before the Council by the Council of State and the report does contain any recommendations for the amendment of the Bill, the report shall stand committed to a Committee of

[The Speaker] the whole Council and, on the Order of the Day for the Committee being read, Mr. Speaker, shall leave the Chair without question put unless a Minister moves "That Mr. Speaker do now leave the Chair" for the purpose of initiating a debate on the principles embodied in the report". That particular provision we have now carried out. However, under Standing Order 95 d (6), "proceedings in Committee under this Standing Order in relation to a Bill, may, with the leave of Mr. Speaker, be taken in conjunction and concurrently with the proceedings in Committee on that Bill on committal thereof to a Committee of the whole Council under Standing Order 87 or Standing Order 95". In other words, with the leave of Mr. Speaker, the Committee of the whole Council may be permitted to consider concurrently both the recommendations of the Council of State and the normal clause by clause consideration of the Bill. I therefore hereby formally give my assent to that procedure being adopted this afternoon.

[Mr. Speaker left the Chair]

IN THE COMMITTEE

[K. Bechgaard, Esq., Q.C., in the Chair]

Clause 2

THE MINISTER FOR LOCAL GOVERNMENT, HEALTH AND TOWN PLANNING (Mr. Havelock): Mr. Chairman, I beg to move that clause 2 be amended by inserting in the definition of "hospital treatment", next after the word "facilities" the words "whether or not in a hospital".

I have spoken to this, Sir, in a previous debate. It is a matter of clarification that the authority may be able to prescribe for benefits to be paid for treatment outside hospitals.

THE DEPUTY CHAIRMAN (Mr. Bechgaard): No other Member wishing to speak I will put the question, but I should emphasize that this is in relation to one of the recommendations of the Council of State.

Question proposed.

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

Clause 2 as amended agreed to.

Clauses 3, 4, 5, 6, 7, 8 and 9 agreed to.

Clauses 10, 11, 12, 13, 14 and 15 agreed.

Clause 16

THE MINISTER FOR LOCAL GOVERNMENT, HEALTH AND TOWN PLANNING (Mr. Havelock): Mr. Chairman, I beg to move that clause 16 be amended by adding at the end thereof two new paragraphs as follows: (e), to hold, acquire otherwise than by purchase, sell, exchange or surrender land or buildings; (f) to lease any land or building vested in the authority and to accept a surrender of any such lease.

Sir, this again arises out of the Report of the Council of State, and it is to put this Bill on the same basis as the European Hospital Relief Treatment Bill Ordinance, and therefore that there should be no discrimination. I beg to move.

THE DEPUTY CHAIRMAN (Mr. Bechgaard): I would again draw the attention of hon. Members that this amendment is proposed as a result of the recommendations by the Council of State.

Question proposed.

The question that the paragraphs to be added be added put and carried.

Clause 16 as amended agreed to.

Clause 17 agreed to.

Clauses 18, 19, 20, 21, 22, 23 and 24 agreed to.

Title

THE MINISTER FOR LOCAL GOVERNMENT, HEALTH AND TOWN PLANNING (Mr. Havelock): Mr. Chairman, I beg to move that the long title be amended by substituting for the words "Hospital Treatment" the words "Hospital, Nursing and Midwifery Treatment".

Sir, this again arises from the objection of the Council of State, and I want to make it quite clear that benefits can be paid if the authority can afford it, or treatment other than hospital treatment, and the present long title may not make that entirely clear. In fact, Sir, I am rather grateful for this being brought to my notice, because it would also seem that the Ordinance—the European

[The Minister for Local Government, Health and Town Planning] Ordinances—might well be amended in this way also in due course. I am sure that the long title as amended will make it much clearer what the actual intention of the Bill is.

Sir, I beg to move.

MR. SLADE: Mr. Chairman, I entirely agree with this amendment, and with the other amendments which have been passed; but for the reasons I gave when the Minister moved, that Mr. Speaker leave the Chair, I would not like it to be taken that these amendments are being put through simply because the Bill was previously a differentiating measure. As far as I am concerned, and I hope I speak for other Members of this Council, we are passing these amendments as being good on their own merits, without prejudice to the contention that the Bill as it stood was not a differentiating measure.

THE MINISTER FOR LEGAL AFFAIRS (Mr. Griffith-Jones): In connexion with what my hon. and learned friend has just said from the other side of this Committee, it is, of course, a fact that under the Order in Council, whereas a differentiating measure is defined in terms, the relation of that definition to any particular measure is governed by the subjective test of the Council of State. We may, or we may not, agree with the view taken by the Council of State, and it is, of course, noteworthy that their decisions on this Bill were, I think, all—but certainly for the most part—taken by the majority; but I do point out that the application of what is the criterion of the Order in Council to a particular measure is the subjective view of the Council of State. All we are asked now is to accept or reject, if we wish, these amendments, which have been put forward by the Minister to give effect to the matters raised by the Council of State because it is considered that those matters, and the amendments resulting from those matters raised by the Council of State would improve the Bill. It does not necessarily follow that we endorse the finding—the subjective finding—of the Council of State that the Bill was a differentiating measure without those amendments.

MR. SLADE: Thank you.

Question that the words proposed to be deleted be deleted put and carried.

Question that the words proposed to be inserted in place thereof be inserted put and carried.

Long Title agreed to.

Clause 1 agreed to.

The Local Government (County Councils) (Amendment) Bill

Clause 2

THE MINISTER FOR LOCAL GOVERNMENT, HEALTH AND TOWN PLANNING (Mr. Havelock): Mr. Chairman, I beg to move that clause 2 of the Bill be amended (a) by leaving out the definition of "African company". Sir, the reason for this amendment is that the difference is removed under clause 12 because a new subsection is inserted which will empower local authorities to make or guarantee loans to persons of any class. There is no need to have the racial definition in this Bill.

I beg to move.

Question proposed.

Question that the words to be deleted be deleted put and carried.

THE MINISTER FOR LOCAL GOVERNMENT, HEALTH AND TOWN PLANNING (Mr. Havelock): Mr. Chairman, I beg to move (b) that clause 2 of the Bill be amended by leaving out the word "voluntary" which appears in the definition of "scheme of education". The reason for this amendment is that the provisions of this Ordinance enable county councils to enforce a poll rate for schemes of education and welfare. It may be that they may wish to collect such a rate in respect of compulsory schemes of education. All education may become compulsory in the near future—we do not know—but we do not want them to be in a position whereby they cannot carry out their functions just because of the qualification "voluntary".

Sir, I beg to move.

Question proposed.

Question that the word to be deleted be deleted put and carried.

Clause 2, as amended, agreed to.

Clauses 3 and 4 agreed to.

Clause 5

THE MINISTER FOR LOCAL GOVERNMENT, HEALTH AND TOWN PLANNING (Mr. Havelock): Mr. Chairman, I beg to move that subsection (1) of the new section 5A introduced by clause 5 be left out of the Bill and that there be inserted in place thereof a new subsection as follows:—

(1) A scheme of county administration may provide that, in the administrative county or in any part thereof, a county council may exercise all or any of the powers, or shall be subject to all or any of the duties, conferred or imposed on county district councils by this Ordinance, or that a county district council may exercise all or any of the powers, or shall be subject to all or any of the duties, conferred or imposed on county councils by this Ordinance.

Sir, the reason for this amendment is that it clarifies the position and provides quite unequivocally that one county district council may carry out a function which is carried out by a county council for another county district council in the same area. It indeed makes it very much easier for the administration of the various areas in our country which have varied standards of advancement, wealth and so forth.

Sir, I beg to move.

Question proposed.

Question that the words to be deleted be deleted and carried.

Question that the words to be added in place thereof be added put and carried.

Clause 5, as amended, agreed to.

Clause 6

THE MINISTER FOR LOCAL GOVERNMENT, HEALTH AND TOWN PLANNING (Mr. Havelock): Mr. Chairman, I beg to move that clause 6 be amended by leaving out paragraph (b) thereof, and by inserting in place thereof a new paragraph as follows:—

(b) in paragraph (a) of subsection (2) thereof by substituting for all the words thereof down to and including the word "scheme" the words "not less than six councillors appointed in the first place by the Minister with the approval of the district council submitting the

scheme (or, where the requirement is completed, a variation of the scheme under section 11 of this Ordinance, by the county council)".

Paragraph 6 of the Objects and Reasons states that paragraph (b) makes it difficult for the county council to replace the district council as an approving authority for the appointment of members to district councils. This clarifies the position. It has always been the intention of the Government—(inaudible)—his power in the hands of the county council.

Sir, I beg to move.

Question proposed.

Question that the words to be deleted be deleted put and carried.

Question that the words to be added in place thereof be added put and carried.

Clause 6, as amended, agreed to.

Clause 7

THE MINISTER FOR LOCAL GOVERNMENT, HEALTH AND TOWN PLANNING (Mr. Havelock): Mr. Chairman, I beg to move that clause 7 be amended in the new subsection (1A) thereby introduced (a) by inserting, immediately after the word "orders" the word "validity"; and (b) by leaving out the expression "18th August", and by inserting in place thereof the expression "21st August".

With regard to the first amendment, Sir, this is merely a matter of some technicality really, because some doubt has been thrown on the validity of some orders made. Obviously it is only the valid ones which are concerned. Secondly, Sir, the date has been altered to the date on which the Bill is published in the Gazette. It would be quite wrong to prosecute people for an offence which would have occurred before the legislative correction was made.

I beg to move.

Question proposed.

Question that the word to be left out be left out and carried.

Question that the word to be inserted in place thereof be inserted put and carried.

Clause 7, as amended, agreed to.

Clause 8 agreed to.

Clause 9

THE MINISTER FOR LOCAL GOVERNMENT, HEALTH AND TOWN PLANNING (Mr. Havelock): I beg to move that clause 9 be amended by leaving out subsection (4) of the new section 11A, thereby introduced, and by inserting in place thereof four new subsections as follows:—

(4) If objections remain after the end of the said month, the Minister shall appoint a person, approved by every council interested in the proposal (or, in the case of disagreement between the councils, chosen by the Minister), to enquire into and report to him upon the advisability of the proposal.

(5) Notice of the appointment shall be given to every such council and shall be published in the Gazette and in a newspaper circulating in every administrative county affected by the proposal, and any person interested in the matters to be enquired into, including every such council as aforesaid, shall be entitled to be heard by the person appointed, and the person appointed shall be given all the necessary facilities by every such council for making the enquiry.

(6) Where the person appointed reports in favour of the proposal or in favour of the proposal modified in any particular way, the Governor in Council of Ministers may, by order, alter the boundaries in the manner recommended by such person.

(7) The order of the Governor in Council of Ministers under subsection (6) of this section may make provision for protecting the interests of any officers of any council affected by the provisions of the order and for such other incidental matters as the Governor in Council of Ministers may think fit.

This is the result of very long discussion, negotiation and examination: and it is hoped to be able to finalize the alteration of boundaries between different county councils. At the present moment no boundaries can be altered without the full agreement of all county councils concerned and a number of people residing in certain areas wish to leave one county council and go to another for administrative and other reasons of convenience, they are not able to do so because of the county councils concerned object.

Although it is rather a long and drawn out procedure, the county councils asked for such a type of procedure because they were afraid that the Minister might be too tough on them and alter their boundaries without sufficient consultation, so, as I say, after considerable discussion, these four paragraphs which I have read out have been agreed and it will be seen, I think, that although the impasse in regard to altering boundaries where some county councils do not agree—although that impasse can be got over, it will not be got over without very long deliberation and, without everybody interested being given every opportunity to express their point of view. Indeed, we have gone even further and given the ultimate power of decision to the Council of Ministers.

Sir, I beg to move.

Question proposed.

Question that the words to be deleted, be deleted, put and carried.

Question that the words proposed to be added in place thereof, be added, put and carried.

Clause 9 agreed to.

Clause 10

THE MINISTER FOR LOCAL GOVERNMENT, HEALTH AND TOWN PLANNING (Mr. Havelock): Mr. Chairman, I beg to move that clause 10 be left out of the Bill and that there be inserted in place thereof a new clause as follows:—

Replacement of Section 29 of the Principal Ordinance

10. There shall be substituted for section 29 of the principal Ordinance a new section as follows:—

Nomination of Candidates

29. (1) Every candidate shall be proposed and seconded, and shall be supported by not less than three persons other than the proposer and second.

(2) The proposer and second and supporters shall be persons whose names appear on the appropriate voters' roll for the electoral area for which the candidate seeks election.

(3) A nomination paper in the prescribed form, subscribed by the proposer and second, shall be

(4) delivered to the returning officer by the candidate or his proposer or second.

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(b) sent by registered post to the returning officer and received by him,

not later than noon on the date specified under subsection (1) of section 28 of this Ordinance, and any nomination paper which is not so delivered or sent and received shall be rejected.

Sir, this amendment will permit a candidate's nomination to be sent by registered post to the returning officer to arrive at a specified time, rather than the candidate himself coming to the returning officer and, indeed, it will not be necessary for the returning officer to be at a certain place for so many hours as laid down at present. Especially in rural areas, I think the amendment will be of great convenience to a number of candidates and, indeed, I am sure it will have no particular effect on the validity of the nomination. Nor will it be necessary to have the signatures of the candidate witnessed, as I mentioned at Second Reading. I believe, Sir, this will also be a convenience, especially in isolated rural areas and it is very simple with regard to county council rolls to check on the signatures of the candidate, the proposer and seconder. Sir, I beg to move.

Question that the words to be deleted, be deleted, put and carried.

Question that the words proposed to be inserted in place thereof, be inserted, put and carried.

Clause 10 as amended agreed to.

Clause 11 agreed to.

Clause 12

THE MINISTER FOR LOCAL GOVERNMENT, HEALTH AND TOWN PLANNING (Mr. Havelock): Mr. Chairman, I beg to move that clause 12 be amended—

(a) by substituting for subsection (3) of the new section 35 thereby introduced a new subsection as follows—

(3) If the election is declared void, a new election shall be held in accordance with the provisions of this Ordinance.

(b) by leaving out the words "who are prevented from voting in person", which appear in paragraph (b) of

the new section 35a thereby introduced.

Sir, the reason for the first amendment is that it provides for the whole election to be repeated if the election is declared void, and not only the poll, which is only part of an election after all, and which would be the case under the present Ordinance.

With regard to the second point, Sir, this will make provision for a full postal ballot if so required, although, of course, it is only enabling the allowing of a full postal ballot in the isolated rural areas, it might be a convenience to carry out an election by a full postal ballot.

I beg to move.

Question that the words to be deleted, be deleted put and carried

Question that the words to be inserted in place thereof be inserted, put and carried.

Clause 12 as amended agreed to.

Clause 13 agreed to.

Clause 14

THE MINISTER FOR LOCAL GOVERNMENT, HEALTH AND TOWN PLANNING (Mr. Havelock): Mr. Chairman, I beg to move that clause 14 be amended—

(a) by substituting for subsection (1) thereof a new subsection as follows:—

(1) A county council may, subject to the approval of the Minister and to the provisions of section 76 of this Ordinance, appoint as permanent, part-time or consulting officers, persons to be clerk, treasurer, engineer, medical officer of health and any other officer specified in subparagraph (ii) or subparagraph (iii) of paragraph (a) of subsection (1) of section 140 of this Ordinance, and may pay such officers such salaries and allowances as the county council may, subject to the approval of the Minister, determine.

(b) by adding at the end thereof a new paragraph as follows—

(c) in subsection (6) thereof, by inserting: Immediately after

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the word "health", which appears therein, the words "or any post specified in subparagraph (ii) or subparagraph (iii) of paragraph (a) of subsection (1) of section 140 of this Ordinance"

It rather sounds like the house that Jack built! The reasons for these two amendments, Sir, is that they deal in fact with certain specified officers. They provide that the additional officers should be grant-aided, i.e. African Affairs officers which shall be known in future as Social officers—and health inspectors, formally as sanitary inspectors. Such officers are not to be mentioned by name in this subsection as they are not chief officers. It was suggested, Sir, in the debate by the hon. Member for the Rift Valley, that there was no need to give specific protection to relatively junior officers such as the health inspector, but such officers attain their qualification as the result of an examination set by the Royal Society for Health. It is essential that they should be given some independence as their job brings them in contact with a lot of influential persons and sometimes councillors and it is a custom in the United Kingdom that they should be protected by the Minister for Health. It is suggested that similar protection must be given here. There is at present no local equipment for this examination, but assistant health inspectors with Makerere qualifications can and do go to the United Kingdom to obtain the overseas certificate of the Royal Society for Health. It is probable that this certificate will be considered the equivalent of the Royal Society for Health here. So therefore, Sir, in spite of the objections raised by the hon. Member for the Rift Valley, I think it is best to leave the amendment as before the House now as there is justification for special protection by the Minister for Health—not the Minister for Local Government—the Minister for Health for these particular persons, i.e. qualified health inspectors.

Sir, I beg to move.

Question proposed.

The question was put and carried.

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 14 as amended agreed to.

Clause 15

THE MINISTER FOR LOCAL GOVERNMENT, HEALTH AND TOWN PLANNING (Mr. Havelock): Mr. Chairman, I beg to move that clause 15 of the Bill be amended—

(a) in paragraph (a) of subsection (2) of the new section 65 thereof introduced: by leaving out the words "within a period of 14 days after publication of the notice" and by inserting immediately after the word "give" the words "not less than 14 days";

(b) in paragraph (b) of the said subsection (2): by leaving out the word "thirteen", and by inserting in place thereof the word "fourteen";

(c) by leaving out paragraph (a) of subsection (4) of the said new 66;

(d) in subsection (6) of the said new section 66: by leaving out the word "council" where it appears for the second time, and in both places where it appears in proviso (i) thereto, and in the first place where it appears in proviso (ii) thereto, and by inserting in each case, in place thereof the words "finance committee".

Sir, these amendments are designed to bring the section with regard to contracts and special tenders into parallel with the section relating to municipalities. They also correct an anomaly to which the Member for Rift Valley referred in subsection (6), clause 15, and I would like to explain to the Council what this actually means because I found it rather difficult myself when I went through it earlier on.

The hon. Member for the Rift Valley pointed out, Sir, that in the proviso (ii) to clause 6 it read in fact that "in every such case the council shall submit to the council at the succeeding ordinary meeting", etc. This amendment, Sir, will not only amend that passage but

(The Minister for Local Government, Health and Town Planning) other passages which we found did not read in the correct manner and the passage referred to which the hon. Member took objection to will now read: "In every such case the finance committee shall submit to the council at the next succeeding ordinary meeting", etc. I think that clarifies the point that was raised by the hon. Member, Sir, and I beg to move.

Question proposed.

The question was put and carried.

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 15 as amended agreed to.

Clauses 16, 17 and 18 agreed to.

Clause 19

THE MINISTER FOR LOCAL GOVERNMENT, HEALTH AND TOWN PLANNING (Mr. Havelock): Mr. Chairman, Sir, I beg to move that clause 19 be amended by substituting for the new subsection (1a) thereby introduced a new subsection as follows:—

(1a) If a preparatory authority is already in existence in respect of the whole or any part of an administrative county, the Minister may, upon the application of the county council, declare the county council to be a preparatory authority for the purposes of the Town Planning Ordinance in respect of that county or any part thereof, and the preparatory authority already in existence shall cease to be a preparatory authority in respect of the area for which the county council has been so declared to be a preparatory authority.

Sir, I did touch on this matter in the Second Reading and drew the attention of hon. Members to the situation that, for instance, is indeed in Uasin Gishu where the municipal council of Eldoret is part of the Uasin Gishu county council. If the municipal council of Eldoret were the preparatory authority under the Town Planning Ordinance and the county council wished to take over the duties of the preparatory

authority for the whole area including the municipality it would—this provision, Sir—would enable me to so declare that the county council would be the preparatory authority for the whole of that area.

I do not think that this provision will be necessary for very long, especially when the new Town and Country Planning Bill has been passed by this House which, of course, has not yet been introduced but I hope will be fairly soon.

Sir, I beg to move.

Question proposed.

The question was put and carried.

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 19 as amended agreed to.

Clause 20 agreed to.

Clause 21

THE MINISTER FOR LOCAL GOVERNMENT, HEALTH AND TOWN PLANNING (Mr. Havelock): Mr. Chairman, I beg to move that clause 21 of the Bill be amended by inserting in paragraph (b) of subsection (1) of the new section 78A thereby introduced, immediately after the word "all", the words "or any specified class of the".

Sir, this amendment will give us a little more discretion, to local authorities, as to who will be liable for poll rates. It really, at the moment—it has been brought to my attention that in some areas poll rates especially for hospitals, i.e. for contributions to the upkeep of hospitals, for which poll rates have been levied, that married women are exempted and it may well be that we would wish or local authorities would wish to exempt certain classes of people such as married women from poll rates which they might levy under the provisions of this Ordinance.

Sir, I beg to move.

Question proposed.

The question that the words proposed to be inserted be inserted put and carried.

Clause 21 as amended agreed to.

Clause 22

THE MINISTER FOR LOCAL GOVERNMENT, HEALTH AND TOWN PLANNING (Mr. Havelock): Mr. Chairman, I beg to move that clause 22 be amended by leaving out the new paragraph (1b) thereby introduced, and by inserting in place thereof a new paragraph as follows:—

Loans to approved classes of persons

(1b) by itself or jointly with the Government, make or guarantee loans to persons of any class approved by the Minister on such terms and conditions, and on such security (if any) as the Minister may generally or in any particular case require;

Sir, I have already referred to this matter in a previous amendment. The new paragraph proposed omits any racial discrimination or other racial denomination and is, of course, intended to allow local authorities to take advantage of the International Co-operation Administration loans to African traders if they so wish.

Sir, I beg to move.

Question proposed.

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

The question that the words proposed to be added be added put and carried.

Clause 22 as amended agreed to.

Clauses 23 and 24 agreed to.

Clause 25

THE MINISTER FOR LOCAL GOVERNMENT, HEALTH AND TOWN PLANNING (Mr. Havelock): Mr. Chairman, I beg to move that clause 25 be amended by leaving out the new paragraph (42a) thereby introduced, and by inserting in place thereof a new paragraph as follows:—

(42a) by itself or jointly with the Government, to make or guarantee loans to persons of any class approved by the Minister on such terms and conditions and on such security (if any) as the Minister may generally or in any particular case require.

This, Sir, is consequent upon the previous amendment, and, again, is a matter of omitting any racial denomina-

tion and giving the local authority the power to loan the money... it is really to get rid of the racial denomination.

Sir, I beg to move.

Question proposed.

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

The question that the words to be added be added put and carried.

Clause 25 as amended agreed to.

Clauses 26, 27, 28 and 29 agreed to.

Clause 30

THE MINISTER FOR LOCAL GOVERNMENT, HEALTH AND TOWN PLANNING (Mr. Havelock): Mr. Chairman, I beg to move that paragraph (c) of clause 30 be amended by leaving out the words "African affairs officer", and by inserting in place thereof the words "social services officer".

Sir, I think the intention and reason for this amendment, is very obvious. Again, it is a step towards non-racialism and I beg to move.

Question proposed.

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

The question that the words to be added be added put and carried.

Clause 30 as amended agreed to.

Clauses 31 and 32 agreed to.

Title agreed to.

Clause 1 agreed to.

The Outlying Districts (Amendment) Bill

Clauses 2, 3, 4, 5, 6 and 7 agreed to.

Title agreed to.

Clause 1 agreed to.

THE CHIEF SECRETARY (Mr. COURT): Mr. Chairman, I beg to move that the Hospital Treatment Relief (Asian and Arab) Bill as amended, the Local Government (County Councils) (Amendment) Bill as amended, and the Outlying Districts (Amendment) Bill unamended be reported to Council.

The question was put and carried.

Council resumed.

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

REPORTS

The Hospital Treatment Relief (Asian and Arab) Bill

THE DEPUTY CHAIRMAN (Mr. Bechgaard): Mr. Speaker, Sir, I beg to report that a Committee of the whole Council has gone through the Hospital Treatment Relief (Asian and Arab) Bill and made amendments thereto.

Report ordered to be considered tomorrow.

The Local Government (County Councils) (Amendment) Bill

THE DEPUTY CHAIRMAN (Mr. Bechgaard): Mr. Speaker, Sir, I beg to report that a Committee of the whole Council has gone through the Local Government (County Councils) (Amendment) Bill and made amendments thereto.

Report ordered to be considered tomorrow.

REPORT

THIRD READING

The Outlying Districts (Amendment) Bill

THE DEPUTY CHAIRMAN (Mr. Bechgaard): Mr. Speaker, Sir, I beg to report that a Committee of the whole Council has gone through the Outlying Districts (Amendment) Bill and directed me to report the same without amendment.

THE MINISTER FOR AFRICAN AFFAIRS (Mr. Johnston): Mr. Speaker, I beg to move that the Outlying Districts (Amendment) Bill be now read a Third Time.

THE CHIEF SECRETARY (Mr. Coultis) seconded.

Question proposed.

The question was put and carried.

The Bill was accordingly read the Third Time and passed.

BILL

SECOND READING

The Vagancy Bill

Resumption of debate interrupted on 16th December, 1959.

MR. TOWETT: Mr. Speaker, Sir, when the House rose yesterday, I had just finished pointing out to the Minister for

Internal Security and Defence that his proposal that we should have some people sent back home because they cause financial embarrassment to some of us was not tenable. I also said, Sir, I had demanded that he should give us more clearer definitions of what he meant by reputable employment and reputable means of livelihood, and I had criticized also, Sir, that it was not necessary to give permits to people before finishing three years they had been taken to. I do not want to go on enumerating what I said yesterday. I refer those Members who were not here to the HANSARD.

Going on to clause number 8, there is a provision here given in subsection 2 of clause number 8, to this effect, Sir, and I quote, "Any such person who refuses to perform such work, or who performs it in a negligent or unsatisfactory manner, shall be guilty of an offence and liable to imprisonment for a term not exceeding one month." I do not quarrel with the whole subsection, Sir. I only quarrel with a very indefinite explanation of performing their duty in a negligent and unsatisfactory manner.

Who is going to judge, Sir? What work do I do to the best of my ability, but the personal attendant—or the person in charge of a detention camp may think it is not quite satisfactory to his own mind, and so, Sir, I appeal to the Minister to try later on and define exactly what he means by working negligently and unsatisfactorily, because I can see that that one will be open to abuse, Sir.

I accept the idea that some assistance will be given in order to get 'of to secure employment for these people when they are in detention; but I feel, Sir, that would be too much work for their superintendents to do. I do not know whether the Minister could devise another way of trying to ask the labour officers to take that responsibility and not to be left on the hands of superintendents.

Yesterday, Sir, the Minister, when introducing the Bill to us, told us that this Bill was non-racial. I can assume, Sir, when I prove that this Bill is racial, that the Minister did not know that there were some racialistic aspects in the Bill. Under clause number 11, section 2 (b),

(Mr. Towett) you have there the word "tribe". Now, the word "tribe" is racial, and again, Sir, when you mention a Somali you are being racial.

MR. SPEAKER (Sir Ferdinand Cavendish-Bentinck) left the Chair.

MR. DEPUTY SPEAKER (Mr. Bechgaard) took the Chair.

So, Sir, I do suggest that we in the Committee stage delete the word "tribe" and retain "member of a community indigenous to the Colony"; and also, Sir, we delete "or a Somali" and all the members who are indigenous to the country would be accepted. Delete "Somali" and "tribe", or if you are interested you may have the word "natives". That one does not smell bad any more. The word "natives".

There is a terrible paragraph here, Sir, which I want to oppose. It is clause 11, subsection 7, and I quote because I am going to speak on that, and try to have it removed: "Any person who fails to comply with the provisions of subsection 6 of this section shall be guilty of an offence and liable to a fine not exceeding Sh. 5,000." Subsection 6, Sir, refers to master of a ship or aircraft, the guardian of a train, or the person in charge of a public service vehicle, who is asked to give a lift to some of these people who are being sent away from the Colony, for example. Now, if, Sir, the person says: "I am sorry I cannot give a lift to this person today", what is implied here is that he will be falling to comply with the provisions of subsection 6, and shall be guilty of an offence and liable to a fine not exceeding Sh. 5,000. I think that one is too much, Sir. If, the person refuses to give a lift to such a person for, say, two or three times, then I welcome that he should be liable to a fine. But supposing I have an omnibus, and you say, "Towett, this man has got to be taken to Nairobi," I have my own commitments. I say, "No, the bus is heavily booked and he is not going", but I do not want to be accused of contravening subsection 6. That is not logical, Sir. I think that subsection is really terrible.

The last point, I have arisen out of clause number 14, the last subsection,

that is (c) of number 14. Here it says, and I quote: "The Minister may make rules generally for the better carrying out of the objects of this Ordinance, and more particularly but without prejudice to the said generality, for, now (c) prescribing penalties for the breach of any rules made under this section and without derogation or exercise by a court of the power to try any offence created thereby empowering the superintendent of a place of detention to inflict such punishment for any breach of the rules not exceeding one week's confinement, or one week's reduced diet, or both as may be prescribed." It is appalling—not only terrible. You want to reduce my diet and yet you expect me to work without negligence and to work satisfactorily. In the previous explanation I said it could be decided and I would be imprisoned if I worked in a negligent or unsatisfactory manner. Now, here my diet is reduced and how else can I work satisfactorily. I mean this is simple, clear logic. When my food is reduced I will be weak and how can you expect me to work in a manner which is not negligent and is not unsatisfactory. And so, Sir, I think the Minister, when answering these things, should try to meet those interesting points and satisfy this mind that he is going to be more consistent in his definition of what is in future, Sir.

With those few remarks, I think I should oppose—I should oppose this Vagancy Bill.

MR. MUKHURA: I think I will oppose this Bill, and I place my arguments for so doing on the debate we had last week—on the unemployment—the Motion so ably moved by the noble Lord the Earl of Portsmouth and the Motion that was accepted by the Government, and I am also going to oppose the Motion because I disagree with some of the definitions and interpretations.

Section 2, it mentions first of all the word "police officer", which has been extended to include a tribal police constable because he is a Government servant. He is a tribal police officer. And there I would like to congratulate the Minister, when he was moving the Motion he did say this, that moving is an agreement between himself and his colleague the Minister for Labour they were going to have some brightly coloured cards for

(Mr. Muchura)
work seekers. That is very interesting because I remember last Saturday when I went to Kiamba and somewhere in the country I was stopped by some police constables. They asked me if I had a permit to be in the district. I said, "Yes, I had one," and first of all it was being read upside down, and they wondered whether it came from the D.C. Kiamba. True it did not come from the D.C. Kiamba. It came from the Provincial Commissioner at Nyeri. So, it is clear and, we realized that some of these people who are going to be given the right and power to arrest without warrant would not be beyond an ordinary person who cannot read or write but can see colours. Two, I must disagree with the definition I must declare my interest here. I belong to an organization known as "The Physically Disabled", and in one of the sections here it says that "if a person is found wandering abroad or placing himself in any public place to beg or gather alms, or procuring or encouraging any child or children so to do". Now begging and procuring alms can be anyone from a person with no legs at all or who is totally blind who sits in the streets of Nairobi begging. Is it really his fault that he should be in the streets begging? Is it not the duty of the Government and the people of the country to see that these people are looked after and helped. In fact this classification must be there, because otherwise as it stands now it is too wide and we will be falling in our duty by merely sending these people away into the reserves where they will have no means whatever. Two, I think in that particular definition again I would like to suggest that instead of saying that any person having no reputable employment—of course the word "reputable" has been questioned—and will be replied to later—but I would rather, if it was allowed to read say "if any person who willfully refuses to take up employment" should be put in instead of as it stands "having no reputable employment," or reputable means of livelihood.

Then, again, further, I would like to suggest that it may, as it is in Nairobi and other places, the minimum wage is given as X figure for Nairobi or Mombasa or Nakuru or whatever it is, and what do we understand, and what will a tribal police constable understand of

"means sufficient to maintain himself". What is sufficient for me is not sufficient for another person. What is probably sufficient for a Minister will be a bit too much for somebody else. What is enough for an ordinary person will be far from sufficient for a Minister. Now what is sufficient, and how is it to be made into a constable going to judge whether this is sufficient or it is not? Now, then, again, if we are not going to help out physically disabled—if we are not going to help such organizations as Edgewalle where youngsters and people in need of care are cared for—if we are not prepared to find those things, then we will have to find some means of keeping the population alive.

I may not have a quarrel with (a), but I will disagree with the Minister and his colleague the Minister for Labour, that this Bill, if it becomes law will not interfere with employes' and work seekers. I will speak from my experience in the Labour Department. I know, for instance, there is a cousin of mine who is genuinely looking for work. He is a driver—heavy transport. I would not suggest for a minute that he is not genuinely looking for work. For one thing I do know he is now engaged to a girl, and is paying a dowry and has been here for the last five months. What will this minimum period that the Minister talked about giving these people time to look for work—and, not only that, but it was only last week that the Government admitted that there was unemployment, and that problem is going to be made worse by land consolidation in the African land units and pushing these people back there is not the answer. What will they be doing. Has the Minister for Commerce and Industry tried to find means of (a) trying to increase employment or rural industry in the reserves? Has he given assistance to some of these people, as was suggested in the debate last week, to assist and create more employment by (a) loans to farmers in the reserves and (b) those businessmen who are in need of capital. If that has not been done, where are you taking them to? Are they not Kenya citizens?

Then, one other thing. It says also that unless this person cannot adequately identify himself. What is the use of an identity card? He has got his identity card. If that is not sufficient means of

(Mr. Muchura)
identifying oneself, what else? I do not know what other identity is required. And therefore, as far as the definitions are concerned, I would suggest (a) that reputable employment and means of living is completely unacceptable as far as I am concerned, and (b) that this should qualify the drones who just sit around the street and do not want to do any work. Those people, of course, are useless, and whatever is done to them for being so, is good enough. There are other people who are not producing anything. There are quite a lot of women in towns (e.g. Eastleigh). Would you say that they are vagrants? Have they got a reputable means of earning a livelihood? They have got the means. They can show somebody a £5 note. Have they got a reputable means of earning a living? This Bill, I think, should be withdrawn and revised, and especially the definitions of a vagrant and the powers of those people who are going to carry out these orders—especially those who can only see green, red and yellow.

Now, further on, Sir, the idea of arrest without a warrant, especially when the powers go right down so low to the lowest ranks you can think of, I think that is a bit too much in the present state of Kenya.

Then, again in 4, it provides that where the court is satisfied that the person has a home the court may, instead, order him to be taken to the district in which his home is situated, and not to leave that district for a period of three years thereafter unless he has been issued with a permit under subsection 2. I gave the example of my cousin, who I know is genuine, and I have tried to help him but there are no jobs going. Supposing he was picked up under this Bill, if it becomes law, and is sent back for three years—not only from Nairobi, but he is not allowed to go anywhere—other than to remain in the district, and is not allowed to go anywhere outside the district for three years. What do you think his life would be? He is not allowed to leave that district for three years, and of course, in most cases, I do not think jobs will be advertised and sent round the districts and people asked to apply. How will he know that there is a job going in

Mombasa, one in Nanyuki and probably one on one of the farms? How is he to know? In other words we are trying to find the machinery whereby it would be for the control of Africans and the housing problem. The City Council of Nairobi will be happy because there will be no surplus African population. And then, of course, it follows, we will go back to the recruitment of labour from the reserves because that is the only means of getting chaps out. I do not think the agreement that has been made between the Minister for Defence and the Minister for Labour will allow somebody to be on the work seekers' books for two or three years. The idea of sending them back to the districts would mean that we are penalizing or pinning down the labour in the reserves and not allowing them to circulate so that they can sell their labour where they can.

The next point, Sir, is that it has been mentioned by my friend the Minister for the Southern Area that he had dealt with subsection (a) of 2 section. I would like to question section (1) 2, and it says as follows: "Every person detained in a place of detention shall be employed on such work as the superintendent or officer" and it goes right down to the warden in charge of a small prison or detention place out in the districts "with the advice of the medical officer." Now I do not understand where the medical officer comes in.

(Mr. Deputy Speaker (Mr. Bechgard)
Is the Chair?

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

He is concerned primarily with the physical health of the people in detention. And of course, one of the things he may suggest is that they do physical training exercises. I do not know whether he would suggest that they should go and dig shambas to make their health, or whether that would be the form of employment implied and intended here or his prescription of a type of work. I do not understand the connexion between the medical officer and the superintendent and or the Warden in charge. I cannot understand it. Maybe, the English is not my language.

[Mr. Muchura]

but I cannot understand it, because a medical officer is interested in health and punishment. And, of course, if one is sentenced to hard labour then the medical officer can say, "Yes, he is physically able to do it", but if not, where does he come in the Detention Camp?

The second part has been dealt with by my friend, and so I will not go into it.

No. 9—I can take that for granted. Then I come further to number 11 (2) (a) where we find that some people may be to more or less discharged from detention and a section of the people will be sent back to their districts. Where is the uniformity? That goes on from 11 (a) and 11 (b). And then there is the question of removal of certain people from the Colony to the countries of their origin. I know, for instance, there are Europeans I meet down in River Road, and I know there was a lot about them in the Press, and they were referred to as "the poor Whites". I would like the Minister to tell us what their position will be with regard to this Bill if it is passed and becomes law. Will they be sent back to wherever they were, or will they be dealt with under the deportation of British subjects. Will they be put somewhere in a remote corner of Kenya because they happen not to have jobs and walk about the streets of Nairobi, or will they just be put in a plane and sent away immediately? I know some of them have been here for many years, and one particular nice old man, who claimed to be 90, and probably he is, he has been here over 40 years. Will he be sent back to Britain because, nor does he get a job, because he is walking up and down River Road? What will his position be?

Then, coming to clause 12, Sir, it reads as follows:—"That anyone apparently under the age of 16 who is not in regular employment, nor resident with his parents or other local guardian, shall, on being found wandering about, or upon any premises without the consent of the owner or occupier, be taken before a court which may make an order for his return to the custody of his parents or guardians and thereupon shall be handed over to the custody of such parents or guardians."

It then goes on to suggest that if he is found again for a second or a third time he may be dealt with according to law. Has Government considered places like these youth clubs? The Shell Company—and I must pay tribute to them—have opened up a very nice youth club where some of these youngsters are brought in instead of being left with their hands idle and taught some trade, something to keep them busy, something to keep them from the streets. Instead of becoming delinquents they are being helped to transform and reform their lives to be good and useful citizens. Will it be any use to put these people back to the reserves where, probably, they will not be able to live? Why not try to suggest schemes such as I have mentioned? Here, Sir, I would declare my interest because I am a member of the Association of Kenya Physically Disabled Persons. We have youth clubs, like the Shell Company's which was opened. I think it was last October. This is a very useful institution for helping the sort of citizens we want to help.

In the Memorandum, paragraph 2, it reads: "The powers granted to magistrates by section 10 of the present Ordinance are now out of date and in accordance with other provisions and if the sistent with other provisions and if the law of vagrancy is to be capable of enforcement it is essential that these powers should be clearly and effectively prescribed. Accordingly, clause 4 of the Bill enables the court, on finding that a person brought before it is a vagrant, to order that he be detained in a place of detention or, if he has a home, to order him to be taken to the district in which his home is and not to leave that district for a period of three years," and so on and so forth. It goes on to say further that, on that that particular clause had to be amended because "in the past" if the superintendent of the place of detention could not find a job for a person he had nothing else to do with him. Now, if these officers in detention camps are not able to get jobs for these people then how can they be expected to find jobs by themselves within a stipulated time as proposed by the Government?

If I may comment on what the Minister said yesterday, the question of race is not implicit in the Ordinance and I do not want to emphasize it but the

[Mr. Muchura] interpretation and enforcement of this Bill, if it becomes law, will definitely be racial. I think there is no dispute about that. Now, I would like to suggest what we have—and I have said this time and time again here in this Council—lots of criminals in the streets of Nairobi and they are the last people to be picked-up why can the Government not clear them off. Also, for instance, every year my young brother who is at school comes to see me here in Nairobi. If he is picked up, and has no green or yellow card, then by the time I realize what has happened then probably he will have spent one or two nights in prison and his permanent home in Nairobi. Will he not be allowed to visit me in Nairobi, and, for that matter, any of my relatives? One may be a business man. What is the position of the visitor to Nairobi. I may say that I know the whole of this thing originated primarily from the by-laws being made by the City Council. As I said, Sir, I still claim that only decent people will get tossed out; the real hard-core will still play cards in the streets of Nairobi day in and day out.

The Minister talked of the daily Crime Report, which was very high. Nobody has got any quarrel with that, but most of those are the lot that play the cards and the like who live and look respectable in a place like Nairobi. This Bill will eventually in time, not from the beginning, amount to, a pass law whereby, if my relative wants to come to see me, he has got to go to his district officer and say where he is going and why.

Mr. Speaker, Sir, I am sorry that I must oppose this Bill unless and until it is withdrawn in order to effect the necessary amendment in interpretation, enforcement powers of arrest, and provision of physically disabled and delinquents.

Mr. MBOYA: Mr. Speaker, like the two previous speakers I oppose the Bill.

I detect in the Bill an attempt to meet a situation which will be created after the state of Emergency has come to an end whereby certain powers to interfere with the freedom of the individual will be exercised on the pretext of enforcing the Vagrancy Law. It has two false assumptions as it stands at the moment,

The first assumption is that no one has any business to come to Nairobi unless he is in genuine employment. I would suggest that Nairobi is a part of Kenya and any Kenyan citizen is free to come to Nairobi as and when he pleases. The only condition which any Government, or our community for that matter, can impose on him is that he must be law abiding. Now, there is enough legislation to deal with the criminal. The Vagrancy Bill we are told by the Minister is not intended to deal with the criminal nor is a vagrant going to be regarded as a criminal. So, Mr. Speaker, we have here a situation in which if a person wanted to come and reside in Nairobi and make his permanent home in Nairobi he is probably going to be called upon to prove reputable employment or useful employment in Nairobi. This, Mr. Speaker, is inconsistent with the findings of previous commissions. I refer, for example, to the Carpenter Committee which suggested that the trend in this country should be towards the stabilization of our urban population. Now, if we had a stable urban population it would imply that certain people live in this town and raise their children in this town. The Bill provides that if a person is deemed to be a vagrant he would be returned to the reserves. Now, what happens in the case of a person whose parents have lived here for 40 years and a person who is raised here and has no connection with any reserve? Do we return him to Bahari or Makindara? Does he cease then to be a vagrant or what will be his status?

The other false assumption, Mr. Speaker, is that it is assumed that in the reserves there is a dumping place for all the undesirable and that in the reserves there are certain people with no means that they will feed and look after anybody dumped in the reserves. Now, Sir, this is totally inconsistent with some of the facts revealed both in this House and outside this House, of the social problems that are beginning to arise in the reserves and also the economic changes taking place in the reserves. The reserve is no longer the place where people just sit and eat and live. They have to work, they have to have money, they have to raise their children and pay their school fees. I do not think that the person in the reserve will be any less

[Mr. Mboya] embarrassed by the return to the reserve of a relative than the person in Nairobi. This is one point that the Minister made. He said that one of the purposes of the Bill was to remove these people because they are an embarrassment to their relatives in a place like Nairobi. Mr. Speaker, the Minister seems very deliberately to forget that, in fact, the African working in Nairobi, to a large extent and quite often, has to support relatives at home, and so, in terms of money that he would use to support this man in Nairobi or in the reserve, there is very little, if any, difference. In fact, he might be called upon to pay more.

The other question on this point is that there seems to be no recognition that one who may be deemed a vagrant has a family himself. It appears to me that the Minister thinks that only bachelors or single persons may be vagrants. What happens, Mr. Speaker, if a person is arrested in the streets of Nairobi and charged with vagrancy and is then removed home? What provision is made for his family, or children, should they be living in Nairobi or in whatever urban area may be concerned? There is no mention at all in the Bill of the sort of action that may be taken. Now, I do not need to repeat here the fact that from time to time we have seen action taken when this sort of people removed from Nairobi to their reserves with very little if any attention paid to the fact that (a) they may have families and children in Nairobi, even some going to school, or (b) to the fact that they may have property and other personal responsibilities in the place at which they have been arrested. Mr. Speaker, this is not only totally inconsiderate but, to my way of thinking, to a certain extent, inhuman.

My friend the Specially Elected Member, Mr. Muchura, has referred to a number of very important points which I would not like to repeat, but I want to emphasize one point he has made, namely, that whereas the Minister claims that this is a totally non-racial Bill we know as well as he does that, in application, certain people are going to be affected much more than other communities in this country. Now, it seems to me that these days every Minister and some people in this country tend to

want to identify themselves as the non-racialists and they think the best way of selling anything, however disagreeable, is to call it non-racial and everybody will accept it. Well, this is a smoke-screen; it is purely eyewash. We know that, when it comes to applying this law, the African community will be much more affected than the European community. Today we have certain provisions which require that people will show their identity cards or their personal tax receipts, but the question is, how many Europeans, if ever, are stopped on the streets and asked, "Where is your identity card?" How many have ever been stopped in the streets and asked, "Where is your personal tax receipt?" But, Mr. Speaker, in this very House there are African Members who have not only been stopped on the streets but even made to wait sometimes at police stations to prove their identity or to show their identity card or other type of receipt. Now, Sir, fortunately, the African Members in this House are in a position to explain their way out of that sort of embarrassment but what happens to the simple, illiterate African who finds himself in that sort of situation? We would like to appeal to the Government that when laws are drafted consideration, serious consideration, should be given to the fact that (a) we are dealing with a certain type of people and (b) that the people who are going to be charged with the responsibility of applying the law are not themselves always the type of responsible persons that we might have in other countries. My friend the Specially Elected Member has referred to one specific case of himself where he produced his pass; it was held upside down and in the meantime he was being questioned about this and the other things on so. These things do happen; they are not just things we invent in order to oppose this legislation.

I consider it very important that this law as far as possible should be justified by a statement from the Government that there is need for it and I am beginning to wonder whether there is any need for it, apart from the desire, later on, to arm themselves with certain arbitrary powers that may be used after the State of Emergency has come to an end. The Government has admitted that there is a serious and large degree of unemployment and this unemployment is

[Mr. Mboya] no longer a problem only in the urban areas; it is becoming a problem even in the reserves. That being the case it is not only unfair but totally wrong to look on the reserves as the place to dump your undesirable, if you want to call it that, population from the urban areas. It has been stated that the problem in so far as applying this law is concerned might be solved by giving each genuine work seeker a coloured card that he might show when asked to identify himself. Now, Sir, a coloured card is all right if you go to a labour exchange, but it is not compulsory for me to go to the labour exchange at the moment if I do not want to. Of course, the Government will say, "It is in your interests to go." However, the law has been brought before the House before any preparatory work has been done to introduce the card system itself. It would appear to me to have been more sensible to think in terms of the machinery that will be used to help in this identification before bringing the Bill to this House. Now, I am not sure that by the time the Government is ready to apply this law the arrangements will have been made with the labour exchanges to issue the cards in question. On the other hand, the issue of cards, which would imply a system of compulsory registration of unemployed, must go hand in hand with some system of compulsory reporting of employment opportunities by the employers. You cannot on the one hand insist that all workers must report unemployment to the labour exchanges if in fact the exchanges will not be able effectively to help the unemployed find jobs when employers are not compulsorily required to report vacancies.

There is a lot more involved in this. About two years ago I suggested in this House that the Government might review the labour exchange system with a view to making the exchanges more efficient and more effective. I also suggested that the Government might consider whether the time had not arrived for some form of unemployment registration and also the registration of vacancies. This has not been acted upon and yet now we are being given the impression that Government is ready to introduce this legislation on the assumption that the labour exchanges will be able to help.

Dealing with this aspect of showing the coloured cards, what happens to a genuinely employed person? There is no law requiring him compulsorily to carry an employment card. If I want to carry an L.P. 85 I can do so. If I do not wish to carry it I can leave it at home or even not take it from my employer. Are we being given here a situation in which it would become absolutely necessary for every worker to carry an L.P. 85? In other words, is the Government trying to achieve what they have failed to achieve by other means of introducing compulsory employment certificates? The question of compulsory employment certificates has been discussed in other places and we know that the reaction to it has been negative. People have been opposed to any system that requires them to carry any sort of employment records. This is in fact the Kipande system. If this is an attempt to introduce it by the back door, the Government ought to say so. Now, if the Government denies this, which means that a genuinely employed person may not carry any employment records, then I ask: What is going to be the position of the genuinely employed person walking the streets of River Road and challenged to produce this labour exchange card or any other document proving genuine employment? What is going to be his position when he cannot produce either? I consider that the Government should reconsider this matter a bit more seriously.

Then there is the question of the businessman who lives in Nairobi and runs a small retail shop in the locations has no employer; he is self-employed. He has no employment card and could not get one even if he wanted it. He comes to walk in the streets of Nairobi and meets one of these Tribal Police and he is challenged to show that he is genuinely employed in Nairobi. What happens to him? Are we going to issue every businessman with some certificate of identification or exemption from the vagrancy laws?

Mr. Muchura, the Specially Elected Member, raised another point which is also relevant in this case and relevant to the point that I have made, namely, the person in this country should be free to live in Nairobi. He wants to do so; whether he is employed or unemployed, I know that in another place—the City

[Mr. Mboya]

Council—the question of housing and social services has been raised. In order to meet the housing shortage, in order to meet some of the shortage in the social services, they have suggested that entry into Nairobi of Africans must be controlled. Mr. Speaker, I suggest that this is a terribly negative way to look at this problem of housing or social services. The City Council or the Government, whoever is concerned, should take their responsibilities a bit more seriously and provide houses and social services. They should try to meet the demands; they should not try to interfere with the freedom of the person to move into Nairobi if it is in his opinion the best place for him to live in; they should not try to relate the right of the people of this country to enter Nairobi, or any other place, by their ability to provide more housing or social services. Now, Sir, we are not saying that the absence of adequate housing or social services is a satisfactory situation, but I am saying that there is no city in the world, London, New York, or any other included, where you do not still have housing problems or shortages or problems of the inadequacy of social services. There is no city in the world where you do not have slums. Nairobi is not going to be the exception, whatever the City Council of Nairobi may think. The application of this law will require much more than merely passing this Bill in the House. We are not going to build a fence around Nairobi and bar gates at which some police constables are going to stand and make sure that everyone coming in has got some genuine reasons to come in. Why should he have a genuine reason in the opinion of anyone apart from the fact that he wants to come in. There are people who may live in Nairobi without running any business at all, without any actual employment, without anything to do but who want to live in Nairobi because they consider this is the best place for them to live in. I can think of no reason in the world why these people should not live here if they want to live here and if they are not a nuisance to anybody. Maybe there is a case for certain people or for certain activities of certain people to be regarded as offences, either criminal offences or offences under the City

Council by-laws, and if that be the case then let us examine the laws; let us examine the by-laws and act accordingly. But to attempt in this general and arbitrary manner to interfere with the freedom of the individual to come to Nairobi, or any city in this country, is totally unjustified.

When the Minister spoke, Mr. Speaker, I thought he made some reference to fingerprinting. Sir, as a means of ensuring that people who have been sent out of town are recorded or that vagrants can be sent back to their reserves, so that when they try to enter Nairobi before the stipulated period of three years they can be detected. Sir, I must totally object to this suggestion of fingerprinting a person when you at the same time say that he is not a criminal. Why should these people be fingerprinted at all? What justification is there for us to fingerprint them? If indeed they are vagrants according to the definition in this Bill they would be vagrants for the time being, i.e. at that particular time if they entered Nairobi and were genuinely seeking for employment then I do not see why they should be treated any different to those persons who have come for the first time.

A lot has been said. Sir, about these definitions. I would like to hear the Minister, when he replies to this debate, tell us why the period of three years is stipulated as the best, as the more satisfactory period, to keep these people away from Nairobi. Why cannot it be six months? Why not one month? Why cannot it be five years? Why cannot it be ten years? In fact, Sir, why is it three? Is there a process of rehabilitation they are going to undergo? Is there some programme of technical training that they are going to undergo in that period? What do they do in the three years? How are they provided for in the three years? It is said a job may be found for them. At the same time a job may not be found. Are they expected to do anything in those three years I would like to know? Questions have been raised about visitors and I would like to say one or two things about this. In Nairobi, for example it is our experience that for a variety of reasons a person may be sleeping at 12 o'clock, midnight, or one o'clock in the morning, and someone may knock at his door and say, "We

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want to check whether there are some unlawful tenants or visitors in this House." That is happening.

Mr. Speaker, the passing of this Bill merely means more powers to these irresponsible people and to unwarranted disturbance of the peaceful citizens of this country. We have heard enough of this sort of situation and we do not want to aggravate it. We have been complaining against it hoping that it was going to decrease but with the introduction of this legislation this situation whereby anybody, a tribal policeman who does not like your face, a tribal policeman who may have nothing to do during the night, suddenly dreams up the idea of going to knock someone is staying in there illegally, and that sort of thing is going to be enhanced by this legislation. For this reason; if for nothing else, we would oppose this Bill.

Mr. Speaker, our attitude is not one of merely opposing this Bill because it is a Government measure. We would support any Government measure if we considered that it was in the best interests of the community and the country. In so far as this Vagrancy Bill is concerned I submit that the Government has not made any case for its particular necessity at this particular time, nor has the Government made any case produced any arguments to prove that the existing legislation in the existing conditions is inadequate to deal with the possible undesirable elements in Nairobi or in other areas or in other towns of Kenya. I submit that the Government is acting, in my view, merely to meet a situation which arises after the Emergency laws have gone. The Government is seeking through other means to retain the present powers they have. They are trying to interfere with the people's freedom of movement from place to place in this country, the people's freedom to live peacefully in their houses in any part of this country, the people's freedom to have visitors to visit them at any time at any place in this country. The Government, in other words is seeking here to introduce a security measure through the back door and we must oppose this apparent attempt to try to pass some Emergency legislation, some Emergency

regulations, into the substantive law by these sort of devices.

Mr. Speaker, I beg to oppose.

Mrs. HUGHES: Mr. Speaker, Sir, I apologize for not being present yesterday when the Minister introduced this Bill, but I have read the HANSHARD and I do welcome many of the remarks that he made yesterday.

But, on the other hand, I do feel that emphasis in this Bill is on control of vagrants and, although I think that these powers are necessary, I do regret that so very little mention is made of any remedy for the causes of vagrancy. It does deal almost exclusively with restrictive measures.

I agree with much that has been said by the Specially Elected Member, Mr. Mũchura, in many respects. If this Bill does bring some immediate improvement in the present procedure, I think it would be very gratifying but, as it now stands, I doubt if it will have any really lasting effect, for as a well-known writer said quite recently, in one of his books: "Punishment temporarily puts a stop to undesirable behaviour, but does not permanently reduce the victim's tendency to indulge in it."

Sir, the Bill promises powers to African courts in the area in which the vagrant is found and which is usually, I imagine, not his home area. But I do not see whether the Government has produced any arguments to prove that the existing legislation in the existing conditions is inadequate to deal with the possible undesirable elements in Nairobi or in other areas or in other towns of Kenya. I submit that the Government is acting, in my view, merely to meet a situation which arises after the Emergency laws have gone. The Government is seeking through other means to retain the present powers they have. They are trying to interfere with the people's freedom of movement from place to place in this country, the people's freedom to live peacefully in their houses in any part of this country, the people's freedom to have visitors to visit them at any time at any place in this country. The Government, in other words is seeking here to introduce a security measure through the back door and we must oppose this apparent attempt to try to pass some Emergency legislation, some Emergency

Mr. Speaker, it is particularly regrettable that this Bill gives no opportunity for local government to take up the powers and the duties associated with social welfare needs, especially as I understand that there is no Government African social welfare officer, or perhaps I should say that there is no Government African social welfare officer. Also there is very limited state provision for poor relief, except, I believe, for famine relief.

Mr. Speaker, I believe that it is rather a plous hope to expect that repatriated vagrants will obediently remain for three years in the same conditions which

[Mrs. Hughes]

originally sent them forth from their homes, and whether those conditions were poverty or boredom or any other form of discontent, I believe that those conditions that originally caused them to leave their home area should receive very serious attention indeed if this Bill is to have any lasting effect at all.

Three years' restrictive period is very long indeed, particularly considering the absence of any really clearly recognizable system of public assistance with an opportunity of employment or otherwise, and I do not think it is likely that many of them will, in actual fact, apply for permits before they do go off again to seek their fortune or their pleasure.

In clause 13, Mr. Speaker, I might well be that the strongest deterrent for vagrancy could be found in placing the public expense partly, if not wholly, on the vagrant's home district. I would like to refer back to that again because I think it is important that they should be given the opportunity and the power to recover the cost from the families concerned wherever possible. I think if this were done it would strengthen the control of the parent and the community itself in assisting the vagrant. As long as the full responsibility for vagrancy rests on the state, the local authorities do not appear to be aware of its extent or its gravity. By putting the responsibility on to the local authority, it might encourage them to consider measures for the relief of this very big problem.

I would like to refer to particular clauses in the Bill and particularly to clause 2 (1) (a). The Minister did speak about the genuine work seekers, but I believe there is a danger, as the Specially Elected Member mentioned, inasmuch as it could apply to deserted or destitute wives and families as the Bill now reads, and it also could apply to respectable, aged and infirm persons and I do think that it needs some qualification in this clause and possibly the words could be added, "and not giving a satisfactory account of himself", or that they had failed to prove that they were seeking employment.

Now, Sir, to turn to clause 3 which deals with powers of arrest, I think there that the words "shall take such persons before a court, as soon as possible" might be very onerous, indeed, and I

would suggest that a time limit is put on that clause, maybe 48 hours, which I think would be reasonable and it would cover the period of a weekend.

Then clause 4 (2) which deals with powers of the court. The district commissioner in this case is replaced by the district officer, for the issue of permits and there seems to be no direction as to any preliminary enquiry into the place in which the person wishes to proceed and, possibly, the Minister could enlighten us on this point.

Clause 4 (4). This clause allows only ten days for home enquiries to be made. No further order seems to be permitted for this purpose, although I think subsection 5 allows 28 days for the mere purpose of ascertaining whether he has previously been found vagrant. I do suggest that it would be more practical to give the court power to make a further interim order on expiration of the ten days up to a certain maximum to allow for a thorough enquiry before ordering his return to his district and thereby restricting his further movement for three years.

Clause 7 deals with cases of detention. In this the word "Minister" is used and presumably the Minister would be the Minister for Health and Local Government, since he controls the Social Welfare Office, otherwise I cannot see there is any improvement on the present state of affairs in which this serious problem does not seem to be regarded as having any connexion at all with social welfare.

THE MINISTER FOR LEGAL AFFAIRS
(Mr. Griffith-Jones): I thank the hon. and gracious lady for having given way. I should like to correct her. The Minister in this context is not the Minister for Local Government but the Minister for Internal Security and Defence under whose portfolio this comes.

Mrs. HUGHES: I thank the hon. Minister for that explanation, but it does seem to bear out the fact then that there is no connexion in this Bill for social welfare cases, which I believe is extremely important, and there should be some co-ordination between the Minister dealing with social welfare problems and the Minister for Internal Security.

So far only the prisons seem to be declared houses of detention, I do not know if I am correct in that, but I do

[Mrs. Hughes]

suggest the prison could be excluded under section 17 of the Juvenile's Ordinance, 1934, which debars them as juvenile remand homes. In this connection, I was wondering if places of safety are envisaged under the description of places of detention.

I would refer now to clause 11 (5). The Minister has stated that first offenders are not criminals and I would like to reiterate that simple vagrancy is a social matter, not a criminal matter. Therefore, I think it is difficult to understand the provision for custody in prison and not in a place of detention while awaiting removal. Police custody in certain cases is, I think, more readily understood, but I would like to see this altered to places of detention.

Turning to clause 12 which deals with the provision with regard to children. There I feel this clause is extremely inadequate. It does not appear to make provision for the home or antecedent enquiries at all, nor for the shelter and maintenance of the child in the meantime. I hope I am wrong in this, Sir, also, when children are found vagrant with their parents, I do believe that they should try not to separate the children from the parents, and I hope that this will be given attention because I do feel it is most important that they should be kept together.

When children are found alone, I do think they should then have separate places of detention from adults, or at least separate facilities of detention in places of detention. But I do feel it would be very much better to keep the two places separate in that instance.

In clause 12 (2) it would appear that vagrants are under 16 years of age who are sent home or under no obligation to obtain a permit from the district officer for that period of three years before he can leave his home again. I do not know if that is so or not, and I do think it requires amendment, either to clause 4 (2) or to enlarge clause 12 (2) to provide for this. I believe these measures are more important for the children than for the adults. In fact I feel, Sir, that it is a pity that the children have to be included in this Bill, but I presume there was some reason for doing this. However, I do feel that very inadequate measures have been provided for the

proper control and care of children, because I consider very strongly that they should be separate from those measures which deal with adults.

Mr. Speaker, I do wish to give notice of a number of minor amendments in the Committee stage, I beg to support.

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

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

Mr. OLE TRUIS: Mr. Deputy Speaker, Sir, I rise to oppose this Bill very strongly. I think, Mr. Deputy Speaker, we have told this Government time and time again that the proper way, or the right way, to go about things is to try and find out the causes of all these evils and the causes of all these bad situations which are now facing this country. In all honesty we have tried repeatedly but I am sorry to say, Mr. Deputy Speaker, that instead of going very deeply into the causes of the present unsatisfactory situation in this country, the Government sees it fit and proper to introduce more and more legislation, new measures to increase the harshness and the suffering of the people who are already fed up with all these restrictions.

I should have thought that the Government at this juncture should have more courage to stand firm on its legs to try and forget their old ideas that the introduction of any punitive measures or any restrictions of whatever sort are going to remedy the situation. Far away from that, what such measures are bound to achieve is to increase or to make things more difficult and once people are dissatisfied, discontented with the present position, then what do you expect of them? They are human beings like everybody else, they must live and they must find ways and means of earning a livelihood, otherwise they will die and no human being has ever prayed to die.

Now I should have thought—I do not want to repeat what other hon. Members have said—that the Government has at present enough laws, sufficient to deal with any situation which might arise. I think we have got, say, in places like the settled areas—heard it once said that if may be the intention of the Government to prevent at least a flow of

[Mr. Ole Tipsi]

thousands of work seekers into the settled areas who know there are no jobs available for them there. But even in such places, how often have we seen or had a number of workers—a number of people—who have gone into those areas to visit relatives who are working in those areas, taken to court and charged with trespassing?

Now you bring another system of trying to remove such persons on a charge of vagrancy. This is a very bad situation indeed. It is really bad. After all, if I understood the Minister correctly yesterday when he moved this Motion, he said that the intention or the object of this Bill is to remove anybody who has been proved to be vagrant or anybody, who has proved to be a menace to the law-abiding citizen in an urban area. If that is the intention and if these persons have been proved to be a menace to the law-abiding citizen in that area, then where are you removing them to? To the African land unit? Does that imply that the African land units are the dumping ground? Does that imply that there are no law-abiding citizens in the African land units? Surely if a man is a criminal it is the duty and the responsibility of the Government to at least try and rehabilitate him? I can see the Minister for African Affairs, who has told us several times in this House that the rehabilitation system is making good progress his Ministry. Here is another new job for you, to rehabilitate idle men. If, instead of sending them to a detention camp for three months, we can find jobs for them, and if they are born like that, as habitual vagrants, it would change their minds, and they could be rehabilitated in the way that hard-core *Mau Mau* have been. That is the only way of going about things. If a man is arrested here in the streets of Nairobi he is sent back under a repatriation order to his reserve and there he is compelled to remain for three solid years without being given a chance of coming back, without a permit from the district commissioner or the district officer. Surely if a man is sent back to his home district and tomorrow morning he gets a letter from a friend—a message from a friend that a job is now available for him, it is only logical that he should snatch the first opportunity of going to get that job.

That is the right thing to go about things.

Now, I do not know, Mr. Deputy Speaker, intend to go into the various clauses of this Bill to a very great extent because, Mr. Deputy Speaker, most of my colleagues on this side of the House have given our reasons, the reasons why we are opposing this Bill. We are not opposing it for the sake of opposing it. We are opposing it because we know, we believe that it is going to be another great interference into our people's liberties and freedoms.

We talk of repatriating a man to his home district, whereas he might have lived in a place like the settled areas, all his life. His father was born there, he knows of no other home other than that, then you say you are sending him back to his home district. What is the Government going to do to this man when he is sent back there? What measures have the Government in mind which would help at least this man to earn his livelihood there? What measures, if any, have the Government taken which might help this man to change his mind and become a good law-abiding citizen, a respectable citizen of this country? But to talk of sending them back—where are they going to send them? Where is their home? I see the Chief Secretary keeps on repeating "their homes", but this is their mother home. Those people who have their origins in other countries are quite welcome to be sent back. But if you send me from Nairobi to Narok because I have proved a nuisance here, I shall also prove a nuisance there unless you help to rehabilitate me and change my mind to reform. I do not really understand what is at the back of the Government's mind at all.

Now, if I may touch, Mr. Deputy Speaker, on this clause 2, subsection (ii), it does not make sense to me. It reads: "That for the purposes of paragraph (b) of the definition of vagrant in subsection (i) of this section, any person loitering or about any verandah, pavement, sidewalk, passage, outhouse, shed, warehouse, store, shop, or unoccupied building or in the open air or in any cart or vehicle shall without prejudice to the generality of the expression 'fixed abode' be deemed to be a person having no fixed

[Mr. Ole Tipsi]

"abode." I am shocked, Mr. Deputy Speaker, because most of my people will be affected when they move their cattle because they do not sleep in a decent house, they sleep in the open air! Not only that, but you have in this country a number of African vehicle mechanics who have not built garages for repairing vehicles—they simply put a fence round—and during the night they detail one of their employees to sleep or hide somewhere at the back of a vehicle to look after the property. Now, if there is a *finna* between him and the Tribal Police, he will probably be arrested and when the police are asked, where they found him they will be able to say that they found him in the back of a truck asleep.

We must do something more positive and not negative to help our people.

I see also in clause 4—Powers of a Court—they say that the court may order such a person to be detained in a place of detention. I am wondering what this person will be doing in this place of detention. What measures, if any, have the Government in mind to try at least to help this man. Let him work instead of hanging about and wandering about the countryside without a good job because we all know that idle hands are always easy prey of evils. That applies to the whole of this clause—subsections 1 and 2 and the rest of it. I asked earlier on, and I repeat it again, what has this Government in mind when they send back to the reserves a man who has proved himself a nuisance and a vagrant simply because he could not find work? Do they intend to find work for him in the reserves? Do they intend at least to rehabilitate him, to give him help him to become a decent law-abiding citizen of this country, or are they going to let him die there, and whilst struggling and knowing his days are coming, inject his bad manners and bad practices to some of the young chaps in the reserves. That is not the way to prevent or cure this disease. It appears that the Government regard the native land units as a sort of quarantine area such as when there is an outbreak of foot-and-mouth and a place is declared a "quarantine area" and it does not matter if you do not bother to vaccinate the cattle, they will die out. This is very, very bad and I am sorry, but we are not going to have it. But even

if I say we are not going to have it, the Government, I have no doubt at all, will force it through. But if the Government of this country want to have the confidence and the goodwill of the African population in this country, they must at least pay heed to what we, the elected representatives of these people, fear and what we know is worrying the majority of our people.

We all know, Mr. Deputy Speaker, that the present unemployment situation is very bad, and I should have thought that a good Government would at least have gone deeply into the question and tried to find ways of relieving the present situation instead of trying to make it worse, or more difficult.

Clause 3 states that any person might be sent to jail or somewhere like that. Are we really out to fill our prisons with vagrants at the expense of public funds? After all, these chaps are not criminals. If they could be found jobs, or if they could be isolated and placed in a small working scheme and trained to become semi-skilled workers, then they would be able to earn a living. They could be trained as carpenters, or stone masons or anything of that nature and they would then be capable of earning a decent living. That, to my way of thinking, is the only remedy, Mr. Deputy Speaker. But if you send them to jail or to a detention camp, when they are released they will have no alternative other than to go back to their old practices unless a livelihood can be found for them.

Clause 11, subsection (iii) states: "... with the approval of the Minister to a place in the country to which he belongs or to any place to which he consents to be removed, if the Government of such last mentioned place consents to receive him." There, the consent is sought, but when it comes to the African land units, no consent is sought. He is simply put on a truck with an escort and dropped in some place in the bush and told that that is where they understand his father came from. What about those who have no fathers and those who can no longer claim to belong to any particular tribe? I have never seen such a bad legislation as this.

I know there are a number of other Members who wish to air their views on this Bill, so I will be short. Mr. Deputy

[Mr. ole Tipis]

Speaker, I have seen the hon. Chief Secretary trying to get on his feet, and I hope that when he stands he will at least see our reasons for opposing this Bill. We are fed up and tired. Mr. Deputy Speaker, of all these punitive and restrictive measures. Let the Government, for a change, do something acceptable to the people of this country.

With these few words, Mr. Deputy Speaker, I strongly oppose this Bill.

THE CHIEF SECRETARY (Mr. Coult): Mr. Deputy Speaker, Sir, the hon. Member for Nairobi Area, when he started his speech, said that he opposed this Bill because it was founded on two false assumptions. The hon. Member who has just sat down said he was tired, and I have been so tired of listening to false assumptions during the speeches which have been made that I thought I better get on my feet and try to rebut some of them.

The first false assumption that has been made is that this is a new Bill designed to interfere with freedom. This Bill, I may say, is based on an Ordinance which was first introduced into this country in 1920, and a similar Vagrancy Ordinance was first introduced into the United Kingdom in 1834. So how the hon. Members can say that this is something new to restrict their freedom, I just cannot imagine.

The second false assumption which was made by the hon. Member for Nairobi Area, was that this was an arbitrary measure. I ask you look at paragraph 4 of this Bill where a person is first of all brought before a court, the court shall then enquire into his circumstances and if, after such an enquiry—in spite of the fact that the person is a vagrant—the court may order him to do something. I do not call that arbitrary at all. I call this a proper provision following on normal lines of ordinary democratic justice whereby somebody is brought before a court and a proper enquiry is made. I do not call this arbitrary in the least degree.

The third false assumption that the hon. Member made was when he said that all people should be free to come to Nairobi and to go when they pleased. As soon as the Emergency regulations are

lifted, that will in fact be so. There is nothing under this Bill which says that a person cannot come to Nairobi and go again when he pleases. All this provides for is that those people who are no use to the town and are vagrants with nothing upon which they can live, can, if after enquiry a court so deems, be removed.

Another red herring, and a further false assumption brought before the Council by the hon. Member was the linking of the "coloured card" with identity. There is absolutely no intention on the part of Government to link the "coloured card" with identity. It has been suggested that the "coloured card" should be brought in in order to protect the person himself who wants to come and get a job. He may be, when he arrives in Nairobi, a vagrant, by reason of the definition under paragraph 2 of the Bill, and therefore could possibly be picked-up and brought before a court. But in order to protect him and give him a chance to get reputable employment, he is going to be given a card. But my hon. friend tells me that this is connected with some form of having to identify himself. He is not meant to identify himself by this card at all: It is merely to show to anyone who wishes to ask him, that he is looking for employment in order to avoid becoming a vagrant.

The fifth false assumption which he made was that this was going to be made into a compulsory employment certificate, and indeed, dragged up by the hair—why, I do not know—something about the old *Kipande* system. This has got absolutely nothing to do with the old *Kipande* system in any shape or form, and I have already explained that it is only to protect the person himself.

There has also been a certain amount said by both the hon. gentleman from Central Rift and the hon. Member for Nairobi Area about "dumping" people in a particular area. There is no question of "dumping" these people. If these people are brought before a court, the court shall make enquiry and if—and that is why I was repeating the word "home"—if the person has got a home to go to, I know that Kenya is his home, but I assume that he does not have a home in Mombasa, Nairobi, Nakuru and Eldoret and all over the country, I presume that

[The Chief Secretary]

there is one part of the country which he looks upon as his home—and if we find that is his home, whether it be in the settled area in the Rift or whether it be in Nairobi, it will be suggested that he is sent home, because we think there, that there is less chance of his becoming a totally irreparable character.

This brings me to the question of rehabilitation. This Bill, Mr. Deputy Speaker, has absolutely nothing to do with rehabilitation; Now, do not let the hon. gentlemen misunderstand me. We understand only too well the difficulties that exist in this country in regard to people who are unable to look after themselves. We realize full well from the Government's point of view what we have to do to rehabilitate people and help people to improve their standards of living, but we do not propose to do it by this Bill which is in fact designed to deal with vagrancy only, and nothing else.

The last—I am not certain that it was the last, but anyway the last false assumption with which I propose to deal, was when the hon. Member for Nairobi said: "Here is going to be another time when the police are going to come banging on our doors and interfere with our freedom." I do not know whether the hon. gentleman was ever brought up with a classical education, but what does the word "vagrant" itself mean? It means someone who is normally wandering round the place, not shut up in a house. It is an entirely false assumption to think that under this Bill someone can knock on your house and ask you if you are a vagrant. That is not the purpose of this Bill at all.

To follow on to what the hon. Member for Central Rift said about someone being left in a lorry and that if he did not like the tribal policeman about the place, they would come and pick him up under this Ordinance, may I refer the hon. gentleman once again to the definition in paragraph 2 of the Bill, where it says: "A vagrant" is a person who has not got a reputable means of livelihood. I presume this person who is lying in the back of a lorry is properly employed by the owner of the lorry, and therefore he has got a reputable means of employment and there is no reason at all why

the tribal policemen should take him away.

Finally, Mr. Deputy Speaker, just to try to emphasize what I said when I started talking to my feet—there is no intention on the part of Government to follow on what are called "restrictive Bills" or rather restrictive Ordinances or to interfere with other people's freedom. This is no more or less than the strengthening or redefining of certain parts of an Ordinance which has been in existence in this country for 39 years.

I beg to support, Sir.

MR. MULIRO: Mr. Deputy Speaker, Sir, I also rise to oppose this Bill.

The Chief Secretary has said that a Vagrancy Ordinance or Act was enacted in Britain in 1834. I think that any student of English history will know that that was the time when a large number of people were leaving the land and seeking employment in the towns.

THE MINISTER FOR LEGAL AFFAIRS (Mr. Griffith-Jones): It is still in force.

MR. MULIRO: Whether it is still in force or not it has changed in character to a very high degree.

I would add that at that time the governing class in Britain—or the British society was not very democratic. Anyway I do not think that any Vagrancy Bill, or Ordinance or Act in Britain, can be compared with anything which comes before this Council or is passed by this Council.

When the Chief Secretary said that the "coloured card" is going to protect the person who wishes to look for employment—I think this is a type of logic which one hears more in South Africa than in Kenya. In the Union, the Minister for African Affairs—now he is called the Minister for Bantu Affairs—will say that the native carries a pass for his own good! I know that they recently introduced a Bill there which was called The Abolition of Passes and the Consolidation of Documents—something like that. I think that that just shows that as long as someone has got a chit which will prevent him from being molested or prosecuted in a court, then he is carrying a pass, and nobody can say that such a document is a reputable document.

The point which this Government must face is that we are now suffering from

(Mr. Muliro). the aftermath of the Emergency, and we have spent a lot of money during the Emergency to bring about peaceful and healthy relations. But, the expenditure of all that money could have been avoided, and it could have gone to the development of this country if only the Government—the people sitting on the opposite side—could have had some sense before. Therefore, measures of this kind, Mr. Deputy Speaker, are not helping us. What is going to help us is a mental rehabilitation of the Kenya Government.

Now, if this Government can change their attitude and think very honestly that we want to create a society of equals and we do not want some people to have to carry cards of some kind, then we will be better people in this country, Mr. Deputy Speaker.

Now, the Government talks of creating goodwill in this country, yet it is the same Government which is creating bad will in this country. If we want to have goodwill, and anybody on the opposite side wants the Africans to sing the tune they wish them to sing, then the Government must start first of all. If the Colonial Office thinks there are some Ministers who should be removed from Kenya, let them for goodness sake remove them and put in people who are probably more fair in their ideas of administration so that we can go forward in confidence. However, if the Colonial Office is not prepared, in the interim stage, to do that, I do not think that measures of this kind are going to get us anywhere at all. It would appear that a person will be taken from one detention camp as a *Mau Mau* convict, and will then be taken to another detention camp as a vagrant, and this is not going to solve the problems of this country.

It is a pity that the Chief Secretary has walked out because this is a very serious thing, but the other question that this Government must bear in mind also is that people talk of home. This philosophy will never get us anywhere and I would like to warn the Africans of this country who are in the areas like Nairobi, Mombasa, Eldoret, Kitale or any other areas should not talk of going home. Wherever you are, that should be your home.

THE DEPUTY SPEAKER: (Mr. Bechgard): Order, order. Immediate laugh.

ter and continuous giggling is not consistent with the dignity of this Council, and I would ask hon. Members to try to observe the proper rules of conduct.

MR. MULIRO: Thank you very much, Mr. Deputy Speaker, I thought I was out of the point, but I am quite all right.

I am not only telling the Government of Kenya to rehabilitate themselves mentally, but I am also telling the African public that they should never look upon another place as their home. If he is in Nairobi, then he should bear in mind that he is here and not in any other place. If you are working there, you are earning your livelihood there, and you cease to be employed you look for that employment in the same area or, in another place but you should never turn, your eyes back to the particular reserve from which you came, because even if the Africans in this country want to look back to the reserves, the reserves are not there, they have vanished or are vanishing.

This is good enough for the general talk. Now, when I come to look at this Vagrancy Bill itself, Mr. Deputy Speaker, I think that this Bill should either have been left in the forgotten background, or if the Government wanted to do anything, they should have completely repealed it. If they go on like this creating one problem after another, they will do a serious disservice to the people of this country and to the good relationship between the people of this country.

We demand that the money which is being spent by the Government on the employment of district commissioners, district officers and district assistants—in general the provincial administration—should go to much better work—put a district officer in a place so that he can say: "You will be confined here for three months, three years or a week." People like that should be moved out.

Another point is that when one comes to say that there is enough money when expenses undergo—(inaudible)—and that the expenses will be met by the money now voted by the Legislative Council for the Ministry of Internal Security and Defence—when the Legislative Council votes the money, we vote the money for the needs of this country, then if we vote extra money, so that next time the Minister comes again and says now if you pass

(Mr. Muliro) this bad Bill, the money has already been voted by you chaps—hon. Members—therefore let us pass this and I have got the money already. That should not work like that. The Ministers in working their estimates they should work more for what they require. We have all the time said that the Ministry of Internal Security and Defence gets far more money than is required. That money should go to education and agriculture and medical services of this country rather than go to employing people who will be looking for people with certain cards.

With these few remarks, Mr. Deputy Speaker, I oppose the Bill.

CAPT. HAMLEY: Mr. Speaker, Sir, I should like to get back to the subject, the Vagrancy Bill, because very little that I heard in the last speech had anything to do with that Bill at all. It might almost have been a repetition of one of the speeches which we heard in the Budget debate.

Sir, getting back to vagrancy, in my humble opinion there is a very great need for a Vagrancy Bill indeed. I do not want to go into hair splitting and red herrings about this. I want to get down to the principle. I know most about Mombasa—I know little about Nairobi or other towns. Sir, you have been told several times that Mombasa is a nice town, but, in the words of one Mombasa poet.

"Like the petticoats of vice,

"What's underneath is not nice,"

and believe me, Sir, that is very true, and it is very necessary in order to cure that uncleaness that we have a Vagrancy Bill.

Now, Sir, a little straight speaking. We in Mombasa suffer severely from an importation of harlots. I see the present day fashion is painted harlots even which in my opinion makes it look even worse. But these harlots come in from all over the country, I think there are very few coast-harlots, but we are a seaport town and we suffer very badly through the deprecations of these "ladies" on the visiting seamen. And it is a matter that must be cured.

Now, Sir, I am not going into a long dissertation on harlots—I am no Wolfenden, the only thing I would say is

that they should be made to pay income tax—but what I would point out is that where you have these "ladies" you also have a large retinue for them, of louts and pimps and runners and goodness only knows what else besides, and they also by their loose living, and by the way of their loose living, set up most undesirable conditions. And, Sir, I put it to you that, that is what this Government is doing. It is not addressed against any reputable people. It is not addressed against anybody earning a decent living or wishing to earn a living but it puts an instrument in the hand of Government to get rid of these lice on society. And that is what they should do.

Those people should be cleared out. They should be cleared out of the seaport town. We do not want them. Surely, the Member for Mombasa Area and the Member for Coast Rural know very well about this but they will get up in a minute and they will try to castigate the Government and say this Bill is this, that and the other when they know in their heart of hearts they want it, Sir. And they should have it, for Heaven's sake, let us be a little honest for once and realize what this Bill is for and stop talking about this, that and the other—the money wasted on education, the *Mau Mau* rebellion—every other subject except vagrants, and in particular this particular type of vagrant I am talking about. It is disgusting; we do not want them; they are misfits in the society of Mombasa; and we want to get rid of them and I have no doubt that very much the same thing happens in other towns as well.

Now, the Member for Central Rift said, "What are the causes of this?" I can tell you the causes of this: it is the frailty of human nature. Believe me unless I had a bit of self-discipline I would not want to work. I would like a life with easy money. I would want to find an easy way of life and one of the easiest ways of life is being a pimp or something of that sort. It is easy money. That is the cause of it and you know very well as I do; Sir, that that is the cause of it. It is no use saying the causes are this, that and the other. The causes are human frailties and the people—which the hon. Members on the other side ought to be doing their best to cure. Which brings me to my main point:

[Capt. Hamley]

hon. Members have got up on the other side saying, "What is Government doing about this? What is Government doing about that? What is Government doing about stopping these men being pimps? What is Government doing to stop people being criminals?" Is there, I ask you, Sir, in the African population no social obligation? Is Government to do everything in this world? Is Government responsible for the upbringing of their *watoto* in a moral and proper way? Is Government to run around seeing how they regulate their families? Surely there is a social obligation on all peoples to bring up their own peoples in a respectable way of life. And I do ask you to stop continuously asking, "What is Government doing about this, what is Government doing about that?" For heaven's sake, let some people do something for themselves!

Sir, I support the Bill.

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

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

DR. KIAND: Mr. Speaker, Sir, in his usual and amusing manner—

CAPT. HAMELEY: I beg your pardon!

DR. KIAND: I say in his usual and amusing manner, the hon. Nominated Member, Capt. Hamley has requested that we stop asking Government to do this and to do that and to do the other.

CAPT. HAMELEY: On a word of explanation, Mr. Speaker, I did not mean to be amusing. I meant to be deadly serious.

DR. KIAND: Mr. Speaker, Sir, I am sure the House failed to get the point and the House's judgment was that it was a matter of amusement. What the Member seems to have failed to appreciate is that this is one occasion when we are trying to stop Government from doing something. He accuses us of being the sort of people who are always saying that Government should do this and that, but in this particular case we are telling Government, "What you are doing is not even required."

Now, Sir, it has been said that some people—again to use the hon. Member's phrase—and I am sorry that he ever used it—that some people are lice to society. Now, Sir, we are trying to develop a society in which we can consider every person and we hope everyone will develop to be an honourable person and a normal person in society and if we begin by considering some men as law as is indicated by the phrase used by the Captain, then, Mr. Speaker, we shall not have a society in which equality and mutual respect will prevail.

I hope, Sir, that Members of this House will look upon even a criminal as a person who has a future and can be improved and developed into being as useful a member of society and not to pass judgment and consider him a louse on society. I think, Sir, that was a very unfortunate phrase to use with regard to any human being.

Now, Sir, it was said—I think by the hon. Chief Secretary—that this Bill aims at those people who may be of little or no use to the town. Now, Sir, towns are there to be of use to man, not man to the towns, and I believe that when a man has no work and is trying his best to find work, and even if he has not tried his best to find work, we cannot in any manner make him suffer from the penalties of the law because so long as he has not committed any overt offence that person should be allowed to enjoy his individual freedom like anybody else. It has been suggested by one of the supporters of this Bill that these people—I think it was perhaps said by the Minister for Internal Security and Defence—he said that these people "may become a nuisance to the law-abiding citizens". But, note the phrase used: "may become" a nuisance—not that they have been but that they may become. And we are asked to pass a Bill here which will, in fact, punish a man or penalize a man for something he may do or something he has not done.

Now, the fundamental principles of justice as far as I know is that a person is punished or penalized for something he has done but not for something that he may do, and I believe, Sir, that in this particular case we have a Bill in which the people will be made to suffer because of things they may do but of things they have not done.

[Dr. Kiand]

And, Sir, I must ask this question, why is it that it is considered quite all right to move a person from one part of Kenya in order to go—to use the phrase of the Minister for Defence—to law and prey on and be a nuisance to the law-abiding citizens of another part of the territory? It does not make any sense at all. If a person is going to be a nuisance to the citizens in one town, why is it considered perfectly all right to move him and let him go and be a nuisance in another part of the country? I believe, therefore, Sir, that there is no logic in that kind of thing. And, Sir, when a man is an adult, when a man is over 21, when a man is no longer dependent upon his father or mother or uncle, then I fail to see why he should be moved to where his father and mother and uncle live as if they are the people responsible for him. When he is an adult, he is an adult, and responsible unto himself.

Now, Sir, the supposition is this, that in the rural areas all will be well if you move the person from the town to those areas. And yet we have reached a situation in the rural areas whereby a person who may not have adequate means of living in the town will also find means of living in the rural areas inadequate. There is no reason why we should assume that those who cannot make a living in the town will necessarily find means of living in the rural areas. I have seen some rural areas and they are so destitute that I cannot see why a person considered a vagrant in town will find available means of living in the rural areas. And, Sir, a question was raised by the Member for Southern Area when he kept on talking of the reputable ways of making a living, of the reputable jobs, of a reputable place of residence. I may be excused if I say that what may appear to be a reputable way of making a living may not appear so reputable to other people. I have no malice, Mr. Speaker, when I say that it is highly difficult for me to find out whether the Minister Without Portfolio—how reputable that is—when it comes to earning a living—

THE SPEAKER (Sir Ferdinand Cavendish-Bentick): Dr. Kiand, I think that is an improper remark.

DR. KIAND: I beg your pardon, Mr. Speaker, what I had in mind was the question of earning a living by performing specific duties.

THE SPEAKER (Sir Ferdinand Cavendish-Bentick): I must ask you to withdraw the insinuation that the activities and duties of the Minister Without Portfolio is not reputable.

DR. KIAND: Certainly, Sir. Now, Mr. Speaker, we come to the question of the police. Who live in African locations and who come across the police force of this country perhaps more frequently than the Ministers of this Government are aware of the fact that what may appear to be quite simple and logical and easy to carry out does not prove to be so in actual practice. It is a fact, Mr. Speaker, that the quality of our police force, particularly in the lower rank, is not as high as it ought to be. I do not know whether it is because the salary and wages of the police are so low that you do not get the best material entering in the force, but the fact, Mr. Speaker, is that if you pass this law it will not necessarily deal with the people who might come within the definition of "vagrant" but it will also prove to be a nuisance to those people who are actually unemployed but they are not vagrants as defined by this Bill. And, Sir, I have known some cases which I have repeatedly brought to the notice of the hon. Minister of people who are arrested and who may actually have the document necessary but not on their persons and such people instead of being given the opportunity of going to their places of residence in order to produce them end up in a police station to the great annoyance and irritation of such law-abiding citizens. And I believe that the introduction of further documents on our bodies—we are already tired, Mr. Speaker, of the ones that we have. I am glad to realize the pass-book is going, but if this is going to come back again into our pockets and when we get rid of one kind of a document we are made to get another—the bright coloured one—to prove that we are not a vagrant. I believe, Mr. Speaker, that there is something sinister about people carrying permits, carrying cards, all sorts of things, for any other purpose except the purpose of identification. That is the only one that has any basis for it. It

(Dr. Kiayo)

anybody, not identification for the police but only identification when I want to prove who I am maybe to a banker or a doctor and so on. Now, this card and any other card can be the source of abuse of authority because, as I say, the quality of our police force at this stage is not a very high one.

Now, Sir, we then come to the question of housing. It is true that there is so little housing in Nairobi but I do not believe, Sir, that we are going to solve the problem by keeping people outside the areas such as Nairobi or Nakuru in order to solve the problem of housing. I believe, therefore, that if the City Council of Nairobi is not competent to cope with the problem that it is about time they thought of some reforms in which you might change some of the personnel in the City Council and have introduced into it more able men to cope with the problems of increasing housing and also solve the problem of social services instead of saying, "I am sorry, we cannot do the job so, therefore, do not come into our city." If they are unable to cope with the job it is about time they thought up some reforms in their own structure of government.

Now, Sir, the Minister for Defence, when moving this Bill, kept on referring to people living on their wits. I would have wished that he would have explained a little more what he meant by that phrase "living on their own wits" because, Sir, that, as it is, would apply to practically every person. We need a more definition of the terms that are used in this debate.

Now, Sir, I want to refer to a statement made by the hon. Chief Secretary when he was replying to some of the points made by the Member for Nairobi Area. He considered that it was really a red herring to allege or to state that this would be a method of maintaining within the laws of the country some of the Emergency practices that have been going on during the Emergency period. But, Sir, I cannot believe that the reply was in any manner a convincing one to us. It was made in an attempt to be convincing but, as far as the public is concerned, they feel that we have had too much—too much practice in the exercise of Emergency powers—that a law like this, which may not be designed

to be an Emergency law, would actually in actual practice prove to be no different. There again, I must say that what is required in this country is a police force which is smaller in size but of higher quality and higher integrity which could deal with criminal offenders satisfactorily and efficiently. We do not need to increase the laws of the country or the law-enforcing officers—(Inaudible)—and, secondly, Sir, I would like to remind this House very seriously, Mr. Speaker, that these kinds of laws now being passed maybe with all good intentions but which are definitely going to have ill effects on society, that these are the laws we shall keep in mind and they will be the first to be repealed—the first to be removed from the law-books of Kenya—as soon as the majority of people of this country take over the governing of this country.

I oppose the Bill.

MR. NYAGAH: Mr. Speaker, Sir, I do not know whether the Government knew when they presented this Bill that it was going to be very difficult to get the support of the Africans or not. Personally, as a man who comes from Central Province, I find it very difficult not to be suspicious of the Bill. There is no assurance that some of the very hard-up cases of unemployed people in Central Province, when they come into the towns like Nairobi, Mombasa and Nakuru and find themselves desperately in need of work without any reputable place to spend the night, when they find themselves in the verandas or warehouses or the back of lorries, that they will not find themselves being taken for vagrants. Mr. Speaker, there are some people who have spent four or five years in detention camps without any earning. Their families are in a desperate state of poverty. Some of these people have been for two or three years in the reserves trying to get out to look for a job. Through sheer desperation they may come out into the town without minding where they will sleep or what kind of job or work they may take. It may not be reputable—I do not mean stealing—but it may be any other kind of job so long as they get some money to help themselves and their dependents. If such people in such a state come here and find themselves being flung back to the countryside for three years again, all

(Mr. Nyagah) who are going to do it is to turn into worse vagrants than this Bill intends to stop.

Mr. Speaker, Sir, several times in this House I have tended to be suspicious of the powers given to the police—the Tribal Police. To the ordinary man in the Government the tribal policeman is a very polite man. The average policeman or perhaps the policeman above the average in the Tribal Police Force is a very decent man. But occasionally, one may come across the case of a policeman—a tribal police officer—who will be too officious in carrying out an order such as these laws require and it should be for the Government to try and define more clearly and perhaps make it the duty of a high-ranking officer of the police force to carry out the powers of this Bill.

Mr. Speaker, Sir, last month the Kikuyu/Embu/Meru had high hopes that at the end of the year or at the beginning of the year a form of freedom—"Uhuru"—from being restricted was coming into their reserves. This Bill may shatter the hopes they had. We, the Kikuyu/Embu/Meru felt very relieved when we knew that the Kikuyu/Embu/Meru pass-books were going to be over. But it may be unfortunate for a person to get another permit which he has to produce, given to him by a district officer. However, the man going to be convinced that this law is not a continuation of the Emergency restrictions if he has got to go to a district officer and get a permit because he finds himself unfortunately flung back from the town where he is desperately in need of work back into the reserves and restricted there for three years. We are tired of carrying these extra papers, Mr. Speaker.

In section 9, Sir, this superintendent will endeavour to obtain suitable employment. A few weeks back in this House a debate on the camps mainly for the Kikuyu/Embu/Meru in the Rift Valley was debated and one of the arguments that was raised was that although employment for the people in the camps was sought and sometimes found it was not the type of employment that the people in the camps would have liked sometimes in the terms of service. It may be possible that the superintendent may get a kind of employment which he may

consider himself suitable and yet may not be considered suitable by the man in the detention camp or in the place of waiting for his repatriation home. Mr. Speaker, in most of the districts in the Central Province, particularly—I do not want to repeat the arguments for the whole of Kenya which have been advanced, but in the Central Province District in particular unemployment is rife. From ex-detainees, from people who have been at home all the time, loyalists, those people who have been employed in the security forces, at prison wardens, or policemen, and also from young Kikuyu boys and girls who have left school during the Emergency. The pressure for employment is great, and the moment the Emergency regulations are lifted these people will flock into the towns. It will be a sad day, Sir, if this Bill gives people who are every ready to criticize the Kikuyu, Embu and Meru, an opportunity of yet labelling them as a tribe full of vagrants. It is likely to be that because if they come into a town like Nairobi where already it is difficult to get jobs—the jobs have been filled more or less by other tribes, and they find themselves having to spend the night in what is described here as "unreputable places." Then they will be called as being unjustifiably. Mr. Speaker, I feel very strongly that special consideration should be given particularly to the people in the Central Province, when they flock into the town for the first time after the Emergency regulations have been lifted to seek for work to try and compete with those people who have, for the last six or seven years, been able to work here.

In the Bill, Sir, section 11, subsection 8, I see that any person who having been removed from the Colony under this section "returns, or attempts to return". To me it is very difficult to understand what the two terms mean—"returns" or "attempts to return". Supposing a person in Britain or India makes arrangements with a ship to come back to Kenya after being returned there and does not actually come here, is the Government going to prosecute him while he is still going to prosecute him "attempts to return" because to me to include or imply making arrangements to come. It would be good for the Government to define that more clearly.

[Mr. Nyagah]

Section 12, Sir, would touch on a lot of school leavers, especially at intermediate school level. A parent takes all the pains of giving the little education available in the country to his boy or girl, who leaves the intermediate school desperate to look for work, not to be too dependent on his parents. He has got to look for a means of livelihood in order to help his parents, or his brothers and sisters. He comes out into the town to look for work. There is no work for him in the reserve. We may say that the land consolidation schemes will take a lot of people, but the people to whom land is now available, who have been allotted or allocated small holdings, are poor and they cannot employ all these needy people. And so they come out into the only places—the towns and cities—where they think employment can be found. If the Government returns them back to the country it is only making these young men into worse vagrants than they would be if they were here actually attempting to look for something. They would be having a hope of living as good citizens when they got a job, but if they were to go back into the country frustrated they would be worse members of society than if they were left to struggle to compete for jobs in the towns. I would suggest to the Minister for Education, Labour and Lands for this class of people to be helped that he should set up a Youth Employment Bureau, which might help in finding jobs or advising these people. And also, to extend the services of the labour exchanges into the districts outside the ones that are around Nairobi. I know, Sir, that a number of districts around Nairobi, like Kiambu and Thika have got these exchanges, but in a place like Embu, Sir, where the Minister for Labour and the Minister for African Affairs seems to have an idea that unemployment is not rife, would need the services of a resident labour officer and a labour exchange. It is not enough to have a visiting labour officer from as far a place as Nyeri. We have vagrants even in small towns, just because of this difficulty of unemployment, and Mr. Speaker, Sir, I would like to say this. Nobody wants vagrancy, and personally I hate people who qualify to be called vagrants, but as this Bill stands, although it may apply to every man of every race

and every woman of every race in this country, it will hit the African hardest, and particularly the K.E.M. who will no doubt float into the towns to look for jobs through sheer desperation.

With these remarks, Mr. Speaker, I find it very difficult to support the Bill.

THE EUROPEAN MINISTER WITHOUT PORTFOLIO (Mr. Harris): Mr. Speaker, Sir, in supporting this Bill I would like to say what a pleasure it would be to listen to the hon. Member for Embu and Meru Central Province, South is not here, an endeavour to decide whether it was right that he should support this Bill or oppose. I am sorry that at the end of his speech he came to the conclusion which I felt he was taking genuinely, that he had to oppose this Bill. I hope that I may just put one or two points which will help him to reverse his decision.

Now, Sir, the first point was that he said that he found it very difficult not to be suspicious about this Bill. In view of the experience of the tribes and the people he represents, I can understand his diffidence and his doubts as a result of the history of the last several years, but, Sir, I believe it is quite likely that the enactment of this Bill will assist the very people about whom he is worried. This Bill, Sir, is not in any way directed against people who are honest, who have work, or who are genuinely seeking work. And the hon. Member quite naturally has in mind those who have been unable in Central Province to seek work in Nairobi over the past years, and he is worried that this Bill, if passed into law, may act contrary to their interests. I believe, Sir, that it will act very much for their protection, because the purpose of this Bill is to protect honest decent people who are either in work or who are genuinely seeking work.

Now, Sir, I can tell the hon. Member and all hon. Members that if the daily crime reports of this country, particularly in respect of Nairobi and Mombasa are studied every day with care after case after case, of which this is a typical one: An African reported in the Eastleigh area that he was attacked by four unknown Africans, who stole his bicycle, clothing and wrist watch; and money valued so much. Now, Sir, that is not a rare occurrence in the crime reports. A variation of that theme occurs every single day of the year in this city.

AN HON. MEMBER: In London as well.

THE EUROPEAN MINISTER WITHOUT PORTFOLIO (Mr. Harris): Sir, in London there is a Vagrancy Act in operation. I am merely saying, Sir, that the enactment of this Bill, I believe, will protect decent people about their lawful occasions. I believe there has been far too much political-sentimental nonsense talked about the people who want to come into cities to live on their wits. I am sorry that the hon. Member for Central Province, South is not here because he wanted examples of people who live on their wits. I have just given some examples, Sir, from the daily crime reports of this Colony. But I would remind hon. Members that in the early 1950s we did not have the powers which the Government are now seeking. And, Sir, in 1952, the vagrants of Nairobi collected in two areas—to the east of the town—one of which was Kariobangi. When eventually the Government took action several dozen bodies were dug up in Kariobangi and they were the bodies, Sir, of Africans, most of them decent law-abiding Africans who had been murdered by people who were living on their wits. And, Sir, it is for the protection of people like that that we find it necessary to ask for the powers incorporated in this Bill, and I would appeal again, Sir, to the hon. Member for Embu and Meru who I believe genuinely is trying to make up his mind on this Bill to see whether—

MR. NYAGAH: I thank the hon. Minister for giving way. I am the Member for Nyeri and Embu, Sir.

THE EUROPEAN MINISTER WITHOUT PORTFOLIO (Mr. Harris): I beg his pardon. I would ask him to consider, Sir, whether it is his wish to protect the genuine work seekers in the Central Province, or whether to protect those who come to Nairobi, not necessarily from the Central Province, to live on their fellow Africans.

I beg to support.

MR. SLADE: Mr. Speaker, Sir, no one can pretend that this kind of legislation is attractive, but I am afraid it is entirely necessary for the reasons given very clearly by the hon. Member and just now by the Minister Without Portfolio, just as it has been found necessary in other countries.

Sir, I join with the hon. Members on this side who have emphasized the necessity of Government seeking and doing more on the other side of the picture. That is to say, the side of preventing the circumstances which create vagrants. Now, Sir, that is extremely important. Just as it is true historically that England has had a Vagrancy Act since 1834, so it is equally true that from the time of passing that Act the British Government has concentrated more and more on measures to prevent the conditions which create vagrants, and less and less on measures to deal with vagrants when they are created. So, Sir, though we recognize that we should have the law in force, and we shall probably have to have it always, we would like rather more assurance that there is concentration on the other side of the picture—indeed outside the scope of this Bill—that will start to remove the causes of vagrancy, such as, for instance, the efforts to remove unemployment, which we discussed only about a week ago. And I would, in that respect, Sir, support what the hon. Member for Uasin Gishu said when he urged that we see more evidence of close association with the Minister for Local Government and Health and the Minister for Security and Defence on this subject, because, truly vagrants are the concern of both of them. The control of the mischief of vagrancy is the concern of the Minister for Security and Defence, but the care of vagrants and the concern that there should be less and less vagrancy is the affair of the Minister for Local Government, Health and Town Planning, who they will have to work hand in hand in these matters.

Now, Sir, recognizing that this legislation is necessary, I only have two comments to make. One is with reference to the definition of vagrants in clause 2. I think it is very important that we get that definition right, because then we shall understand more clearly the purpose of this Bill. The Minister Without Portfolio put it very well when he said that this is to deal with people who have neither work nor home. So it would be surely intended to deal only with people who really are vagrants—people who have not got, or are not using, any habitable home. But when you come to look at the definition of

[Mr. Slade]—vagrant you find in paragraph (c): "Any person having no reputable employment or reputable means of livelihood". Sir, there are plenty of people living in habitable homes, cared for by others—old people—young people—disabled people—who have no reputable employment or reputable means of livelihood, but are not vagrants because they are in a habitable home, and cared for. So I think that we have got to make sure that that particular definition is limited to the persons who are wandering abroad and who have no reputable employment. Indeed, that is the only way we shall be fitting with the proviso of clause 4 (1) because that proviso contemplates that when a person is found a vagrant he is to be returned to his home, and that implies that he has been found away from his home, i.e. wandering abroad. Then again, Sir, as I see it, wandering abroad by itself does not make a man a vagrant. There has got to be some other unsatisfactory feature with it, so when we come to paragraph (c) in the definition of vagrant, I think it should be made clearer that the definition of any person "wandering abroad or placing himself in any public place to beg or gather alms" is any person "wandering abroad—to beg or gather alms" as well as any person who places himself in a public place to do so—not merely "any person wandering abroad".

Sir, I now come to my other point, which is clause 12. This is the particular point on which the hon. Member for Uasin Gishu touched, and I would like to support what she said and give a little bit further. This clause, Sir, deals with children and is similar to clause 12 of the Ordinance. It is the same, but it is similar in effect. Now, Sir, it may seem sensible and convenient; but it is, in fact, as practice has shown, objectionable because it tends to make police cases out of children who are really children in need of care. Sir, children who are not actually committing crimes should not be handled as police cases. We have got a special Ordinance passed in 1955—the Prevention of Cruelty to and Neglect of Children Ordinance, particularly designed to deal with these children, and much better designed to deal with these children than this section. After all, children who are

wandering away from their homes under the age of 16 are children in need of care. They may indeed turn into juvenile delinquents if they are not cared for, but in the first place and while still vagrants they are children in need of care, and must be treated as such. Now that Ordinance of 1955 provides that when a child is found in need of care it is the magistrate's responsibility to see that that child shall be cared for, and who is responsible for that child, whether parents or others, and to make the parents responsible in proper cases; and to decide, in the case of there being no responsible parent, where the child is to go to, whether it is to go to a local authority's care or to a foster home, or where, but anyhow really to take trouble about the care of the child and see that the child is cared for by a parent or local authority responsible, if any is made responsible. That is the way these children must be treated. Sir, I would, in that connexion, refer back to a Motion which was passed by this Council just about a year ago, on 14th and 18th November, 1958. We debated it. It is reported in volume 78 of Hansard, pages 408 and 430. The Motion was "That in view of the problem created by vagrant African children in Nairobi and other urban areas and by their continual return to such areas after removal therefrom, this Council urges Government to intensify measures for the control and care of such children; by providing for identification of habitual vagrants, and by requiring parents and local authorities concerned to accept their various responsibilities for such control and care." Well, Sir, that Motion was passed by this Council with universal support, and with a great number of Members speaking. But we must give effect to it, and we shall not be able to give effect to it as long as we operate under provisions such as clause 12 of this Ordinance. Now that may be easier to operate—that clause—than the provisions of the Children's Ordinance. It may involve less trouble in the first place, but in the end it means much more trouble, because it achieves nothing, it achieves nothing but children going round and round in a circle. I might quote a few words that I said in reply to that debate. I have referred to it: "It is certainly not a problem of which one complains that the

[Mr. Slade]—are not handling it properly. I think they are completely competent in what they do. But they cannot stop this vicious circle. They can return children to their homes as often as they like, but they cannot see that they stay there. It is seeing that they stay there that is the purpose of this Motion—not just having them in continual circulation." Therefore, Sir, I do urge that we take this Clause out of the Bill, or at least that we have assurance that the police will be directed to use it as little as possible in place of the Children's Ordinance; and that we concentrate on looking for the responsibility of parents and local authorities, and punishing irresponsible parents who let their children wander, before we decide that the children themselves are criminals because they come back a second time.

There is only one further point I would like to make, Sir, which arose out of that same Motion. I see that clause 6 of this Bill makes an amendment with regard to the finger-printing under the Police Ordinance. It is, doubtless, designed to enable the finger-prints of a vagrant to be taken when he is first discovered to be a vagrant, instead of waiting until he is convicted on a second appearance. Sir, that is obviously necessary for the purpose of identification. There is nothing contrary to human dignity in it, seeing that we all are required to have our finger-prints taken, whether we are vagrants or not. But what I want to ask, Sir, is that this should also be applied to children. Not under section 12 of the Bill necessarily, but on all occasions when children are found vagrant, it should be possible to take their finger-prints because this problem of identification is one of the big problems to which we were allude in that Motion a year ago, and finger-printing is one of the necessary measures on the first finding of a vagrant child in helping to prevent a recurrence of the vagrancy.

Subject to those comments, Sir, I wish to support the Bill.

THE MINISTER FOR HOUSING (Mr. Amalendu M. Speaker). I have only two points to raise in this debate. One is that reference has been made on the City Council's requirement to introduce this Bill in order to control the move-

ment of Africans to the city. I would like to repeat what I have said here before, that it is not Government's intention to impose control over the movements of Africans to the townships just because of housing shortage. It is, as I have said, Government's intention to intensify the building of houses everywhere, all urban areas and even in the rural areas and, therefore, the attraction of Africans to the townships does not arise as a means—as the reason for introducing this Bill.

The other point, Sir, is the question of the need for such a Bill. I think it is overdue that this Bill should be introduced. Now, speaking from experience, I know that there are several tribal societies in Nairobi and in other urban townships which are taking care of the members of their tribes who come away from the reserves and come to the towns. I do not want to mention names of the societies but they are very well known to my friends the African Elected Members. Now, these societies have come across one or two of the bad examples amongst themselves and they have gone to the district commissioner and said, "Will you help us to remove so-and-so, he is shaming our tribe and letting our tribe's name down." The district commissioner has not had any power, legally, to help them and they have had to do it under their own tribal societies' by-laws or their bylaws, and asked the police to be reprimanded. There has not been any legal machinery by which such an individual could be sent back home.

The other point is that there are very many people who have run away from the tribal control in the reserve and either run away with somebody's daughter or somebody's wife. They come into the town and they become very, very undesirable. These people have no way of being removed unless you have something of this kind to touch on them who are so concerned about the tribal societies in the townships will support this Bill very strongly and the parents who are most concerned about their children than anybody else will be very pleased that at last something that can help them to discipline their runaway children or relatives exists.

Mr. Speaker, I beg to support.

MR. NGALA: Mr. Speaker, Sir, there remains very little for me to say because a lot has already been said, but, in my view, Sir, this Bill is a very unsatisfactory one for dealing with problems that concern the work-seeker or beggars.

First, I would like to clear three points, Sir, two raised by the Minister without Portfolio and the question of African bodies that were dug up and this is being associated with this Bill. Of course, Sir, this was a very irrelevant point, because when these bodies were discovered, it was made clear by the Government that this was not the result of Mau Mau activity and so on. I do not know whether the Minister intends to suggest to the House that the Mau Mau activity had anything to do, or were conducted by, or had something to do with Government.

Now, I think, Sir, that that point should not in any way mislead the House. I think he could have given us better examples of people who are living on their wits in the townships concerned.

The other point, Sir, is the question raised by the same Minister when he said London had this Bill. Now, I think—

THE EUROPEAN MINISTER WITHOUT PORTFOLIO: I said "London" had a Vagrancy Act."

MR. NGALA: I thank the Minister, Sir, for his interruption.

Now, I think that in London I have never seen people of this nature—vagrants in London, being deported into Wales or other places. I have never seen people taken back to the hills or mountains of Scotland.

I feel these two examples were very unfortunate.

The other point, Sir, raised by the Minister for Housing which I also felt is very irrelevant, is the question of tribal societies going to the district commissioner and saying "Remove this person from this area." In my estimation, no tribal association that can go to a district commissioner and say "Remove this person because he is looking for work." They usually look after their people. They may remove him because of some other becoming ways, but not vagrancy. I am sure.

He went on to say that in the case of a person who runs away with another person's wife—that is not vagrancy.

The other point, Sir, on which I would like to touch is that this Bill is a question of Government having paid to put right what is missing and what is wrong. I do not see how Government can help a person who is sincerely looking for work in a township by taking him from the township and putting him back into the reserve without Government saying how he is able to earn his living in the reserves.

This is going to be another form of restriction. Just a few weeks ago we were told that restrictions were going to be relaxed. This seems to be another form of restriction where a person who has been found sincerely looking for work in Nairobi is put in his own village or his own countryside for three years without Government having looked into his own personal difficulties as to how to get his food and other things. I think that Government having failed to provide any other alternative means of these persons looking after themselves or getting a living in their villages, I think Government is quite unfair to bring in these restrictions.

The other point, Sir, is this question of respectable living place. If a person is sincerely looking for work, he definitely does not have any money to lodge a place or even to rent a place. How can we expect him to have a respectable place of living? This person is put in a position where he does not even have, probably, sufficient money for his food, and I think it would be out of place for Government to expect him to have a respectable place of living.

I have two other points to add on and I think I would like to continue.

THE SPEAKER (Sir Ferdinand Cavendish-Bentock): I will now call on a Minister to move the Adjournment.

ADJOURNMENT MOTION

MATTERS AFFECTING THE CONSTITUTIONAL CONFERENCE

THE EUROPEAN MINISTER WITHOUT PORTFOLIO (MR. HARRIS): Mr. Speaker, I beg to move that the House do now adjourn.

MR. TOWERT: Mr. Speaker, I rise to support the Motion and I wish to put before the House something which in my opinion should receive serious consideration. It is about the political state of affairs in the country, Sir, and it concerns in particular our present intention to go to London and attend the round table conference. I do not want, Sir, to be misunderstood by the other hon. Members in the House if they feel that I shall be going into the particulars or the intended details of the round table conference. That, Sir, would not be fair, because some people have already prepared to go to Great Britain with those details, only to speak on what I call basic principles.

This is not a new item from me, Sir. Last time when His Excellency the Governor came and told us about the policy of the Government, what it was going to be, I said that I was not absolutely in favour of thinking that by going to London we would have a change of heart inside the aircraft or when we were in Great Britain. When we get to Great Britain it will be winter there and our minds will be frozen because of the cold; and then you say that because the mind is frozen the heart is changed.

My intention, Sir, in supporting this Motion is to ask us all to agree, or to show some kind of agreement when it comes to some of the following items. We must agree here in Kenya that we have got to live in Kenya together as individuals. We must live as individuals and not as racial conglomerations.

My second point for which I seek agreement is that we must agree that some people because of their colour happen to outnumber the other people in this country. We have got to accept that fact, that black people in this country outnumber the others but that outnumbering the others does not mean that the others should be denied their individual rights.

We must agree again, Sir, that the legislature must be entirely responsible to its electorate. That is a condition which we have got to accept. If we talk of democracy we have got to accept it. If we have a democracy then we should accept the condition of the legislature being responsible to its electorate. We

must also agree that the Cabinet must be responsible to the legislature. Unless that is done the Cabinet will not be in a democratic country. Let us agree to accept the wishes of the majority through elections. Here I am not emphasizing the more or less interesting point that the black races are in the majority but I want us to respect that majority opinion expressed through elections. That is the most important item, Sir, if we have got to live democratically.

I shall not be long, Sir, because I know that half an hour is not enough for the other hon. Members, but I will say that we have got to agree and that we must agree that Kenya wants to rule itself. We do not want to rule Kenya: Kenya wants to rule itself. If Kenya is not allowed to rule itself then Kenya will rebel, and here I mean the country, not the people.

Another point upon which I seek agreement, Sir, is that we have to agree that this country, Kenya, must be allowed to rule itself as soon as possible. The more you wait the more you cause frustration to accumulate. Allow Kenya to rule itself when it wants to. Do not allow it to live this frustration accumulating and then when the whole thing blows up you say, "We wish we knew."

Now, Sir, coming more to the point, I should like to say that when we go to London we must agree to enter into negotiations. We must accept that condition. Without that it is difficult. I am not going to say that you should agree on this but I do say we should go prepared to enter into negotiations.

My last point is that we must accept to be free from unnecessary fears. Some of us in this country are afraid that if the people who outnumber the others are allowed to rule in this country they will not rule properly. When the majority of the people in this country are ruling this country then the people who are running the Government now will not be running the country. Who has said that? What you are saying is that we should let the majority be everywhere in the Government of the country. For instance, if I belong to the majority and, when the majority take things over, things fall, then it is not my mistake. I am not to blame. It is the people themselves. We

[Mr. Towett] have never said that we are going to remove the officers from their employment so that when the majority take over the Government will not be run efficiently. Nobody will disturb the Government. I was telling my electors a few days ago that *Uluuru* to them would not be very much felt outside. It will be what the Government decide.

Therefore, Sir, I would say that we should agree on those basic conditions unless we are only going there for a holiday. If people fail to agree on those very simple basic principles then I would suggest that we ask Jomo Kenyatta to draft something for us which should be sent to London. It could then be decided on from there. We would then be able to remain at home.

With those few points, Sir, and allowing my other friends to speak, I support the Motion.

THE SPEAKER (Sir Ferdinand Cavendish-Bentick): Does any Member wish to speak? Do the Government wish to reply or make any contribution?

THE CHIEF SECRETARY (Mr. Coutts): Mr. Speaker, I did not intend to reply because I felt there was nothing urged upon the Government and that there was nothing to which the Government could reply.

The question was put and carried.

ADJOURNMENT

THE SPEAKER (Sir Ferdinand Cavendish-Bentick): Before I do adjourn Council I would venture to take this opportunity, if I may, of drawing the attention of hon. Members to Standing Order No. 70 which lays down that when the Speaker, or whoever occupies the Chair, leaves the Council on the Adjournment, Members will stand in their places quietly.

I am only anxious to maintain the dignity of our proceedings in our House. Quite unconsciously, latterly, I think that we have given rather a bad impression to strangers in our galleries, and we have perhaps rather impinged upon the dignity of what is our legislature by reason of the fact that when whoever occupies this Chair adjourns proceedings and leaves the Chair to go out in procession by the time he reaches the end of

the Table many hon. Members have turned their backs on him and are already engaged in very loud conversation.

I now adjourn Council until 9 a.m. tomorrow, Friday, 18th December.

The House rose at forty-five minutes past Six o'clock.

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SECTION 7

CONTINUED ON
REEL No.

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SECTION 7

END

OF REEL NO. **25**